

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, May 11, 2016, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN Michael Cornelius, Tracy Corr, Maja V. Harris, Chris Hove, Jeanelle Lust, Dennis Scheer, Lynn Sunderman and Ken Weber; (Cathy Beecham absent). David Cary, Steve Henrichsen, Tom Cajka, Andrew Thierolf, Brian Will, and Geri Rorabaugh of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission meeting

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

Hove requested a motion approving the revised minutes for the regular meeting held April 27, 2016. Motion for approval made by Cornelius, seconded by Corr and carried 7-0: Cornelius, Corr, Harris, Lust, Scheer, Sunderman, and Hove voting 'yes'; Weber abstaining; Beecham absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

May 11, 2016

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

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 1906A, SPECIAL PERMIT NO. 16019, and SPECIAL PERMIT NO. 16022.**

There were no ex parte communications disclosed.

Lust moved approval of the Consent Agenda, seconded by Corr and carried 8-0: Cornelius, Corr, Harris, Lust, Scheer, Sunderman, Weber and Hove voting 'yes'; Beecham absent.

Note: This is final action on **SPECIAL PERMIT NO. 1906A** and **SPECIAL PERMIT NO. 16019**, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days.

Chair Hove called for any **Requests for Deferral**.

Rorabaugh called one request by the applicant for deferral to the May 25, 2016 meeting.

SPECIAL PERMIT NO. 15064
FOR AN EXPANDED HOME OCCUPATION TO ALLOW AVALON EVENTS PARADISE
TO BE USED FOR SPECIAL EVENTS,
ON PROPERTY GENERALLY LOCATED AT 12788 WEST ROCA ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 11, 2016

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

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

There was no public testimony on this item.

Rorabaugh also called three associated items requested by the applicant for deferral to the June 8, 2016 meeting.

ANNEXATION NO. 16006
TO ANNEX APPROXIMATELY 7.88 ACRES
GENERALLY LOCATED AT 7601 PINE LAKE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 11, 2016

Staff recommendation: Approval.

CHANGE OF ZONE NO. 16014
FROM AGR TO R-3 DISTRICT
GENERALLY LOCATED AT 7601 PINE LAKE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 11, 2016

Staff recommendation: Approval.

AND

SPECIAL PERMIT NO. 16018
TO ALLOW A RESIDENTIAL HEALTHCARE FACILITY
GENERALLY LOCATED AT 7601 PINE LAKE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 11, 2016

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

There was no public testimony on this item.

Lust moved deferral of **SPECIAL PERMIT NO. 15064**; and **ANNEXATION NO. 16006, CHANGE OF ZONE NO. 16014 and SPECIAL PERMIT NO. 16018**, seconded by Scheer and carried 8-0: Cornelius, Corr, Harris, Lust, Scheer, Sunderman, Weber and Hove voting 'yes'; Beecham absent.

**COMPREHENSIVE PLAN NO. 16003
TO REVIEW "UNIVERSITY PLACE SOUTH REDEVELOPMENT PLAN
AS TO CONFORMANCE WITH THE 2040 COMPREHENSIVE PLAN
ON PROPERTY GENERALLY LOCATED AT
NORTH 48TH AND HOLDREGE STREETS
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 11, 2016

Staff recommendation: Conformance with the Comprehensive Plan.

**CHANGE OF ZONE NO. 16016
FROM B-1, H-2 AND O-2 DISTRICTS TO B-3 PUD COMMERCIAL BUSINESS DISTRICT
ON PROPERTY GENERALLY LOCATED AT
NORTH 48TH AND HOLDREGE STREETS
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 11, 2016

Staff recommendation: Conditional Approval.

AND

**STREET AND ALLEY VACATION NO. 16002
TO VACATE TWO ALLEYS
ON PROPERTY GENERALLY LOCATED AT
NORTH 48TH AND HOLDREGE STREETS
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 11, 2016

Staff recommendation: Conformance with the Comprehensive Plan.

Members present: Beecham, Cornelius, Corr, Harris, Hove, Lust, Sunderman and Weber; Scheer declaring Conflict of Interest; Beecham absent.

Corr disclosed that she attended the Developer's Open House on Tuesday, March 1, 2016.

