

FACTSHEET

TITLE: **SPECIAL PERMIT NO. 1726B**, an amendment to the **West Park Community Unit Plan**, requested by Brian D. Carstens and Associates on behalf of West Park, L.L.C., to add six dwelling units, for a total of 29 dwelling units, including a request to waive the turnaround design standards in West "B" Court, and to waive the connection of West "B" Court to West "B" Street, on property generally located at S.W. 15th Court and West "A" Street.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 05/12/04
Administrative Action: 05/12/04

RECOMMENDATION: Conditional Approval (8-1: Krieser, Carlson, Sunderman, Carroll, Taylor, Larson, Marvin and Bills-Strand voting 'yes'; Pearson voting 'no').

STAFF RECOMMENDATION: Conditional approval.

FINDINGS OF FACT:

1. This request is to amend the community unit plan to increase the number of dwelling units from 23 to 29. Ten dwelling units are set aside for conversion of the early childhood care facility.
2. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.4, concluding that, with conditions of approval, the proposal is in conformance with the Comprehensive Plan, the zoning ordinance and the subdivision ordinance.
3. The applicant's testimony is found on p.7.
4. Testimony in opposition is found on p.7-8, with concerns about development in the floodplain and wetlands. The record also consists of a letter expressing concerns about development of the "common" area; the connection of West B Court to existing West B Street; the waiver of the turnaround at the west end of West B Court; guest parking; and the street lights which were required with the original development (p.19-20). The applicant stated that the wetlands are being mitigated and that without the turnaround waiver, the development would impact more wetlands and would require additional fill. The applicant also stated that there is an agreement with the homeowners association to use the day care parking lot to the east when the day care is closed and on weekends. The applicant also stated that the street lights will be installed immediately.
5. The Planning Commission discussion with staff about the floodplain and new floodplain regulations is found on p.8-9. The applicant stated that water from this development will drain to the north and will not drain towards Fairview Heights.
6. On May 12, 2004, the majority of the Planning Commission agreed with the staff recommendation and voted 8-1 to recommend conditional approval. Commissioner Pearson dissented due to development in wetlands (p.10).
7. On May 12, 2004, the Planning Commission also adopted Resolution No. PC-00862, approving the associated West Park 2nd Addition preliminary plat (Commissioner Pearson dissenting).
8. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been satisfied.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: June 18, 2004

REVIEWED BY: _____

DATE: June 18, 2004

REFERENCE NUMBER: FS\CC\2004\SP.1726B

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for MAY 12, 2004 PLANNING COMMISSION MEETING

P.A.S.: Special Permit 1726B, West Park 2nd Addition Community Unit Plan

PROPOSAL: To amend the community unit plan to increase the number of dwelling units from 23 to 29 dwelling units.

LOCATION: S. W. 15th Ct. & West "A" St.

LAND AREA: 5.4 acres, more or less.

CONCLUSION: With conditions the proposal is in conformance with the Comprehensive Plan, Zoning and Subdivision Ordinances.

RECOMMENDATION:	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 1-14, Outlot "A" and Outlot "B", West Park Addition, located in the SE 1/4 of Section 28, Township 10 North, Range 6 East, Lincoln, Lancaster County, Nebraska.

EXISTING ZONING: R-3 with Community Unit Plan

EXISTING LAND USE: Residential and daycare facility.

SURROUNDING LAND USE AND ZONING:

North:	R-2 Residential	Right-of-way for Homestead Expressway
South:	R-2 Residential	Single family residential
East:	R-2 Residential	Single family residential and church
West:	R-2 Residential	Single family residential and undeveloped

ASSOCIATED APPLICATIONS: Preliminary Plat #01012

COMPREHENSIVE PLAN SPECIFICATIONS:

Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in older neighborhoods and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods." (F-17)

"Encourage different housing types and choices, including affordable housing, throughout each neighborhood for an increasingly diverse population." (F-18)

"Interconnected networks of streets, trails, and sidewalks should be designed to encourage walking and bicycling, reduce the number and length of automobile trips, conserve energy and for the convenience of the residents." (F-18)

The Land Use Plan identifies this area as urban residential. (F-25)

Guiding principles for new neighborhoods includes:

1. Similar housing types face each other: single family faces single family, change to different use at rear of lot;
2. Parks and open space within walking distance to a ll residences;
3. Pedestrian orientation; shorter block lengths, sidewalks on both sides of all roads (F-67)

The Plan thus commits Lincoln and Lancaster County to preserve unique and sensitive habitats and endorses creative integration of natural systems into developments. (F-51)

Wetlands provide distinctive habitat opportunities for various plants and animals, as well as offering flood control and water filtration benefits. (F-54)

HISTORY:

Date when preliminary plat was submitted:	July 12, 2001
Date when Planning Director's letter was sent:	August 13, 2001
Date when revised preliminary plat was submitted:	April 7, 2004

March 15, 1999 Special Permit #1726A to amend the community unit plan to allow a day care facility and 10 additional dwelling units was approved by City Council.

