

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, September 21, 2011, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Leirion Gaylor Baird, Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Jeanelle Lust, Jim Partington and Lynn Sunderman (Tommy Taylor absent); Marvin Krout, Steve Henrichsen, Brian Will, Tom Cajka, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

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

Cornelius then requested a motion approving the minutes for the regular meeting held September 7, 2011, as amended. Motion for approval, as amended, made by Francis, seconded by Lust and carried 8-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington and Sunderman voting 'yes'; Taylor absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION BEFORE PLANNING COMMISSION:

September 21, 2011

Members present: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington and Sunderman; Taylor absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 11033 and STREET AND ALLEY VACATION NO. 11009.**

Ex Parte Communications: None

Francis moved approval of the Consent Agenda, seconded by Larson and carried 8-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington and Sunderman voting 'yes'; Taylor absent.

CHANGE OF ZONE NO. 11032
FROM R-2 RESIDENTIAL DISTRICT
TO R-6 RESIDENTIAL DISTRICT
ON PROPERTY GENERALLY LOCATED AT
HOLDREGE STREET AND IDYLWILD DRIVE
and
SPECIAL PERMIT NO. 11021
FOR A PARKING LOT
ON PROPERTY GENERALLY LOCATED
AT IDYLWILD DRIVE AND STARR STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 21, 2011

Members present: Esseks, Lust, Larson, Gaylor Baird, Sunderman, Partington, Francis and Cornelius; Taylor absent.

There were no ex parte communications disclosed.

Staff recommendation: Approval of the change of zone and conditional approval of the special permit.

Staff presentation: **Tom Cajka of Planning staff** explained that this is an application from the Alpha Gamma Rho (AGR) fraternity for a change of zone and special permit for a parking lot. The proposal is basically to tear down the existing fraternity and some houses next to it and rebuild a new fraternity. The existing fraternity is on the corner of Holdrege and Idylwild. The change of zone is for the lot immediately to the east and the parking lot special permit is for an area to the south. The special permit only covers two lots that are currently zoned R-2. The fraternity is a use by right in the R-6 through R-8 zoning districts so part of the parking lot is in R-6 zoning and would be allowed by right, but they want to increase the size of the parking lot to get more of the student cars off the streets. The Planning staff preferred that the increased area of the parking lot be allowed by special permit rather than changing the zoning to R-6 to retain review by public hearing before the Planning Commission.

Cajka further explained the plan for the new fraternity has the new building extending into the lot by roughly 5 feet. We looked to see if the lot was big enough to be subdivided for rezoning purposes, but the lot was not large enough and the left over piece would not meet the R-2 requirements for single-family dwelling. Therefore, staff is agreeable to the change of zone, subject to a zoning agreement. The zoning agreement extends the side yard setback from 5' to 15' and requires buffering and screening along the east and south lot lines.

Proponents

1. **Kent Seacrest** appeared on behalf of the **Alpha Gamma Rho Fraternity**. The current owner of the property is the Kappa Foundation. The proposed motions to amend are the result of efforts in working with the neighborhood and city staff.

2. **Keith Carlson**, 8620 Echo Court, resident of Lincoln for 37 years and alum of the AGR fraternity, testified in support on behalf of the applicant. The Kappa Foundation, owner of the property, is now facing a high maintenance cost with the existing deteriorating and somewhat functionally obsolete living quarters. The structure was built in 1956 and they are facing a cost to remodel and upgrade somewhere in the neighborhood of \$1.5 million. The cost to build a new structure has been determined to be in excess of \$4.5 million. The present structure does not have air conditioning, no sprinkler system to extinguish a fire, and now faces a mandate that a fraternity must have this completed by 2017. The existing structure has a flat roof (popular in the 1950's). It is very outdated with the original electrical wiring and original boiler in the basement, which is the source of heat. There is much deterioration in the structure.

The fraternity was told by a consulting architect that they needed one parking space for every 400' of living space. Therefore, they have acquired two properties to the west side of Idylwild and two on the south side of the fraternity. The architect has developed a plan for a 60 to 64-bed structure, turning it from Idylwild to the north facing Holdrege Street and East Campus, designed to reduce noise across Holdrege Street. This structure would then be a part of East Campus itself and the views from the fraternity would pretty much be to the East Campus. It turns out that they do not need the lots on the west side of Idylwild, but they need Lot 48 to the east of the present fraternity and have purchased that lot.

Carlson stated that they met with the East Campus Community Organization four to five years ago and they were very receptive to new construction. The applicant emphasized to the neighborhood that they wanted to do this right with the neighborhood's complete support.

The applicant met with the ECCO Board on August 16th, along with 40 other neighbors and it did not go very well. They have had three more meetings with the neighborhood since August 16th and every one of those meetings was better than the previous and they reached agreement at the last meeting. The applicant made several changes such as lowering the parking lot, constructing a 5' wall around it for sound purposes and to restrict the sight of the vehicles; and they agreed to expand to Lot 48 but not build an additional structure on it. The fraternity is assuming they can raise sufficient funds, and with support from the neighborhood, it appears that they have a win-win situation for everyone. Remodeling the existing structure would have been a temporary fix. We like our location; we think it is excellent; it is in a great neighborhood; a lot of professors are neighbors; it is next to East Campus; and about 1.5 miles east of the Innovation Campus. Carlson believes they have the complete neighborhood support and wish to move forward.

