

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, July 7, 2004, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Eugene Carroll, Gerry Krieser, Roger Larson, Dan Marvin, Melinda Pearson, Lynn Sunderman and Tommy Taylor (Mary Bills-Strand absent); Marvin Krout, Ray Hill, Tom Cajka, Greg Czaplewski, Derek Miller, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Vice-Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held June 23, 2004. Motion for approval made by Larson, seconded by Carroll and carried 8-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Sunderman and Taylor voting 'yes'; Bills-Strand absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

July 7, 2004

Members present: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Sunderman and Taylor; Bills-Strand absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 04041; COUNTY FINAL PLAT NO. 04064, FOUR WINDS ESTATES ADDITION; ANNEXATION NO. 04009 and SPECIAL PERMIT NO. 1886A.**

Item No. 1.3a, Annexation No. 04009, and Item No. 1.3b, Special Permit No. 1886A, were removed from the Consent Agenda and scheduled for separate public hearing.

Larson moved to approve the remaining Consent Agenda, seconded by Krieser and carried 8-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Sunderman and Taylor voting 'yes'; Bills-Strand absent.

ANNEXATION NO. 04009

and

SPECIAL PERMIT NO. 1886A,

ON PROPERTY GENERALLY LOCATED

AT S. 64TH STREET AND PINE LAKE ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 7, 2004

Members present: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson; Bills-Strand absent.

Staff recommendation: Approval of the annexation, subject to an annexation agreement; and conditional approval of the amendment to the special permit.

Ex Parte Communications: None.

These applications were removed from the Consent Agenda at the request of Commissioner Pearson and had separate public hearing.

Proponents

1. **Brian Carstens** appeared on behalf of **Campus Life** to answer any questions.

Pearson inquired about the parking and the hydrological modeling waiver. Carstens explained that this application doubles the size of the parking lot. Campus Life is not really expanding any of its programs but there are times when there could be two activities going on at the same time in the two buildings. They will be doing a parking study focusing on the actual use, which is required prior to building permit.

The waiver of floodplain regulations was brought up by Watershed Management, who suggested that, with the small amount of fill that is being brought in and taking the fill out of the borrow area on-site, it would be negligible and would not be necessary to run through the calculations to determine no net rise.

Dennis Bartels of Public Works agreed with the applicant's discussion about the floodplain waiver. The area of fill is relatively small. We could go through the exercise of doing the calculations but it is an expense that Public Works did not believe was necessary because, through experience, Public Works believes there would not be a rise.

Pearson wondered whether there is a policy in place as far as this type of waiver so that it is fair to everyone at what point the hydrological study is required and at what point is it not required. Bartels does not believe there is a written policy or procedure. The base standard is that everyone should do a hydrological study in the floodplain and floodway area.

Ray Hill of Planning staff offered that the staff has discussed amending the ordinance as to when these studies would not be required because there are some times when there is such a small area that it creates a lot of paperwork for nothing. The staff is interested in establishing a standard.

Pearson inquired, "how much is the small amount?" Hill stated that the calculations have not been done. The staff was able to make this determination by looking at the drawings and the amount of fill that is being brought in.

Pearson acknowledged that this is a brand new standard and it was her understanding that the hydrological studies would be required, and now we're recommending a waiver, so she wants to know the platform. Hill agreed that it is brand new and the staff is working through the bugs. The staff now realizes that there are times when it is not necessary to go through the study, and the staff is working toward establishing a standard and will propose to amend the ordinance.

Pearson inquired as to the cost of the hydrological study. Hill believes that it depends upon the amount of the project itself. Proportionately, a small project like this would be a bigger cost to the individual than a bigger project.

Carlson referred to Condition #2.1.5, "Demonstrate the proposed construction will not increase the 2, 10 or 100-year events more than 0.05 ft." Hill concurred that this will be done even without the hydrological model. This condition is in place of the hydrological model. They still need to demonstrate how they will do that. Hill believes they can calculate the amount of cut and fill without doing a big study.

Pearson wanted to know how much fill is being brought onto the site. Dennis Bartels of Public Works stated that fill is not being brought onto the site. It is being taken from the site. There is a requirement in the floodway to check it against the 2, 10 and 100-year. The area designated on the plan for the removal area is in the floodway portion of the site. They are putting fill in the floodplain which is still on their site.