February 10, 1999 Final Plat #98032, West Park Addition, was approved by Planning Commission.

September 14, 1998 Special Permit #1726 for a community unit plan for 13 dwelling units was approved by City Council.

September 14, 1998 Preliminary Plat #98013 was approved by City Council

UTILITIES: All utilities are available to serve this development.

TRAFFIC ANALYSIS: West "A" St. is classified as a minor arterial. There are no projects proposed for West "A" St. abutting this plat in the 2025 Comprehensive Plan. The lots will take access from West "B" Ct., a private roadway. A waiver has been requested with the preliminary plat requiring that West "B" Ct. connect to West "B" St. A connection of the two streets would require development in the wetlands.

PUBLIC SERVICE: The nearest fire station is located on Coddington Ave. just south of West "A" St.
The nearest elementary school is Roper Elementary located at West South St. & Coddington Ave.

ENVIRONMENTAL CONCERNS:

The proposed development is within the limits of existing wetlands. The applicant is mitigating the loss of wetlands. The applicant has received a Section 404 permit from the Army Corps of Engineers.

The applicant has submitted a mitigation plan. A conservation easement should be placed over the mitigation areas.

The site contains freshwater wetlands on saline soils, classified as Category III wetlands. A conservation easement has been placed over the wetlands and the wetlands have been placed on an outlot.

ANALYSIS:

1. This request is to amend the community unit plan to increase the number of dwelling units from 23 to 29. Ten dwelling units are set aside for conversion of the early childhood care facility.
2. This amendment is to allow six additional dwelling units to the Community Unit Plan. The early childhood day care facility and 13 dwelling units are built.
3. This community unit plan allows a total density of 21 dwelling units, not including Lot 20, the daycare lot.

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 Revise the site plan to show:
 - 1.1.1 Correct note 7 to change "West Park Court" to "West B Ct."
 - 1.1.2 Add the following note: "The conversion plan for the early childhood care facility allows a maximum of 10 dwelling units."

- 1.1.3 Add to the Requested Waivers a waiver to turnaround meeting City design standards in West "B" Ct.
- 1.1.4 Add to the Requested Waivers a waiver to the connection of West "B" Ct. to West "B" St.
- 1.1.5 Identify the mitigation areas within the boundaries of a conservation easement.

2. This approval amends the West Park Community Unit Plan to increase the number of dwelling units from 23 to 29 dwelling units.

General:

3. Before receiving building permits:
 - 3.1 The permittee shall have submitted a revised and reproducible final plan including 5 copies and the plans are acceptable.
 - 3.2 The construction plans shall comply with the approved plans.
 - 3.3 Final Plats shall be approved by the City.
 - 3.4 The operation and the premises of the early childhood care facility are to meet appropriate local and state licensing requirements, including compliance with health codes.

STANDARD CONDITIONS:

4. The following conditions are applicable to all requests:
 - 4.1 Before occupying the dwelling units all development and construction shall have been completed in compliance with the approved plans.
 - 4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
 - 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 applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day

period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

5. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by:

Tom Cajka, 441-5662, tcajka@ci.lincoln.ne.us
Planner

DATE: April 23, 2004

APPLICANT: Kent Thompson
West Park L.L.C.
6800 S. 32nd St. Suite C
Lincoln, NE 68516
(402) 421-7700

OWNER: same as applicant

CONTACT: Brian D. Carstens
Brian D. Carstens & Associates
601 Old Cheney Rd. Suite C
Lincoln, NE 68512
(402) 434-2424

**SPECIAL PERMIT NO. 1726B,
AMENDMENT TO THE WEST PARK COMMUNITY UNIT PLAN,
and
PRELIMINARY PLAT NO. 01012,
WEST PARK 2ND ADDITION,**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 12, 2004

Members present: Krieser, Pearson, Carlson, Sunderman, Carroll, Taylor, Larson, Marvin and Bills-Strand.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

These applications were removed from the Consent Agenda due to a letter received in opposition.

Tom Cajka of Planning staff submitted the letter from Richard Mackey who lives within the development. He is not opposed to the general concept but has specific concerns that the waiver for turnaround not be granted due to lack of guest parking. He is also concerned that the street lights have never been installed.