3. Dan Grosso, Sinclair Hille Architects, 700 Q Street, discussed the concept drawings which they have worked through with the neighbors. They tried to orient the building facing toward campus so a lot of the noise and activity would go towards the campus and not the neighborhood. Entry would be off Holdrege. They paid close attention to scale and massing of the footprint, trying to keep it more in line with the residential footprints. The parking lot is to the south. They are considering depressing that parking lot 2' lower than the existing grade and berming up on the west side for screening. They are also looking at possibly lowering the grade of the building to lower the scale of the building.

Grosso showed a floor plan. The lower level will consist of a multi-purpose room, laundry facility, computer labs and mechanical room. The main level will consist of a covered porch and entry gallery, a parlor, house owner's suite, main dining room and kitchen. The second floor consists of the living units – 2-man and 4-man units – those facing campus and the parking lot do not have their rooms looking into the back yards of the neighbors. This floor has a common lounge space with access to a balcony which would overlook towards campus. The third floor is similar to the second floor without the lounge space.

Grosso also showed images of the East Campus buildings which have inspired the look of the new building. They also considered the building details in the neighborhood. Grosso showed a concept rendering of the proposed structure incorporating some of the East Campus building features as well as some of the residential building features.

They are proposing to lower the parking lot grade 2 feet with a 5' berm on the Idylwild side plus landscaping. The neighbors wanted a wall, so they are proposing a 5' wall on the neighborhood side. They looked at stucco and brick walls and agreed with the neighbors to do a form brick concrete wall with lines drawn on it. They have also reached agreement with the neighbors on the parking lot lighting fixtures.

Larson inquired about the west side of Idylwild. Grosso advised that to be the Valentino's parking lot and three homes.

Kent Seacrest then submitted proposed amendments to the zoning agreement in the change of zone request which incorporate the agreements reached with the neighborhood as follows:

1. The Developer signs a zoning agreement before the City Council approves the change of zone. The property shall be subject to the following conditions:

- A. The east and south boundaries of the tract of land comprising Lot 48, Block 1, University Park and the north 6 feet of the west 60 feet of Lot 46, University Park (collectively "Property") shall have a 20-foot wide landscape buffer screen with (i) 3-foot high earthen berms trees and shrubs or (ii) fence/wall and shrubs with a mature height of 3 feet atop the berms. The screen shall be a minimum of a 90 percent coverage from the ground to six (6) feet high along of the east and south lot lines of the Property.
- B. The Property's east side yard setback will be increased from five (5) feet to fifteen (15) feet ("Larger Setback").
- C. The new Fraternity Building will be lower to a grade elevation that is a minimum of one (1) foot lower than the existing fraternity building's finished floor elevation and as generally shown on the attached images (Exhibit A).
- D. The new parking lot will be lower to a grade elevation that is a minimum of two (2) feet lower than the current and general elevation of the proposed parking lot footprint and as generally shown on the attached images (Exhibit A).
- E. The remaining Property's open space between the new Fraternity Building and the Larger Setback will not be improved with an expansion of the Fraternity House or motor vehicle parking lot for a term of twenty (20) years.
- ~~BF.~~ Street trees will be planted along Holdrege St. and Idylwild Dr. spaced every 50 feet or as sited by the Parks & Recreation Department.
- ~~GG.~~ No new permanent or temporary structures for active recreation are permitted in the Larger Setback or in a 20 feet wide area north of the south boundary of the Property 20-foot landscape area.
- ~~DH.~~ A 5 feet tall (measured from the North 37th Street neighbors side of the wall) painted or colored brick formed concrete masonry wall in accordance with the attached drawing shall be provided on or near the boundary line, in accordance with the attached drawing (Exhibit B) on the east and south boundaries of the parking lot.
- I. Items 1 A. through H. above as contained in the zoning agreement shall not be amended by the Administrative Amendment process, but shall only be amended by submittal and approval by the City Council.

Lot 48 will be fenced and landscaped with trees and bushes to provide the 90% screening; they are increasing the side yard setback from 5' to 15', lowering the parking lot 2 feet and lowering the building 1', and the remaining open space on Lot 48 will not be used for further expansion for 20 years. There will be street trees (no permanent structures) in the setback areas. The agreement also provides that any changes to these provisions cannot be done administratively.

Seacrest then submitted proposed amendments to the special permit as follows:

- 1.3 Show parking lot landscaping along Idylwild Dr. that meets design standards. Add a five feet high earthen berm and a second row of shrubs or other plants along Idylwild St. that is a 90% screen from the ground to 3 feet above the ground in accordance with the attached drawing (Exhibit A).
- 1.4 Add a note that a 5 feet tall masonry (measured from the North 37th Street neighbors side of the wall) painted or colored brick formed concrete wall will be provided on or near the boundary line, along the south and east boundaries of the parking lot in accordance with the attached drawing (Exhibit B).
- 1.5 Add a cross section of the parking lot that shows the depression in conformance with the attached Exhibit A drawings.
- 1.6 Items 1.3 and 1.4 shall not be amended by the Administrative Amendment process, but shall only be amended by submittal to the Planning Commission in the same manner as an original special permit.
- 1.7 Provide historic parking lot lighting fixtures as presented to and certified by the Historic Preservation Commission in compliance with the City design standards for parking lot lighting.

The special permit amendments cover the 5' wall on the neighbors' side, and the earthen berm against the street to hide the cars from Idylwild passengers and drivers. This also provides that no administrative amendments will be allowed.

Seacrest pointed out that the Historic Preservation Commission has reviewed this proposal and recommends approval, subject to the proposed amendments.