Staff presentation: David Landis of the Urban Development Department stated Urban Development Department is the applicant for the Redevelopment Plan; the Change of Zone and Alley Vacation are work of the developer. We examined this area several weeks ago and declared it Blighted and Substandard and showed that the area is ripe for redevelopment. Yesterday, the City Council agreed unanimously with Planning Commission that the area is Blighted and Substandard.

Today, the question is whether or not the plan is in conformance with the Comprehensive Plan of the City and we argue that it is. Normally, you would see us here with a specific project like this that would come to you in the form of an amendment to an existing plan because we have those plans in all of the TIF districts. This is a new area that was just declared blighted and substandard. For that reason, we need to create a plan for the area. When we have a specific project, that project would then be amended into the plan. Today, we collapsed those steps into one. The plan identifies things that would be helpful to the area and it has a specific project. The Redevelopment Agreement will be the next step. In other words, this will be the only opportunity this body has to critique the proposed project because it will then be embedded in the plan.

This amounts to \$16 million of private investment. It includes 20,000 square feet of retail and restaurant space on the ground floor. It consists of approximately 98 market-rate apartment units on the upper four floors. The project faces 48th Street with the garages and landscaping behind, so it abuts the property in a way that we like. It contains 190 parking spaces which is sufficient to meet the standards. There is no set of design standards that apply here. However, if you look at those standards, you would find an overlap, such as the transparency on the first floor, walkability, and high-end materials up to 20 feet. It replaces the old Tastee Inn and the old Q.P. Store. This project is the rationale for why the underlying plan is being brought to you.

We want to do this and the developer has done the preliminary work to allow the City to assist with TIF funds of about \$1.7 million. The relationship of private-to-public dollars is \$9.80 of private to \$1.00 of public investment. We find it consistent in a number of ways that are outlined in the Staff Report.

Lust asked if it is allowable to include design standards as part of a redevelopment plan. You mentioned there were none and I'm glad it is a beautiful building. Landis said he believes that is a City Council function, however, when given a project, this body can say that your approval is conditional on 'x', which could be design standards.

Harris asked if this will appear before the Urban Design Committee. Landis said yes, whenever there is a TIF project, it is a requirement to appear before Urban Design. This has gone to them, and they did approve.

Proponents:

1. Tom Huston, 233 S. 13th Street, came forward on behalf of the applicant, 48th Street Investments, which is a company comprised of Schafer Richardson located in Minneapolis, and Greenleaf Properties of Lincoln. Also present today are Sara Joy Proppe, Project Manager, and Maureen Michalski, Director of Development, both of Schafer Richardson, as well as Don Linscott of Greenleaf Properties, and Tim Gergen, Project Engineer from Clark Enersen Partners.

The Redevelopment Plan is the second step. The question before you today with regard to the Comprehensive Plan Conformance item, is whether the redevelopment plan is consistent with the Comprehensive Plan for the City – this project is in many ways. It will use existing infrastructure, does not require additional investment by the City; will incentivize a mixed-use development; will identify a new use for a under-used piece of property; and, will increase residential and commercial density in conjunction with making sure the project is compatible with the neighborhood.

The Change of Zone is to clean up the mixed zoning that currently exists. We request a change to the B-3 PUD Commercial Business District which is what is required for a mixed-use project of this nature. This is a market rate project with retail. The building footprint has been oriented to the front right-of-way of N. 48th Street. Adjacent to the building itself is the parking lot containing 187 stalls including garages and landscaping. The east facade will also be important in providing outdoor dining and coffee shop opportunities.

The important aspect of the change of zone is that there are waivers requested – one for height to permit the increased density to make it compatible with the neighborhood. The conditions indicate that the building will be 215 feet away from the homes on the east. The PUD prohibits commercial use on the east half of the block and it requires screening. The second waiver deals with parking. The site is over-parked at this point. The site only requires 142 stalls. The waiver is that they be allowed to allocate 1 stall per 600-feet of commercial use, regardless of that use. The last waiver is to waive on-site detention due to the small size of the building footprint, and the fact that it is adjacent to Dead Man's Run.

Huston handed out a proposed Motion to Amend the Site Specific Condition No. 4 that requires the final platting of the property before the building permit. I am asking that this be revised to require the final plat prior to the certificate of occupancy because we want to be under construction in August of this year. We have the consent of Planning on that item.

