

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, July 24, 2019, 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 Tom Beckius, Cristy Joy, Dick Campbell, Tracy Edgerton, Dennis Scheer and Deanne Finnegan; (Tracy Corr absent). David Cary, Steve Henrichsen, George Wesselhoft, Rachel Jones, Geri Rorabaugh and Rhonda Haas of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Hearing

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

Scheer requested a motion approving the minutes for the regular meeting held July 10, 2019.

Motion for approval of the minutes made by Campbell, seconded by Beckius and carried 6-0: Beckius, Corr, Edgerton, Joy, Finnegan and Scheer voting 'yes'; Corr absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

July 24, 2019

Members present: Beckius, Joy, Scheer, Campbell, Edgerton and Finnegan; Corr absent.

The Consent Agenda consisted of the following items: **Change of Zone 19019 and Use Permit 19007.**

There were no ex parte communications disclosed.

Scheer declared a Conflict of Interest on items Change of Zone 19019 and Use Permit 19007 and, therefore, appointed Beckius as Temporary Chair; Scheer exited the chambers. Beckius took over as Chair.

Change of Zone 19019 and Use Permit 19007 were removed from the Consent Agenda to have a separate public hearing.

**CHANGE OF ZONE 19019, FROM R-4 (RESIDENTIAL DISTRICT) TO O-3 (OFFICE PARK DISTRICT),
ON PROPERTY GENERALLY LOCATED AT 643 NORTH 45TH STREET**

AND

**USE PERMIT 19007, TO ALLOW FOR OFFICE USES AND RELATED IMPROVEMENTS, WITH
WAIVERS, ON PROPERTY GENERALLY LOCATED AT 643 NORTH 45TH STREET**

PUBLIC HEARING:

July 24, 2019

Members present: Beckius, Joy, Campbell, Scheer, Edgerton and Finnegan; Corr absent.

There were no ex parte communications disclosed.

Staff Recommendation: Approval of Change of Zone 19019
Conditional Approval of Use Permit 19007

Staff Presentation: George Wesselhoft, Planning Department, stated the proposed change of zone and use permit is for 2.25 acres of vacant property located at the southwest corner of Vine and N. 45th Streets. He stated the proposed zoning change is from R-4 Residential District to O-3 Office District. The proposals would include 2 buildings and a 24-foot access easement that would provide access to a planned 193-unit apartment development to the west. He stated this access easement would allow a connection from N. 45th Street, which is the only street access for the site. O-3 zoning is appropriate in this area. He explained that as part of this development pursuant to the Access Management Plan, there would be a requirement for a right turn lane off North 45th Street. Currently, there is a pending application, a deviation request, which is related and is for a left turn lane off North 45th Street. He stated the waivers that have been requested include 0-foot setbacks for the two commercial lots on the internal lot lines for Lot 1, Lot 2 and for Outlot A and the adjacent commercial lot.

Edgerton asked if this was not county property, would it be still be O-3 zoning. Wesselhoft stated most likely yes, it would be office zoning.

Joy asked if there was a turn lane required there. Wesselhoft said yes, because in the Access Management Plan, North 45th Street is identified as an arterial and would require a right turn lane and a northbound left turn lane, which there is a pending deviation request for.

Finnegan inquired if the larger of the two buildings is the plasma center. Wesselhoft stated he believes that is correct. Finnegan asked if what is going in the smaller build is still unknown. Wesselhoft stated it may be another user and the applicant could confirm that for her.

Edgerton stated that the right-of-way will give access to the development that is on the west side, and asked if there would be an additional access to the property once it is developed. Wesselhoft said correct, that the Wyuka CUP allows it to direct access to Vine Street.

Joy asked if access would be off the existing access that is there or if there would be a new access road. Wesselhoft stated he thinks it would be a new access road on the north side of the property for the Wyuka CUP.