Seacrest expressed appreciation to the neighbors for their patience and cooperation and to city staff for their extra effort.

Support

1. **Mary Eisenhart**, 1420 N. 37th, appeared in support on behalf of the Committee for Preservation of East Campus Historic District. They had three large meetings and one small meeting with the applicant. Everyone who lives in the historic district and within 300 feet are on this Committee. The East Campus Historical Landmark District is in the heart of the ECCO neighborhood, and the Committee is committed to preserving the character and integrity of the district, as well as that of the greater ECCO neighborhood. The AGR fraternity has long and strong roots in the neighborhood dating back to 1916. The Kappa Foundation has worked with the Committee on this project since August, 2011.

The proposed design of the building is an improvement of the 1956 era structure and they have tried to capture the historic look and feel of the East Campus and the East Campus neighborhood. There was concern about the scale and height of the building, which has been reduced in elevation, and the parking lot. There was historic concern about the three houses being removed. There was a preference by some to have the parking on the west side of Idylwild, but unfortunately that was not possible. The reduction in the grade of the parking and the berms and wall have mitigated those issues. They also had a very big concern about the removal of the bungalow on Holdrege, but mostly the rezoning to R-6. They were worried this would be used as a precedent for others. We already have too much “apartmentalization” on Holdrege Street between 33rd and 48th and we did not want this action to make it easier to change current R-2 zoning to R-6. The contract zoning agreement is a very good addition and made it possible for the neighbors to feel good about this proposal with the larger setback and appropriate landscaping. The provision that the remaining Lot 48 not be improved is also agreeable.

Eisenhart pointed out that the Historic Preservation Commission gave their approval because this is a package that will enhance the historic district. The Committee for Preservation of East Campus Historic District also believes they can support this proposal.

2. **Cindy Loope**, 1300 N. 37th, appeared in support on behalf of the **East Campus Community Organization** (ECCO) Board of Directors. Alpha Gamma Rho has been a part of this neighborhood for a long time and that is one of the reasons ECCO was willing to work with them. The design structure of the building really helps tie it to the East Campus, which has close ties to the neighborhood. ECCO was very concerned about the parking lot, but getting more cars off the street will be a real advantage to the neighborhood. The orientation of the building and the change to R-6 are real issues. The orientation of the building is a real plus toward moving the noise to the other direction. However, the change to R-6 is still frightening for this neighborhood. Therefore, ECCO is very much in favor of the zoning agreement – 20 years of promising not to do anything extra; the 15' setback is great; the applicant has worked with the whole community in a very positive way. This will be a standard set for the future that we can work with. The ECCO Board has voted unanimously in support of this proposal.

There was no testimony in opposition.

Lust inquired whether staff supports the proposed amendments. Cajka indicated that the staff has been working with the applicant and the staff is in agreement; however, language should be added to Condition #1.7 of the special permit such that the lighting fixtures meeting the City design standards for parking lot lighting.

CHANGE OF ZONE NO. 11032

ACTION BY PLANNING COMMISSION:

September 21, 2011

Larson moved approval, subject to zoning agreement, with the amendments submitted today, seconded by Francis.

Larson stated that he has never experienced an application while on the Commission where the applicant has gone so far taking into consideration the concerns of the neighborhood in their proposal and design. It is a reflection of the fraternity's commitment to being a good community member.

Gaylor Baird agreed wholeheartedly. We spent a lot of time in LPlan talking about something that is redeveloped in a well design, and this appears to be an exemplary situation and shows how much neighbors really do care that properties next to them blend in with their environment.

Lust complimented everyone involved. This is how a development is supposed to happen. It is great to have so much support when we have a project like this.

Cornelius agreed wholeheartedly.

Motion for approval, as amended, carried 8-0: Esseks, Lust, Larson, Gaylor Baird, Sunderman, Partington, Francis and Cornelius voting 'yes'; Taylor absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 11021

ACTION BY PLANNING COMMISSION:

September 21, 2011

Lust moved to approve the staff recommendation of conditional approval, with the amendments requested by the applicant, as further amended by the staff that the parking lot lighting meet city design standards, seconded by Francis.

Gaylor Baird commented that she is hoping everyone is paying attention to this design for parking lot because it makes a real difference when parking lots are well screened, both with landscaping or with walls that are softened with greenery. It makes it a lot more aesthetically pleasing, not just for the immediate neighbors, but for the people that are driving, walking or cycling by.

Motion for conditional approval, with amendments, carried 8-0: Esseks, Lust, Larson, Gaylor Baird, Sunderman, Partington, Francis and Cornelius voting 'yes'; Taylor absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 11035
FROM R-3 RESIDENTIAL DISTRICT
TO R-5 RESIDENTIAL DISTRICT
and
SPECIAL PERMIT NO. 11023,
MAGIC HILLS COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT NORTH 24TH STREET AND DODGE STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 21, 2011

Members present: Esseks, Lust, Larson, Gaylor Baird, Sunderman, Partington, Francis and Cornelius; Taylor absent.

There were no ex parte communications disclosed.

Staff recommendation: Approval of the change of zone and conditional approval of the special permit.

Staff presentation: **Tom Cajka of Planning staff** explained that the special permit is for a community unit plan (CUP) consisting of an apartment complex with 96 units. The 96 units will be placed in four buildings with each building having 24 units. Three of the buildings would be on the east side of 24th Street with one building on the west side of 24th Street. Associated with the special permit is a change of zone from R-3 to R-5 for the one-acre tract on the west side of 24th Street which will allow the density that the applicant is requesting. With the R-5, the maximum density allowed over the entire CUP is 100 dwelling units. The applicant is requesting 96 dwelling units.

