

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, September 29, 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, Roger Larson, Dan Marvin, Melinda Pearson, Mary Bills-Strand, Lynn Sunderman and Tommy Taylor (Gerry Krieser absent). Marvin Krout, Ray Hill, Mike DeKalb, Brian Will, Becky Horner, Tom Cajka, Derek Miller, David Cary, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Mary Bills-Strand called the meeting to order and requested a motion approving the minutes for the regular meeting held September 15, 2004. Motion for approval made by Carlson, seconded by Carroll and carried 8-0: Carlson, Carroll, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'; Krieser absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

September 29, 2004

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

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 04050; SPECIAL PERMIT NO. 04051; CHANGE OF ZONE NO. 04055; SPECIAL PERMIT NO. 04044, NORTH CREEK VILLAS COMMUNITY UNIT PLAN; COUNTY SPECIAL PERMIT NO. 04048, ADAMS STREET ACREAGES COMMUNITY UNIT PLAN; and COUNTY PRELIMINARY PLAT NO. 04022, ADAMS STREET ACREAGES.**

Item No. 1.2, Special Permit No. 04051; Item No. 1.3a, Change of Zone No. 04055, Item No. 1.3b, Special Permit No. 04044; Item No. 1.4a, County Special Permit No. 04048 and Item No. 1.4b, County Preliminary Plat No. 04022, were removed from the Consent Agenda and scheduled for separate public hearing.

Larson moved to approve the remaining Consent Agenda, seconded by Marvin and carried 8-0: Carlson, Carroll, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'; Krieser absent. This is final action on Special Permit No. 04050, unless appealed to the City Council.

SPECIAL PERMIT NO. 04051
FOR AUTHORITY TO SELL ALCOHOL FOR
CONSUMPTION ON THE PREMISES,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 14TH STREET AND PINE LAKE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 29, 2004

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

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda at the request of the applicant.
Proponents

1. DaNay Kalkowski appeared on behalf of the owners of the property that is the subject of this application. The original request was to allow on-sale on one lot (Lot 15) to facilitate a specific user, a local neighborhood bar and grill. The Planning Department encouraged the applicant to expand the request to other lots that would be available for retail use to avoid the necessity of coming back in the future on the same issue. The applicant then included Lots 31 and Lots 20 and 21. The applicant did receive a call from the representative of one of the neighbors on Infinity Court, with concerns about approving this use before having a specific user for the additional lots. In response to their concerns, Kalkowski amended the application and deleted Lots 20 and 21 from the special permit request.

The application would only apply to Lot 15 and Lot 31. These two lots are surrounded by commercial uses with 14th Street abutting on the east. These lots meet the special permit location requirements as well as the requirements for parking and lighting conditions.

Marvin inquired as to the distance from Southwest High School. Kalkowski believes that Southwest High School would be several hundred feet away. When they did the original use permit it was agreed with the school to not request a special permit for alcohol sales for any of the lots adjacent or in close proximity to the school.

Carroll inquired about the use of Lot 31, with the bar and grill being on Lot 15. Kalkowski advised that no specific user for Lot 31 has been identified at this time. There is 1500 sq. ft. so a restaurant could potentially go into that building.

There was no testimony in opposition.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 29, 2004
Larson moved approved, as amended, seconded by Carlson and carried 6-2: Carroll, Sunderman, Carlson, Pearson, Larson and Bills-Strand voting 'yes'; Marvin and Taylor voting 'no'; Krieser absent. This is final action, unless appealed to the City Council.

CHANGE OF ZONE NO. 04055
FROM H-3 HIGHWAY COMMERCIAL
TO R-4 RESIDENTIAL
and
SPECIAL PERMIT NO. 04044,
NORTH CREEK VILLAS COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT NO. 18TH STREET AND FLETCHER AVENUE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 29, 2004

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

Staff recommendation: Approval of the change of zone and conditional approval of the community unit plan

Ex Parte Communications: None.

This application was removed from the Consent Agenda for the submittal of additional information.

Becky Horner of Planning staff submitted an e-mail from a neighbor concerned about the design of Fletcher Avenue.

Proponents

1. Jason Thiellen of Engineering Design Consultants appeared on behalf of the applicant, **North Creek LLC**. The proposed community unit plan is for 52 total dwelling units—16 townhouse units or attached single family units and 36 townhouse or rowhouse units to the north. The developer met with the homeowners association last week and Thiellen believes their concerns were addressed. In response to the additional information submitted today, Thiellen suggested that the concerns are more related to the cross-section of Fletcher Avenue and are not directly related to this project.