Proponents

1. Brian Carstens appeared on behalf of the developer, **West Park LLC**. This expansion adds six dwelling units to the community unit plan that was approved 4 years ago. With regard to the letter from Mr. Mackey, Carstens advised that the developer is going to get the street lights installed immediately. As far as the turnaround waiver, if they did put a turnaround at the end of West B Court, it would impact more wetlands and would require additional fill. With regard to parking, Carstens stated that there is agreement with the homeowners association to use the day care parking lot to the east when the day care is closed and on weekends.

Opposition

1. Mika Pearson, 1641 W. B Street, testified in opposition. She has serious concerns about the townhouses and the street that is to be connected from West B Court to West B Street because this is in the 100-year floodplain and the townhome owners will have some serious flood problems. She has lived there for 25 years and she has seen some serious flooding in these areas. Her house is just on the very edge of the wetlands and they have had problems with water being right at their back door and their front garage door. People just two blocks away have had to sandbag. She is concerned about the builders coming in and building these townhouses and taking this land that should be absorbing water, and selling the townhomes to

people that will eventually have flood problems. They are taking valuable land that is supposed to be holding and absorbing that water. She believes that several years ago, the developers were told no because of the floodplain.

2. Verna Pearson, 1641 West B, testified in opposition. She has lived here all her life. Her parents also lived here all of their lives and her parents own this land. This land is not only in the 100-year floodplain but also designated wetlands. Her back yard is in the floodplain. If there is over a 5 inch rain, they are sandbagging because it goes into their garage. Four years ago, it was determined that this was wetlands and that it could not be built upon. Most of the culverts are now blocked by silt and dirt; the dirt is also coming down and filling in the other lowlands designated as 100-year floodplain. She has very serious concerns about the water drainage. As far as the connection between West B Court and West B Street, she is firmly against it. She owns the land on both sides of West B Street and that area is landlocked. There is no way she would anticipate a street going through there at this time. With regard to the 100-year floodplain, this area used to flood all of the time when she was a child. She is in opposition to any kind of development on this property. She showed a map she got off the internet showing the wetland/floodplain.

Staff questions

Marvin noted that there are going to be new floodplain standards and he wondered how this development would be impacted if those standards were applied inside the city limits. Ray Hill of Planning staff explained that the staff has not had opportunity to determine whether this development would meet the new standards or not. However, there is nothing that prevents building in the 100-year floodplain as long as the development complies with the regulations about storage and raising the elevation of the dwellings above the 100-year floodplain.

Melinda Pearson referred to the map shown by Verna Pearson. In what circumstance would we allow development in the wetlands? Tom Cajka advised that the developer has mitigated the wetlands and they have an approved 404 permit from the Army Corps of Engineers.

Pearson thought that this might be the classic case where if they raised the grade for the new development, it actually potentially causes additional flooding to the existing lots just to the west (Fairview Heights). Dennis Bartels of Public Works & Utilities stated that potentially filling a floodplain could incrementally raise the total floodplain. However, without doing a study, it is not possible to say that to 100% certainty. Under the new regulations, calculations are required to see what impact or what increment the development may raise the floodplain. Under the present floodplain regulations, fill was allowed if the units were elevated 1' above the 100-year floodplain. Pearson understands that it potentially could raise it but we do not know because there has not been a study. Bartels confirmed that there was no study required on this development. However, in this area where it is on the fringe, he estimates that it would have a minimal effect. But, Pearson has a concern about there being houses adjacent to this property as opposed to a field. Bartels does not believe one can make a blanket statement about what impact it has on the floodplain. In this area the wide floodplain is mostly backwater from the coincidental flooding of the creek. It gets to be site specific to provide a definite answer as to whether filling the floodplain would have an impact. It is Bartels' opinion that any effect on the 100-year floodplain with three units would be minimal. This area has had some flooding problems from drainage, but the previous bond issue

identified building some storm sewer along West A Street that will be under construction later this year and next year to alleviate flooding from the local drainage. The problems experienced by the houses to the west is more of a localized problem as opposed to a problem created by water getting out of the banks of Salt Creek.

Carlson inquired about what Public Works has looked at in terms of the grading plan to assure that this project will not cause water to move onto those housing sites. Bartels stated that he reviewed the grading plan and did not believe it would cause a problem because of the upstream drainage area. He was looking at the localized upstream drainage area in reviewing the plat.

Pearson asked for confirmation as to the number of units. Cajka advised that there are actually 13 residential units – the other 10 units are for a conversion plan if the day care goes away. They are asking for an additional 6 units at the end, which are the closest to Fairview Heights and in the wetland area.

