

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, April 30, 2014, 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, Maja V. Harris, Chris Hove, Jeanelle Lust, Dennis Scheer, Lynn Sunderman and Ken Weber; Marvin Krout, Steve Henrichsen, Brian Will, 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 Jeanelle Lust called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Lust requested a motion approving the minutes for the regular meeting held April 16, 2014. Weber moved approval, seconded by Hove and carried 9-0: Beecham, Cornelius, Corr, Harris, Hove, Lust, Scheer, Sunderman and Weber voting 'yes'.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

April 30, 2014

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

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 11019A and SPECIAL PERMIT NO. 14004.**

There were no ex parte communications disclosed.

Hove moved approval of the Consent Agenda, seconded by Scheer and carried 9-0: Beecham, Cornelius, Corr, Harris, Hove, Lust, Scheer, Sunderman and Weber voting 'yes'.

Note: This is final action on Special Permit No. 11019A and Special Permit No. 14004, unless appealed to the City Council within 14 days.

COMPREHENSIVE PLAN CONFORMANCE NO. 14008,
WEST VAN DORN REDEVELOPMENT PLAN
and
CHANGE OF ZONE NO. 14008,
SPEEDWAY SPORTING VILLAGE PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED AT
PARK BOULEVARD AND VAN DORN STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 30, 2014

Members present: Beecham, Sunderman, Corr, Hove, Cornelius, Weber, Harris and Lust; Scheer declared a conflict of interest.

Staff recommendation: A finding of conformance with the 2040 Comprehensive Plan on the redevelopment plan and conditional approval of the PUD.

There were no ex parte communications disclosed.

Staff presentation: **David Landis, Director of the Urban Development Department,** explained that this is the second of three steps on this project. The area has previously been correctly identified as blighted and substandard. The blighted designation authorizes the use of redevelopment tools that the city has available in areas identified as blighted and substandard. The second piece is the creation of a plan on redevelopment for that area, and the third is a specific project designated to be inside the plan. Today's focus is the redevelopment plan itself.

Landis stated that this plan is proceeding toward a 13 million dollar project that has a number of soccer fields and associated uses with other potential improvements and suggestions as set forth in the plan. Landis pointed out that currently, a good deal of this area is supported by very bad public streets. The market would easily go to an area with built-out infrastructure, which this area does not now have. There is going to have to be storm sewer, water and electricity run to this area. This area is in the floodplain so it is a good area for the kind of use being proposed. It meets the no impact policy of the city and it is well located for the city and winds up being accessible to a large portion of the city.

Landis advised that most of the land that will be turned into the soccer fields is currently vacant; it is in the floodplain and it is ripe for the kind of infill development that we want in the city. The area has older structures, although there is not a great deal of residential. There is some existing commercial next to the playing fields. The roads will come into the development; there will be parking and connections to the trails on either side; and one will be a trail head.

Landis further pointed out that the proposed project includes a championship field next to the main structure, subject to the approval of the City. The structure oversees a lit area with a higher quality turf that could be used at night. The proposed redevelopment project

will require a planned unit development; however, the current industrial zoning will not change. It will continue to be industrial with a PUD overlay.

Landis concluded, stating that the redevelopment agreement is in its final stages, but the necessary pre-condition is the adoption of a redevelopment plan for the area.

Christy Eichorn of Planning staff presented the proposed PUD. The tool used in this particular development is the PUD, for the reason that outdoor recreational facilities are a permitted use in the I-1 Industrial District. The applicant could have come in and done an outdoor recreational facility on this property without the PUD, but the PUD helps us keep track and monitor the restrictions that the applicant is voluntarily putting upon itself in order to facilitate development in this area, including working with the Health Department on prohibiting certain materials and certain quantities of materials used in this area. Usually the Health Department wants a 300' buffer between hazardous materials and facilities. The applicant has worked with the Health Department to develop that list of materials which will be included in the PUD so that there is good documentation.

Eichorn also pointed out that Speedway Circle is already in existence. There are currently some buildings located north of Speedway Circle that do have some light industrial uses and they already meet the 300' separation. Another reason for the PUD is to keep track of the requirements due to the development in a floodplain. The PUD also allows the development to have private roadways instead of public streets, which is beneficial to provide flexibility on the width of the roadways, and there is more flexibility in the standards for private roadways than public streets. There is a public roadway coming off of Speedway Circle which circles all around the project. It is a private street and will have a public access easement over it.

Eichorn further pointed out that the PUD allows the regulation of alcohol as part of the whole development. The I-1 district allows on- and off-sale alcohol by special permit. The PUD allows the sale of alcohol without going through the separate special permit process. The proposed PUD meets those special permit requirements and the liquor license must be obtained through the State Liquor Control Commission where they will have to define the premises. The PUD specifically sets forth that alcohol is permitted as part of the PUD so a separate special permit is not required.

Eichorn emphasized that this tool (PUD) is being used because the underlying zoning already facilitates the proposed uses.

Beecham inquired where the alcohol will be allowed on the premises – is it anywhere within the PUD? Eichorn explained that from a zoning perspective, on-sale would be permitted within the boundaries of the PUD. In terms of the definition of the premises, that would happen with the State Liquor Control Commission. Beecham confirmed that the special permit for alcohol sales will not come back to the Planning Commission. Eichorn agreed.

Hove asked staff to explain the reason for the waivers recommended to be denied. Eichorn acknowledged that there are several waivers requested and staff is recommending that two of them not be granted, i.e. parking lot trees and the islands that the parking lot trees would be located upon. The applicant requested to relocate those parking lot trees to other places on the site. Staff is recommending denial of that waiver because parking lot trees are there to provide shade in the parking lot and to break up the large area of concrete – it is an environmental aspect. Without the parking lot islands, there is not place for the parking lot trees.

Corr asked about the parking. Eichorn stated that the stalls were calculated based on the same calculation used in other recent projects for outdoor facilities, i.e. 60 stalls per field, based on a team coming and a team waiting to take the field after the first team. This is not currently in the zoning ordinance but it has been a commonly used equation. The other parking standard, i.e., 1:300 ratio, which is common in the commercial zoning districts for retail and office uses, takes into account that it is not likely that all of the retail and office commercial type uses will be in use at the same time as the fields. There is a 50% break with concurrent parking. That makes the parking requirement ratio 1:600 in this circumstance. Eichorn also stated that staff has talked about a phasing plan with the developer because we do not necessarily want to see a sea of paved parking that is not utilized. As the fields are built, the applicant will need to come in at the time of building permit and show the parking to be provided.

With regard to the alcohol sales, Cornelius inquired how to arrive at the conclusion that on-sale alcohol is a compatible use with a youth sports complex. Eichorn responded, stating that this particular sports complex is going to serve both youth and adults. In I-1 zoning, they could apply for a special permit and staff would make the case that the whole complex functions as one big unit. The applicant does intend to have weddings and other functions in the buildings when not utilized for athletic events. There will be restaurants. At this point in time, there were no specific areas shown where the alcohol sales would be permitted; and the PUD meets all of the setback and separation restrictions required in the B-2 or B-5 zoning districts, which do not require special permits. If this were B-2 zoning, the applicant would not have to apply for a special permit for alcohol sales. When staff evaluated this site, it was determined that the PUD could meet all of the conditions of the B-2 and B-5 as one large property, or even as several smaller properties. Since this site meets all of the conditions, the staff is recommending approval of an I-1 special permit within the PUD.

