



CITY OF LA VISTA
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PLANNING COMMISSION MINUTES
SEPTEMBER 15, 2016-7:00 P.M.

COPY

The City of La Vista Planning Commission held a meeting on Thursday, September 15, 2016, in the Harold "Andy" Anderson Council Chamber at La Vista City Hall, 8116 Park View Boulevard. Chairman Gayle Malmquist called the meeting to order at 7:00 p.m. with the following members present: Mike Krzywicki, Gayle Malmquist, John Gahan, Tom Miller, Kevin Wetuski, Kathleen Alexander, Mike Circo, Harold Sargus, Jackie Hill and Jason Dale (alternate). Members absent were: None. Also in attendance were Chris Solberg, City Planner; Meghan Engberg, Permit Technician; Ann Birch, Community Development Director; and John Kottmann, City Engineer.

Legal notice of the public meeting and hearings were posted, distributed and published according to Nebraska law. Notice was simultaneously given to all members of the Planning Commission. 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 Malmquist at 7:00 p.m. Copies of the agenda and staff reports were made available to the public.

2. Approval of Meeting Minutes – August 25, 2016

Krzywicki moved, seconded by Miller to approve the August 25th minutes. **Ayes: Krzywicki, Circo, Alexander, Gahan, Wetuski, Malmquist, Hill, Sargus, and Miller. Nays: None. Abstain: None. Absent: None. Motion Carried. (9-0)**

3. Old Business – None.

4. New Business

A. Public Hearing for PUD Amendment – Lot 2, Southport East Replat 2 – Saldi Family Investments, LLC

- i. **Staff Report – Chris Solberg:** Solberg stated that the application for the PUD amendment for Lot 2 Southport East Replat Two is not ready for review by the Planning Commission at this time. Staff recommends opening and continuing the public hearing until the October 20th Planning Commission meeting.
- ii. **Public Hearing- Opened by Gayle Malmquist.**
- iii. **Recommendation:** Krzywicki moved, seconded by Hill to continue the Public Hearing until the October 20th meeting. **Ayes: Krzywicki, Circo, Alexander, Gahan, Wetuski, Malmquist, Hill, Sargus, and Miller. Nays: None. Abstain: None. Absent: None. Motion Carried. (9-0)**

B. Public Hearing for PUD Amendment – Lot 9, Southport East Replat Six – Galaxy Ventures, LLC

- i. **Staff Report – Chris Solberg:** Solberg stated that the applicant Galaxy Ventures, LLC is requesting a Planned Unit Development Site Plan approval to allow for a commercial strip shopping center on Lot 9, Southport East Replat Six. Staff recommendation is for the approval of the PUD Site Plan for a commercial strip shopping center, contingent on the finalization of the landscaping plan and traffic issues prior to City Council approval, as the PUD Site Plan request is consistent with the Comprehensive Plan and the Zoning Ordinance.

ii. **Public Hearing – Opened by Gayle Malmquist**

Kyle Haase, from E & A Consulting Group, came forward and spoke on behalf of the applicant. He mentioned they are looking at the lot on the corner of Eastport Pkwy. and Giles Road. The area is approximately 1.13 acres and is currently vacant. The proposed use would be for a 5,625 square foot fast food/coffee house user with a drive-thru and 49 parking stalls with one access point off of McDermott Plaza. As requested by City Staff, they have conducted and submitted a traffic study for the site and for the proposed use at the intersection. Results of that traffic study show that there is no need for improvement at this time. They have also submitted a revised landscaping plan to meet all of the Southport and Gateway Corridor guidelines and that the architecture of the building will also meet the guidelines. He then invited any further questions.

Circo asked how many store fronts would be in the building.

Haase said that it's just one business.

Malmquist asked for further public comment and, seeing none, closed the Public Hearing.

Malmquist asked if the traffic study had been reviewed.

Kottmann said he received the traffic study last Friday and has reviewed and read through it. He said he generally agrees with the conclusions that the left turn capacity on Eastport Pkwy. to turn left into the facility in the morning peak hour, which is his primary concern, they've demonstrated it's expected to be adequate.

- iii. **Recommendation:** Gahan moved, seconded by Sargus to recommend to City Council the approval of the PUD Site Plan for the commercial strip shopping center, contingent on the finalization of the landscaping plan and traffic issues, as the plan is consistent with the Comprehensive Plan and the Zoning Ordinance. **Ayes: Krzywicki, Circo, Alexander, Gahan, Wetuski, Malmquist, Hill, Sargus, and Miller. Nays: None. Abstain: None. Absent: None. Motion Carried. (9-0)**

C. Replat – Mayfair 2nd Addition, Replat 7 – One Mayfair Place LLC

- i. **Staff Report – Chris Solberg:** Solberg stated the applicant, One Mayfair Place LLC, is requesting a replat of Lot 11A, Mayfair 2nd Addition Replat One. This is

located at the northeast intersection of South 99th Street and Hillcrest Plaza. Staff recommends approval of Mayfair 2nd Addition Replat 7 contingent upon the finalization of a subdivision agreement prior to City Council review as the replat request is consistent with the Comprehensive Plan and the Subdivision Regulations.

