

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, June 26, 2013, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Cathy Beecham, Michael Cornelius, Tracy Corr, Chris Hove, Jeanelle Lust, Dennis Scheer and Lynn Sunderman (Ken Weber absent); Marvin Krout, Steve Henrichsen, Brian Will, Christy Eichorn, Brandon Garrett, Sara Hartzell, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

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

Cornelius requested a motion approving the minutes for the regular meeting held June 12, 2013. Motion for approval made by Lust, seconded by Hove and carried 7-0: Beecham, Cornelius, Corr, Hove, Lust, Scheer and Sunderman voting 'yes'; Weber absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

June 26, 2013

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

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 13003, ANNEXATION NO. 13002, CHANGE OF ZONE NO. 13011, TEXT AMENDMENT NO. 13007, TEXT AMENDMENT NO. 13009, COUNTY TEXT AMENDMENT NO. 13008, COUNTY TEXT AMENDMENT NO. 13010, USE PERMIT NO. 152A, COUNTY SPECIAL PERMIT NO. 13018 and SPECIAL PERMIT NO. 13020.**

There were no ex parte communications disclosed.

Lust moved approval of the Consent Agenda, seconded by Hove and carried 7-0: Beecham, Cornelius, Corr, Hove, Lust, Scheer and Sunderman voting 'yes'; Weber absent.

Note: This is final action on County Special Permit No. 13018 and County Special Permit No. 13020, unless appealed to the Lancaster County Board of Commissioners within 14 days.

SPECIAL PERMIT NO. 1995A
AN AMENDMENT TO THE
HUB HALL HEIGHTS COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT N.W. 48TH STREET AND W. HOLDREGE STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 26, 2016

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

The Clerk announced that the applicant has requested a two-week deferral.

Hove moved to defer, with continued public hearing and action scheduled for Wednesday, July 10, 2013, seconded by Scheer and carried 7-0: Sunderman, Corr, Scheer, Hove, Lust, Beecham and Cornelius voting 'yes'; Weber absent.

There was no public testimony.

CHANGE OF ZONE NO. 07060A
AN AMENDMENT TO THE WILDERNESS HEIGHTS
PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED
AT THE SOUTHEAST CORNER OF
SOUTH 40TH STREET AND YANKEE HILL ROAD:

June 26, 2013

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

There were no ex parte communications disclosed.

Staff recommendation: Conditional approval.

Staff presentation: **Christy Eichorn of Planning staff** stated that this is an amendment to a planned unit development (PUD), which is an overlay over the existing zoning district. The PUD allows adjustments to height, area and setback, and even adjustments to uses that are allowed in the underlying zoning district. In this case, we

have an approved PUD on the southeast corner of 40th and Yankee Hill Road. This amendment involves only the northern part of the existing PUD. The PUD is also being reduced in size by removing a small area and changing the zoning from B-2 PUD to R-3 Residential.

The purpose of the change on the north part of the PUD is to allow for a motorized vehicle sales and service facility, i.e. auto dealership. Currently, the property is zoned B-2 and B-2 does not allow auto dealerships – it allows service and gas stations, but no auto sales. This dealership will have three main buildings with service in two of the buildings.

The applicant had two choices – either 1) rezone to H-4, which allows auto dealerships, and include that as part of the PUD, or 2) adjust the PUD to allow for this specific use. This area is identified in the Comprehensive Plan as a neighborhood services center, and the staff believes it is appropriate to have an auto dealership in this location but not necessarily all of the other uses allowed in the H-4 zoning district.

Corr observed that it appears that some of the streets outside of the area have already been formed but there are no houses. Eichorn explained that the whole area came in as a preliminary plat and PUD, so some of the area has been graded but they have not built the roads. There are no lots or residential units east of this location.

Eichorn also pointed out that there is a drainageway with a conservation easement in an outlot just east of where the car dealership will be located, providing a buffer between residential to the east of the drainageway and the dealership.

Corr inquired about the specific use of the two small buildings for service. Christy explained that the two buildings will be used to service vehicles that are part of the dealership and would involve any kind of service done to automobiles. There also might be some service inside the big building. It may be more than just one dealership.

Proponents

1. **Tom Huston**, 233 S. 13th Street, Suite 1900, appeared on behalf of **West Dodge Place, LLC**, the applicant and an affiliate of Performance Auto Group. This involves an 8.5 acre site at the southeast corner of the intersection. The primary use will be a Lexus dealership, which is in need of a south location to serve its customers. The proposal includes a 40,000 sq. ft. building on the northernmost portion of the property, and the service dealerships would be for Performance Toyota and Chrysler, saving their customers the travel time to N. 27th Street for those residing in the southern portion of the City.

