

CITY OF LA VISTA
PLANNING COMMISSION MINUTES
APRIL 17, 2008

The Planning Commission meeting of the City of La Vista was convened at 7:00 p.m. on Thursday, April 17, 2008, at the La Vista City Hall, 8116 Park View Boulevard. Members present were: Andsager, Carcich, Malmquist, Horihan, Krzywicki, Gahan, Alexander, Hewitt, Strittmatter and Circo. Also in attendance were City Engineer John Kottman, City Planner Marcus Baker and Community Development Director Ann Birch. At 8:10 p.m., Malmquist left the meeting at which time alternate commissioner, Circo, became a voting member.

Legal notice of the public meeting and hearing was posted, distributed and published according to Nebraska law. Notice was simultaneously given to all members of the Planning Commission and a copy of the acknowledgement of the receipt of notice is attached to the minutes. All proceedings shown were taken while the convened meeting was open to the attendance of the public.

1. Call to Order

The meeting was called to order by Chairman Krzywicki at 7:00 p.m. Copies of the agenda and staff report were made available to the public

2. Approval of Meeting Minutes – February 28, 2008

Carcich motioned to approve the minutes of February 28, 2008, as presented. Andsager seconded the motion. Ayes: Andsager, Gahan, Carcich, Krzywicki, Malmquist, Strittmatter, Alexander and Circo. Hewitt abstained. Nays: None. Motion carried.

3. Old Business

None

4. New Business

A. Dogtopia Conditional Use Permit

i. Staff Report: Applicant, Pete & Barney's World, LLC is requesting a Conditional Use Permit to establish a business called Dogtopia. This business would provide animal specialty services: daycare, boarding, spa, and grooming for pets within the flex space unit at the west end of the building located at 12001 Cary Circle, Papio Valley I Business Park, Lot 8. The area of this CUP only is 7,500 sq. feet.

The existing zoning is I-1, Light Industrial; Gateway Corridor Overlay District; and Floodplain Overlay District. The property owned by Sedlak Enterprises, LLC contains one building which houses

Turnkey Solutions and two bays for flex space. The Future Land Use Map of the Comprehensive Plan designates this property for industrial uses.

Access to this site would be from an existing drive providing egress/ingress to Cary Circle. Parking would be comparative to the minimum requirements for a daycare. Eighty-eight spaces exist on the site currently, which are shared by Turnkey and one other vacant bay. Fifty-eight of those spaces are dedicated to Turnkey Solutions. Dogtopia may require 15-25 of the remaining 30 spaces. Parking needs to be adequate for all tenants in this building.

Odors should be minimal and cause no significant impact to other tenants due to an HVAC system venting to the roof. This system has a high grade HEPA filter and air exchange. Proposed special insulation in the walls and flooring should result in minimal noise and cause no significant impact to other tenants.

Waste disposal will be handled in a fully enclosed dumpster with all wastes double bagged. Indoor solid animal waste would be picked up and mopped by staff, not hosed off into the drainage system. Dogtopia Staff would clean up all parking lot and common area waste. A cleaning schedule has been submitted for review.

Staff recommends approval of the Conditional Use Permit to allow Animal Specialty Services at the proposed site in the I-1 Zoning District with the following conditions: 1) the applicant demonstrates necessary parking space is provided without negatively impacting the parking required for future or existing tenants on this lot; 2) outdoor clean-up of solid animal wastes shall be performed at least twice a day.

ii. Public Hearing: Carcich motioned to open the public hearing. Malmquist seconded. Ayes: Carcich, Malmquist, Andsager, Gahan, Horihan, Alexander, Strittmatter, Hewitt and Krzywicki. Nays: None. Motion carried. Hearing opened at 7:08 p.m.

Nicole Reisdorff, applicant and owner of Dogtopia, stated the parking is comparable to a regular daycare with morning (7-9) and evening (5-7) rush hours. She thought the average number of staff may be 4-6 at a time. The capacity will be 70-80 dogs, but does not foresee that happening in the first year. She sees no problems with any recommendations by staff.