Opposition

1. Carol Brown, 2201 Elba Circle, appeared in a neutral position on behalf of her son, **J.R. Brown**, who built a home in North Hills. "Fletcher Avenue is going to be the next Superior Street if we don't get a handle on it." Fletcher will go from 27th Street over to 14th Street. Superior Street is now a regular race track. Her son lives on 5501 Rockford Drive, and he will also be having a commercial development as a neighbor on the north side of Fletcher. Brown's concern is that Fletcher Avenue has been moved. It appears that this high traffic road has been pushed closer to North Hills and North Creek. It was supposed to go along the Interstate route, and now it has come down and pushed into the neighborhood. This is not conducive to a good neighborhood. It will be four lanes with center turn lanes, high traffic and very fast traffic. We need to take another look at this whole area. There is going to be an elementary school right at Rockford and Folkways. You should not divide a neighborhood by a 5-lane road from a commercial district. Why do we take a 5-lane road right through a neighborhood? The Comprehensive Plan shows Fletcher going along the side of the Interstate instead of coming down into the neighborhood. We don't need big boxes in north Lincoln anymore. We need some small retail space to encourage entrepreneurship. She thinks the City could save some money on Fletcher.

Brown also urged that there be enough parking for this development.

2. Scott Holz, 2220 Gunnison Avenue, is concerned about the change in zoning. He is against any residential area being built behind his home as opposed to a few small office type buildings. Because of the failure of the bond issue, he does not believe that Fletcher will be finished for some time. They want to put 52 units on a dead-end street. There will be a lot of vehicles associated with 52 dwellings. Every one of those units with a vehicle will be driving right by his house because there will only be one outlet. It will not be compatible with the surrounding neighborhood. It squashes an R-4 in between H-3 zoning. This is not a good transition.

Holz acknowledged the meeting with the developer on September 21st; however, the association has not had the opportunity to vote and take a formal position. He believes the association would be in opposition. There were many questions and concerns raised at the meeting.

Holz is more concerned with the traffic. Right now, Campbell Elementary is already overcrowded with multiple portable classrooms. Adding more people to this neighborhood in such a small confined area is going to overcrowd the school system that much more. He has already had several incidents of vandalism at his home and he believes that the police resources are already being stretched to the limit. He is also concerned about there being only one access into the development.

Marvin noted that the map shows a buffer strip between the single family homes and the proposed townhomes. Holz understands that the new development will go between the two paved intersections. Thiellen stated that there is over 100' between the two lots due to the wetland area.

Staff questions

Marvin asked staff to speak to the issue of Fletcher Avenue. Horner stated that the location of Fletcher was shown in the North Hills preliminary plat in 1999. It is classified as an urban minor arterial. The location has not changed since 1999.

Larson did not believe that Fletcher was intended to go to 27th.

Chad Blahak of Public Works also stated that Fletcher has been shown this way since 1999. There is no approved plat to the south of the existing first two lanes of Fletcher; however, there have been two lanes of the future four already built with the North Creek development and they run basically to the boundary between North Creek and North Hills. It is going to be difficult to do any drastic change to the alignment of Fletcher as far as pulling it closer to the interstate. Public Works is currently in the process of selecting consultants for the design of Fletcher Avenue, and once that process is completed, there will be a number of neighborhood meetings to discuss the design. Blahak does not believe that Fletcher Avenue has a lot to do with this application. Fletcher currently goes all the way to 27th.

Pearson inquired as to when Fletcher will be connected to 14th Street. Blahak advised that due to the failure of the bond issue, it won't be until after 2007.

Carroll inquired whether there is enough right-of-way owned by the city on Fletcher. Blahak believes that there is, and he believes all of the right-of-way has been dedicated to go to a five-lane road.

Carlson inquired as to the anticipated trip count from the uses in H-3 versus R-4. Blahak suggested that in the grand scheme of what is planned for Fletcher Avenue, 52 dwelling units is not going to be a significant difference. Carlson noted that H-3 is obviously highway commercial, which he believes would be multiple point destinations as opposed to single point destinations. Theoretically, the residential use would reduce the number of trips that would be traveling to go to a commercial use. Horner advised that H-3 does allow restaurants (which will generate more trips), office buildings, wholesale bakeries, bottling works, mini-warehouses, parking lots, etc.

Marvin inquired whether it is common to build an "urban minor arterial" to five-lane standard. Blahak does not know why Fletcher was classified as "minor urban" as opposed to "major" arterial. The Comprehensive Plan does reference the four lanes plus a turn lane to address the cross-section.

Carroll inquired whether there is a requirement for extra parking. Horner stated that there is no extra parking required, but for about the past two years, the staff has been asking for some additional off-street parking stalls and the development community has obliged, but there is no requirement. There is no additional parking shown on this site plan.

