

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, October 28, 2015, 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 present; David Cary, Steve Henrichsen, Paul Barnes, Brian Will, Geri Rorabaugh and Amy Huffman of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission meeting

Vice Chair Dennis Scheer called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

[Hove arrived at 1:02 P.M.]

Scheer handed the meeting over to Chair Chris Hove.

Hove requested a motion approving the minutes for the regular meeting held October 14, 2015. Scheer moved approval, seconded by Lust and carried 8-0: Beecham, Cornelius, Harris, Hove, Lust, Scheer, Sunderman, and Weber voting 'yes'; Corr abstaining.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

October 28, 2015

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

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 15065 and USE PERMIT NO. 107E.**

There were no ex parte communications disclosed.

Harris moved to approve the Consent Agenda, seconded by Weber 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. 15065, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days.

SPECIAL PERMIT NO. 15064
AVALON ESTATES PARADISE - A PRIVATE PROPERTY
TO BE USED FOR SPECIAL EVENTS
ON PROPERTY GENERALLY LOCATED AT
12788 WEST ROCA ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION: **October 28, 2015**

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

Staff recommendation: Approval.

There was a request by the applicant to defer Public Hearing and Action until the Planning Commission meeting of November 18, 2015.

Rorabaugh announced that there are several individuals present today to offer testimony on this item. Therefore, there will be Public Hearing today, following the vote for deferral.

SPECIAL PERMIT NO. 15064
ACTION BY PLANNING COMMISSION: **October 28, 2015**

Lust moved deferral, seconded by Harris and carried 9-0: Beecham, Cornelius, Corr, Harris, Hove, Lust, Scheer, Sunderman, and Weber voting 'yes'.

STAFF PRESENTATION:

Tom Cajka of the Planning Department came forward to state that this is out of the ordinary for how deferrals normally proceed, but based on the number of individuals present to offer testimony, it is appropriate to give Commissioners a brief overview of this application. A full staff presentation will still be given at the November 18, 2015 meeting.

Cajka stated this is a Special Permit application for an expanded home occupation in the County to allow for an event center. The property is rented out for outdoor gatherings for wedding receptions and large gatherings. There is also a boat house that is rented out for smaller, overnight parties. The Special Permit is required for the larger events. The boat house rental is allowed by-right through home occupation. One of the owners lives in the residence.

Cajka described the layout of the property which is about one mile east of the county line. There is an open space for tents where there are no permanent buildings. Tents are rented by the group renting the center, so the owners basically just rent out the space. The parking area and access is to the south, along Highway 33. The neighbors are here to speak live in the acreage development to the east. Rough measurements taken indicate the distance is approximately 450 feet from the boat house to the property line across the pond and roughly 540 feet from the tent area to the property line. Cajka stated he contacted the applicant this morning and informed her that there could still be public testimony today, since she was told earlier that she did not need to attend today due to the requested deferral.

PROPONENTS:

Viann Martin, 2315 Winding Ridge Road, the applicant, stated she appreciates the opportunity to come forward today to address the concerns of neighbors, despite the short notice. One of the complaints from neighbors was related to the short notification process. She stated the reason for requesting the delay was to allow time to meet with surrounding homeowners to address concerns before the next Planning Commission meeting. She received the email about neighbors attending the meeting today only two hours ago, therefore was not prepared to present today unless requested by Commissioners.

Hove said that is not necessary since the request for deferral was made.

Duston Stanczyk, 3100 Prescott Avenue, stated he brought a few items to present, but also agrees it would be best to meet with neighbors first and wait until the November meeting to make the presentation.

Martin stated the property is rented out for weddings and other events.

Stanczyk added that they were unaware of the complaints from neighbors until they saw the communications that resulted from this application.

Hove suggested that it would be helpful to mention when the meeting with the neighbors will take place, if known.

Martin said they have the list of all addresses and will send a letter this week to invite people to talk. Some complaints were about fireworks. There was one event with a fireworks display. Those people had a special permit and it was on the Fourth of July. It was a 10-minute show that occurred around 10:00 p.m. The fireworks shown on the business website were from a private, family event. She stated they are willing to eliminate them altogether, though it is not a common request.

Hove said it is best to negotiate those details with neighbors.