Bills-Strand inquired as to how much of the six units are in the wetlands. Cajka believes that all of Lot 10 and Lot 11 and the street are in the wetlands. The mitigation is taking place on the southwest corner west of Lot 8.

Bills-Strand inquired about the number of times mitigation has been allowed in the past. Cajka did not know. Bills-Strand believes it has been common.

Response by the Applicant

Carstens clarified that the developer did request not to connect West B Court to this subdivision. Carstens showed the wetland mitigation plan which was approved by the Corps. They are mitigating at 1.5 times. This was approved several years ago and it has been reissued. The Corps reviewed it again and revived it.

Carstens advised that they will be hauling in 730 yards of fill dirt, so it is not a large quantity.

Carstens agreed that flooding in the area is localized. Some of those houses were built many years ago and were built low. The units already constructed by this developer have been removed from the floodplain by letter of map revision, in addition to the day care. He anticipates doing the same thing with the new units being certified to be 1' above the 100-year elevation.

Pearson thinks the water will drain into the neighbors' yards. Carstens submitted that the water will drain north. The front drains towards the private roadway and the rear drains towards A Street, which is heading east. The water is moving from west to east. The surface water from this development does not run towards Fairview Heights.

Carlson suggested that the purpose of the enhancement to the wetlands is to enable it to store water. Carstens concurred, adding that they are improving the drainage situation going north and east through their property.

Carroll inquired whether there was any mitigation on the first plat. Carstens stated that there was not because they stayed out of the wetland area.

Bartels reiterated that Public Works was satisfied with the grading plan and comfortable that the surface drainage from these lots would not run back to the west. It is presently lower and the mitigation probably lowers it further. Public Works was comfortable that the water from these townhouses would drain to the north. The houses to the west from S.W. 17th Street to this general area drain from west to east. If the water gets deep enough in the ditch, he acknowledged that it has gone between the houses. West B is approximately the low area behind those houses so there is water draining east to west. That is part of the problem we are trying to minimize with the storm sewer project in West A Street.

SPECIAL PERMIT NO. 1726B

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 12, 2004

Sunderman moved to approve the staff recommendation of conditional approval, seconded by Larson.

Pearson stated that any development inside of a wetland should be avoided and she believes this has been an ongoing discussion. The floodplain is one thing, but a wetland is another thing altogether and she will vote against this proposal.

Bills-Strand stated that she will vote for approval because mitigation has been allowed in the past and she is trusting the staff's recommendation that the grading will be done properly.

