

FACTSHEET

TITLE: SPECIAL PERMIT NO. 04036, Village Pointe at Capitol Beach Community Unit Plan, requested by Lyle Loth of ESP on behalf of Bob Rentfro, for 18 dwelling units, with associated waiver requests, on property generally located at W. Industrial Lake Drive and Lamont Drive.

STAFF RECOMMENDATION: Conditional Approval, except denial of the request to waive the recreation area requirement.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 08/04/04
Administrative Action: 08/04/04

RECOMMENDATION: Conditional Approval, with amendment (9-0: Carlson, Carroll, Marvin, Taylor, Sunderman, Larson, Pearson, Krieser and Bills-Strand voting 'yes').

FINDINGS OF FACT:

1. This is a request for a community unit plan for 18 detached single family units. The area was originally platted for 13 lots. The proposed community unit plan has 18 lots. '
2. The applicant has requested the following waivers: lot area, lot width, stormwater detention, preliminary plat process and the recreation area.
3. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.4, concluding that the proposed community unit plan meets the intent of a community unit plan and, with conditions, is in conformance with the Comprehensive Plan in that it meets the goals of the Comprehensive Plan to encourage infill development, affordable housing and to provide a mix of housing types. The property could be replatted without a CUP for nine duplex lots plus one single family lot, with 19 driveways on Lamont Drive. The proposed development puts a better face on Lamont Drive by providing a driveway to garages in the rear of the lots. The staff recommends that the waiver of the recreation area requirements be denied as the applicant has not given sufficient justification therefor.
4. The applicant's testimony is found on p.8-9, including a request to delete Condition #1.3, which requires the recreation area. The applicant does not believe the recreation area should be required because of the relatively small scale of the project. The applicant pointed out that there are only two access points on Lamont Drive with this community unit plan. As originally platted, there could be 13 driveways on Lamont Drive.
5. Testimony in opposition is found on p.9-11, and the record consists of a petition in opposition containing nine signatures (p.24), a letter in opposition by the Capitol Beach Community Association (25) and seven individual communications in opposition (p.26-35). The issues of the opposition include negative impact on the residents who live in close proximity; compatibility with current character of the area; inadequate off-street parking; traffic and congestion; and elimination of the recreation area.
6. The Planning Commission discussion with staff is found on p.11-13.
7. The applicant's response to the opposition is found on p.13.
8. On August 4, 2004, a motion to delete Condition #1.3, which requires the recreation area, failed 2-7 (Taylor and Bills-Strand voting 'yes'; Carlson, Carroll, Marvin, Sunderman, Larson, Pearson and Krieser voting 'no'). See Minutes p.14.
9. On August 4, 2004, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend conditional approval, as set forth in the staff report, with amendment adding Condition #1.1.14 to "relocate the driveway on Lamont Drive so that the centerline of Pier 2 shall be the centerline of the alley."
10. The Site Specific conditions of approval required to be completed prior to scheduling this application on the Council agenda have been satisfied.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: October 11, 2004

REVIEWED BY: _____

DATE: October 11, 2004

REFERENCE NUMBER: FS\CC\2004\SP.04036

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for AUGUST 4, 2004 PLANNING COMMISSION MEETING

****As Revised and Recommended for Conditional Approval by Planning Commission,
August 4, 2004****

P.A.S.: Special Permit 04036-Village Pointe at Capitol Beach

PROPOSAL: Community Unit Plan for 18 detached single family units and two Outlots.

LOCATION: W. Industrial Lake Dr. And Lamont Dr.

WAIVER REQUEST:

1. Reduce the minimum lot area.
2. Reduce the minimum lot width.
3. Delete the requirement for a recreation area.
4. Delete stormwater detention.
5. Eliminate the preliminary plat process.

LAND AREA: 3.78 acres, more or less

CONCLUSION: The proposed Community Unit Plan (CUP) meets the intent of a CUP and with conditions is in conformance with the Comprehensive Plan. The applicant has not given any reason why the recreation area should be waived.

RECOMMENDATION:

Special Permit Conditional Approval

WAIVERS

Eliminate the preliminary plat process	Approval
Reduce the minimum lot area.	Approval
Reduce the minimum lot width.	Approval
Delete the requirement for a recreation area.	Denial
Delete stormwater detention.	Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 1 & 2, Block 3, Lincoln Saline Wetland Nature Center 1st Addition, Lots 3-13, Block 7, and Outlot "A", Capitol Beach East Addition, and the east 30' of Lamont Drive adjacent thereto, all located in the East ½ of Section 22, Township 10, Range 6 East, Lancaster County, Nebraska.

EXISTING ZONING: R-3 Residential

EXISTING LAND USE: Undeveloped

SURROUNDING LAND USE AND ZONING:

North:	R-3- Residential	Undeveloped/Open Space
South:	R-3- Residential	Single family and two-family residential
East:	I-1- Industrial	Manufacturing/Industrial uses
West:	R-3- Residential	Single family and two-family residential.

HISTORY:

May 30, 2001 Lincoln Saline Wetland Nature Center 1st Addition final plat approved by Planning Director.

July 9, 1979 Capitol Beach East final plat approved by City Council.

April 30, 1973 Capitol Beach east preliminary plat approved by City Council.

The zoning was changed from A-2, Single family dwelling district to R-3 Residential district in the 1979 zoning update.

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)

“Encourage mixed-use redevelopment, adaptive reuse, and in-fill development including residential, commercial and retail uses. (F-18)

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

“Preserve the mix of housing types in older neighborhoods.” (F-68)

“Encourage pedestrian orientation with parking at rear of residential and neighborhood commercial uses.” (F-69)

“Require new development to be compatible with character of neighborhood and adjacent uses

(i.e., parking at rear, similar setback, height and land use). (F-69)

“Encourage a mix of housing types, including single family, duplex, attached single family units, apartments, and elderly housing all within one area. Encourage multi-family near commercial areas.” (F-69)

“Infill development also needs to respect the street pattern, block sizes and development standards of the area, such as having parking at the rear and front porches, windows and doors on the front and street side.” (F-71)

UTILITIES: All utilities are existing.

TOPOGRAPHY: Nearly level.

TRAFFIC ANALYSIS: W. Industrial Lake Dr and Lamont Dr are local streets.