Bills-Strand wondered whether the Commission could ask for additional parking on Outlot D and Outlot C. Horner believes that might be possible.

Bills-Strand inquired whether the layout of Fletcher Avenue has anything to do with this application. Marvin Krout, the Director of Planning, stated that it does not. The city would be building this road to this standard based on the Comprehensive Plan, whether or not this property is developed as currently zoned or as per this application.

Response by the Applicant

With regard to Fletcher Avenue, Thiellen does not believe it concerns this development. With regard to parking, Thiellen pointed out that there is off-street parking shown on the north side of what is now being called Silver Road, and there is parking in front of both Outlot C and Outlot D. The application meets the 22' requirement for driveways with two cars in each drive. It also meets this requirement on each one of the row house units. Thiellen believes they have provided adequate parking for the residents and potentially two guests with some off-street parking.

Thiellen submitted that the proposed use is a lot better use than what was previously allowed. He believes that Fletcher is an edge; however, it is an edge that benefits this development and the North Creek neighborhood in that it keeps the uses separate. It does not run through the middle of the development. It is a transitional use going from single family to attached single family to townhomes and then to the commercial. He believes this is more appropriate and safer than uses allowed in the H-3.

Thiellen acknowledged that he had attempted to get a hold of the wrong person for several weeks because the neighborhood contact information on the city Web site was incorrect.

CHANGE OF ZONE NO. 04055

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 29, 2004

Larson moved approval, seconded by Sunderman.

Carlson perceives that H-3 to R-4 would reduce the negative impact on the neighborhood and reduce the traffic both on Fletcher and through the neighborhood.

Marvin commented that on previous requests for higher density residential, the complaint is that the traffic is going to go through the neighborhood. The access points shown on this

application are not going to take them through the neighborhood and there is a buffer strip of 100 feet.

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

SPECIAL PERMIT NO. 04044

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 29, 2004

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

COUNTY SPECIAL PERMIT NO. 04048

ADAMS STREET ACREAGES COMMUNITY UNIT PLAN

and

COUNTY PRELIMINARY PLAT NO. 04022

ADAMS STREET ACREAGES

ON PROPERTY GENERALLY LOCATED

AT N. 162ND STREET AND ADAMS STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 29, 2004

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

Staff recommendation: Conditional Approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda at the request of the applicant.

Proponents

1. Jeff Buel appeared on behalf of his brother, the owner of the property. He agreed with the staff recommendation and conditions of approval, except for Condition #1.4, which requires the removal of the strip of Outlot "A" between the west property line and Shannon Street. Buel advised that the purpose of that strip is to get the sight distance down and the applicant would prefer to continue to farm that strip. The applicant believes it would be more beneficial to leave that strip there and continue to farm it so that there is no weed control problem. The strip is 50' between the road and the property line. It would be planted as soy beans or corn.

Opposition

1. Barbara Frazier, 14900 Adams Street, testified in opposition. She is not so much concerned with this specific development, but with the impact of the cumulation of acreage developments that are being platted within the County. It puts an awful strain on the county roads. Ms. Frazier related some vehicle counts on Adams compared to Holdrege. The difference is that Holdrege is paved but is still a county road without any shoulders. Adams is a gravel road. She understands that the cost of paving one mile of gravel road is near \$200,000. Adams is only paved to Stevens Creek. If the county chose to pave that, it would cost nearly one million dollars. She understands that this development is only four lots, but she is concerned about the cumulative effect and the need for more acreages in the county. There is a newly platted area at 134th and Adams where only one out of seven lots is sold. There are still lots for sale on the farm ground replatted near 134th and Holdrege. Perhaps we need to approach the growth in the county with a little more concern with what's happening to our transportation system.

In addition, Ms. Frazier works for County Weed Control and it is true that there are a lot of people who live on acreages that do not care about controlling noxious weeds.

Staff questions

Bills-Strand asked what the applicant could develop by right on this property without the CUP cluster. Mike DeKalb of Planning staff advised that four 20-acre lots could be developed by right.

Carlson asked staff to respond to the request to delete Condition #1.4. DeKalb noted that there were no comments from the County Engineer about sight distance issues. Staff's concern with creating that strip is the ability to continue it in farming. The longer term issue is that if the land immediately to the west chooses to do exactly the same thing at the top of the hill, then this strip becomes a really high priced piece of property to access the road for public access. The staff believes that the strip should either be moved away so that it is either usable for lots or wider for farm uses, or move the units over next to the lot line so that there is no wasted strip of land.