APPLICANT:

Tom Huston, 233 South 13th Street, Suite 1900, came forward on behalf of Stough Real Estate Holding, LLC, who is the applicant of this development. Stough Real Estate develops and leases plasma centers across the country and had identified this as an appropriate site in the City of Lincoln. The use permit would seek a total of 25,000 sq. ft. between the 2 buildings. Lot 1 would be the plasma center and Lot 2 would be a speculative building with no user identified and would be sold. He stated that the real concern has been that this site will not have sufficient parking. The Lincoln Municipal Zoning Code requires that Office Park District have 1 stall per 300 sq. ft. and the site plan shows 78 stalls adjacent to Lot 1, which is 156% of the required parking of 50 stalls. If the building is limited to 11,000 sq. ft., this would be 200% of the required parking stalls. Lot 2 has a sufficient number of parking spaces based upon a maximum of a 10,000 sq. ft. building, although we don't know what size building will be built on the site. He stated he also wanted to point out the grading plan for this development. The driveway easement is approximately four feet higher than the adjacent property without sidewalk access. This driveway is not designed for pedestrian access back and forth and it is required under the Access Management Code for both properties use permits. The connected driveway that is required is used to limit the number of outlets and number of driveways onto Vine Street.

Proponents:

Kent Seacrest, 1128 Lincoln Mall, Suite 105, came forward on behalf of Stuart Development Partnership who is the current land owner. He stated they have a purchase agreement to sell this property to Stough Development Company for their plasma center. Pointing out, this would just be a continuation of offices that are currently up and down this corridor, with some retail to the east. He stated that it is logical to go from office to retail and then to residential. He then mentioned with this site plan it is important to be able to get out onto Vine Street at 42nd Street. He stated it is important for our community to have more than one plasma center in the City of Lincoln.

Edgerton asked if his client would continue to own to the property to the west. Seacrest said no, a real estate developer in Omaha does.

Opponents:

Jerry Kavan, Slosburg Real Property, 10040 Regency Circle, Omaha, came forward and gave Planning Commission members a handout (Exhibit 1) and stated they own the property to the

west. He stated they have been approved for 193 apartment units on this site and are in the process of interviewing architects to design the buildings. When approved, the city required an access easement through the property. This access goes from Vine Street through the Slosburg property to the proposed site and then connects to 45th Street. He explained this is to allow cross access for everyone. He stated they are not opposed to this development, but they feel that the parking will not be adequate during peak hours of operation for this type of facility. He stated with the cross connection to the plasma center, the overflow parking from donors will end up in the apartment parking spots. This will cause problems with our apartment residents if they are unable to find parking. He stated they will be posting signs for apartment parking only and would like to put up a gate between the properties. This would be a motorized gate for residents and would have a Knox Lock installed for emergency vehicles to come and go as needed. He stated they are not asking that this be denied, they are asking for permission in the event there is a parking issue they would be allowed to install a motorized gate across the access easement.

Campbell asked if a gate is something that could be done at a later time if parking becomes an issue. Kavan said yes it could be done later. Campbell asked if there was a need to address this concern today or could this be addressed when parking problems start occurring. Kavan stated they are here today because the Planning Department has been against gating anything for a long time, so they were wanting to make an appeal to the Planning Commission and City Council in hopes of getting this settled.

Staff questions:

Finnegan asked about the opposition to the gate. Wesselhoft stated this access easement is not unique, they are throughout the city and generally don't have a gate, with the intent of a mutual access both directions.

Edgerton asked about the parking for the plasma centers downtown. Wesselhoft stated he could not speak specifically to the plasma centers, but the use falls under office. The zoning ordinance does not make a distinction between medical office versus office and it is a general standard. Edgerton stated when talking about a medical office you think of the office being open during business hours, and asked if plasma centers have extended hours. Wesselhoft stated that he could not speak to the plasma center specifically, but a medical office would fall under the general office category. Edgerton asked if the O-3 has a requirement for business hours of operation. Wesselhoft stated he is not aware of any.