ANALYSIS:

1. This application request is for a CUP for 18 detached single family units.
2. The area within the proposed CUP was originally platted for 13 lots with Capitol Beach East final plat. The proposed CUP has 18 lots.
3. The purpose of this CUP is to allow lots that have less lot area and width than the R-3 zoning district allows. The minimum lot area in the R-3 district is 6,000 s.f. and the average lot width is 50 feet, however the average lot area in a CUP is 5,000 s.f. The average lot area in a CUP is figured by dividing the total area of the CUP by the total number of dwelling units.. The average lot area in this CUP is 9,144 s.f.
4. The proposed development meets the goals of the comprehensive plan to encourage infill development, affordable housing, and provide a mix of housing types.
5. The proposed plat is an appropriate infill development utilizing unused land in an older neighborhood.
6. This plan is proposing rear entrance garages from a private alley, which will provide a more visually appealing streetscape than the duplexes to the south on Lamont Drive, which were permitted in the R-3 district without a CUP.
7. The density for a CUP in an R-3 district is calculated at 6.96 units per acre. This development is on 3.78 acres, which gives a density of 26.3 units. However when a CUP is less than five acres the density is reduced by 20 percent, resulting in a total density of 21 units. The proposed CUP has 18 units, three less than the allowed density.
8. The applicant is requesting waivers to reduce the minimum lot area and the minimum lot width from the R-3 district. The purpose of a CUP is to permit and to encourage the creative design

of new living areas, as distinguished from subdivisions of standard lot sizes. The smaller lot sizes allows for affordable housing as called for in the Comprehensive Plan.

9. Other waivers the applicant is requesting are delete the recreation area and stormwater detention. Public Works & Utilities has determined that stormwater detention is not necessary for this project. The applicant has not given a reason why the recreational area should be waived.

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 Planning Commission approval block
 - 1.1.2 City Clerk acceptance block
 - 1.1.3 limits of the 100 year floodplain
 - 1.1.4 LES utility easements
 - 1.1.5 all sidewalks
 - 1.1.6 all building envelopes
 - 1.1.7 label public access easement over the alley.
 - 1.1.8 state the purpose of Outlots A & B
 - 1.1.9 the height and use of all proposed buildings. This can be done by a note.
 - 1.1.10 minimum opening elevations for each lot.
 - 1.1.11 add to the requested waivers, eliminate preliminary plat process
 - 1.1.12 corrections per Public Works & Utilities memo of July 22, 2004
 - 1.1.13 add a note that there will be no direct vehicle access to Lamont Dr. W. Industrial Lake Dr except for the private alley.

1.1.14 relocate the driveway on Lamont Drive so that the centerline of Pier 2 shall be the centerline of the alley. (**Per Planning Commission, 08/04/04**)

1.2 Submit a landscape plan that meets design standards. The landscape plan must show all existing trees and indicate if they are to remain or be removed. Screening is required between the property line and the railroad tracks.

1.3 Submit a recreation plan.

2. This approval permits 18 dwelling units with waivers to lot area, lot width, stormwater detention and preliminary plat.

The waiver of the preliminary plat process shall only be effective for a period of ten (10) years from the date of the city's approval, and shall be of no force or effect thereafter. If any final plat on all or a portion of the approved community unit plan is submitted five (5) years or more after the approval of the community unit plan, the city may require that a new community unit plan be submitted, pursuant to all the provisions of section 26.31.015. A new community unit plan may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the community unit plan as originally approved does not comply with the amended rules and regulations.

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.

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.

Prepared by:

Tom Cajka
Planner

DATE: July 21, 2004

APPLICANT: Bob Rentfro
301 "P" St. Suite 210
Lincoln, NE 68508
(402) 476-2030

OWNER: same as applicant

CONTACT: Lyle Loth
ESP
601 Old Cheney Rd. Suite "A"
Lincoln, NE 68512
(402) 421-2500

**SPECIAL PERMIT NO. 04036
VILLAGE POINTE AT CAPITOL BEACH
COMMUNITY UNIT PLAN**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 4, 2004

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

Staff recommendation: Conditional approval.

Ex Parte Communications: Mary Bills reported a telephone call from John Huff on behalf of the Capitol Beach neighborhood. Pearson stated that she also talked with Mr. Huff as president of the neighborhood association.

Tom Cajka submitted six additional letters in opposition from surrounding neighbors including the Capitol Beach Neighborhood Association and a letter signed by eight property owners in opposition. The main concerns are parking problems on Lamont, traffic congestion on Lamont, cars that block the sidewalks, compatibility and safety due to traffic congestion and speeding traffic on Lamont.

Proponents

1. **Lyle Loth of ESP** testified on behalf of **Cherry Hill Homes**, the developer. Cherry Hill Homes is just completing construction of 18 detached single family homes on small lots in the Vavrina Meadows area on South 14th Street. He showed photographs of this project, showing that the units are served by driveways and garages in the rear. The front porches, windows and doors face the street providing good visual effect on the streetscape. The success of this project in Vavrina Meadows has brought Cherry Hill to look for the same opportunity in other locations. This proposal will create 18 single family lots where 13 exist today. The developer intends to sell these properties for owner-occupancy. He does not plan to retain any for rental. There are four different floor plans that will be offered, each proposing rear entry garages and driveways accessed by way of an alley at the rear of the lots. The street side views will be more visually appealing. This will minimize the need for street parking with four off-street parking spaces at the rear of the home. This will help the traffic on Lamont with fewer driveways accessing the street.

Loth pointed out that as platted, there could be 13 driveways on Lamont. There are only two access points in this project. Loth agreed with the staff report and conditions of approval, except Condition #1.3, which requires the submittal of a recreation plan. The developer had requested a waiver of this condition because with the relatively small scale of the project there is limited opportunity to provide much in the way of a recreation plan. The Lincoln Saline Wetland Nature Center is across Industrial Drive to the north and provides opportunity for hiking and fishing. Outlot B will be an open space that functions as a buffer between the railroad and the development and as a drainageway. It also has an emergent saline wetland.

Loth also pointed out that the staff report identifies nine areas where this project is in conformance with the Comprehensive Plan, i.e. maximize use of existing infrastructure; encourage different housing types and choices, including affordable housing; encourage infill development; the property is identified as urban residential; preserve mix of housing types in older neighborhoods; encourage pedestrian orientation with parking at rear; require new development to be compatible; encourage a mix of housing types—single family, duplex, attached, etc.; and infill respecting street patterns such as rear parking, front porches, windows and doors on street side.