OPPONENTS:

Steve Schmidt, 15770 Lakeside Estates Drive, came forward as a private citizen to protest this application. The first concern is the noise. He believes there has been more than one incident of fireworks in the last two years, but he will leave it up to other neighbors who are adjacent to speak more about that. The reason many moved out to the country is to enjoy the quiet and not to have commercial fireworks. Additionally, there are live bands. When outdoors enjoying his property, he does not want to hear live bands at a wedding reception. There is no opposition to the events in general, but they interfere with the ability to enjoy our own property.

Schmidt went on to say the increased traffic is a concern. Highway 33 is a narrow 2-lane highway with multiple accidents every month. It is undesirable to have increased traffic from up to 15 events, which is what the applicant requested with up to 350 people attending. It is not a stretch of the imagination to assume that people drink at wedding reception, maybe more than they normally would, and there is serious concern about drunk drivers. The sole entrance to the neighborhood is less than a half mile to the only entrance to this particular property. All of those visitors will come out through that entrance. There are no turn lanes.

Schmidt concluded by stating this appears to have been an ongoing enterprise for the last two years without any type of zoning allowance or special permit. There is concern that they did not follow the rules in the past and there is no guarantee that they are currently being followed or that will be followed in the future. He built his home in the country less than two years ago and did not choose to live next to a business with a lot of traffic, noise and an increased number of drunk drivers.

Hove asked Schmidt if he planned to meet with the applicants. He said yes.

Michael Scholz, 15855 Bobwhite Trail, stated that he is a neighbor who has resided to the east of the property in question for 17 years. The applicant letter states that the closest neighbors to the east are buffered by a large number of trees and shrubs and, therefore, there has never been a noise complaint. Since the Martins purchased the property, trees have been removed for various reasons and have not been replaced. A fence line has also been removed. Neighbors see people driving in that adjacent area with golf carts and have witnessed public urination both there and in the parking lot. The assumption is that this behavior is due to the consumption of alcohol.

Mr. Scholz showed an image of the area where trees were removed. He stated that there is additional concern with the fireworks due to the risk for grass fires and how close it is. He stated if there were permits related to the events, neighbors were not notified on all of them.

Corr asked when the image that Mr. Scholz provided was taken. He said the picture was taken this morning, before this meeting. Corr asked if the lake is privately owned. Scholz stated it is. There is a lake on the east that is called an association named Lakeside Estates.

Beecham asked if the neighbors had taken any steps or talked to the Martins about the problems. Mr. Scholz said that no steps have been taken and authorities have not been called because, at the time, neighbors were under the impression that events were ceremonies for family members and thought it would be inappropriate to call the Sheriff to show up at a family wedding of a neighbor. The neighborhood's yearly association meeting is coming up and one of the topics on the agenda was to discuss talking to the Martins to ask what was going on with the increased activity. There is a lot of noise and many people work or simply want to enjoy peaceful evenings on our property, which is the reason they moved out there. No one has talked to the Martins and they have not approached us. The previous neighbors would always make an effort to come over to inform us when changes were made. There has been no communication.

Hove asked if Scholz planned to meet with the new owners. Scholz said he plans to. The Martins are the ones making all the movement which is why there is so much opposition.

Dave Mohr, 12355 Bobwhite Trail, stated he will trust that Commissioners will read the letters submitted. This neighborhood has been good stewards and citizens. We routinely purchase rock for the road and plow snow, all at no cost to the County. Safety is number one, but not always in our minds. When driving down Highway 33, you don't necessarily think about a drunk driver pulling out of a wedding reception. That exit is a blind exit from the neighborhood and in a car you cannot see it. It is down a hill a short distance, so when exiting onto Highway 33, it could be a danger. The alcohol issue also touches on the noise and safety concerns. No one wants to live next door to a large party every weekend. Every once in awhile is fine, but not every weekend. Loud music has been a problem.

Mohr agreed that neighbors have not made complaints up until now. This area is two miles from the county line so it could take a fair amount of time for a sheriff to get out there. And, as another neighbor said, even though he is opposed to it, he does not necessarily want to ruin a wedding by having a sheriff show up. He also commented on the short notice. As a citizen, he expects better than seven days notice and hopes this is corrected for other people. The staff recommendation also causes hesitation because no neighbors were called, and it is as simple as pulling up Google Earth to see that there is no treeline protecting neighbors

Harris asked if there was a number of events that Mohr could live with, based on his comment that events once in were acceptable. Mohr said that he could live with private events for family members, but as an event-driven business; none. He did not move there to live next to a business.