The alley vacation is for the L-shaped alley that was platted in the 1890s and is no longer needed. It is being permitted because we are burying all utility lines.

Corr said that 70 feet seems high for 5 stories. I heard you mention that 20 feet on the first story. She asked how high the building will really be. Huston said the height will really depend on the parapet wall that is required to shield and screen mechanical equipment

on the top floor. He believes the building will be right up to the 70-foot height. The first floor will have higher ceilings but, for this type of construction, those types of spans are required to cover HVAC and other equipment.

Corr said there is a taller dark section shown at the top. She asked if those are apartments. Huston said yes. Corr asked if the level down where there is some empty space will house the mechanical equipment. Huston said he believes there could be patios on the ends of the roofs. The mechanical equipment is located at the very top.

Corr said there is talk about replacing a storm drain pipe to allow the waiver for storm drainage. Huston said that is a typical requirement. Corr said she is concerned that one of the conditions for being blighted is that some of the water mains and storm drains are dilapidated. She wondered if this project will fix those things to solve those blighted conditions. Huston said there is no need to replace the sanitary sewer, but the storm sewer improvement required by the Site Specific Condition is required to allow this project to comply with the storm sewer requirements.

2. Tim Gergen, Clark Enersen Partners, stated that they worked with the Water Department. The water mains within 48th Street are within 10 years old. The sanitary sewer is within its life expectancy. The storm sewer has a Condition for Approval because we had to have a lot of the building storm sewer go to a storm sewer system in 48th Street rather than in Aylesworth. At that point, we needed to change our pipe size and material in order to meet the City standards. We had no problem with that condition. Corr said that for this portion of the blighted area, there were not any bad pipes. Gergen agreed that was the case in this block.

3. Sara Joy Proppe, Project Manager at Schafer Richardson, thanked the Commissioners. The Lincoln market is new for us, but we have had a long-term relationship with Don Linscott of Greenleaf Properties. We were established in 1995. Our development team has over 100 years of combined experience. We manage a mix of office, commercial, and multi-family properties throughout the upper Midwest, including over 1,000 units of multi-family houses, ranging from condos to historic rehabilitation, affordable housing and market rate units. We also own and manage 1.7 million feet of commercial and retail space in the Twin Cities. We have 245 units under construction. We have a very positive reputation within communities because we think it is important to engage the local residents in the process. To that end, we have already had a neighborhood open house including University Place and some of the East Campus business associations in the area. We are very excited to be part of this project.

Corr said there are glass fronts on 48th Street and at the back of the building. She wondered if it is intended for a single store, or if it is split. Proppe said she thinks it will be one.

Opponents:

1. Chuck Early, 5219 Garland Street, stated that from what he has gathered, it is too big for the area. We have properties in University Place that are rentals, as well as three lots that he is preparing to build apartments on when there is need for them. We rent to students. This could suck the life out of rentals in a heavily rented college neighborhood. That will suck the life out of the neighborhood. I also have concern about the zoning. It does not conform with that. It is higher than 45 feet since it abuts residential. The floor plan is also not to have sales and office space greater than 4,000 square feet. If there are apartments over that, it would be a minimum of 60,000 square feet on top of the retail below. This will add congestion to the area. The parking does not seem like it will be enough. It looks like it will work out to 800 square feet for each parking spot. I do not think it will be good for the neighborhood. We know something needs to go into the area, but this project is too big.

2. Nancy Early, 5219 Garland Street, came forward to state that they live in the neighborhood and they knew nothing about this project until it was in the newspaper. That really bothered her and her husband because they own nine lots in the area, including smaller apartments. The main concerns are the congestion and also the height, because there is nothing of a similar character in the neighborhood. At one point, University Place had issued saying something stating that any new structures needed to be compatible with the neighborhood. It is also very close to the street.

Hove asked how close they are to this development. Nancy Early stated they live a block and a half from their rentals on Garland and Walker. Chuck Early said that from what he understands, they will not be targeting students but that seems like a stretch. Nancy Early added that they also did not know about the neighborhood meeting that was held.

Staff Questions:

Harris asked how Staff feels about the Motion to Amend.