Cajka explained that the site currently has three approved special permits, including a special permit for a day care facility for 118 children; a special permit for a 60-person domiciliary care facility and 128 dwelling units for elderly.

The land uses surrounding the proposed area include commercial zoning and uses to the north; industrial zoning with uses more in line with commercial, mainly retail; an elementary school to the west; townhomes to the south; and then single family to the southwest.

With regard to traffic, Cajka advised that the staff did do some calculations to look at the approved uses versus the proposed apartment complex, and based on the Traffic Manual of the Institute of Transportation Engineers, the daily trips for the apartment complex would be less than the three approved uses combined, and the AM and PM peak hour trips would also be less.

Esseks believes it a very important finding that the proposed uses generate less traffic than the already approved uses. How can that be? Cajka explained that the traffic manual estimates average trips per day coming and going for different uses. Based on those averages set forth in the manual, staff found that the daily trips for the 96 apartment dwelling units would be 645. For the other three uses combined, the daily trips would be 1,047.

Lust referred to the Public Works comments in the staff report, which appear to indicate that Public Works is considering doing something about the traffic flow in the area. Cajka responded that Public Works did do a recent traffic count to see if the traffic counts warranted a signal at 24th & Superior. **Randy Hoskins of Public Works** stated that Public Works must follow the Federal Uniform Traffic Control Devices standards which set forth the number of warrants that have to be met in order to install a traffic signal. Based on the current studies, that manual shows that a traffic signal is not warranted. Public Works has discussed this traffic issue and if we start running into problems or crashes, Public Works might recommend changing that full median break to only allow left turn in off Superior Street and prohibit the left turn out off of 24th Street.

Esseks referred to the concerns raised by the neighbors about drainage. He stated that he visited the site and it looks as though the townhouses to the east of 24th Street are above a depression in the land. The townhouses to the west of 24th on Dodge say there is a difference in elevation. It appears to be a difference but not vast. Can we be relatively confident that the city will require adequate drainage facilities so that the residents along Dodge should have no real fear that their land would be in jeopardy? Cajka indicated that Public Works has reviewed the grading and drainage plan and there are no concerns that this development would have any negative impact on the adjacent neighbors. Esseks wondered whether there would be a swale for the water coming off the development for the residents west of Dodge. Cajka suggested the applicant should answer this question. Francis observed that it looks like this area had been developed for a cul-de-sac and there is quite a raised area where one of the drives is going into the 24 units. She assumes there will be grading to take that down. Cajka suggested that the applicant answer this question as well. There was a remnant piece of the street vacated a few months ago. At one time, probably 15 years ago, there was a plan to do more residential type lots on the property.

Proponents

1. Bob Stephens of Stephens and Smith Construction, the developer, stated that Stephens and Smith is an employee-owned company that has been based in Lincoln for 40 years. Magic Hills and all of their other apartment projects are owned and operated by the company, including Mystic Pines, Village Square, Park Ridge Apartments and Eagles Landing. Magic Hills will consist of 96 one-, two- and three-bedroom units, with 24 garages and a clubhouse. The change of zone request only involves the 1-acre parcel on the west side of 24th Street. The large parcel is already zoned R-4, which allows the units being requested.

Stephens pointed out that developing this project will provide 32 man years of much needed employment in Lincoln; ongoing, it will provide the equivalent of two full-time jobs for management and maintenance and will pay over \$200,000 in sales tax, \$170,000 in impact fees, and about \$100,000 in property taxes.

Stephens acknowledged that he has met with the neighbors and, as a result, has agreed to install fencing along the south border.

Stephens agreed with the Planning staff findings and conditions of approval.

Esseks inquired whether the applicant currently owns the property. Stephens stated, "no", it is under contract. Esseks wondered why the property has not developed for over 10 years. Stephens did not know and stated that he could not speak for the previous owner; however, he suggested that apparently the numbers just didn't work.

2. Tom Huston, 233 S. 13th Street, Suite 1900, appeared on behalf of the applicant, **RIP, Inc. and Bob Stephens**. Huston pointed out that the staff report is a very strong recommendation for the Planning Commission to recommend approval of the change of zone and CUP. The change of zone contains one condition, i.e. that the associated CUP be approved. The applicant agrees with the site specific conditions of approval on the CUP and will make the changes that are required. Why is the staff report so strong in support of this change of zone? Huston suggested that changes of zone in this city have made historic use of the Comprehensive Plan as a guide. The staff report looks at the 2030 Comprehensive Plan in support of both applications, recognizing that this is an infill project, maximizing the existing infrastructure; it complies with the encouragement to provide different housing types in all neighborhoods; it provides a nice transition from commercial and office uses to the north to the townhomes and single-family dwellings to the south and southwest; and this project should not have a significant impact on the surrounding neighborhood.

Huston suggested that the staff also looked at the action by the Planning Commission on September 7th, recommending approval of the 2040 Comprehensive Plan to the governing bodies. In addition to the reasons under the 2030 Plan, the 2040 Plan recognizes that there is a need to develop on existing vacant land. The 2040 Plan indicates that one strategy for vacant land is to identify open areas to develop additional buildings on vacant ground resulting in a net increase in density. This project conforms with that encouragement.

Huston then observed that the 2040 Plan deals with infill, and there is a big difference between the 2030 and the 2040 Plans on the infill issue. The 2040 Plan envisions that 16.5% of all future dwelling units are expected to be built in the built environment, emphasizing the need to build on vacant ground versus 4% under the 2030 Plan.