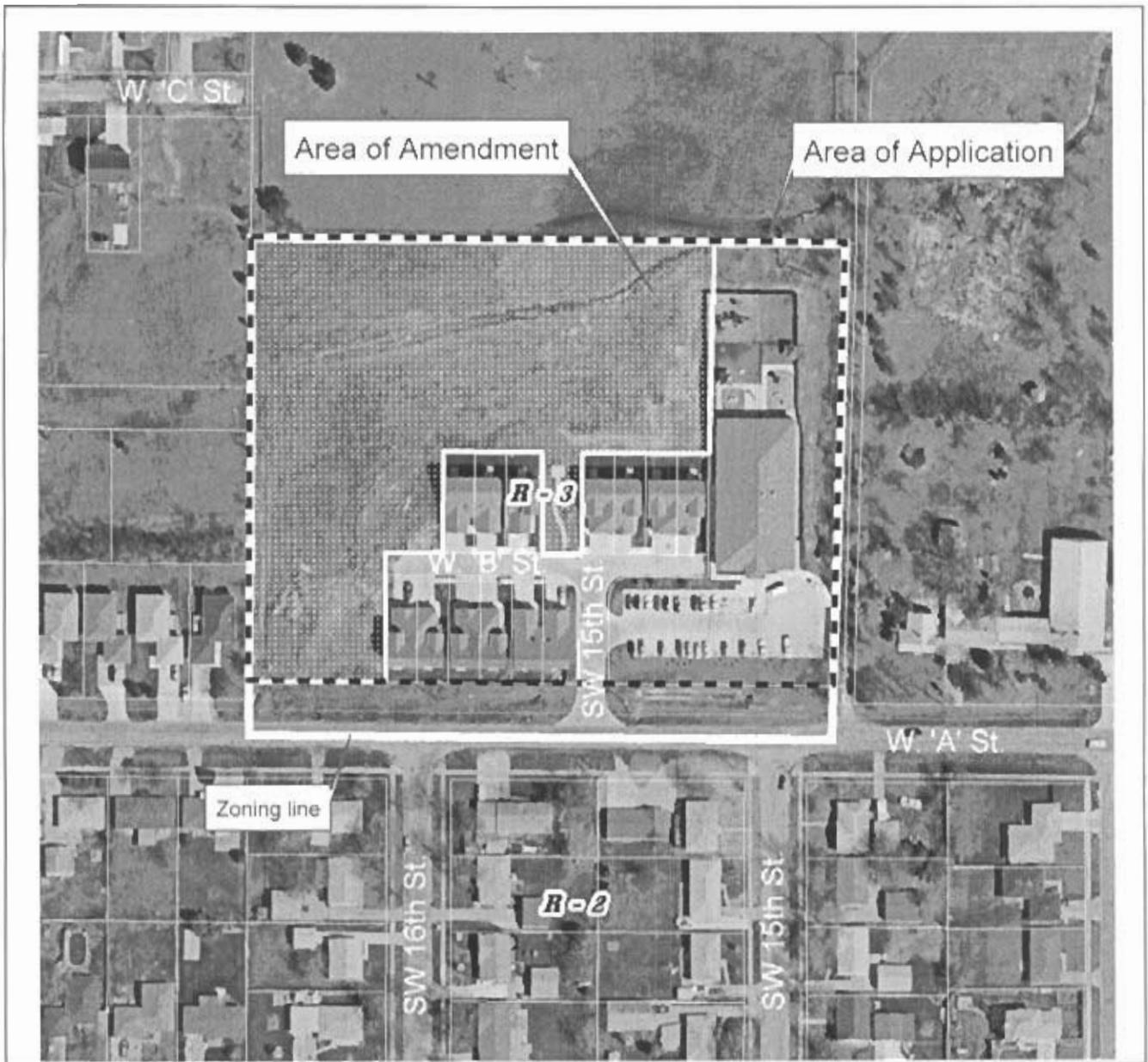
Motion for conditional approval carried 8-1: Krieser, Carlson, Sunderman, Carroll, Taylor, Larson, Marvin and Bills-Strand voting 'yes'; Pearson voting 'no'. This is a recommendation to the City Council.

PRELIMINARY PLAT NO. 01020

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 12, 2004

Sunderman moved to approve the staff recommendation of conditional approval, seconded by Larson and carried 8-1: Krieser, Carlson, Sunderman, Carroll, Taylor, Larson, Marvin and Bills-Strand voting 'yes'; Pearson voting 'no'. This is final action, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.



2002 aerial

Special Permit #1726B West Park 2nd Add

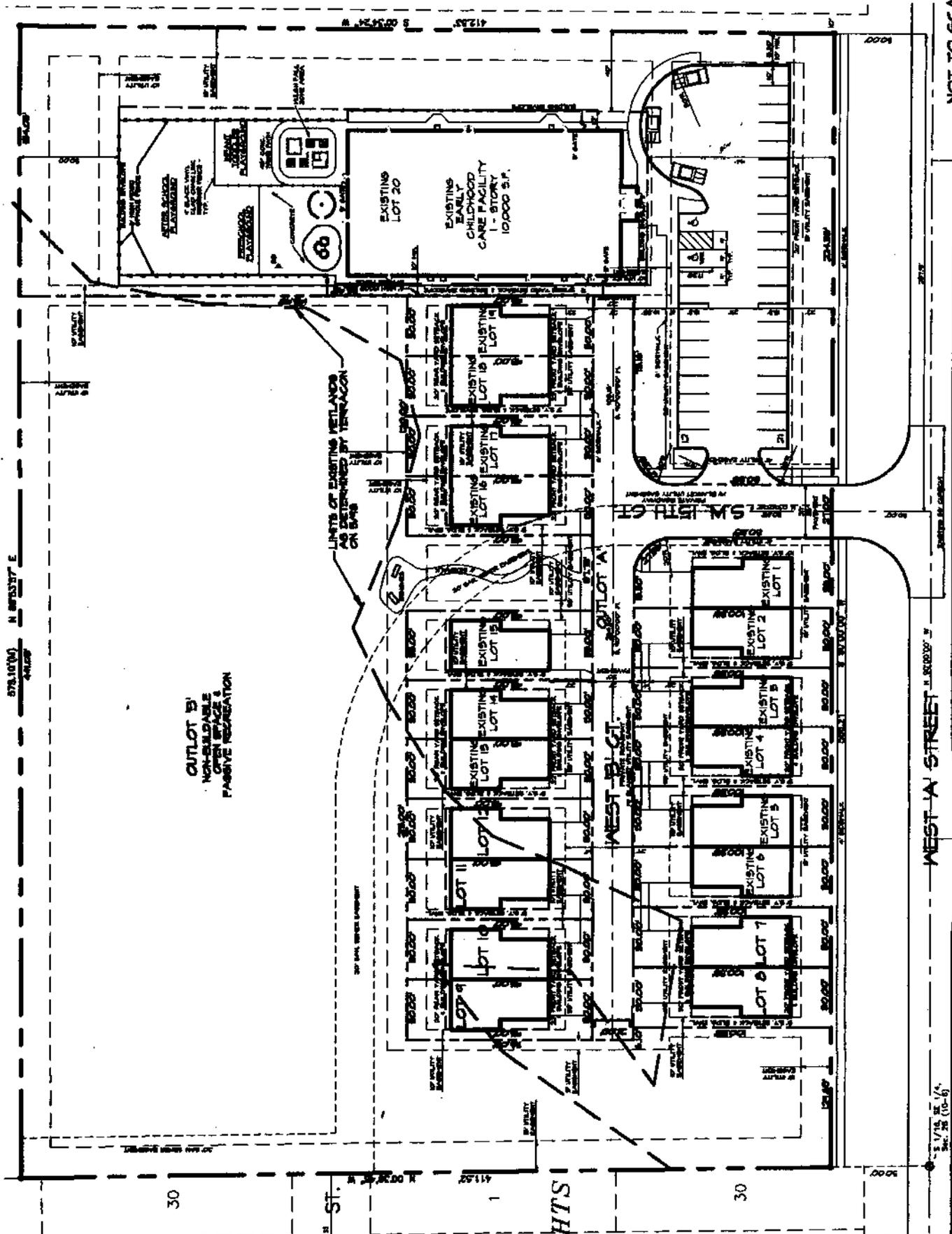
Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-6 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile
Sec. 28 T10N R6E