Kyle Haase from E & A Consulting Group came and spoke on behalf of the applicant. He stated they are looking to replat the current lot into three lots. The current lot size is 12.76 acres. They are going to break that into three lots, with lot one being 9.29 acres, lot two and lot three will be broken into approximately 1.7 acres. They believe these lot sizes will better meet the market for development.

Sargus said Solberg had written a letter on August 9th to E & A and asked if they had responded.

Solberg said they responded with revised documents. He said that they don't always receive an actual letter along with resubmittals, they just revise the documents and resubmit.

- ii. **Recommendation:** Hill moved, seconded by Circo to recommend to City Council the approval of Mayfair 2nd Addition Replat 7 contingent upon the finalization of a subdivision agreement prior to City Council review as the replat request is consistent with the Comprehensive Plan and the Subdivision Regulations. **Ayes: Krzywicki, Circo, Alexander, Gahan, Wetuski, Malmquist, Hill, Sargus, and Miller. Nays: None. Abstain: None. Absent: None. Motion Carried. (9-0)**

D. Public Hearing for Zoning Map Amendment – Lot 8, Val Vista Replat Four – Torco Enterprises, Inc.

- i. **Staff Report – Chris Solberg:** Solberg stated Torco Enterprises, Inc. is requesting a rezoning of Lot 8, Val Vista Replat Four from I-1 Light Industrial to I-2 Heavy Industrial. The lot is generally located northeast of the intersection of Chandler Road and Chandler Circle. Staff recommends denial of the Zoning Map Amendment as the request is not consistent with the Comprehensive Plan and may be consistent with the definition of illegal spot zoning if approved. He then asked the Commission to note there is an additional email on their desks that was received regarding this application.
- ii. **Public Hearing – Opened by Gayle Malmquist.**
Brian Torczon with Torco Enterprises came forward and spoke. He mentioned they have a commercial grading company and are asking if they can park their dump trucks, some equipment, which every morning they leave and come back at night, so they don't really have any outdoor storage per se. They leave in the morning, they come back at night and they might have a piece of machinery that might sit there due to oil change or something like that. Right now they have it as a base because in future development they plan on building another building a couple of years down the road. Initially when they talked with the City Planner they didn't have a choice of a Conditional Use Permit to park these pieces of equipment and trucks there and that's why they have to change the zoning to I-2. He then invited any questions.

Sargus asked how long they had been using the lot for parking in back.

Torczon said they have been parking them there for about a year now. Sargus asked where they parked them prior to that.

Torczon said they used to have a place behind Home Depot they rented and then their lease was up. He said they had been at the property about a year and it sloped considerably from the street about 20 feet down. He said the street elevation right now was about 1119 and the building elevation is at 1123 and as the ground slopes to the east they are at elevation of about 119, so they have to build it up across to make it flat.

Miller asked how many trucks are in his fleet.

Torczon said right now they have 5.

Miller asked how big they were.

Torczon said they have 3 dump trucks, and 3 semis.

Miller asked them what time they left in the morning and what time they come back at night.

Torczon said they usually fire the trucks up at 6:30 and they usually get back anywhere between 5 and 6 in the evening. He said they are a commercial grading company, so in the winter they will hardly ever move.

Miller asked if they worked Saturdays or Sundays.

Torczon said they only work on Saturdays. He said Saturdays are only half days, if that depending on weather. He also tries to give his guys Saturdays off if possible. He said he didn't know if they have a copy of that future plan, but it shows he was willing to line the whole side with trees to block the neighbors. He said that's ultimately why they're there tonight is because of the complaints.

Krzywicki said part of the issue of rezoning the property is you have that property rezoned then anyone can use that new zoning to put anything there that qualifies as an I-2, regardless of what the applicant's original intent was. He said that would open it up for all other uses in the future that would qualify under I-2, which may not necessarily be good in that area.

Torczon said that's what they are trying to figure out. He said there is a storage unit down the road from there that's considered I-1 and they have stuff parked outside too. They are trying to figure out what they can do to stay because they don't want to leave.

Circo said he drove by the property and noticed there was an excavator parked outside.

Torczon said they just had it serviced the previous day. He said if it hadn't been for the rain, it would be on a job right now. He said 90% of the machines are on

the job year round. They bring them back and service them, they stay parked there for a couple of days and they're gone. He said it's not like they sit there for a month at a time.

Malmquist asked what kind of service facilities they have there.

Torczon said they change oil, grease them and other mechanical work. He said they pull them in the shop on the site and work on them. He said they also have a wash bay and everything is pulled inside. He said as soon as the trucks are done being worked on they go back outside.

Hill asked what their intention with the other building that he mentioned was.

Torczon said they have grown considerably for the last 5, 6 years and they would like to use that as more of an office space.

