City Council Introduction: **Monday**, June 9, 2014
Public Hearing: **Monday**, June 16, 2014, at **3:00** p.m.

Bill No. 14-66

FACTSHEET

TITLE: **DECLARATION OF SURPLUS PROPERTY**

APPLICANT: Director of the Urban Development Department

STAFF RECOMMENDATION: A finding of conformance with the Comprehensive Plan.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission

RECOMMENDATION: A finding of conformity with the Comprehensive Plan (8-0: Beecham, Cornelius, Corr, Harris, Weber, Scheer, Sunderman and Hove voting 'yes'; Lust absent).

OTHER DEPARTMENTS AFFECTED: N/A

OPPONENTS: Four letters in opposition; six individuals testified in opposition.

REASON FOR LEGISLATION:
To declare approximately 9.37 acres, more or less, as surplus property, generally located at South 84th Street and South Street.

DISCUSSION/FINDINGS OF FACT:

1. This proposal for declaration of surplus property was heard in association with Change of Zone No. 14012 (Bill #14-67) and Special Permit No. 14009 (Bill #14R-161).

2. The property being considered for surplus is currently vacant and does not contain any structures.

3. The staff recommendation to find the declaration of surplus property to be in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3-4, concluding that the land is not needed by the Fire Department or any other City department. The staff presentation is found on p.5-7.

4. The applicant's testimony is found on p.7-8. .

5. Testimony in opposition to the project as a whole is found on p.8-11, and the record consists of four letters in opposition (p.18-26). The issues of the opposition, including traffic, safety, access, density and compatibility with the Trendwood neighborhood, dealt primarily with the associated application for community unit plan (Special Permit No. 14009).

6. On May 28, 2014, the Planning Commission voted 8-0 to find the proposed declaration of surplus property to be in conformance with the Comprehensive Plan (**Comprehensive Plan Conformance No. 13020;** also See Minutes, p.14-15).

7. On May 28, 2014, the Planning Commission also voted 7-1 to recommend approval of the associated Change of Zone No. 14012, but voted 7-1 to deny the associated Special Permit No. 14009, which has been appealed to the City Council..

FACTSHEET PREPARED BY: Jean L. Preister **DATE**: June 3, 2014

REVIEW ED BY: Marvin Krout, Director of Planning **DATE**: June 3, 2014

REFERENCE NUMBER: FS\CC\2014\CPC13020+

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for May 28, 2014 PLANNING COMMISSION MEETING

PROJECT #: Comprehensive Plan Conformance No. 13020

PROPOSAL: To review as to conformance with the 2040 Lincoln-Lancaster County Comprehensive Plan, a proposal to declare approximately 9.37 acres, more or less, as surplus property, legally described as a portion of Lot 51, I.T., located in the SE 1/4 of Section 34-10-7, Lincoln, Lancaster County, Nebraska, generally located at South 84th Street and South Street.

LOCATION: Generally located at S. 84th Street and South Street

LAND AREA: 9.37 acres, more or less

CONCLUSION: The redevelopment plan is in conformance with the Comprehensive Plan.

RECOMMENDATION: In conformance with the Comprehensive Plan.

GENERAL INFORMATION:

LEGAL DESCRIPTION: A portion of Lot 51, I.T., located in the SE 1/4 of Section 34-10-7, Lincoln, Lancaster County, Nebraska, generally located at South 84th Street and South Street.

EXISTING ZONING: R-1 Residential District and P Public Use District

EXISTING LAND USE: Open Space

SURROUNDING LAND USE AND ZONING:

North: Fire Station/Water Tank/Single-Family Dwellings; P/R-1
South: Townhouses/Multi-Family Dwellings; R-3
East: Agricultural; AG
West: Single-Family Dwellings; R-1

ASSOCIATED APPLICATIONS:
SP14009 - Special Permit for a Community Unit Plan
CZ14012 - Change of Zone from R-1 and P to R-3

HISTORY:
This property was rezoned from the A-1 Single Family Dwelling District to R-1 Residential District and P Public Use District with the 1979 zoning update.

COMPREHENSIVE PLAN SPECIFICATIONS:

P. 1.9 - The 2040 Lincoln and Lancaster County Comprehensive Plan identifies this area as Urban Density Residential in the Future Land Use Plan.

P. 2.7 - The community's present infrastructure investment should be maximized by planning for well-designed and appropriately-placed 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 existing neighborhoods.

P. 2.8 - Mixed use redevelopment, adaptive reuse, and well-designed and appropriately-placed infill development, including residential, commercial and retain uses, are encouraged.

P. 7.8 - Infill and redevelopment in existing neighborhoods typically occur through an incremental and organic process over long periods of time. This process is chiefly led by the private and nonprofit development sector. Good design and appropriate placement are key to successful redevelopment.

P. 7.9 - Encourage increased density of existing apartment complexes and special needs housing where there is land available for additional buildings or expansions.

P. 7.10 - Redevelopment and infill should strive for compatibility with the character of the neighborhood and adjacent uses (i.e. parking at rear, similar setback, height and land use).

P. 7.10 - Encourage a mix of housing types all within one area.

ANALYSIS:

1. This is a request to find the declaration of surplus property in the area described above in conformance with the Comprehensive Plan.

2. The property being considered for surplus is currently vacant and does not contain any structures.

3. The Lincoln Water Department has identified the amount of land they need to retain for their facility at S. 84th Street and South Street. The Lincoln Water Department would like to surplus the additional land to allow for private development. This land is not needed by the Fire Department or any other City department.

   The Urban Development Department advertised this property for more than a year on the City's surplus property website. A "for sale" sign was placed on the property, and a press release was later published stating that offers for this property would be accepted between October 28th and November 22nd, 2013. One offer was submitted to the City by the Lincoln Housing Authority. The proposal is to develop this site with multi-family housing.

4. The Comprehensive Plan shows the surplus property as Urban Density Residential. The property to be retained by the City is shown as Public & Semi-Public.

5. Access to this property is provided by Viewpoint Drive and Karl Ridge Road. No access will be allowed on S. 84th Street or on South Street.

6. Development on this property will be impacted by the overhead L.E.S. utilities. L.E.S. has a 110' utility easement that runs southwest to northeast on the south end of the property.

7. An 18" natural gas pipeline is located in the S. 84th Street right-of-way. The Health Department has recommended a 175 foot buffer from each side of the pipeline. No habitable structures are recommended within the 175 foot buffer. This buffer affects potential development within approximately 80 feet of the S. 84th Street right-of-way.

8. The proposed surplus property is also included in Change of Zone #14012 and is proposed to change from P and R-1 to R-3, Residential District and is also included in the Special Permit #14009 to allow a Community Unit Plan consisting of 72 dwelling units.