Joy asked about the rules on the hours of the adjacent public building to the south and if they were an 8 to 5 building. Wesselhoft stated he did not know the hours of the Lancaster County Government Building, but said it is in P zoning and would not be subject to the same zoning regulations. Joy asked if there are rules about parking there after hours. Wesselhoft stated that he was unsure.

Campbell stated it was mentioned that there was a 4-foot grade separation on the driveway and asked how that is being transitioned between the two projects. Wesselhoft stated it was part of the site Wyuka's plan for the stormwater and grading.

Beckius asked what recourse Slosburg would have if their parking lot was impacted years down the road. Wesselhoft stated not speaking as legal counsel, but as any property owner, if there was a trespassing situation they would be able to address that. Beckius asked if a use permit was granted by the Planning Department and if there is any recourse there? Wesselhoft stated he was not aware that they could retroactively go back to this use permit once approved.

Applicant Rebuttal:

Huston stated if in the future there are problems with the parking, a conversation would go a long way to solve them. He stated his client has vast experience developing plasma centers around the country and they are comfortable with the number of parking stalls based on their experience nationwide, with a facility of this size. On the gate, this was to be a reciprocal easement providing connectivity for both parties.

CHANGE OF ZONE 19019

ACTION BY PLANNING COMMISSION:

July 24, 2019

Campbell moved approval, seconded by Finnegan.

Edgerton stated the change of zone makes sense with the zoning that is already in place in the area. She stated it's a great buffer between the residential and the business areas on the west and it makes a lot of sense with the pending development.

Beckius stated the access is a mutual benefit for both and should remain as it stands today.

Motion for Approval carried, 5-0: Beckius, Campbell, Edgerton, Finnegan and Joy 'yes'; Scheer abstained; Corr absent.

USE PERMIT 19007

ACTION BY PLANNING COMMISSION:

July 24, 2019

Campbell moved approval, seconded by Joy.

Joy stated she is in support of the use permit and the parking that is required and that it is based on Lincoln's history.

Campbell stated he is in support of the use permit, believing there should be access both ways. He stated if there is an issue in the future it can be addressed in the future with communication between the two parties.

Motion of Conditional Approval carried, 5-0: Beckius, Campbell, Edgerton, Finnegan and Joy 'yes'; Scheer abstained; Corr absent.

Scheer returned to the chambers.

Chair Scheer stated no Requests for Deferral.

COMPREHENSIVE PLAN AMENDMENT 19003, TO AMEND THE 2040 LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN, TO CHANGE THE FUTURE LAND USE DESIGNATION FROM COMMERCIAL TO INDUSTRIAL ON APPROXIMATELY 135 ACRES, ON PROPERTY GENERALLY BOUNDED BY INTERSTATE 80 ON THE SOUTH, HIGHWAY 77 TO THE EAST, BLUFF ROAD TO THE NORTH, AND N. 40TH STREET TO THE WEST

AND

ANNEXATION 19007, TO ANNEX APPROXIMATELY 576 ACRES, ON PROPERTY GENERALLY LOCATED AT HIGHWAY 77 AND INTERSTATE 80

AND

CHANGE OF ZONE 19020, FROM AG (AGRICULTURE DISTRICT) TO I-3 (EMPLOYMENT CENTER DISTRICT) ON APPROXIMATELY 590 ACRES, ON PROPERTY GENERALLY LOCATED AT HIGHWAY 77 AND INTERSTATE 80

AND

USE PERMIT 19008, TO ALLOW FOR THE DEVELOPMENT OF UP TO 2,000,000 SQUARE FEET FOR A DATA CENTER AND ASSOCIATED USES, INCLUDING WAIVERS TO SCREENING AND DESIGN STANDARDS, HEIGHT AND LOT REGULATIONS, AND SPECIFIC USE REGULATIONS OF THE I-3 ZONING DISTRICT, ON PROPERTY GENERALLY LOCATED AT HIGHWAY 77 AND INTERSTATE 80

PUBLIC HEARING:

July 24, 2019

Members present: Beckius, Joy, Scheer, Campbell, Edgerton and Finnegan; Corr absent.