Larson wondered whether a developer can provide a cluster like this and then buy some adjacent land and put another cluster next to this. DeKalb indicated that this could happen, but this applicant is using the mechanism to create the cluster and they are within the boundaries of the law if they add more land to it.

Pearson referred to the performance standard rating, which she assumes is low because Adams is not paved. DeKalb added that it is not in the Comprehensive Plan; the road is gravel; there are good soils; there is no negative environmental impact; no rural water; and parcelization of the land around it. Pearson then asked why the staff is recommending conditional approval. DeKalb explained that the performance standards and point system are

not in place. The point system is only to be used for increased density. This is not a request for increased density but a request for clustering to allow the density within the AG district.

Response by the Applicant

In reference to the sight distance, Buel stated that he did use the services of ESP to topo the road. ESP indicated that they did not have the sight distance. If the county says we do have it, he would be happy to slide the units up against the property line. There is rural water along the property and he has a letter approving four rural water hookups. It is Cass County Rural Water.

COUNTY SPECIAL PERMIT NO. 04048

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 29, 2004

Carlson moved to approve the staff recommendation of conditional approval, seconded by Carroll.

Carlson noted that the County Engineer does not have a problem and Buel agrees to take the strip out if everyone is okay with it. He then reiterated that clustering is called for in the Comprehensive Plan. The larger issue is the increase in density which we are not seeing here. This is far away from Lincoln's growth area so he thinks this is a proper request.

Motion for conditional approval carried 7-1: Carroll, Sunderman, Carlson, Taylor, Pearson, Larson and Bills-Strand voting 'yes'; Marvin voting 'no'; Krieser absent. This is a recommendation to the County Board.

COUNTY PRELIMINARY PLAT NO. 04022

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 29, 2004

Larson moved to approve the staff recommendation of conditional approval, seconded by Carlson.

Marvin believes that Ms. Frazier, who spoke about extending the roads and the cost of the roads hit the nail on the head. That is exactly it. We have enough trouble building roads within our own city. We are spending taxpayer dollars to extend roads out on Adams Street and elsewhere.

Carlson reminded Ms. Frazier that the Planning Commission is making a recommendation to the County Board and she should point this out to the County Board.

Bills-Strand noted that this property could have been divided into four 20's by right. We don't necessarily have to go out and pave it.

Motion for conditional approval carried 7-1: Carroll, Sunderman, Carlson, Taylor, Pearson, Larson and Bills-Strand voting 'yes'; Marvin voting 'no'; Krieser absent. This is a recommendation to the County Board.

COUNTY SPECIAL PERMIT NO. 04047,
NORTH BRANCHED OAK ESTATES COMMUNITY UNIT PLAN
and
COUNTY PRELIMINARY PLAT NO. 04021
NORTH BRANCHED OAK ESTATES
ON PROPERTY GENERALLY LOCATED
AT N.W. 84TH STREET AND WEST ROCK CREEK ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 29, 2004

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

Staff recommendation: Conditional Approval.

Ex Parte Communications: None.

Mike DeKalb of Planning staff submitted one letter in opposition with concern about property taxes, safety primarily due to traffic, enjoyment, and potential impact on water supply.

DeKalb also advised that the staff just received some additional well and water information and may need to adjust a condition.

Proponents

1. Brian Carstens appeared on behalf of **Bob Benes of Aspen Builders**. This is an AG community unit plan requesting the typical waivers on subdivisions for block length, street trees, ornamental lighting, sidewalks, landscape screens and stormwater detention. There are nine lots—six lots off of a private roadway and three off of the adjacent county road. There will be a new private roadway provided. There is an existing farmstead that was taken out many years ago. All of the home sites will be located on the worst part of the farm ground. If the cluster is located off the end of the private roadway, it would eat up more of the productive farm ground. The access points meet county standards and the County will grant access off of Lot 7.

Carstens requested to delete Condition #1.2, which requires revision to show smaller lots and reduce the number of individual access points to the county road.

Carstens also requested that Condition #1.3 be amended to provide test wells in accordance with the memo from the Health Department dated September 29, 2004.

2. Bob Benes discussed the request to delete Condition #1.2. The two lots all by themselves are a little bit larger because he is trying to preserve the tree masses and drainageways that currently exist. Making these lots smaller makes it difficult to get in with the farm equipment. This is similar to what Benes developed over by Raymond Central High School. He is requesting five-acre lots because the property is further outside of Lincoln. Three acres does not allow horses, a barn and a pasture that people want out in these areas. He believes the location being further out justifies the larger lots. He is going to continue to farm the property.

Benes also noted that there is a large well easement in an area to the south of the new street. There will be adequate water supply for any lot with the easement, and the Health Department is now in support.

The road access (driveway) for Lot 7 must be at least 200' from the intersection.