9. The proposal to surplus the land is consistent with the Comprehensive Plan.

Prepared by:
Paul Barnes, Planner
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DATE: May 14, 2014

APPLICANT/CONTACT: Dave Landis
555 S. 10th Street, Suite 205
Lincoln, NE 68508

OWNER: City of Lincoln
555 S. 10th Street, Suite 205
Lincoln, NE 68508

COMPREHENSIVE PLAN CONFORMANCE NO. 13020, CHANGE OF ZONE NO. 14012, and SPECIAL PERMIT NO. 14008

PUBLIC HEARING BEFORE PLANNING COMMISSION: May 28, 2014

Members present: Beecham, Cornelius, Corr, Harris, Weber, Scheer, Sunderman and Hove; Lust absent.

Staff recommendation: A finding of conformance with the Comprehensive Plan on the declaration of surplus property; approval of the change of zone, and conditional approval of the community unit plan (CUP) special permit, as revised.

There were no ex parte communications disclosed.

Staff presentation: **Paul Barnes of Planning staff** explained that the comprehensive plan conformance item is to review the surplus declaration of publicly owned and used property. The Lincoln Water Department currently owns the property at South 84th and South Street, and has owned it for quite some time. The Water Department did have a survey done to determine their current and future needs for this land and the survey shows this property as excess and they do not have a need for it in the future. The majority of the property is zoned R-1 with P Public on the northern end. The Comprehensive Plan does designate this property as "urban residential" and it does designate property for the water tank and fire station as public use.

Barnes went on to state that the proposal is to change the zoning from R-1 to R-3, which is consistent with the Comprehensive Plan and is considered an urban residential district. There is R-1 to the west; R-3 adjacent on the south; the R-3 to the south is within a community unit plan. This is a request for a community unit plan (CUP) to develop 72 multi-family units. The site plan would lay out nine buildings with eight units in each. There is a mix of one- and two-bedroom units; the parking is shown as both surface and garages. The R-3 zoning would require a rear yard setback of 30 ft. for this use, but in this case the applicant is showing an increased setback to 40 ft. along the properties on the west. This district (R-3) requires a 20 ft. front yard on 84th Street and the applicant is showing 25 ft. The side yard setbacks would be 5 ft., which is shown on the north part, but is increased on Outlot A to 25 ft. and there is a 110 ft. setback due to the LES overhead power line easement. There is a pipeline in 84th Street that does impact development on this property. Due to the contents of the pipeline, the pressure and the size, there is a separation requirement of 175 ft. A portion of that does come onto this site, so the staff is recommending that there be no dwelling units within that hazard area. The applicant is showing a maintenance building, garage and some parking and circulation in that hazard area.

Barnes also pointed out that Outlot A is currently part of the Trendwood CUP, which covers the land to the south. This proposal is to consider removing Outlot A from the Trendwood CUP and add to this proposal. If this application is approved, that action would happen separately by administrative amendment. The outlot will consist of a clubhouse and additional garage.

Barnes acknowledged that some of the concerns of the opposition have to do with traffic. He advised that Public Works did look at the traffic generation. If you were to compare what could be built there today with R-1 zoning, there could be 49 single-family homes. What's the traffic impact of that many homes vs 72 units of multi-family? – the outcome was that it is essentially a wash during the peak hour.

As far as the concerns about drainage and grading of the site, Barnes advised that the applicant is proposing two detention cells to capture the rain water and retain it on-site. It is a requirement that runoff not be increased with this type of development so they would have to contain their own stormwater with those detention cells.

Barnes then addressed the waiver of the subdivision ordinance which currently provides that there cannot be more than 40 units with access off of a dead-end street. No other access would be granted on 84th Street or South Street due to the city-owned property with the water tank and fire station. This application requests 72 units off a dead-end street. This waiver has been granted in many other developments across the community. In the cases where the waiver has been granted, there has been a condition to consider providing a secondary emergency access, and there is a condition in this staff report that would put another sidewalk on the north end of the development widened to at least 10 feet to allow that emergency access. The Fire Department did review and recommended approval with a fire station adjacent to this site.

Beecham assumes that the restriction for the dead-end street is for safety. Barnes indicated that is why an emergency access in other developments have been recommended.

Proponents

1. Steve Werthmann, Housing Real Estate Manager for Urban Development, appeared on behalf of the Director of Urban Development. He stated that he is testifying on behalf of Urban Development for two purposes – one is that Urban Development is the applicant for the surplus property, and secondly, Urban Development is in support of this project because it would provide much needed affordable rental units, which is part of the Comprehensive Plan. Urban Development is responsible for reviewing city-owned property for possible land which is not needed by the City and can be surplused. It is an ongoing process. The surplus process requires the participation of every single City department and the Mayor. On this particular project, Urban Development inquired of every City department and worked very closely with three particular departments, i.e., Fire, Water and Parks. "For Sale" signs were place on the property in June of 2013, and it has been on the web site for over a year. Urban Development also provided an attachment to one of the City Council news releases in October. The property was advertised for a month and anyone interested was asked to come forward with an offer. There were 5 inquiries but only one group came forward to actually make a bona fide offer, i.e. the Lincoln Housing Authority (LHA).

Werthmann also noted that the City of Lincoln is a participating jurisdiction for HUD funds and the Urban Development Department is the administrator of such funds. In order to receive the funds, Urban Development is required do a five-year consolidated plan, with an action plan for each of those years. Urban Development has partnered with several different non-profit housing organizations and LHA is the major organization that helps fulfill Urban Development's goal of affordable rental properties. In doing the consolidated plan, several studies on housing

needs were done. Werthmann shared a housing needs summary table showing percentages of household income going towards rent, and the table reflects that it is more difficult for the lower income households to rent a unit that is affordable. Therefore, Urban Development is in favor of this project. LHA does provide affordable rental properties with a mixed income approach and they fulfill their commitment that they made over a decade ago to spread their projects all over the city so as not to impact any particular neighborhood.

It was confirmed that StarTran does run down 84th Street.

Corr asked if Planning was present at the neighborhood meeting coordinated by LHA. Werthmann stated that both Planning and Urban Development staff attended the meeting. It was a very good turnout with probably 30-40 people. The main concerns were traffic and water runoff.

2. Tom Huston, 233 S. 13th Street, Suite 1900, appeared on behalf of the **Housing Authority of the City of Lincoln** (LHA). LHA is one of those strange political subdivisions created by the city, authorized by the state and funded by federal law. LHA has a long history of providing affordable and safe housing in the City of Lincoln.

Huston focused his testimony on the special permit, submitting that the primary focus of LPlan 2040 was sustainability achieved through increasing density and infill development using existing infrastructure. He believes the staff report does a good job of finding compliance with the Comprehensive Plan. This project would not require any new infrastructure whatsoever. The promotion and creation of new affordable housing opportunities throughout the community and the distribution of affordable housing throughout the community are also set forth in the Comprehensive Plan. Huston pointed out that LHA has projects throughout the community.