Staff recommendation: Approval of Comprehensive Plan Amendment 19003
Conditional Approval of Annexation 19007
Approval of Change of Zone 19020
Conditional Approval of Use Permit 19008

Rorabaugh stated that staff submitted a motion to amend adding an additional condition of approval as requested by the Transportation & Utilities Department, to revise the right-of-way and paving for the proposed street.

There were no ex parte communications disclosed on this item.

Staff Presentation: **David Cary, Planning Department Director**, stated that this is being viewed as a unique opportunity for this type of project. In the context of the Comprehensive Plan, this project is the fruition of that vision and is what we would like to see happen on this property. The Comprehensive Plan was updated in 2006 and, in that update, we identified this area for an economic employment center. He stated the City has made an effort to provide water and sewer service to the property in the hopes of having something significant happening at this location. **Tim Sieh, City Attorney**, came forward and stated the proposal is to amend the 2040 Future Land Use Plan to revise approximately 145 acres from “Commercial” future land use to “Industrial” land use on property located northwest of Highway 77 and Interstate 80. This application represents a single user for the entire site. This proposal includes a 573-acre annexation and a change of zone for 590 acres. He stated the City will maintain 40th Street, a portion of Bluff Road and additional sections within Interstate 80 and Highway 77 as a result of annexing the property. The applicant is waiting these actions to be approved before they purchase the property. The change relates to the proposed Change of Zone from AG Agriculture District to I-3 Employment Center District. The Use Permit is requesting approval of a data center and associated uses. He stated the site plan is conceptual and is just a concept for what will be on the property if approved. He stated that this site will also be a secure site and not open to the public.

Finnegan asked if the buyer already has contracts with all the property owners in the area. Sieh stated that it is his understanding that they do have contracts to purchase all of the property within the site area. Finnegan asked for an example of what 2 million square feet would look like. Sieh said that would be the maximum on the site, but he does not have an example. Finnegan stated she is wanting to make sure the public was well informed that this is a data center and not a call center. Sieh said that was true. Finnegan asked about chemicals and if a discussion on chemicals was part of the industrial zoning. Sieh said the note about chemicals is standard for industrial zoning and he has not heard there will be hazardous chemicals on this site.

Campbell asked if there will be a left turn lane and a right deceleration lane for this site. Sieh stated yes there will be some turn lanes installed to accommodate traffic in and out of the site.

Edgerton asked about Sunshine Hills Community Unit Plan and the impact the zoning would have on the CUP, with the proposed condition. Sieh stated the CUP was approved based on the ag zoning and there would be a density requirement with that. Edgerton asked what if the current owner is not associated with the CUP. Sieh said no, that there is a number of residents

but they don't have any interest in the CUP. Edgerton asked if that would be driven by staff. Sieh said yes.

Finnegan asked about the owners of the homes on Bluffs Road and if they have been involved in the discussion. Sieh stated he doesn't think they have been talked to yet.

Joy asked about the Capitol View Corridor and how it is being addressed. Sieh stated it is mentioned in the Comprehensive Plan with three levels of protection. Capitol View, which is what is being talked about today, is in the Comprehensive Plan. It is the idea that the view of the State Capitol Building will be impacted as you drive in from Highway 77 and we should take steps to consider and protect the view.

Beckius stated that he was unsure of where the Capitol was in the photos without the staff showing him, because of the distance. Cary stated a lot will depend on what is developed on the site and it may or may not be impacted. Beckius asked if it was at the end of the corridor. Cary said yes. Beckius asked about the height waiver to 75 feet and if there was anticipation that buildings would be built to 75 feet on the site. Sieh said that is not something that he knows.