Beecham wondered what happens if the use is changed to be all kids sports all the time. Wouldn't that need to come back because it is no longer a compatible use? She is very concerned about giving a blanket approval of the alcohol sales. The role of the Planning Commission is to check for compatibility. Eichorn referred to the three applications on today's agenda with alcohol sales, and stated that staff finds it important to be consistent on how the sale of alcohol is treated in three very similar types of developments. The Great American Sports Park up north will be B-2 zoning with a use permit, so they do not need to apply for a special permit for alcohol sales, meeting all of the separation and

setback requirements for B-2 and sale of alcohol. In this case, there would be the option to rezone the property to B-2, but the choice to do a change of zone just did not make a lot of sense in this area. To say that they would have to come back and get a special permit here when it is a very similar type of development as the B-2 zoning, staff just did not think it made sense. That is why staff is recommending approval of the alcohol sales as part of the zoning and the PUD, and allowing the premises to be defined when they apply with the State Liquor Control Commission. It is a consistency issue. Beecham inquired whether the state considers compatibility. Eichorn did not know.

Harris referred to the parking lot trees, noting the letter from the attorney stating that there is an existing LES power line easement. Given that, would the trees be tall enough to provide shade, etc.? Eichorn stated that LES is in agreement with shorter, ornamental trees. As far as the impact of trees on open areas that are paved or concrete, even a little bit of tree is better than no tree at all. It made sense environmentally to distribute the benefits of the trees, even if not 35' tall.

Proponents

1. Derek Zimmerman of the Baylor Evnen Law Firm, 1248 O Street, Suite 600, appeared on behalf of the applicant. He referred to the site plan and advised that there will be an indoor soccer field and trampoline facility north of the turf field; the building to the north of the primary parking lot is a basketball, indoor volleyball facility and they anticipate using the building as reception facilities for larger gatherings more social in nature.

With regard to the parking, Zimmerman stated that they have discussed different phases with staff to make sure parking is based on the current uses. There will be over 1,000 parking stalls at full build-out. There will be in excess of 271 stalls in the north area and there are 130 existing parking stalls. Zimmerman then explained the different phases of the development. A future phase is the retail/restaurant component which is compatible with this type of facility. When discussing a large plan like this, it is not anticipated that it will just be used for a youth facility. More uses are necessary with this size of facility. That is why the special permit has been combined within the PUD to allow flexibility for adult use, receptions, kennel dog shows and more regional events. The flexibility is desired to be able to serve alcohol during those times, if they arise. The applicant still has to appear before the Liquor Control Commission and the City Council, which will require the premises for alcohol sales to be defined. At that time, a discussion will also be had about the appropriateness of the alcohol sales.

In terms of the staff report, Zimmerman acknowledged that the applicant is in agreement with the conditions of approval in the staff report, including the recommendation to deny two of the waiver requests. At the time the application for the PUD was filed, the applicant was working with the LES easement area and was not comfortable not requesting a waiver in case it was needed.

Beecham inquired whether there will be a perimeter fence around the fields. Zimmerman stated that there will be fencing along the western exterior portion. There is a park to the west and they have to be careful about animals entering, etc. The fencing would be limited along the eastern portion so that people can walk from the parking lot to the soccer fields.

Beecham stated that she likes the idea of the flexibility of the space. Certainly, we don't want to roadblock that, but she would like a sense of whether we are talking about the alcohol sales in a clubhouse or open containers throughout the fields. Zimmerman stated that most of the discussions have involved the interior; however, when there are outdoor events like the dog shows or adult leagues, it is possible that outdoor sales could occur. This is not something where the applicant is looking to have a beer stand next to a second grade soccer field. The desire is to have the flexibility for adult-type events. The development is not far enough along at this point to specifically define the licensed premises; however, the applicant wants to make sure to have flexibility.

Beecham inquired whether there is a plan for training staff and handling someone who buys alcohol for someone underage. Zimmerman suggested that it is preliminary for the developer to have that discussion. That would be part of the liquor license request and they are not there yet. This PUD looks at the overall scope of the development and the flexibility that goes with the special permitting process.

Hove inquired whether it is the train track that is on east, and whether the railroad is requiring any type of fencing. Zimmerman confirmed that it is the railroad track on the east and he believes there will be fencing along the eastern side along the fields but not necessarily along the building.

Corr commented that she likes the attractiveness of the trails on both sides. Will there be openings in the fence for people to come from the trail to get in? Zimmerman responded that the applicant has discussed trail connections and sidewalks. There will not be any openings along the western side, but the trail head is up to the northwest. The connectivity has been designed so that sidewalks within the development are accessible to that trail head. In terms of the trail to the east, he believes there is going to be a connection along the northeastern portion and potentially another connection which he showed on the site plan.

Corr understands that this will be in the floodplain. Is the developer meeting all requirements for No Net Rise? Zimmerman answered in the affirmative. That is being addressed in the redevelopment agreement. When TIF funds are being used, it is a city policy that the No Net Rise or the No Net Fill standard must be met. No Net Fill is not attainable through this site because of the existing levee to the west. The building footprints are required to be brought up, but this development will meet the No Net Rise standard.

There was no testimony in opposition.

Staff questions

Cornelius inquired to what extent this “ties our hands” with a vote on the PUD with regard to alcohol. If we vote in favor of this, can we have a debate about the text amendment in the future? Eichorn acknowledged that there is a big picture question which talks about whether or not it is appropriate to have alcohol sales at outdoor recreational facilities. The text amendment is completely separate from this PUD because of the fact that there is still the opportunity to apply for a special permit for alcohol sales in the I-1 zoning district. If we weren’t doing a text amendment to deal with a different site and different facility that are not in B-2 or B-5 and did not have the use permit or PUD to deal with alcohol sales specifically, then we would be looking at it on those merits. The Planning Commission needs to consider it on the merits of the PUD based on the analysis that it meets all of the conditions of other zoning districts with alcohol sales.

Will advised that the state Liquor Control Commission considers some of the same things considered in a special permit, i.e. separation, etc., but it goes beyond that. The state licensing process is probably more involved with the character of the applicant and their background and history. The state liquor license process does have some separation requirements like the City’s conditional uses, e.g. separation from UNL, also from schools, etc., so there are some similar features like that. Those liquor licenses come to the City Council for review and recommendation; however, the state has ultimate approval authority. As part of the state liquor license process, the developer will have to define the licensed premises. In this case in I-1 zoning, separate from this PUD, an individual could apply for a special permit for on- or off-sale or both. Meeting those requirements, regardless of the use, it makes a really strong case for approval.

Beecham observed that it sounds like the state does not necessarily consider compatibility. It’s more the reliable of the owner, etc. Will agreed that compatibility relates more to land use and is probably not the state’s primary concern.

Lust pointed out that the liquor license does go to the City Council and the City Council would consider those things before making a recommendation to the state on the liquor license.

Corr inquired about the meeting held with the neighbors. Zimmerman acknowledged that they did hold a meeting and no one showed up in opposition; there were some representatives from the NRD and LES who were curious about the development. A representative from the Friends of Wilderness Park attended. They need to meet again, but Zimmerman has every indication that they are going to be in support.

Corr asked who was invited to the neighborhood meeting. Zimmerman stated that they invited everyone that the Planning Department notifies, and it was primarily businesses. There is a strip going north along some houses, the owners of which were invited, as well as the Friends of Wilderness Park.

Corr asked to see the sidewalk locations. **Nate Buss of Olsson Associates** showed the location of the sidewalks on the map. There is an existing sidewalk along Van Dorn Street; there is a connection along the south side of the road; and then on the east side of “this section of the road”; and across the road. The sidewalks will follow all along the outside of the parking, keeping the pedestrians and vehicles separated from each other. There is a proposed connection to the trails in two places. There are some internal sidewalks as well. Corr inquired about the northern end where all of the buildings are to be located. Buss acknowledged that there will be sidewalks alongside the buildings.