N.W. 84th and W Rock Creek Road are gravel roads and the development is on the north side of Branched Oak Lake. Benes believes there is a huge demand for acreages in northwest Lincoln.

Opposition

1. Mary Schweitzer, 9305 W. Rock Creek Road, testified in opposition. She is concerned about the water. She has lived in her home for 30 years and in the last five years, the water started smelling like rotten eggs. She put in a water softener which does not help the odor. The only way to try to eliminate the odor is to put in a reverse osmosis system and filters. There are others in the area who have had trouble with the water. Another neighbor has a swimming pool and the water is brown. Her next door neighbors are concerned because they raise fish for Game and Parks. This is a quiet neighborhood. She is concerned whether more houses could be built under the new build-through standards.

2. Larry Masters, 18401 N.W. 84th, testified in opposition. When he moved out there the rule was 20 acres. These nine houses are not going to be 20-acre plots. What are the covenants and restrictions going to be? What about dogs and other animals on three acres? Nine more houses will require septic tanks or lagoons. There will be problems with saturation of sewer. There are already 15 houses in that section. He believes the 20-acre rule should apply because he had to buy 20 acres.

Staff questions

DeKalb submitted a communication from the Health Department dated September 29, 2004, suggesting that the revised water report had some options to provide adequate supply of groundwater. The Health Department suggests the following condition:

As a condition of purchase, the developer has proposed that an adequate supply of potable water will be provided. In the event that an adequate supply is not available for some lots, the developer is proposing that wells be located off-site on Outlot B. A 150 foot easement for well sites or a well field and an easement for water lines would be provided by the developer.

DeKalb suggested that this language could become Condition #1.3.

Pearson asked staff to define "cluster". DeKalb stated that it is bringing things together and not stretching them out. Pearson believes that CUP clustering is a different image. Clustering is to bring things together to use the larger bulk of the land for farming. She does not believe 5-acre lots are clustering. The staff is recommending conditional approval, even though the point score is minus 137 out of potential +300. The applicant is requesting a bonus. DeKalb explained that there are times when it is appropriate for larger lots. Cedar Grove to the east went for larger lots because of the lay of the land and topography. The staff attempts to be sensitive to those circumstances. Condition #1.2 requires the applicant to revise the site plan to show smaller lots. The staff is taking the position that the layout does not take full advantage of the clustering and did not try to take access off the interior roads. Instead there are four access points off the county road. Instead of recommending denial, the staff is recommending that the plan be revised to the smaller lots. Staff does not believe they have justified the larger lots.

Bills-Strand asked staff to explain the clustering versus 20 acres. DeKalb stated that since 1979, Lancaster County has had both the 20 acres and a provision for clustering. Both the city and county have looked at clustering as the opportunity to maximize the best use of the land; to get the density into the areas that are not farmable; and reduce access points to the road. The flexibility of the CUP allows us to put the lots in a better spot and the outlot usually can be set aside for farm preservation, environmental protection and other good things.

Bills-Strand knows that reverse osmosis on a house on an acreage on the west side of Lincoln is not an uncommon thing. DeKalb stated that when we get into an area of bad quality water, the Health Department takes the position that if it is treatable it is still acceptable if the buyers are made aware of the situation. Reverse osmosis is relatively uncommon because it is expensive. On quantity, three gallons per minute is the minimum for financing purposes. The Health Department is now satisfied with this proposal.

Response by the Applicant

Benes assured that covenants and restrictions will be in place. These will be nicer homes and there will be restrictions on junk cars, feed lots, etc. As far as the water, he is familiar with this area and this property has been in his family. They are putting reverse osmosis in the acreages that they develop, only for the drinking water and ice maker. He believes this proposal represents clustering. He does not want to be required to revise to smaller lots. He

wants to maintain the bulk of the farm ground. He is somewhat limiting the accesses.

Taylor inquired about sewage. Benes explained that there are two types of systems. The lagoon system is not designed to leak into the ground. You have to seal the lagoon. The other system is the lateral system where we want it to leach into the ground. There are restrictions – you cannot have your well within 100' of the leach field. Having more ground to work with is nice. As a developer, he always likes to see a lateral system, but he cannot require it.

COUNTY SPECIAL PERMIT NO. 04047

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 29, 2004

Pearson moved to deny, seconded by Marvin.

Pearson believes that this does not meet the intent of the cluster. Five-acre lots is not the intent. The lots are not off of a common street; the lots are large; and they are asking for a bonus. She believes the intent of the bonus is to encourage clustering, and she just does not believe this is true clustering. This is basically AGR zoning. There is no common access. Water is definitely an issue.

