

City Council Introduction: **Monday**, September 11, 2000

Public Hearing: **Monday**, September 18, 2000, at **1:30 p.m.**

Bill No. 00R-245

FACTSHEET

TITLE: **SPECIAL PERMIT NO. 1835, SAGE PRAIRIE COMMUNITY UNIT PLAN**, requested by Brian D. Carstens on behalf of Pam Manske, for six dwelling units, on property generally located at 124th and Holdrege Streets.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 06/14/00; vote to reconsider on 06/28/00; and 07/12/00
Administrative Action: 06/14/00 and 07/12/00

STAFF RECOMMENDATION: Conditional approval of the revised application dated June 21, 2000.

RECOMMENDATION: Conditional approval, as revised on June 21, 2000 (7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent).

ASSOCIATED REQUEST: Preliminary Plat No. 00007, Sage Prairie

FINDINGS OF FACT:

1. This community unit plan and the associated Preliminary Plat No. 00007, Sage Prairie, were heard at the same time before the Planning Commission.
2. The original application showed seven dwelling units and had public hearing on June 14, 2000 (See Minutes, p.7-9). There was testimony in opposition to the waiver requests on the preliminary plat (p.8) and the record consists of a petition and two letters in opposition to the extension of Dixie Trail (p38-42); however, at public hearing the applicant testified that the developer did meet with the neighbors regarding the Dixie Trail issue. Dixie Trail was shown to be extended in the future to the east. Dixie Trail will be paved within the Sage Prairie development, thus the applicant believes people will go another quarter mile to travel on asphalt as opposed to a gravel road into the abutting development (See Minutes, p.7). This application as originally submitted generated considerable debate about the viability of this project considering that the property is in one of the potential recommended beltway corridors (See Minutes, p.7-9). The beltway issue and density resulted in the Planning Commission voting 6-3 to deny the application for seven dwelling units (Taylor, Hunter, Schwinn, Carlson, Newman and Steward voting 'yes'; Bayer, Duvall and Krieser voting 'no').
3. On June 20, 2000, the applicant submitted a request for reconsideration (p.43) and on June 21, 2000, submitted a revised application for six dwelling units, deleting the density bonus and eliminating the requirement for the 99 year conservation easement. Therefore, the undeveloped land can be further subdivided or developed as the Steven's Creek area is urbanized. The revised application also shows the proposed alignment of the East Middle Beltway as shown on the Environmental Impact Statement and shows the possible future extension of public utilities that may be required if this subdivision is annexed. (See p.44-45).
4. On June 28, 2000, the Planning Commission voted 6-0 to reconsider and accept the revised application and set new public hearing for July 12, 2000.
5. The Planning staff recommendation of conditional approval of the revised application for six dwelling units is based upon the "Analysis" as set forth on p.4-5, concluding that this is a low density development that generally matches the character of the area and is in conformance with the zoning.
6. The applicant's testimony on the revised application is set forth on p.11.
7. There was no testimony in opposition to the revised application for six dwelling units.
8. On July 12, 2000, the Planning Commission voted 7-0 to agree with the staff recommendation of conditional approval of the revised application for six dwelling units.
9. The Site Specific conditions of approval required to be completed prior to scheduling this application on the Council agenda have been submitted by the applicant, approved by the reviewing departments and the revised site plan and "General Notes" are found on p.17-19.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: August 28, 2000

REVIEWED BY: _____

DATE: August 28, 2000

REFERENCE NUMBER: FS\CC\FSSP1835

LINCOLN CITY/LANCASTER COUNTY PLANNING DEPARTMENT
COMBINED STAFF REPORT

P.A.S.#: Sage Prairie
Special Permit #1835, Community Unit Plan
Preliminary Plat #00007

Date: May 30, 2000
Revised: June 29, 2000

Note: This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application.

This revision incorporates the changes offered in the letter from Brian Carstens dated June 21, 2000

PROPOSAL: Brian D. Carstens, on behalf of Pam Manske, has applied for a Special Permit and Preliminary Plat for a 6.7 lot Community Unit Plan generally located at 124th Street and Holdrege Street.

