

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, July 10, 2002, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Roger Larson, Patte Newman, Greg Schwinn, Cecil Steward, Mary Bills-Strand and Tommy Taylor (Steve Duvall and Gerry Krieser absent); Ray Hill, Becky Horner, Brian Will, Tom Cajka, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Greg Schwinn called the meeting to order and requested a motion approving the minutes of the meeting held June 26, 2002. Newman requested a correction in the last paragraph on page 15, changing the word "pulverizing" to "polarizing". Bills-Strand moved to approve the minutes, as corrected, seconded by Newman and carried 6-0: Carlson, Larson, Newman, Schwinn, Bills-Strand and Taylor voting 'yes'; Steward abstaining; Duvall and Krieser absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION BEFORE PLANNING COMMISSION:

July 10, 2002

Members present: Carlson, Larson, Newman, Schwinn, Steward, Bills-Strand and Taylor; Duvall and Krieser absent.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 1808B, an amendment to the FALLBROOK COMMUNITY UNIT PLAN; FINAL PLAT NO. 02001, PARKER'S LANDING ADDITION; FINAL PLAT NO. 02004, THE PRESERVE ON ANTELOPE CREEK; FINAL PLAT NO. 02007, STONE BRIDGE CREEK ADDITION; and FINAL PLAT NO. 02020, POINTE EAST ESTATES 10TH ADDITION.**

Newman moved to approve the Consent Agenda, seconded by Taylor and carried 7-0: Carlson, Larson, Newman, Schwinn, Steward, Bills-Strand and Taylor voting 'yes'; Duvall and Krieser absent.

Note: This is final action on Parker's Landing Addition Final Plat No. 02001, The Preserve on Antelope Creek Final Plat No. 02004, Stone Bridge Creek Addition Final Plat No. 02007 and Pointe East Estates 10th Addition Final Plat No. 02020, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**PRE-EXISTING SPECIAL PERMIT NO. 27A,
TO AMEND THE PARKING LOT CONFIGURATION
ON PROPERTY GENERALLY LOCATED AT
SOUTH 27TH STREET AND OLD CHENEY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

July 10, 2002

Members present: Taylor, Bills-Strand, Larson, Newman, Carlson, Steward and Schwinn; Duvall and Krieser absent.

Staff recommendation: Conditional approval.

Proponents

1. **Dale Radebaugh**, Project Coordinator for **Alltel**, the applicant, indicated that he had just received the list of conditions of approval and requested a two-week deferral.

Steward moved to defer, with continued public hearing and administrative action scheduled for July 24, 2002, seconded by Bills-Strand and carried 7-0: Taylor, Bills-Strand, Larson, Newman, Carlson, Steward and Schwinn voting 'yes'; Duvall and Krieser absent.

There was no other public testimony.

**CHANGE OF ZONE NO. 3369
FROM AG AGRICULTURAL TO R-4 RESIDENTIAL
and
SPECIAL PERMIT NO. 1978,
STONE RIDGE COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
NORTHWEST OF THE INTERSECTION OF
SOUTH 27TH STREET AND YANKEE HILL ROAD.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

July 10, 2002

Members present: Taylor, Bills-Strand, Larson, Newman, Carlson, Steward and Schwinn; Duvall and Krieser absent.

Staff recommendation: Conditional approval; however, denial of the waiver of design standards for stormwater detention facilities.

Proponents

1. DaNay Kalkowski presented the applications on behalf of Ridge Development and Southview, Inc., the owners of this property. The owners are requesting a change of zone to R-4 and a community unit plan for 120 multi-family units and a clubhouse. Kalkowski submitted proposed amendments to the conditions of approval.