Huston noted that the City is in the process of declaring 9.37 acres as surplus; LHA has contracted to purchase the adjacent .64 acre owned by Lincoln Federal for a total of 10.01 acres. The proposed 72 units would be comprised of 20 one-bedroom and 52 two-bedroom units contained in the nine structures. The west boundary line is officially the rear yard requiring a 20' setback and the site plan reflects a 40' setback. It will be landscaped in compliance with the design standards (60%) and existing trees will be retained.

As an example of a LHA project, Huston shared a photo of “Prairie Crossing” located at 33rd and Yankee Hill Road, which consists of 76 dwelling units on 9.33 acres. LHA is in the business of providing affordable housing and this project would be a “mixed income project”.

With regard to the detention cells, Huston submitted that there are hundreds around the city and they function well. These will be dry the vast majority of the time; however, they do not want to fence the detention cells because they will be maintained and mowed. LHA has developed similar projects, i.e. Woodbridge at 18th and Pine Lake Road (130 units); Summer Hill at South 56th Street & Union Hill Drive (40 townhome units approved 15 years ago within an existing neighborhood); and Prairie Crossing at 33rd and Yankee Hill Road. LHA takes great pride on construction and maintenance.

Scheer inquired as to the location of the detention cells. Huston stated that they are located on the western border and north of the maintenance building. The detention cell on the western border would be served with underground pipe.

Beecham wondered about fencing around the detention cell. Huston stated that the detention cells will not be fenced because LHA wants to be able to maintain them. Detention cells are designed for the water to absorb in. A retention cell is more of a permanent pool with the pipe up high. The detention cell slows the water down so that it ultimately drains.

Beecham asked about the kinds of trees and the topography. Huston pointed out that the apartments will be higher than the properties to the west. The City has made the decision to sell this property and it will either be developed with single-family, duplex or apartments. Anything that could be constructed will have to comply with the height limitation of a two-story structure, and this project will comply, with special attention being paid to the west because of the grade differential. The landscape plan would go through the building permit process. LHA's other properties have had very healthy landscaping.

Weber inquired about fencing on the west. Huston did not think it would have any merit. He also pointed out that the parking being shown is considerably more than would be required. LHA wants to make sure there is adequate parking within the site so that there would be no on-street parking.

Harris wondered what type of design the Planning Commission could expect if this is approved. Huston stated that the design shown is one of the 8-plex buildings that would be located at this site. LHA desires to take advantage of this design and use it again because it has worked so well with Prairie Crossing.

Opposition

1. Mark Hunzeker appeared on behalf of **Ken Hake** who owns a pair of townhouses at the intersection of Karl Ridge Road and Viewpoint Drive. Hunzeker submitted that the City has owned this property since 1964, and has had that number of years to integrate into the neighborhood. The City wants to buy this property contingent on a waiver of its own design standards. The City is waiving its own rules to allow for an 80% increase of dwelling units taking access from a single dead-end roadway. The City now asks the Planning Commission to ..."put your unbiased blessing on the City staff recommendation of approval of the City's application."

Hunzeker stated that his client does not have any objection this project – no objection to the change of zone, nor the density bonus – but he does object to the waiver of the access requirement because it is needed.

Hunzeker noted that the staff mentioned several other such waivers approved in the past, but Hunzeker believes the staff would be hard-pressed to find a single one that dumps onto a residential street as opposed to an arterial or onto a collector street. There is no explanation for the lack of access to South Street or 84th Street, and the drawings included in the report really do not adequately show what the City owns and the possibilities that exist. Hunzeker pointed out that the City owns all the way to South Street, and South Street has an intersection at 84th Street with a median break. There is no explanation of why the City-owned driveway could not be provided to serve this project. There is also no explanation of why no access will be granted to 84th Street. There is 1350 feet of frontage from the center line of Karl Ridge Road to the center line of South Street that would allow for a right-in/right-out, if nothing else. Hunzeker

believes that Lincoln Fire and Rescue intends to get rid of the fire station. There is an access point at that fire station that could be accessed at some point in the future, and there is no discussion of this in the staff report.

Hunzeker then requested that the Planning Commission pretend that this is a private property owner who has owned this property for 50 years and watched the surrounding neighborhood develop and done nothing, and now comes to the Planning Commission with a contract for a lot of money and requests a waiver of this "one little rule", and don't bother with the fact that the City could get access to South Street or 84th Street, if they asked for it.

Hunzeker submitted that it is important to decide this on the issue of whether or not this is an appropriate concentration of trips onto a residential street which has access to 84th Street at an uncontrolled intersection without even so much as a left turn lane. There is a 192-unit apartment complex immediately to the south but it has more than one access.
Hove asked about the owner of the property in the northwest corner. Hunzeker stated that the City owns it.

2. Danay Kalkowski, appeared on behalf of **Somerset Apartments, LTD,** the owner of the complex at the northwest corner of 84th Street and Van Dorn Street. Somerset is not opposed to location of an apartment or multi-family use on this site; however, there are concerns about the site plan. The main concern is access and landscaping. A single access point outletting onto a residential street is not sufficient for the proposed density. Since the City owns the site and is using the change of zone and special permit as an attempt to maximize the density, they need to find a way to address the access issues, particularly when this is a site with known access issues.

With regard to landscaping, Kalkowski submitted that Somerset has worked hard to create a personality for their development that fits in with the residential neighborhood by adhering to very strict maintenance requirements and more than the required amount of landscaping on their site. No doubt, LHA is a good owner and does quality maintenance, but the owner would liked to have seen the landscape plan for this site to make sure there is adequate screening incorporated into the site – more than the minimum amount required.

Beecham asked Kalkowski to address the topography of Somerset with the neighborhood. This project is higher. Kalkowski acknowledged that they do have quite a bit of variance in height. Somerset has been there for some time so it now has mature landscaping. It's probably more the screening around the edges that creates the feeling for the neighborhood.

3. Ryan Gross, 2230 Devoe Drive, presented a petition on behalf of the residents of Devoe Drive, Karl Ridge Road, and surrounding streets (144 signatures representing 71 households) in opposition primarily because of safety issues and traffic concerns. His house backs up to where the detention pond will be located. What's going to happen when that detention pond runs over? This question has never been answered. This project is not compatible with this neighborhood. The neighbors would have no problem with LHA if it were single-family homes. We all want affordable housing, but we do not want to mask the fact that this does not fit. No one here is against affordable housing.