Requested waivers:

1. Section 26.27.020 Sidewalks
2. Section 26.27.090 Street trees
3. Section 26.27.070 Street lighting
4. Section 26.27.080 Landscape screens.
5. Section 26.23.130 Block length

GENERAL INFORMATION:

CONTACT: Brian D. Carstens
Brian D. Carstens and Associates
2935 Pine Lake Road, Suite H
Lincoln, NE 68516
(402) 474 - 2424

DEVELOPER: Pamela A. Manske
5631 So. 48th Street, Suite 280
Lincoln, NE 68516
(402) 441-4080

OWNER: Glen E. and Margaret Manske
1035 Pine Knoll Street
Estes Park, CO 80517

LOCATION: N. 124th Street and Holdrege.

LEGAL DESCRIPTION: A surveyed portion of the Southwest Quarter of Section 17, Township 10 North, Range 8 East of the 6th P. M., Lancaster County, Nebraska. Except for Lot 8 I.T. and Lot 17 I.T. of said section. More particularly described in the attached metes and bounds description.

EXISTING ZONING: AG Agriculture

SIZE: 115.56 acres, more or less

EXISTING LAND USE: Farming.

SURROUNDING LAND USE AND ZONING: Agriculture, zoned AG to the north, south, and east. Larson Subdivision, consisting of pre - 1979 acreages, to the west. Zoned AG. LES Transmission line on the east boundary.

COMPREHENSIVE PLAN SPECIFICATIONS: IN CONFORMANCE. The 1994 Lincoln/ Lancaster County Comprehensive Plan shows this as Agricultural, clustering is permitted in the Agriculture District.

HISTORY: Changed from AA Rural and Public Use to AG Agriculture zoning in the 1979 zoning update. Al Larson Subdivision was platted prior to the AG zoning.

SPECIFIC INFORMATION:

DESCRIPTION OF PROPERTY: The property is farm land.

UTILITIES & SERVICES:

- A. **Sanitary Sewer:** Individual waste water systems are proposed. Lagoons will be permitted if percs do not allow sub surface fields.
- B. **Water:** Cass County Rural Water is proposed.
- C. **Roads:** Holdrege Street is a paved county road.
- D. **Parks and Trails:** There are no Parks or trails in the area.
- E. **Public Service:** This area is served by the Southeast Rural Fire District, the station is located at 84th and Holdrege, approximately 2 miles west. This is in the Norris Public Power District.
- F. **Schools:** This is in the Waverly Public School District.

ENVIRONMENTAL CONCERNS: There are no historic resources identified in this parcel. There are two wetlands on Outlot 'C'. There is no FEMA 100 year flood plain. The soil rating is 4.2 on a scale of 1 to 10 where 1 to 4 are prime agriculture land. This is good but not prime ag land.

REGIONAL ISSUES: City growth and development of Stevens Creek. The East Middle beltway corridor option goes through the east edge of this site. The Stevens Creek Basin Planning Initiative Study is currently underway.

ALTERNATIVE USES: Agriculture and five dwelling units.

ANALYSIS:

1. This is a request for a Preliminary Plat and Community Unit Plan for 67 single family, acreage size, residential lots. The applicant is proposing a paved internal street, rural water service, individual waste disposal and two outlots, one with a pond and one for farming and protection of two wetlands.
2. Public Works notes that all corrections have been made in a satisfactory manner.
3. The applicant is requesting waiver of sidewalks, street trees, street lights, landscape screens and block length. These requests are reasonable as this reflects the rural nature of the area, has lots over one acre in size and will not be annexed at this time, and complies with all considerations of section 26.27.
4. This application coordinates with the Garden Center special permit #1834, previously approved this year by the Planning Commission.
5. The County Engineer letter of May 22 includes the following comments;
 - 1) Asphaltic concrete surfacing shall be in accordance to Lancaster County Standards. The County shall be notified prior to the laying of asphalt. Subgrade densities shall be taken and witnessed by the County. Tests for the surfacing shall be taken and approved by the County.
 - 2) Direct vehicular access shall be relinquished to Holdrege Street except for North 124th Street.
 - 3) Developer shall also install a 25 mph speed limit sign just north of Holdrege Street on North 124th Street.
 - 4) A portion of Dixie Trail in the adjacent development shall be regraded to make an adequate transition to the new street construction.
 - 5) Culverts shall have a flared end section or concrete headwall on the inlet.