Beecham asked whether the developer is concerned about the one point of access. She wondered whether a traffic light might be necessary in the future. Buss indicated that they have analyzed the existing traffic patterns, but from the standpoint of a single point of entrance, he does not see any issues. Zimmerman added that for really large-scale events, one of the benefits of a private street is that it allows the flexibility to control access by setting up barricades, etc. In terms of a street light, the traffic warrants would have to be met before a traffic light would be installed.

COMPREHENSIVE PLAN CONFORMANCE NO. 14008

ACTION BY PLANNING COMMISSION:

April 30, 2014

Cornelius moved a finding of conformance, seconded by Hove.

Lust thinks this is a good redevelopment plan for the area. As we discussed two weeks ago, the area is a candidate for redevelopment.

Motion for a finding of conformance with the 2040 Comprehensive Plan carried 8-0: Beecham, Sunderman, Corr, Hove, Cornelius, Weber, Harris and Lust voting ‘yes’; Scheer declared a conflict of interest. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 14008

ACTION BY PLANNING COMMISSION:

April 30, 2014

Weber moved to approve the staff recommendation of conditional approval, seconded by Cornelius.

Beecham stated that the fact that this development will have a lot of adult-oriented uses makes her more comfortable with the idea of the alcohol sales.

Cornelius stated that he scratched his head over the issue of compatibility of uses. But hearing that it will have adult-oriented uses helps him get perspective. If he had to analogize this existing sort of use, he thinks of a bowling alley with a restaurant or sale of alcohol. He will support the motion.

Lust believes this is a good area for the use of the PUD overlay and appreciates the staff's willingness to figure out the best way to handle this property for redevelopment.

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

COMPREHENSIVE PLAN AMENDMENT NO. 14002,
FROM "URBAN RESIDENTIAL" TO "COMMERCIAL",
"GREEN SPACE" AND "ENVIRONMENTAL RESOURCES";
and
CHANGE OF ZONE NO. 14009,
FROM R-3 RESIDENTIAL DISTRICT AND I-1 INDUSTRIAL DISTRICT
TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT,
and
USE PERMIT NO. 14004
FOR AN OUTDOOR RECREATIONAL FACILITY,
ON PROPERTY GENERALLY LOCATED NORTH OF
SUN VALLEY BOULEVARD AND WEST OF LINE DRIVE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 30, 2014

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

Staff recommendation: Approval of the comprehensive plan amendment and change of zone, and conditional approval of the use permit, as revised.

There were no ex parte communications disclosed.

Staff presentation: **Tom Cajka of Planning staff** presented the proposal. The comprehensive plan amendment amends the Future Land Use map to change the area from urban density residential to green space, commercial and environmental resources. The western part of the property is from urban residential to green space/open space and the eastern half along the railroad corridor would be commercial and environmental resources.

The green space is where the proposed ballfields and parking lot would be located. Cajka pointed out that the boundaries on the Future Land Use map are general in nature and not to be interpreted as explicit or exact locations – in other words, it designates a general concept for the area.

The proposed change of zone is from R-3 and I-1 to B-2. The change of zone would be in compliance with the proposed use permit. This property was changed to R-3 some time ago, and at the time there were plans to add onto the existing apartment complex to the west. That never went forward.

Cajka pointed out that the I-1 portion of the change of zone is actually not included within the boundary of the use permit. The applicant is not quite ready at this time and does not know what they want to do with the I-1 tract.

The use permit is for the Great American Sports Park, all under the B-2 zoning, and the use permit shows future ballfields, parking, and future commercial development on the eastern edge. The application proposes some new streets. There are plans to realign Sun Valley Boulevard – not any time soon but at some point in the future. In the meantime, the proposal is to build the street directly across from Line Drive. Some day there will be another access to this development when Sun Valley Boulevard is realigned. In the meantime, there is an access which is the driveway that currently goes to the City tow lot. Thus there are two access points. The developer is currently working on a maintenance agreement for the new tow lot road as part of the redevelopment agreement.

Cajka then commented that a portion of the development is over a former landfill. Testing has been done and the majority of it has been described as “old construction debris.” A lot of that former landfill will be covered by the parking lot and ballfields.

Cajka then discussed the waivers being requested. The applicant is requesting a waiver to increase the center identification sign to 250 sq. ft. That sign will need to be approved by the Urban Design Committee as well. Staff is supportive of that waiver subject to approval by the Urban Design Committee. The applicant is also requesting a waiver to increase the building height for the hotel. Staff is also supportive of this waiver because it is generally difficult to do a hotel with the 40' height limitation. The third waiver being requested is for street trees and parking lot landscaping having to do with the landfill. This waiver is conditioned on NDEQ review of a waste disturbance plan. The applicant is also requesting to allow gravel parking for any parking stalls in excess of the required stalls for the ballfield area, and staff agrees.

Cajka submitted revised conditions of approval deleting Conditions #2.2, 2.9 and 2.11. Those conditions have either been completed or are being address in the redevelopment agreement. Condition 2.5 has been revised.

Lust inquired what type of things are typically allowed in the “green space” designation on the Future Land Use map. Cajka pointed out that there are other parts of the city with ballfields shown on designated green space. It is generally a large open area – large parks, recreational type uses. Since it is a generalized boundary, the “green space” may or may not include the parking lot.

Corr asked for further information on the sign location. Cajka showed that there are three center identification signs. The waiver is for all three signs. Their street frontage is a long ways away, so there will be pad sites with no visibility from the street. Part of the rationale for approving this waiver and allowing the larger sign is to provide enough room for the tenants' names on the signs.

Beecham wondered why all one B-2 package. She is having difficulty with that because she thought these uses were allowed in the I-1 zoning. Why are we putting the ballfields with a bunch of businesses? They are so very different uses. Cajka explained that in most zoning districts, the outdoor recreational facility is allowed by special permit, as well as the B-2 district. But because B-2 is a use permit district, the recreational facility can be included as a use without a separate special permit. Beecham expressed her concern – she may be comfortable with alcohol at the businesses but she sees it differently when it is an open area and not a controlled environment. She would rather see a separate special permit to understand why that use is special enough that we should approve it. Most of the uses are geared towards kids so she is not comfortable giving a blanket approval of the alcohol sales. Cajka further explained that the special permit is only for the recreational part – separate from the alcohol. Since it is a use permit and it has site plan review, the alcohol sales is added as a permitted use within the use permit. The alcohol sales is actually a conditional use in the B-2 district and this area is far away from any residential district or uses. Cajka suggested that the applicant speak to the intent for the alcohol sales and how they choose to regulate it. Planning staff has not set forth any kind of regulatory conditions on the alcohol sales as long as it meets the conditions of the B-2 district.

Corr inquired about the parking. Cajka stated that they are showing more parking than required, i.e. 60 stalls per field. They have asked for nonconcurrent parking which gives them a break on the ratio. He believes they are showing 200 extra stalls.

Proponents

1. Scott Sandquist appeared on behalf of the developer. They have been working with various city departments for quite some time, and quite successfully. This development is a critical economic engine for the city, not only for West Haymarket, but the fact that it will bring in tournaments, which is the big focus for this development. This brings out-of-town people needing a place to stay and to eat. He believes the subsequent uses that are added will be complementary to the ballfields. The most successful new parks across the country always have adjacent commercial.

Sandquist further commented that it is mixed use. They will start with the ballfields, but the commercial will subsequently include restaurants and hotels and things that support families coming to watch their kids play.