Carlson stated that he would rather support the staff recommendation, with the amendment adjusting the well issue. Condition #1.2 of the staff report asks for the smaller lots and the clustering.

Bills-Strands stated that she is inclined to vote in favor of the staff recommendation with the revision as opposed to denial.

Motion to deny failed 2-6: Marvin and Pearson voting 'yes'; Carroll, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'no'; Krieser absent.

Larson moved to approve the staff recommendation, with the amended language proposed by the Health Department, seconded by Taylor.

Pearson confirmed that the motion leaves Condition #1.2 in place.

Motion for conditional approval, with amendment to Condition #1.3 regarding the water issue, carried 6-2: Carroll, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'; Marvin and Pearson voting 'no'; Krieser absent. Condition #1.2 was not deleted. This is a recommendation to the County Board.

COUNTY PRELIMINARY PLAT NO. 04021

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 29, 2004

Carlson moved to approve the staff recommendation, with amendment to Condition #1.3 as requested by the Health Department, seconded by Carroll and carried 6-2: Carroll,

Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'; Marvin and Pearson voting 'no'; Krieser absent. Condition #1.2 was not deleted. This is a recommendation to the County Board.

COUNTY SPECIAL PERMIT NO. 04049,
FISHERMAN'S LANDING COMMUNITY UNIT PLAN
and
COUNTY PRELIMINARY PLAT NO. 04023,
FISHERMAN'S LANDING,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 176TH STREET AND FIRTH ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 29, 2004

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

Staff recommendation: Conditional Approval.

Ex Parte Communications: None.

The Clerk announced that the staff is requesting a two-week deferral to advertise a revised legal description.

Mike DeKalb of Planning staff submitted plans showing the ground signs that had not been shown on the original plan as supplemental information.

Carlson moved to defer two weeks, with continued public hearing and administrative action scheduled for October 13, 2004, seconded by Taylor and carried 8-0: Marvin, Carroll, Sunderman, Carlson, Taylor, Pearson, Larson and Bills-Strand voting 'yes'; Krieser absent.

*** Break ***

COMPREHENSIVE PLAN CONFORMANCE NO. 04007,
THE LANCASTER COUNTY ONE AND SIX YEAR
ROAD AND BRIDGE CONSTRUCTION PROGRAM.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 29, 2004

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

Staff recommendation: A finding of general conformance with the Comprehensive Plan.

Ex Parte Communications: None.

Proponents

1. David Cary of the Planning staff and **Mike Brienzo** of Public Works and Utilities were available to answer questions. The County Engineer was not able to attend.

Marvin referred to page 3 of the staff report:

.....The acquisition of wider right-of-way will also preserve the future corridors for the larger and more expansive street improvements that will come with the growth of Lincoln. The second level of improvement, which is pavement, is triggered at a traffic volume level of about 400 vehicles per day.

Marvin wanted to know how a person could go about changing that trigger point so that we aren't approving acreages on gravel roads, increasing trip counts and then a liability on city taxpayers to put pavement out in those areas. He wants to increase the trigger. Cary advised that the trigger mechanism is part of the Comprehensive Plan and it would require an amendment to the Comprehensive Plan to change the trigger. Brienzo offered that the 400 vehicle count is an engineering figure used by the County Engineer for county roads. The County Engineer has found that when it gets above 400, the maintenance becomes an issue and it creates a hazard. At that point, it is more cost effective to construct an asphalt type surface. It is not an exact figure since there are not the resources to do every road with 400 counts, but those are the roadways that make it into this program and the County starts programming to improve them for safety and efficiency of resources.

Marvin understands that the gravel will deteriorate quicker because the vehicle counts have gone up. One conversation Marvin had leads him to believe that people have not looked at the costs of putting the asphalt on the ground and the constant maintenance you have on that asphalt. If you looked at both sides you could argue that a higher trip count could

be a better cost benefit analysis. He would like to have this 400 number reviewed. Brienzo agreed that it could be reviewed during the next update of the Comprehensive Plan. This was the County Engineer's recommendation.

Pearson asked for an example of a road that would have that amount of traffic that is getting ready to hit that 400 trigger. Brienzo did not have the counts in his head, but he would be happy to provide some examples. The average daily traffic counts are in the report.

There was no testimony in opposition.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 29, 2004

Marvin moved to find the program to be in general conformance with the Comprehensive Plan, seconded by Sunderman and carried 8-0: Marvin, Carroll, Sunderman, Carlson, Taylor,

Pearson, Larson and Bills-Strand voting 'yes'; Krieser absent. This is a recommendation to the County Board.