6) Easements shall be dedicated for culvert ends that extend beyond the road right-of-way line.

6. This is in the EM-1 beltway corridor. No agency has declared a corridor protection zone or moratorium for development in the beltway corridor. Though this is an important element for consideration, it does not, by itself, merit denial or deferral. The proposed lots are moved\clustered out of the possible corridor location identified to this point. The applicant has provided additional information on the potential location of the beltway at this location.

CONCLUSION:

This is a low density development that generally matches the character of the area. and is in conformance with the zoning.

STAFF RECOMMENDATION:

Approval with the following conditions.

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
 - 1.1 A revised site plan to show all the required revisions of Preliminary Plat #00007.
 - 1.2 Remove one dwelling unit/lot from the plan and remove any notation regarding the 20% density bonus and the 99 year conservation easement.

General:

2. This approval permits a total of 67 dwelling units.
3. Before receiving building permits:
 - 3.1 The permittee shall submit a permanent reproducible final site plan as approved.

STANDARD CONDITIONS:

4. The following conditions are applicable to all requests:
 - 4.1 Before occupying this development all development and construction is to comply with the approved plans.

- 4.2 All privately-owned improvements, including landscaping, are to be permanently maintained by the permittee, its successors and assigns
- 4.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
- 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 4.5 The City Clerk is to file a copy of the resolution approving the permit and the letter of acceptance with the Register of Deeds. The Permittee is to pay the recording fee.

Prepared by:

Michael DeKalb, AICP
Planning Department

**SPECIAL PERMIT NO. 1835,
SAGE PRAIRIE COMMUNITY UNIT PLAN,
and
PRELIMINARY PLAT NO. 00007,
SAGE PRAIRIE**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 14, 2000

Members present: Taylor, Hunter, Schwinn, Carlson, Duvall, Newman, Steward, Krieser and Bayer.

Planning staff recommendation: Conditional approval.

Proponents

1. **Brian Carstens** presented this application for an AG community unit plan at 124th & Holdrege. There is Cass County rural water in the area and they have agreed to the additional taps. Each lot will have its own septic system. So, 124th and Dixie Trail Road will be paved in this development. A 2-acre pond will be installed for common open space for the residents of the CUP. Carstens noted that there were petitions submitted early on in this plat process. The developer did meet with the neighbors back in April. Their big concern was the connection of Sage Prairie into their development at Dixie Trail. Dixie Trail was shown to be extended in the future to the east into this property as it develops. Dixie Trail will be paved within the Sage Prairie development, thus Carstens believes people will go another quarter mile to travel on asphalt as opposed to a gravel road in the abutting development.

Steward asked whether Carstens and the developer have had any discussion about the viability of this project considering that it is in one of the potential recommended beltway corridors. Carstens pointed to the beltway corridor on the map and advised that this development is “up and over the hill” and they have oriented most of the lots back toward the south and west. All of the new lots will be oriented back and away from the future bypass if it ever moved further west than presently shown. Steward wondered whether the beltway corridor is designated precisely enough so that this developer can do that much detailed planning. Steward believes the beltway could move either way because of general conditions. Steward is curious as to how this property can be developed from an economic standpoint, let alone from planning principles, in light of that huge undetermined development by the public in the future (the east beltway).

Schwinn referred to the individual septic systems and inquired whether the project is engineered so that in the future we can put city services into the subdivision. Carstens responded, stating that they will have Cass County rural water—there will not be a common sewer line for anybody. It is not engineered to do that in the future; however, they could consider it. Schwinn thinks it needs to be so engineered because we’re going ahead with the Stevens Creek planning and that area is going to be urbanized.