Loth noted that the common theme of the opposition is the complaint about the long row of duplexes along the east side of Lamont Drive. The project that contains these duplexes is a permitted use in the R-3 district. He recognizes that the residents would prefer to see single family of the size and character of homes that back onto the lake, but the only development that has occurred on the east side of Lamont are the duplexes. The balance is vacant. This suggests that the market place does not support construction of the larger single family homes. If this application is denied, this area would be developed as duplexes, much as it is on the east side of Lamont Drive. He believes that 18 duplex lots are available, plus a 19th single family lot at the very north end. This could be done “by right” as long as all of the conditions of the R-3 zoning could be met and no special permit would be required.

Pearson inquired whether 13 duplexes could be built? Loth indicated that 13 duplexes could not meet the area requirements because that would require 80' of frontage and 10,000 sq. ft.

Marvin inquired whether duplexes would include a requirement for the recreation plan. Loth did not believe it would.

Opposition

1. John Fagerberg, 711 Lamont Drive, testified in opposition. His home is directly across from where the alley will be located in this proposal. His issue is that all of the traffic will be channeled out directly in front of his home. It is a very dangerous street with a lot of traffic. No one has ever paid any attention to speed limits or parking. There has been no enforcement. He is concerned about his property values and his way of life. There are all kinds of illegal parking violations with the duplexes. His biggest concern is all of the egress from the alley right in front of his house. How will they do the snow removal? He does not believe this is affordable housing.

Pearson clarified with Fagerberg that this proposal is for single family homes. Fagerberg acknowledged that he understood, but they are funneling all of the traffic in front of his house, and he does not think that is fair. He wants to be able to sell his house someday.

2. David Hahn, 501 Pier 2, at the corner of Pier 2 and Lamont Drive, testified in opposition.

- He is not sure that the people making the application actually even own the property.
- He is concerned about the parking and the safety of this additional development going from 13 lots to 18 lots. There is currently a terrible situation on Lamont Drive because of the lack of enforcement and the duplexes that were built. He has observed that at least every other driveway is filled with cars which block the sidewalk, which drives the

pedestrian traffic into the street. Now they are proposing to go from an area plotted for 13 lots to an area plotted for 18 lots. The idea that somebody with four cars will all park in the alley is not reasonable. There will simply be more of the same and it will compound the problem that already exists because of previous decisions by the Planning Commission and the City Council. There are young children who are forced out into the street even now. The postal service is generally unable to deliver a fair amount of the mail because of the cars in the street.

- He is also concerned about the stormwater retention issue. The property owners have spent a substantial amount of money in assessments for nine years to clean out the lake. He believes this project will drain into the lake and he does not believe this is a fair way to distribute the burden of stormwater runoff. He believes this proposal is different than the development referred to by the applicant (Vavrina Meadows) because the grade is different. This is flat. There is no grade to speak of. If they are intending to illustrate the same view from the street, there is going to have to be a lot of fill brought in, which then develops complicating issues with regard to stormwater drainage.
- This is not an older area. The road from Lamont across the railroad to Industrial Boulevard was just opened two years ago and now funnels a great part of the traffic. This is not an older neighborhood and there has been no proven need for this change from an economic aspect.
- If this application is approved, there should be no parking in front of these homes.

Fagerberg submitted pictures and a petition signed by 12 neighbors.

3. Ruth Davidson Hahn, 501 Pier 2, testified in opposition. They bought their home in 2000. They chose to live at Capitol Beach because she liked the community and her understanding was that they would be single-family dwellings and they are not. How can it be guaranteed that this new development will be single family or that they would not be rentals? She wanted to live in a nice community and her house is an expensive home. She fears that the new development would be similar to what is across the street, which would not be an improvement to the neighborhood.

4. Ann Willet, 701 Pier 2, testified in opposition. Her concerns are parking and access. By increasing the number of buildable lots from 13 to 18, assuming 4 cars per home, that is 20 additional cars going through her neighborhood trying to get to their homes. She does not understand the process. She does not agree that a decision should be made to approve this application because the alternative could be worse or could be duplexes. With regard to the market place, her home was built five years ago, so she believes there are many considerations that go into determining a market place for a neighborhood, and time is certainly one of the variables. Since this is a fairly new community, she does not believe the market place has been determined.

5. Karen Kuhn, 725 Pier 3, testified in opposition. With regard to waiving the recreation plan, there are so many children playing in or in close proximity to the streets. She is afraid for their safety. The NRD is not the answer. They really need a children's recreation area.

6. Sue Thelen, 500 Pier 1, on the corner of Lamont and Pier 1, directly across from the duplexes, testified in opposition. She recently put a fence on the south side of her yard and in the process she has been outside a lot and she has heard cars screech attempting to avoid children running out in the street or across the street. This is because of the speed and the number of cars parked on the street. From Pier 1 to the railroad, parking is permitted on both sides of the street. Parking on only one side of the street should be continued. She was told that if this application is denied, the area could only be built as single family homes. Can they put duplexes on this property if this proposal is rejected? The neighbors would prefer single family, but would prefer 13 rather than 18.

Staff questions

Pearson inquired whether duplexes could be built by right. Cajka stated that the R-3 zoning allows single family and attached two-family (duplexes) as long as they meet the minimum lot area, which would be 10,000 square feet for a duplex and 80' of average lot width.

Pearson asked staff to discuss the grading and detention issues. Dennis Bartels of Public Works stated that the previous plat that was approved did not require stormwater detention on existing lots. The preliminary plat was approved in the late 70's. The conditions of that plat required additional grading information and they provided a plan that showed existing grades. The previous plat created the lots. It drains to the rear of the lots and then the water along the railroad tracks drains generally towards the north and towards the saline wetlands and Oak Creek. The only water that potentially could get back into the lake is anything that gets back to Lamont Drive. Anything that drains from the rear drains to Oak Creek. The water will drain to the wetlands. Once it crosses Industrial Lake Drive towards the north end, it stays on public ground and drains to the wetland and gets to the creek. It doesn't affect other private property. With the small size of this development, the detention would be minimal and Bartels didn't see much public or private benefit to require detention.