Pearson asked Carstens how much the hydrological study would cost. Carstens did not know for sure but believes they can range from \$5,000 to \$10,000, depending on what kind of modeling has been done on Beal Slough. It is probably more than what the dirt job is going to cost. Carstens pointed out that the applicant is meeting all of the other floodplain standards.

Opposition

1. Ron Murphy, 6701 Pine Lake Road, does not know how these people got in there in the first place. This was a residential, quiet country place. This is going to adversely impact his property values. Beal Slough runs through the back of the Murphy property. He lives right next door to the west of the subject property. He would be upstream from this

particular parcel. He has not noticed any changes and they have not flooded in the back part since the early 1990's.

ANNEXATION NO. 04009

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 7, 2004

Larson moved approval, subject to an annexation agreement, seconded by Carroll and carried 8-0: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson voting 'yes'; Bills-Strand absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 1886A

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 7, 2004

Larson moved to approve the staff recommendation of conditional approval, as set forth in the staff report dated June 25, 2004, with the revisions submitted on June 29, 2004, seconded by Carroll.

Pearson commented that the floodplain standards for new growth areas were commissioned in August of 2001, completed in April of 2003, and just recently became effective in March of 2004. There is not a standard by which to waive compensatory storage modeling, and while she thinks there are probably some projects that won't require it, we don't have any idea what that model is, exactly how much they cost, and we don't know exactly what impact this is going to have. For our first test case, she has a tendency to want to be a little bit on the side of the standard, which requires a hydrological study. If staff would come forward and say we don't need it on areas less than 10 acres, or whatever, then she would support it. She would go along with conditional approval, but she is having a hard time with the hydrological modeling study because it has not been detailed.

Pearson moved to amend to require the hydrological modeling study, seconded by Marvin. Motion to amend failed on tie vote of 4-4: Krieser, Marvin, Pearson and Carlson voting 'yes'; Sunderman, Larson, Taylor and Carroll voting 'no'; Bills-Strand absent.

Marvin stated that he will vote in favor. He believes the point has been made that there do need to be some standards/benchmarks by which to test the application, but he does not see that this particular case should be held up.

Motion for conditional approval, as revised on June 29, 2004, carried 7-1: Sunderman, Larson, Krieser, Taylor, Marvin, Carroll and Carlson voting 'yes'; Pearson voting 'no'; Bills-Strand absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 04040
FROM I-1 INDUSTRIAL TO R-5 RESIDENTIAL;
and
SPECIAL PERMIT NO. 04032
FOR A DOMICILIARY CARE FACILITY;
and
STREET & ALLEY VACATION NO. 04009,
ON PROPERTY GENERALLY LOCATED AT
N. 58TH STREET AND COLFAX AVENUE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 7, 2004

Members present: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson; Bills-Strand absent.

Staff recommendation: Approval of the change of zone; conditional approval of the special permit; and a finding of conformance with the Comprehensive Plan on the street vacation.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted revisions to the conditions of approval in response to the concerns raised by the Health Department regarding hazardous materials. The conditions would require that hazardous materials would not be stored within 300' of the domiciliary care facility. There is no code requirement for this separation. Therefore, the developer and the Health Department have proposed new conditions that require two emergency shut-off switches for the HVAC system and additional conditions requiring that the permittee and the Health Department communicate if the storage of hazardous materials within 300' becomes known by either party. In that event, they agree to develop some type of evacuation plan. Czaplewski stated that the staff and the developer are in agreement with these changes.

Proponents

1. Mark Hunzeker appeared on behalf of the **Joyce Hinkley Partnership**. This is an expansion of Legacy Terrace, an existing domiciliary care facility at 58th & Fremont. This proposal adds 32 Alzheimer care units (in cooperation with Madonna), and nine assisted living units in eight townhomes and one single family unit.

Hunzeker acknowledged that they worked out the issues with the Health Department which deal with their concerns relative to the industrial zoning which abuts this property. In fact, this “downzones” a portion of the existing industrial property. Hunzeker believes this is an area where the higher and better use of some of the property is residential, and to the extent this property is successful, it will probably change the neighborhood toward residential. Hunzeker agreed with the proposed amended conditions and additional conditions of approval. There is no standard that exists in the ordinance as we apply it

today, and the applicant wanted to be cooperative but didn't believe it was fair to impose a 300' setback when there is not any sort of hazardous materials or any likelihood that there will be.