WAIVER NO. 04011

**TO WAIVE THE WIDTH TO DEPTH RATIO
ON PROPERTY GENERALLY LOCATED AT
S. 48TH AND HILLSIDE STREETS.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 29, 2004

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

Staff recommendation: Denial.

Ex Parte Communications: None.

Proponents

1. Carolyn Brouwer presented this application which would allow a driveway and a subdivision of the lot to put something on the back. If they would put the driveway on the north side to meet the setback requirements, there is a 10' alley on the south side that goes nowhere. Coming from the south there is a 16' alley that approaches the property, so this was the best location for the access. The property is currently a tri-plex rented by the owners. It is a three-story house with an apartment on each floor.

Opposition

1. Rebecca Cast, 4831 Mandarin Circle, testified in opposition. She owns seven properties in this area, three of which are directly behind the subject property. She also owns the property on Hillside abutting the subject property. She believes that allowing a drive coming off of 48th Street would create more problems. It is already an over-congested narrow street. It would present a nightmare for fire, police and ambulances to try to find that property and get back in to service it.

2. Virginia Loomis-Lipham, 3412 S. 48th Street (just across the street from the subject property), testified in opposition. Her driveway is directly across the street from what would be the exit that they propose off of this gravel driveway. If that were to become a street, she would have to back into her driveway and come out at 35 mph to get into the traffic flow.

3. Delbert Klever, 3328 S. 46th, testified in opposition. He is concerned about dividing the lot. They already have a tri-plex on the front lot. What are they going to build behind? There

is a nice balance in the area now. Adding more rental property will throw the balance off. The neighbors have to police the area in question. He would prefer that it be kept single family as it is today.

Response by the Applicant

Brouwer advised that the house directly to the south uses the alley in the back to get to their house. Only the person in the front of the tri-plex uses this drive. The others use the alley. She did call the gas department and they had no trouble locating the back area. If the neighbors are concerned about policing the area, she would think building a duplex would be helpful and would help maintain the property. There is a 10' platted alley that runs through there that is not accessible, but the 16' alley dead-ends at this property and most people use that alley.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 29, 2004

Carlson moved to deny, seconded by Marvin.

Carlson believes that the staff report sums it up well.

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

(Editorial Note: This application was subsequently withdrawn on October 6, 2004)

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: September 29, 2004

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

Staff recommendation: Approval.

Ex Parte Communications: None.

The Clerk announced that the applicant has requested an additional four-week delay. Carlson moved to defer four weeks, with continued public hearing and administrative action scheduled for October 27, 2004, seconded by Marvin and carried 8-0: Marvin, Carroll, Sunderman, Carlson, Taylor, Pearson, Larson and Bills-Strand voting 'yes'; Krieser absent.

MISCELLANEOUS NO. 04003
TO AMEND THE CITY OF LINCOLN
DESIGN STANDARDS REGARDING
STANDARD STREET LIGHTING.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 29, 2004

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

Staff recommendation: Approval, as set forth in the staff report dated September 21, 2004, as follows:

Delete "**Section 3. Responsibilities**" of this chapter.

4.2 Standard Street Lighting

LES will install/replace and maintain, "standard lighting" in any area where the City Council has not provided for "ornamental street lighting". The standard street light shall normally consist of a wood pole and bracket with a pendant luminaire. Wiring will be ~~overhead but may be underground at the discretion of LES Engineering~~ underground in areas with an underground source and overhead in areas with an overhead source. Whenever directed by the Public Works Department, wiring will be installed underground.

For residential areas, high pressure sodium vapor 70 ~~100~~ watt street lights will be located at street intersections and at approximate mid-block normal interval spacings of 240 ~~200~~ feet. Informal petitions signed by affected property owners or requests by the Mayor, City Council, Police Department or Public Works Department will precipitate investigation by Street Light Engineering to design and order the installation of justifiable lighting.

Ex Parte Communications: None.

Proponents

1. Derek Miller of Planning staff presented the application. The Director of Planning has worked with LES on the changes, which are basically to correct some errors on a previous change.

There was no other testimony.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 29, 2004

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

CHANGE OF ZONE NO. 04057
FROM AG AGRICULTURAL TO R-3 RESIDENTIAL
and
SPECIAL PERMIT NO. 04042,
LATTIMER'S ADDITION COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT S. 84TH STREET AND KATHY LANE.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 29, 2004

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

Staff recommendation: Approval of the change of zone and conditional approval of the community unit plan.

Ex Parte Communications: The Chair reported that all of the Commissioners received a phone call from Mark Hunzeker on behalf of the applicant. Pearson was the only Commissioner who had not had a conversation with Mr. Hunzeker.