4. Eileen Warner, 2110 Devoe Drive, testified as a representative of the 144 signatures that they were able to acquire throughout the neighborhood. The people of Trendwood would like the Planning Commission to vote "no". She shared a previous site plan showing 80 units. The City has already put up a 10' fence to protect themselves. She then referred to the proposed site plan showing 72 units rather than 80, with the 40' setback rather than 30', but each unit is still going to take up two of the neighbors' back yards. In no way has she found that this rezoning and special permit waiver relates to the City's Comprehensive Plan and the project does not meet the standards.

Warner then referred to the Comprehensive Plan, suggesting that there is already higher density to the immediate south of this location (Somerset) as well as a retirement community to the south. Also referring to the Comprehensive Plan, she suggested that there is poor access to alternative transportation. She called StarTran and it would take 2 ½ hours to take a bus to Walmart. If you wanted to go to work where they have jobs, you will have to take two buses and three hours to get there. There is no good way that StarTran can move socially economically challenged people.

Warner further referred to the Comprehensive Plan, suggesting that the proposal does not look anything like the neighborhood of Trendwood. It was named Trendwood because it has large mature trees. There is no green space in the proposal.

Warner cited the Comprehensive Plan encouraging safe and adequate affordable housing. Affordable housing does not maintain the vitality of this neighborhood.

Reciting from P.7.2 of the Comprehensive Plan, Warner submitted that this proposal is not near job opportunities; this is not an area to be preserved for special needs or multi-family use because it has already been zoned for single-family dwellings; this does not provide safe housing, hence the need for a waiver – it's a dead-end street. It is not safe.

Warner then referred to P.7.8 of the Comprehensive Plan which talks about infill and redevelopment occurring over long periods with good design. Warner does not believe this project meets good design nor appropriate placement.

Comprehensive Plan P.7.10 suggests that redevelopment should strive for compatibility with the character of the neighborhood. Warner stated that this development does not meet the character of the neighborhood due to the topography, height, lack of privacy and lack of green space.

Warner reiterated that a StarTran bus would take at least two hours to get to any particular area of benefit and this project does not fit the Comprehensive Plan nor the Trendwood neighborhood. She also pointed out that approximately 10 years ago, an application was made on this property for individual housing by the Nebraska Housing Resource and it was turned down.

5. Richard Metteer, 8214 Karl Ridge Road, who is the Neighborhood Watch representative, testified in opposition. He indicated that there was community involvement once the neighbors received a letter about Easter time. The neighbors have met weekly and have gone house-to-house. The neighbors are afraid because many of them are 80 years old and above. They are concerned about the safety.

Coming out of Somerset Apartments, Metteer submitted that the drive that is proposed to be used for this project is directly across the street from Karl Ridge Road, so many of the 192 apartments in Somerset will use that access as well. If you have not tried to enter 84th Street and make a left hand turn to go north, then you don't have any idea at all of what we are talking about in terms of getting onto 84th. It doesn't happen. You can't even make a left hand turn to go north. Instead, you are going to have movement to the west. South Street is not a main thoroughfare; it is 25 mph; it is residential. Children walking to school will cross 82nd Street and 79th Street before they get to a light to take them across Van Dorn Street. Metteer continued discussing the difficulty for traffic and pedestrians. There is also an issue about snow removal.

6. Karim Makkawy, 1900 Devoe Drive, testified in opposition. The neighbors have collected over 140 signatures in opposition. Approximately 15-20 individuals stood in the audience in opposition. Makkawy submitted that the issue is the safety and well-being of residents of their beautiful neighborhood as well as the fact that such a development runs counter to and is incompatible with the Comprehensive Plan. There are major concerns about traffic increases and congestion; emergency service access both to his neighborhood and the proposed area; impacts of auto activity on children attending four elementary and one middle school within walking distance; detrimental health ramifications of the standing water in retention ponds with no clear guarantee that this water will drain away immediately; no fencing around the retention pond; and inadequate attention to allay the neighbors' concerns and the concerns of a reasonable citizen.

Makkawy suggested that the incompatibility of this project with the existing neighborhood and surrounding area was not sufficiently taken into consideration.

Makkawy clarified that the neighbors do not oppose the development in terms of LHA. They are chiefly concerned with this project having a detrimental affect on their neighborhood's vitality and character. It is not a new neighborhood.

Makkawy then noted that the definition of "development" is "an act or process of growth or progress." He submitted that the proposed plan represents neither. It represents a precarious and radical shift in this neighborhood.

<u>Staff questions</u>

Corr asked staff to respond to the waiver/transportation issues. **Bob Simmering** of Public Works advised that the staff uses a publication from the Institute of Transportation Engineers to consider trip generation by any type of development. They have collected data for decades, the most recent update being 2012. According to that calculation, the trip generation for this proposed development is 6.65 trips per unit per day, i.e. 479 trips per day. Peak hourly traffic is what is critical in may cases, so generally 1/10th of the traffic will be at peak hour, i.e. rounding to 48 trips during the peak hour. If this property were converted to single-family and the maximum allowable 49 units, there would be 490 trips/day, or 49 trips during the peak hour. It is essentially a wash. With 40 units allowed with a single access point, the trips would be 400/day or 40 during peak hour. The increase in traffic above what would be permissible is not tremendously significant.

As far as other access points, the staff looked at 84th Street and it is the desire of Public Works to see as few access points on 84th Street as possible. A right-in/right-out on 84th Street would require a right turn lane, which would be difficult.

With regard to access to South Street, it needs to be recognized that South Street is a utility corridor used by the water company, with a tremendous amount of various utilities in that street. There is a future planned second water tower there as well. That utility corridor is not a good place for a street. Again, staff believes that it is best with the single access point on Viewpoint Drive.

Scheer confirmed then that there is no other possibility for additional access. Simmering's response was that it is not impossible but Public Works does not support it. It would be a great hardship and very expensive to start relocating the water tower facilities. The peak hour trips do not justify an access on 84th Street.

Hove inquired whether Public Works has any concerns about exiting into and out of a residential area. Simmering pointed out that Viewpoint Drive is the stub street and is a public street at this point. It was built for the purpose of accessing this parcel.

Weber asked how the water retention ponds were engineered. Simmering explained that the requirement is that the condition of the drainage now is measured and any impervious surface then will cause greater runoff. The goal is to capture that runoff increase and release it at a slower rate. We collect the 100-year storm event and release it at the 5-year event. Weber then asked where the water would go if bigger than the 100-year event. Simmering stated that the City requires a grading plan before any construction. The way this site would be developed is that the drainage would go to the northeast, which would go toward the fire station and 84th Street. If there were any spillover, it would go in that direction, but any spillover is very unlikely.

Beecham wondered how much standing water will be in the retention ponds. Simmering suggested that the only concern would be immediately following the storm. The time discharge is less than 24 hours.

Beecham wondered whether the transportation guidelines referred to previously take into account the adjacent streets and how busy they might be. Simmering stated that Public Works has the ability to do a complete traffic study; however, the Access Management Policy does not require a traffic study until there are 100 vehicles on peak hour. Therefore, a traffic study was not required in this case. It is very expensive and not entirely accurate.