With regard to Condition #2.7, which requires a bond in the amount of \$27,300 to guarantee construction of paving and sidewalk on North 58th Street, Hunzeker pointed out that the portion of North 58th Street which is unpaved is about ½ block which runs along the east side of this project. The property immediately east of that unpaved portion of 58th is the library, and to the west is a single family home and the Legacy Terrace. Legacy Terrace has a small portion of the frontage along that unpaved section of road; the single family house which is carved out of the corner of the block has the balance of the frontage on the west side; and the city owns all of the property on the east side of that area which is unpaved. The applicant is willing to pay for paving the Legacy Terrace frontage, and volunteers to avoid any imposition on their residential neighbor and will pay their portion of the cost of that paving. But Hunzeker believes it is only fair that the city pick up its half of that gap in paving of 58th Street. This is not a decision to be made by the Planning Commission and he requested that Condition #2.7 be deleted. If this condition is included, the applicant will appeal it to the City Council because there is a line item in the city budget every year for this type of thing. The applicant will then request a gap paving district to get this piece of unpaved local street paved in accordance with the city's long-standing policy of finishing up the paving of residential streets in the city limits.

Pearson asked Hunzeker whether he is certain that the bond amount is for the entire frontage. Hunzeker believes that it is.

Pearson asked Hunzeker whether the applicant thought there might be a hazardous occupancy in the adjacent perimeter of this property. Hunzeker stated that they did not know of any. However, he agreed that when it is an area zoned industrial there is always a possibility of some user that would have some use for hazardous chemicals. But there are a variety of uses in other zoning districts that allow for the use of hazardous chemicals. It is speculative to say just exactly how much one ought to impose in the way of cost to avoid that possibility. The proposed language is the same that has been used in other similar circumstances.

Carlson referred to the street vacation and wondered whether there is an attempt being made to put sidewalks and paving in the portion being vacated. Hunzeker responded, "no". The vacation portion is to the north, running from the north right-of-way line of Colfax up to the Murdock Trail. We're talking about the area between Fremont and vacated Benton Street.

There was no testimony in opposition.

Staff questions

Carlson asked staff to explain the bond amount in Condition #2.7. Dennis Bartels of Public Works stated that the bond amount is for all of the paving and the west sidewalk. This was based on the plan that was submitted. The plan that was submitted showed that it would be paved, so a bond amount was provided to guarantee that it would be paved as shown on the application. They do have the opportunity to request a district or request that the city subsidize, but without Council action we cannot guarantee that a district would be created. Bartels is not opposed to working with the applicant to get it paved.

Carroll wondered about waiving the bond. Bartels suggested that the Commission could waive the bond amount and say it has to be paved, and if they couldn't create a district, it would require them to post a bond in the future.

Marvin believes the issue is to create the district, but one of the other parties is the city, and this body is not capable of binding the city to a paving district. Bartels agreed, and he could not say whether the city would or would not create a district. Marvin suggested that if the City Council ordered the paving, then the gap financing dollars of the city would go to help pay for that district.

Czaplewski clarified that the applicant's submittal stated that they would do the paving. The note on the site plan says that the unpaved portion will be paved as part of this project. That is why the staff assumed that the applicant was going to pay for the entire improvement.

Response by the Applicant

Hunzeker stated that it is no secret that the applicant wants that street paved. We think that it is fair for the city to contribute its share of the cost of paving that street. If necessary, the applicant will submit a district request, but he believes it is appropriate to creating gap paving. Hunzeker does not know why the city didn't pave that street when the library was built. He just thinks it's one of those where the city's long-standing policy has been to get local streets within the city limits paved, and to use whatever means are necessary to do that, including but not limited to gap paving districts, which were invented to cover this kind of situation.

Carlson asked for Hunzeker's response to the city's contention that the site plan showed the paving. Hunzeker agreed that it shows the paving, but it does not say this applicant will pave it. The intent was that the applicant would request the creation of a district, if necessary, in order to get that done.

CHANGE OF ZONE NO. 04040

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 7, 2004

Marvin moved approval, seconded by Larson and carried 8-0: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson voting 'yes'; Bills-Strand absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 04032

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 7, 2004

Larson moved to approve the staff recommendation of conditional approval, with the amendments submitted today by staff, seconded by Marvin.