Tom Lane, 10176 Margo Street, came forward and spoke. He stated he owns the property adjacent to Mr. Torczon's business. He said Mr. Torczon's characterization that he is there first thing in the morning and is then gone is not entirely accurate. He said he may load his trucks anywhere from 3 to 6 o'clock in the morning and it's not a quiet process. He said the loading takes anywhere from a half an hour to an hour. Mr. Lane stated the owner knew or should have known when he got the property that it was zoned light industry. He said the owner also knew his property was immediately adjacent to a residential area, so he picked the lot closest to the residential area. Mr. Lane also said it isn't just trucks that are there, there are also tractors, excavators, and a lot of heavy equipment that comes in and out. He said it certainly detracts and all Labor Day weekend all he saw and heard was a tractor from his backyard patio. He said he understood when he bought the lot that it was next to light industry, which he said is fine. He said he wasn't thrilled when the glass company moved in, but they've been a great neighbor. He said on weekends, Mr. Torczon is filling the lot and there are excavators there all weekend long. He is asking the Council and the City to deny this request and enforce current zoning law.

Malmquist asked Lane if he lived on Margo somewhere.

Lane said yes, he lives on the lot immediately adjacent to the Torco building.

Gahan asked Lane if he could explain the loading process.

Lane said it's 3 a.m., so it's dark, but there's lots of banging. He said people are in the dark trying to line up the trucks, so you'll hear an engine revving, and a lot of loud metallic clanging. He said there's a lot of banging when they're cleaning the side loaders out. He says it's not necessarily during the peak business hours, it happens early in the morning and late in the evening when people are home.

Brad Kothenbuetel, owner of the property at 10501 Chandler Circle and the ground at 10503 Chandler Circle, came forward to speak. He said the reason he came up to speak this evening was about the results of the rezoning that Mr. Torczon is trying to accomplish. He said he is not particularly in the zoning process, but he is bringing up a few facts that he wanted the Council to be

aware of with their business park. He said due to the current zoning of their business park, the properties are vacant and the properties that are under construction, are having a very hard time leasing and bringing business into that area for the plain and simple fact of the current zoning. The buildings attract a construction element. He said when his building came up it was a similar circumstance. He said there was another excavator that was in their business park that had made some waves with containers and graders and things like that. The City was upset about it and code enforcement had been out, the owner sold his property to him instead of trying to have it rezoned and moved out. He then stated that he knew there was a 19,000 square foot building directly to his west has sat vacant for over a year without being able to get a tenant, and they have had to pass on nine different lease options through Lund Realty because of the fact there is no outside storage. He then talked about the 60,000 square foot distribution center that was just built that the guys are going to be parked there overnight, idling their engines, obviously closer to the fire station and backs up to the railroad trestle. He said that is completely set up with dock high doors and he believes there was a yellow zoning sign set up at that property and he doesn't know if that property was zoned as I-2 or I-1. He said he knows that is what the purpose of that building is. He said he wants the Board or Council to consider bringing that type of business into La Vista with the amount of empty real estate we have sitting around the city.

Mr. Kothenbuetel went on to say he is from the Papillion La Vista area, he graduated from Papillion La Vista High School and he decided to keep his business here and invest in this community and as a business owner he is requesting the business park and the people that are there are shown for the tax base they pay, that they want to be treated fairly. He then said he had an example from code enforcement. He said when he first bought the building, someone was actually calling from the neighborhood, not for outside storage, but the lights were too bright. He said upon doing his own research and actually talking to the code enforcement officer, the reason he was sent out there was because the deer would no longer come and feed at their feeders, so he was forced to put light barriers up to dim his lights and as a result he has had his truck broken into twice in the back parking lot because he can't light his facility to protect it and secure it. He said he is not saying he is for or against having excavation in the area. He is not disputing it's loud, but he wants the Council to look at the fact that we need to show some kind of reason of what we are going to let into the business park if we actually want to generate money, lease those properties out and make them a long term investment for the building owners.

Matt Ottemann, 7453 S. 102nd St., came forward and spoke. He said he doesn't back up directly to the property, but he's about one house away and can see the property at issue from his backyard. He said it seems the commission is really being asked here to bail out a business that made a bad property choice, that moved in and wanted to use the property for a purpose that it wasn't zoned for and is now asking for the commission to make a bad, long-term property choice because they failed to research what the zoning requirements and uses for the property were. He said he thinks that it's very bad public policy to be doing that. He said he thinks they are acting in real disregard of the neighborhood interests. He said it's true they bought and knew there would be industrial work. They expected those uses, but they definitely did not expect heavy industrial uses, which is a very different type of business.

Mr. Ottermann said he believes their home values, if this kind of things move in, will be dramatically decreased. There aren't a lot of folks that want to live next to the sounds of industrial equipment. He is asking everyone that has come up there if they would want to live next to the sounds of heavy industrial equipment that is being loaded and unloaded. He said it isn't the I-1 uses that people are having problems with, it's the I-2 operations that are the issue. He said the applicants did not have to come in and lease this property, they could have picked a different property and they're not saying they have to move. They are just asking them to use the property they've got per the consistent zoning policies that are in place. They can leave their trucks somewhere else and use the building as office space.

Mr. Ottermann said he is also concerned with spot zoning. He said when you start spot zoning and you have an I-2 in place, why shouldn't the neighbor down the street get an I-2? He said then you will have a bunch of I-2's and the whole thing becomes a heavy industrial park.