Resident, Mike McCormick, at 12501 Giles Road, appeared as he had received a notice regarding this hearing. It was unclear as to the particular business intended. Having heard Nicole Reisdorff he felt scared of her business proposal. He stated, dogs hear better than humans and in the last 8-10 years he states he has lost everything. He can no longer ride a horse but he still keeps one. He has three dogs, duly licensed and kept healthy. In 2003, he was found dead in the creek behind his

house by his dog. He is alive today because of his dog. This proposal to bring in more dogs which will bark and this will cause (all) dogs to bark. In the 1970-1980's, his parents owned a licensed kennel and very often stray dogs would show up as a result of the kenneled dogs barking. He states he is scared to death that when he lets his dogs out then they will take off hearing the dogs from Dogtopia. This will jeopardize all he has left – his dogs are all he has left. They are jeopardizing his dogs crossing Cary Circle and getting run over. He is terribly against this request. He is the last house out there. Let him have some part of his life left and something as simple as his dogs. I am standing here today because my registered Australian Shepard saved me.

Hewitt asked where his home was exactly. McCormick said it is approximately 1,000 yards west from the proposed Dogtopia.

Krzywicki asked if the McCormick property was governed by city codes. Baker said, the property is in the city's zoning jurisdiction, but not within the city limits. Birch said McCormick would be under the county jurisdiction for animal control.

Hewitt said a pet owner has to have control over their animal.

Krzywicki maintained that if a barking dog causes Mr. McCormick's dogs to leave the property, then he does not have control over his own dogs.

McCormick said that is a moot point. His life has been this way since 1982, and saying "you can't live that way anymore McCormick" is not right. Simply because a business wants to have financial gain, he feels like he needs to change his way of life and leash his dogs or put up a fence.

Carcich said, Mr. McCormick's dogs must be kept under his control.

McCormick said his dogs are totally under control. By adding barking dogs on a neighboring property, this would take away his control.

Krzywicki pointed out that the application says the building is soundproofed, and the majority of the time the dogs will be in the building. Therefore, not much barking would be heard during the day.

McCormick restated that dogs bark and hear better than people. He believes dogs at the proposed business are going to bark going to and from the cars and during outdoor exercise.

Gahan asked if there is a fenced in area, in the back, for exercise. If so, how much time do the dogs spend out there? Nicole Reisdorff answered that not all of the dogs would be out there at one time, and only at 15-20 minutes intervals. Reisdorff tried to be mindful of placing her business in an area

where it would harm the least and still feels this location is right. There are no windows in the Dogtopia building, just a front door. There is a ventilation system.

McCormick said he is sorry he is not a new development, but he is somebody who has been in the community for a very long time. His life has been saved because of his dog, and now he felt his dogs lives were going to be in jeopardy. It is a terrible feeling for him to think about that.

Hewitt restated that Mr. McCormick could put up an electric fence, or he could fence his yard to control his animals. McCormick rebutted this statement saying that he should not have to spend his money to change his lifestyle for the benefit of another business. Hewitt explained that she would do it for her dog.

Krzywicki said if somebody else built a group of homes within the same proximity of McCormick's house and let their dogs out in their fenced in yards, then he would have the same problem. McCormick countered saying this is a business with a capacity of eighty dogs. A house within a mile of him would not have 80 dogs.

Krzywicki explained further that sentimental reasons have no bearing on the case. If the dogs are not under control to keep them from running across the street, then it is out of the Commission's hands. The fact that Reisdorff wants to run a business, and she complies with the requirements that the city puts on her is what the Commission needs to look at. If the Commission feels that there is a justification to not allow the dogs to be outside to mitigate barking noise or interfere with surrounding neighbors, then conditions of approval can be placed on the business. The City will consider whether the noise outside is going to be a concern to the area.

McCormick asked if the Commission would not treat him as a citizen with a concern. Krzywicki says, yes if the noise is a nuisance we will consider that.

McCormick said it would be a nuisance to the area and to him. He explained that the business could bring in dogs at 6 a.m. and if these dogs come out and bark, then his dogs would bark and wake him up. McCormick states he gets up at 3:30 a.m. on work days and he does not want to be woke up early on the one day he gets off. When their dogs bark, his will bark. His dogs will be contained and if they bark on his day off, that is a concern.

