

FACTSHEET

TITLE: **PRELIMINARY PLAT NO. 00019, SOUTH STREET BUSINESS PARK**, requested by Gary Bredehoff of Olsson Associates on behalf of Hendricks Investments, L.L.C., for 28 lots, with requests to waive curb and gutter along South Street and Folsom Street, detention requirements and sidewalks, on property generally located at S.W. 6th and South Streets.

STAFF RECOMMENDATION: Conditional Approval.

ASSOCIATED REQUESTS: Annexation No. 00004 (00-183) and Change of Zone No. 3278 (00-182).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: September 6, 2000
Administrative Action: September 6, 2000

RECOMMENDATION: Conditional Approval, with amendments as requested by the applicant (7-1: Krieser, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Newman voting 'no'; Steward absent).

FINDINGS OF FACT:

1. This preliminary plat and the associated Annexation No. 00004 and Change of Zone No. 3278 were heard at the same time before the Planning Commission.
2. The Planning staff recommendation of conditional approval is based upon the analysis that the preliminary plat conforms to the Land Subdivision Ordinance, except for the requested waivers and revisions.
3. The applicant's testimony is found on p.13-14, including a request to amend Condition #1.1.1, to waive the sidewalks along South Street and Folsom Street; provided, however, that the subdivider and its successors and assigns shall not object to the creation of a sidewalk district at such time as the City deems sidewalks to be necessary. (See Minutes, p.13-14, and Condition #1.1.1 on p.10). The proposed amendment to Condition #1.1.1 also requires that Condition #3.1 be deleted.
4. There was no testimony in opposition.
5. The Planning Commission discussion with staff relating to compliance with floodplain regulations is found on p.14-15. Although the Health Department comments advocate "no net rise", the City does not have the ordinance in place to require "no net rise". The Planning staff confirmed that this application complies with the requirements of the subdivision ordinance that currently exist for floodplain issues.
6. On September 6, 2000, the Planning Commission voted 7-1 to agree with the staff recommendation of conditional approval, with amendment to Condition #1.1.1, deleting Condition #3.1 and adding Condition #2.4 to grant the waiver of the sidewalks along South Street and Folsom Street abutting this plat (Newman dissenting due to development in the floodplain [See Minutes, p.15]).
7. On September 12, 2000, a letter reflecting the action of the Planning Commission and the amended conditions of approval was mailed to the applicant (See p.2-6).
8. The Site Specific conditions of approval required to be completed prior to scheduling this item on the Council agenda have been submitted by the applicant and approved by the reviewing departments.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: October 2, 2000

REVIEWED BY: _____

DATE: October 2, 2000

REFERENCE NUMBER: FS\CC\FSP00019

September 12, 2000

Olsson Associates
Todd Lorenz
1111 Lincoln Mall
Lincoln NE 68508

Re: Preliminary Plat No. 00019
SOUTH STREET BUSINESS PARK

Dear Mr. Lorenz:

At its regular meeting on Wednesday, **September 6, 2000**, the Lincoln-Lancaster County Planning Commission granted approval to your preliminary subdivision, **South Street Business Park**, located in the general vicinity of **S.W. 6th St. and South St.**, subject to the following conditions:

Site Specific:

1. After the subdivider completes the following instructions and submits the documents and plans to the Planning Department office, the preliminary plat will be scheduled on the City Council's agenda: (NOTE: These documents and plans are required by ordinance or design standards.)
 - 1.1 Revise the preliminary plat to show:
 - 1.1.1 Sidewalks ~~provided~~ along South Street and Folsom Street are waived; however, the subdivider and its successors and assigns shall waive any objection to the creation of a sidewalk district at such time as the City of Lincoln deems sidewalks to be necessary. (**Per Planning Commission, 09/06/00**)
 - 1.1.2 Waiver and Modification number 3 deleted from the plat (a waiver is not required).
 - 1.1.3 General note 4 restated to indicate that the grading has been finished and indicate when the seeding and maintenance schedule will be completed.