Mr. Ottermann said he had heard some comments saying some companies come in and are having problems leasing the building lots. His answer to that is the people who are building those buildings know that it's I-1 and they knew they were going to be leasing to businesses in the I-1. He said there are a lot of businesses that are I-1 that will eventually move in there. He said they are zoned as I-1 and should stay that way. He feels if it goes to I-2, you risk going into that illegal spot zoning, which a lot of the neighbors would challenge. He feels this is a bad policy decision, it's bad for the neighbors, it's bad for the neighborhood and it's bad for the city. He asked for the Commission to unanimously reject this to send a real message to the City Council that the Planning Commission has considered this and that it's worth unanimous rejection. He also asked the city start enforcing the zoning rules tomorrow as they are in place. He says he doesn't understand why they can come up here and ask for a change in the law and be violating the very law they are asking to change.

Mary Feda, 10157 Margo Street, came forward and spoke. She said her property is adjacent to Torco Enterprises. She said she is here to support what her neighbor has already said. She said she has been woken up at 3:00, 3:30 in the morning to loud noises. She said she called the police on August 18th and it kind of calmed down after that. She said some Saturday nights there has been a lot of movement and noise and activity at 8:00 p.m. She said she works full time, they are working people and they are tired and no one wants to be wakened in the middle of the night. She said they love their neighborhood and they enjoy all it has offered them in the city of La Vista. She said they are a premier neighborhood in La Vista and they are grateful for that. She said they understand light industry and they are not against business, they support business. She just wants people to follow the rules and the laws that are in place. She is asking them to listen to their voices tonight and respect their wishes. She said she encouraged them to deny this.

Pat Sullivan, 1246 Golden Gate Drive, came forward and spoke. He is representing Mary Feda who had just come up and spoke. He said he had wanted her to provide some background on what she has been experiencing. He

said he was up there to talk about zoning. He then presented a picture of the property in question. He said everyone would probably agree with him it isn't the greatest transition as it stands right now going from residential to light industrial. He said that transition would only be exacerbated by going from light industrial to heavy industrial. He said he doesn't have a lot to say, but felt the report was very well written. He said there is a drastic difference between light industrial and heavy industrial and the activities that can occur in each of those.

Mr. Sullivan said when they are looking at a rezoning, there was some discussion as to what they were going to be doing on the property or what equipment are they going to be having. He said that is not as material to what kind of activities could occur if there is a change from light industrial to heavy industrial. He said if you go through the list or chart they have in that zoning, there are all kinds of activities that could go on there and there's nothing you can do about that if that property gets sold and the use changes as long as it's in compliance with their zoning laws. He said there is a whole plethora of activity that is even heavier than what they are intending to do now or in the future. He feels that everyone else who has come up and spoken in opposition have addressed a lot of the issues that he was going to talk about. He feels it is very important that they look at this idea of spot zoning and this is probably one of the clearest cases of spot zoning that has been seen.

Bill Torczon, 5120 S. 50th Street, came forward and spoke. He stated he is Brian's dad, but he is there as a commercial real estate broker and a building owner. He mentioned he had also sent an email to the Mayor in regards to this issue. He feels the building that Bradco was talking about, Hans Investment built that. He had that listing for a little while and they had a well-financed fence company that wanted to come in. He said they just wanted to build a fence around the back of the property and store their fencing back there. They wouldn't even look at it because of the zoning. He also had a plumber and he didn't even bring him to La Vista, he took him to Gretna because it's such a battle to get anyone to work with them. He said these people do not want to use the front of the buildings, just the back to store their stuff, but they aren't allowed to. He said they may as well just grow weeds back there. He said smaller businesses can't afford the space to have all of their equipment stored inside. He is there asking for a change so everyone can use the back of their buildings. He stated what people are hearing at 3 in the morning are dumpster trucks that come and pick the dumpsters up just like they do at grocery stores. He said there is no construction business that has ever started at 3 or 4 in the morning. He just wants the city to do something to help these other guys out and let them use the back of their buildings so they can get those spaces leased out.

Tom Demory, 7402 S. 102nd Street, came forward and spoke. He brought up the email he had sent that day and verified everyone had received it. He just wanted to make sure if they had any questions regarding that email, they would have an opportunity to ask him. He said most of what he had to say has been a repeat of what other people have said.

Miller asked about the 3 o'clock report to the police from Mary Freda. He wanted to know what the police report came up with.

Demory said he wasn't sure what the report said. He said he is also on the HOA for Cimarron Woods and he had received an email from her about 2 weeks before that event. She did some research and even spoke with Chris (Solberg) and the Sarpy County Sheriff's Department, as well as the City of La Vista Police Department and the Sarpy County Planning Commission and their problem solving effort with Mary was to call the police. They originally thought it would be through the Sheriff's Department, but when they spoke to sheriff they were told it would be the La Vista Police Department's jurisdiction to report. That was their conclusion that if something was happening that was that loud enough to wake her that early in the morning, then her best course of action was to call the police. He said he then received an email a day or two after that from her letting him know that she had called the police. He said he never did see the report or get any additional information from her.

Miller then asked Solberg if he knew what the police found that day.

Solberg said that he does not have record of that report.