The 10-plexes will be located around two detention ponds with permanent pools of water. These owners are also the owners of the Wilderness Golf Course to the south and will use detention ponds to create attractive amenities and green space similar to those in the development to the south. The sidewalk has been taken off of the roadways and placed on the interior of the site to create a loop around the west lake and to create a very pedestrian friendly environment on the interior. The two ponds will be connected by a rocky waterfall. The west pond is lower than the east so the water will flow from one pond to the other over the rocks. The owners are proposing to construct a pedestrian crossing over this area to complete the interior sidewalk loop. Condition #1.1.1 requires the construction of a vehicular crossing through this area between the ponds. The owners are opposed to a vehicular crossing through this area because 1) they don't feel it is necessary, and 2) a vehicular crossing brings with it vehicular conflicts with pedestrians. The intent is to orient to pedestrians and pedestrian enjoyment. The proposed amendment to Condition #1.1.1 is a compromise to address health and safety issues, while maintaining the integrity of the pedestrian orientation.

- 1.1.1 Provide a ~~drive~~ pedestrian crossing across the dam connecting the north and south access drives that will accommodate ambulance traffic in the event an emergency occurs and the primary access to the south is blocked.

Kalkowski explained that this would require the pedestrian crossing to be constructed sufficiently to accommodate ambulance traffic if there was an emergency and the access to the units on the south were totally blocked. She believes this is acceptable to Public Works.

Kalkowski acknowledged that sidewalk plans were not included with the original submittal, but they have now been submitted and she believes that all amendments proposed are acceptable to the staff.

With regard to the request for waiver, Kalkowski informed the Commission that the waiver being requested is the design standard that requires that an outlet be provided that would allow a retention facility to be completely drained. The waiver is necessary because the owners intend to maintain the retention ponds as permanent pools of water of sufficient depth

to keep the blue water conditions. The owners have provided additional information to Public Works and the proposed amendments add Condition #1.1.9 to address the concerns of Public Works:

- 1.1.9 Add a note that states, "Applicant, as owner of the property, recognizes the design of the detention facilities could potentially result in additional maintenance issues and costs that are the lot owner's responsibility."

Kalkowski believes the waiver is now acceptable to Public Works.

The other amendments proposed are:

- 1.1.2 Provide a sidewalk ~~along one side of the drive loop~~ throughout the interior of the complex, with sidewalk connections made to allow direct access to South 27th Street, Yankee Hill Road, Hollynn Lane, to the unlabeled building, and installed along both sides of the drive connecting to the 'Future Drive Access' noted north of the site.
- 1.1.4 Provide outdoor recreation facilities consisting of a ~~½ basketball court~~, playground (including swing and spring toys), ground surface, with a shaded seating area consistent with the review from the Parks and Recreation Department.
- 1.1.5 Provide a ~~blanket~~ an identified utility easement over the site ~~except for building footprints~~ acceptable to LES.
- 1.1.8 Show the unlabeled clubhouse with vehicular and pedestrian access from the internal road system, ~~with the access drive off Hollynn Lane deleted~~.
- 3. The City Council approves associated requests:
 - 3.1 Change of Zone No. 3369.
 - 3.2 Waiver of the design standard that requires an outlet to be provided that will allow a retention facility to be completely drained when required for silt removal, maintenance or inspection.

Kalkowski concluded, stating that this project has nice amenities with the internal sidewalk network, water space and green space around the water features.

Steward inquired as to the mechanism for assuring maintenance of the two pond areas. Kalkowski stated that all of the property is under the same ownership. If the owners were

doing a subdivision, they would be required to sign a subdivision agreement regarding maintenance. As the owners, these applicants maintain ownership of the entire complex without a subdivision and, as such, it is the owner's responsibility to do the maintenance. If they were to subdivide in the future, there would be a subdivision agreement covering the maintenance issue.

Steward inquired how the owners will control pedestrian use and safety where the vehicular and pedestrian entrance merge. Todd Lorenz of Olsson Associates explained that they are proposing to keep the raised curb on the paved area to not encourage people to use it.