- 1.1.4 General note 7 and Waiver & Modification number 5 are restated to be consistent.
- 1.1.5 Waiver & Modification number 5 is removed unless the waiver to sidewalks is granted, then change the word “walls” to the word “sidewalks”.
- 1.1.6 On the Grading & Drainage Plan add a notation indicating the estimated amount of additional fill that will be needed to raise the building pads 1-foot above the 100-year flood elevation.
- 1.1.7 Add a notation that the subdivider is responsible to acquire the easement from the railroad for the proposed sanitary sewer crossing.
- 1.1.8 The Landscape Plan and the Grading & Drainage Plan are consistent in indicating which existing trees will be removed.
- 1.1.9 The limits of the existing wetland are indicated on the Grading & Drainage Plan.
- 1.1.10 label all the utility easements as requested by the August 10, 2000, LES report.
- 1.1.11 The drainage study revised to provide additional information acceptable to the Public Works & Utilities Department.
- 1.1.12 The grading plan revised to be acceptable to the Public Works & Utilities Department.

2. The City Council approves associated request:

- 2.1 A waiver to sidewalks along one side of the interior streets.
- 2.2 A waiver to curb and gutter along South Street and Folsom Street.
- 2.3 A waiver to storm water detention.
- 2.4 A waiver to sidewalks along South Street and Folsom Street abutting this plat. (**Per Planning Commission 09/06/00**)

~~3. The City Council deny associated request:~~

- ~~3.1 A waiver to sidewalks along South Street and Folsom Street abutting this plat. (**Per Planning Commission, 09/06/00**)~~

General:

4. Final Plats will be scheduled on the Planning Commission agenda after:
 - 4.1 Streets, sidewalks, public water distribution system, public wastewater collection system, drainage facilities, ornamental street lights, landscape screens, street trees, temporary turnarounds and barricades, street name signs, and permanent survey monuments have been completed or the subdivider has submitted a bond or an approved escrow of security agreement to guarantee their completion.
 - 4.2 An executed easement acceptable to the City Law Department from the Burlington Northern Santa Fe Railroad that allows the sanitary sewer connection across the railroad property has been filed with the Lancaster Register of Deeds.
 - 4.3 The subdivider has signed an agreement that binds the subdivider, its successors and assigns:
 - 4.3.1 To submit to the Director of Public Works an erosion control plan.
 - 4.3.2 To protect the remaining trees on the site during construction and development.
 - 4.3.3 To pay all improvement costs.
 - 4.3.4 To submit to lot buyers and builders a copy of the soil analysis.
 - 4.3.5 To continuously and regularly maintain street trees along South Street and Folsom Street.
 - 4.3.6 To complete the private improvements shown on the preliminary plat.
 - 4.3.7 To maintain Outlot A and private improvements on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the document or documents creating said property owners association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.
 - 4.3.8 To relinquish the right of direct vehicular access from individual lots to South Street and Folsom Street.
 - 4.3.9 To comply with the provisions of the Land Subdivision Ordinance regarding land preparation.

- 4.4.10 To inform all purchasers and users that the land is located within the 100 year flood plain and the volume of fill material brought into site from outside the flood plain shall not exceed that shown on the approved grading plan accompanying the preliminary plat.

The findings of the Planning Commission will be submitted to the City Council for their review and action. You will be notified by letter if the Council does not concur with the conditions listed above.

You may appeal the findings of the Planning Commission to the City Council by filing a notice of appeal with the City Clerk. The appeal is to be filed within 14 days following the action by the Planning Commission. You have authority to proceed with the plans and specifications for the installation of the required improvements after the City Council has approved the preliminary plat. If you choose to construct any or all of the required improvements prior to the City's approval and acceptance of the final plat, please contact the Director of Public Works before proceeding with the preparation of the engineering plans and specifications. If the required minimum improvements are not installed prior to the City Council approving and accepting any final plat, a bond or an approved Agreement of Escrow of Security Fund is required.

The approved preliminary plat is effective for only ten (10) years from the date of the City Council's approval. If a final plat is submitted five (5) years or more after the effective date of the preliminary plat, the City may require that a new preliminary plat be submitted. A new preliminary plat may be required if the subdivision ordinance or the design standards have been amended.

You should submit an ownership certificate indicating the record owner of the property included within the boundaries of the final plat when submitting a final plat.

The Subdivision Ordinance requires that there be no liens of taxes against the land being final platted and that all special assessment installment payments be current. When you submit a final plat you will be given forms to be signed by the County Treasurer verifying that there are no liens of taxes and by the City Treasurer verifying that the special assessment installment payments are current.