Tony Reisdorff, husband of the owner Nicole came forward to share that one of the things that he and his wife considered for places. Typically there will be 15-20 dogs at a time in the fenced in area outside. Their dog goes to doggie daycare and Mr. Reisdorff studied that fence. He could not see the dogs. Nine times out of ten a dog will bark because of sight, not just because of scent. Since

Dogtopia's fence is enclosed, the dogs inside would not be visible and the fence would keep the noise down.

Malmquist motioned to close the public hearing. Horihan seconded. Ayes: Carcich, Malmquist, Andsager, Gahan, Horihan, Alexander, Strittmatter, Circo and Krzywicki. Nays: None. Motion carried. Hearing closed at 7:40 p.m.

Hewitt commented that the conditional use permit cannot be addressed on resolutions regarding the parking requirements that have not been adopted yet. There are no parking requirements that are specific to animal specialty services. If compared to daycares the figures come to 12 spaces as opposed to the 15-25 stated in the application.

Baker stated 15 spaces were calculated by the number of proposed employees and the capacity for dogs. Also other communities' parking requirements were looked at since the zoning ordinance does not have minimum parking requirements for the requested business.

Krzywicki stated for the record, he shares McCormick's concern that if the keeping of the dogs outside for periods of time causes an undue amount of noise in the area, which currently does not exist, it could be considered a nuisance to people in the area. He has a concern as to how to control a noise issue if it came to that after a conditional use permit is granted.

Hewitt says the animal control authority can give citations, fines and other control measures.

Malmquist agreed that perhaps 15 parking spaces is an adequate amount of parking spaces for the business. As part of the conditional use permit perhaps there would be a reasonable way to review the noise issue, but she is not certain how that would occur. The city should be made aware of any complaints with noise issues. She does feel that the animal control officers will take care of it.

Krzywicki stated a draft should contain a condition that all efforts should be taken to maximize the ability to keep the noise under control.

Hewitt pointed out that in the I-1 Zoning District, where this is located, a relatively high level of noise is anticipated. It would be difficult to put a restrictive noise condition upon a particular business that would not otherwise be put on the other businesses in the same zoning district.

iii. Recommendation: Malmquist motioned to recommend approval to City Council of the Conditional Use Permit to allow Animal Specialty Services with the conditions as outlined in the staff report. Circo seconded. Ayes: Carcich, Malmquist, Andsager, Horihan, Alexander, Strittmatter, Hewitt, Gahan and Krzywicki. Nays: None. Motion carried.

This item is scheduled to be on the City Council agenda of June 3, 2008.

B. Cimarron Terrace Preliminary Planned Unit Development (PUD) Plan

i. Staff Report: The applicant, Pedcor Investments, LLC, is requesting a review of a Preliminary Planned Unit Development (PUD) Plan to accommodate multi-family housing to be named Cimarron Terrace on a 25.938 acre site located at Lot 380, Cimarron Woods at the southwest corner of 96th and Harrison Streets.

The property is owned by Torco Development, Inc. and is zoned R-3 PUD-1, High Density Residential with Planned Unit Development overlay. This moderate to steeply sloping site has an open drainage channel which bisects it from north to south and contains mature groves of trees. This site is currently undeveloped.

The Future Land Use Map of the Comprehensive Plan identifies this site for high density residential. Lot 380 was platted with access to 99th Street in Cimarron Woods. The existing trail in Cimarron Woods is proposed to be extended into the Cimarron Terrace project. At this time, the proposal does not match the design set forth by the Cimarron Woods Subdivision Agreement.

The developer has proposed 406 parking spaces for Phase One and 274 parking spaces for Phase Two of this project. Parking requirements of the City currently require Phase One to have 534 parking spaces and Phase Two, 486. The City Planning Commission is concurrently reviewing revisions to its parking requirements based on a recommendation from staff who believes too much parking is being required for certain uses, including multi-family projects. Because the PUD Overlay District allows for flexibility in design, staff is recommending to model the parking for this development after the proposed revision to the multi-family standard, with *one parking space per bedroom*. This would result in a requirement of 336 parking spaces for dwelling units in Phase One and 300 spaces for dwelling units in Phase Two. Additional parking for the clubhouse would likely be required as well. Staff also suggests the addition of bicycle parking racks at the clubhouse/pool and the playground.

MUD has requested that the developer install a line valve into the main line just north of Josephine Avenue along 99th Street which would double the reliability in service to this site.

