

**CITY OF LEXINGTON, NEBRASKA  
PLANNING COMMISSION  
November 4, 2015**

A Regular Meeting of the Lexington Planning Commission was held Wednesday, November 4, 2015, in the Council Chambers at the Lexington City Hall, 406 East 7th Street, Lexington, Nebraska, at 5:30 p.m. Commissioners present were Doug Heineman, Cathy Fagot, Steve Smith, Ellie Quintero, Curt Bennett, Seth McFarland, Keevin Hardiman. Nancy Evans and Rusty Sutton were absent. City officials present were City Manager Joe Peplitsch, Assistant City Manager Dennis Burnside, Development Services Director Bill Brecks, City Attorney Brian Copley and Secretary Pamela Baruth.

**NOTICE:** Notice of the meeting was given in advance, thereof by publication in the Lexington Clipper-Herald, the designated method for giving notice, as shown by the Affidavit of Publication attached to these Minutes. Notice of the meeting was simultaneously given to the Chairman and all Members of the Planning Commission. The proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public. All items presented and discussed on the Agenda were available for public inspection.

**CALL TO ORDER:** The meeting was called to order by Chairman Heineman. Heineman informed the public that the Open Meetings Act is posted in the Meeting Room at the Lexington City Hall, located at 406 East 7th Street, Lexington, Nebraska.

**MINUTES–MEETING 10-7-2015:** Minutes of the Regular Meeting held Wednesday, October 7, 2015, were presented. Moved by Smith, seconded by Bennett, to approve Minutes as presented. Roll call. Voting “aye” were Bennett, Quintero, Fagot, McFarland, Smith, Heineman. Motion carried. Hardiman was absent from the vote.

**PUBLIC HEARING:** Heineman opened a public hearing to consider an application for a conditional use permit for property located at 401 North Grant.

Brecks presented the application and gave a brief review of the process and history of the application. He explained the Islamic Center of Lexington has been using the west portion of the building at 401 North Grant for their gathering and teaching center and are in discussion with the owner to purchase the abutting building which will allow them to develop a worship area. The building use is currently a laundromat, a permitted use in the C-2 Core Commercial. He noted, according to Section 4.05, any change in use of a building must comply with current zoning codes. Per zoning requirements, churches or places of worship require a conditional use permit. Upon staff’s initial review of the application related to code requirements and future land use plans, the proposed use appears to deviate from standards under Section 6.08 of the zoning code. He noted that off-street parking requirements, based upon occupancy numbers on the proposed building plans submitted, were difficult for the area. Such occupancy numbers are established by the State Fire Marshall. Efforts were made to work with the applicant to identify other facilities within the C-2 and other zones that would fit the desires of the applicant and meet zoning requirements. He reported the applicants chose to move forward with the current location.

Claude Berreckman, Jr, representing the Islamic Center, addressed the planning commission and passed around a copy of an email between himself and the city attorney regarding the issue. He questioned the permitted uses per Section 5.12.02 of the zoning code and the assumption that the Islamic Center is a church. It is their contention that the building should be considered a charitable organization and club, a social club or fraternal organizations, or meeting hall, which are all permitted uses. He indicated that he thought the city had a problem as the zoning code discriminates against religion. He stated that parking should not be an issue as many walk to the center from home or their business in downtown. Berreckman wondered if this is an attempt to push the church out of downtown area while other churches continue in the area. He concluded that Lexington is model of tolerance and inclusion, the church has been there for 8 years and parking should not be considered a problem in granting the conditional use permit. He addressed

a letter the Planning Commission received from Kris Teply regarding liquor license application process through the Liquor Control Commission, stating there is no proof that the Islamic Center would hinder that process, giving an example of the issuance of SDLs in Cozad at Chipper Hall, within 150'ft of the Christian Church. Peplitsch asked if the Islamic Center was a non-profit or just how organized, if the proposed property would become tax-exempt, and what the primary activities are undertaken in the current facility. Berreckman said he would have to get that information.

Naji Abdi, representative of the Islamic Center, stated that they use the facility to pray. He indicated that the proposed occupancy of their plan is between 80 and 150, but there is usually 7-15 praying at any one time. He again iterated that most center patrons come by foot, not vehicle. He noted the Islamic Center is a 501(c) 3 non-profit corporation. Addressing the issue of the property coming off tax rolls, he noted the Islamic community still continues to pay income and sales tax.