The applicant determined that the path of least resistance is the amendment to the PUD. The original PUD authorized approximately 46,000 square feet, consisting of a

bank and five restaurants and office uses. This application proposes to increase the square footage for up to 60,000 square feet, but based upon the traffic study, there will be a significant reduction in the traffic generated as compared to the higher intensity uses, resulting in approximately 60% reduction in the amount of trips generated.

From an aesthetic standpoint, Huston indicated that the applicant is agreeable to installing landscaping and additional screening which is not otherwise required. The development plan required in the PUD will contain design standards that will be incorporated within the design requirements for construction on this site.

Huston also pointed out that this site is at the intersection of two main arterials, but is isolated from any residential areas by 200+ feet. The conservation easement will accept the drainage for this and many other portions of the site.

Huston advised that there is also an amendment to the Annexation Agreement that will go along with this PUD amendment as it proceeds to the City Council. He pointed out that the widening of South 40th Street will not be required for this use. They intend to commence construction this fall.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

June 26, 2013

Lust moved approval of the staff recommendation of conditional approval, seconded by Hove.

Lust commented that this is a good development for the corner. There are a lot of car dealerships in the area, it fits in well and it is nice to see development on this property.

Corr believes it appropriate to have this development occurring before any residential is built so that purchasers who will build houses will know it is already there. She observed and pointed out that the staff report indicates that Planning would prefer that the building be moved further toward the corner and she thinks that is important to create the neighborhood feel.

Cornelius appreciates that this lessens the impact of development in the area on South 40th Street.

Motion for conditional approval carried 7-0: Sunderman, Corr, Scheer, Hove, Lust, Beecham and Cornelius voting 'yes'; Weber absent. This is a recommendation to the City Council,

COUNTY CHANGE OF ZONE NO. 13012
FROM AG AGRICULTURE TO AGR AGRICULTURE RESIDENTIAL,
ON PROPERTY GENERALLY LOCATED AT
SOUTH 72ND STREET AND LEISURE PLACE,
AND
FROM AGR AGRICULTURE RESIDENTIAL
TO AG AGRICULTURE,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 68TH STREET AND MARTELL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 26, 2013

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

There were no ex parte communications disclosed.

Staff recommendation: Approval.

Staff presentation: **Sara Hartzell of Planning staff** indicated that this is a unique change of zone request in that it is in response to some changes that the City of Hickman has made to their extraterritorial jurisdiction (ETJ), i.e. the area between the corporate limits and the defined distance. The defined distance for Lincoln is three miles; for Crete and Seward it is two miles; and for villages and cities of the second class, such as Hickman, the defined distance is one mile. This does create situations where the zoning line runs through the property. To deal with some of those issues, the City of Hickman recently went through a process and pulled back their ETJ to follow more along lot lines (but not beyond the statutory area allowed). This resulted in a “stair step” approach.

The Lancaster County zoning resolution provides that whenever new territory comes into Lancaster County, it is automatically zoned AG. There are three areas that used to be zoned R-1 in Hickman that are now being changed to AG. The staff looked at the three areas and talked about the impact and determined that we should take action to come up with the appropriate zoning.

There is one lot southwest of Hickman that was zoned R-1 when in Hickman’s jurisdiction. Because it affects one three-acre lot, the staff did not believe a change to AGR would either benefit or harm because the houses are already built.

Area A is being changed from AG to AGR to reflect the use and lot size existing. This will also create a continuous zoning pattern that reflects the historic zoning of these properties.

Area B is being changed from AGR to AG because there has been no further action to develop the property and it has remained in agricultural use.

Lust inquired why action needs to be taken if territory which comes into the county is automatically zoned AG. Hartzell explained that it is because that area now coming into Lancaster County was formerly in the jurisdiction of the City of Hickman which has different zoning classifications. It provides consistency.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

June 26, 2013

Lust moved approval, seconded by Scheer.

Cornelius commented that this is mostly housekeeping and making sure we have consistency within the way the ETJ was changed for Hickman.

Motion for approval carried 7-0: Sunderman, Corr, Scheer, Hove, Lust, Beecham and Cornelius voting 'yes'; Weber absent. This is a recommendation to the Lancaster County Board of Commissioners.