Beecham asked if there is any kind of board over Public Works if someone wanted an exemption to a policy or decision. Simmering suggested that the Director of Public Works & Utilities has authority over the entire department.

Scheer indicated that he is conflicted with the waiver. This is a good project but the waiver bothers him. About a year ago, we were briefed by the Health Department about these gas pipeline hazard zones. With that hazard zone clearly indicated on the plan, if something were to happen (although not likely) on 84th Street and we're loading 70+ units into this property with one access point, he believes that we have just compounded a situation where on one hand we have a Health Department that says this could be a real issue, and on top of it we are almost doubling the amount of units into this dead-end site. This conflict needs to be resolved. An

additional South Street exit would allay this concern for him. Simmering's response was that it is really not possible to have a South Street access. It is not a good choice to go to South Street.

Corr noted that there is a house on the lot where there is a road to get to the water tower. If the house was torn down, would that provide enough room for access? Simmering advised that that house is part of the facility and used for managing that site. That probably would not be an option.

Cornelius asked Simmering to respond to Mr. Hunzeker's discussion about the future of the fire station and possible access to 84th Street in that area. Simmering indicated that he does not know anything about the future of the fire station.

All other things being whole, if we were here talking about a private developer versus the LHA development, Cornelius wondered where planning would stand on the issue of extra units over 40 with one access. Would there be the same willingness to make that variance? Barnes indicated that this was discussed at the Development Services Center team meeting with representatives of the Health, Public Works, Planning and Building and Safety Departments, resulting in the decision that if there can be a second access to 84th Street via a widened enhanced sidewalk as an emergency access, then the waiver would be supported.

Response by Applicant

Huston responded to the opposition, clarifying that LHA is not the City of Lincoln; it is a separate board that takes action on behalf of the Housing Authority, independent of the City. When the City advertised the property for sale, it was advertised with the restrictions on access, including prohibiting access to South Street and 84th Street. The Access Management Policy does allow a request for deviation for access to 84th Street, but he is being told that this project does not generate sufficient traffic to pursue access to 84th Street.

Huston acknowledged that he does not have a landscape plan to show at this time, but he will make one available to the neighbors prior to hearing at City Council. LHA takes great pains to design, prepare, maintain and operate very well landscaped properties.

Huston also submitted that we all know that the Comprehensive Plan is a guide – we know it is not code, it is not law, but it does have meaning. It has increased the focus on increasing density using existing infrastructure. The Comprehensive Plan also focuses on the need to increase affordable housing. LHA is responding to the RFP by the City for this site. LHA has no intention to have any adverse impact on any neighborhood.

Scheer wondered whether 50 units would be acceptable? Huston responded, "no". Scheer urged that reducing the density, regardless of the Comprehensive Plan, would solve a lot of the problems. Huston's response was that there are a lot of restrictions on this site and LHA tried to make it work. The overhead power lines took a lot of land out of production. The hazard zone also takes additional land. LHA did not come to this density number arbitrarily.

Beecham expressed her concern about putting someone who can't afford a car in a place where they cannot get access to services. She asked whether the applicant has consulted with StarTran. Huston indicated that they have not gotten that far. LHA provides work force housing

because with the financing involved, the tenants are required to be income qualified and have to have sufficient income to support even the reduced rent. A majority of their residents do have access to transportation.

Barnes reapproached to remind the Commission of the revised staff recommendation submitted today amending Condition #2.2 of the special permit as follows:

2.2 ~~Delete note 10 since building envelopes are not shown on the site plan.~~ Replace Item #10 under General Conditions on the site plan with text that states, "The building footprints and parking spaces shown on the site plan are conceptual and are subject to minor adjustments."

COMPREHENSIVE PLAN NO. 13020
ACTION BY PLANNING COMMISSION: May 28, 2014

Cornelius made a motion to find the declaration of surplus property to be in conformance with the Comprehensive Plan, seconded by Scheer.

(***Editorial Note***: *The following comments refer to the package as a whole, i.e. Comprehensive Plan Amendment 13020, Change of Zone 14012 and Special Permit 14009)*.

Cornelius commented that the greatest concerns of the various testimony heard today were those of traffic and safety. There was some talk about how well this development fits into the neighborhood as well. There is another access point that is not in the hazard area, so if the worst ever should occur, there is a way in and out. With regard to traffic, if you listen to the experts and the engineers, there will be as many trips with R-1. As far as character of the neighborhood, this is directly across from another 192 units. There is a great deal of internal green space; it is an attractive development; and we know that these kinds of developments by LHA with a variety of economical residential units have been found to be assets to the neighborhood.

Weber commented that although the proposal is not popular with the neighborhood, it is in conformance with the Comprehensive Plan. He believes the change of zone makes sense. He agreed and is concerned with the traffic situation and cannot support the special permit without the second access.

Beecham expressed that she does like this project because of the placement of more density closer to our busy intersections rather than in the center of a neighborhood. However, she believes there should be access on 84th Street. The traffic counts may not qualify for impact to the neighborhood, but if you combine it with other units, it makes sense to get access on the main street. She will have a problem supporting the CUP.

Scheer agreed with the previous comments about the access. He will have no problem supporting the surplus property and the change of zone, but the waiver is the real issue for him. He does not know that the widened sidewalk solution is something that is very appealing for this 70+ units.

Sunderman stated that he is comfortable with the entire project except for the single entrance and exit. He will not support the CUP.

With regard to StarTran, Cornelius observed that it is hard, if not impossible, in this town to locate a development in any location that will take less than 2 hours by public transit anywhere but Downtown. That is not a problem of the developer but of public transit in general. One of the things the Comprehensive Plan attempts to do is address that in various ways, so he suggests that it is hard to let that argument carry water on this proposal.

Harris expressed her desire for more information on the future of the fire station because it would perhaps provide more clarity. If that fire station goes away, there could be more access.

Hove agreed. He has a problem with the traffic.

Motion for finding of conformance carried 8-0: Beecham, Cornelius, Corr, Harris, Weber, Scheer, Sunderman and Hove voting 'yes'; Lust absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 14012
ACTION BY PLANNING COMMISSION: May 28, 2014

Scheer moved to approve, seconded by Cornelius.

Corr believes that R-3 is appropriate because it abuts R-3 to the south. It's really easy when you have this empty field next to you or in your back yard providing that "out in the country" feeling and to want it to stay that way. She understands the water and traffic issues, but she believes R-3 zoning is appropriate at this location. She does, however, have problems with the traffic and access.

