

MINUTES

**PLANNING COMMISSION
REGULAR MEETING
JANUARY 21, 2013 – 5:00 P.M.
CITY COUNCIL CHAMBERS**

PRESENT: Chairman Sookram, Members, Barton, Emanuel, Fooker, Ridder, Sawyer and Winter, Planning Director Rian Harkins, Chief Building Inspector Don Simons and Secretary Deb Pruss

ABSENT: None

Chairman Sookram called the meeting to order. Roll Call Vote was taken – all 8 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 January 17, 2013 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.

It was moved by Fooker, seconded by Ridder, to dispense with the reading of the Minutes of the December 10, 2012 Regular Meeting and the October 29, 2012 Special Meeting and approve as received. Roll Call Vote showed all members present voting aye – 8 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.

- **Continued consideration of request of Keith M. and Jacqueline A. Roumph to rezone Lot 9 and tax Lot 79 (380 East 30th), Meierhenry Subdivision, Fremont, Dodge County, Nebraska from LI – Limited Industrial District to GI – General Industrial District.**

Planning Director Harkins stated this is a repeat of the same information from last month because of a lack of legal publication. Basically the applicant is looking at doing self storage on a portion of his property. General Industrial lays to the north of the property with the railroad tracks farther north. This is essentially an LI so it is a small change that the applicant is asking for in order to avoid landscaping buffering requirements on the side yards. That is the biggest reason for the request for the zoning change. The applicant had the surprise last month of sharing at the Planning Commission Meeting about putting a fence in to divide the areas and the buildings within the property. Staff was o.k. with it then and can live with it now. Harkins stated they would have liked to have known beforehand but sometimes that just doesn't get communicated. Harkins stated Planning Commission approved the item last month or they talked about the item last month with the idea that the existing driveways would be utilized so Planning Commission has the option to approve as is, they have the option to approve with changes if felt necessary or the Planning Commission has the option to deny.

Moved by Fooker to recommend approval of the request subject to the same conditions as applied last month. Member Ridder stated just to clarify there were not any additional conditions added last month. Harkins stated no conditions were added. The Planning Commission looked at approval using the existing driveways rather than staff was looking at trying to shift the driveway to the east. As proposed, it would just keep everything as the applicant has drawn it and submitted. Member Ridder stated she just wanted to clarify if Member Fooker's motion was as presented or with any alterations. Fooker stated it was the same as what Planning Commission had already passed last month with the same conditions. Fooker stated there were no conditions and last month it was moved to approve as presented. Fooker stated that was fine. Seconded by Sawyer. Roll Call Vote showed all members present voting aye – 8 ayes. Motion Carried.

- **Continued consideration of request of Keith M. and Jacqueline A. Rounph to combine Lot 9 and Tax Lot 79 (aka Part of Lot 1), Meierhenry Subdivision to the City of Fremont, Dodge County, Nebraska into one lot.**

Planning Director Harkins stated Item 7 goes along with the previous agenda item. This is a lot combination to take the two lots and combine them into one so that there is no island zoning or spot zoning taking place. This combines a lot to the north and a lot to the south into one large lot so that it is easier for the owner to do that self storage and have everything sit within one property. This gives him the space he needs for setback requirements. Chairman Sookram stated this is where we got into the fence issue. Harkins stated that was correct. Sookram stated this is where he felt the applicant should have probably put more information forward before bringing it this far to the Planning Commission. Harkins stated that was understandable and that conversation was held with the applicant. Applicant apologized and assured it was not done maliciously or with any devious intent.

Moved by Sawyer, seconded by Emanuel to recommend approval of the request. Roll Call Vote showed 1 nay (Sookram), 7 ayes. Motion Carried.