Carroll wondered about waiving the bond amount unless or until the City Council approves or denies the paving district. If the city pays for part of it, then the applicant would post a bond amount for that portion not paved by the city. Rick Peo of City Law Department believes the bond is just to guarantee the construction of the project. Depending on how the construction is funded, the bond is not utilized except in the event of failure to complete construction. The bond is an enforcement tool. If the street is constructed, then the bond is released upon completion of the pavement. It is really just the cost of providing the bond. Carroll inquired about waiving the bond until such time as the City Council makes that decision. Peo pointed out that because the property cannot be occupied until the street is constructed and the sidewalks are in place, he does not know that the bond is so critical. He suggested revising the condition to require that the applicant either construct N. 58th Street and the sidewalk abutting through the Executive Order process or through a street paving district. The Executive Order process requires a bond to guarantee that construction.

Carroll moved to amend Condition #2.7, to require that the applicant either construct N. 58th Street and the sidewalk abutting through the Executive Order process or through a street paving district, seconded by Pearson and carried 7-1: Sunderman, Larson, Krieser, Taylor, Pearson, Carroll and Carlson voting 'yes'; Marvin voting 'no'; Bills-Strand absent.

Main motion for conditional approval, as amended, carried 8-0: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson voting 'yes'; Bills-Strand absent. This is final action, unless appealed to the City Council.

STREET & ALLEY VACATION NO. 04009

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 7, 2004

Marvin moved to find the proposed street vacation to be in conformance with the Comprehensive Plan, seconded by Larson and carried 8-0: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson voting 'yes'; Bills-Strand absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 04034
FROM AGR AGRICULTURAL RESIDENTIAL
TO R-3 RESIDENTIAL
ON PROPERTY GENERALLY LOCATED
AT S. 66TH STREET AND HIGHWAY 2.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 7, 2004

Members present: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson; Bills-Strand absent.

Staff recommendation: Approval.

Ex Parte Communications: None.

Proponents

1. **Mark Hunzeker** appeared on behalf of the applicant, indicating that the applicant met with the neighborhood and he believes they are making some very good progress toward resolving some of the issues relative to development of this entire site. He requested an additional four-week deferral until August 4, 2004.

Larson moved to defer four weeks, with continued public hearing and administrative action scheduled for August 4, 2004, seconded by Marvin.

Marvin inquired whether something more comprehensive would be more inclusive. Hunzeker concurred. All of the discussion with the neighborhood has included the entire 62-acre parcel owned by the applicants.

Motion to defer carried 8-0: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson voting 'yes'; Bills-Strand absent

SPECIAL PERMIT NO. 04025,
LIBERTY VILLAGE COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT NO. 24TH STREET AND VINE STREET.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 7, 2004

Members present: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson; Bills-Strand absent.

Staff recommendation: Conditional Approval, as revised.

Ex Parte Communications: None.

Proponents

1. **Mark Hunzeker** appeared on behalf of the applicant but did not have anything to add to his previous testimony.

2. **Terry Uland**, Director of **Neighborhoods, Inc.**, 4210 S. 37th, testified in support. Neighborhoods, Inc. works with families to buy houses and strengthen older neighborhoods. The Neighborhoods, Inc. board has not voted on this proposal and typically they do not take a position; however, he believes the board would agree. This type of development is consistent with what is envisioned to come out of the Antelope Valley redevelopment. It creates additional home ownership economically, and creates home ownership between Malone Village and the Shalimar Project which are the townhouses between 24th and 25th Streets, "U" and "T" Streets. It is affordable and provides good value to the buyers. The role of Neighborhoods, Inc. is to help with marketing, home buyer training and downpayment assistance. Neighborhoods, Inc. has applied to NDEQ for Nebraska Housing Trust funds for downpayment assistance. It is anticipated that the range of buyers would be minimum income of around \$25,000 up to maximum income for a family of three of \$63,000. It is anticipated that the average buyer will have an income of about \$39,000-\$40,000 with payments of around \$800/month.

Uland went on to state that when Neighborhoods, Inc. first looked at the project, they were concerned about the density, but in analyzing the mortgage financing and the subsidies, they do not see any reason why the buyers will be any different than those at Shalimar and Malone Village. There is also very quick access to Trego Park.