Carlson asked staff to discuss the traffic entering and exiting. Bartels believes that one would have to assume that it would be more cars than the typical driveway. You could assume that roughly half the traffic will head towards Industrial Lake Drive and some of it will head back towards Capitol Beach. He agreed that there would be an increase of traffic headlights that would shine into the gentlemen's yard (Fagerberg). You can assume 8-10 trips per day off of a single family unit. There could be 180 trips and at least half of them would be exiting at each exit.

Marvin inquired about the alleyway exit onto Industrial Lake Drive. It looks like the distance between that alley and the corner is about 100'. Is that enough sight distance? Bartels indicated that it would meet the requirement for a driveway location. The city's design standards require at least 120' of separation between street intersections. If it is a driveway, it is not truly an intersection, but if it was a t-type intersection, the minimum is 55' from the curb line, to which this application complies. Bartels believes this application complies with the sight distance requirements.

Larson wondered whether there is any way to slow the traffic down on Lamont Drive. Bartels stated that by policy, Public Works has not used the speed bumps because they cause other problems. Sometimes the extra driveways and cars on the street slow the traffic down. Traffic just tends to go faster when you don't see anything on either side of the street.

Carroll inquired how big the recreation area would need to be. Cajka advised that the design standards provide that most recreational facilities would consist of a tot lot and some playground equipment. Ray Hill of Planning staff also offered that the design standards indicate that a recreational facility is to serve the occupants of the community unit plan. The staff usually leaves that up to the developer to work out with the Parks Department to determine what type would be required. There is no minimum lot area requirement in the design standards. It is based on the number of units and the type of occupancy.

The height requirement in R-3 is 35'.

Pearson inquired whether the staff in any way explored with the developer connecting the drive across from the drive in Pier 2. Bartels stated that the staff did not discuss driveway locations with the developer. There are probably other locations that would work. The downside to putting it in the middle is creating a dead-end, but a different driveway location could potentially work. Across the street on the west side would be the logical place. Cajka advised that they did talk about moving the access and he believes the developer is agreeable to moving the alley access so that it is across from Pier 2.

Marvin was curious about the density calculations. Is Outlot B used in calculating the maximum density? Cajka stated that it was included. Marvin noted that Outlot B is a long sliver that is fairly unbuildable, yet it is still used in the density calculations.

Krieser inquired whether it could be required that there be parking allowed on only one side of the street. Bartels indicated that Traffic Engineering has a policy procedure for that. If the owners petition for it, it is possible. However, if you don't allow parking people will tend to feel comfortable driving faster. Krieser then inquired about the other side of the existing duplexes. Bartels stated that the property owners would have to agree to it.

Taylor inquired further about the recreational facility. Cajka explained that it would be an area labeled for recreation (probably on an outlot) and the recreation equipment would be based on the type of individuals that would be living in the units. Sometimes the recreation plans have been allowed to be passive type of recreation where it might be just a gazebo and a sitting area. Tot lots with playground equipment vary from project to project based on the owners. The recreation plan is a requirement of the special permit for a community unit plan.

Pearson inquired why it needs to be a community unit plan. Cajka explained that the CUP is basically to allow smaller lots with single family homes. The proposed lots do not meet the R-3 average lot width and lot area, so that is a reason for the community unit plan, as well as the rear drive and private access.

Ray Hill suggested that if the property owners all went together and formed some type of association to allow for common access across their property, this proposal could probably be done without a CUP, but their individual lots would all have to meet the R-3 single family lot requirement of 6,000 sq. ft.

With regard to the applicant not being the property owner, Hill stated that the Planning Department received an ownership certificate that indicates there are two owners. The applicant will need to respond.

Response by the Applicant

Loth explained that the applicant is a contract purchaser of the property. The title has not changed but he does have a contract to acquire the property.

Loth also acknowledged that the applicant would have no problem moving the alley access out to Lamont. It does create a dead-end at the very south end, but the Vavrina Meadows project has the similar situation. Loth pointed out that if the project is developed as 13 lots as platted today, there would be 13 driveways out to the street, with front parking and front access, and 13 more opportunities to block the sidewalk. By right, this property could be administratively replatted and there could conceivably be 18 or perhaps 19 driveways out to Lamont Street.

Marvin confirmed that the applicant would be willing to move the drive access to Lots 14 and 13. Loth stated that they would line it up with Pier 2.

Marvin believes that Outlot B has substantial amount of space for the recreation facility. Lyle does not believe they could put the recreation facility on Outlot B. There is a sanitary easement on Outlot B and it is a drainage ditch. He is not sure where they would put the recreation area. The first obvious location would be Lot 1, but having a playground right next to a busy street does not make the most sense. They would have to perhaps consider taking one of the lots away, and only doing 17 single family lots, in order to do the recreation plan.

Carroll inquired whether the homeowners association would own Outlots A and B. Loth stated that the association will own Outlot A. Outlot B will probably be maintained in the present ownership. The reason Outlot B is included is because it was owned by the same entity and the area was needed in order to meet the minimum area requirements for a CUP in this zoning district.

Carroll asked for further explanation of the elevations on the residences. Loth explained that the alley will be lower than the street. The minimum floor elevation has to be 1' above the 100-year floodplain elevation. There will be no basements and the first floor elevation will be 1' above the floodplain. The houses across the street are bound by the same floodplain requirements. There will be no long stairway to the buildings.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 4, 2004

Marvin moved approval, with conditions, seconded by Carroll.

Marvin moved to amend to move the driveway down to between Lots 13 and 14 so that it is opposite of Pier 2, seconded by Pearson.

Carroll asked whether Marvin would accept a friendly amendment to require that the centerline of Pier 2 would be centerline of the alley. Marvin and Pearson agreed. Motion to amend carried 9-0: Carlson, Carroll, Marvin, Taylor, Sunderman, Larson, Pearson, Krieser and Bills-Strand voting 'yes'.

Taylor moved to amend to delete the requirement for a recreation plan (strike Condition #1.3), seconded by Bills.

Marvin stated that he was out at this site today and he believes this is far and away better than what he saw when he looked down the street. If we keep the recreation plan requirement, maybe it would knock the development down a unit. He believes it is a little bit dense because they are using Outlot B in the calculations for density. It is not a fair way to do it because it is a strange piece of land. He will oppose the removal of the requirement for the recreation area.