Motion for approval carried 7-1: Beecham, Cornelius, Corr, Harris, Weber, Scheer and Hove voting 'yes'; Sunderman voting 'no'; Lust absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 14009
ACTION BY PLANNING COMMISSION: May 28, 2014

Cornelius made a motion to approve the staff recommendation of conditional approval, as revised today, seconded by Harris.

Corr stated that she was excited when she first saw this project because she thought it would be close to SECC where there are a lot of students that might live in such a development. But then with the StarTran comment, they would have to go to 70th Street, up to "O" Street and all the way over, and that's going to take some time. It doesn't now seem as nice as she first thought.

Motion for conditional approval, as revised, failed 7-1: Beecham, Corr, Harris, Weber, Scheer, Sunderman and Hove voting 'no'; Cornelius voting 'yes'; Lust absent.

Sunderman moved to **deny**, seconded by Weber and carried 7-1: Beecham, Corr, Harris, Weber, Scheer, Sunderman and Hove voting 'yes'; Cornelius voting 'no'; Lust absent. This is final action unless appealed to the City Council within 14 days. ***(Editorial Note:*** *On May 29, 2014, a letter of appeal was filed by Thomas Huston on be behalf of the Housing Authority of the City of Lincoln.)*

2013 aerial

Comp Plan Conformance #: CPC13020
Surplus Property
S 84th & South St

Zoning:

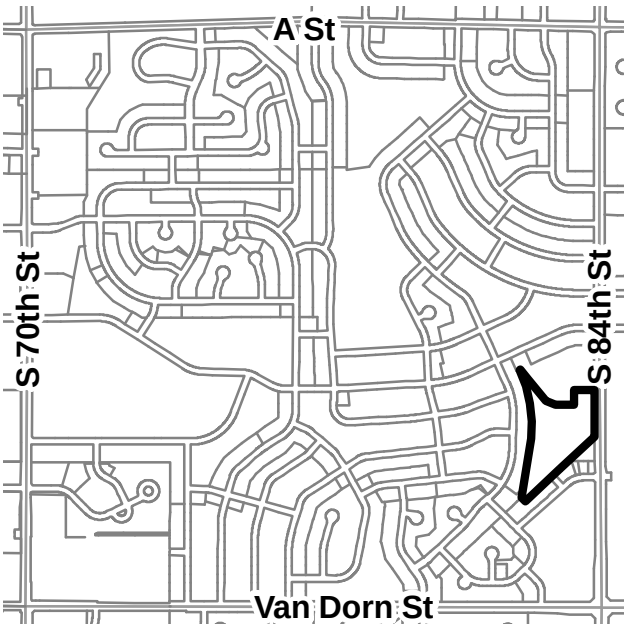
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	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.34 T10N R07E

Area of Application

Zoning Jurisdiction Lines

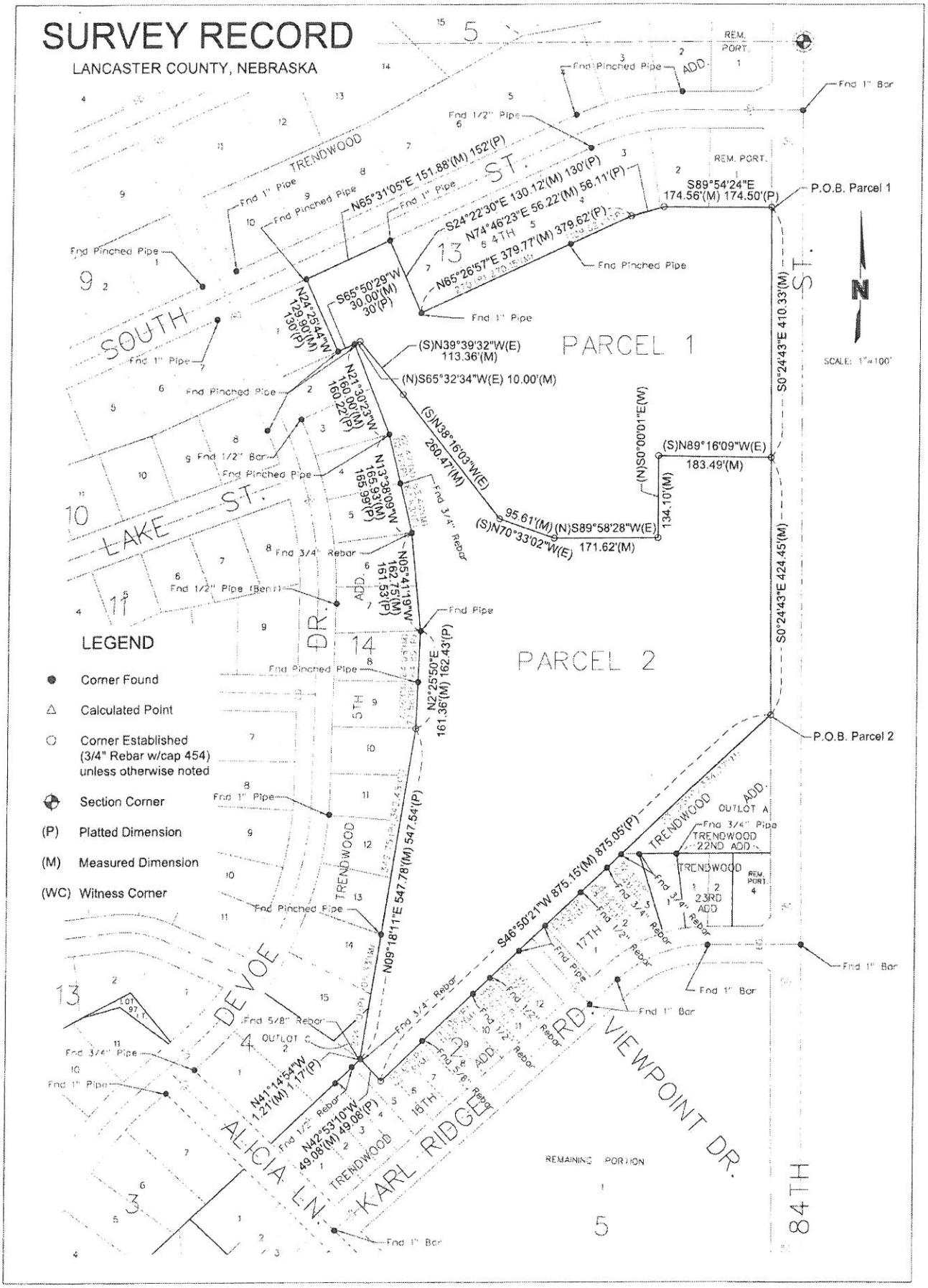
Lancaster County Jurisdiction



File: M:\plan\gis\PlannerPacket\MXD\Agendadrawings.mxd (CPC13020)

SURVEY RECORD

LANCASTER COUNTY, NEBRASKA



From: Warner, Eileen m [Eileen.Warner@BNSF.com]
Sent: Friday, May 16, 2014 8:32 PM
To: Jean Preister
Subject: Re: Opposition: CPC13020, CZ14012, SP14009: 84th and South Streets (Public Hearing - 05/28/14)

All,

Thank you for a prompt response. I received the proposed changes in the mail today. These changes in no way resolve my concerns, but add to them.