- **Consider request of David L. and Susan K. Fink to allow bed and breakfast as part of a permitted conditional use at 346 West 16th Street, Fremont, Dodge County, Nebraska. R1 – Single Family Residential District.**

Planning Director Harkins presented some material printed by the applicant and a supporter of their application. Harkins also sent for review an email he mentioned in the Study Session that staff has received opposing this request. Harkins stated this is at 16th & "I". If you have driven through there, you know 16th Street makes a jog at that intersection. It is a couple blocks west of Broad and carries a number of cars at any point in the day. It is a corner lot. The applicant bought the house and lives in the house immediately to the east and then bought this location. The applicant came in and did some study on if it can be allowed or not and they knew they would have to apply for the conditional use. Staff has recommended denial based on traffic movements, traffic flow in and off the property and around the property essentially because staff felt it could be potentially a negative impact on the area. The comprehensive plan, while it does talk about economic growth and promoting businesses, also talks about it in the appropriate locations and with the appropriate infrastructure. The future land use plan labels this area as Neighborhood Conservation, which as he mentioned in the Study Session, talks about more of a neighborhood feel, more walk ability and less auto traffic. Bringing cars in and out of an area even if it is only a limited amount as the applicant proposes can have that detrimental effect and hinder that walk ability. It also talks about commercial in a neighborhood scale. A bed and breakfast even with a limited number of patrons is not that so for those reasons staff has recommended denial. They essentially feel this is a great idea but maybe not in the best location. Applicant David Fink of 1605 North "H" Street, Fremont, NE was present. He read the following prepared comment.

My name is David Fink and Wife is Susan Fink. Many of you know me as the “The Computer Guy” a business I have ran since 1996. We have lived in Fremont since 1979 and have lived at 1605 N H Street on the corner of 16th and H for 14 years.

Recently, when the house west of ours located at 346 West 16th became available for sale, we purchased it. I own several collectable cars and the garage space at the location was an attraction. Before the purchase we reviewed our options for what to do with the house. The most obvious would be to rent the house. My experience in previous family rentals and in discussions with others made this a less than attractive option. And the fact I would retain the garage space would limit potential renters.

A less obvious option was to utilize the space ourselves. We live in a fairly small house around 1000 sq ft. The size makes it difficult to have any kind of family or friend function at our current location. This is the option that we have chosen. I have made the statement to several people, that some live in a 2000 sq ft home we just happen to live in two 1000 sq ft homes. This actually provides some advantages in the ability to isolate rooms for heating and cooling and noise separation if one person wants to watch TV the other doesn't need to go lay on a bed to see a different channel.

Option B also provides one additional benefit. My mother will be 85 years old in May and lives 100 miles south of here with no remaining family in the town. As my brother and I both live in Fremont the obvious is at some point she will need to be closer to those who can provide for her should she need help. She already calls the location her house. If I was to rent the house and she needed it I would not be able to remove tenants and the property would therefore not be available to her.

It so happens however that her next door neighbor has ran a bed and breakfast for 20+ years. She does so from a three bedroom house with a single bathroom that is shared by both guests and her. For those who think it may be substandard she is currently an inspector for the Nebraska Bed and Breakfast association. This inspired us to do the same with our newly acquired space. This provides many benefits and fits the property perfectly. The house being built in 1922 is of some design significance featuring what is referred to as an eyebrow roof. This feature is clearly visible in the photo. The house being in excellent shape has been furnished with antiques correct to the period and presents a definite historical feeling. Other features of the house include an isolated library separated from the main living by original oak French doors which when closed provide a quiet environment for relaxing.

The location is easy to find being 2 blocks from a major street, is close to downtown, the May museum, many churches, the city auditorium and Christensen field are all easy to find. It is 6 blocks to the Fire Department, 10 Blocks to the Hospital, and 7 blocks from a pharmacy. This should make it one of the safest most convenient places in Fremont. In reference to the recommendation's referral to parking, there is ample and complete off street parking for all guests. In my plan I indicated off street parking for 3 cars. There is in reality parking for 4 cars or three cars with one having a trailer. Common sense dictates that a 2 room bed and breakfast that is utilized occasionally can not possibly

create more traffic than a standard family occupying the house. It is a wide street that technically has parking on the south side and west sides. It is a rare occurrence that anyone uses the parking available on 16th street and I would certainly discourage any guest to park there since adequate parking is available off street.