With regard to the sports park uses, Sandquist stated that they are showing 10 fields. They had initially shown twelve 200 ft. fields, but in an attempt to maximize the diversity of use, they enlarged most of the fields to 225 or 250 ft., which will allow some boys baseball. The fields are also arranged such that there are certain ones that can be joined to allow flag football and soccer, etc.

Finally, Sandquist suggested that the Commission may be well aware of the proposal by Vision 2015 to build baseball fields to the east in the tow lot area. That development remains to be seen. His point is that the primary focus there is legion baseball. This development, with girls basketball and youth baseball will be very complementary to the legion play. 83% of Lincoln's hotel visitors are here for sporting events, thus this will be an economic driver for the City.

Lust inquired whether the primary intent with regard to the alcohol is for the hotel/restaurants. Sandquist responded that the hotel/restaurants would be the primary reason; however, during August they will most likely have adult leagues where they might want to have the alcohol available.

Beecham commented that she grew up in a town where alcohol was allowed at games, and the alcohol did not always mix well when spectators got angry at calls by the umpire ending up with fist fights and calls to police. She is concerned about this during events for kids. She asked Sandquist whether he has a plan to make sure there is no underage drinking, security, etc. Sandquist stated that they do not intend to have alcohol at any children events – only adult events. In regard to outdoor alcohol or any alcohol, it's really kind of like the golf courses. But, Beecham believes the difference is that the golf courses have a point of entry. She thinks the alcohol may be less monitored in this situation. Sandquist offered that the facility will be entirely fenced with one gate. It will be a highly controlled access.

It was confirmed that there will be 810 parking stalls, excluding the commercial uses.

Corr noted that the staff report talks about the height increase – they cannot go beyond 75' because of the airport approaches. Sandquist acknowledged and agreed. Corr also noted that lighting is not to interfere with the runway approach. Sandquist also acknowledged and agreed. The lighting has not yet been specifically designed but the runway approach will be a major consideration.

2. Kent Seacrest appeared on behalf of the applicants, indicating that they have worked with the neighbors, including a neighborhood meeting where two people attended who were not neighbors to this project.

With regard to the bigger vision, Seacrest pointed out that “this isn’t just fields”. This is an attempt to make it so that families want to come. They will spend first generation dollars in the community. They want to create a situation where the families can literally stay, park and walk. It is intended to be a fun place so they come back year after year.

Seacrest also noted that the applicant has submitted request for waivers to the Access Management Policy. In that regard, Seacrest suggested that some day Sun Valley Boulevard will be relocated. At that time, this facility will want a third entrance. There is an existing bridge over the railroad tracks, thus they have to build a left turn pocket to come into the development and it will be impossible to be perfect with the tapers because of the bridge.

Seacrest expressed appreciation to the staff on this project.

Corr inquired as to who was invited to the neighborhood meeting. Seacrest stated that they used the Planning Department notification area, and also plan to meet with the West O businesses. Corr wondered whether the residents of the apartment complex were invited. Seacrest acknowledged that the apartment complex is within the notification area and the applicant has purchased the apartment complex land. They are very familiar with the intent.

There was no testimony in opposition.

Staff questions

Beecham noted that it was stated that the intention is not to sell alcohol at kids sporting events. If that were to change after we have granted this approval, does that not come back to the Planning Commission? Cajka stated that it would not. The only way it would come back is if there were some condition on the use permit pertaining to the alcohol. Then if they wanted to change it, they would have to come back to amend that condition in the use permit.

Corr inquired about flooding. She wants to make sure that everything will be okay here where the staff report talks about concentration of the watershed, etc. **Ben Higgins of Watershed Management** stated that overall, the concern is the major flooding, and it is localized drainage which can be worked out. Corr then asked about the detention pond and need for easements, etc. Higgins advised that Watershed needs to see the details and then it will have to be worked out according to the conditions of approval.

Regarding the whole left turn lane and southbound right turn lane, Corr asked whether the developer is responsible for that cost now before Sun Valley Boulevard is realigned. Cajka stated that the those improvements must happen before the realignment of Sun Valley Boulevard. **Mark Palmer of Olsson Associates** appeared on behalf of the applicant and clarified that these improvements are in the redevelopment agreement. They are part of

the local improvements required at the developer's expense. They will need to be coordinate with NDOR.

COMPREHENSIVE PLAN AMENDMENT NO. 14002

ACTION BY PLANNING COMMISSION:

April 30, 2014

Hove moved approval, seconded by Scheer.

Beecham believes the ball park is a big issue in regards to alcohol. She appreciates that the applicants have thought about a process with a plan in place for when they will sell alcohol and she also likes that it is fenced, thereby giving a little bit of control to the applicant. This has been a struggle for her.

Cornelius commented that if he had to characterize the misgivings that he has on these applications, it is that we have applied required separation between alcohol sales and a variety of uses in the ordinance, and one of those uses is "park". But what we have heard is that the separation in this case is plenty. It is private, but we have a mixing of park uses and other uses, including on-sale alcohol.

Corr observed that the example she thinks of is Spikes, and they are fenced but they also serve alcohol. They don't necessarily have children playing volleyball but it appears they do okay with a plan in place for the alcohol sales. She envisions a situation similar to that.

Sunderman pointed out that parks are kind of a "free for all" – not real structured. It appears that the areas in this case will be more structured with adults, organized play, etc. If there is on-sale, they won't be able to bleed onto the others simply by the permits with controlled access. It is the structure inherent in this that he will support.

Lust pointed out this particular motion is whether this project should have a change in land use in the Comprehensive Plan, and we have heard adequate testimony that it should.

Motion for approval carried 9-0: Scheer, Beecham, Sunderman, Corr, Hove, Cornelius, Weber, Harris and Lust voting 'yes'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 14009

ACTION BY PLANNING COMMISSION:

April 30, 2014

Cornelius moved approval, seconded by Corr.

Lust commented that this particular motion is whether to change the zoning in this area and she believes it is abundantly clear that the change from a residential use is appropriate.

Motion for approval carried 9-0: Scheer, Beecham, Sunderman, Corr, Hove, Cornelius, Weber, Harris and Lust voting 'yes'. This is a recommendation to the City Council.

USE PERMIT NO. 14004

ACTION BY PLANNING COMMISSION:

April 30, 2014

Hove moved to approve the staff recommendation of conditional approval, as revised, seconded by Corr.

Lust stated that she will support the development and believes this is a good sort of development for Lincoln.

Motion for conditional approval, as revised, carried 9-0: Scheer, Beecham, Sunderman, Corr, Hove, Cornelius, Weber, Harris and Lust voting 'yes'. This is a recommendation to the City Council.

TEXT AMENDMENT NO. 14001,
SECTIONS 27.06.080 AND 27.70.020,
DWELLINGS FOR NON-RELATED PERSONS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 30, 2014

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

Staff recommendation: Approval.

There were no ex parte communications disclosed.

Staff presentation: **Christy Eichorn of Planning staff** explained that this text amendment is for some clarification. In doing some research on student housing in R-6, staff noticed that the R-6 was not in the housing section and was listed in the Use Groups chapter. In reviewing the minutes on Use Groups, she found that it was specifically stated that student housing was not intended to be included in the AG, AGR or R-6 districts because in order to do student housing outside of the B-4 district, it requires 10 acres and a community unit plan. Student housing is a denser type of development and not the sort of development staff would encourage in the Agricultural zoning districts. This is just a correction. It was never the intent during the debate and approval of Use Groups to include student housing in the AG, AGR and R-6 zoning districts. It was mistakenly put into the table when it was originally developed.