With regard to Condition #1.1.2, Carlson was concerned about the access, particularly with the apartments on the south to the east being close to Yankee Hill and those close to 27th Street. Kalkowski stated that they are showing access out to Yankee Hill and a second access. She presented an exhibit showing the internal sidewalk network. The conditions still require direct access to Hollynn Lane and over to 27th Street; also down to Yankee Hill. When the site plan is resubmitted, those connections will have to be shown to the satisfaction of Public Works and Planning.

There was no testimony in opposition.

Assuming we will have sidewalks along 27th Street and Yankee Hill Road, Carlson was interested to know where the connections are likely to be required. Brian Will of Planning staff showed the connections on South 27th and Yankee Hill which are envisioned by staff. There is no hard and fast standard. Staff is looking for some connection that makes sense and provides a level of service.

Carlson asked staff to respond to the applicant's proposed amendments. Will agreed with the proposed amendments, with the exception of Condition #1.1.1. The staff would like to see "fire trucks" included in this amendment. Steward suggested "emergency vehicles". Will indicated that would be acceptable as long as it included fire trucks. The staff wants to make sure it accommodates both. The Fire Department did review this application but they did not provide any comments. Schwinn believes the engineering to design a bridge for a fire truck vs. an ambulance vs. a car is entirely different.

Response by the Applicant

Kalkowski indicated that adding "fire trucks" to the amendment to Condition #1.1.1 is not acceptable to the applicant because it changes the scope of what they are trying to accomplish. There is no standard. We have one ownership so all of the internal roads are drives—not public access easements or public roadways. There is no standard that talks about how long a drive must be. There is a standard for dead-end streets. Even if you use that standard, this project still meets the standard with the drive because if you measured from

the point where you can't have two separate accesses, it is under 1,000 ft. The street is 25' wide. There are areas along the way for pull-off. There are drives behind the garage. There is green space. The Fire Department's only comment was to make a connection either to the north or to Yankee Hill Road. A connection has been made to the north. Kalkowski believes that the language being proposed is acceptable to Public Works. We don't want to take the next step because it is not necessary and it hurts the integrity of what we are trying to do in that center area.

Steward observed that the applicant would have to re-engineer all of the radii on the pedestrian condition for the fire trucks. What are the side yard conditions? Are the side yards sloped? Do you have walkout conditions? Lorenz explained that the area around the paved area and the buildings is relatively flat. On the lake side of the apartments it does slope down with a 20' wide flat space. On the outside of the complex it does slope a bit up to Yankee Hill Road. The first building adjacent to the clubhouse is flat so that if the access was blocked it could jump the curb and find a path. The chance of the obstruction of a 25' wide roadway would be a very unique situation. There will be fire hydrants according to code.

Public hearing was closed.

CHANGE OF ZONE NO. 3369

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 10, 2002

Bills-Strand made a motion for approval, seconded by Newman and carried 7-0: Taylor, Bills-Strand, Larson, Newman, Carlson, Steward and Schwinn voting 'yes'; Duvall and Krieser absent.

SPECIAL PERMIT NO. 1978

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 10, 2002

Bills-Strand made a motion to approve, with conditions, with the amendments as requested by the applicant, seconded by Steward.

Schwinn commented that as far as apartment complexes go, he believes this is going to be one first-class place.

Motion for conditional approval, with amendments as requested by the applicant, carried 7-0: Taylor, Bills-Strand, Larson, Newman, Carlson, Steward and Schwinn voting 'yes'; Duvall and Krieser absent.

COUNTY SPECIAL PERMIT NO. 195,
BEAVER CREEK COMMUNITY UNIT PLAN,
and
COUNTY PRELIMINARY PLAT NO. 02011,
BEAVER CREEK,
ON PROPERTY GENERALLY LOCATED
AT THE SOUTHEAST CORNER OF
134TH & “O” STREETS.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: July 10, 2002

Members present: Taylor, Bills-Strand, Larson, Newman, Carlson, Steward and Schwinn; Duvall and Krieser absent.