After reading the City Comprehensive Plan I can find no specific reason that this would change the character of the neighborhood. Keep in mind that this is still our private residence. I can have overnight guests, I have parties, I can serve dinner or meals to anyone I choose. I can come and go as many times a day as I wish and yes I can even park on 16th Street if I desire. The only difference between this being a private residence or a bed and breakfast is the idea that guests pay for the evening room and the morning meal. These payments are subject to state and local sales tax as well as state and local occupancy tax and will generate income for both. I refer to them as guests because that is what they are. A bed and breakfast has guests who want to know the owner, who want to hear about the community, who want to partake of the character of the neighborhood. It is unlikely that we will accept last minute or drive up customers and I do not believe there is any requirement that we do so. The only request that possibly impacts the neighborhood is the request for a sign in the yard. I might note the sign was not noted as an area of contention. Keep in mind however that this is a core route, not an isolated, kids in the street, neighborhood block. There are traffic signs, parking signs, snow signs, electric poles, etc. A small sign to let guests know they are at the right location would hardly be noticed by anyone other than those looking for it.

According to the Dodge Co visitors and convention bureau there is a need for a Bed and Breakfast in Fremont. They receive many requests but have to turn the people away from Fremont as that accommodation can not be filled. We have been assured we have the support of the visitor's bureau.

I note that there are many home based businesses already in residential areas. I fail to see any difference between those situations and my proposal. One make-up, or home decorating, kitchen utensil party certainly creates more congestion issues than the occasional over night guest. Daycares have many vehicles coming going at all times of the day. In fact the general reason for a bed and breakfast being classified on its own is for life safety "Fire Code" and Food Safety or the "Safe Food Act". Both regulations have exemptions, for bed and breakfasts of this size. According to the State, a bed and breakfast serving 4 or fewer guests is exempt and falls under residential codes. For the Safe Food Act with 10 or fewer guests no state inspection is required. The state has made every effort to allow small residential bed and breakfasts to exist I feel the City of Fremont should follow suit. It is good for the State, for Fremont, for the neighborhood and for all those who prefer to stay in a well kept quiet and inviting environment instead of a noisy, busy hotel that often smells of chlorine and smoke.

Applicant stated if anyone had any questions about the property he would be happy to answer those. He stated his house is directly adjacent to the east and it wasn't submitted in the proposal because it is not part of the property. He has available also four parking spots on that area for his own personal use so he does not need to park in the parking at what would be the bed and breakfast area so that could be left open for them. Mr. Fink stated as for the comprehensive plan, in look at that it does allow in the conservation areas for, in fact it specifically talks about, the possibility of specialized permits to allow such development. It kind

of specifically says on the fringes of the area. I guess this is sort of a fringe being close to Broad Street and 16th Street. Again, it is not very deep in the neighborhood where people can get to it. It is two blocks from the stop light at 16th at Broad. Chairman Sookram stated what the Planning Commission needs to do is probably figure out if it is the right place for it not necessarily that you are causing a hassle or anything it's just something that has to be weighed out via the traffic issues. Mr. Fink stated their issue was the traffic but keep in mind this is a house and so a house is going to have people coming and going likely more times during the day than a bed and breakfast would. The bed and breakfast people are for one he really doubts he is going to have two rooms full every day of the week. That would be great and he would quit his regular job. The average occupancy rate he believes on a really good day is 35% so you are only going to have people there occasionally utilizing it. They are going to come, likely check in, go do what they want to do, come sleep for the evening, have their breakfast and probably leave. He knows some of the areas of concern that were brought up was how is it going to make money, how is he going to cash flow it, were some of the comments he heard. He thinks those are irrelevant. If anybody wants to make money on a two room bed and breakfast they aren't going to do it. Chairman Sookram stated that is not what the Planning Commission is going to look at if it was or wasn't going to make money. Applicant stated those were just the comments that were brought up when I was in discussions earlier. Mr. Fink stated he can if the Board should like get people to send emails. He didn't think it was appropriate. If he put that out, he is afraid staff will be overwhelmed with emails in support of this. So he specifically did not put out that request.