3. **Geoff Childs**, the architect, testified that he has been working with the city and with Ed Zimmer to do buildings that will create a neighborhood with unity and variety. There are two plans - one facing Vine Street and one facing U Street. They will do four different elevations and by altering the colors, brick and shingle colors they get variety. They will also develop four different types of porches on the houses. Childs advised that they will be adding one more elevation after today in response to a meeting with Ed Zimmer. There is defensible space for the residents.

Carroll asked whether consideration had been given to connecting the units together as row houses versus the four to eight foot separation. Childs responded that the issue became affordability and the idea of the single family house. Ownership seemed to be more important than to be able to have a row of houses. They were trying to address the idea of home ownership and they believe that home ownership connects individuals and families to the neighborhoods.

Pearson requested a graphic showing eight of the houses so that she could envision the streetscape. She is trying to imagine eight of these homes with eight feet between them. **Fernando Pages**, the applicant, suggested that normal neighborhoods have five feet to the lot line. The eight foot separation is a little higher density than the normal ten foot

separation between homes, but he believes they have addressed that through creative architecture and the aesthetics of the neighborhood. Hunzeker suggested that Pearson could visualize it by driving through the Near South where there are some five foot setbacks, and where the houses are a lot bigger. He believes these homes will be very comparable in scale.

Childs pointed out that these houses are on 40' lots, so by deleting one house you would only gain two feet on each one of the lots.

Carroll suggested that, with the anticipation of purchasing the west lots, why not stretch these out instead of packing them into the land that you are using – not use the two west lots for duplexes but use them for townhouses. Pages pointed out that the proposal is well within the normal setback requirements that would be dictated by fire as opposed to the zoning ordinance. They were actually expanded to the four feet. The balance in terms of the dollars taken to purchase the properties had to be offset by creating four lots as opposed to two lots. Hunzeker pointed out that the standard setback as a matter of right in the R-6 district would require a 5' setback, but by the same token, as a matter of right, they could build something like 36 apartments. This is a project that is substantially less dense than is allowed as a matter of right in the R-6 district. We are attempting to do single family detached housing where all the new construction has been multi-family. We are trying to set a standard for the Antelope Valley redevelopment area that will encourage more of this type of development as opposed to the multi-family large box construction that has occurred in the past.

Pages also noted that there is quite a bit of expense involved in this approach. There is a level of design here that requires that we be able to get another two units out of the project as a whole in order to produce this type of development. Minus two units is a very substantial number and it affects how much the homes will cost. We are trying to offset the slightly higher density by improving the design process very, very substantially. The decision to include the two townhouses was arrived at with Urban Development and Planning—it was not his decision. The two additional units would provide housing for someone with some handicap or disability. The townhouse approach was used to be able to reduce the price of those additional lots.

Carroll noted that the staff report talks about the sanitary sewer and basement depth. Are you going to put injectors in the basements? Pages indicated that he would not be putting bathrooms in the basements. It would, however, require an ejector if the owner chose to put a bathroom in the basement.

There was no testimony in opposition.

Staff questions

Greg Czaplewski of Planning staff pointed out that this report is a revised report which incorporates all of the changes which the applicant requested except the deletion of Condition #1.6.6.

Carroll asked for an explanation of the waiver of detention. Bartels stated that the drainage problems were referenced based on the alley grade that they had proposed. The plan reviewed by Public Works did not show development of the two end units and expanding the alley all the way to the end. The alley grade as submitted trapped water. There are several ways it can be addressed which have been suggested. The detention requirements were agreed to be waived because it was previously developed as parking lots, churches, etc. There was not a lot of benefit to detention. It was determined that due to the size of the project, the amount of detention that would have been required to make up the minor increase in stormwater runoff justified the waiver.

Pearson stated that her only other concern is the dead-ending of the access in the middle of the site. Has Fire or anybody looked at that? She assumes they would have to come all the way down and back up. Bartels responded that the presumption is that fire and rescue would use the street system. Until they could get the project extended to the west street, they could put an easement over the entire driveway between the houses for the public to use the driveway space to legally turn around.