Hove requested a motion for continued Public Hearing on November 18, 2015.

Cornelius confirmed that it would be for new information only, and moved for additional Public Hearing to occur for this application at the next meeting; seconded by Corr.

Beecham wanted to clarify that when this body says “new information”, any concerned party can still come to the next meeting to testify for this item.

Hove said that is correct, but with new and additional information.

Harris asked for confirmation that a full Staff Report will be presented and that there would still be opportunity to ask staff questions. Commissioners agreed that was the case.

Beecham reiterated her concern that no one be restricted from testimony because they were told there was a deferral. Some may have the same thing to say as their neighbors, but because we told people there was no need to come today, she would be reluctant to limit people to new information only, since they were notified them not to attend.

Lust stated that this body does not need to make a motion to continue public hearing because the motion for deferral was already accepted. Some people were here today, so they were allowed to testify, but continued public hearing is automatically scheduled for that deferral date (November 18, 2015).

Cornelius withdrew his motion.

ANNEXATION NO. 15011
TO ANNEX APPROXIMATELY 48.92 ACRES

Staff recommendation: Approval.

AND

CHANGE OF ZONE NO. 15028 - SHADOW CREEK PUD
FROM AG AGRICULTURAL TO
R-3 PLANNED UNIT DEVELOPMENT DISTRICT
PLANNED UNIT DEVELOPMENT DISTRICT
BOTH GENERALLY LOCATED AT S. 90TH AND O STREETS
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 28, 2015

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

Staff recommendation: Approval.

There were no ex parte communications disclosed.

STAFF PRESENTATION:

Paul Barnes of the Planning Department presented these two related items. This area includes approximately 50 acres and is located just outside the city limits. The City services for sanitary sewer and water are programmed and the City is in the process of installing those services through 2016-2017. This annexation does not include an annexation agreement.

The Planned Unit Development talks about the different areas of development and land uses proposed. The uses are a mixture of commercial and residential. Along O Street at the north end, there is an access point shown at what will be South 90th Street. There are three areas proposed for development. Area 1 is shown as residential under the R-5 zoning district and will be multi-family dwellings up to 220 units. Area 2 is proposed for a Neighborhood Commercial Center with up to 40,000 square feet of floor area, noting that this PUD does not get to the level of detail to show the actual building footprints or location. Staff is recommending that it be approved by Administrative Amendment, so there will be an additional level of review as to how the area will lay out; this goes for Area 1 as well. Area 3 encompasses the area to the east and to the south and includes development of single-family units along the south and attached single-family units on the east.

Barnes said most of the streets shown will be public. The private street would be for the ten lots of attached single family units to the east. Red Sky Lane makes for a potential connection to the east. The Hillcrest neighborhood was platted with right-of-way stub streets which, in the future, would have allowed for connections to the west. However, one street stub is located within a flood plain so it would be difficult to meet today's standards. The proposal is to allow for Red Sky Lane to connect to the east. This would not happen until the lots farther to the east develop, but it is setting it up for that future connection. The other connections shown would provide additional connections to the south. As discussed in the staff report, there could be additional connections made to east and west in the future.

Barnes noted that there are several waivers requested. One is a height waiver for the residential building in Area 1, which is supported. Between Areas 1 and 2, there is a request to allow cross parking. Not knowing the layout of these two areas, that is supported and can be reviewed once those specific plans come in for approval. There is a request for some lots to exceed the lot depth-to-width ratio. That is a good use of the land given the infrastructure and the proximity to floodplain and wetlands.

Barnes said that for Area 2, there is a request to eliminate the required separation between alcohol sales and residential districts. In B-2 zoning, there is a requirement to have at least a 100-foot separation between the door of the licensed premise to the nearest residential district. This entire PUD is proposed to be R-3, so with the overlay, it is residential. Looking at adjacent proposed residential uses to the east, the attached units are separated by an overhead easement and a detention area that is around 90 feet. To the south and west, given the right-of-way and the setbacks, it is approximately 75 feet. The Comprehensive Plan supports mixed use and residential within neighborhood commercial centers. This request supports that.