Andrew Thierolf of the Planning Department came forward to state that was discussed with the applicant, and Staff is comfortable with it.

Applicant Rebuttal:

Huston stated this project is a market-rate project, not designed for students; the pricing will probably exclude a lot of the student population. The project density is one of the questions of the neighbors. This is the type of project the Comprehensive Plan seeks. Increasing density along two arterial streets, on a site that is underutilized and we can use existing infrastructure. The B-3 zoning is the type of zoning request that has to be made to allow a mixed-use project like this. It permits the height waiver, which is consistent to allow the density of the project and with other similar buildings in the Wesleyan and

East Campuses. The site will have more parking spots than is required under the code. The fact that the site is dense will lead to more traffic, but it is along two arterial streets, which is really where a project like this should be located. Schafer Richardson is a long-term owner. They do not buy and sell, so they have a vested interest in making sure the project is well-maintained and in taking care of their investment. This meets Comp Plan objectives for things like sustainability, increased opportunities, and public transportation. It does not cost the City a dime since there is no additional infrastructure the City needs to install.

Lust said it would be helpful to define “market rate”. Huston said it means that the units are not subsidized and the tenants will be qualified based on their own income. These are not hugely expensive, but they are not targeted to students. There will be a combination of 1-bedroom, studio, and a few 2-bedroom units. There is interest from seniors and young professionals in the vicinity.

Corr asked how many apartments will be in the building. Huston said 98, as currently drawn, with approximately one-third of each type of unit. Corr asked how many square feet are in the largest units. Huston said 1,200 square feet.

Corr asked if the building across from East Campus just up Holdrege Street is subsidized for student housing. Huston said it is his understanding that it is not.

Corr asked how far the turn lane runs on 48th Street. She wonders if the intersection will need to be widened. Huston said this project was reviewed by traffic engineers and they believe the existing infrastructure will handle it without any additional improvements.

Corr asked if getting rid of a level was an option. Huston said it dramatically changes the economics of the project and it would not proceed.

COMPREHENSIVE PLAN NO. 16003

ACTION BY PLANNING COMMISSION:

May 11, 2016

Harris moved approval, seconded by Lust.

Hove said this project conforms to the Comprehensive Plan. The density and economics of the project make sense and he will support it.

Motion carried, 7-0; Cornelius, Corr, Harris, Lust, Sunderman, Weber and Hove voting ‘yes’; Scheer abstaining; Beecham absent.

This is a recommendation to the City Council.

CHANGE OF ZONE NO. 16016

ACTION BY PLANNING COMMISSION:

May 11, 2016

Lust moved approval as amended by the Applicant, seconded by Cornelius.

Corr said she does have concerns about the height, because it is residential in that area where the existing buildings are primarily single and two-story buildings. However, this is on a major street and there is a lot of setback from the residential. As things continue to develop to the north, the building will not stand out so much as it might at first.

Lust said this is a good project for the area. She understands the neighbors' concerns, but she feels that with the addition of the nice retail, residential, and coffee shops, they may find that the college-oriented rentals will actually benefit by having these types of facilities nearby, and it will be more attractive for students. They may even be able to charge more in rent.

Cornelius said he is excited for this project in this part of town as a resident of north-central Lincoln. It does differ from the surrounding area to some extent. But the enthusiasm with which it supports the goals of the Comprehensive Plan make it a valuable addition to the area. He supports the project.

Harris added that we are seeing a lot of demand for this type of housing from Millenials and Baby Boomers. It also represents infill, which is something we are always looking for. She hopes it acts as a catalyst for the neighborhood and will bring additional businesses and restaurants to the area.

Weber agrees with Corr about the height, but the orientation of the building and the setbacks are sufficient to alleviate those concerns.

Hove said he echos what others have said and he intends to support the project.

Motion carried, 7-0; Cornelius, Corr, Harris, Lust, Sunderman, Weber and Hove voting 'yes'; Scheer abstaining; Beecham absent.

This is a recommendation to the City Council.

STREET AND ALLEY VACATION NO. 16002

ACTION BY PLANNING COMMISSION:

May 11, 2016

Cornelius moved approval, seconded by Weber. Motion carried, 7-0; Cornelius, Corr, Harris, Lust, Sunderman, Weber and Hove voting 'yes'; Scheer abstaining; Beecham absent.

