

**CITY OF LA VISTA
PLANNING COMMISSION MINUTES
AUGUST 20, 2009**

The Planning Commission meeting of the City of La Vista was convened at 7 p.m. on Thursday, August 20, 2009, at the La Vista City Hall, 8116 Park View Boulevard. Members present were: Krzywicki, Malmquist, Andsager, Kramolisch, Nielsen, Horihan, Circo and Hewitt. Absent: Alexander and Gahan. Also in attendance was Marcus Baker, City Planner, Ann Birch, Community Development Director and John Kottmann, City Engineer.

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 p.m. Copies of the agenda and staff report were made available to the public.

2. Approval of Meeting Minutes – July 16, 2009

Malmquist motioned to approve the minutes of July 16, 2009. Circo seconded the motion. Ayes: Krzywicki, Malmquist, Andsager, Kramolisch, Horihan, Circo, and Nielsen. Nays: None. Hewitt abstained. Motion carried.

Nielsen will be a voting member in the absence of others.

3. Old Business

None

4. New Business

A. Public Hearing regarding amendment to the Island Bar & Grill Conditional Use Permit

i. Staff Report: Fields, Inc desires to amend a Conditional Use Permit for the Island Bar & Grill located at 7826 S 123 Plaza, Suites E & F, on Lot 2 of Southport East Replat Three to include an outdoor seating area addition.

In December of 2007 a conditional Use Permit was approved to allow a bar and grill to occupy an existing commercial building subject to the following condition (among others):

- The Permitted Use will be comprised of 2,664 sq. feet of building space; all seating for the Permitted Use shall be inside the building.
- Adequate parking (22 parking stalls) shall be provided on-site to accommodate the maximum number of patrons and employees (104 occupants) in attendance at any one time between the hours of operation.
- No additional restaurants, taverns, or cocktail lounges will be permitted within the same building as the Operator of the Permitted Use

On July 14, 2009, the City of La Vista received an application from Island Bar & Grill to amend their permit to allow for an outdoor patio area. This request is in response to the State of Nebraska's new law banning smoking from bars and restaurants statewide. Specifically, the applicant would like to provide an area for their patrons to smoke outside of the building.

The construction would include a 42" high fence, which would be required to be black wrought iron. The enclosed patio area would be 28' wide x 6' deep. The sidewalk in front of the business is 10' wide, so a 4' wide sidewalk would still exist in front of the fence. Three tables with chairs are proposed within the enclosed patio area.

The Chief Building Official, Jeff Sinnett comments:

- Four foot sidewalk must be maintained in front for ADA requirements.
- Awning projection needs to meet requirements
- Only black, wrought iron type fencing is allowed in Southport

The analysis of the City Planner is that the land use is supported by the zoning district, but the applicant's CUP currently restricts outdoor seating. The intent of the proposal is not to add more seating capacity but to provide an area for customers to step outside with an alcoholic beverage.

The proposal requests an additional 172 square feet of gross floor area, which would require two additional parking spaces. This would increase the required allotment of 22 parking spaces to 24 parking spaces. Parking has been in an overflow situation in the past, where people have parked in the street to enter the Island Bar & Grill. This overflow parking situation tends to happen more in the early evening hours.

It would be preferred by City staff that the fence not exceed four feet in height because the fence would be located in the front of the business.

Planning staff recommends continuance of the public hearing to allow more time for the property owner to offer solutions to the present overflow parking situation and to determine whether the fence height can be reduced to four feet or less.

The State of Nebraska advised the applicant that a sidewalk café designation would allow a 42" fence height. The applicant has made a liquor application based on that advice as a sidewalk café.

Hewitt asked if there was a prohibition that disallowed smoking within 10 feet of a door. Baker said the applicant would have to abide by whatever state law requires.

Krzywicki wondered why the state had backed off from their original requirement of a six foot fence. Baker said the applicant was informed by the state liquor commission that whatever the local jurisdiction requires is what the fence height should be.