Mike DeKalb of Planning staff submitted a letter from the applicant requesting an additional four-week deferral.

Steward moved to defer, with continued public hearing and administrative action scheduled for August 7, 2002, seconded by Larson and carried 7-0: Taylor, Bills-Strand, Larson, Newman, Carlson, Steward and Schwinn voting 'yes'; Krieser and Duvall absent.

Newman requested more information about the water issues with this development.

There was no other public testimony.

CHANGE OF ZONE NO. 3368
FROM R-3 RESIDENTIAL TO O-3 OFFICE PARK
and
USE PERMIT NO. 144,
FOR 105,000 SQ. FT. OF OFFICE/COMMERCIAL,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 70TH STREET AND PIONEERS BLVD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: July 10, 2002

Members present: Taylor, Bills-Strand, Larson, Newman, Carlson, Steward and Schwinn; Duvall and Krieser absent.

Proponents

1. **Michael Rierden** appeared on behalf of the applicant and agreed with the staff recommendation and conditions of approval, except for three conditions relating to the proposed pedestrian connection from this development over east to the Fox Hollow area. Rierden requested that Conditions #1.1.13 and #1.1.14 be deleted, and that Condition #3 be amended to allow this applicant to contribute \$20,000 toward the construction of the pedestrian easement.

Rierden explained that Condition #1.1.13 requires that a pedestrian connection be shown on the site plan, and Condition #1.1.14 requires this applicant to design the pedestrian connection. Rierden displayed a map showing that this is a “nasty” area to be trying to do anything. There is the Holmes Lake flowage easement, floodplain, floodway and wetlands. All of this is the domain of the Corps of Engineers. This applicant does not want to have to deal with the Corps of Engineers as a developer because it takes quite some time to actually come to an agreement with the Corps. If the city wants a pedestrian connection, the city would be better equipped to work with the Corps. At the last public hearing, this applicant offered to make a \$17,200 contribution to the connection. Since then, the applicant has met with the staff and the staff is requesting a contribution in the amount of \$57,200. Rierden believes that to be way in excess of this developer’s responsibility. This developer is now offering a contribution of \$20,000. If this pedestrian connection does not happen, the developer agrees that the city can utilize the funds for the proposed bike path on the east side. This would be an outright contribution to the city for the pedestrian connection or for the bike path. Rierden believes this to be a fair resolution of this problem. He suggests that there is a real question as to whether or not there will ever be a pedestrian connection.

Carlson inquired whether the applicant would contribute \$57,200 if they got it all back if the connection is not built. Rierden’s response was “no”. Rierden did not know the total investment in this development at this point in time but he would guess it to be more than a million dollars.

Schwinn inquired as to who owns the Holmes Lake flowage easement. Rierden advised that it is a private property easement to the Corps of Engineers. The dog run is owned by the city.

Rierden acknowledged the benefit of the pedestrian connection and it would be an amenity to this development, but the contribution of \$20,000 is certainly fair.

There was no testimony in opposition.

Steward was interested in hearing the rationale for this spread of opinion about appropriate costs. Jason Reynolds of Planning staff suggested that this development is going to generate a certain level of pedestrian interest. The new Comprehensive Plan suggests that shopping

centers have pedestrian connections to the neighborhood. This development is generating that pedestrian traffic; therefore, the staff is asking for the amenities the same as for sidewalks along the private roadways.

Bills-Strand noted, however, that generally we are not trying to go through a floodplain and a floodway to make the connections.

Reynolds stated that the cost breakdown is about \$7,200 for the sidewalk and then \$50,000 for research, mitigation and construction of a low water crossing.

Bills-Strand wonders what the odds are in getting it approved by the Corps. Reynolds believes it is a decision of the Planning Commission and City Council. The Comprehensive Plan has indicated that such a connection should exist.