This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 16015
FROM B-1 TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT
ON PROPERTY GENERALLY LOCATED AT
1404 SUPERIOR STREET
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 11, 2016

Staff recommendation: Approval.

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

There were no ex parte communications disclosed.

Staff presentation: **Brian Will of the Planning Department** came forward to state that there had been prior attempts to change the zone on this property in the past. Those were defeated until 1998 when this property was rezoned as part of a larger area that includes a library and park. There is a shopping center right across the street that is zoned B-2. If this came before us today, we would suggest that B-2 zoning would be appropriate. It more accurately reflects what is seen in suburban development areas at the edges of the city, as opposed to B-1, which is more consistent with older districts like College View or Havelock, or other similar areas. This site was developed more consistently with B-2 zoning. The applicant is seeking this change in order to sell alcohol.

Corr asked if the Walgreens was initially in the development to the south. Will said there was an Osco there at one time, but he does not believe there was a Walgreens on the south side.

Proponents:

1. Mark Hunzeker, Baylor Evnen Law Firm, came forward representing the Applicant. This parcel has a long history of attempts to rezone. In 1998, it was rezoned in conjunction with an agreement by the developer to gift a substantial portion of the park. There may have been other reasons, but he recalls that there was no consideration of B-2 zoning is that the development of the site was very carefully negotiated with the City in terms of where access would be, that there be no access from Superior Street, and that it would conform with all setbacks. It was a similar process to what we would have expected with a B-2 zoned. We are not hiding the fact that this is to sell alcohol at the site. At the time, it would have been simple to negotiate for this change that is not substantially different from what is there, with the rules that we have in place today. We are here today to attach this property to the adjacent B-2 district. It is an appropriate change.

Lust asked how many Walgreens currently sell alcohol with no concerns today. Hunzeker said he does not know how many Walgreen stores there are total, but there are three that do not sell alcohol. There are no problems that he is aware of. There have not been

problems at other similar retail locations such as convenience stores and grocery stores. People do not become irresponsible because they are allowed to purchase from these places.

Staff Questions:

Corr asked if any of the stores in the B-2 section to the south sell alcohol. Will said they do. They meet the requirements. He knows of at least one that does.

CHANGE OF ZONE NO. 16015

ACTION BY PLANNING COMMISSION:

May 11, 2016

Lust moved approval, seconded by Cornelius.

Corr said normally there are some concerns when we allow alcohol sales near parks, schools and residential areas, but since this site is adjacent to B-2, and there are already alcohol sales just to the south, there will not be much difference.

Hove agreed that this is straightforward and makes sense for the business.

Motion carried, 8-0; Cornelius, Corr, Harris, Lust, Scheer, Sunderman, Weber and Hove voting 'yes'; Beecham absent.

This is a recommendation to the City Council.

CHANGE OF ZONE NO. 16010

**FROM R-4 TO B-3 COMMERCIAL DISTRICT
ON PROPERTY GENERALLY LOCATED AT
2201 SOUTH 17TH STREET**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 11, 2016

Staff recommendation: Conditional Approval, subject to a Conditional Zoning Agreement.

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

There were no ex parte communications disclosed.

Staff presentation: Tom Cajka of the Planning Department stated that just north of this site was the former SunMart grocery store that is now owned by Bryan Hospital and has been torn down. The building is along the north with parking along 17th Street. Until recently, it was being leased by the County to Lutheran Family Services who has now moved to a new building. There is B-3 zoning to the north on the other side of South Street. There is R-2 to the east and R-4 to the west and south. The R-4 is mainly taken up by

the hospital, which is allowed in a residential district by special permit. The only true residential is east of 17th Street and farther south. The applicant has agreed to a zoning agreement, which limits most of the uses in the B-3 District. What they have agreed to is basically a O-2 zoning with retail. They need the B-3 in order to have retail. For clarification, the way the code is written, retail would not include auto sales, on- or off-sale alcohol, car washes or that type of thing. We were trying to look at this to allow flexibility for the use while lessening the impacts to residential. We think with the restrictions on the more obtrusive uses, the compromise is a good fit for the area.