**SPECIAL PERMIT NO. 13022,
JOSHUA'S GLEN COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 56TH STREET AND SHADOW PINES DRIVE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

June 26, 2013

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

Cornelius disclosed that he works with a relative of the owner of the property who had asked him if he had any information on this application. Cornelius stated that he consistently referred the individual to the Planning staff.

Staff recommendation: Conditional approval.

Staff presentation: **Brian Will of Planning staff** presented the request for a community unit plan which is allowed by special permit in the R-3 zoning district. Will reminded the Commission that an associated change of zone application from AGR to R-3 on this property came before the Planning Commission two weeks ago. That application changed the zoning on the irregular portions from AGR to R-3 to provide consistent zoning across the site.

This request is seeking approval for a site plan that shows 90 dwelling units. 156 units was noted as the overall density allowed by the zoning district; however, the proposed site plan shows only 90 units. The larger number would allow additional units in the future by administrative amendment.

There are two types of units being proposed with South 57th Street being the line of demarcation. The units on the eastern portion are what we call townhomes (attached single family dwelling units – two units sharing a common wall with each unit on its own lot). The other units are 24 true townhomes -- two-story structures on narrower lots. To accommodate this site plan, there are waivers being requested, including minimum lot width and minimum lot area and required setbacks, including front and rear setback. The waiver of the rear yard setback establishes a uniform setback of 20', and staff is agreeable. The setbacks for the lots adjacent to the conservation easement and creek are adjusted to zero in that they back up to the creek and open space. The adjustment to front yard setback relates to the corner lots. There is a note to insure there is some relief to the side of the building to address the appearance being closer to the street.

As noted in the staff report, Will acknowledged that there are some development constraints with this property, including the development to the south with regard to access. This developer is required to show street connections to adjoining properties. Those connections are shown on South 57th Street and South 58th Street. There is a prior approved preliminary plat for one lot to the north, with an approved street layout, so the challenge was to figure out some way to make that street connection. This plan shows a way for that to happen with South 58th Street.

The other access (South 59th Street) was more challenging. A conservation easement was purchased several years ago by the Lower Platte South NRD, so there is an easement over that area that must be respected. There are terms and conditions of that easement. There was considerable discussion about whether or not the South 59th Street connection as shown is allowed; however, just very recently, the applicant has come to an understanding with the NRD and there will be a land swap to facilitate the street connection.

Will also pointed out that there are some design standard waivers which have been reviewed and approved by Public Works.

Lust inquired whether the streets that are shown to the north have already been approved by preliminary plat. Will explained that back in 2005-06, the property owner came forward with a request and has an approved preliminary plat over the property to the north; however, there is an intervening lot. The approved preliminary plat showed a typical lot layout, but also showed a street projecting through and curving down to the southeast corner. With that approved, the challenge is to provide for that street connection with future development. While there is an intervening property, we do have to account for that street projection. There is a way to make those connections and

build the internal street network. There is no technical reason that cannot occur. That is the challenge about developing these areas sort of piece-meal.

Lust inquired whether development can go forward with no connectivity to 56th Street to the north. Will stated that this does not bind the internal property to the street layout. All it is showing is the connections to the street network that are being proposed. The more development that occurs around you, the more limited are your options, but it is feasible. He is not bound by that street layout.

If future connections to 56th Street do not occur, Lust observed that this may be approving a development that could landlock these owners? Will agreed, if they never develop. The presumption is that they will develop. There are three townhouse developments creating the development pattern and we believe that development will continue to occur. The real challenge is to show a street layout with this development to show it is feasible to create an internal street network as the property to the north develops.

Sunderman noted that Shadow Pines Drive will be connected to 56th Street on this development. He wondered whether that road and the connecting roads are designed to handle the traffic capacity. Will responded affirmatively. If this property and the properties to the north fully develop, there will be another connection to the north at approximately Cumberland Drive. But, if Cumberland does not happen, Sunderman wondered whether Shadow Pines Drive could handle the capacity. **Dennis Bartels of Public Works** agreed that obviously, it will increase the traffic onto that road but Public Works has determined that it will not increase it beyond what can be expected on a local street. The street that is there will handle the traffic.

Beecham referred to the two-story townhomes and the view of the dwelling from the street. She is concerned about there being no windows on the first floor. Will pointed out that Note #21 on the site plan is intended to address that concern. It requires that:

The principal street facade of each dwelling shall have at least one door. The principal street facade of each dwelling shall also have a minimum of one window per story oriented to the street. If the dwelling is two stories in height, both required windows may be located on the second floor. ...

We are trying to get away from blank walls.