Opposition

1. **Laurie Yoakum** testified in opposition. She does not live in this neighborhood, but she believes it is ridiculous to have codes that require sidewalks, landscaping, etc., and then waive the requirements. She is opposed to the waivers. This area will be developed and will be part of our city. This is going to be our city and it needs to be mandatory for the codes to be enforced. There is a reason why we want sidewalks and certain size lots. She recommends that the Commission not grant the waivers.

Bayer wants to know when the Beltway corridor will be selected. Mike DeKalb of Planning staff did not know. He guesstimated that it will be at least over a year and beyond that he does not know. Bayer suggested that the Commission has the opportunity to cause the government not to spend too much money on buying this property if the corridor goes there (by denying development), or the opportunity to spend more money when this property is developed with expensive homes. Yet, the property owner has a right to do something with their land when the government cannot make up its mind.

With regard to the testimony in opposition, DeKalb advised that there is a specific provision and exception in the city subdivision regulations that speaks to this issue. If the development is more than one acre and is not to be annexed, those improvements can be waived. The proposed development is very low density and rural in character so he believes it is appropriate to grant the waivers at this time.

Kathleen Sellman, Director of Planning, advised that there has been no formal selection of a preferred corridor for the east beltway, and until there is a vote, there is no selection. This talk has come from boards and councils who have changed over a period of years as well, so we do not have a formal position on the east beltway corridor.

Response by the Applicant

Carstens pointed out that the owner has the right to develop this property into 20's. The idea here is to cluster 3-acre lots up against another 3-acre lot subdivision to the west. There are probably 35 homes in that subdivision and the beltway probably will not go up against those houses. That is why the developer has selected this location for clustering. He believes they have done what they can to keep the homes out of the future beltway.

Hunter observed that the northeast section of this property is wetland and probably not buildable anyway. Carstens stated that there is a little wetland/farm pond in the northeast corner. Hunter wondered whether the beltway would go around that wetland area. Carstens reiterated that it is a very small area--about 2 acres--identified as wetland, where an old farm pond has dried up.

Krieser stated that he attended the neighborhood meeting and everyone seemed to be in support once they got through the required road connection issue.

Bayer asked whether the developer is getting 7 lots because of the bonus from clustering. Carstens concurred that it is the 20% density bonus and they cannot use the rest of the land for development. There is a 99 year covenant on that.

Public hearing was closed.

SPECIAL PERMIT NO. 1835

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 14, 2000

Krieser moved to approve the Planning staff recommendation of conditional approval, seconded by Bayer.

Hunter stated that this really runs up a red flag for her because of all the conversation that has gone on about the location of the beltway. This is just a drop in terms of what's going to be coming down the pipe in the next few years. She sees a real problem developing. Where are we going to say no? Are we determining the location of the beltway by virtue of our actions on these developments?

Steward agreed that the Beltway is a part of what brings the pressure against what he has been speaking about for some time; that is, the vulnerability of acreages to the urban growth of the city. The fact that this is located near one of the possible corridors intensifies that possibility. This will be in the path of the growth of this city in the not too distant future. We are putting public resources at risk by approving this, but he is troubled by the fact that we are in the position of perhaps holding landholders hostage because the public can't make up its mind about where the infrastructure is going to be. On principle he will oppose the motion.

Carlson agreed with Steward. The acreage issue is becoming the Planning Commission meeting ritual. We're looking for guidance for the acreage situation. It comes up every meeting. He complimented the owners and developers because he believes this is a good plan and they are addressing the issues.

Hunter stated that she will have to vote no but she is very apologetic about it.

Taylor agreed with Hunter.

Bayer stated that the issue for him is the time the beltway determination is taking. We have been looking at the Beltway corridor for a long time. He asked staff about the decision because he does not think we should hold the landowners hostage. If no one else can make the decision, he will vote in favor of this so that we can force the Beltway decision to be made. How are we going to have a Stevens Creek plan in the next 9 months if we don't know where the beltway is going to be? He supports acreages in general, but he wants someone to make a decision and if the city won't, he will vote in favor.