APPLICANT:

Joe Shields, HDR Engineering, 1917 South 67th Street, Omaha, came forward to answer questions. Beckius asked what could potentially be 75 feet tall. Shields stated that he was unsure and that it could be cooling towers.

Proponents:

Pat Haverty, Vice President of Lincoln Partnership for Economic Development, 1128 Lincoln Mall, Suite 100, came forward and stated there is a nondisclosure agreement so he is unable to discuss any more than what is in the documents. He stated in answering Finnegan's question on the size of the data center would be close in comparison to Kawasaki and the State of Nebraska has other data centers of this size. He stated this is a great investment and opportunity to Lincoln.

There was no testimony in support or opposition.

Staff Questions:

Edgerton asked about the area on the north side that could be a substation and if this was a definitive need or just dependent of how it develops and what the effect would be on the area

to the north. Sieh stated conceptually speaking, there is a transmission line from LES that runs through this parcel. A substation would be needed to convert the power from the lines to something that could be used. Edgerton asked about the waiver for screening related to the substation and the residential area. Sieh stated that the site plan shows a 300 ft. buffer from the edge of the property. Edgerton stating that the substation is farther than the 300 ft. Sieh said correct. Edgerton questioned what this means to the residents that already live in the area and how switching to AGR might affect the residents, because of new requirements that might be required in terms of the size and limitations. **Steve Henrichsen, Planning Department,** stated basically these properties are operating under AGR type rules. The AGR will simply reflect the use pattern that they have today and this is not viewed as negative on those properties. If for some reason, the residents decided they did not want to be zoned AGR, but this use permit and change of zone had already been approved, they would be basically non-conforming. Edgerton asked if it is relevant to the properties that are there now. Henrichsen said yes they reflect the AGR character.

Finnegan asked how many homes were already built in the CUP. Henrichsen stated four. Finnegan asked if they were all on Bluff Road. Henrichsen stated they are located on a separate road that comes off of Bluff Road.

Applicant Rebuttal:

There was no applicant Rebuttal.

COMPREHENSIVE PLAN AMENDMENT 19003,

ACTION BY PLANNING COMMISSION:

July 24, 2019

Beckius moved approval, seconded by Campbell.

Finnegan stated she feels it is an appropriate change.

Beckius stated this is the kind of development that Cities often dream of and he is excited to see the possibility of what will be developed. He stated this site is well positioned for this development and the impact to the existing neighbors will be minimal and feels the Comprehensive Plan is appropriate for this area and supports this project.

Finnegan stated she, too, is in support and thinks this is an incredible opportunity that doesn't come along often.

Joy stated she is in support and believes it is really what we are looking for as a City. She stated with the Highway protection and more access in and out of the site. She stated it is a very positive move forward.

Edgerton stated she agrees, saying this is a really exciting project. She stated perhaps there is less definition compared to a lot of items that go to the Planning Commission, but it doesn't take away from this being a great opportunity for the community.

Campbell stated he would like to echo what has been said.

Scheer stated he is in support of this and feels as the Comprehensive Plan is updated periodically this project meets many, many goals, as we go through the process. He stated this use is very appropriate for this site and this is a very unique opportunity that we need to seize on to as a community. He shared that he is very impressed that we will have something of this size in the City once Annexed. This is an opportunity to let the process work the way it is intended to.

Motion of Approval carried 6-0: Beckius, Campbell, Edgerton, Finnegan, Joy and Scheer 'yes'; Corr absent.

ANNEXATION 19007,

ACTION BY PLANNING COMMISSION:

July 24, 2019

Campbell moved Conditional Approval, seconded by Edgerton carried 6-0: Beckius, Campbell, Edgerton, Finnegan, Joy and Scheer 'yes'; Corr absent.