Schwinn pointed out that these connections could be on the north side of 70th and on the east side of Pioneers Blvd. Reynolds believes there is also a question of the level of service of the sidewalk system.

As far as the mechanism for the contribution, Carlson inquired as to staff's response to adjusting Conditions #1.1.13 and #1.1.14 so that what they are providing is a financial contribution and not doing the design. Reynolds explained that with the grading and drainage, it should be relatively trivial to provide a trail platform within the site. As far as the design and construction of the low water crossing, that would be something covered by the contribution and the city would be working with the Corps on the design. It is necessary to have the grading plan provide a platform for the sidewalk to get up to the parking level (Condition #1.1.13). Reynolds believes the Commission could delete Condition #1.1.14 and adjust Condition #3, if desired. But Condition #1.1.13 should not be eliminated.

Carlson asked staff to respond to the applicant's proposed amendment to Condition #3. Reynolds suggested that it would be acceptable if "total cost" is substituted for "\$20,000.00". If the Commission is looking to have a higher dollar amount, but refund the difference, then the language should describe that condition.

Bills-Strand wondered whether there should be some kind of a deadline. Reynolds suggested that typically, with the sureties the city accepts, there is a certain deadline within which the private party is to construct. If not done, the city can call the surety and construct it.

Schwinn inquired about the property on the other side. He believes there were some preliminary discussions about what Don Hamann (the owner) wanted to do with that property. Ray Hill of Planning staff recalled the discussions—Hamann's property is being developed today. The other area owned by Dr. Fricke has already been developed into homes and duplexes. There are no specific plans for the area in this general location, but there have been

discussions about commercial and office on the south side of Antelope Creek. Bills-Strand wondered whether there is any obligation for the other properties to come in and meet half way. Hill suggested that the Parks Department might be able to speak more about the bike path that is being built on the north and east side of Antelope Creek.

Schwinn inquired whether the area we refer to as Fox Hollow Park directly to the south of the bike path is in the floodplain. Hill referred to the map on page 110 of the agenda, which describes the Holmes Lake flowage easement, the 100 year floodplain by elevation and the 100 year floodplain by the mapping. There is quite a bit on the east side in the flowage easement but outside of the actual floodplain. The easement is based upon the elevation of the spillway of the Holmes Lake dam.

Schwinn wondered whether this is part of the Holmes Lake redevelopment project. Terry Genrich of the Parks Department indicated that it is intended to be part of that project. Funding will be an issue as to what we do in that area. There are discussions about acquiring an easement on the east side of Antelope Creek for the trail in order to connect to the trail that exists to the dog run now, continuing under Pioneers Blvd. and all the way down to Hwy 2. That connection is essential for the trail system. We will be putting an underpass at Pioneers as well. The Parks Department has worked through the floodplain issues before doing the trails.

Bills-Strand still wondered whether the developer on the other side has any obligation to do half of the connection. Hill's response was "no". The connection is to the commercial area.

Larson sought confirmation that the easement on the trail could be in the floodplain. Schwinn believes that it can. Larson suggested that the sidewalk should be able to be in the floodplain as well. Schwinn stated that that also requires a Corps of Engineers permit.

Response by the Applicant

Rierden believes there are alternatives. The bike path has not been designed yet. There could be a connection to Pioneers Blvd. as a tributary off the main bike path. There are less costly solutions than what the city is proposing. This is a unique area and is problematic. We can't even touch the ground to do any grading until we get permission from the Corps of Engineers. Some value should be placed upon this applicant giving up an easement area for this pedestrian wherever this pedestrian connection might be located.