Harris asked for more information about screening that would be required in B-3 as it relates to the residential areas. Cajka said there is a screening requirement when it comes to commercial next to residential, but we do not consider residential across the street as being adjacent. There is screening for the parking lots which is 90% from the ground up. Since this is an existing lot, if remained as it is, screening would not be required. However, we do know there is already some substantial landscaping by the parking lot which probably already meets the requirements. Harris asked if a developer were to rip out the existing parking and build new, they would have to comply with the screening requirements. Cajka said yes.

Corr said this item appeared on the agenda a couple of weeks ago. She wondered if anything has changed in the zoning agreement between then and now. Cajka said there was a meeting with a hospital representative and, based on that, the County Board agreed to add two conditions to the agreement. First, in the case of any new construction, any new parking would be setback 20 feet along the lot line on 17th Street. Second, signs would be limited to 32 square feet and 9 feet in height.

Corr asked if that alleviated the concerns brought up in a letter of opposition that was received. Cajka said they are present and can answer.

Proponents:

1. Don Killeen, County Property Manager, came forward to state the primary reason for the County's request is to ensure that the future owner of the building that exists there can utilize the building in the manner that has been used by the County and Family Lutheran Services for the last 20 years. Under the O-2 zoning, there would be approximately 3,200 square feet of existing office space that would have to be considered as storage which diminishes the County's assets significantly.

Corr asked for clarification that if the change doesn't go through, that square footage would have to be changed to storage instead of office space. Killeen said yes.

Cajka clarified that the current zoning is R-4, so if this didn't get approved, it would remain R-4, and office is not allowed in R-4. Corr asked if that is why space would have to be converted to storage. Cajka said no. It could be used for what it had been, a residential

healthcare facility. The storage part goes to the parking requirement for a medical office; there is not enough parking for this building to be utilized as a medical office. That is why when Family Lutheran Services was there, they leased a portion and the rest was storage.

Opponents:

1. Ken Seacrest, Seacrest & Kalkowski, came forward representing Bryan Health. This is a very unique application. The County is interested in selling this building. Unlike you and me, the County can only sell property one way, and that is to have an appraisal, hold an auction, and sell to the highest bidder. If it is substantially below fair market value, only then can they negotiate. To help them with the appraisal process and to get good sale proceeds, the County seeks to rezone to get a good market value, but they request a zone that does not require any additional review such as a special or use permit, so important details of potential negative impacts on neighbors cannot be determined.

Bryan is opposed to this request because we do not know what the next user will be. This zone does not require site review and we do not know what the next user will be. County has a self-interest to help improve their resale. Bryan Health also has self-interest. We want to buy the property and we want for it to be reasonably zoned. We will pay fair market value. A zone that is not appropriate could distort the market. If we are not the highest bidder, we have to live with whatever comes in. It could be a use that may not be compatible with the hospital and the neighborhood.

The County has been exempt from zoning, so it used to provide medical services and did not need to meet parking requirements. It got more complicated in 2007 when parking was deeded to Bryan. They flipped parking. The County gave up 126 parking stalls and went to 102 stalls, making the shortage worse. They had good reason at that time, when they needed important services from Bryan. As part of that exchange, they lost the stalls and that now has consequences for the next user who will have to comply. If they can't, it impacts the size and use of the building. What I am tactfully trying to say is that in 2007, the County "sold" some of the property when they exchanged it for services. Now they are trying to get that back in some way for the next user.

Another unique factor is that this County application puts the Planning department in a tough spot since they are also a County entity and, as such, the County is involved in the hiring and firing of the Director of Planning and in budget matters. Normally, they have no stake in the game when they make recommendations. Planning also did not realize the swap agreement had occurred so they did not know the parking shortfall was there.

The B-3 allows many more uses, some of which would not be appropriate. It is important to ask if there is enough retail in this area and do we need more, or does it take away from existing retail. The parking is detrimental. Other zones allow 1 stall per 300. This zone allows 1 per 600, in other words half the requirement. The building does not meet parking requirements in many other zones, but in the requested B-3, suddenly there is a surplus.

What that does is allows them to do more with the building. Right now, if a medical office came in, 31% of the building could not be used because they would not have adequate parking. An office, they would lose 9.2%. With new construction, the office zone would allow up to 31,000 square feet, but the special B-3 zone allows around 60,000. The setbacks and heights allowed are also impacted in a similar manner.