CHANGE OF ZONE 19020,

ACTION BY PLANNING COMMISSION:

July 24, 2019

Beckius moved Approval, seconded by Campbell carried 6-0: Beckius, Campbell, Edgerton, Finnegan, Joy and Scheer 'yes'; Corr absent.

USE PERMIT 19008,

ACTION BY PLANNING COMMISSION:

July 24, 2019

Joy moved Conditional Approval, seconded by Finnegan.

Rorabaugh stated there is a proposed amendment.

Joy moved Conditional Approval as amended, seconded by Finnegan.

Motion of Conditional Approval as amended carried 6-0: Beckius, Campbell, Edgerton, Finnegan, Joy and Scheer 'yes'; Corr absent.

There being no further business to come before the Commission, the meeting was adjourned at 2:11 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, August 7, 2019.

F:\Boards\PC\Minutes\2019\pcm072419.docx



10040 Regency Circle
Omaha, NE 68114
(402) 391-7900

July 23, 2019

Lincoln/Lancaster County Planning Commission
c/o Lincoln/Lancaster County Planning Department
555 S. 10th Street, Suite 213
Lincoln, NE 68508

Re: Zoning Case CZ19019 and Use Permit UP19007

Planning Department:

Our company owns the future apartment development known as the Wyuka Vine Street CUP, which property is located directly adjacent to and west of the referenced Change of Zone and Use Permit Application. We intend to build 140 apartment units in two buildings in the very near future on our property. We have reviewed the entire submittal package from the applicant and have the following comments.

The total floor area of medical office being requested is 25,000 square feet. This would require onsite parking of 83 spaces based on the city ordinance ratio of one space per 300 square feet. The site plan currently shows 112 parking spaces. Our concern is this; the developers have stated that the 15,000 square foot building will be a Plasma Center where hundreds of donors come to donate plasma and receive compensation. This operation will be identical to the two current plasma donation centers in downtown Lincoln [300 South 17th and 2200 N Streets]. We have past experience with plasma donation facilities in other cities and know that they generate extremely large parking demands, especially in the evening hours of operation. It is very unlikely that the provided parking will be adequate for this type of facility. In the event their parking is overloaded, the next place donors will look for parking is in the apartment parking lots next door, on our property. This would be a serious imposition on the apartment development and will clash with our resident's need to park their cars when they return home from work. Because of the required connecting driveway on the Access Easement between the apartment development and the office development, it will be very easy for donors to come into the apartment parking at any time.

Without some type of deterrent, we foresee that our residents will be coming home to find the parking spaces full and call our manager for help. Then we will be forced to order tow trucks to remove the violators, which in turn will make several donors very unhappy. We would prefer a different solution should this problem emerge.

Our request is that in the event the parking situation for the office development does indeed cause serious overflow into the apartment community parking, that the apartment community would be allowed to gate the Access Easement connection between the properties [See attached Site Plan]. This gate would be motorized and set up to electronically open allowing residents to enter or exit using a key fob transmitter. The gate would also be equipped with a Knox Lock device acceptable to the Fire Department and other emergency services in the event they needed to gain access to the apartment community from this direction. We have used this arrangement in many other apartment communities we own with great success and full blessing of the various fire departments.

Without this provision we foresee serious issues with preserving the parking needed for our apartment residents during the peak hours of operation at the Plasma Center.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jerry Kavan".

Jerry Kavan
Senior Project Manager

R-2 ZONING

**SITE PLAN EXHIBIT
SLOSBURG LETTER
7-23-19**

VINE STREET

N. 42ND STREET

**FUTURE GATE
IF NECESSARY**

R-4 ZONING

**70 UNIT APARTMENT
BUILDING**

**70 UNIT APARTMENT
BUILDING**

**PLASMA
CENTER**

LOT 1
15,000 SF

**ACCESS
EASEMENT**

LOT 2
10,000 SF

**OUTLET FOR
STORMWATER
QUALITY AND
OPEN SPACE**

P ZONING