There are now more mosquito breeding areas indicated on the diagram and no fences around the drowning potential (detention cell).

This continues to represent spot zoning with an average of 8 apartments in relation to 2 single family homes. This is not consistent with the surrounding neighborhood. This spot zoning action is done specifically to benefit one group at detriment of the neighborhood.

No attention has been paid to the traffic concerns raised by the community

A Ten foot set back and an 8 apartment decrease do not reduce the privacy issues expressed.

Prior to a vote, I would like the planning commission to come out to the property after the units are marked by stakes or paint. This will allow all to truly conceptualize the cramped and unrealistic conditions this will create. Please attach this as part of the record to the revised plan as well as my previous letter.

Again feel free to contact me at any time and thank you for your attention.

Eileen

Sent from my iPhone

On May 16, 2014, at 8:43 AM, "Jean Preister" <jpreister@lincoln.ne.gov> wrote:

> Dear Ms. Warner:
>
> Thank you for submitting your comments, which have now become part of the record on this proposal. A copy is being submitted to each Planning Commission member for their consideration prior to the public hearing which is scheduled for Wed., May 28, 2014, in Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street. The meeting begins at 1:00 p.m.
>
> I am also providing a copy to the applicant and city staff, for their information.
>
> If you have any questions about this process or the public hearing, please do not hesitate to contact me.
>
> **--Jean Preister, Administrative Officer**
> **Planning Department**
> **402-441-6365**

018

From: Warner, Eileen m [mailto:Eileen.Warner@BNSF.com]
Sent: Thursday, May 15, 2014 9:30 PM
To: Jean Preister
Subject: Multi-family housing on 84th street

To all planning members;
I am opposed to the planned development listed above. My concerns are many including;

Increased traffic on Devoe Dr.
Safety of the children that play in the neighborhood based on the increased traffic.
Safety of other drivers attempting to gain access to 84th from South or Vandorn.
Loss of privacy
Decreased property value potential
Increased potential for communicable disease because of the retention ponds/mosquito breeding.
Worsening of water runoff into our property causing foundation damage.

This action represents an example of "Spot Zoning" . The apartments/multi-family housing units are not consistent with the surrounding housing.

The addition of 197 vehicles into such a small area necessitates a traffic study be done to determine current traffic flow and the impact this addition would impose on Van Dorn, Alicia Lane, Devoe Dr., South and Karl Ridge.

Prior to taking making any decision on the sale and development of this property a light and both left and right turning lanes need to be installed at 84th and South and at 84th and Karl Ridge to alleviate the current traffic problems.

Feel free to contact me if you have any issues you would like to discuss.

Thank you for your attention,

Eileen Warner

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REQUEST FOR DEFERRAL BY PROPERTY OWNER

ITEM NO. 5.3a,b,c: CPC 13020
CHANGE OF ZONE NO. 14012
SPECIAL PERMIT NO. 14009

(p.135 - Public Hearing - 5/28/14)

From: Warner, Eileen m [Eileen.Warner@BNSF.com]
Sent: Thursday, May 22, 2014 2:48 PM
To: Jean Preister
Subject: Request for deferral

I request on behalf of the residents of Trendwood that the actions before the planning commission be delayed for a month so that we can;

1. Hire an independent surveyor to look over the plans to see if they infringe on our property.
2. Get traffic studies of all of the involved streets for the committee to make an informed decision.
3. Hire an attny to review our possible rights of adverse possession.
4. Obtain a walk about of the property with the proposed buildings staked out for conceptualization.
5. Work with the health department and get a study on the effects of the proposed detention cells on the mosquito population.

Thanks in advance for attaching this to the meeting agenda.
I will be present at the meeting for this request for this request.

Eileen

020

Subject: FW: Opposition: CPC13020, CZ14012, SP14009: 84th and South Streets (Public Hearing - 05/28/14) Multi-family housing

From: Barb Walter [mailto:bwalter2526@icloud.com]
Sent: Friday, May 23, 2014 10:34 AM
To: Marvin S. Krout; Steve S. Henrichsen; beverly@l-housing.com; Paul D. Barnes; thuston@clinewilliams.com; nbuss@oaconsulting.com; Robert K. Simmering; mpalmer@oaconsulting.com
Subject: Fwd: Opposition: CPC13020, CZ14012, SP14009: 84th and South Streets (Public Hearing - 05/28/14) Multi-family housing

To all planning members:

I am writing to voice my opposition to the planned multi-family housing at 84th & South streets.

When I purchased my home on Devoe Drive, I marveled at the quiet neighborhood with the larger spaces between the houses that I had not seen in other housing developments. It didn't feel like the houses were packed in on top of each other. From my review of the plans of this proposed project, however; it does not appear that this project fits this neighborhood. Although I've been told the density is within legal limits, there will be 8 apartments spanning the same space as two of the current home lots on Devoe. Definitely a loss of privacy. I don't find this situation acceptable. I believe this action represents an example of "Spot Zoning" that is beneficial to only a small number of people. The proposed zoning change of this specific parcel of land within our larger neighborhood seems to be at odds with its current zoning and character. The apartments/multi-family housing units are not consistent with the surrounding housing.

Along with the increased number of housing units comes a lot more cars. There will be 197 parking spaces to accommodate those cars. This creates the following problems:

- More concrete which will exacerbate the current water drainage issues for the homes that back this property. Increased water could lead to foundation damage.
- There is only one exit from this project that will force all traffic onto Karl Ridge Road and then funnel that traffic into the surrounding neighborhood to find a way to get onto 84th street. This results in a lot more noise in the neighborhood.
- Because it is difficult to turn north onto 84th street from either Alicia Lane or South Street, many people will use Devoe Drive to get to A Street to use the traffic light. I remember when 84th street was closed for construction. Devoe Drive effectively turned into a highway. People sped through the neighborhood so they didn't have to use the 70th Street detour. Police attempted to slow traffic with additional signs and speed traps, but it didn't help. Homeowners parked their cars on the street in an attempt to slow down traffic. I was fearful for the safety of the children in the neighborhood. I was never so happy as when 84th street reopened. Once this project is in place, I am fearful this situation will become an everyday event.

There are plans for 2 detention ponds, but no provision has been made to fence the area to lessen the drowning risk for small children. Also, I've observed other detention ponds. They never drain completely so they are perfect areas for mosquito breeding. Increased number of mosquitos can lead to increased chance of communicable disease.