The County's lot is an odd shape now since the change in 2007. It is important to ask what the appropriate zone is for this area. The building is clearly meant for office use, not retail. Normally there is an office zone between retail and residential. If there is retail, you begin to strip 17th Street, which sets up a bad precedent of having retail encroach into a neighborhood. This is not appropriate according to the Comprehensive Plan. Parking could become an issue for both Bryan and the neighborhoods.

Bryan is looking at delivering the best possible healthcare services on this campus into the future. The County gave away parts of the building. Now this zone would put it back, but that causes many negative ramifications. He spoke with the president of the Irvingdale Neighborhood Association. He asked that he relay that he agrees with the information presented today.

Hove asked if they are proposing O-2 or O-3 as an alternative. Seacrest said O-2. There is a motion to amend if you think that is a better option.

Lust asked if their proposal is that, normally with a change of zone request, there is an actual request, so your recommendation is to say no now until we know what will happen. Seacrest said that is preferred, but we also understand that the County might at least like to allow office.

Lust asked for clarification that the major concern with lack of parking is that people will park on the Bryan campus when Bryan needs that for their own operations. Seacrest said that is correct and that people will also start parking in the neighborhood, which can cause many problems, which is also not it Bryan's interest.

Lust wondered if the concern over the height was because a tall building would stand out too much in the neighborhood. Seacrest said he is fine with the height as long as there is parking. They cannot have a free pass. The neighbors would probably have a different perspective since they do not have the tall building that Bryan does.

Corr asked the age of the existing building. Killeen said it was fully remodeled in 1995.

Lust asked if Bryan thinks the proposed zoning agreement is enough to take care of concerns about what type of business might move into the area. Seacrest said it takes care of a handful of obnoxious uses, but it leaves retail. There could be very inappropriate uses allowed under that definition.

Harris asked if it is fair to say that you believe that B-3 with O-2 uses take care of some of the uses, but doesn't take care of height and other issues. Seacrest said the O-2 would allow office uses, including medical, so that makes sense to us. Retail is not appropriate or needed. It is too intense.

Lust wondered if Bryan's best defense would simply be to make sure they were the highest bidder. Seacrest said that is a fair statement, but what if we are not. We have fiduciary duties and money given through trust so we can't just go above fair market value. Someone could outbid us easily. Lust said that some may be skeptical and say you are trying to keep fair market value at a lower level. Seacrest said that realistically, the County has not had to live with any zoning. The job of this body is to ask what this property looks and feels like it should be used for.

Corr asked if Bryan doesn't win the bid but someone compatible does, would they be opposed to having a parking agreement with a new neighbor. Seacrest said they need to address their own parking needs first. They do not want to be a bad neighbor themselves. Bryan's goal is to keep all of the parking on the site. Medical parking is the most intense. If that agreement could be made, it may not be for as long as a developer would like, since we have to reserve our own right to meet the needs of the community in terms of quality medical service. Corr asked if there was excess parking now and the concern is over how long that will last.

2. David Reese, Bryan Health, stated that it depends on how you describe parking. There are different levels with patients and employees and the like. Parking ebbs and flows for patients. Our services continue to grow with the City so we have to find ways to continue that growth without having a negative impact on neighbors.

Steve Henrichsen of the Planning Department came forward to clarify that in a meeting I said we were in a unique position because we work for the Mayor, the City Council, the County Board, and we look at every change of zone, regardless of the applicant or final user, since users change. Like Staff, this body must consider the unique characteristics and facts in this case without concern for who you work for.

Lust asked if it was more typical that we would know the applicant and the use before we change the zone, instead of changing it in advance. Henrichsen said typically you would because the seller had the option to work with several buyers. The owner in this case does not legally have the ability to choose. So they want to say that there are other uses that would be appropriate for this site, such as a pharmacy. This building is blocked from 16th Street by Bryan property. It could potentially have a big building to the north that would block it. The applicant still feel there could be other uses.

Lust asked for clarification that even if something very inappropriate for the area wins the bid, there would be nothing to do at that point. Henrichsen said that is correct. This property is unique. It has very little visibility from surrounding areas, so it is important to ask what

type of use would choose this spot. The zoning with the agreement basically amounts to O-2 zoning, with a few additional uses on it, since there are other uses that would be compatible with the surroundings. Lust asked if a pharmacy is not allowed in O-2. Henrichsen said that is correct.