Lust suggested that non-related persons is broader than student housing. Eichorn agreed that it would be any sort of dwelling with more than three non-related people living together. Lust wondered about an unmarried couple with children and/or a parent. Eichorn confirmed that they would not fall under the non-related status.

In response to a question from Corr, Steve Henrichsen acknowledged that Analysis #3 of the staff report contains an error, i.e., “During this update a ‘P’ was mistakenly put in the AG , AGR and R-6 zoning districts for Dwellings for Nonrelated Persons”. That “P” should be “S”. It is shown correctly on the chart.

Lust pondered that perhaps the law was not changed when Use Groups were adopted. This is just to correct the table. Eichorn clarified that “the table is the ordinance.” That is the reason for this text amendment. We cannot just change the ordinance without bringing it back through. It was a mistake.

Lust then suggested that if the Planning Commission were to see merit in the idea that unrelated people should be allowed to live together in an agricultural district, this is not the time to have that discussion. This text amendment corrects what was not meant to be changed in the law at that time. Eichorn agreed. There would need to be a community discussion before making that change.

Harris wondered if there are unrelated persons living in the circumstance now and did so while it was allowed, would they continue to be allowed to live together? Eichorn explained that we would not have that circumstance. This is specifically for the community unit plans in those districts, and since the Use Groups were adopted, we have not had any CUP’s approved to allow more than three unrelated people to live in one dwelling.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

April 30, 2014

Cornelius moved approval, seconded by Beecham.

Cornelius believes that this corrects an error that was made when the Use Groups were adopted. We are correcting an oversight. It has no affect on anyone as no CUP’s were created under this ordinance using that special permit.

Motion for approval carried 9-0: Scheer, Beecham, Sunderman, Corr, Hove, Cornelius, Weber, Harris and Lust voting ‘yes’. This is a recommendation to the City Council.

** 5-minute break **

**TEXT AMENDMENT NO. 14002,
DEFINE RESTAURANT AND ADD ON-SALE ALCOHOL
ON THE PREMISES OF A RESTAURANT AS A
SPECIAL PERMIT USE IN THE O-3 OFFICE PARK DISTRICT
and
USE PERMIT NO. 04006B
TO ALLOW RESTAURANTS AND ON-SALE ALCOHOL
AS PERMITTED USES UNDER THE APPROVED USE PERMIT
ON PROPERTY GENERALLY LOCATED AT
N.W. 1ST STREET AND WEST HIGHLANDS BOULEVARD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

April 30, 2014

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

Staff recommendation: Approval of the text amendment and conditional approval of the use permit amendment.

Ex parte communications: Beecham disclosed that she received a phone call from Lois Poppe on Pemberly Lane to talk about screening and buffering, and she advised her to email or contact the Planning Department.

Staff presentation: **Brian Will of Planning staff** explained that this text amendment is associated with an amendment to the Baron's Ridge Use Permit. It is the result of what the owner is attempting to do; however, it is a text amendment to the zoning ordinance so it would be applicable city-wide.

Will noted that both on-sale and off-sale alcohol is regulated by the City by special permit in those districts where allowed. It is a conditional use in the B-2 and B-5 districts and is a permitted use in the B-4 district. As we look at the special permit for on-sale consumption, it is currently allowed by special permit in the B-2, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts, and on the premises of a restaurant in the O-3 district. A text amendment was done a few years back with a unique exception for restaurants which reduced the required separation which normally applies, i.e. 100' separation from day care, church, park, residential zoning district, etc. That special exception was made for restaurants because restaurants were deemed as unique with less impact. Section (b) says that the special permit may be granted for alcoholic beverages to be sold for consumption on the premises in all of those same districts, except the O-3 associated with a restaurant. That provision was not carried forward. This amendment brings the O-3 district forward, reducing the separation to 25' when alcohol is associated with a restaurant.

When that amendment was made for the restaurant exception, Will found no discussion and no issue that prohibited the O-3 from being brought forward, so he concludes that it was just by omission that O-3 was not included. He believes it was an error. The O-3 is

as compatible or more compatible than a lot of the commercial districts with respect to required setbacks, screening, etc.

Corr asked for a comparison between the setbacks and screening from O-3 to B-3. Will stated that he believes the O-3 has a 40' rear yard setback, and 10' or 15' when adjacent to residential. The B-3 setbacks are less, i.e. 30' or 20% of lot depth. The O-3 zoning district would have increased landscaping and screening requirements.

Will also explained that defining restaurant is also for clarification. The ordinance does define a restaurant and we are suggesting that the same definition be brought up into paragraph (a).

Corr noted under the definition that the restaurant shall serve full-course meals. She wondered whether pizza is considered a full-course meal. Will believes that it does meet the definition of restaurant by state statute.

Tom Cajka of Planning staff presented the proposed amendment to the use permit in the O-3 district (Use Permit No. 04006B) for 18 dwelling units which have all been built; 10,450 square feet of office and 3,000 square feet of restaurant. The restaurant is the amendment to the existing approved use permit. Restaurants are allowed in O-3 by special permit. Once again, we are in a use permit district so we can have the special permitted uses included in the use permit. In this case, there are two special permitted uses -- the restaurant and the sale of alcohol for consumption on the premises. This amendment allows 3,000 square feet of the building to be used as a restaurant.

Cajka pointed out that the on-sale alcohol is allowed today. The text amendment changes the distance factor to 25 feet. Any on-sale would have to meet all the conditions that are imposed for serving in a restaurant. There will be no drive-through facility at this restaurant and a condition has been added so that there will be no outdoor dining between the building and the residential to the west. There will also be screening between the building and the back yards of the residential areas, including ash trees and Colorado Blue Spruce. The staff is not requiring a fence.

Weber inquired whether the area in the back of the building is grass. Cajka stated that it is currently unpaved and is a grass area, and he assumes it would continue to be a grass area.

The site plan also shows four additional parking stalls with this amendment

Corr noted that there will be no outside dining in the rear. What about the front? Cajka advised that the staff recommendation does not prohibit that.

Corr inquired as to the distance to the day care center to the north. Cajka pointed to the map showing the location of the day care. The application would meet the 100' requirement easily.

Corr stated that she knows one rule measures the distance from the property line to the property line and another rule measures from the door. She assumes that this text amendment relates to the door issue. Will stated that the separation is measured from the door in the B-2 and B-5 districts. When the on-sale is allowed by special permit in commercial districts, the separation is measured from the licensed premises. In this case, we are not measuring from the front door, but measuring from the footprint of the building. Will pointed out that the dwellings are also located in the O-3 district. This text amendment allows the separation to be 25' to a residence and the applicant is aware.

Corr noticed that one of the letters in opposition talked about being denied the ability to build a deck in their rear yard. Cajka was not sure what that letter referred to. In general, at that time, if a deck was more than 3' off the ground, it could not encroach into a rear yard setback. That has been amended from time to time.

Rick Peo of City Law Department approached and advised the Commission that staff is going through a process of changing procedures on how to address use permit applications that also involve a special permitted use. In the past, two applications have been required – a use permit and a request for special permit. For tracking purposes and keeping better records, we thought about combining it all into one use permit application. Use permits are unique in that they basically say no use is permitted on the property without a use permit -- permitted conditional use or special permitted use. You are in a sense amending the use permit to approve special permitted uses. Staff will attempt to be more clear in the future when it is a multiple application. The Planning Commission still has the ability to impose conditions on the special permit separate and distinct from the use permit. As we do our staff reports, we need to make this more clear as being a combined use permit with a special permit.