Horihan voiced that the parking situation in that development has been better than when it first opened. She felt having the outdoor area to allow smoking seems like a better idea than having people wandering up and down the sidewalk smoking.

Nielsen agreed that the parking situation does seem better to him as well. He is more concerned about the future tenants.

Krzywicki stated that the vacant tenant spaces have additional pressure or may be discouraged from being rented because their parking spaces have already been used by a previous tenant.

Malmquist made a motion to re-open the public hearing in order that it may be continued. Nielsen seconded. Ayes: Krzywicki, Malmquist, Andsager, Kramolisch, Nielsen, Horihan, Circo and Hewitt. Nays: None. Hearing re-opened.

Horihan suggested allowing for additional parking spaces in front of the dumpster to be used for employee parking, when necessary, which would free up two parking spaces. This would eliminate the need to review the parking concern further. Horihan requested to make a motion for approval.

Malmquist made a motion to close the public hearing. Andsager seconded. Ayes: Krzywicki, Malmquist, Andsager, Kramolisch, Nielsen, Horihan, Circo and Hewitt. Nays: None. Hearing re-closed.

iii. Recommendation: Horihan motioned to recommend approval of the amendments to the Island Bar and Grill conditional use permit to allow for them to have the addition of the outdoor seating area. Kramolisch seconded. Ayes: Krzywicki, Andsager, Kramolisch, Horihan, Circo and Hewitt. Nays: Malmquist and Nielsen. Motion carried.

This item is tentatively scheduled to appear on the City Council agenda of September 15, 2009.

B. Public Hearing regarding Capital Improvement Program 2010 - 2014

i. Staff Report: Public Hearing regarding the 2010-2014 Capital Improvement Program.

Rita Ramirez, Assistant City Administrator, presented the 2010-2014 program to the Planning Commission. Joe Soucie, Public Works Director, assisted with the presentation.

Staff recommends approval of the proposed revisions with any added changes, if applicable.

Malmquist inquired about the District 1 Fire Station's estimated total cost of \$6.5 million. Ramirez said that is correct and a \$5 million grant has been applied for.

Kramolisch agreed with Hewitt concern regarding smoking outside by a door. Malmquist stated the entrance to a smoking space needs to be monitored by the business.

ii. Public Hearing: Malmquist motioned to open public hearing. Horihan seconded. Ayes: Krzywicki, Malmquist, Andsager, Kramolisch, Nielsen, Horihan, Circo and Hewitt. Nays: None. Hearing opened at 7:14 pm.

Lylette Fields, owner/applicant, appeared to say that parking has not been an issue for this year, unlike when the business first opened. More recently, the parking lot has plenty of parking available. There are two front doors, only one is enclosed within the proposed sidewalk area. The Nebraska Clean Indoor Air Act only controls indoor air. The state has not gone to any outdoor regulations for regulating smoking near doors.

Hewitt asked if there had been a concern about room on the sidewalk for ADA compliance. Baker restated that the four foot width does meet ADA compliance.

Krzywicki asked if both doors have electronic openings for wheelchairs. Fields said they do not. Kramolisch asked if there was a backdoor. Fields said they have two but they are not used by the public.

Circo asked if the business is at capacity and the patio area was full how would smokers go out there. Fields did not see that as an issue. Horihan asked if the staff would be outside waiting on customers. Fields indicated that is not the intention of the patio, but the business would serve people on the patio if necessary.

Kramolisch asked if the fence went all the way to the east corner of the building. Fields said it did.

Public Hearing: Hewitt motioned to close public hearing. Kramolisch seconded. Ayes: Krzywicki, Malmquist, Andsager, Kramolisch, Nielsen, Horihan, Circo and Hewitt. Nays: None. Hearing closed at 7:19 pm.