573.10'0" N. 89°33'7" E.
411.02'



NOT TO SCALE

OUTLOT B'
NON-RESIDABLE
GREEN SPACE &
PASSIVE RECREATION

LIMITS OF EXISTING METLANDS
AS DETERMINED BY TERRACON
ON B.M.

W. "B" ST.

HEIGHTS

WEST "A" STREET

29

30

2

1

29

30

012

3-17-16, 16-1/4
SHEET 16 (10-16)
FOR 1" PLAN

Memorandum

To:	Tom Cajka, Planning Department
From:	Chad Blahak, Public Works and Utilities
Subject:	West Park 2nd Addition Preliminary Plat #01012 and Special Permit #1726
Date:	4/22/04
cc:	Randy Hoskins

Engineering Services has reviewed the submitted plans for the West Park 2nd Addition Preliminary Plat and Special Permit, located north of West A Street at SW 15th Street, and has the following comments:

- The grading and drainage plan needs to be revised to reflect the current city storm sewer project in West A Street adjacent to this plat.
- The grading plan shows proposed contours that create low spots in the area north of the proposed and existing buildings that have no positive drainage. The grading plan needs to be revised to show positive drainage for these areas.
- Information needs to be provided showing that Lots 8 and 9 will not be flooded during the 100yr storm.
- A waiver of design standards for permanent turnaround geometry will need to be requested and justification will need to be provided for West B Court.

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Memo



To: Tom Cajka, Planning Department

From: Mark Canney, Parks & Recreation

Date: April 21, 2004

Re: West Park 2nd Addition

Staff members of the Lincoln Parks and Recreation Department have conducted a plan review of the above-referenced application/proposal and have the following comments:

1. While not a requirement, please consider using a Patmore Ash rather than an Emerald Queen Maple. Emerald Queen Maple are subject to sunscald and damage in unprotected sites.
2. Section 26.23.160 of the Land Subdivision Ordinance requires, at the City's discretion, the dedication of suitable park land for neighborhood parks as part of the platting process, paying impact fees with the submission of building permits, or a combination of both. At this time, the Parks Department is requesting impact fees in lieu of park land.

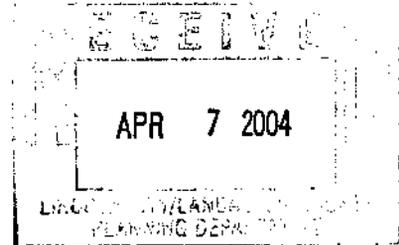
If you have any additional questions, comments or concerns, please feel free to contact me at 441-8248. Thank you.



