

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, June 16, 2010, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Leirion Gaylor Baird, Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Jeanelle Lust, Jim Partington, Lynn Sunderman and Tommy Taylor; Marvin Krout, Steve Henrichsen, Tom Cajka, Christy Eichorn, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Lynn Sunderman called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Sunderman then requested a motion approving the minutes for the regular meeting held June 2, 2010. Motion for approval made by Francis, seconded by Taylor and carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Taylor and Sunderman voting 'yes'.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION BEFORE PLANNING COMMISSION:

June 16, 2010

Members present: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 10003, PRE-EXISTING USE PERMIT NO. 13D, STREET AND ALLEY VACATION NO. 10006 and MISCELLANEOUS NO. 10003.**

Ex Parte Communications: None

Taylor moved to approve the Consent Agenda, seconded by Esseks and carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'.

**CHANGE OF ZONE NO. 10014,
NORTHWOODS PLAZA PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED
AT NORTH 84TH STREET AND HOLDREGE STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

June 16, 2010

Members present: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor.

Ex Parte Communications: None.

Staff recommendation: Conditional approval.

Staff presentation: **Tom Cajka of Planning staff** submitted a letter from the applicant requesting to modify Condition ##1.4, 1.17 and 1.13 (to which staff agrees) as follows:

- 1.4 Revise the Land Use table to show the 55' height for only Lots 6,7,8 & 10. Add an asterisk to the lots that are allowed a 55' height and a note at the bottom of the table that “*Buildings on Lots 6, 7, 8 and 10 are permitted to be over 40 feet in height to a maximum of 55 feet in height, provided that (a) the eave height is a maximum of 45 feet, and (b) that it is a pitched or gabled roof. Residential uses are only an option for Lots 7 and 8.”

- 1.13 Revise the Land Use Table total to show;
176,900 sq. ft. with Lot 6 being commercial without hotel
~~211,000 sq. ft. with Lot 6 being a 86-room hotel~~
163,900 sq. ft. of commercial floor area and an 86-room hotel

- 1.17 Add a note stating that the existing trees along the southern boundary shall remain and that the 50' setback shall remain as open, green space. No buildings, driving aisles, or parking are permitted in the setback. The developer shall provide additional evergreen trees in the 50 foot setback adjacent to the five eastern-most single family lots. These trees shall include larger trees relocated from Lot 10 on the site plan or newly planted trees. Prior to granting a building permit on Lot 7 or Lot 10, the trees are required to be planted in the 50 foot setback.

Cajka explained that these amendments are being requested for clarification in response to the neighbors wanting some additional qualifications on the area where the development exceeds the height for the district and to be sure that there is some open space maintained.

Cajka presented the proposal for a change of zone from B-2 use permit to B-2 planned unit development (PUD) in order for the developer to have some flexibility in the type of uses that are allowed. The biggest change is that the PUD will allow residential development,

i.e. either 80 multi-family dwelling units or up to 120 elderly housing, assisted living or domiciliary care type units. They need the PUD in order to do the residential because the base zoning of B-2 only allows residential above the first floor and the first floor has to be non-residential. To do stand alone residential, they need the PUD. The PUD does not restrict the development to residential but gives an option for commercial or office, if desired.

Cajka pointed out that the area for the possible future residential use is along Lot 7 and Lot 8. There is a 50' buffer open space which would remain as open space with no buildings, no driving aisles, no parking lots, etc. There is already a mature growth of trees in this area and the developer has agreed to add more screening along the southern boundary.

Cajka pointed out that approximately one-half of the site is already built out. The vacant lots are 6, 7, 8 and 10, and those four lots are the lots for which the height waiver is being requested.

Francis inquired about the elevation of the back yards of the residential on Rainy Road versus the 55' building height; in other words, what the residents might see. Cajka deferred to the developer.

Gaylor Baird inquired whether the staff is comfortable with the proposed revisions to the conditions of approval. Cajka stated that the staff is in agreement because the amendments provide further clarification. The allowed commercial is 176,900 sq. ft. if they do not build the hotel. The allowed commercial is 163,900 sq. ft. with the hotel.

Proponents

1. Pam Dingman of Engineering Design Consultants, 1021 D Street, appeared on behalf of the applicant requesting this zoning change for a B-2 PUD. The developer did meet with the residential neighbors twice, and her clients would agree to add language for stating that there would not be elderly care facilities or retirement facilities on either Lot 6 or Lot 10.