Carlson asked staff to again respond to the applicant's request to delete Condition #1.6.6. Rick Peo of City Law Department stated that Chapter 26.23 of the subdivision ordinance provides that there are certain minimum improvements that have to be constructed unless waived through the specific waiver process. The clause in Condition #1.6.6 is just to avoid potential litigation and argument in the event that staff fails to mention one of the required improvements. It is not then deemed to be a waiver because the applicant did not ask for a waiver. This is just stating the law that the applicant must comply with the subdivision ordinance and it avoids the argument in the future if there is some question about something being omitted and being considered a waiver. He does not believe it is very probable that this condition will cause a problem.

Response by the Applicant

Hunzeker suggested that the Commission consider putting a period after the word "subdivision ordinance" in Condition #1.6.6. That would be more acceptable to the applicant.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 7, 2004

Pearson moved to approve the staff recommendation of conditional approval, as revised, seconded by Marvin.

Marvin stated that he likes this project. It is realistic to understand that there are going to be places where we are going to have to rehab certain areas. If this sells out and it works, it could be allowed elsewhere.

Pearson stated that she will support the project. She believes the amount of care that has been done with the design is wonderful. She would rather that it not be so dense, but she understands the economics of it.

Carlson commented that the Commission has had a lot of discussion in the last four years about the importance of design standards and we have taken some steps in older neighborhoods. He believes this project goes far and above that. It is important that we continue to encourage developers when they come forward with creative and improved design.

Taylor thinks it's a good idea.

Motion for conditional approval, as revised, carried 8-0: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson voting 'yes'; Bills-Strand absent. The Planning Commission action does not delete Condition #1.6.6 as requested by the applicant. This is a recommendation to the City Council.

**SPECIAL PERMIT NO. 04033,
STERLING HILLS COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT S. 37TH STREET AND YANKEE HILL ROAD.**

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: July 7, 2004

Members present: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson; Bills-Strand absent.

Staff recommendation: Conditional Approval, as revised.

Ex Parte Communications: None.

Ray Hill of Planning staff requested that the Planning Commission delete Condition #1.1.4 to show a sidewalk connection to the bike trail, and add a new Condition #1.4:

Enter into an agreement with the City for grading the site and constructing retaining walls and railings to accommodate the City's construction of the bike trail which acknowledges that the applicant's cost of construction is a contribution toward the construction of a neighborhood park and trail impact fee facility improvement and that 100% of such cost shall be reimbursed to applicant if impact fees are finally determined to be valid and enforceable, but that if the impact fees are found to be invalid and unenforceable, reimbursement shall be limited to those costs in excess

of impact fees which would otherwise have been due and payable based upon 100% development of the proposed development of the property under the Sterling Hills Community Unit Plan in 2005 based upon the 2005 impact fee schedule for said neighborhood park and trail impact fee facility improvements.

Hill explained that this is the same language that is being used in annexation agreements that deal with impact fee facilities if the impact fee is found to be invalid or valid.

Because of the grade situation, Hill stated that the sidewalk connection would be almost impossible. There is trail access at Grainger and Yankee Hill Road.

Proponents

1. **Peter Katt** appeared on behalf of the applicant, indicating that he was brought into this project late. The applicant is in agreement with the conditions of approval, including the changes submitted by the staff today.

This project is on the north side of Yankee Hill Road between 27th Street and 40th Street. The bike trail extends out of the existing commons and is proposed to go under Yankee Hill Road. The bike trail will connect to the bike trail on Yankee Hill Road and will connect into the sidewalk system in two locations. The deletion of Condition #1.1.4 deletes of the third connection.

There was no testimony in opposition.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 7, 2004

Taylor moved approval, with conditions as revised by staff today, seconded by Carroll and carried 8-0: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson voting 'yes'; Bills-Strand absent. This is a recommendation to the City Council.

MISCELLANEOUS NO. 04003,
TEXT AMENDMENTS TO THE CITY
OF LINCOLN DESIGN STANDARDS
REGARDING STANDARD STREET LIGHTING.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: July 7, 2004

Members present: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson; Bills-Strand absent.

Staff recommendation: Deferral.

Carroll moved to defer two weeks, with continued public hearing and administrative action on July 21, 2004, seconded by Larson and carried 8-0: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson voting 'yes'; Bills-Strand absent.

There was no public testimony.

There being no further business, the meeting was adjourned at 2:30 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on July 21, 2004.

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