Sincerely,

Russell J. Bayer, Chair
City-County Planning Commission

cc: Owner
Public Works - Dennis Bartels
LES
Alltel Communications Co.
Cablevision
Fire Department
Police Department
Health Department
Parks and Recreation
Urban Development
Lincoln Public Schools
County Engineers
City Clerk
File (2)

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.#: South Street Business Park Preliminary Plat #00019

Date: August 24, 2000

****As Revised by Planning Commission 09/06/00****

PROPOSAL:

Create 28 Lots, with requests to waive curb and gutter along South Street and Folsom Street, detention requirements, and sidewalks.

GENERAL INFORMATION:

APPLICANT & LAND OWNER:

Hendricks Investments, L.L.C.
John and George Hendricks
RR#1 Box 96B
Firth, NE 68358
792-2880

CONTACT:

Todd Lorenz
Olsson Associates
1111 Lincoln Mall
Lincoln, NE 68501
474-6311

LOCATION:

Southwest 6th and South Street

LEGAL DESCRIPTION:

Lots 133, 167, 169 I.T., and the remaining portion of Lot 168 I.T., located in the NE 1/4 of Section 34, T10N, R6E, Lancaster County, Nebraska, generally located at Folsom Street and South Street.

REQUESTED ACTION:

Approve preliminary plat with waivers

EXISTING ZONING:

I-1 Industrial

SIZE:

50.31 acres

EXISTING LAND USE:

Vacant, on April 7, 2000, the Building & Safety Department issued a Flood Plain Permit to fill the site.

SURROUNDING LAND USE AND ZONING:

To the north is vacant zoned I-1, to the east across Salt Creek is vacant and industrial zoned I-1, to the south across South Street is vacant and industrial zoned I-1, to the west across Folsom Street is vacant zoned I-1, and to the northwest across the railroad is industrial and commercial.

COMPREHENSIVE PLAN SPECIFICATIONS:

The Land Use Plan shows the site as Industrial including Wetland and Water Bodies.

Is located inside the Future Service Limits.

HISTORY:

During the **1979** Zoning Update the area was converted from K light Industrial to I-1 Industrial.

On **April 7, 2000**, the Building & Safety Department issued a Flood Plain Permit to fill the site.

SPECIFIC INFORMATION:

UTILITIES:

The Public Works & Utilities Department finds the sewer and water as shown is satisfactory. The subdivision will require the construction of off site sanitary sewer and easements.

The drainage study and grading plans are not acceptable.

TOPOGRAPHY:

Based on the Building & Safety Department issuance of a Flood Plain Permit to fill the site the site proposed for development has been filled and is very flat and the area that is not to be developed has been used as a borrow area and is very flat except for the existing drainage ditch and wetland.

TRAFFIC ANALYSIS:

South Street and Folsom Street are classified as Urban Collector Streets in the Comprehensive Plan.

No improvements are shown for South Street and Folsom Street in the 1-20 Year Program in the Comprehensive Plan.

The Building Line District Map shows a 50' building line along South Street. The applicant has requested an amendment to reduce the building line to 40'. The Public Works & Utilities Department has recommended approval. Please refer to Change of Zone #3278.

The Public Works & Utilities Department recommends denial to the request to waive sidewalks along South Street and Folsom Street.

PUBLIC SERVICES:

The nearest fire stations are located at 17th & Van Dorn and between A Street and South Street east of Coddington Ave.

ANALYSIS:

The preliminary plat conforms to the Land Subdivision Ordinance except for the requested waivers and requested revisions.

STAFF RECOMMENDATION:

Conditional approval

CONDITIONS:

Site Specific:

1. After the subdivider completes the following instructions and submits the documents and plans to the Planning Department office, the preliminary plat will be scheduled on the City Council's agenda: (NOTE: These documents and plans are required by ordinance or design standards.)

- 1.1 Revise the preliminary plat to show:

- 1.1.1 Sidewalks ~~provided~~ along South Street and Folsom Street are waived; however, the subdivider and its successors and assigns shall waive any objection to the creation of a sidewalk district at such time as the City of Lincoln deems sidewalks to be necessary. (**Per Planning Commission, 09/06/00**)
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- 1.1.6 On the Grading & Drainage Plan add a notation indicating the estimated amount of additional fill that will be needed to raise the building pads 1-foot above the 100-year flood elevation.
- 1.1.7 Add a notation that the subdivider is responsible to acquire the easement from the railroad for the proposed sanitary sewer crossing.
- 1.1.8 The Landscape Plan and the Grading & Drainage Plan are consistent in indicating which existing trees will be removed.
- 1.1.9 The limits of the existing wetland are indicated on the Grading & Drainage Plan.
- 1.1.10 label all the utility easements as requested by the August 10, 2000, LES report.
- 1.1.11 The drainage study revised to provide additional information acceptable to the Public Works & Utilities Department.
- 1.1.12 The grading plan revised to be acceptable to the Public Works & Utilities Department.