Cajka clarified that the entire boundary of the CUP is used in calculating the density. Based on those calculations, 21 units would be allowed and they are showing 18 units. Marvin asked what the density would be if Outlot B was not considered. Cajka had not calculated this scenario. Carroll does not understand how Outlot B can be included in the CUP if the ownership is not going to change. Cajka stated that both owners could be part of the CUP. Rick Peo of the City Law Department clarified that all property owners will have to sign the letter of acceptance to be bound by the CUP. The ultimate issue is who signs the letter of acceptance agreeing to the CUP. Both the owner of Outlot B and the owner of the remaining property will have to agree to all the conditions. Outlot B would have to sign and be part of the CUP.

Carroll does not believe the recreation area should be waived. He saw the kids playing in the street.

Bills-Strand pointed out that the recreation area will only serve these 18 homes and not the duplexes.

Motion to amend to delete Condition #1.3 failed 2-7: Taylor and Bills-Strand voting 'yes'; Carlson, Carroll, Marvin, Sunderman, Larson, Pearson and Krieser voting 'no'.

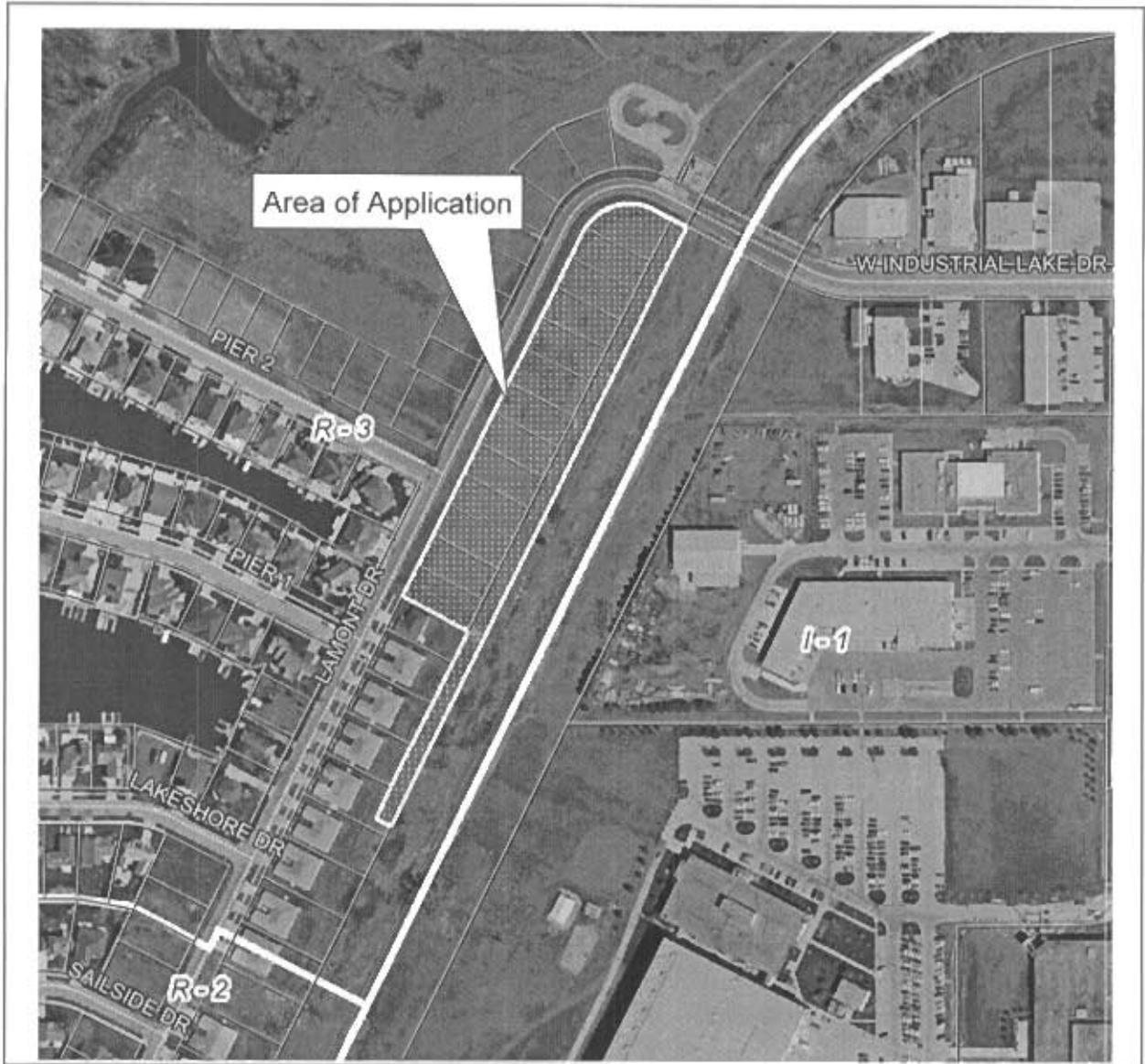
Carlson stated that he appreciates the schematics submitted by the applicant. He agrees that this development is creating some additional density but they are attempting to do better design and better layout, and he thinks this is a good direction. The garage forward facing duplexes cause a lot of problems. We need to give some consideration to the good design and appropriateness of the site.

Marvin also stated that he appreciates the development and he knows that the duplexes are what got the neighbors worked up. Maybe we need to work on some kind of design standard that looks at these duplexes to accommodate some off-street parking, etc. He believes this proposal is an answer to that and creates some density. You are not going to get \$300,000 to \$400,000 homes built on this property with there being a back yard view of a bunch of warehouses. This particular property back yard view

is railroad tracks and warehouses and he thinks this proposal is an appropriate compromise for what can go into that area.

Taylor agreed. He believes the homes will improve the area.

Motion for conditional approval, as amended, carried 9-0: Carlson, Carroll, Marvin, Taylor, Sunderman, Larson, Pearson, Krieser and Bills-Strand voting 'yes'. This is a recommendation to the City Council.



2002 aerial

Special Permit #04036 Capitol Beach

Zoning:

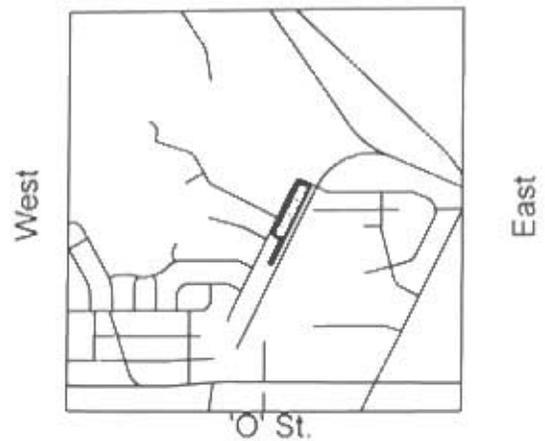
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 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. 22 T10N R6E



Zoning Jurisdiction Lines
City Limit Jurisdiction

Holdrege St.