Huston also observed that the 2040 Plan recognizes that we must maximize the use of present infrastructure encouraging new development on unused land, and this land has gone unused since 2000.

Huston believes that there is such a strong staff recommendation for approval in light of the 2030 and the 2040 Comprehensive Plans because this proposal complies with the goals and objectives of the Comprehensive Plan.

Huston acknowledged that the applicant did meet with the neighborhood prior to submitting the application and again after submittal. He believes that traffic is the biggest problem being experienced in this neighborhood. The city has a long-standing objective of trying to signalize at ½ section lines between the major arterials. In this area, there is one signal located at 20th Street, but it is not a through street and only provides access to the neighbors to the north. That, combined with the traffic patterns for Campbell Elementary, where all of the drop-off and pick-up traffic comes from Dodge Street, creates a lot of traffic within the neighborhood without access to a traffic signal. The applicant will support the neighborhood's request for a signal at 24th & Superior Street. He believes that the new technology of traffic-activated signals will help overcome the adverse impact to this neighborhood.

Huston also acknowledged that Public Works will indicate that the signal at this intersection does not meet the warrant counts – perhaps it is too close to 27th Street and there are some grade challenges. Huston believes those challenges can be overcome.

Huston pointed out that the Comprehensive Plan is relevant for this discussion, and our community will need to change our way of thinking to accommodate increased densities and infill development.

Lust referred to the letter in support from West Gate Bank and wondered where their branch is located. Huston clarified that West Gate Bank does not have a branch in this location. West Gate Bank is a lender for the current owner of the property.

Opposition

1. Kathy Tiede, 2440 Dodge Street, stated that she is concerned about the traffic. She has brought 80 signatures of neighbors petitioning the Planning Commission to disapprove this request, primarily because of the traffic problems. There have been traffic problems in the neighborhood in the past and the addition of 96 apartments and 200 cars is going to significantly impact the neighborhood. The neighbors have talked about a traffic light at 24th & Superior because all of the traffic trying to turn west onto Superior Street is going to divert through Dodge Street, which is a 25' narrow street. And because of the configuration of the driveways, there is not a lot of room for any cars to park on the street, and parking on the street really narrows the street even more. There are cars parked on Dodge Street and 24th Street to pick up children from school.

The addition to the water problems that are a possibility and the increased traffic flow through Dodge Street are her primary concerns.

2. Carol Brown, 2201 Elba Circle, testified in opposition on behalf of the **Landon's Neighborhood**. She has lived in the Landon's neighborhood for over 25 years. This property has been contentious in the past, but dormant for a long time. There is a zoning action pending at the City Council level.

Brown pointed out that in 2009, there were 563 students going to Campbell. This year it is up to 705. They put a new addition on the school, so when the school is full it will be at 725. All of those children are dropped off, accessing the Landon's and Regalton neighborhoods, because that is where the drop-off and pick-up point is located – on the south side of the school. The neighbors would have preferred that LPS flip that drop-off and pick-up plan with the entry on Superior, but LPS did not see it that way. This increases the traffic in the morning and from 3-6 p.m. It is a huge amount of traffic. Brown suggested that the Planning Commissioners come there at 3 p.m. and witness the parking that is all the way down to her house (which is in a central location of Landon's Neighborhood) and all the way up and down Dodge Street and 24th Street. Most are parked illegally because there is to be no parking between the townhomes in Regalton.

Brown also pointed out that the Landon's Neighborhood was instrumental in getting 24th Street striped at Superior Street to show the left hand turn. There have been multiple accidents at 24th & Superior Street. There are children walking across that street at times as well.

Brown suggested that there is a need for elderly housing at this site. For example, Autumnwood, a townhome retirement community to the north, has a huge waiting list.

Brown then displayed a map of what was previously proposed for this property. The Regalton owners bought their townhomes because they were sold this proposal showing a real nice community to the north. There is an existing day care and it is not causing traffic throughout the neighborhood. There is a wonderful Alzheimer's unit. It does not cause the traffic headache that an apartment complex will. Brown acknowledged the bank and a strip mall, which does not cause any trouble for the neighborhood. The neighbors have always wanted the plan that they were "sold". As a matter of fact, there is a wealth of information on the history of this neighborhood.

Brown submitted that elderly housing will have fewer occupants per unit and will generate less traffic. She agreed that the empty parcels of land should be developed, but only in the proper way so that it does not adversely impact the existing neighborhood. That is all the neighborhood is asking.

Brown encouraged the Commissioner to at least consider and read all of the past history. We should not have density without the infrastructure to support it – the road structure

throughout the neighborhood is very, very narrow. We do not have the snow removal that we should. People will come down narrow 25th Street and slide down the street into a commons area. There is moisture down in that area. There is no parking in between the townhomes on 25th Street. You cannot get through when there is parking on both sides of the street. Taking the alternate route by using Fairfield makes people come through our neighborhood. There is too much traffic in this neighborhood. Brown does not believe there is infrastructure to support this development. She requested that the Planning Commission deny this proposal and keep the original approved plan that is less hurtful and harmful to this neighborhood. She pleaded that the Commission give this neighborhood the same consideration that they did on the East Campus proposal on today's agenda. The neighborhood would love to sit down with someone to develop a good plan.