The perimeter of the property is proposed to be landscaped in a manner consistent with the existing landscaping in Cimarron Woods. Landscaping is also proposed around parking areas in Cimarron Terrace to provide a visual buffer for the "gateway corridor" roads. Some of the existing trees and

vegetation will be conserved within the center of the development. The Landscape Plan would be reviewed in detail at the time of Conditional Use Permit review.

Cimarron Terrace – Phase One – has been designed to function as a stand-alone development, as requested by staff, and will provide full access and parking to meet the needs of the development. The clubhouse, trail and playground area would also be developed in Phase One. An application for a Conditional Use Permit and Final PUD Plan approval would be required pending approval of the Preliminary PUD Plan. The applicant also intends on subdividing the parcel along the phased development line, which may be handled as an Administrative Plat. An application for architectural design review has been submitted, as this property is in the Gateway Corridor Overlay District.

Staff recommends approval of the Preliminary Planned Unit Development (PUD) Plan with the following conditions:

1. The Preliminary PUD Plan and application refers to the property as being zoned R-1 (PUD). This needs to be revised on the Final PUD Plan to read R-3, PUD-1 zoning.
2. A traffic signal shall be installed at the intersection of 99th and Harrison Streets as part of the development of Lot 380, Cimarron Woods, as per the Cimarron Woods Subdivision Agreement.
3. A 10-foot wide trail shall be installed, as per Exhibit E-1 of the Cimarron Woods Subdivision Agreement. Parking spaces near the west property line shall be shifted to the east to allow enough room for this trail to be constructed with separation from the parking lot.
4. Parking requirements will need to be satisfied as described in this staff report.
5. Revisions requested by the City Engineer, in his letter dated March 17, 2008, shall be incorporated into the Final PUD Plan and Conditional Use Permit submittal.
6. Other concerns stated in this report shall be addressed prior to Final PUD submittal.

ii. Public Hearing: Malmquist motioned to open the public hearing. Carcich seconded. Ayes: Carcich, Malmquist, Andsager, Gahan, Horihan, Alexander, Strittmatter, Circo and Krzywicki. Nays: None. Motion carried. Hearing opened at 7:48 p.m.

Larry Jobeun appeared on behalf of the applicant, Pedcor Investments, LLC. Also in attendance is Mike Smith with Pedcor Investments, LLC, and Brad Weckerland of E & A Consulting Group. Pedcor is the developer and owner of over 12,000 multi-family units in an 11 state area and have been in business for over 20 years.

Jobeun stated that Pedcor is proposing to construct 354 multi-family units in two phases. The phase one plan is to construct: 61 one-bedroom units, 84 two-bedroom units and 36 three-bedroom units and a 3317 sq ft. club house, swimming pool and playground.

Hewitt asked the location of the grass-block emergency entrance. She inquired if the phase two infrastructure was not put in at the same time as phase one. Jobeun said no as it would get torn up with construction of phase two.

Baker clarified that in the revised plan there is no longer an emergency exit shown. Jobeun agreed, stating the access now shows as a connection to 99th Street.

Horihan asked what the parking requirements would be for the clubhouse alone. Kottman stated that he would have to examine the floor plan, determine the permitted occupancy, and the parking code provides for one stall per four persons of licensed capacity. Without the floor plan he could not give an exact answer. In addition, it would require knowing if the clubhouse would be rented out or if it were for occupants only. Jobeun replied it would not be rented out, and the clubhouse would be mostly for the occupants.

Horihan was curious as to the placement of the playground. Jobeun said it was immediately adjacent to the clubhouse and swimming pool, which he felt was an appropriate location.

Gahan asked if fire trucks could gain access to the northeast development of the property. Jobeun said they would be able to access and turn around there. Kottman said the lay-out had been reviewed by the fire department.

Hewitt asked if there was anything in the staff or engineer's recommendation that would give them concerns. Jobeun said there was not.

Carcich asked the completion date. Jobeun said it would be started late fall of this year with completion in late summer of 2010.