Lincoln City - Lancaster County Planning Dept



LYLE L. LOTH, P.E./L.S.

File No. 04-0027
July 7, 2004

Planning Department
555 So. 10th Street
Lincoln, NE 68508

Suite A - 601 Old Cheney Road
Lincoln, NE 68512

Phone (402) 421-2500
Fax (402) 421-7096

Email: lyle@espeng.com

Re: Village Pointe @ Capitol Beach C.U.P.

The purpose of the above referenced project is to create 18 single-family homes and two outlots as shown in the drawing provided. The owner has requested the following waivers:

Lot Area
Average Lot Width
Recreation Plan
Stormwater Detention

Waivers for lot area and average lot width allow the owner to provide a greater number of dwelling units in the proposed available area. The project is situated near a lake and also surrounded by wetland area, providing ample recreational space. There will be minimal changes in the existing grade during development; therefore there is little opportunity to provide stormwater detention. The existing conditions are also shown on the drawing provided.

Please feel free to contact me if you have any questions or concerns.

A handwritten signature in black ink that reads 'Lyle L. Loth'.

**Lyle L. Loth, President
E-S-P, Inc.**

JUL 7 2004

018



"Lyle Loth"
<lyle@espeng.com>
07/22/2004 12:40 PM

To: "Tom Cajka" <TCajka@ci.lincoln.ne.us>
cc:
Subject: Village Pointe at Capitol Beach

Tom:

We hereby request a waiver of the preliminary plat for the Village Pointe at Capitol Beach project.

Lyle Loth

Memorandum

To:	Tom Cajka, Planning Department
From:	Chad Blahak, Public Works and Utilities Dennis Bartels, Public Works and Utilities
Subject:	The Village at Capital Beach Special Permit
Date:	7/22/04
cc:	Randy Hoskins

Engineering Services has reviewed the special permit for The Village at Capital Beach, located east of Lamont Drive and south of West Industrial Lake Drive, and has the following comments:

Sanitary Sewer - The sanitary system is satisfactory.

Water Mains - The water main system is satisfactory.

Grading/Drainage - The following comments need to be addressed.

(3.1) Proposed grades need to be shown for the proposed alley along the back side of the lots. Also, proposed contours need to be shown for the alley and for the lots. The contours need to be in one or two foot intervals.

(3.2) Information needs to be provided concerning headwater depth for the local 100yr storm at the Industrial Lake Drive culvert. Also, depth of flow for the ditch along the east side of the proposed alley needs to be shown for the local 100yr storm.

(3.3) The flood plain and elevations need to be provided and information needs to be provided showing that the lots are graded above the flood plain.

(3.4) Given the flat terrain across the lots flow arrows should be shown on the plan for lot drainage.

Streets - The following comments need to be addressed.

(4.1) A common access easement needs to be shown over the proposed alley.

General - The information shown on the preliminary plat relating to the public water main system, public sanitary sewer system, and public storm sewer system has been reviewed to determine if the sizing and general method providing service is satisfactory. Design considerations including, but not limited to, location of water main bends around curves and cul-de-sacs, connection of fire hydrants to the public main, temporary fire hydrant location, location and number of sanitary sewer manholes, location and number of storm sewer inlets, location of storm sewer manholes and junction boxes, and the method of connection storm sewer inlets to the main system are not approved with this review. These and all other design

considerations can only be approved at the time construction drawings are prepared and approved.

F:\FILES\sieceb\Projects\2004-07-033\Word Files\lgeptlbchSP.wpd

INTER-DEPARTMENT COMMUNICATION



DATE: July 19, 2004
TO: Tom Cajka, City Planning
FROM: Sharon Theobald
Ext 7640
SUBJECT: DEDICATED EASEMENTS
DN# 7N-5W

Attached is the CUP for Village Pointe @ Capitol Beach.

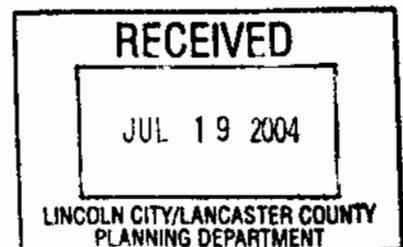
In reviewing the dedicated transmission line or other electrical easements shown on this plat, LES does not warrant, nor accept responsibility for the accuracy of any such dedicated easements.

ALLTEL, Time Warner Cable, and the Lincoln Electric System will require the additional easements marked in red on the map, along with blanket utility easements over the Outlots.

It should be noted, any relocation of existing facilities will be at the owner/developer's expense.

A handwritten signature in cursive script, reading "Sharon Theobald", is located below the main text.

ST/ss
Attachment
c: Terry Wiebke
Easement File



**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Tom Cajka

DATE: July 19, 2004

DEPARTMENT: Planning

FROM: Chris Schroeder

ATTENTION:

DEPARTMENT: Health

CARBONS TO: EH File

SUBJECT: The Village at Capital

EH Administration

Beach SP #04036
Revised

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the special permit application with the following noted:

- During the construction process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but not limited to application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of ground cover will also be incorporated as necessary.
- The LLCHD notes industrial zoning is located to the east of this proposed development. Noise pollution is a concern when locating residential populations adjacent to industrial zoning. Lincoln Municipal Code (LMC) 8.24 Noise Control Ordinance does address noise pollution by regulating source sound levels based upon the receiving land-use category or zoning. However, the LLCHD does have case history involving residential uses and abutting industrial uses in which the industrial source does comply with LMC 8.24, but the residential receptors still perceive the noise pollution as a nuisance.

Objection to Special Permit 04036- Village Pointe at Capitol Beach

The undersigned hereby oppose the Special Permit 04036 for an 18 Unit Community Plan now before the Lincoln Planning Commission; and request that the planning commission deny the application.