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NEBRASKA REGULATORY OFFICE - KEARNEY
1430 CENTRAL AVENUE, SUITE 4
KEARNEY, NEBRASKA 68847-6856

April 5, 2004

Mr. Kent Thompson
West Lake LLC
PO Box 6896
Lincoln, Nebraska 68506-0896



Dear Mr. Thompson:

We have reviewed your request for Department of the Army authorization for the housing development (West Park 2nd Addition) in wetlands. The work will be carried out in accordance with plans received on July 6, 2000. The site is located in the SE¼ of Section 28, Township 10 North, Range 6 East, Lancaster County, Nebraska.

Based on the information you provided, this office has determined that your work is authorized by the Department of the Army Nationwide Permit No. 39, found in the January 15, 2002 Federal Register (Vol. 67, No. 10, Part II), Issuance of Nationwide Permits. Enclosed is a fact sheet that fully describes this Nationwide Permit and lists the General Conditions that must be adhered to for this authorization to remain valid.

This authorization is subject to the following Special Condition(s):

1. Wetland impacts will be mitigated at a minimum ratio of 1½ acres of created wetland for every 1.0 acre of impacted wetland. Mitigation shall be accomplished as outlined in the March 5, 1999 Mitigation Plan prepared by Terracon, Omaha, Nebraska. Should the mitigation fail to produce the type and level of compensation necessary, the permittee shall comply with the Corps' directives to provide the required mitigation. If the mitigation area is considered to be failing at any time, the permittee shall undertake action, as directed by the Corps of Engineers, to remedy the failure.
2. Buffer strips shall be set aside around perimeter of the mitigation site measuring 30 feet from the outer-most boundary of the mitigation wetland. The buffer strips shall be planted to appropriate perennial, native grasses and forbs and maintained in this condition. Reed Canary Grass (*Phalaris arundinacea*), Purple Loosestrife (*Lythrum salicaria*) and Smooth Brome (*Bromus inermis*) are **NOT** appropriate choices of vegetation. Revegetation will be acceptable when ground cover of desirable species reaches 75%. The permittee shall provide to the Kearney Regulatory Office documentation verifying that the mitigation site was constructed and seeded before May 1, 2004. This documentation may include dates of construction and seeding, planting list, seed bag tags or receipts.

3. Monitoring reports of the wetland mitigation site shall be submitted to the Kearney Regulatory Office to ensure the site is developing properly. The reports shall include, at a minimum, the following: 1) All plant species along with their estimated relative frequency and percent cover; 2) Any fauna noted using the area; 3) Referenced photographs, showing all representative areas of the mitigation site taken at least once each year during the growing season; 4) a set of as-built plans of the mitigation site to see as the baseline for future monitoring. Monitoring reports shall be due November 1 of 2004, 2005 and 2006. If construction is not completed by October 1, 2004, monitoring reports shall be due November 1 of 2005, 2006 and 2007. Please contact the Kearney Regulatory Office if construction is not completed before October 1, 2004 to ensure the proper monitoring schedule.

4. To protect against future impacts on the mitigation site, an appropriate real estate instrument such as a conservation easement or a deed restriction shall be placed on the entire mitigation site and the buffer areas. After the completion of construction, the permittee shall provide to the Kearney Regulatory Office a legal description of the land to be preserved and a draft Covenant of Dedication. A certified copy of the real estate instrument, as recorded with the Lancaster County Registrar of Deeds, shall be submitted to the Kearney Regulatory Office by June 30, 2005.

5. The permittee shall assume all liability for accomplishing corrective work should the Corps of Engineers determine that the compensatory mitigation has not been fully satisfactory. Remedial work may include, but is not limited to, regarding &/or replanting the site. This responsibility shall extend for a period three years upon completion of the work.

6. Measures will be employed prior to filling activity in waters of the US to reduce soil erosion and sedimentation into channels/wetlands. These may include silt curtains, temporary sediment basins, berms, erosion control blankets, turf reinforcement, vertical track walking and grass seeding. The amount of sediment entering channels/wetlands and leaving the site shall be reduced to the maximum extent practicable. If the permittee fails to institute all appropriate measures, the Corps of Engineers reserves the option to halt all earthmoving operations until erosion/sedimentation problems are corrected.

7. Upon completion of the project, all areas disturbed by construction shall be revegetated to appropriate perennial, native grasses and forbs and maintained in this condition. Reed Canary Grass (*Phalaris arundinacea*), Purple Loosestrife (*Lythrum salicaria*) and Smooth Brome (*Bromus inermis*) are **NOT** appropriate choices of vegetation. The disturbed areas shall be reseeded concurrent with the project or immediately upon completion. Revegetation shall be acceptable when ground cover of desirable species reaches 75%. If this seeding cannot be accomplished by September 15 of the year that grading is completed, then an erosion blanket shall be placed on the disturbed slopes adjacent to the wetlands/channel. The erosion blanket shall remain in place until ground cover of desirable species reaches 75%. If the seeding can be accomplished by September 15, all seeded areas shall be properly mulched to prevent additional erosion.