2. Dave Johnson of Studio 951 Architects, 800 P Street, testified as the architect and as one of the owners of this development. With regard to the elevations, Johnson explained that the first five or six lots are walkout lots, the last five being daylight and ranch style. By the pond, the finished floor of the houses are about even with the property. As you start going up the hill, the property stays relatively flat and the lots start going up the hill.

They have met with the neighborhood 6-7 times over the last three years in developing different ideas for this development. At one point when they were considering the hotel development, they did a cross-section study showing the spot elevations as to the finished floors of those houses in order to show the relation to the hotel building. There are two rows of very mature pine trees. The reason there is only one row on the last four lots is

because the existing use permit shows a drive at that location. The developer has agreed to not have any buildings, parking or drives in that 50' space. At the time of the development of the hotel, another row of trees will be added in that easterly four-lot area. Eventually, they will be relocating some plantings or will secure new trees to meet the recommendation.

Johnson acknowledged the request to exceed the height allowed for the district. He explained that this development creates a prairie style feel with some low pitched roofs, and they would like to continue that look but it is difficult to get any density with the three-story building with a pitched roof at 40'. He believes that architecturally, the additional height will allow them to continue the prairie style feel with the increased height to 55', i.e. the eave height at 45' and maximum built height at 55'.

Esseks noted that the south end of the property seems quite low and this will be adding impervious surfaces. How will you deal with the runoff? Dingman stated that there was a drainage study done at the time of the use permit. It currently drains to an existing pond located in the southwest corner and then out into the creek. The drainage study was approved by the City back in 1997 when the original Northwoods development use permit was submitted. It has been determined that the total amount of impervious surface is not being significantly increased from what was previously commercial/office.

There was no testimony in opposition.

Staff questions

Taylor asked for clarification of the request. Cajka explained that this proposal requests a PUD because they are not sure what they are actually going to develop. They want the option for elderly housing, commercial office, etc. The hotel is only allowed on Lot 10. The hotel use is not considered residential – it is commercial. The request to exceed the height limitation to 55' is only for Lots 6, 7, 8 and 10. The only area that is not built at this time is the four lots – the hotel and three lots.

Upon further discussion it was noted that the Lot referred to in the revised Condition #1.13 should be Lot 10 as opposed to Lot 6. The hotel was originally shown on Lot 6 and is now proposed for Lot 10.

Dingman then approached and stated that her client understood that they could have the hotel use on either Lot 10 or Lot 6 with the PUD overlay. Cajka explained that there was an administrative amendment done last year that relocated the hotel from Lot 6 to Lot 10. He was not aware they were wanting the flexibility for the hotel on Lot 6 or Lot 10.

Dingman then indicated that the developer would accept only Lot 10 for the hotel with the requirement of 150' away from the southern property line. Lot 6 would then be only commercial.

Esseks does not understand why we would prohibit the hotel use on Lot 6 if there is no significant public purpose to be achieved by doing so. Lot 6 is right on Holdrege, and from a commercial point of view, he believes a hotel would be good there. Johnson indicated that the developer would like the flexibility, but in further discussions with a couple of hotel chains, they indicated that Lot 10 would be the place where they would want to locate a hotel. Suburban hotels like to be off the main streets. Johnson agreed to the hotel only being allowed on Lot 10. The developer agreed to the 150' spacing from the hotel use because Lot 10 would make it closer to the neighbors' houses than Lot 6.

Cajka then stated that Planning would not object to the option of having the hotel on Lot 6 or Lot 10.

Response by the Applicant

Dingman clarified that the developer did agree with the neighbors that they would not put a hotel use within 150' of the southern boundary; thus the hotel could not be allowed on Lots 7 or 8.

Upon further discussion, Dingman explained that the intent of the proposed amendment to Condition #1.4 is to limit someone from getting a four-story building with a flat roof, which is why the developer has called out the maximum eave height of 45', limiting the building to the three stories.

Lust stated that she understands the height request for Lot 6 and Lot 10 where there might be a hotel, but if Lots 7 and 8 are put aside for residential uses, are we talking about a three-story house? Dingman explained that they are talking about a 3-story apartment building or 3-story elderly care building or retirement facility. If you wanted to build a 40' building with a flat roof, you could still do that, but if you want to go higher, that is where the 55' comes in with the limitation on the eaves (for residential or hotel).