Name	Address	Telephone	Email
<i>John Fagerberg</i>	<i>711 LAMONT DR</i>	<i>476-2692</i>	<i>JFagerberg@earthlink.net</i>
<i>Ann Fagerberg</i>	<i>711 Lamont Dr.</i>	<i>476-2692</i>	<i>AFagerberg@earthlink.net</i>
<i>Carl Harry</i>	<i>501 PIER 1</i>	<i>435-2554</i>	
<i>Lois Harry</i>	<i>" " "</i>	<i>" "</i>	
<i>Russ Simon</i>	<i>611 Lamont Dr</i>	<i>474-5891</i>	
<i>Halter Simon</i>	<i>611 Lamont Dr</i>	<i>474-5891</i>	
<i>John Anderson</i>	<i>506 Pier 1</i>	<i>540-1200</i>	<i>MIKE@PROYE.COM</i>
<i>[Signature]</i>	<i>518 Pier 1</i>	<i>471-7559</i>	
<i>Ann Helen</i>	<i>500 Pier 1</i>	<i>476-8635</i>	

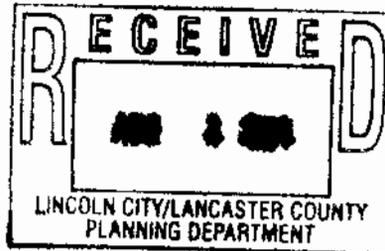


P.O. Box 81141
Lincoln, Nebraska 68501

**CAPITOL BEACH
COMMUNITY ASSOCIATION**

August 2, 2004

Planning Commission
555 South 10th Street
Lincoln Ne. 68506



Dear Commission Members,

On behalf on the 275 homeowners represented by the Capitol Beach Community Association, we oppose the proposed special permit 04036. As you know this request is an application for a Community Unit Plan for 16 detached single family units and two outlots generally located at W. Industrial Lake Dr. And Lamont Dr., with the following waiver requests:

1. Reduce the minimum lot area.
2. Reduce the minimum lot width.
3. Delete the requirement for a recreation area.
4. Delete storm water detention.
5. Eliminate the preliminary plat process.

We have a number of reasons for our opposition to this request, including the following:

1. We believe that this request will have a significant negative impact on members of our association and other residents of the area who currently live in close proximity to these lots.
2. This new development is not compatible with the current character of the area.
3. The parking on the east side of Lamont is already very congested due to numerous duplexes on the east side with inadequate off street parking. Cars fill the street, and traffic is dangerously fast in the area. This will only be compounded by granting this request.
4. Elimination of the recreation area should not be allowed, since residents of these new homes deserve to have adequate green space for outdoor recreation.
5. There has been no need shown for the change in zoning. New houses continue to be built in the area including Pier 2, Pier 3 and Lamont Street; all without altering the normal zoning requirements.
6. We believe that storm water must be detained on site, as has been required of other developments in the area. This requirement must continue in our area, as it is critical to protect the quality of our lake water in the future. Our members has recently made a substantial investment in our lake with our project last summer related to lake water quality.

Sincerely,

John C. Huff President
For the Board Capitol Beach Community Association

cbca14.1r



Lamont Drive this week.

No Code or Law Enforcements!

Jean Walker, Administrative Officer
City-County Planning Department
441-6365

Dear Jean,

Special Permit No. 04036

Thanks for providing the information on the Special Permit No. 04036

After reviewing the application I find that:



1. The plan will be a nuisance and take away my "Right of Quiet Enjoyment" by placing an alley entrance/or exit directly across the street from my home. This will result in Noise, and Headlights shining in my home as people come and go.
2. Lower my property value by placing an "Alley" directly across from my home.
3. Increase traffic, and create a dangerous intersection. (No traffic study has been done). No provision is made for snow removal. The only place to put snow is in piles near the entrance and exits and this will create more hazards.
4. Does not meet the "Comprehensive Plan (F-17)" for "Infill of unused land in older developments" This is not an older development.
5. Does Not Meet the "Comprehensive Plan (F-18)" to encourage affordable housing as these homes will be more expensive than the ones the developer is building across the street, and also require an "Association Fee" which in his South 16th Development is \$780 per year, almost twice what we pay at Capitol Beach, and we have a huge lake. The only homes that will become "More Affordable" will be ours from lowering our Valuations.
6. Deleting the "recreational Requirement" will cause them to trespass: the railroad tracks, a dangerous playground, the "Saline Wetlands", Capitol Beach Lake, or play in an already dangerous street.
7. Cars will still be parked on the street, or in the yards.
8. The City of Lincoln has done a POOR JOB of enforcing Traffic and Zoning laws, as you can see from the current pictures above.

As this plan does not meet the Community Unit Plan "CUP" Definition, Goals, and Conditions, and will lower my valuation, be a nuisance, and create hazards.

I must oppose it.

Thanks, John & Ann Fagerberg

IN OPPOSITION

ITEM NO. 3.1; SPECIAL PERMIT NO. 04036
(p.31 - Public Hearing -08/04/04)



"JOHN FAGERBERG"
<JFAGERBERG@earth
link.net>

To: <JWalker@ci.lincoln.ne.us>
cc: "David Hahn" <David@ispi.net>
Subject: Re: Special Permit 04036

09/01/2004 11:32 AM





IN OPPOSITION

ITEM NO. 3.1: SPECIAL PERMIT NO. 04036
(p.17 - Public Hearing - 08/04/04)



"Rex Walton"
<jwalton@neb.rr.com>

08/03/2004 09:49 PM

To: <JWalker@ci.lincoln.ne.us>
cc: "John and Ann Fagerberg" <jfagerberg@earthlink.net>, "David&Ruth
Hahn...Davidson" <david@ispi.net>
Subject: Special Permit 04036

Hi:

I'm Rex Walton. My wife and I live at 515 Pier 2, 4 houses from Lamont. We oppose the modification of land use covered by this Special Permit 04036. As has been mentioned before by other residents here, we now have a noise and parking problem on Lamont that would only be worsened by changing the buildable lot designation on that stretch from 13 to 18 units on an already over-used avenue into and out of the Capitol Beach area.

Sincerely, Rex Walton

IN OPPOSITION

ITEM NO. 3.1: SPECIAL PERMIT NO. 04036
(p.17 - Public Hearing - 08/04/04)



Annwillet@aol.com
08/03/2004 04:42 PM

To: JWalker@ci.lincoln.ne.us, tcajka@lincoln.ne.gov
cc: HuffJCHuff@aol.com, david@lspi.net
Subject: Special Permit No 04036

Dear J. Walker and T. Cajka,

As homeowners in the Capital Beach Community, we would like to share our strong opposition to zoning request 04036 regarding the Capital Beach Area.