Hove asked if South 59th Street is developed. Will responded that it is not. It is being proposed and will go to the south edge of this development. Then as property to the south develops, it will be extended on south. Hove suggested then that at this point the only access is Shadow Pines.

Proponents

1. **Mike Eckert of Civil Design Group** appeared on behalf of Joshua's Glen LLC, the applicant, which has done several projects in the City over the past several years (Cameron Townhomes), which have been successful in serving the need for low priced, affordable homes.

Eckert provided history relating to the waiver requests, stating that the developer has already made some revisions based on the staff comments. Most of the Cameron Townhome developments in this community use private streets, simply implying that the long term ownership and maintenance is by a homeowners association, and it does afford the developer the ability to get a little more density. The initial layout of this project was based on continued waivers; however, staff encouraged the developer to move away from private streets as much as possible. It is just an issue of long term maintenance. They worked with staff and are now down to just two private drives that stub toward 56th Street. The rest they have been able to accomplish in a public road format with a lot of adjustments to the front yard setbacks, etc. From a design perspective, there is a fixed elevation on 56th Street and 57th Street ends at a fixed elevation. The neighboring property has a fixed elevation that this developer cannot disturb, and then there is a conservation easement along the floodplain with a 23' elevation drop. It is a standard process in the subdivision design standards that the developer must show grading and roadway connections on the adjacent properties if not already developed. This developer is required to show a road and what they think the adjacent property could look like. The adjacent property owner has every right to change their internal road network when they develop.

Eckert stated that it has taken several months to get to this point on this project. The easement does provide for a road crossing. This developer has reached an agreement with the NRD to offer extra land to go into the conservation easement.

With regard to the traffic concerns, Eckert advised that he participated in the task force for the Access Management standards. Throughout the 1990's when growth really took off, the biggest complaint was that there is no guidance for access on our major arterials in this city. That task force came up with the guidance and the general conclusion that access points would be preferred every one-fourth mile. With this development, the developer would like to provide more access to 56th Street. This development showed a proposed connection to 56th Street and staff made it clear that it was not in accordance with the Access Management Policy. Therefore, this project was designed around that and they had to stub private streets going to 56th Street. As such, all of this traffic will come back to Shadow Lane, which is the new standard – the ¼ mile access. When 56th Street is widened between Pine Lake Road and Old Cheney Road, that intersection will eventually have a light when the traffic warrants it. Eckert believes this development may help reach those warrants. This is really a fairly standard connectivity issue. His

client is not excited about having to build the road but he understands that is the rule. Eckert pointed out that there are other places in this city where there are more units dumping out onto intersections and arterials and they are made to handle it. It is just the way that we have decided to go forward in our community to access arterial streets to try to improve drive times.

Eckert believes that this is a great infill project supported by the Comprehensive Plan; the developer is giving right-of-way for the widening of 56th Street and putting in all the streets, roads, sewer and water lines; and the developer will pay an estimated \$115,000 in street impact fees, \$24,000 in park impact fees, and \$166,000 in sewer and water impact fees.

Scheer inquired as to the percentage increase that will be gained for the conservation easement in the land swap. Eckert responded that the NRD will get 26,461 sq. ft. and the roadway will take up 24,491 sq. ft.

Other testimony, not in opposition but with concerns

1. **Michael Jaquez**, 6700 S. 59th Street Circle, stated that he is not in opposition but has questions. He and his wife own 4.5 acres and their neighbor owns 9 acres. He is concerned about 59th Street. 59th Street Circle is a gravel road now. What are the implications to him and his neighbor for the connection to 59th Street? Will they be required to help pay for the road?

2. **Joe Bentler**, 5735 Shadow Pines Court, and President of Shadow Pines Townhome Association, also stated that he and the association are neutral but very concerned about traffic flow. It is very difficult to get out on Shadow Pines Drive when 56th Street is busy. Why not give this developer access on 56th Street until that road is developed? If not, he asked that a stop light be considered sooner rather than later at Shadow Pines Drive and 56th Street. 56th Street is scheduled to be widened and it is not going to carry less traffic. Why not get ahead of the subject and at least get a stop light for ingress and egress out of those two subdivisions? He is not opposed to the development but a stop light would be a big help.

3. **Shelley Jaquez**, 6700 S. 59th Street Circle, stated that she is not in favor nor against the development. She wanted to know the plans for Block 4 in Joshua's Glen, which is the parcel closest to her property. Is it a goal of planning to mix the high density and low density as much as possible to mix income levels, or is it more the intent to keep "sames and sames" for comparable reasons in real estate values?