Corr asked where Red Sky Lane goes through. Barnes said it comes off of a roundabout in the future South 90th Street and curves to the east in between two lots with existing houses now. Corr asked if there is enough room between the houses to fit a road. Barnes said this plan acknowledges that it is likely that those two properties would need to be redeveloped in order for that to work. What it does is set up that option. Staff is not saying that it has to happen with this proposal, but if they were ever to redevelop in the future, that connection could be made. Further to the east, the Planning Commission and City Council had previously approved Gable Pines, which is a mixed-use, assisted living and memory care facility. If you extend Red Sky Lane, it would meet up with that road to the east. Corr said on the west side, there are two existing houses. She asked if they will be removed. Barnes confirmed that they will.

Harris asked if any comments were received from Public Works. The report stated a traffic report had been submitted but no comments had been received as of the writing of the staff report. Barnes said most of the comments were minor changes to the wording of text. There was not a significant change due to the traffic study. Public Works has asked that the changes be made and that the report be forwarded on to Nebraska Department of Roads (NDOR) for their approval. Harris asked if they did recommend approval, as is, with only the minor text changes. Barnes said yes. They did not propose any conditions be added.

Corr asked whether there would be widening of O Street or turn lanes added. Barnes said that there are turn lanes proposed and those are currently being reviewed by NDOR. It is likely to be approved as shown on the plan, but that needs to be a discussion with NDOR.

Beecham asked for more detail about the distance of houses from the proposed area with alcohol sales. Barnes said staff measured a distance of where a building footprint could potentially be in relation to the proposed residential. There is an overhead LES easement along the east side and beyond that, there is detention. Given that, if the building were built right along the line of the commercial area and up against the easement, that would be about 90 feet to the nearest lot line. It is a similar situation to the south and west. If you

built right on the edge and include the setbacks and right-of-way, the distance to the nearest residence is 75 feet. Beecham asked for confirmation that the existing properties along Anthony Lane are outside that required distance. Barnes confirmed that is the case. The existing houses to the east are much farther than the 100 feet for alcohol sales.

Beecham went on to ask about notification of neighbors. She recalled that with Gable Pines, there was a lot public concern about various issues. Barnes said that the notification requirements ensured that letters were sent to property owners within 200 feet of the boundary. Some neighbors could still have been outside of that 200-foot boundary. The applicant also held a neighborhood meeting and invited owners within 800 feet.

PROPONENTS:

Mike Eckert, Civil Design Group, came forward on behalf of applicant, Lewis Starostka. He stated that they reached out farther than the standard notification area because they felt the entire Hillcrest neighborhood needed to be informed. The biggest concerns were with the hydrology of the area. Ben Higgins from Public Works was invited to answer questions. There is a large basin area that drains down to that stub street that is both floodplain and floodway. The hope is that when these surrounding areas are developed, some of the water from the peak events will be held back and there will be improvement.

Eckert said there is also an undersized culvert in O Street. At this point, NDOR has eventual plans to correct this when the consolidation of Anthony Lane and Hillcrest Lane occurs. As part of the request, everything possible has been done to over-detain water. There was also discussion with neighbors regarding the sewer that has to come up through Anthony Lane in the right-of-way. Generally, neighbors knew something would happen here.

Eckert went on to say that the applicant was mindful of keeping single family and townhome units closer to existing residential units and the multi-family to the west. The two houses along O Street in the west part of this area will be removed and the site will be graded to be a platform for that multi-family building.

Eckert said that sewer and water are coming and will make use of the Stevens Creek trunk sewer. There is controlled traffic access here. Six months ago, NDOR was contacted and they are now getting ready to kick off their process for releasing that access, going through the appraisal and traffic study. There is hope that the length of the turn lanes preliminarily proposed by them will be reduced once the speed limit is reduced with this annexation.

Eckert concluded, stating that his feeling overall was that the neighborhood meeting went well, and he encourages neighbors to continue to give more feedback. This will be a very nice development and will compliment this area very well.

Beecham asked if the traffic study indicated that the access was pulled back far enough from the intersection. She asked if there will be a left turn at the exit. Eckert said that the plan shows a median, but there will be enough room for a left turn lane, with a combined through or right turn lane. The YMCA fields are to the south and the traffic study accounted for the possibility that it could someday become residential. Further to the south there are some residential connections out to 84th Street. The specifics have yet to be approved and will have to be approved by both NDOR and Public Works.