Tom Cajka of Planning staff submitted proposed amendments as part of the staff recommendation:

Change Condition #1.1.1 to read: "Identify a street from Pinehill Lane to the north boundary."

Add Condition #1.1.12 to read: "Change the name of Pinehill Lane. The new street name must be approved by Emergency Communications 911 Center."

Cajka also submitted an alternate conceptual site plan prepared by staff.

Proponents

1. Mark Hunzeker appeared on behalf of **Hoegemeyer Palmer Construction**, the applicant. The subject area is a small tract that fronts on 84th Street. This plan was prepared originally by Paula Dicero, after meeting with staff and prepared according to what she heard from the staff in those meetings. Two weeks ago, they received the staff report with a staff

recommendation to redesign this project with public streets and additional access points. They again met with staff last Friday and came away with the understanding that they had a general agreement to proceed with the proposed plan which Hunzeker handed out to the Commission today. On Monday, the applicant advised that the proposal was no longer acceptable and that the applicant is going to be required to dedicate 4' of additional right-of-way on 84th Street, to use public streets and to rename Pinehill Lane.

Hunzeker believes that there are two issues. First of all, it is unfair to require this property owner to dedicate four feet of additional right-of-way along 84th St. The city recently redesigned 84th to be a four-lane facility with wide medians for the professed purpose of widening the street in the future to the inside rather than to the outside. The city did not have enough right-of-way and it acquired new right-of-way within the last year all the way up and down 84th Street. There is 56' on the east side from centerline and the requirement is to dedicate an additional 4' because the design standards say 60' for arterial streets. If the city really needed 60', this property should have had 4' taken during the condemnation process. As it is, this will be the only property that has dedicated 60' from centerline for any purpose along that street. In addition, the applicant was told five minutes before this meeting that if the applicant does not want to dedicate this right-of-way, it will require a waiver and will require republishing.

Hunzeker indicated that he is very frustrated. Due to the additional two-week delay to re-advertise a waiver, the applicant is willing to grant an easement for that 4'. Hunzeker suggested that Condition #1.1.3 be amended to read, ".....Dedicate an easement for an additional 4 feet along S. 84th Street."

Hunzeker stated that the more important issue is the issue of public versus private streets. The applicant has shown private streets in this plat because this is a fairly narrow parcel with 104' deep lots on the north side of the street and 104'-105' deep lots on the south. The building envelopes are narrow. There is an LES easement along the south side that takes up the rear 30' of each of the lots. By requiring this development to dedicate an additional 10' of right-of-way, this development will lose an additional 10' on South 85th Street, which means that each of those six lots on the north side loses a little under 2' of width. They will lose 5' on each side along either side of Pinehill Lane, which shortens up the building envelopes on each side by 5'. The same occurs on S. 85th, narrowing down each of the four lots on the east side of 85th by over 1' and on the west side by 2.5' each. This causes some real design problems. Hunzeker then showed photographs of the type of homes that the developer intends to build.

Hunzeker also advised that public streets will cause additional difficulties, even if they would go back through this process and waste two weeks to get front yard waivers on all of the public streets in order to push those buildings out. The placement of sidewalks within a public street will result in pushing the garages back, reducing the interior space of these homes. This project redevelops an acreage, which is supposed to be encouraged. Hunzeker requested that Condition #1.1.2 be deleted.

As far as renaming Pinehill Lane, Hunzeker pointed out that we already have Pine Lake Court, Pine Tree Lane, Pine Dale Avenue and Pine Wood Lane, so he does not understand why Pinehill Lane causes confusion. If this condition is imposed, the street will simply be named "Up Hill Road".

Hunzeker clarified that they will agree to put the sidewalks four feet from the private streets.

There was no testimony in opposition.

There were no staff questions.

CHANGE OF ZONE NO. 04057

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 29, 2004

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

SPECIAL PERMIT NO. 04042

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 29, 2004

Taylor moved to approve the staff recommendation of conditional approval, with the amendments requested by Mark Hunzeker, including an amendment to show the sidewalks four feet from the roadway, seconded by Larson. This amends the conditions as follows:

- 1.1.1 ~~Relocate S. 85th street to the east and extend it to the north boundary.~~
Identify a street from Pinehill Lane to the north boundary.
- 1.1.2 ~~Change the private streets to public streets.~~
- 1.1.3 Correct the right-of-way on S. 84th St. The existing right-of-way is 56 feet. Dedicate an additional 4 ft. easement along S. 84th St. Show sidewalks located 4' from the roadway.
- ~~1.1.12 Change the name of Pinehill Lane. The new street name must be approved by Emergency Communications 911 Center.~~

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

There being no further business, the meeting was adjourned at 3:25 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on October 13, 2004.

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