Steward sought clarification from the applicant that Condition #1.1.13 forces this applicant into an engagement with the Corps of Engineers. Rierden believes that Condition #1.1.14 does more so. The applicant could easily show a bike path or pedestrian connection on the site plan as required by Condition #1.1.13, but he believes that is really an exercise in futility until the Corps of Engineers gets involved. Hill explained that the conditions proposed by staff ask

the applicant to show a design on the site plan. If that design gets changed, we can do an administrative amendment to make a revision to the design. We are wanting the Commission to require the design so that it is part of this project. We don't want them designing, building and grading in such a way that would prevent the path we are talking about. Rierden stated that he does not want to argue about Condition #1.1.13. They can show the connection on the site plan with the understanding that it could change.

Public hearing was closed.

CHANGE OF ZONE NO. 3368

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 10, 2002

Steward moved approval, seconded by Bills-Strand.

Carlson wondered about tabling action on the change of zone until a decision is made on the use permit. Rick Peo suggested that the Commission could deal with the use permit first, with a condition on the use permit requiring approval of the change of zone. Carlson believes there is enough issue on the use permit that he does not want to change the zoning until he knows the outcome of the vote on the use permit.

Bills-Strand thinks it is proper zoning for the area.

Motion for approval carried 6-1: Taylor, Bills-Strand, Larson, Newman, Steward and Schwinn voting 'yes'; Carlson voting 'no'; Krieser and Duvall absent.

USE PERMIT NO. 144

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 10, 2002

Steward moved to approve the staff recommendation of conditional approval, with amendments deleting Condition #1.1.14 and amending Condition #3 as submitted by the applicant:

3. The owners shall contribute the amount of \$20,000.00 to be utilized by the City for a, within the limits of their property, construct a pedestrian connection to the proposed bike trail on the east side of Antelope Creek at such time as the bike trail is constructed, or shall provide a surety in an amount determined by the City to guarantee the construction of the connection. If the City is unable to obtain the necessary permits to construct the pedestrian connection, then the \$20,000.00 may be utilized by the City for the construction of the bike trail on the east side of Antelope Creek.

Motion was seconded by Bills-Strand.

Steward believes this is a “fuzzy” set of conditions to be voting on under any circumstance in terms of the financial characteristics from the information given to the Commission previously and now. It appears that this might be a middle ground, compromised position, that may not satisfy either side, but it seems fair under the circumstances and information that the Commission has been given. He is reluctant to believe that there is \$57,000 of actual real costs when it has not been engineered and with all of the contingencies of the Corps and all of the water related conditions. On the other hand, he believes that a pedestrian connection to this development is absolutely necessary for this neighborhood.

Carlson moved to amend to change \$20,000 in Condition #3, to \$57,200, seconded by Newman.

Carlson agrees that it is awkward to be banting the particular numbers back and forth. He would rather err on the side of Parks and the numbers they have generated. The pedestrian connection requirement is in the Comprehensive Plan and we need to be serious about it.

Schwinn commented that if it is in the Comprehensive Plan and it is that important to the city, then the city should be the one to pay for it. If the \$57,000 or total cost is substituted for the \$20,000 in Condition #3, and the city doesn't spend it, the applicant doesn't get the balance back.

Bills-Strand pointed out that the other side didn't contribute anything to the sidewalks. She believes it is an unfair system. She believes this applicant is contributing a fair amount with the \$20,000.

Motion to amend Condition #3 to replace “\$20,000” with “\$57,200” failed 3-4: Taylor, Newman and Carlson voting ‘yes’; Bills-Strand, Larson, Steward and Schwinn voting ‘no’; Krieser and Duvall absent.

Schwinn believes that the \$20,000 is probably going to be enough and he also thinks that maybe in the future as the buildings get finished and the potential of the business to the north comes forward, the developer may come forward and be willing to contribute more to make sure this happens.

Motion for conditional approval, with amendments deleting Condition #1.1.4 and amending Condition #3 as requested by the applicant, carried 7-0: Taylor, Bills-Strand, Larson, Newman, Carlson, Steward and Schwinn voting ‘yes’; Krieser and Duvall absent.

There being no further business, the meeting was adjourned at 2:05 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on July 24, 2002.