Malmquist motioned to close the public hearing. Hewitt seconded. Ayes: Carcich, Malmquist, Andsager, Gahan, Horihan, Alexander, Strittmatter, Hewitt and Krzywicki. Nays: None. Motion carried. Hearing closed at 8:08 p.m.

iii. Recommendation: Carcich motioned to recommend approval of the Preliminary Planned Unit Development (PUD) Plan subject to the satisfaction of the conditions recommended by the planning department and city engineer. Malmquist seconded. Ayes: Carcich, Malmquist, Andsager, Horihan, Alexander, Strittmatter, Hewitt, Gahan and Krzywicki. Nays: None. Motion carried.

This item is scheduled to be on the City Council's agenda June 3, 2008.

Malmquist excused herself from the commission at 8:10 p.m. and left the building.

C. Plat Vacation of lots located within La Vista Falls Golf Course and La Vista's Central Park.

i. Staff Report: The proposed vacation of lots within Central Park and the City's golf course would effectively dissolve all lot boundaries and rights-of-way within the plat's boundaries. All rights-of-way would remain in the City of La Vista's ownership as well as all of the designated lots and outlots. Two tax parcels would be created as a result of the vacation: one for the park and one for the golf course.

Staff recommends approval of Plat Vacation to City Council.

ii. Public Hearing: Carcich motioned to open the public hearing. Hewitt seconded. Ayes: Carcich, Hewitt, Andsager, Gahan, Horihan, Alexander, Strittmatter, Circo and Krzywicki. Nays: None. Motion carried. Hearing opened at 8:11 p.m.

Krzywicki asked if the cul-de-sac would be taken inside the golf course? Kottman said there would a separate right-of-way dedication that create that would cul-de-sac that would go to city council for approval. It is easier record keeping wise.

Hewitt motioned to close the public hearing. Carcich seconded. Ayes: Carcich, Hewitt, Andsager, Gahan, Horihan, Alexander, Strittmatter, Circo and Krzywicki. Nays: None. Motion carried. Hearing closed at 8:12 p.m.

Strittmatter inquired if a motion would require that the commission put a stipulation on the vacation that a follow-up right-of-way dedication on the cul-de-sac be appropriate in the future?

Kottman answered that the dedication had already been prepared and is set to go to City Council if this action is approved.

iii. Recommendation: Hewitt motioned to recommend approval of Plat Vacation to City Council for both La Vista Falls Golf Course and La Vista Central Park. Carcich seconded. Ayes: Carcich, Hewitt, Andsager, Horihan, Alexander, Strittmatter, Circo, Gahan and Krzywicki. Nays: None. Motion carried.

This item is scheduled to be on the City Council's agenda June 3, 2008.

D. Revisions to City of La Vista Zoning Ordinance, Section 7.06 Schedule of Off-Street Parking and Loading Requirements

i. Staff Report: Revisions have been made to the minimum parking and loading requirements in the Zoning Ordinance to eliminate uses that no longer appear in the code; to add parking requirements for uses that appear elsewhere in the code; and to revise requirements for uses that are creating an overabundance of parking or not enough parking. It is also suggested by City Staff that loading space requirements be eliminated.

The American Planning Associations' Planners Advisory Service has been utilized to help determine appropriate minimum requirements for vehicle parking. Also, other cities' parking requirements in the region have been consulted. These revisions are shown in a final draft and are ready for Planning Commission review and recommendations.

Staff Recommends approval of the proposed revisions with any added changes the Planning Commission may have.

ii. Public Hearing

Hewitt motioned to open the public hearing. Carcich seconded. Ayes: Carcich, Hewitt, Andsager, Gahan, Horihan, Alexander, Strittmatter, Circo and Krzywicki. Nays: None. Motion carried. Hearing opened at 8:15 p.m.

Mike Smith with Pedcor Investments appeared to provide demographic information on the Cimarron Terrace project, which would be affected by this request. Automobile ownership is less than two per household and it wasn't felt that this parking space revision will affect their development in this area and would, therefore, he would support city staff.

Carcich motioned to close the public hearing. Hewitt seconded. Ayes: Carcich, Hewitt, Andsager, Gahan, Horihan, Alexander, Strittmatter, Circo and Krzywicki. Nays: None. Motion carried. Hearing closed at 8:30 p.m.

Krzywicki asked the reason for the strike-outs in some of the particular uses within the regulations. Baker said some uses did not appear anywhere else in the zoning code, or some uses fit into a more generalized category. Planning is trying to revise wording for definitions, permitted uses / conditional uses, and parking requirements by making sure the terms are the same throughout the code.