The amendment to Condition #1.4 attempts to clarify that they would not put residential uses on Lots 6 and 10.

Lust noted that the e-mail from Jennifer Strand suggests that there be no retirement or domiciliary facilities on Lots 6 and 10, but she does not see that in the conditions of approval.

Sunderman then suggested deleting, "Residential uses are only an option for Lots 7 and 8." from Condition #1.4, and adding a new condition #1.21 that says Lots 6 and 10 are to be commercial only—no residential. Dingman agreed.

Johnson then requested that the Commission be careful with this wording because the Building & Safety Department would consider a hotel as a residential use in issuing a building permit, even though a hotel is a commercial use in the zoning code.

Esseks confirmed that the only commitment the developer has made to the neighbors to the south is to not have the hotel on Lots 7 and 8. Dingman clarified that the client has made two commitments to the neighbors: Not to have a hotel along the southern 150', and not to have retirement, elderly care or domiciliary care on Lots 6 and 10. Esseks suggested that otherwise we are imposing restrictions that seem to have no purpose.

Cornelius observed that the proposed amendments have now become complicated enough that he will move to defer for two weeks to clarify the amendments.

Taylor asked staff to clarify how the conditions should read. Cajka suggested that the bottom line is that Lots 7 and 8 can be used for commercial, office, multi-family, domiciliary care, assisted living, elderly housing, nursing home, etc. Lots 6 and 10 can be used for commercial, office or hotel – no residential. As far as the zoning ordinance is concerned, the hotel is not a residential use. He does not believe this would be a problem at Building & Safety. It would be in compliance with the use permit, which shows it as a hotel.

Cajka further explained that Jennifer Strand's client was concerned about there being residential uses on Lots 6 and 10. So if we put a note that says residential uses are only an option on Lots 7 and 8, then they cannot do residential on Lots 6 and 10. Dingman believes that Jennifer Strand represents The Legends.

Steve Henrichsen of the Planning staff then approached and submitted suggested amendments to the applicant's requested amendments to the conditions of approval as follows:

- 1.4 Revise the Land Use table to show the 55' height for only Lots 6,7,8 & 10. Add an asterisk to the lots that are allowed a 55' height and a note at the bottom of the table that “*Buildings on Lots 6, 7, 8 and 10 are permitted to be over 40 feet in height to a maximum of 55 feet in height, provided that (a) the eave height is a maximum of 45 feet, and (b) that it is a pitched or gabled roof.” Residential uses are only an option for Lots 7 and 8”.

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developer shall provide additional evergreen trees in the 50 foot setback adjacent to the five eastern-most single family lots. These trees shall include larger trees relocated from Lot 10 on the site plan or newly planted trees. Prior to granting a building permit on Lot 7 or Lot 10, the trees are required to be planted in the 50 foot setback.

1.21 No apartments, elderly or retirement housing or assisted living units are permitted on Lot 6 and Lot 10.

Henrichsen explained that there is already a table and notes on the plan; there are already notes that say they can do residential on Lots 7 and 8, so there is no reason to repeat that here.

Esseks commented that the Commission is trying to honor the commitments which the applicants have made to the neighbors, and after they have taken a deep breath and looked at this and it's all right, he is ready to vote.

Dave Johnson indicated that the applicant is in agreement with the amendments as suggested by Henrichsen. These amendments comply with the intent of what the developer has agreed upon with the neighbors and with what the developer wishes to do with the project.

ACTION BY PLANNING COMMISSION:

June 16, 2010

Cornelius moved to approve the staff recommendation of conditional approval, with the amendments requested by the applicant, as amended by staff, seconded by Taylor.

Gaylor Baird commented that despite the amount of clarifying done today, she wanted to commend the applicant on their efforts to work with the neighbors and meet many different interested parties' concerns to come up with a solution. It is nice when these things are worked out before the meeting and the Commissioners are grateful for that effort.

Francis stated that it is a lovely subdivision and she hopes to see other beautiful buildings there.

Motion for conditional approval, as amended, carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Taylor and Sunderman voting 'yes'. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 1:55 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on June 30, 2010.

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