MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, December 1, 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, 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 November 17, 2010. Motion for approval made by Larson, seconded by Cornelius and carried 5-0: Cornelius, Esseks, Larson, Partington and Sunderman voting 'yes'; Francis, Lust and Taylor abstaining; Gaylor Baird absent at time of vote.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **December 1, 2010**

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

The Consent Agenda consisted of the following items: **COUNTY CHANGE OF ZONE NO. 10023, CHANGE OF ZONE NO. 10022 and MISCELLANEOUS NO. 10010.**

Ex Parte Communications: None

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

SPECIAL PERMIT NO. 531G
TO AMEND THE WILDERNESS VIEW TOWNHOMES
SUBAREA OF THE SALT VALLEY VIEW COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT CREEKSIDE TRAIL AND WARLICK BOULEVARD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: December 1, 2010

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

Ex Parte Communications: None.

Staff recommendation: Conditional approval.

Staff presentation: **Christy Eichorn of Planning staff** explained the proposal to amend the existing Salt Valley View Community Unit Plan (CUP), the original of which was established in 1964. This proposal amends the Wilderness View Townhomes, which is a subarea of this larger CUP, which consists of several subareas, including Ruskin Place Apartments, The Meadows, Salt Valley View Addition and Wilderness View Townhomes Addition. The Wilderness View Townhomes area is the area that is being amended. Almost everything north of Warlick Boulevard is not affected by this amendment.

The land being added is Lot 45 to the west of the existing Wilderness View Townhomes. The current zoning is R-2, and with this amendment it will remain R-2. The existing Wilderness View Townhomes area is zoned R-4.

This amendment will add 22 units, with the potential of 27 that could be allowed. There will be the same setbacks and waivers, design, off-street parking, etc., as approved in the existing CUP, except for the addition of 4.77 acres.

Gaylor Baird noted that the analysis in the staff report mentions that the Health Department has concerns about proximity to the rail line. Eichorn stated that the Health Department always has concerns when there is any kind of development within 300 feet of a rail line because of potential spills that can happen on railroad tracks. However, there are no regulations that prohibit residential or commercial development within any given distance of a rail line. That issue was discussed by the joint committee of the Planning Commission and Board of Health. It is something that potentially needs more attention in the future, and that is why Health has mentioned it here and will continue to mention it in the future.

Gaylor Baird inquired as to any buffer in this case. Eichorn believes that the rail line goes right up to the property line, but she did not know the distance between the actual railroad track and the rear lot line. The rear yard setback is approximately 20', so it would be 20' plus the distance from the rear lot line to the tracks. Gaylor Baylor wanted to know whether we have situations like this elsewhere in the city. Eichorn could not give any specific

examples, but there are residential developments with rear yard setbacks up to railroad property and railroad lines.

Esseks inquired whether there are any regulations regarding notifying tenants or purchasers of such land of the possibility of any dangerous incident relating to railroads. Eichorn indicated that there are no notification requirements as far as railroad tracks are concerned, and she believes that is the purpose of the Health Department comment.

Esseks inquired whether a notification condition could be added to this special permit amendment that could be recommended to the City Council. Eichorn offered to discuss with Department Directors and provide a respond later in this hearing.

Francis referred to the letter received from a neighbor concerned about access and traffic. She wondered whether this additional area will cause more area traffic backup. Eichorn stated that generally, the city is going to limit the number of units for a particular area. On the original CUP that was approved in 2006, there was a note that said it was approved for 162 units with at least two ways in and out of the development. Until there are two access points, they could only develop 50 units, with increase to 100 units with Planning Director approval. Since that original CUP was approved, the developer has been allowed to build 62 units – no more units will be allowed until a connection is made between Wilderness View Townhomes and Ruskin Place Apartments. That road has not yet been constructed, but there is an agreement in place for that road to be built in the spring. The developer will not build any more than 66 units on the site until that road is constructed. The total overall development is now 172 units, but they could not have that full build-out until the second access is constructed and the road through Ruskin Place and ITI has been established. Francis pointed out that these townhomes back up to Warlick Boulevard, so in regard to the hazardous materials, the railroad and the setback, Francis suggested that Warlick Boulevard also carries truck traffic so there could be the same concern with trucks on Warlick Boulevard. Eichorn agreed. The Health Department just wants people to be aware that these are areas that potentially carry hazardous chemicals and anytime you have moving objects there is the potential that there could be a spill and it needs to be brought to the attention of the public. It could occur mostly on highways and railroads as opposed to public streets.