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- 2.1 A waiver to sidewalks along one side of the interior streets.

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- 2.4 A waiver to sidewalks along South Street and Folsom Street abutting this plat. (**Per Planning Commission 09/06/00**)

~~3. The City Council deny associated request:~~

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 - 4.3 The subdivider has signed an agreement that binds the subdivider, its successors and assigns:
 - 4.3.1 To submit to the Director of Public Works an erosion control plan.
 - 4.3.2 To protect the remaining trees on the site during construction and development.
 - 4.3.3 To pay all improvement costs.
 - 4.3.4 To submit to lot buyers and builders a copy of the soil analysis.
 - 4.3.5 To continuously and regularly maintain street trees along South Street and Folsom Street.
 - 4.3.6 To complete the private improvements shown on the preliminary plat.
 - 4.3.7 To maintain Outlot A and private improvements on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent

and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the document or documents creating said property owners association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

- 4.3.8 To relinquish the right of direct vehicular access from individual lots to South Street and Folsom Street.
- 4.3.9 To comply with the provisions of the Land Subdivision Ordinance regarding land preparation.
- 4.4.10 To inform all purchasers and users that the land is located within the 100 year flood plain and the volume of fill material brought into site from outside the flood plain shall not exceed that shown on the approved grading plan accompanying the preliminary plat.

Prepared by:

Ray Hill, Planner

**ANNEXATION NO. 00004
and
CHANGE OF ZONE NO. 3278
TO CHANGE THE BUILDING LINE DISTRICT
and
PRELIMINARY PLAT NO. 00019
SOUTH STREET BUSINESS PARK**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 6, 2000

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

Planning staff recommendation: Approval of the Annexation and Change of Zone, and conditional approval of the Preliminary Plat.

Ray Hill of the Planning Department submitted a memo from the Parks Department with no additional comments, and a memo from the Fire Department finding the annexation acceptable.

Proponents

1. Mark Hunzeker appeared on behalf of the developer of this site. He believes the annexation and the building line district change are self-explanatory. They have met with staff for several months. This is an 84 acre site basically all in the 100 year floodplain. The Corps of Engineers study assumed that this entire floodplain area would be filled 100% up to the designated floodway. In accordance with that study and city regulations, the developer has obtained a permit to push fill on this property, which has largely been done, with the exception of about a 15-acre site which is being proposed to the Corps as a wetland bank. The agreement is under review and they have received very positive comments from the Corps and NRD. He anticipates the agreement will be back from the Corps soon.

Hunzeker explained that the proposal is for an upscale business park which will be a significant improvement in this area. They are in the process of drafting restrictive covenants which will require significant landscaping on each of the lots in addition to controlling construction materials, signage and plant approval. The developer has modified the street system, worked out drainage issues, modified access to the wetland areas, improved access to the dike along Salt Creek, and agreed to minimize the amount of fill on individual lots to raise only the building pad rather than the entire site, which is a substantial reduction in the amount of fill that could otherwise be legally placed on the property.

Hunzeker had only one condition of approval to address. The developer has requested a waiver of sidewalks adjacent to South Street and Folsom Street abutting this property. There are no sidewalks on the north side of South Street and there are no sidewalks on Folsom in either direction until you get

between 1/4 and 1/2 mile north of South Street. Hunzeker suggested that Condition #1.1.1 be amended such that the sidewalks along South Street and Folsom Street are waived; however, the subdivider and its successors and assigns shall waive any objection to the creation of a sidewalk district at such time as the City of Lincoln deems sidewalks to be necessary.

There was no testimony in opposition.

Carlson wondered when the sidewalks would be deemed necessary if Hunzeker's proposed amendment to Condition #1.1.1 is granted. Hill suggested that it would probably be when there is enough foot traffic to justify a sidewalk. Because of the amount of frontage this individual has, if the city had a petition to put in the sidewalks, this group of individuals would not have the opportunity to protest that, which would lead to the fact that they would most likely be installed if it becomes a need. Hill agreed with the proposed amendment to Condition #1.1.1.