Proponents

1. Steve Powell of Tru-Built Investments appeared as the applicant to answer any questions.

Lust inquired as to the location of the dumpsters for the restaurant. Powell stated that they would be in the rear and accessible by the access road but the location it has not been specifically identified at this time. It will be an enclosed dumpster.

There is not a driveway behind the back of the building.

2. Shad Sanford, 148 West Lombard Drive, appeared as the potential owner of the pizza restaurant. As far as location of the dumpster, they have not yet discussed it. He understands the concerns as far as potential smells, odor, etc. With just proper care by his staff, they can certainly minimize those issues. He has been in the industry for 21 years so he has good knowledge of how to control those types of things. He wants to be a great neighbor.

Powell added that this is an owner-occupied building so they will maintain and keep it nice. Thirty-six residences were notified and they had good response from all of them for both the restaurant and the liquor.

Powell also offered that there is and will be a tremendous amount of screening required. Four parking stalls were added for the restaurant. Those four stalls will provide a little flexibility in providing parking.

Corr asked about the neighbors they visited. Sanford stated that they hit the entire neighborhood behind the building. Of the three letters received by the Commission, one is a duplex and the residents were not home but they did leave the letter. He believes they were able to speak with 80% of the homes.

Corr inquired whether the entire 3,000 square feet designated for the restaurant will be used for the alcohol. Powell responded, "yes", and stated that they do not intend to have any more restaurants in this building. He clarified that this will not be a bar, but a small restaurant for people to sit down and have a beer with their meal. It is not intended to be a bar where people sit and drink for three or four hours. Sanford also indicated that he has no interest in the restaurant becoming a bar. 10:00 p.m. is the latest they will be open any day of the week.

Steve Henrichsen of Planning staff responded to the email in opposition from Rod Hornby. Henrichsen pointed out that in October 2009, staff approved an administrative amendment application by Mr. Hornby to allow 8 lots to encroach 10' into the rear yard

setback for open, unenclosed decks. Henrichsen also stated that the four-story building went through the Planning Commission process; they met with the neighbors; and they added additional screening on the building to the north.

There was no testimony in opposition.

Beecham asked whether anyone has talked to the day care center. Sanford acknowledged that he dropped off a letter and spoke with the assistant manager (the manager was not available). The assistant manager believed that the manager would be fine with it.

TEXT AMENDMENT NO. 14002

ACTION BY PLANNING COMMISSION

April 30, 2014

Scheer moved approval, seconded by Weber.

Lust believes the text amendment is appropriate. It seems like a cleanup item.

Motion for approval carried 9-0: Scheer, Beecham, Sunderman, Corr, Hove, Cornelius, Weber, Harris and Lust voting 'yes'. This is a recommendation to the City Council.

USE PERMIT NO. 04006B

ACTION BY PLANNING COMMISSION:

April 30, 2014

Hove moved to approve the staff recommendation of conditional approval, seconded by Scheer.

Weber indicated that he was originally concerned about the screening, but looking at the schematic there would appear to be adequate screening and if they take care to locate the dumpster appropriately.

Beecham stated that she is concerned about the parking spaces being so close but the screening will help.

Lust appreciates that the applicants reached out to the neighbors, knocking on doors and being very respectful with the screening and operation of the restaurant.

Motion for conditional approval carried 9-0: Scheer, Beecham, Sunderman, Corr, Hove, Cornelius, Weber, Harris and Lust voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

TEXT AMENDMENT NO. 14003

**RELATING TO PARKING AND ON-SALE ALCOHOL
FOR OUTDOOR RECREATIONAL FACILITIES**

and

**SPECIAL PERMIT NO. 1662A,
TO ALLOW OUTDOOR SPORTS FIELDS, ALONG
WITH ACCESSORY USES INCLUDING ON-SALE ALCOHOL.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 30, 2013

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

Staff recommendation: Approval of the text amendment and conditional approval of the amendment to the special permit.

Ex parte communications: Corr disclosed that she attended the Mayor's Neighborhood Roundtable on March 10, 2014, when the applicant presented information about the text amendment.

Staff presentation: **Brian Will of Planning staff** noted that this amendment is similar to the previous amendment (Text Amendment No. 14002) in that it is also associated with another permit, in this case a special permit for a recreational facility.

This is a text amendment to two special permits – the ordinance currently includes a special permit for recreational facilities and a special permit for on-sale alcohol. Most of the changes are terminology; however, the changes do expand the applicability of the sale of alcohol at any of these facilities.

Recreational facilities are lumped into two groups – indoor and outdoor. In this case, we have a special permit for an outdoor recreational facility. The first change makes the special permit consistent with the changes to the ordinance made as part of the Use Groups. The second relates to how parking is determined for recreational facilities. There are currently no parking standards for recreational facilities. By default, staff has worked with the applicant, requesting that the applicant put together a list of the component uses and then typically measuring those uses against the ordinance to come up with a reliable parking requirement. That is then submitted with the special permit application. This text amendment clarifies that as part of the special permit for an outdoor recreational facility. The staff will request the applicant's best estimate based upon their specific facility.

The third portion of the amendment relates to the terminology and description of an outdoor recreational facility. The name is changed and the section relating to the sale of alcohol associated with these facilities when allowed by special permit has been changed. The special permit for on-sale has always allowed sale of alcoholic beverages for consumption on the premise as an accessory use when associated with a golf course or country club. Those uses are considered to be outdoor recreational facilities, so we are modifying that section to have the correct language. Similarly, in the special permit for outdoor recreational facility, the provision says alcohol is also allowed as part of the recreational facility for golf course or country club if the Planning Commission permits alcohol for consumption on the premises. This separates out two specific outdoor recreational facilities and we are suggesting to change the terminology to "outdoor recreational facilities" rather than limiting it to golf course or country club.

This amendment does broaden the definition for outdoor recreational facility. However, staff believes it is appropriate and it will be reviewed by special permit.

Lust inquired whether "outdoor recreational facility" is defined in the code. Will stated that it is defined in Use Groups under commercial recreation and entertainment facilities. Lust commented that she understands why we want to broaden it to all outdoor recreational facilities, but when we strike out golf course or country club, she does not want this interpreted wrong.

Steve Henrichsen of Planning staff offered the following definition of outdoor recreational facilities from Section 27.02.190 of the zoning ordinance:

Recreational Facilities, Outdoor. Outdoor Recreational facilities shall mean facilities primarily for participation in recreational activities such as but not limited to tennis, handball, racquetball, basketball, and other court games; jogging, track and field, baseball, football, soccer and other field games; skating, skate boarding, swimming, golf and outdoor shooting or archery ranges. Recreational facilities shall include country clubs and athletic clubs; it shall not include facilities accessory to a private residence used only by the owner and guests, nor shall it include arenas or stadia used primarily for spectators to watch athletic events.

Beecham indicated that she is struggling with this because she is not sure that it should be broader. She really feels like there are two such facilities – one which is a more contained and one with no fencing, where people come and go as they wish. She does not think they are the same. Maybe they should be defined separately, especially with the concerns about alcohol. Will explained that what was implicit in the provision referring to golf course and country club is that that particular use is going to get some review and oversight as part of that special permit. That's still going to be part of this process. There may be some additional latitude versus special permit for just on-sale. Perhaps conditions could be added to the recreational facility. He believes it has been implicit with the way the ordinance is written.

Rick Peo of the City Law Department clarified that these are still special permitted uses, which means the Planning Commission has discretion on approving or allowing or imposing conditions. When reviewing a use permit with a special permit within the use permit, the Planning Commission must still consider the special permitted use, which is different than the concept of a use permit which looks at circulation, traffic, etc. The Planning Commission is to be considering whether it fits in the neighborhood.