Lust suggested that in general, rail traffic has been shown to be safer than truck traffic.

Esseks is interested in inserting some type of warning into the document so that purchasers will be aware of the potential danger of hazardous spills.

Proponents

1. Tom Huston, 233 S. 13th Street, Suite 1900, appeared on behalf of the applicant, **Wilderness View Townhomes**. After the CUP was approved in 2006, his client was approached by the Nebraska Department or Roads to purchase the adjacent 4.7 acre tract, which is now being added on the southwest corner. The dwelling unit count set forth by the Planning staff is accurate and this amendment would increase the number of units by 22, which is 80% of the maximum permitted density.

Huston pointed out that the red line on the map is the approximate location of the secondary access road that will be built and has been negotiated by Fiserve, the adjacent Ruskin Place Apartments and the Wilderness View Townhomes. It had been anticipated that it would be constructed yet this fall, but they only received one bid and will take it out to bid again and attempt to get it built in the spring. This is a condition of the special permit. That secondary access is really for emergency access purposes. It will not address any function issue at Warlick, Old Cheney Road or 14th Street. There is a limitation as to how much access we can deliver to this site. He has seen the long range plans and he understands that Old Cheney Road may be re-routed in the future to eliminate that intersection at Warlick Boulevard and Old Cheney Road. The driveway into Fiserve which will connect to this access point has helped alleviate a lot of the access and traffic problems in peak hours.

The 4.7 acres being added includes 8 lots and it will back up to the railroad. Huston stated that he does not have a problem adding a note to the site plan to notify potential buyers that the railroad exists. He did point out, however, that just to the north there is a whole row of houses that already back up to the same rail line, and the city has not required any type of notice to potential buyers in the past.

Esseks noted that the staff report indicates that currently 422 dwelling units have been approved, with only one access. This is a request for more units; however, the Planning Commission has received a letter from Robert Loos, a former right-of-way agent, who says that currently during rush hour and when Fiserve is coming and going, the traffic is horrendous at the intersection of Warlick and Old Cheney. Esseks believes the second access would seem to help the problem, but why is it only for emergency purposes? Huston acknowledged that the emergency access will allow a second access point for Ruskin Place Apartments and the Wilderness View Townhomes. The problem is not the traffic around these developments, but the peak hour traffic at Old Cheney and Warlick. Huston suggested that when Old Cheney Road is re-routed, it will clean up that intersection considerably, but that is not part of this project.

Esseks pointed to the Condition #1.6, which states:

> Revise General Site Note #19 to state "A total of 66 dwelling units is permitted prior to the construction of the previously required second access point.....".

Will that second access point be for trucks and cars generally? Huston explained that the existing footnote #20 indicates that his client could develop and build 54 dwelling units without the second access point. There is also a note #21 that states that the Planning Director may approve construction of an additional 56 units, for a total of 110. We have previously increased the number of dwelling units from 54 to 66 until another access point is constructed. This second access is really to address the design standard on access through an intersection for certain dwelling units.

Mike Eckert, Civil Design Group, approached and clarified that they have done the design for the emergency access road. Even though the intent was to serve as a second access for emergency, the design is such that a vehicle can travel on it – 25' wide to allow two-way traffic with a very expensive box culvert, meeting all the Watershed Management standards for a residential street. It is not going to be gated. If a resident comes to the main entrance and sees traffic backed up, they can use the additional access. The bigger issue of traffic at Warlick and Old Cheney really has nothing to do with this development. This access will function basically as a parking lot driving aisle. It is not a named street. It will look and drive like a parking lot but will withstand all vehicles.

There was no testimony in opposition.