Although an individual Department of the Army permit will not be required for the project, this does not eliminate the requirement that you obtain any other applicable Federal, state, tribal or local permits as required. Please note that deviations from the original plans and specifications of your project could require additional authorization from this office.

You are responsible for all work accomplished in accordance with the terms and conditions of the Nationwide Permit. If a contractor or other authorized representative will be accomplishing the work authorized by the Nationwide Permit in your behalf, it is strongly recommended that they be provided a copy of this letter and the attached conditions so that they are aware of the limitations of the applicable Nationwide Permit. Any activity that fails to comply with all of the terms and conditions of the Nationwide Permit will be considered unauthorized and subject to appropriate enforcement action.

In compliance with General Condition 14, the attached Compliance Certification form must be signed and returned to the address listed upon completion of the authorized work and any required mitigation.

This verification will be valid until **April 5, 2006**.

Should you at any time become aware that either an endangered and/or threatened species or its critical habitat exists within the project area, you must immediately notify this office.

If you have any questions concerning this determination or jurisdiction, please feel free to contact Mrs. Barb Friskopp at (308) 234-1403 and reference Nationwide Permit No. 04-10274.

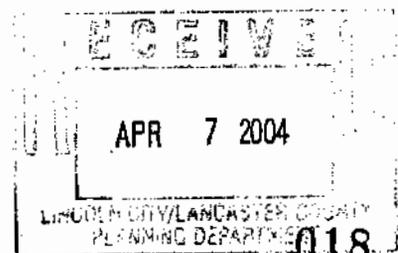
Sincerely,


Michael Rabbe
Nebraska State Program Manager

Enclosures

Copy Furnished:

DEQ (Hickman)
Brian Carstens & Associates





"Richard Mackey"
<mackeys4@msn.com
>

To: plan@ci.lincoln.ne.us
cc:
Subject: absentee notice of public hearing

05/08/2004 10:23 AM

RE: Special Permit 1726B and Preliminary Plat 01012 West Park CUP

Greetings, I am a property owner within the West Park Community Unit Plan under consideration by the City-County Planning Commission on Wednesday, May 12th ... I will be out of the state and unable to attend the public hearing. I would however like to comment on these two items.

First of all, I do not oppose the general concept and development of the area west of the existing town houses described I believe as Outlot-B for additional town house development. The six additional housing units have been on the planning table for some time. I do however oppose development of the 'commons area' described I believe as Outlot-A ... at the intersection of W B Ct. and SW 15th Ct. for anything other than 'commons' or recreational green space. I further oppose the connection of W B Ct to existing W B St ... especially if it involves the further loss of green/open space or the conversion of Outlot-A due to the minimal amount of useable green/open space that already exists and the obvious increase in traffic to the residential area. It would become just a 'pass through' area between neighborhoods with no benefit to the West Park CUP owners.

I would rather see the Commission not grant the waiver for the 'turn around' at the west end of W B Ct. ... but encourage the developer to add that improvement to an already existing lack of guest parking or safe turn around of vehicles other than existing driveways in the development. Since the width of the 'private' roadway does not meet City buiding dimensions ... the home owners association has adopted a 'no parking' amendment to the by-laws due to safety concerns and congestion. Therefore, the additional guest parking and/or the 'turn around' features are of great need. Likewise, the improvement(s) could be coupled with additional useable green/open space at the west end of the development ... a greater value to surrounding residents.

My concerns with the developer are further worrisome due to 'unfinished business' that exists with the current developed 1-14 lots ... namely the lack of street lighting within the development, as promised when the original CUP was adopted and built. I was told when i leased/purchased my property at 1505 W B Ct. - by the 'builder' back in the Winter of 2001 - that street lighting would be added ... to date it still has not been completed. I would encourage you to check the lighting conditions within the West Park CUP ... and ask a related question, if we connect W B Ct with W B St and add thru traffic to the development ... without any lighting improvements would it be safe and prudent?

I would have appreciated prior contact from the developer ... with the West Park Owners Association ... about this proposed changes/development before receiving this notice of public hearing. It shows a general lack of respect to the existing home owners and is not 'participatory' in nature at all.

Please heed my concerns and make them a part of the public hearing record for the May 12th meeting of the Planning Commission.

Regards,

Richard Mackey

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