Carlson sought confirmation that everything this developer has done is in compliance the floodplain regulations. Nicole Fleck-Tooze of Planning staff concurred that everything proposed on the plat meets the requirements of the subdivision ordinance that currently exist for floodplain issues. They have already obtained a floodplain fill permit from Building & Safety. Carlson stated that he has received citizen calls concerned about odors and dirt being moved around in this area. Fleck-Tooze advised that a floodplain fill permit can be issued prior to approval of the plat.

Newman noted that the ordinance provides that they cannot put in so much fill that it increases the height of the water 1'. Fleck-Tooze explained that the ordinance actually refers to a floodway and flood fringe. Within the fringe area they are permitted to place as much fill as they would like.

Fleck-Tooze further advised that the "no net rise" goes beyond our present requirements. Today we assume we would have 1' of rise. The Health Dept. did express that as a concern. This application does not propose "no net rise". There presumably would be some amount of rise, but they are meeting all of the current regulations.

Response by the Applicant

Hunzeker added that if the amendment to Condition #1.1.1 is granted, then Condition #3 needs to be deleted.

With regard to floodplain, Hunzeker suggested that this plat does not raise the floodplain issue all by itself. The plat itself is really neutral relative to the floodplain. The developer has the right and has the permit to place the fill on the site as it stands today. We could do everything that we intend to do by this subdivision by use of private drives and simply constructing multiple buildings and doing a condominium on this site without coming to the city for approval at all. The subdivision itself is not a vehicle for enforcing floodplain policy. But this application is in compliance with all the floodplain regulations and they are probably already about 90% complete on the fill that will get the property up. They have not filled the building pad sites yet because until you have building plans you don't know what the size will be. He anticipates that a lot of the buildings will have loading docks which will keep the grade down on half to two-thirds of the building.

Hunter expressed that she was at a loss to understand. It is scary to her having comments from the Health Department that strongly advocates no net rise, etc. Did the ordinance regarding storm water not go to the extent that it needed to address these kinds of things? Then what happens if there is a flood? Fleck-Tooze explained that the storm water ordinances that were recently adopted are separate from the issue of floodplain storage. The staff has talked a lot about bringing something forward and is in the process of looking at some studies to identify the issues and solutions. The city is working with the NRD and Corps to collect studies to look at no net rise and no loss of flood storage. It is anticipated that within the next year, the staff will be in a position to bring forward some revisions to the floodplain ordinance to address the issue. This is a straight preliminary plat which meets the requirements of subdivision ordinance.

Hunzeker suggested that the Health Dept. has no regulations on the subject. It's a situation where no net rise really doesn't apply to floodplain or flood fringe areas. It applies to floodways. This developer has complied with all the regulations.

Public hearing was closed.

ANNEXATION NO. 00004

ADMINISTRATIVE ACTION BY THE PLANNING COMMISSION:

September 6, 2000

Duvall moved approval, seconded by Schwinn and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

CHANGE OF ZONE NO. 3278

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 6, 2000

Duvall moved approval, seconded by Schwinn and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

PRELIMINARY PLAT NO. 00019

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 6, 2000

Duvall moved approval, with conditions, with amendment to #1.1.1 as requested by the applicant and deleting Condition #3, seconded by Schwinn.

Newman apologized, but building in a floodplain is a public health issue and she cannot vote for this. She urged the Board of Health to come up with a recommendation that says this is what the Health Dept. believes is correct or incorrect. She will not vote to approve because 20 years down the road, if this does flood downstream, she does not want to be responsible.

Rick Peo, City Attorney, interrupted the discussion. He noted a tendency to have protest votes and it is totally inappropriate. There are guidelines in the land subdivision ordinance that provide that the Planning Commission shall approve a preliminary plat if it complies with the minimum requirements.

The function as Planning Commission is to abide by the requirements of the ordinance and approve things that do comply. Peo suggested that the Commission spends too much time on protest votes that should go back to staff to change the law. In that case, Newman stated that she wants the no net rise legislation brought forward in the next two weeks.

Carlson noted that he had two or three calls about the dirt being moved. He understands that this complies with the standard as it exists. But this is analogous to what we continue to refer to as the acreage issue. We need guidance and resolution on these issues. It is not a protest vote but only to raise the issue. He will use this opportunity to urge staff to continue moving in the direction toward no net rise.

Motion for conditional approval, with amendments, carried 7-1: Krieser, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Newman voting 'no'; Steward absent.