Steve Henrichsen of Planning staff testified as one of the staff members for the joint committee with the Board of Health and Planning Commission in 2005-06. The hazards of truck traffic and rail lines was not the focus of the committee at that time. Its focus was pipelines and storage and use of hazardous materials. They did not address rail lines. Henrichsen suggested that we wait for a future, much more detailed discussion about the risk of rail lines. A risk of derailing is more likely in an area of a switching yard or street crossing rather than a long string of rail. He is not sure what we would be telling people as far as there being a hazard. Some rail lines may have more hazardous materials than others. The Health Department continues to offer this comment as a general reminder. There has also been discussion about noise from rail lines and noise of transportation corridors, but we do not have anything specific to require on a case-by-case basis. There are other areas where homes have been built adjacent to rail lines.

Lust believes any such notification would just be stating the obvious. You're not going to have a railroad going through your back yard without noticing it. We do not know that it is a fact that the homes will be adjacent to a rail line that carries hazardous materials. Not every rail line is equal in terms of potential hazard.

Esseks stated that this is the third time in his tenure on the Planning Commission that there has been concern with whether residents should be notified about the risk. What Mr. Henrichsen has stated about risk and hazardous waste from a railroad makes sense. On the other hand, is there anything in our current regulations that will inform people who are about to buy property of a non-trivial risk and that they should be aware of it and take steps to prepare for it? Henrichsen stated that there are no regulations in terms of conditions requiring notification if within so many feet of a rail line, or highway, or busy arterial street or interstate as to risks from hazardous materials being transported or from nosie. We believe that to be useful for the committee to address in the future. Esseks wondered whether this is on the agenda of that joint committee. Henrichsen confirmed that both distance from noise and hazardous material transit is on the agenda when the group gets back together. It is a joint committee of the Planning Commission and the Board of Health. The Planning Commission is now involved with the LPlan update, meeting every two weeks, and there have been other groups meeting, so for the moment he does not see this happening in the year 2011.

Esseks is concerned that there is potential for a lot of people being hurt or killed and we're putting it off for a year. Henrichsen suggested that there are lots of risks that people take in terms of driving, flying, corridors, etc. We have discussed sorting out the risks, i.e. is it high enough to ban from living nearby, do you do notification, and, if so, how. There is a lot of discussion that needs to take place.

Francis noted the comments from Public Works about the small lots and two-car driveway. Is there a condition in place covering this issue? Eichorn believes that comment was based on previous discussions. Whenever we have a development with smaller lots and smaller setbacks, there is a discussion about the location of the parking. Technically, the development is supposed to provide 5' from the curb of the driveway on either side, but Fire and Police have expressed concerns about on-street parking. When we talked about smaller lots about a year ago, we talked about the need to have at least 22' in front of the lots to provide for an extra vehicle. The CUP has provided off-street parking that is not directly in front of the lots and there are several additional stalls near the curbs, mitigating the need for the 22'.

Response by the Applicant

With regard to off-street parking, Huston stated that there is a two-car garage for each unit, and a two-stall driveway, thus four parking spaces, plus 45 additional off-street parking spaces. 90% of the units already have 22' in front of their unit, so there are only 10% that do not have it and that is because of the curbs in the streets. Huston believes they have addressed all of the parking requirements.

Sunderman asked Huston to comment about Condition #1.1 to revise the site plan to the satisfaction of Public Works. Huston stated that they have resolved all issues with Public Works. Eckert clarified that those comments include the 22' standard, etc., and they have worked with Public Works to make adjustments and have reached agreement.

ACTION BY PLANNING COMMISSION: December 1, 2010

Francis moved to approve the staff recommendation of conditional approval, seconded by Taylor.

Sunderman believes this is a good proposal. With the additional land and modest increase in units, it appears to be well planned out and will work well in this area. He believes that the limitation on the number of dwelling units constructed until the second access is in place is appropriate. There are a lot of traffic concerns about the Warlick and Old Cheney area, but they are larger concerns that deal with more than this particular area.

Motion for conditional approval carried 9-0: Taylor, Lust, Esseks, Larson, Partington, Gaylor Baird, Francis, Cornelius and Sunderman voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

There being no further business, the meeting was adjourned at 1:35 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on December 15, 2010.

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