Kevin Kajdasz, 10139 Margo Street, came up and spoke. He said he built his house in 2005 and watched this whole thing transpire with the industrial land. He said it was great back in the day when they had the four wheelers and utilized a lot of the property back there and had good times. He said he has empathy for his neighbors, people that moved in a year or so ago, but he understands it's industrial land so he also has empathy for Torco. He said he also has a business in construction and they survived the downfall of the economy, which he feels is a success story. He said anyone who has a house and were able to pay their mortgage and didn't file bankruptcy is a success as well. He said he has empathy for both the business owner and his neighbors. He stated if there is a solution that can be worked out or if this is the law and cannot be changed, he respects a person in business and he respects his neighbors' privacy. He said he has been there 10 years and has seen a lot. He has seen people move in, out, everything. He said he's not sure if there is a solution for the problem. He said he doesn't really hear a lot of the noise and he works a lot, so he's not sure if people are home during the day. He's looking for more of a solution to the problem instead of kicking a person out who is thriving in their business, so he looking to the Commission to maybe think about that and come up with a compromise. He suggested maybe they tell them they can't work the weekend and if they do, then they're out.

Sarah Hood, 7327 S. 103rd Ave., came forward and spoke. She said unlike most of the people there, she actually lives a few blocks back, but she can still hear those trucks in the morning and in the evening and when she is out playing with her kids. She said it is not just those people that are backing up to that road that can hear it. She said the other point that she would like to make is if that zone changes, she's really nervous about what other industry companies will come into her back yard. She is worried about hazardous waste, if something could possibly come off the railroad tracks and use that land and it really worries her.

Malmquist stated the purpose of this is to rezone the Torco development and not the other properties.

Ms. Hood said yes, but asked if it's spot zoning then it's for the whole thing.

Malmquist reiterated the request was only for that one lot. She said that creates other issues, but the request is only for the rezoning of that one property.

Brian Torczon came back up to speak. He started by saying he isn't going anywhere. He said he didn't put in a million dollar investment to leave. He then said in regards to the 3 to 6 in the morning loading, he is the first one in the shop and he doesn't get there until 530. He said his guys start at 6:30 every morning, they fire the trucks up between 6:30 and 7, so the loading at 3 in the morning is news to him and the first that he has heard of it. He also said if the police were called, he was never contacted on it. He said they do have cameras at the shop, so he can go back to when these incidents occurred. He mentioned the noises people are hearing at 5 in the morning on a Saturday and said it was his kid on a skid loader. He said his son operates it by himself and isn't in harm's way. He brought up the concern about people's property value going down if they are butted up to an I-2 and pointed out there are homes that back against the United States Cold Storage and Rotella's which are considered I-2 and those property values have gone up every year. He then addressed being told he was making a bad business decision as far as picking out that lot and said when he applied for the permit he had told everyone what he was doing. He feels the issues started when they got a complaint about the 3 to 6 in the morning loading and that's why they are there today.

Malmquist asked for further public comment and, seeing none, closed the Public Hearing.

Gahan asked about a letter in the packet dated May 20th. He said the letter states the Chief Building Official went and inspected the property because of complaints and let them know they had 60 days from the date of the letter to make the corrections. He wanted to know if any corrections were made or if that is when they applied for this action.

Solberg said that no changes have been made in relation to that letter specifically.

Gahan reiterated the 60 days has expired and asked if there has been any fines, \$100 dollars per day, assessed against the business.

Solberg said no because of the applicant's application they decided to let this go through due process for the rezoning to this point at least before going through enforcement actions.

Malmquist asked Torczon if he was aware of this letter and made no attempts to rectify any of the issues.

Brian Torczon said on April 25th he had a meeting with TD2, Chris Solberg and John Kottmann and that is when they had the original meeting at the shop. He said that's when he offered to plant trees along the side and he was told they were going to have to have a meeting, come in and talk about what their future plans were. They had TD2 draw up plans and that's when they got the letter and that's when he talked to Chris and asked for a conditional use permit to park the equipment there and he was told no and it would have to be switched to I-2. He

said that's when he switched it to I-2 because he was told that was their only choice. He didn't want to go to I-2 originally, they would have been fine with the I-1 as long as they could get their conditional use permit to park their trucks and stuff there.

Krzywicki asked if the parking of the equipment there would be okay in the I-1 if it was inside the building.

Solberg said the item is the use. The use is as a facility for a heavy construction company and that use is specifically listed in the I-2 Heavy Industrial district. It is not listed in the I-1 district and it is not a conditional use within that district.

Miller asked Torczon how long ago he bought the property.

Brian Torczon said he bought it about 2 or 3 years ago.

Miller then asked at that point in time is what he was using the property for then, what he is using it for now.

Brian Torczon said that is correct. He said that is when he applied for the building permit. He said when he bought that ground he still had 2 years on the lease they were at. They bought the ground ahead of time, applied for the grading permit and then applied for the building permit. He said they had no problems until the complaints.

Sargus asked if they had been operating out of there for weeks or months without the heavy equipment being there.

Brian Torczon said when the final inspection was done, they were already operating out of their new location with everything there. He said all of the stuff was there from day one, nothing just showed up in the last week or two.

Sargus asked if their vote tonight was for no I-2, was there a timeframe that Torczon would be dealing with.

Solberg said that is something that would have to be dealt with by the City Attorney's office.

Sargus then asked Torczon if it was his understanding that under I-1, he would be able to park his heavy equipment there.