Esseks suggested that there be no parking allowed between certain hours on the street at Campbell school. Brown stated that "it does not work." They have had the police out there. It is just a poor design for the school. The pick-up and drop-off should have been off of Superior. They don't even have enough parking for the teachers so they are parking on the streets in the neighborhood. Brown stated that they love having the school in the neighborhood, but it was a bad design for pick-up and drop-off. It just causes a ton of traffic through the neighborhood. Most of the children that go to Campbell live to the west, so if they eliminate the left hand turn, it will be detrimental to those parents wanting to get out of the neighborhood to go west. She sees a lot of people making U-turns at 24th & Superior, and that is not safe.

Staff questions

Sunderman asked staff to respond to the street width. Cajka indicated that these are local public streets with 60' right-of-way and with 27' wide paving, with parking on both sides, similar to any other local street throughout the city. (The individuals in the audience disagreed with the 27' width.).

Francis inquired whether the staff has heard of any traffic complaints prior to this development coming forward. We are hearing that most of the traffic problems are a result of the school. Has there been any conversations with LPS of having parents go in on 24th, coming up Dodge and leaving the area via 21st Street? Cajka stated that he did not contact LPS about complaints. Normally traffic complaints would go to Public Works. He did acknowledge that traffic has been a concern in all of the applications on this area that have come through in the past 10 years.

If you look at the layout of this neighborhood as a professional planner, Cornelius asked Cajka if there is something that makes it particularly likely to generate those traffic complaints. Cajka acknowledged that there are not a lot of through streets, causing traffic to wind through the neighborhood. The arterials are Superior Street and 27th Street. It seems like the main concern is turning left onto Superior. If you cannot go left, then you would go through the neighborhood on Dodge Street to Old Dairy at 27th Street. If you want

to go back to 14th, you have to wind around the neighborhood. If there would have been another more direct north/south street going to Superior, that would have helped. The stop light on Superior at 20th Street does not line up with the north/south streets.

Esseks noted that there is a pending petition at City Council to reduce the density from R-4 to R-2, which has already been recommended for denial by the Planning Commission. He wondered whether the Planning Commission should wait until that issue is resolved before acting on this proposal. Cajka indicated that to be the Planning Commission's choice. The R-4 to R-2 proposal on the Council's pending list is only on the larger lot and not the smaller lot. When the property came through for domiciliary care/elderly housing, it was changed from R-3 to R-4, and the application pending at City Council is a downzone on that parcel from R-4 to R-2. **Marvin Krout, Director of Planning**, advised that he has spoken with the City Council and has suggested that the Council should remove that downzone from their pending list and consider it at the same time as this request.

Sunderman wondered why that downzone has been on the Council's pending list for five years. Krout stated that it was a vote of the City Council to place it on pending rather than taking action on it.

Cornelius inquired whether the owner of the property was involved in the downzone request. Krout indicated that the downzone request was made by the Landon's and Regalton Neighborhood Associations. The property owner did not support the downzone application.

Gaylor Baird inquired further about the alternative plan for the median break at 24th and Superior Streets. When will that decision be made and how? Hoskins stated that typically, something like that would come about if Public Works becomes aware of a crash problem at an intersection. Generally, if Public Works felt ahead of time that there was going to be a big enough problem, they could be proactive, but since it would impact the neighborhood by taking away a left turn, Public Works would not want to do that until there is justification for it.

Gaylor Baird then asked what data Public Works has from the residents and wondered how much more is needed to make any change. What is the margin? Hoskins stated that Public Works just recently went out and did some new traffic counts to insure that they have up-to-date information. They do continuously track the number of crashes that occur at intersections. There are approximately nine warrants outlined in the manual that must be followed, ranging from looking at crashes, pedestrian volumes and vehicular volumes over several different time frames, network of signals, etc. There is a number of things that must be tracked to warrant a traffic signal. At this point, this intersection is not close to meeting any of those warrants. The closest is probably the crash warrant. Hoskins pointed out that there is a good downhill grade going east on Superior Street. Most people

think crash problems go away with a signal, but typically when you put in a signal, your crashes tend to go up with rear-end type crashes. The downhill nature leads us to a real concern about signaling this location.

Lust inquired as to what input Public Works has with LPS about the traffic patterns in and out of their schools. Hoskins stated that Public Works attempts to provide input and work with them when they are creating new schools. Once the school is in place, Public Works works with LPS to create driving plans and safe walk routes for the schools. Lust inquired when the drive pattern around this elementary school was last reviewed. Hoskins stated that they are reviewed every couple of years. He was not sure whether anything has changed for this driving plan.

Gaylor Baird inquired whether Public Works also looked at Dodge Street for the traffic counts. Hoskins stated, "no". He acknowledged that they have received a few complaints over the years wanting Public Works to look at the parking out there. Obviously, there is good and bad to parking. Parking on the street helps slow down the traffic, yet the Commission did hear that when the parking is full it is hard to get up and down the streets. It's kind of a catch 22. There is very limited parking for people waiting to pick up their children.

Response by the Applicant

With regard to the parking issue, Huston stated that his client has a history of developing very nice apartment buildings owned by the company and its employees, and has good numbers on the parking demands. The parking for the apartments off-street is about 25% over that required under city ordinance.

With regard to the drainage question, Huston stated that the grading plan has been reviewed and approved by Public Works. It will involve enhancement and enlargement of the detention cell controlling the drainage.

As far as the pending action at City Council, Huston pointed out that that application was filed by the Landon's and Regalton Neighborhood Associations and was not supported by the then property owner.