We feel this change in zoning would be a detriment to our Capital Beach Community. While we appreciate that these will be single family homes, we are concerned about the density issue.

We have already experienced increased congestion in the streets of our neighborhood along Lamont Drive. The change to allow more single family homes than currently permitted would only add to this congestion, increase safety concerns (especially for children), potentially decrease access for emergency vehicles, and lower our quality of life in our community. The reduction of green space will degrade the aesthetics of our neighborhood.

After much thought, we cannot identify any neighborhood benefits from this requested action and feel our community will be impacted negatively if this zoning change request is approved.

Thank you for your consideration of our perspective as members of the Capital Beach Community.

Sincerely,

Ann Willet & Mark Butler



"Clarke & Sharon
Mundhenke"
<sharke@neb.rr.com>

To: <jwalker@lincoln.ne.gov>
cc:
Subject: Zoning Special Use permit 04036

08/03/2004 03:31 PM

Ms Walker, the purpose of this e-mail is to oppose Special Permit No. 04036. We own property at 749 Pier 2 and are concerned about the zoning changes.

If I understand correctly, the purpose of the request is to expand the build able lots from the currently zoned 13 to 18. This will just add to the overcrowding on the street. With overcrowding comes safety issues. The parking on the east side of Lamont is already very congested because of the multi-unit duplexes. Sidewalks are blocked, drive ways are blocked, children are playing in the street. Semi tractors are being overhauled in driveways, complete with oil spills. I have witnessed on numerous occasions when on our daily walk, cars using Lamont from the curve at the north end to Pier 2 as a drag strip. We are opposed to an additional 5 houses. That bottom line motivation appears to be additional economic income for the developer and not for the good of the neighborhood.

We also question the need to change the Zoning as currently there are several new houses being build on the west side of Lamont and on Pier 2 without receiving special zoning changes. Couldn't homes like that be build on the east side of Lamont?

We have concern's that the new development is not compatible with the current character of the neighborhood. The proposed housing look a great deal like old style row houses found in every large city in the country.

We are also concerned the planned recreation area is being eliminated.

We regret that we cannot be present for the hearing on Wednesday August 4, 2004 and hope that you will enter into the record our opposition to special permit no 04036.

Thank you for your consideration.
Clarke & Sharon Mundhenke
749 Pier 2
Lincoln, NE 68528
476-7561



Coni Schwartz
<cschwartz@lps.org>
08/02/2004 10:28 AM

To: JWalker@ci.lincoln.ne.us
cc:
Subject: OPPOSITION TO SPECIAL PERMIT NO. 04036

Dear Jean,

After investigating the specifics of special permit no. 04036, visiting with the personnel at the Cherry Hill Office (Rentfro's office draftsman), I hold deep concerns about several variables that would be allowed by approving the permit.

I am not able to attend the August 4 Public Hearing, however, am forwarding my concerns to you in writing.

Those concerns are listed, as drafted by John Fagerberg and David Hahn, residents on Lamont and Pier 2:

1. Safety. The parking on the east side of Lamont is already plenty congested because the planning commission allowed multi-unit duplexes to be build about 3 years ago. Sidewalks are constantly blocked, cars fill the street, post boxes are constantly blocked, and traffic is dangerously fast in the area. Further congestion caused by the expansion of an area to 18 lots as requested will compound this problem.
2. The elimination of the recreation area is problematic.
3. This new development is not compatible with the current character of the neighborhood.
4. There has been no need shown for the change in zoning. New houses are now going up on Pier 2 and Lamont; all build without receiving special zoning.
5. The types of houses which the builder has suggested they would build include rear garages from an alley, but the garages. The examples pointed out to us have a grade that allows the garage to be build on the back but still have the front of the house at grade elevation. That does not appear to be possible on Lamont which is a flat piece of real estate.
6. Speeding in the area. Since the city opened up W. Industrial onto Lamont last year, the amount of traffic and the speed of that traffic has increased significantly. A lot of the people in the rental units now on Lamont seem to use this a sort of a "drag strip" and drive rapidly down the road. The planning commission does not address this in their summary. This needs to be dealt with. Ideas would include a round-about, or other devices to slow traffic.
7. Recreation. With an alley and rear-entry garages, the only place for children to play will be in front yards, near a street with swift traffic, and, we believe, on a street that will be overstuffd with parked cars.

Thank you for your consideration of my concern in this matter regarding special permit no. 04036.

Sincerely,
Coni Schwartz



"julie muhle"
<jmuhle@hotmail.com
>

To: JWalker@ci.lincoln.ne.us
cc:
Subject: special permit #04036

08/02/2004 10:02 AM

We are residents of Capital Beach. We lived on Pier 1 street and are now in the process of building on Waterfront Place. We also own a business on Westgate Blvd. I sit in my office everyday and watch the cars fly by that live on Lamont street. We are completely opposed to this special permit. The traffic and parking on Lamont street is horrible. The valuation of that property will decrease tremendously. We had a hard time selling our property on Pier 1 due to the current duplexes located on Lamont. We had many complaints to the landlords and builders of those properties due to parties, trash, parking on both sides of the street. Please take all of this into consideration before ok'ing this permit.

Thank you,
Julie Muhle
626 Waterfront Place



mdahmke@infoanalyt
c.com

08/02/2004 08:47 AM

To: JWalker@ci.lincoln.ne.us
cc:
Subject: Re special permit 04036

Jean: I've read Special Permit #04036 for Lamont Drive, and am opposed to it on the grounds that it will create an even greater traffic and congestion problem than we now have. The addition of the rental units along Lamont in the last 8-10 years has greatly increased traffic in the area, and with only two ways in or out of the neighborhood, it has become a real problem.

We were never very happy about the way Lamont was developed -- a long row of identical duplexes. (When those duplexes were built, I recall two lots where piles of lumber and trusses sat there for an entire year before construction was completed.) The net effect has been that ever since those houses were built, we've had to contend with a lot of traffic, and the homes are poorly maintained, creating a less than desirable appearance as one drives through the area. I sincerely hope that this type of development is not repeated. The neighborhood needs diversity, but not densely packed homes that all look the same.

Thank you.

Mark Dahmke
625 Pier 1