Brian Torczon said yes. He said to him heavy construction is cranes, things like that. They are just running dump trucks and a couple of semis. He said there had been tractors there around Labor Day, but they were only there for servicing and then they were gone.

Solberg clarified their recommendation does not finalize anything. It's just a recommendation to City Council upon the item.

- iii. **Recommendation:** Hill moved, seconded by Sargus to recommend to the City Council denial of the Zoning Map Amendment as the request of not consistent with the City of La Vista Comprehensive Plan and may be consistent with the

definition of illegal spot zoning. **Ayes: Krzywicki, Circo, Alexander, Gahan, Wetuski, Malmquist, Hill, Sargus, and Miller. Nays: None. Abstain: None. Absent: None. Motion Carried. (9-0)**

E. Public Hearing for Zoning Ordinance Text Amendments – Section 5.05 (Transitional Agriculture District) – City of La Vista

- i. **Staff Report – Chris Solberg:** Solberg stated upon staff review of Section 5.05, TA- Transitional Agriculture District, it was concluded an update to the regulations was warranted. The proposed changes to the allowed uses clarify possible confusion in the future interpretation of the regulations. Additional changes are proposed to adjust setbacks to accommodate future recreational uses efficiently within properties with this zoning classification. Redline copies of the aforementioned sections are attached. Staff recommends approval of the proposed amendments.

- ii. **Public Hearing- Opened by Malmquist**

Krzywicki mentioned the nonprofit that was going in at the sod farm and asked if that is projected to be inside Transitional Ag.

Solberg said that it was.

Krzywicki then asked if that was the reason that some of the red line items were included in these line items.

Solberg said this is just a general review, but the changes would fit their use.

Krzywicki then asked if that wasn't included if there would be a problem.

Solberg said that yes, it could potentially be a problem.

Malmquist asked for further public comment and, seeing none, closed the Public Hearing.

Hill brought up she saw they are changing some of the setbacks and wanted to know what criteria was used in the development of the setbacks.

Solberg said there was some developer input provided on some of these setbacks, as well as their consideration of what recreational uses are there and other TA districts in our jurisdiction, and what recreational uses can be used on those lots as well and how much of an impact those setbacks could cause.

Hill asked if it had been taken into consideration into future street widening issue or easement issues.

Solberg said they are not expecting any street widening issues on many of these lots. He said there aren't many lots left in TA and it's not one of the considerations that you make when looking at zoning district setbacks. He said there really is no way to tell if a road is going to expand in the next 50-150 years, you just have to go with the flow. He said a lot of times when properties

are developed then you have the road expansion and they buy the right of way. He said those buildings or structures are at the setback line are legally nonconforming, so they're still okay they just cannot be restructured at that spot.

Hill said she looked at some zoning jurisdictions in our surrounding communities and said a couple of things that caught her eye in their Residential Agriculture Zoning District, particularly Springfield, their setbacks are at 50 foot and that Papillion's appears to be the same way. She said that seems more reasonable if you consider future growth and safety concerns too.

Solberg said one thing to consider here in Transitional Agriculture is the word transitional. He mentioned the cities of Springfield and Papillion are further south and closer to agricultural uses. He said as we are transitioning into a more urban state the setbacks are starting to reduce as was noticed in the Mixed Use Development District that was approved a few months ago. There are no setbacks in that district. He noted as we get more condensed we're talking shorter setbacks and more urban style development.

Hill then asked if putting in side street yard setbacks was ever considered.

Solberg said there is a section under our definitions that shows a picture of what we consider the setbacks for side street yards. He said they are considered front yards under the definition. He said it is on the very last page of our definitions of our zoning ordinance.

Hill said she is not comfortable with our setbacks. She has safety issues, growth issues, and easement issues. She said if we set this and down the road it will be costly if we have to change something.

Solberg asked costly in what way.

Hill said costly to the city in time and effort.

Malmquist said the current permitted uses in the front yard is 75 feet as well as the proposed.

Hill said that the proposed is to drop it down to 20 feet in recreational use.

Solberg said these setbacks are similar to the C-3 zoning district.

Miller asked if there have been any issues in regards to Hill's concerns.

Solberg said they had a building come up and then they did an expansion of a road and there were no setback issues.

Krzywicki asked if they typically had sufficient right of ways to accommodate the road widening in the future.

Solberg said that typically they do, there's a number of right of ways that have been made priority over the years and we have developed enough right of way whether it's 100 feet for Giles, which allows for sufficient expansion if we need

to add on even more, but every once in a while we do have to buy some right of way, but typically that's part of the reason that you plan. You plan for that additional right of way ahead of time because of those arterial roads. He said it also depends on where these lots are at, it could be a local road, and it could be an arterial road.

Gahan said he is knowledgeable, but he's not an expert as staff is. He said he trusts staff and they know what they are doing and understands the significance of the changes. He then moved to make a recommendation.