Kris Teply, owner and manager of Tep's Bar and Grill, had concerns about current applications for special designated liquor licenses and the ability of a new owner to obtain a liquor license if she would sell her property, due to the proximity to a church. She voiced concerns about potential parking problems if the expansion would occur, though she currently does not have any issues. She wondered if the Islamic Center is totally opposed to looking at alternate locations.

Tom Downey, Downey Drilling, voiced his issues with clients in the apartments south of his business, indicating there is definitely current traffic and parking issues in the area of the church. He gave an example of issues near his business involving weapons and threats. He also voiced his opposition of the property being taken out of commercial use and off the property tax rolls. He requested the Planning Commission to consider voting no on this issue.

Higad Mohamud, representative of the Islamic Center, commented their intent is to bring peace to the community, and their families to become a part of the Lexington community but still keep their culture. He does not believe the center is an inconvenience to neighbors and asked not to generalize such centers, which promotes Islamic phobia. He feels that as the Center is close to downtown, it is an asset for their community as it is difficult to relocate.

Nina Hubbard, resident, stated she is fearful of losing local businesses in the core of the downtown based upon an incompatible use being approved.

Brecks emphasized that the Islamic Center's current use in their current facility is an allowed non-conforming use. No one is questioning that point, and no one is asking them to stop using that facility. The issue here is the planned use of the vacant facility to the east that is currently a laundromat.

Peplitsch stated churches were included as permitted uses in the former zoning code, but upon revision of the code in 2014, it was apparent that designating these as such are problematic due to issues with parking and potential economic impact on the area. The definition of store front church is converting another building that is not traditionally used for that purpose. The issue at hand is the renovation of the former laundromat into a church with a dramatic increase in occupancy, with increased traffic and parking. He noted there are churches in the perimeter of the C-2 area that do not impact the downtown area with their parking needs. He indicated that most all the parking in the downtown core is shared public parking. When any specific use requires a larger need for parking for private use, it is unreasonable to have the general public stand the burden of providing such parking. Another issue to consider is whether potential private investment/reinvestment in the area may be diminished based upon the proposed use. He discussed future land use and downtown revitalization planning, as well as other optional properties for the proposed use.

Javier Quintero, current building owner, reported he has never had issues with traffic in the years that he has rented to this group. He said when his laundromat went out of business, he constructed classrooms for the Islamic Center and has been renting to them for 9 years. He would like to sell the entire building and worries about doing so based on the current zoning code. He stated Lexington is a wonderful city and

gives opportunity to everyone and everyone deserves one. Brecks indicated that if he had questions on the zoning code, he could stop in and city staff would review it with him.

Connie Bennett, citizen, wanted to remind the audience this is a zoning issue, not an emotional issue. She asked the board to focus on the comprehensive plan and how this issue works with that plan.

Nuridin Nur, Islamic shop owner, feels there is a parking issue with the downtown theater, a similar situation as this.

McFarland and Fagot thanked everyone for sharing information on the issue. They reviewed the hearing process for the benefit of the audience and asked commission members if they needed more information on the current issue.

Steve Smith stated that this is the planning commission, much time and effort was given to the comprehensive plan process and development of zoning regulations, which included discussions regarding churches in the downtown area. The focus should be on the best and greatest use of any given property. He feels this area should be commercial and trade, which leaves properties on tax rolls; culture should not enter into any decision.

Heineman stated any decision made is not discriminatory and will be based on comprehensive plans for the downtown areas. He also feels occupancy of the building is a moving target which affects any parking requirements. He thanked all for their attendance and their comments.

The public hearing was closed. Following discussion, moved by Fagot, seconded by Bennett, to recommend to City Council they deny the application for a conditional use permit by the Islamic Center of Lexington based on the following reasons:

- The intended use is not compatible with the surrounding commercial uses for that downtown area, is not deemed the best and greatest use of the property, and will impeded future development.
- The provision of required off-street parking per city zoning code cannot be met per submitted plan.
- Creating a tax-exempt property in that location would limit future development potential in the surrounding area.

Roll call. Voting “aye” were Quintero, Hardiman, McFarland, Smith, Bennett, Fagot, Heineman. Motion carried.

**ROUNDTABLE:** There were no items for roundtable discussion.

**ADJOURNMENT:** There being no further business to come before the Lexington Planning Commission, Chairman Heineman declared the meeting adjourned.

Respectfully submitted,  
Pamela Baruth  
Planning Commission Secretary