Huston reiterated that the real issue is traffic, and traffic is a dilemma for infill development. This applicant's relationship with the neighbors has been cordial, even though we may disagree. "We think we can be a good neighbor. We think we can help contribute to the solutions of the traffic problem. We think we can help the neighborhood gain a traffic signal at 24th Street." There is a lack of north/south through streets in this neighborhood. Bicentennial and Landon's were developed well in advance of any of the commercial development on 27th Street. This applicant can help provide a solution by being allowed to proceed to provide access to 24th Street and this development will have a great ameliorating effect on the traffic problems in the neighborhood.

Esseks wondered what has been done to bring about the desired traffic signal at 24th & Superior. Huston believes that this applicant can make the request to Public Works, and continue to emphasize that request. This developer will be paying an impact fee of \$170,000, which would more than pay for that traffic signal. Given the stretch of Superior between 14th and 27th, where you cannot put a half-section signal in, there needs to be the flexibility to put one somewhere. Huston believes that they can try to influence Public Works in meeting the warrants. Huston thinks they can get there.

Partington inquired whether the applicant believes they have the adequate parking to support 100% of the occupancy of the apartment building. Huston responded with "125%". There will be no additional parking on the streets. The City would require 192 stalls. This developer's site plan shows 237 stalls, which is 45 in excess of that required by the city code. The tenants will park off-street and on-site.

CHANGE OF ZONE NO. 11035

ACTION BY PLANNING COMMISSION:

September 21, 2011

Lust moved approval, seconded by Francis.

Cornelius stated that he has also been in this neighborhood recently, and it does have some issues. It is the poster child for standards for connectivity and standards for block length. He is very sympathetic to what he has heard on the part of the neighbors. He has driven on N. 25th and on Dodge and on Old Dairy and has seen the difficulties with parking in that area. On the other hand, we have a parcel that has remained undeveloped for over a decade. We have heard from our local experts that these streets meet the municipal design standards. He does not necessarily have direct knowledge of the problems of the traffic patterns of the school, but he has also heard that the use that is proposed is less intense in terms of traffic than the already approved uses. Based on those things, he will support the motion.

Motion for approval carried 8-0: Esseks, Lust, Larson, Gaylor Baird, Sunderman, Partington, Francis and Cornelius voting 'yes'; Taylor absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 11023

ACTION BY PLANNING COMMISSION:

September 21, 2011

Lust moved to approve the staff recommendation of conditional approval, seconded by Francis.

Francis stated that she is also sympathetic to the neighbors but she believes that the majority of their traffic concerns are from the drop-off and pick-up at the school. She has seen this around every other school in Lincoln. It's just a common denominator with kids being taken to school. It has nothing to do with the apartments that are planned to be

across the street from 24th Street; this is a good use of the property that has been vacant for a long time. She is hopeful that the children in the apartments can walk to school.

Gaylor Baird finds it hard to see how you get in and out of this development. There is dead-end cul-de-sac after dead-end cul-de-sac after dead-end cul-de-sac, and the design of these older neighborhoods are very limited. So without holding to those standards of connectivity, the residents of these neighborhoods have to face the unpalatable reality that their options are severely limited. The actual development of this particular block won't actually affect street parking and some of the other main concerns that the neighbors have raised.

Esseks suggested that where we have property in an already largely developed part of the city that has not been developed and ~~contains new bales of hay~~ is still being farmed, there has to be a problem. There has to be an obstacle. Here, he believes that the traffic pattern is an obstacle. But rather than telling the developer that they have to wait until the future, he believes we need to allow the developer to proceed because, by and large, this fits our plan; the developer should work with the local community and attempt to find a solution, even if it means the developer has to pay for a traffic signal. Infill is challenging. Here is a good example. But let's go forward rather than wait. (**As revised 9/30/11**)

Motion for conditional approval carried 8-0: Esseks, Lust, Larson, Gaylor Baird, Sunderman, Partington, Francis and Cornelius voting 'yes'; Taylor absent. This is final action, unless appealed to the City Council within 14 days.

CHANGE OF ZONE NO. 11031
FROM B-1 LOCAL BUSINESS DISTRICT AND
R-3 RESIDENTIAL DISTRICT TO
R-4 RESIDENTIAL DISTRICT
and

SPECIAL PERMIT NO. 459A,
AN AMENDMENT TO THE GEORGETOWN
APARTMENTS COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 70TH STREET AND VAN DORN STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 21, 2011

Members present: Esseks, Lust, Larson, Gaylor Baird, Sunderman, Partington, Francis and Cornelius; Taylor absent.

There were no ex parte communications disclosed.

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

Staff presentation: **Brian Will of Planning staff** explained that these items were delayed two weeks ago at the request of the applicant to allow time to meet with the neighbors, and he believes they have reached agreement.

Will explained that the zoning pattern on this property is a combination of B-1 commercial zoning and R-3, R-4 and R-1 Residential. It has this fractured zoning pattern that is not terribly conducive to the apartment complex nor figuring out whether more units are allowed. The design standards contemplate and specify a certain density. The B-1 zoning does not allow us to do that. Therefore, we have recommended the zoning change because there was no way to calculate density based on today's standards with the B-1 zoning. Therefore, it is staff's position that the existing apartment complex makes sense under the R-5 over a majority of the site, and then change the zoning on the R-1 tract at the northeast corner to R-4. The R-5 is consistent with apartments; it gives them the density they need, both for the existing complex and for some additional units. Leaving the R-4 along the north requires that the CUP special permit stays in place. Maintaining the special permit community unit plan would give some benefit to the property owners to the north knowing that any major amendments down the road would result in a public hearing.