Gene Blank of 1501 North Nye Avenue was present. Mr. Blank stated although he has had rental property for years and he can appreciate a bed and breakfast he personally does not think it is the right place for it. He agrees that there could be some potential traffic problems just because 16th Street is heavily trafficked every day. It seems like every funeral that happens in town goes up and down 16th Street. There are accidents just right down the street and a lot of them are from traffic back-up from 16th or from Nye Street between Nye and Broad Street. He sees a lot of accidents that happen there quite often. But what he has a huge concern with is the potential impact that it could have on some of the property values in the area. He knows how things turn south on a person from what the original intent for a bed and breakfast may be and then what it ends up being could be two totally different things and it is harder to change that to the fact ahead of time. Like he said, the bottom line is that he just doesn't think that's the right place for it. He thinks of a bed and breakfast, now here again he knows he goes off of too much tv, but you think of some place that has some scenery, you go out to the edge of town or some place on a farm somewhere. Although he can understand why they may want to have one here particularly with his mother down the line because he just went through that but he still feels it is not the proper place for it.

Applicant Susan Fink of 1605 North H Street was present. She stated she and her husband Dave have lived here since 1979 when they got married. They have lived in several neighborhoods throughout Fremont. They lived in southeast Fremont, northwest Fremont and south central Fremont. What they consider now where they live is central Fremont. They have enjoyed this neighborhood and they have been here 14 years. You can walk as they have tested it. You can walk downtown, they walked to the ice cream parlors, down to Zesto. You can walk up to a lot of different locations from their house. A lot is being stressed on the traffic. They have lived there 14 years so they have had to back out of their driveway which is also on 16th Street and the traffic is not that bad. If you leave at 7:45 yes that's when everyone is driving past to take their kids to school. Any other time of the day she has no trouble getting out of the driveway unless there is a funeral procession going past and then you wait five or ten minutes and they are gone and you can get out. There is really not the traffic that 16th Street has the stigma of having. Because of the dip, it tends to slow people down because they don't want to kill their cars on that dip where the road jogs. As far as pedestrian traffic, their few cars that come and go are nothing compared to what's going around and she just doesn't think that's

an issue. Now that they are empty nesters, they look forward to being able to meet people and introduce them to Fremont. They have been members of Fremont culture for 30 years and can advise them on activities, restaurants and shopping. This knowledge is what a bed and breakfast clientele looks for. They feel this bed and breakfast feature is a service that Fremont is lacking and one that their new home is designed to embrace. They believe this will be a great asset to Fremont and to their neighborhood. She feels their neighborhood shows the essence of Fremont with its older homes and their diverse size and style. Being located on an arterial street provides the inhabitants with ease of access to Fremont's businesses and attractions. The snow route aids in travel during winter conditions. She can't think of a better location within the city for this type of service to be provided. She believes once they review the facts they will agree.

Moved by Fooker, seconded by Winter to recommend denial of the request based on traffic patterns and staff recommendation. Applicant Fink asked to speak again. Mr. Fink stated you are voting against this based on traffic patterns and asked if they realized where they are and what they are talking about. Mr. Fink stated this is a house that if he rents it is going to have more traffic than a bed and breakfast. There is nobody, no firm, nobody with any design that is going to go there and say that this two bed bed and breakfast is going to create more traffic, more hazards or more trouble than if he rents that house to a family. So, if you are basing this off of traffic, stop and think about what you're really doing because that is not a valid point. Come up with a valid point I don't care but if you are going to base it off traffic that is not a valid point. You simply can't say that this is going to create more hazard than a family living in that space. Utilizing that same area they are going to be backing out, going to school at the time when it's busiest. There is simply no impact this can have that is different than if I rent that house. His plan is not to rent it. That's beside the point. If he does rent the house, there is no impact this bed and breakfast has above that.

Roll Call Vote showed 5 ayes – 3 nays (Wiese, Sawyer and Emanuel) to deny. Motion Carried.