- iv. **Recommendation:** Gahan moved, seconded by Wetuski to the City Council approval of item 4E, the Zoning Ordinance Text Amendments, Section 5.05.
Ayes: *Krzywicki, Circo, Alexander, Gahan, Wetuski, Malmquist, Sargus, and Miller.* **Nays:** *Hill.* **Abstain:** *None.* **Absent:** *None.* **Motion Carried. (8-1)**

F. Public Hearing regarding amendments to the City of La Vista Comprehensive Plan – Future Land Use Map, amendments to the Zoning Map (Rezoning), and a Preliminary Plat – Tax Lot 4 Exc S 1551.37 ft & Exc ROW – LB Southwest Investments, LLC

- i. **Staff Report – Chris Solberg:** Solberg stated the applicant, LB Southwest, LLC is requesting a Comprehensive Plan Amendment to the Future Land Use Map, as well as a Zoning Map Amendment, rezoning, from I-1 Light Industrial and C-1 Shopping Center Commercial with a Gateway Corridor District, to C-3 Highway Commercial/ Office Park District with a Gateway Corridor Overlay District and PUD Planned Unit Development Overlay District, as well as a Preliminary Plat for Woodhouse Place. The lot in question is Tax Lot 4 EXC S 1551.37 FT and EXC ROW 23-14-11, generally located on the southwest intersection of Giles Road and 144th Street. Staff recommends approval of the Comprehensive Plan Amendment – Future Land Use Map as the recommendation is consistent with the Comprehensive Plan for Commercial and Industrial to entirely Commercial. Staff also recommends approval of the Amendment to the Zoning Map, rezoning, as the request is consistent with the Zoning Ordinance and the Comprehensive Plan. Finally, staff recommends approval of the Preliminary Plat contingent on the approval of the amendment to the Future Land Use Map of the Comprehensive Plan and the amendment to the Zoning Map as the request is consistent with the Subdivision Regulations and the Comprehensive Plan.

ii. **Public Hearing – Opened by Malmquist**

Mark Johnson, at 11440 West Center Road, came up and spoke on behalf of the applicant. He said that the area in question is approximately 30.5 acres and is located on the southwest corner of 144th and Giles. It is currently zoned one half I-1 and one half C-1. The request before them, which is the same thing as the Future Land Use Map and part of the Comprehensive Plan, is to rezone the entire property. Number one, the Future Land Use Map component of that land and number two, to rezone that entire property C-3 with a Gateway Corridor District and PUD overlay to allow for commercial auto sales. He then invited the commission to ask questions.

Malmquist asked for further public comment and, seeing none, closed the Public Hearing.

- iii. **Recommendation – Amendment to the Comprehensive Plan – Future Land Use Map:** Krzywicki moved, seconded by Alexander to recommend to the City Council approval of the amendment to the Future Land Use Map of the Comprehensive Plan from Commercial and Industrial to entirely Commercial. **Ayes: Krzywicki, Circo, Alexander, Gahan, Wetuski, Malmquist, Sargus, Hill, and Miller. Nays: None. Abstain: None. Absent: None. Motion Carried. (9-0)**
- iv. **Recommendation – Amendment to the Zoning Map (Rezoning):** Krzywicki moved, seconded by Wetuski to recommend to the City Council approval of the amendment to the Zoning Map, Rezoning, from I-1 Light Industrial and C-1 Shopping Center Commercial with a Gateway Corridor District, to C-3 Highway Commercial / Office Park District with a Gateway Corridor District and a PUD Planned Unit Development District, contingent on the approval of the amendment to the Future Land Use Map of the Comprehensive Plan as the request is consistent with the Zoning Ordinance and the Comprehensive Plan. **Ayes: Krzywicki, Circo, Alexander, Gahan, Wetuski, Malmquist, Sargus, Hill, and Miller. Nays: None. Abstain: None. Absent: None. Motion Carried. (9-0)**
- v. **Recommendation – Preliminary Plat:** Krzywicki moved, seconded by Miller to recommend to the City Council approval of the preliminary plat, contingent on the approval of the amendment to the Future Land Use Map of the Comprehensive Plan and the amendment to the Zoning Map, Rezoning, as the request is consistent with the Subdivision Regulations and the Comprehensive Plan. **Ayes: Krzywicki, Circo, Alexander, Gahan, Wetuski, Malmquist, Sargus, Hill, and Miller. Nays: None. Abstain: None. Absent: None. Motion Carried. (9-0)**

G. Revisions to the Final Plat, La Vista City Centre – City Ventures

- i. **Staff Report – Chris Solberg:** Solberg stated on July 19, 2016, the City Council approved the application for the Final Plat of lots 1-17 and Outlots A-C, La Vista City Centre, submitted by La Vista City Centre, LLC, on behalf of the property owners, Brentwood Crossing Associates, Brentwood Crossing Associates II, and Brentwood Crossing Associates III, generally located southeast of 84th and Summer Drive. However, since the approval of the Final Plat by the City Council, a few relatively minor changes to the document have been considered to be necessary prior to recording. He said the changes are noted in the staff report. Staff recommends approval of the revisions to the La Vista City Centre Final Plat, as the request is consistent with the Comprehensive Plan and the Subdivision Regulations.

Krzywicki noted in the report it mentioned Lot 3 has increased in size. He asked if they were supposed to receive that prior Plat and the revised one.

Solberg said yes, they should have a red lined version of the changes. He said that you can barely see the changes from Lot 3. He noted you can see the red line strick-through the number 91.