Cajka clarified that there is a setback of 30 feet if adjacent to a residential district.

Weber asked if there was any feedback from neighbors. Cajka said letters were sent out and one owner showed up to a meeting. He spoke with the President of the neighborhood association to ask whether his letter in opposition represented the whole neighborhood, the Board, or just himself; it was on behalf of the neighborhood board, where it was discussed at a board meeting. Corr asked if that board approved the letter. Cajka said yes.

Dave Derbin, County Attorney, came forward to state that the 2007 contract was a complicated agreement. There was real estate swapped, but there was no covenant that stated the County would never seek to rezone the property.

Killeen stated that the hospital approached the County switching the parking. Prior to that, as was indicated, we had 126 stalls across the street. With that offset of fees, he believes the purpose at that time was to compensate for the cost of the parking stalls themselves, not the diminished cost of the structure, so they are two separate things.

Corr asked how old the building is. Killeen said he believes it was built around 20 years before the remodel in 1995. Corr asked if the building is well-maintained and in good shape. Killeen said it is ready to be utilized by a new tenant. The believe that it might be scrapped would not be likely, in his estimation.

CHANGE OF ZONE NO. 16010

ACTION BY PLANNING COMMISSION:

May 11, 2016

Corr moved denial, seconded by Lust.

Corr said she finds this an unusual situation without a buyer. We do not know what will happen with this parcel so it is difficult to evaluate the zoning change. It is more appropriate to let the new owner, whenever that is decided, to pursue a change, if necessary.

Lust said she seconded to start discussion. This is a tough situation and she understands the position of both parties. This hinges on the fact that it is difficult to approve a zoning change without knowing what will go in. She might be more comfortable with the middle ground of the O-2 office district which gives a little more flexibility.

Cornelius stated he agrees with Lust. What he is hearing is two things. The hypothetical rezoning to O-2 is a resolution of conflict that exists with the office building in R-4. With regards to the B-3 application, if an owner came before us and said I'd like to change the

zone with the opposition of the neighbors, in order to maximize the value for sale, we would very likely say 'no'. That is kind of the case here. Potential buyers have the capacity to imaging possibilities and apply for new zoning. Whether or not it should go to O-2 is a separate question. There has been so much work with the current application, and it is complicated enough that he is uncomfortable with the 2-line amendment to change it. So in a way, he is inclined to support the denial.

Harris said she shares the same sentiment. She is not comfortable with moving for the O-2 because the applicant is not asking for that change. She does not want to speculate if they prefer that versus a 'no'. She is more inclined to just wait for an applicant to come forward.

Lust said the vote to amend is not before the Commission. She stated for the record that the statements of Cornelius and Harris caused her to change her mind.

Weber said he will vote against the denial. He sees both sides. It is not zoned correctly now. He thought that in the past, zone changes have been made without a new owner. He would like to see the free market set the value.

Sunderman said he will also vote against denial. In looking at the parking lot, the way it is situated, the location of it and whether there will be cross-parking. People will be just as likely to park in Bryan's lot as to the south. According to the information provided, B-3 requires 58 stalls, a surplus of 48, which would be on the south side. Potential cross-parking is there.

Scheer said he will support the motion. The potential for a property to be rezoned to B-3 is exciting and there are good reasons to support it, but in his short time, he does not recall supporting a change of zone without knowing the applicant. Hopefully something will come forward that will support B-3.

Sunderman added that the location of this property could be hidden behind something up front. Even as B-3, he does not believe the consequences will be so onerous because at the end of the day, it will probably be a hidden property. It's primary use will be back to the campus.

Hove said he will support the denial. This is a very unique property that is surrounded on three sides by the same people. As Cornelius said, we would deny a similar application if another property were surrounded by opposition. We need to have a say in who goes in.

Motion carried, 6-2; Cornelius, Corr, Harris, Lust, Scheer, and Hove voting 'yes'; Sunderman and Weber voting 'no'; Beecham absent.

This is a recommendation to the City Council.

There being no further business to come before the Commission, the meeting was adjourned at 2:52 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, May 25, 2016.

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