4. **Vera Salmon**, 5725 Shadow Lane, does not believe the streets proposed are adequate to handle the increased traffic. She would feel comfortable if she had a guarantee that the street going out to Cumberland would be a reality and not just a possibility. She would like them to look for other solutions.

Staff questions

With regard to the acreage development to the south, Will explained that the 59th Street connection is shown projecting to the edge of the proposed development. It is then open-ended as to how it connects to the acreages. At this time, those owners are under no obligation to build a street or make a connection. But at such time as those properties do redevelop, the platting process would show the streets. There is nothing those property owners to the south have to do as a result of this development.

Cornelius asked staff to talk about the city's philosophy with regard to mixing urban density and acreage density. Will referred to the future land use map, which designates future land uses around the city. This area is shown as future urban density. That does not say it is large lot single family or all apartments. The Comprehensive Plan talks about mixing uses and housing types. We want a mix of uses. What is being shown here is appropriate in that regard.

Will acknowledged that Block 4 is part of this CUP. It is one single residential lot in the southeast corner with a driveway connection shown to it. It is anticipated that there will eventually be some type of residence on that lot.

Hove inquired about the stop light at 56th Street. Dennis Bartels of Public Works stated that a stop light would be installed when the warrants are met. Public Works must comply with the warrants established by Nebraska state law, and they do not install signals until they meet warrant requirements, which include traffic counts, accidents, etc. It needs to be studied. As far as traffic projections, Bartels does not anticipate that the signal will be needed day one. Public Works anticipates getting the 56th Street improvements bid in late 2015 or 2016. An environmental impact statement is yet to be approved and the right-of-way cannot be acquired until the environmental impact statement is approved. They anticipate construction beginning in 2016. Hove inquired about the trigger to install the traffic signal. Bartels stated that it is typically traffic counts. However, he does not believe the widening will increase the traffic day one.

Beecham inquired whether there is a formula used to project traffic volume. Bartels indicated that Public Works does make some value judgments. For example, when the Walmart Store was built at 84th & Fremont, Public Works anticipated that it would increase the traffic enough to install the signal when the street system for the commercial area was installed. There is some judgment involved as to whether we want it there day one. He does not believe there will be a large change in traffic patterns at this location. More development would cause us to anticipate more traffic. Even at full development, the traffic engineers do not anticipate that this subdivision would warrant the traffic signal day one.

Response by the Applicant

Eckert acknowledged that the one large lot is just a single family lot and that they have reached agreement with the NRD as to the access for that lot, making sure the driveway will have enough room and offset from the easement. It is just a single family lot.

Eckert also suggested that there is about 360 feet from the centerline of 57th Street to the centerline of 56th Street. The distance between those two intersections is quite reasonable to handle stacking, etc. They could possibly request that some striping might help for those folks making a right-hand movement to go north so as not to hold up traffic.

With regard to the acreage owners to the south, Eckert stated that their 59th Street access won't happen until they come forward with some type of development.

Eckert believes the developer has already addressed most of the issues set forth in the staff report. He expressed appreciation to staff for their willingness to work with the developer to do more public streets and the NRD on the easement issues.

ACTION BY PLANNING COMMISSION:

June 26, 2013

Lust moved to approve the staff recommendation of conditional approval, seconded by Sunderman.

Corr has some concerns about foregoing the windows on the first floor with just a door and a garage door. She does not prefer that design and does not think it is very neighborly. She does not think this particular layout lends itself very well to that concept. That causes her some concerns.

Beecham agreed. She appreciates the addition of glass. She would love to see something on the first floor other than garage door, door, garage door, door. Note #21 waives the window on the first floor and puts two on the second floor.

Cornelius believes this is something that looks very much like what we say we want in the Comprehensive Plan. It is an infill development – already developed on several sides. It is a small lot, small unit development which is something that we heard was desirable during the Comprehensive Plan update. On the surface, there might be some access challenges, but we have heard from our city experts that Shadow Pines Drive is capable of supporting the traffic and that there will be a signal installed as the warrants are met. And he believes there is a reasonable chance because of the growth as a result of this development, that those warrants may be met and the signal may appear sooner rather than later. We have heard this is a relatively common planning tool to show connectivity with neighboring properties for the future.

Motion for conditional approval carried 7-0: Sunderman, Corr, Scheer, Hove, Lust, Beecham and Cornelius voting 'yes'; Weber absent. This is final action, unless appealed to the City Council within 14 days.

There being no further business, the meeting was adjourned at 2:25 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on July 10, 2013.

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