- **Consider request of Mark Guillatt to allow residential on second floor in Downtown Commercial District at 415 North Main, Fremont, Dodge County, Nebraska.**

Planning Director Harkins stated this is fairly typical of some of the other second story residential requests for conditional uses that the Planning Commission has seen in the last ten months. In this case instead of multiple dwelling units on the second story, the applicant has requested a conditional use permit for a single residence on the second story of the property at this address for one large apartment. Staff has recommended approval because it is in conformance with the comp plan. It emphasizes additional residential dwelling unit and they don't feel parking is an issue because the Downtown Commercial District doesn't have parking standards applying to it. They would have to meet building codes as part of their renovation process but that is handled as the next step after this. The applicant and their agent are present if there are any questions.

Applicant Mark Guillatt at the address of the building 415 North Main was present. No questions were presented.

Moved by Ridder, seconded by Emanuel to recommend approval of the request. Roll Call Vote showed all members present voting aye – 8 ayes. Motion Carried.

- **Consider request of Brian Wiese and Matt and Dawn Updike to subdivide Lots 5 thru 8, Pierce's Annex, City of Fremont, Dodge County, Nebraska into two lots.**

Moved by Emanuel, seconded by Barton to have Brian Wiese be excused for the next three items. Roll Call Vote showed all members present voting aye – 7 ayes. Motion Carried.

Planning Director Harkins stated this item basically takes multiple properties and reconfigured them between this agenda item and the next two. The areas on the plat that was submitted as part of the application are one large area right now that the applicants have purchased together. There are two buildings on the property. They are looking at ultimately splitting those and then reconfiguring the pieces back into a property that works for their interests. Staff has no objections and has recommended approval.

Moved by Winter, seconded by Sawyer to recommend approval of the subdivide request. Roll Call Vote showed all members present voting aye – 7 ayes. Motion Carried.

- **Consider request of Brian Wiese to combine the North 45 feet of Lot 8 and the South 51.68 feet of Lots 5 thru 7, Pierce’s Annex, City of Fremont, Dodge County, Nebraska into one lot.**

Moved by Fooker, seconded by Sawyer to recommend approval of the lot combination. Roll Call Vote showed all members present voting aye – 7 ayes. Motion Carried.

- **Consider request of Matt and Dawn Updike to combine Lots 5 thru 7, except for the south 51.68 feet, Pierce’s Annex, City of Fremont, Dodge County, Nebraska into one lot.**

Moved by Sawyer, seconded by Barton to recommend approval of the lot combination. Roll Call Vote showed all members present voting aye – 7 ayes. Motion Carried.

- **Consider recommendation of approval for the 2013 One and Six Year Street Plan.**

Planning Director Harkins stated he handed out a separate handout from the agenda basically just a map showing all of the street projects they are looking at and then kind of a brief shorter summary other than what you see after the staff report is a copy of the sheets that get submitted to the State. Harkins felt the map might be a little bit easier to understand. The One and Six is an annual financial report that is essentially is submitted by the City to the State Department of Roads outlining some of the major projects that we’re undertaking and then some of the funding sources. Harkins stated other projects can be done outside of that if you desire as a municipality but this just starts to outline what you spent money on in the past year, what you are looking at doing in the next year and then over the course of the next six years. Staff has basically had to pick this up and run with it due to staff changes in other departments and interim situations. In doing so, they have taken some projects that historically have been rolling to the right and when he says that he means they get scheduled and then keep getting pushed back. Instead of rolling right they have tried to stop some of the momentum from the 2012 projects or the list of the 2012 projects of things that were not going to originally get done and tried to jump start that. Most of the projects that were listed on the 2012 One and Six, at least on the one year plan, they have got in design at least right now. The obvious one that would not be would be the viaduct for 23rd Street. Some of those larger ones have rolled to this year and those are indicated because we are doing those projects now. To make the documents consistent with what they are going, they have made those changes. Harkins stated you will also notice essentially when you start to go through some of these it seems like a long list but he can tell the Planning Commission right now they are in a position where in all likelihood we would be sitting when you count in pedestrian signals and trails between 20 and 25 projects being in construction this summer, which will be very unusual for this community. Harkins stated he believes last year they did four and there were some that considered that a really good year. He considers that a good month or a good couple of weeks. We are trying to become more aggressive in how we are getting street projects out the door. As part of that, we have started to add some projects to the list. It isn’t complete by any means but it is a start.