I appreciate and support the ***reason*** for the housing; however, for the project to fit into the current environment of the neighborhood, multi-family units are not the answer.

Feel free to contact me if you have any issues you would like to discuss.

Thank you for your attention,

Barbara Walter

2110 Devoe Drive

022

OPPOSITION

ITEM NO. 5.3a,b,c: CPC 13020
CHANGE OF ZONE NO. 14012
SPECIAL PERMIT NO. 14009
(p.135 - Public Hearing - 5/28/14)

5-22-14

RE: Proposed development of LHA housing project at the location of 84th St between South St and Karl Ridge Rd

To Whom it May Concern:

My wife and I reside at 2330 Devoe Dr. Lincoln, NE 68506. We have owned our home since 1998. Over the course of the last 16 years, we have invested tens of thousands of dollars in the upkeep, updating and maintenance of our home. Additionally, I estimate that we have paid $50,000.00 to $60,000.00 in property taxes since purchasing our home. Our neighborhood consists of single family dwellings and owner occupied homes. The Trendwood area is an example of the typical "middle class" neighborhoods that are so often referred to by our elected officials. We have educators, railroaders, insurance brokers, real estate agents, small business owners, etc. who together create a safe and orderly neighborhood of well maintained residences and contribute a great deal to the City of Lincoln's tax base. In addition, many of the residents of the properties on Karl Ridge Rd. and surrounding areas are retired and had purchased their homes as their retirement property in a neighborhood of owner occupied, single family residences.

The purpose of this letter is to inform all parties involved with the planning, zoning, development and decision making process regarding the proposed development of the city owned property at 84th & South and Karl Ridge that we are very much opposed and adamantly reject the ideas regarding the building of the project. I would like to outline the specific reasons in a moment but the most crucial and important objection we have is that the development simply does not fit in with the surrounding neighborhood. I view the proposal a complete misuse of the area. The idea of building multi-family housing units in the middle of a residential neighborhood is ludicrous. This project is no different than if a hotel was placed on the property, right in the middle of a residential neighborhood area. The proposed rezoning is an example of a complete lack of respect for the members of the surrounding properties, and in fact the entire area.

Specifically, points of concern are as follows:

1) Increased traffic due to increased population density. The addition of 72 units in 9 buildings is not consistent with the surrounding neighborhoods. The proposal as presented would add 197 parking stalls which is simply an overload for the existing street layout in the area. The added congestion would lead to increased traffic flow on the existing streets in the neighborhood.
2) In conjunction with point #1, the increased traffic flow would lead to a higher potential for accidents as well as cause added danger to the safety of the children and residents of the surrounding neighborhoods. Many children walk to the Lux Middle School and St. Joseph's school. There are also many families with young children in the neighborhood and the additional traffic in the area would result in a direct threat to the safety of these children. There would also be the issue of the added population using the existing neighborhoods to gain access to the development (ie taking shortcuts through resident's yards, parking on side streets). An additional concern is the problem concerning the additional burden to the existing schools in

the area. The added number of children could very well overwhelm the capacity of the area schools.

3) Water shed issues which would impact the lower laying areas to the north, west and south of the development. The proposal as now submitted calls for two on-site dry detention cells to hold water during storm events. The detention ponds are designed to drain in 24 to 48 hours. I believe that the potential exists for the standing water to generate a general health hazard to people in the area due to insect infestation and also the inability to handle major rainfall incidents. This inability would cause added water runoff to the existing homes on the west side of the project and potentially cause damage to the properties. There is also a potential safety hazards for children and/or pets due to standing water.
4) The rezoning from R-1 to R-3 is not compatible with the existing neighborhood. In addition, the waiver to allow more than 40 dwelling units on a dead-end street should not be approved. Due to public safety issues such as ability for emergency vehicles and rescue personal to have access to the dwellings in the case of fire or other medical problems, the limited access should not be allowed.
5) Property values of existing properties will be adversely affected by the development. Due to many of the points listed above, the values and attractiveness of the existing properties would decrease. There is also the issue of the invasion of privacy for the people living in the homes around this proposed development. The fact is that the height of the proposed buildings and the current topographical layout of the area would lead to zero privacy for many of the homes on the perimeter of the development. Many of the residents in the area have invested a lot of time, money and effort to improve their homes and a decrease in values would be detrimental to all the homeowners in the Trendwood area. Once again, the fact is that this project is akin to putting a square peg in a round hole, common sense dictates that this project is not a good fit for the area.
6) In regards to the existing Prairie Crossing development that this proposed development is similar to, comparing them is like comparing apples and oranges. The 33rd & Yankee Hill project is not surrounded by single family, owner occupied homes. That development was part of a planned area and therefore is an appropriate development regarding the surrounding buildings. This project is not even remotely comparable to Prairie Crossing due to all of the items I have listed. Therefore any type of comparison is not logical.
7) Additional noise and light pollution would be detrimental to the quality of living for the existing residents. There will be much more traffic, noise, and activity at the development which would adversely affect the people of the neighborhood. Due to the close proximity of the buildings to the existing homes, this factor would cause a negative impact for all of the existing homeowners. It is also a point that there is a potential for additional garbage accumulation, vandalism and crime due to the added population density of the apartments.

In closing, we understand that change is a part of life. Many times positive things can come out of new ideas and developments. However, the proposal as it is written has no positive impact for our neighborhood or community. It is our opinion that this is a completely inappropriate usage of the area and we will do everything within our means to voice our opposition to this development as will

our neighborhood organization. Thank you for your time to review our concerns and I hope that as this proceeds that many of you will look at this logically and understand the validity of our points. Also I would hope that you will show some concern for the many older residents of the Karl Ridge and Alicia Ln homes. Many of these retired people have served the country and community with hard work and dedication for many years. They should have the respect and admiration of the people on the planning commission, the City Council, the Mayor's office and the Department of Urban Development, as well as all city agencies. They deserve the right to enjoy the peace and quiet of the neighborhood that they expected when they purchased their homes. This project would cause a tremendous amount of stress and anxiety for many of them. Again, thank you for your attention to this matter.

Sincerely,

Randy & Maria Taylor
2330 Devoe Dr.
Lincoln, NE 68506
402-486-1882

From: Dick Norris [mregor@neb.rr.com]
Sent: Tuesday, May 27, 2014 9:48 PM
To: Jean Preister
Subject: CPN 13020, CHANGE OF ZONE 14012 & SPECIAL PERMIT 14009

Gentlemen,

I will not waste your time by listing all of the things that concern me, but I am in agreement with the concerns presented by other members of the group that are apposing this development by the Lincoln Housing Authority. I will however mention my greatest concern is Special permit #14009. This standard of 40 dwelling units on a dead-end street was established for good reasons and should not be waived.

Richard L. Norris
2111 Devoe Drive
Lincoln, Nebraska 68506-3120