Beecham does not understand why they are lumped together. She would much rather see it in two pieces. Peo believes that the staff just needs to spell it out better in the staff report. The idea was for record-keeping and monitoring what is going on in a general area.

Will clarified that under B-2, the recreational facility is by special permit. A Planned Unit Development does not require a special permit nor this amendment. In a PUD, you can amend the allowed uses so this text amendment is not required in that case; however, this text amendment does apply and is applicable to the application for outdoor recreational facilities.

Hove requested an explanation of the practical sense of the process. Does this approval have to happen all the time or is it a blanket? Will stated that there is going to be review when a special permit is required. It will be on a case-by-case basis. Either way, it will come to the Planning Commission.

Lust referred to Section 27.63.130 (2) (g), noting that “for a golf course or country club” has been stricken. She suggested that “to the outdoor recreational facility” be inserted after the second strikeout of “to the golf course or country club”. Peo did not believe it was necessary; however, later on in the meeting he indicated that he thought it was a good idea. Subsection (g) should be changed to read:

As part of the special permit for an outdoor recreational facility, the Planning Commission may permit the sale of alcoholic beverages for consumption on the premises as an accessory use to the outdoor recreational facility.

Lust inquired about an accessory use. Peo explained that it is usually the use customary and incidental to the permitted use. The accessory uses can also be defined.

Corr confirmed that this does not combine the indoor and outdoor recreational facilities together – it just changes the name. Will agreed. They are separate and distinct in the Use Groups table. This amendment just clarifies the terminology for what is intended to be outdoor recreational facilities.

Tom Cajka of Planning staff presented the proposed amendment to Special Permit No. 1662 for an outdoor recreational facility. This amendment amends the site plan, changes the hours of operation and requests to allow on-sale alcohol.

Cajka further pointed out that the amendment to the special permit shows eight ballfields with an expansion area for future fields. The current plan has nine ballfields, so they are basically reorienting some of the fields. There are waivers being requested to reduce the front yard setback from 50 feet to 25 feet in one location for a sign. The other waiver is to reduce the side yard setback from 60 feet to 25 feet along the northern boundary, only for ballfields. Any buildings would have to meet the 60' setback. This is in the AG district, thus the setbacks are large.

This amendment also includes a request to change the hours of operation that were put in the original resolution. Currently, the resolution states the hours to be 5:00 p.m. to 11:00 p.m., Monday through Friday; 8:00 a.m. to 11:00 p.m. on Saturday; and 10:00 a.m. to 10:00 p.m. on Sunday. The requested change is 8:00 a.m. to 11:00 p.m., Monday through Saturday, and 8:00 a.m. to 10:00 p.m. on Sunday.

Cajka also pointed out that the on-sale of alcohol on the premises requires the applicant to meet the 100' setback to the licensed premise, which they would meet without any difficulty.

Beecham inquired whether the site will be fenced. Cajka believes that it is fenced but it is not a condition of approval. Perhaps the applicant can clarify.

Proponents

1. **Ardis Moody**, a member of the **Star City Optimist Youth Foundation**, testified in support. Optimist International operates around the world bringing out the best in kids. She joined about 20 years ago and at that time it was their dream to create this sports complex with multiple fields and a lovely center with concessions and decks to view the sports happenings. 20 years ago, a foundation was created with that being the goal. It took 10 years to accomplish the opening of a sports complex. In 2013, the existing four fields and very minimal concession stands were opened. Some of the Optimists have that dream to do more. There were a few of the Optimists searching for a way to expand and that brought them to meeting with the Sandquists and beginning this plan to expand the facility to serve more youth; expand the fields; expand the concessions; and bring about more service to youth.

2. **Kent Seacrest** appeared on behalf of **Scott and Amy Sandquist** who are the tenants to the Optimists. Without the proposed text amendment, the Optimists nor the Sandquists could come forward to seek alcohol on this type of facility. If the proposed text amendment is approved, it will allow the Planning Commission to decide whether it is an appropriate use and whether it needs to be contained or not. Seacrest advised that this facility does have a fence system. It will be monitored. When the sports fields are used for youth games, there will not be liquor. Liquor would only be allowed when there are adult games.

With regard to the special permit, Seacrest pointed out that this facility was already approved in 1997. This amendment is fine-tuning to reorient some of the fields; they will have 60 parking stalls per field; and it will not spill over into the neighborhood. This facility may have been violating the hours of operation so they are requesting the amendment to extend the evening hours and open up the morning hours to be realistic.

Seacrest also advised the Commission that the applicant did take the ordinance to the Mayor's Neighborhood Roundtable with good attendance; good questions; similar questions; and similar concerns; but no opposition because they realize this gives the Planning Commission the authority to decide on a case-by-case basis.

Seacrest agreed with the staff recommendations on the text amendment and the amendment to the special permit.

At this point in the meeting, Harris and Weber left.

Opposition

1. **Laurie Brunner**, 5500 S. Folsom Street, testified in opposition. She missed the neighborhood meeting announcement. Her objections are two: 1) the proposal to serve alcohol. There is no hotel here; no one is going to be married in the sports field; there is a church and a day care across the street; this is a neighborhood; this is an agricultural

community; this is not an isolated area; alcohol is not appropriate for a youth-oriented facility. She appreciates that liquor will only be served during adult games, but she does not understand how that would work; and how it will work should be made a condition of approval.

Her second objection relates to the front yard setback. There is a nice tree-screen area in existence along Folsom. She requested that this tree screen be maintained as much as possible. She appreciates the parking. If the tree screen can be maintained, it would be helpful to keep down noise and litter and provide a nice buffer.

Another concern of Brunner is that this is a drainage area. She does not see that on the site plan. Part of the purpose of the trees is to slow down runoff and allow infiltration and decrease the possible flooding of that area.

Response by the Applicant

Seacrest stated that they are fencing, containing and offering the alcohol only during adult events. If the Commission would like to make that a condition to only serve during adult events, that is acceptable. The applicant will be telling the Liquor Commission and the City Council the same thing – the applicant agrees that there should be no alcohol with youth events. He does think it will help some sales. One reason the Optimists sought help is because they want to provide services while income is tight. Beer sales could be helpful.

With regard to the screening, Seacrest noted that those are volunteer trees. As a general rule, that is one of the reasons they need the setback for the signage.

Jeremy Williams of Design Associates, 1609 N Street, clarified that the expansion of the parking lot will not require the removal of any trees, except where there are dead branches, etc. The drainage way does cut through four of the fields, but this proposal will reroute the drainage around the fields, so that issue is being addressed.

Corr confirmed that there will be no removal of trees and the drainage will be rerouted. Seacrest and Williams concurred.

With regard to fencing, Williams stated that the property itself is not enclosed in a fence. With the existing quad, the four outfield fences are connected in between the fields. That will be carried on in the other fields.

Beecham inquired whether the applicant has a plan to make sure alcohol is not being served or given to underage people, i.e. do you have a plan for training staff how to handle the situation? Seacrest advised that to be required by state law and the Liquor Control Commission. That process will revoke the license if underage are served alcohol. He

confirmed that the staff will be trained. It will be a concession system and he likened it to a Salt Dogs game where they sell beer and kids are there. They will have people watching because it is a violation of the law and it will not be tolerated.