Again, we can do other projects as the need arises. We have issued three different requests for proposals for engineering services for different street designs. Those are in different sections of the community. The approach right now with the first proposal was to take work and give it to multiple firms. We are going to start with the second and the third actually taking a group of streets, packaging them together to submit for proposals with the idea that one firm will get five or six in that package. We are going to keep working through different areas of town and picking some streets with the idea that if we can get certain ones to construction this year we are going to do it. So that number of 20-25 projects may go a little higher but that depends on how fast we can work. At a minimum, some of these later designs will get shelved so that when we hit construction season next year the City has projects ready to go so when January and February hit of 2014 we can be going out to bid with multiple street projects for construction. We are going to begin to be doing a much more proactive approach to street repairs.

Member Winter asked who specifically makes a decision on what goes first and what goes farthest. Harkins stated part of it is a combination of how fast we can get design done and what issues are involved and then basically the Public Works staff is making those evaluations in conjunction with some other departments.

Member Sawyer asked with the comprehensive plan and landscaping or trees down 23rd Street does that fit in the One and Six Year or should it be in the One and Six Year. Harkins stated it was placed in the One and Six. If you look at what is essentially Form 9, that Six Year Plan, we have included an item to tie in more into that idea. We are adding a project for access management on 23rd where we will start to look at landscaping and medians and some of those issues. Sawyer asked how that fits in priority wise. Can it jump ahead? Harkins stated it can jump ahead. Obviously both on the One and Six and the CIP the priorities change every year based on where the community is at and what funding is available. That might ebb and flow a little bit over the next couple of years until we get to actual construction or at least design. The Planning staff right now originally looked at the idea of some type of corridor management plan in a 2015 type of time frame but we are now looking at starting to sliding that forward. That is getting added in and brought father along. One of the other things that we are going to start trying to do with Public Works is to be more aggressive on storm water as well so as we do some different projects trying to start to address storm water issues. Harkins stated we may need to do some overall looking at the community and how we fit in regards to detention ponds, retention ponds and things like that in. Part of that is just out of necessity. We have some areas that no matter what we do they just can't handle the water. Harkins stated maybe it was the fact that he has only lived in town a few months but the idea of we just don't drive for a couple of hours when it rains an inch is really not an acceptable standard for a community of this size. It's not an acceptable standard of most communities. Why we decided to become a community of low expectations, we shouldn't be. So staff is taking the approach that we are going to be addressing those in a more proactive fashion as well.

Member Winter inquired about the trails and asked about the federal funding whether the money was here or almost here. Winter inquired specifically about Johnson Road and whether it will be done late this year. Harkins stated it would be done late 2013. The money is in place as long as we stay on track with design for Rawhide Creek the money is there for State Lakes. We have been recommended for preliminary approval from the State Game and Parks Commission for a grant to help with the Ridge Road Trail so that will help offset some of the cost of that project. Member Sawyer asked if the Johnson Road Trail would tie in with the Rawhide Creek Trail. Harkins stated it does. It will tie in right where the old Lazlo's building is, Sawyer asked if it was one project or two. Harkins stated it was two separate projects. Johnson Trail will get done first and Rawhide will come back behind it. Rawhide right now is at about 30% design. There is a chance we might be able to get them out on construction at the same time and get close but because they are both Federal aid projects and they are being handled through the Department of Roads once it gets to 100% design and then go to bid for construction it is on the

Department of Road's schedule so they will take a bunch of projects and throw them out at a bid letting and the City doesn't always have a lot of say in the timing of that.

Various other various projects and funding were discussed.

Moved by Fooker, seconded by Wiese to recommend approval of the One and Six Year Plan. Roll Call Vote showed all members present voting aye – 8 ayes. Motion Carried.

- **Nomination and Election of Chairman and Vice Chairman**

Moved by Ridder, seconded by Emanuel to recommend Dev Sookram for Chairman. All members present voting aye.

Moved by Sookram, seconded by Sawyer to nominate Brad Fooker for Vice Chairman. All members present voting aye.

Meeting adjourned at 5:54 p.m.