Will further explained that the amendment to the CUP proposes to add one 36-unit apartment building at the northeast corner of the property where there is currently a parking lot. Associated with that request is the waiver to parking. Staff's rationale in approving this waiver is that if this site were entirely zoned R-5, the parking would be 1.75 spaces per dwelling unit. With the CUP on the site, the parking is 2 spaces per dwelling unit. A CUP typically anticipates a mix of housing types with a higher parking demand. This proposal is purely apartments without the higher demand for parking. Therefore, staff believes the parking waiver is appropriate.

Proponents

1. Alan Schmidt, Hutchinson Architects, appeared on behalf of the owners of **Georgetown Apartments**. The applicant had recently purchased the apartments and is revitalizing the whole apartment complex, updating the exterior and interior of the units, repaving all of the drives and dressing up the approaches from the streets. In the process, the applicant would like to maximize the potential of the complex by adding the 36-unit building.

The applicant met with the neighborhood, which had valid concerns about the impact on their residents to the north, including noise and lights from automobiles, etc. The original proposal did have parking lots on either side of the proposed building which abutted the residents to the north. After meeting with the neighbors, the applicant has come up with some changes and would like to amend both the change of zone and the special permit applications.

Relating to the change of zone, it has been determined that the existing R-1 portion of the property being requested to change to R-4 can remain R-1. Therefore, the applicant is revising the change of zone application by deleting the request from R-1 to R-4. The original total density allowed up to 160 units. This proposal requested 151 units, so leaving the R-1 zoned area alone still allows the proposed 151 units.

Schmidt also stated that the other concerns of the neighborhood were some screening and sound control from the parking lot. Schmidt proposed to amend the site specific conditions of approval on the special permit as follows:

- 1.2.2 Per Exhibit A for the new 36-unit apartment building in the northeast corner of the site, reflect the placement of the building, adjacent parking, surrounding landscaping and placement of trees and accompanying vegetation. Identify all plant material and provide all typical landscape plan information.
- 1.2.3 That the land directly to the east of the new apartment building will be landscaped and maintained as a green space with grass, trees and other vegetation forming a buffer zone between the Georgetown Apartments and the property to the north.
- 1.2.4 That an opaque 6 foot privacy fence will be built generally along the north boundary of the special permit.
- 1.2.5 That the 30 foot setback between the new building and the property to the north will be planted with additional trees and other appropriate vegetation beyond the minimum design standards, to create a suitable screen between 6 and 15 feet above the adjacent ground elevation between the new apartment building and the homes to the north.

Relocating the building will create a larger green space to the east side of the building. They have reached agreement with the neighbors to add an opaque fence along the north property line in a style, color and type of fence to which the neighbors agree. There will also be additional landscaping and screening along the north 30' rear yard.

Support

1. Robert Hunt, UNL professor and resident of the **Carriage Park Neighborhood Association**, appeared on behalf of the Board of Directors of the Association and the homeowners. He stated that the neighbors have had a good relationship with the applicant, had several meetings and came to a good solution. The neighbors are in agreement with the site specific conditions of approval, as amended, and the neighbors will be involved in the details of the fencing and vegetation in the setback space.

The neighbors have entered into a written agreement with the owner, laying out the same conditions in more detail. Most importantly, that agreement provides that the Neighborhood Association shall have the right to approve any significant alterations and to modify those considered harmful to the Association.

Hunt stated that the Neighborhood Association is pleased that the building has been moved to the west, with a small park-like development to the east with various groups of trees to shield light from the homes. There will be vegetation/trees in the 30' setback to the north with a privacy fence all the way across the back of the building.

The Carriage Park Neighborhood is now in support of this proposal, as amended.

There was no testimony in opposition.

Esseks inquired whether the staff is in agreement with the amendments. Will stated that the staff is in agreement, except that the word "suitable" screen in Condition #1.2.5 should be changed to "at least a 75%" screen. The landscape plan that they are showing actually exceeds that and gets to the concerns of the neighbors.

Response by the Applicant

Schmidt pointed out that their original draft had 100% screening, which would be pretty much a solid wall, so it was revised. He understands and agrees that "suitable" should be changed to "at least a 75%" screen.

CHANGE OF ZONE NO. 11031

ACTION BY PLANNING COMMISSION:

September 21, 2011

Lust moved approval, as amended, deleting the change of zone from R-1 to R-4, seconded by Gaylor Baird.

Lust commented that she really appreciates the way this development has come about. Mr. Hunt was here two weeks ago in opposition and the fact that we have a developer willing to work with the neighborhood, with the neighborhood association now in support, is wonderful and she encouraged more community cooperation in the future.

Cornelius agreed. It is good to have an application that started out somewhat contentious but over time evolved into what sounds like an improvement as well as an asset to the neighborhood.

Motion for approval, as amended, carried 8-0: Esseks, Lust, Larson, Gaylor Baird, Sunderman, Partington, Francis and Cornelius voting 'yes'; Taylor absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 459A

ACTION BY PLANNING COMMISSION:

September 21, 2011

Lust moved to approve the staff recommendation of conditional approval, as amended by the applicant and further amended by staff, seconded by Francis.

Cornelius suggested that the Commission is likely to see more of this type of development in the future considering the content of LPlan 2040, and it is good to see cooperation between the developers and the neighbors.

Motion for conditional approval, as amended, carried 8-0: Esseks, Lust, Larson, Gaylor Baird, Sunderman, Partington, Francis and Cornelius voting 'yes'; Taylor absent. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 3:10 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on October 5, 2011.

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