Hewitt asked if there was any reference made to existing businesses' parking needs. Baker said these proposed changes would be applied to new construction and new businesses. He said in some cases they tried to get away from how many employees or doctors were on staff at the business as this is a varying factor at any given time.

Hewitt questioned if there was any reference to existing veterinary establishments in La Vista and if that establishment would comply with new parking requirements. Baker said a comparative analysis was not done for every business. Most businesses' parking facilities are functioning relatively well right now; however, if city staff is having trouble identifying how many parking spaces are necessary for a business because of too many variables, then that is a problem.

Hewitt said the veterinary service's parking requirement concerns her, as some have large animals that require huge square footage and there is only one vet, yet they would be required to have many parking spaces based on square footage. She is trying to correlate what the change is and if there is any reference to actual use.

Baker pointed out that the I-1, Light Industrial district when it refers to Veterinary Services it states, not including livestock. It was discovered this is stipulated in the I-2 rather than the I-1. Baker said something could be added, as an exception, that a higher square footage could be used if larger animals were treated.

Birch thought a parking calculation could be found for parking requirements for veterinary services, including livestock, which would be reasonable. It can be added into a motion that a separate parking requirement for veterinary services that would include livestock.

In observation, Krzywicki asked how the required parking spaces tie back to the additional requirements for handicap spaces, as it seems not everyone dedicates the same amount of handicap spaces. Kottman stated the number of handicap parking spaces is included within the minimum parking requirements. There is no limitation that says a developer cannot have more than the minimum number of handicap spaces required.

Strittmatter suggested adding a statement to the bottom of the code that indicates a certain percentage of total stalls available on site be available to the general public without limitations related to any specific use by any particular individuals.

iii. Recommendation: Hewitt recommended that the veterinary services establishment be amended at a certain date for large and small animal services. Hewitt also suggested that a better definition be used for childcare facilities, as the aging population would need to include adult daycares in addition to childcare. Birch suggested making a note to consider this issue at a later meeting.

It was requested for the Chief Building Official to provide the Planning Commission with a comparative analysis of the proposed regulations with regards to existing businesses at the next meeting.

Gahan motioned to recommend continuance to allow staff time to further review the proposed revisions. Hewitt seconded. Ayes: Carcich, Hewitt, Andsager, Horihan, Alexander, Stritmatter, Circo, Gahan and Krzywicki. Nays: None. Motion carried.

E. Revisions to City of La Vista Zoning Ordinance, Section 2.02 Definitions

i. Staff Report: These proposed revisions are to the definitions section only. The revisions seen are for eliminating words or phrases that appear no where else in the code. Also, to add definitions to uses currently in the code that have none. And, to revise content to definitions in need of clarity, rewriting or updating. General common sense and The American Planning Associations Advisory Service assisted with these definitions.

Staff has put together a substantial draft. There are many details yet to be revised. The staff recommendation is to continue the consideration of revisions to the La Vista Zoning Ordinance, Section 2.02 Definitions until the next meeting.

Krzywicki suggested rewording of the section on automated teller machines on the second line of the definition where it is said "...performs banking or financial functions at". It is suggested that the words 'location remote' be stricken and substituted with the words 'or remote' from the controlling financial institution.

Hewitt suggested that Respite Care be included also in the definitions. If there are any further comments on any revisions to the definitions, they may be phoned or emailed into Marcus Baker or Ann Birch prior to next month's meeting.

ii. Public Hearing: Carcich motioned to continue the public hearing until May. Horihan seconded. Ayes: Carcich, Hewitt, Andsager, Gahan, Horihan, Alexander, Stritmatter, Circo and Krzywicki. Nays: None. Motion carried.

5. Comments from the Floor

None

6. Comments from the Planning Commission

None

7. Adjournment

Carcich motioned to adjourn. Hewitt seconded. Ayes: Andsager, Gahan, Carcich, Hewitt, Krzywicki, Alexander, Strittmatter, Circo and Horihan. Nays: None. Meeting adjourned at 8:50 p.m.

Reviewed by Planning Commission:

Sharon R. Dennis
Recorder

Michael J. Krzywicki
Planning Commission Chair

5-15-2008
Approval Date