Krzywicki asked if they had a prior map showing them what it was before. He said the map behind that has the exact same measurements. He said it looks like a duplicate of the same map.

Solberg said the red line version does not have the old measurements on it, but he can provide those for him if he wanted them.

Krzywicki said he didn't know whether the intent was to have a prior map and a revised version of the two plans. He said it looks like the plans are identical.

Solberg said the red lines on the first document just show where the new lot lines are, there are no references to the original distances.

Chris Erickson, 905 Jones Street, came forward and spoke. He said the requested changes are for a couple of things. He said the Lot 3 revision is to increase the size of that lot slightly due to the negotiations with First National they are attempting to relocate to that site and they need a little bit more room to make that work. He said the Outlot C adjustment they have requested reshapes that lot slightly to allow for a private drive to go through where they are envisioning that hotel to go. He said the other two adjustments at the north and west end are really to leave the two existing lots just as they are temporarily in order to allow them to continue the discussions regarding existing land leases and give them a little more time because their closing and recording of the plat is very rapidly approaching. He said he is fairly confident they will be there with First National, it will take a little bit longer with the guys that own the Chili's. He then said their vision for the project hasn't changed one bit, it's just really to buy them some more time and make a couple minor tweaks.

Sargus asked if the Chili's is planning to move somewhere else.

Mr. Erickson said long-term, Chili's the operator, has a really complex ownership structure. The operator has a very strong desire to stay on the site and be a part of the project long-term. He said there is another layer of folks that own the building that are technically the folks that will be their tenants and they're not quite as motivated by the success of their tenant operations, however, they are trying to work through that process with them. He said there will come a point where their lease expires and then they will take over ownership of that building and at that point they are certain that they will be able to bring to fruition their vision for that entrance. He said it could happen sooner possibly, but they are still working through those negotiations and there's a party in the middle, the tenant, who has great intentions for the site and those that don't really have the same motivations, so they are just working through that process right now.

Solberg told Krzywicki he had found the original plat that was approved by the Planning Commission. He put it up on the screen in case there were any questions about Lot 3 or any of the other lots of the original Final Plat compared to what he has now.

Krzywicki verified that was the original being shown.

Solberg said yes, that was the original.

- ii. **Recommendation:** Miller moved, seconded by Hill to recommend to the City Council approval of the revisions to the La Vista City Centre Final Plat, as the request is consistent with the Comprehensive Plan and the Subdivision Regulations. **Ayes: Krzywicki, Circo, Alexander, Gahan, Wetuski, Malmquist, Sargus, Hill, and Miller. Nays: None. Abstain: None. Absent: None. Motion Carried. (9-0)**

5. Comments from the Floor

No members of the public came forward.

6. Comments from Planning Commission

Gahan brought up item 4D in regards to the public hearing for the zoning map amendment and said he agreed with the vote of the Commission, but he had a problem with the gentleman from Bradco who is attempting to operate his business within the light industrial zoning ordinance and he is having trouble expanding his business and getting new business to come in. He feels the city should look and see what can be done to help those individuals who are playing by the rules, but are having difficulty expanding their business or trying to make their businesses survive.

Solberg said that is dually noted, but we are limited on what we can do. He said we do work with Sarpy County Economic Development and realtors directly whenever they do have any requests to help them find tenants to fill those buildings. He said a lot of the discussion that was heard tonight was centered on outdoor storage, which is not allowed in that district.

Sargus said he heard a mixed message in regards to Torczon, that he would say one thing and then a couple of sentences later say that he is planning on building another building. He said maybe the wording is working, maybe it's keeping the type of businesses we want in there.

Solberg said in that subdivision alone, if you drive out there, there are currently two buildings under construction and it's not stopping further development.

Gahan mentioned Kevin Kajdasz, who owns a home in the area, is also a business owner and he's saying there must be somewhere in the middle where we can meet and have both sides happy. Gahan said he felt what Kevin said was very important.

Sargus agreed he felt it was very important and also felt he was uninformed. He felt like Kevin did not do his homework before he came. He said it seemed there were two issues going on, one was the rules of I-1 and the other was what one particular business did.

Gahan said he agreed with that, but that carried over to the Bradco gentleman who is attempting to ensure his business will be successful. He said the issue with Torco is he wants to grow his business and he feels he's being limited. Gahan just wanted to bring that to the city's attention.

Solberg thanked Gahan and said he has noted it and asked if he had any specific recommendations.

Gahan said he didn't, he was just listening tonight.

Solberg said it would be noted in the minutes.

Circo noted there are other businesses in there that, like a cement truck pumping company that warehouses all of their vehicles inside, so there are businesses that are utilizing the building in that area for what it's zoned for without having outdoor storage.

Solberg said one their biggest issues is Armour Storage. They are going through some legal remedies to chase after them, so they are trying to do some enforcement actions to make sure it's fair across the board for the rest of those tenants.

7. Comments from Staff

Solberg said they are still working on the Comprehensive Plan.

8. Adjournment

Meeting adjourned by Malmquist at 8:44 pm

Reviewed by Planning Commission:

Planning Commission Secretary

Planning Commission Chairperson

Approval Date

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