Scheer inquired about the provisions of the Liquor Control Commission, thinking there may be some overlap or some requirements already in place with the Liquor Control Commission. Will did not know all of the provisions and requirements of the Liquor Control Commission. However, the permits are reviewed by Building & Safety and the Fire Marshall, and there is a series of other requirements that we haven't even talked about today which are all reviewed as part of the city's responsibility relative to the liquor license. Scheer thought it might be interesting to know how that aligns because some of the questions the Commission has might be answered with the state's restrictions and regulations. .

With regard to the setback along Folsom Street and the trees, Cajka advised that there is a 50' setback where no buildings or parking can be located. The one area where we are reducing the setback is a small area for the sign. That does not prevent someone from taking out the trees. The Planning Commission would need to add a condition to retain the trees, such as "Identify the existing tree mass along the west and south property line and note it is to be preserved, except for the clearing out or maintenance of dead trees".

Beecham wondered about adding conditions on the sale of alcohol. Cajka suggested that she could make a motion to amend to add a condition.

The applicant stated that the Optimists already prohibit alcohol at youth events. It is not an issue.

TEXT AMENDMENT NO. 14003

ACTION BY PLANNING COMMISSION:

April 30, 2014

Hove moved approval, with amendment suggested by Lust and agreed upon by the City Attorney, seconded by Scheer.

Lust believes this is a good text amendment because it clarifies what we really intended about alcohol sales and recreational facilities because we did not mean to limit them to golf courses or country clubs. It allows for a special permitting process allowing the Planning Commission to impose appropriate conditions.

Motion for approval carried 7-0: Scheer, Beecham, Sunderman, Corr, Hove, Cornelius and Lust voting 'yes' (Weber and Harris left during the public hearing). This is a recommendation to the City Council.

SPECIAL PERMIT NO. 1662A

ACTION BY PLANNING COMMISSION:

April 30, 2014

Beecham moved to approve the staff recommendation of conditional approval, seconded by Hove.

Cornelius commented that there are all kinds of regulations required by the Liquor Control Commission meant to control the exact situations that we have expressed concern about regarding age and where there are groups of people with unaccompanied minors, etc. His concerns are very much allayed by that.

Beecham stated that she struggled with this one most of all because it is a youth sports complex. While she appreciates the Optimists have a rule, her concern is less with what will happen tomorrow. She is concerned about what will happen if this complex were to change hands in the future. She would like to add the condition that alcohol will be served only during adult events, but wanted to hear from the other Commissioners before making a motion. Because this is geared towards youth and the majority of events are going to be youth, she wants there to be recourse if sold during youth events in the future.

Sunderman would be a little concerned about unintended consequences with such a motion. There will be two pods of fields. What if one is having youth games and another is having adult games? What if one-half adult and one-half youth?

Lust stated that she would not support such an amendment because it could potentially be unduly restrictive. She would not want a subsequent owner to have to deal with a mess created by an unnecessary condition on the property. As we have talked, there are additional restrictions on getting the liquor license that will be adequate safeguards, and the Optimists already prohibit alcohol sales at youth events, so she hesitates to put additional restrictions on the special permit. It may unduly restrict the use of the property in the future.

Motion for conditional approval carried 7-0: Scheer, Beecham, Sunderman, Corr, Hove, Cornelius and Lust voting 'yes' (Weber and Harris left during the public hearing). This is a recommendation to the City Council.

CHANGE OF ZONE NO. 14007
FROM AG AGRICULTURAL DISTRICT
TO B-5 PLANNED REGIONAL BUSINESS DISTRICT,
AND FROM B-5 PLANNED REGIONAL BUSINESS DISTRICT
TO H-4 GENERAL COMMERCIAL DISTRICT
and
USE PERMIT NO. 140D
TO EXPAND THE BOUNDARIES TO ALLOW AN
APARTMENT COMPLEX AND HOTEL,
ON PROPERTY GENERALLY LOCATED AT
SOUTH 91ST STREET AND PINE LAKE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 30, 2014

Members present: Beecham, Sunderman, Corr, Hove, Cornelius and Lust; Harris and Weber absent; Scheer declared a conflict of interest.

Staff recommendation: Approval of the change of zone and conditional approval of the amendment to the use permit.

There were no ex parte communications.

Staff presentation: **Brian Will of Planning staff** showed the subject area which started out as the Appian Way Shopping Center at 84th & Hwy 2. Today's application is for the area northeast of the intersection called Prairie Lakes Shopping Center. This is a major amendment to the existing use permit.

Will explained that the change of zone has two components. At the northeast corner of the center, the portion not included in the use permit changes from AG to B-5 so that it can be included, and then it changes the zoning on a portion within the use permit to H-4, and taking it out of the use permit.

The site plan shows 720 dwelling units of apartment complexes. A hotel is shown in the very western portion of the development, just south of the intersection of Eiger Drive and 84th Street, and the applicant is requesting a waiver of the height restriction to 52'. The use permit is surrounded by arterial streets on all sides so the impact on adjacent properties is insignificant. This proposal would allow for more efficient use of the property within the development.

Will further advised that there is a provision in the zoning ordinance that allows for tandem parking in association with a parking complex in residential zoning districts. This will allow the parts of the development in B-5 to have tandem parking in their driveways behind the garages.

Lust asked for the definition of “tandem parking.” Will suggested that it is “one behind the other”, just like you can do in your driveway. However, that does not count in an apartment complex because the tenants really don’t have a driveway. There must be a special provision that allows for tandem parking for apartment complexes. The zoning ordinance did not contemplate that apartments are a permitted use in the B-5, thus the request for a waiver to allow the tandem parking.

Hove inquired about the area being changed from B-4 to H-4 and being removed from the use permit. Will stated that the plan is for mini-warehousing/storage, which is not allowed in the B-5 district. The change of zone to H-4 would allow it. Thus, there will be a “hole in the donut.”

Corr noted that sidewalks were waived to be on one side in the original use permit. She wondered whether the development will be required to have sidewalks on both sides of the street when 88th Street and 89th Street are constructed. Will concurred. There was a waiver with the original use permit with sidewalks on only one side, the rationale being that the size of the commercial center would not have the amount of pedestrian traffic; however, given the apartment complexes, Planning is suggesting that that waiver should not apply to the private roadways.

The apartment complex is in the northeast corner of the development. The hotel is going to be on the very western edge, just southeast of the intersection of Eiger Drive and 84th Street.

Lust thought some time ago that the weird dog leg that Pine Lake Road and Eiger Drive have in this area was discussed. At some point, wasn’t Pine Lake Road going to be straightened out? Will responded, “no, this is the end result.”

Proponents

1. Tim Gergen, Clark Enersen Partners, appeared on behalf of the developer, **Eiger Corp.**, to answer any questions. He agreed with all conditions of approval.

There was no testimony in opposition.

CHANGE OF ZONE NO. 14007
ACTION BY PLANNING COMMISSION:

April 30, 2014

Beecham moved approval, seconded by Sunderman.

Lust believes this is a good development for the area.

Motion for approval carried 6-0: Beecham, Sunderman, Corr, Hove, Cornelius and Lust voting 'yes'; Harris and Weber absent; Scheer declared a conflict of interest. This is a recommendation to the City Council.

USE PERMIT NO. 140D

ACTION BY PLANNING COMMISSION:

April 30, 2014

Hove moved to approve the staff recommendation of conditional approval, seconded by Cornelius.

Cornelius commented that the staff report finds this to be in conformance with the Comprehensive Plan and that there will be no adverse impact on the surrounding area.

Motion for conditional approval carried 6-0: Beecham, Sunderman, Corr, Hove, Cornelius and Lust voting 'yes'; Harris and Weber absent; Scheer declared a conflict of interest. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 4:30 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on May 14, 2014.