PUBLIC COMMENTS:

Mike Streeter 649 E. Hillcrest Drive, stated his question is related to Red Sky Lane. It sounds as though it will eventually join with Anthony Lane. He wondered if that is the intent. If so, there is another road from the elderly care facility so all roads come down to Anthony Lane. He is concerned about how that choke point will be handled.

Dave Bright, 135 Anthony Lane, stated that this plan shows that Red Sky will end up between his neighbor's house and his. His main concern is also the traffic with the turn lane is off of O Street. Since this was installed, the island there has been run over many times and since it has been added, and the water drainage in the area has been ruined. He learned that there is roughly 335 acres that drain through that area and Southeast Community College (SCC) has since put more concrete parking, making the problem worse.

APPLICANT REBUTTAL:

Eckert returned to address concerns. He explained that the stub street originally shown was never built. This is why the City includes these potential future connections into planning because otherwise it is unknown when they will be constructed and who will do it. That stub street was dedicated as public right-of-way. Not only is the conceptual stub street located in the floodplain, it is actually in the floodway, so staff made the decision that engineers would not approve of a connection there, using today's standards. Looking at options, it was determined the best way to provide some type of future connectivity was to look at the other side. Red Sky Lane was situated between the two existing houses. There is a road in the other development to the east that will have platted public right-of way for when Anthony Lane and Hillcrest Lane get consolidated to a point farther east to take access to O street, so we have tried to line up with that. When that happens, the existing access will go away. It may seem foolish to spend so much on turn lanes now when they will go away someday.

Eckert said this through street is not being built today. It is being built with a barricade and hammerhead turn-around, and the only way that road will ever going be built is if both properties are purchased and redeveloped. Then staff would have the opportunity to ask

for that connection. Connectivity to the east was very problematic with the floodplain and the existing Hillcrest homes. This is a good solution. It is not forcing anything on neighbors now. It is only if these properties choose to redevelop someday.

Eckert said he can address the location of the trunk sewer with the neighbor. At the time of the public meeting, it was unclear where it was coming up. The neighbors were told it could be on either side. The City will bring the sewer up in the public right-of-way of Anthony Lane and will utilize that stub to bring the sewer to this area, and roughly 60 additional acres to the south. The City did a good job in asking us to be part of a master plan by including Red Sky Lane and by planning how it will work out in the future.

Beecham asked if future SCC development was considered when looking at the drainage for the area. Eckert replied that only a portion of SCC is within this area. This development catches all of its own runoff. He stated that he would leave it to Staff to comment on how much SCC factors in if they chose to expand. Most of their water drains to Waterford Lake.

Corr stated that she assumes from the layout that the first phase of construction will be along the southern part of this property. She wondered what would follow. Eckert confirmed this was true. The residential units and town homes along South 90th Street will be first. Over the winter, the trees and two houses will be removed from the multi-family area and the grading process will begin. In 2016, you will see the single family. If a multi-family buyer comes in, then the commercial and multi-family will come as demand dictates. Corr asked if could be several years before they see anything in those sites. Eckert said it could be, but it will be graded and reseeded with grass.

ANNEXATION NO. 15011

ACTION BY PLANNING COMMISSION:

October 28, 2015

Beecham moved approval, seconded by Lust.

Beecham thanked the applicant for putting so much thought into this layout and mitigating the impact to the existing acreages. She stated she is often conservative about approving alcohol sales within the 100 feet of residential, but in a situation like this, it works. Folks moving into the area will know this is a commercial development so they can be comfortable going in with full knowledge, and it does not impact the existing neighbors.

Corr stated she has concerns about the public pipeline going through O Street. She recognizes that the pressure is not being used to full capacity, but it does still cause concern. She plans to approve this application with the waiver.

Hove stated he plans to support this application. It is a good fit for the area.

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

CHANGE OF ZONE NO. 15028

ACTION BY PLANNING COMMISSION:

October 28, 2015

Cornelius moved approval, seconded by Scheer.

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

There being no further business to come before the Commission, the meeting was adjourned at 2:06 p.m.

Note: These minutes will not be formally approved by the Planning Commission until the next regular meeting on Wednesday, November 18, 2015.