Nielsen asked about the parking requirements for future tenants and what if another restaurant wanted to go into another open bay. Baker said another future tenant would have to meet the City's parking requirements. Nielsen wondered, if this proposal were approved, would that mean that parking spaces are being stolen from future tenants. Baker said it depends on the type of future business going into the retail space available. It may create a conflict depending upon the business and their hours of operation. However, there may not be a conflict if the businesses could share parking spaces, such as day time vs. evening operating hours.

Kottmann suggested a few scenarios for future parking.

In response to Kottmann's idea about not allowing service to the outdoor patio area, Krzywicki and Malmquist voiced a conflict with the State's suggestion for designating the patio as a sidewalk café.

ii. Public Hearing: Horihan motioned to open public hearing. Malmquist seconded. Ayes: Krzywicki, Malmquist, Andsager, Kramolisch, Nielsen, Horihan, Circo and Hewitt. Nays: None. Hearing opened at 7:25 pm.

Krzywicki asked if there would be a reason to hold off on the golf course improvements in the light of possible changes with Vision 84. Ramirez said the Vision 84 concepts were unveiled just this week. Vision 84 is a conceptual plan and would likely be a minimum of 5 years, but more likely 10 or 15 years before Vision 84 would be an implemented plan. Meanwhile the land needs to be maintained, and the golf course may continue to bring in revenues.

Krzywicki asked what the long term solution is to the Giles Road retrofit rib slabs. Joe Soucie said the retrofit fix is the cream of the crop for repairs. If nothing is done now, the fix would be \$15-20 million dollars so it is a good cost-benefit. Kottmann said it is the best solution for the situation that we have.

Circo asked about the storage building item at the city park. Soucie said there is no storage on that end of the city and centralizing the location for storage within the city.

Ramirez said, over the years, items may get rearranged; it is what the committee does in deciding priorities.

Krzywicki inquired about the aquatics facility. Ramirez says it shows up again in 2011 for consideration after Vision 84 has been unveiled.

Nielsen asked about the financial software entry for 2012. Ramirez said new accounting software is needed very badly now. The current software is a nightmare to work with and is limiting.

Nielsen asked if there is a formula used as to what is needed / invested vs. what is expected in savings. Ramirez said yes they do study the increase in efficiency.

Krzywicki asked about the analysis of green streets in 2011. Have there been any rough estimates of those primary streets? Soucie said no they have no estimate; it is a puzzle yet to be solved.

Circo asked what the issue was about the seventh green. Krzywicki volunteered that it pitches severely, high on the north, really low on the south and is called the "clown hole."

Public Hearing: Malmquist motioned to close the public hearing. Nielsen seconded. Ayes: Krzywicki, Malmquist, Andsager, Kramolisch, Nielsen, Horihan, Circo and Hewitt. Nays: None. Hearing closed at 7:58 pm.

iii. Recommendation: Malmquist motioned to recommend approval of the Capitol Improvement Plan as presented to City Council for consideration and

adoption. Circo seconded. Aye: Krzywicki, Malmquist, Andsager, Kramolisch, Nielsen, Circo and Hewitt. Nays: Horihan.

5. Comments from the Floor

None

6. Comments from the Planning Commission

Baker invited the board to take a look at the Vision 84 boards in the lobby.

Circo asked if Pedcor had done anything further with their application. Baker said they were finalizing their application to present to the Planning Commission soon.

Malmquist thanked staff for putting the Capital Improvement Program together in a user friendly fashion.

7. Adjournment

Malmquist motioned to adjourn. Hewitt seconded. Ayes: Krzywicki, Malmquist, Andsager, Kramolisch, Nielsen, Horihan, Circo and Hewitt. Nay: None. Motioned carried. Meeting was adjourned at 8:00 p.m.

Reviewed by Planning Commission: Mike Krzywicki

Sharon R. Dennis
Recorder

Michael J. Krzywicki
Planning Commission Chair

9-17-2009
Approval Date