Motion for conditional approval failed 3-6: Duvall, Krieser and Bayer voting 'yes'; Taylor, Hunter, Schwinn, Carlson, Newman and Steward voting 'no'.

Newman moved to deny, seconded by Krieser and carried 6-3: Taylor, Hunter, Schwinn, Carlson, Newman, and Steward voting 'yes'; Duvall, Krieser and Bayer voting 'no'.

PRELIMINARY PLAT NO. 00007

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 14, 2000

Steward moved to deny, seconded by Newman and carried 7-2: Taylor, Hunter, Schwinn, Carlson, Duvall, Newman and Steward voting 'yes'; Bayer and Krieser voting 'no'.

SPECIAL PERMIT NO. 1835

SAGE PRAIRIE COMMUNITY UNIT PLAN

REQUEST FOR RECONSIDERATION BY PLANNING COMMISSION:

June 28, 2000

Members present: Newman, Taylor, Steward, Duvall, Carlson and Bayer; Hunter, Krieser and Schwinn absent.

On June 14, 2000, the Planning Commission voted 6-3 to recommend denial of this special permit.

Newman moved to reconsider with new public hearing and administrative action scheduled for July 12, 2000, seconded by Carlson and carried 6-0: Newman, Taylor, Steward, Duvall, Carlson and Bayer voting 'yes'; Hunter, Krieser and Schwinn absent.

PRELIMINARY PLAT NO. 00007

SAGE PRAIRIE

REQUEST FOR RECONSIDERATION BY PLANNING COMMISSION:

June 28, 2000

Members present: Newman, Taylor, Steward, Duvall, Carlson and Bayer; Hunter, Krieser and Schwinn absent.

On June 14, 2000, the Planning Commission voted 7-2 to deny this plat.

Newman moved to reconsider with new public hearing and administrative action scheduled for July 12, 2000, seconded by Carlson and carried 6-0: Newman, Taylor, Steward, Duvall, Carlson and Bayer voting 'yes'; Hunter, Krieser and Schwinn absent.

SPECIAL PERMIT NO. 1835,

and

PRELIMINARY PLAT NO. 00007,

PUBLIC HEARING BEFORE PLANNING COMMISSION

UPON RECONSIDERATION:

July 12, 2000

Members present: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer; Hunter and Duvall absent.

Planning staff recommendation: Conditional approval of revised application.

Proponents

1. **Brian Carstens** presented the application. A month ago, this project was presented and received a recommendation of denial. The applicant revised the application and requested reconsideration. The applicant met with HWS for additional information on the Beltway Study corridors. The preliminary EIS is to be issued on all three beltway locations and Carstens was advised that this is the "East (middle)" location. If the roadway deviated hardly at all they would have to redo the EIS. Any issues causing a change of that alignment should have been done before the EIS. The lots in this proposed development are as far away as possible.

Carstens further pointed out that the revised application deletes one dwelling unit. There is no 20% density bonus, which removes the 99 year conservation easement. The private roadway is 60' in width. The outlot is the typical residential street width that could be dedicated to the city in the future. Typical sewer and water extensions could be made up that street. They have placed the road adjacent to the existing 15-acre lot so that it could be further subdivided off that roadway. The applicant's lot is 20-acres. The large open space and nursery area have been previously approved.

In summary, the revised application deletes reference to the 99 year conservation easement, removes one dwelling unit and shows the proposed alignment for the "East (middle) Beltway Corridor".

Krieser inquired about rural water. Carstens confirmed that Cass County will provide rural water for this area.

Carlson inquired whether the road is set up to run the sewer line. Are the lots set on grade so the sewer can run to the main? Carstens stated that the sewer line could come up the draw. As we annex those types of acreages we will probably see sanitary sewers running up creeks in back yards. The north and east side all flows down towards the road.

There was no testimony in opposition.

Public hearing was closed.

SPECIAL PERMIT NO. 1835

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Schwinn moved approval, with conditions as set forth in the staff report, seconded by Krieser and carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

PRELIMINARY PLAT NO. 00007, SAGE PRAIRIE
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Schwinn moved approval, with conditions as set forth in the staff report, seconded by Krieser and carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.