

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, November 21, 2007, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Gene Carroll, Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Robert Moline, Lynn Sunderman and Tommy Taylor (Leirion Gaylor-Baird absent); Marvin Krout, Ray Hill, Brian Will, Brandon Garrett, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Gene Carroll called the meeting to order and requested a motion approving the minutes for the regular meeting held November 7, 2007. Motion for approval made by Francis, seconded by Sunderman and carried 7-0: Carroll, Cornelius, Esseks, Francis, Larson, Moline and Sunderman voting 'yes'; Taylor abstained; Gaylor-Baird absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

November 21, 2007

Members present: Carroll, Cornelius, Esseks, Francis, Larson, Moline, Sunderman and Taylor; Gaylor-Baird absent.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 07023, STREET AND ALLEY VACATION NO. 07008, CHANGE OF ZONE NO. 3134C, CHANGE OF ZONE NO. 04075A AND CHANGE OF ZONE NO. 07057.**

Ex Parte Communications: None.

All items on the Consent Agenda were removed and scheduled for separate public hearing.

COMPREHENSIVE PLAN CONFORMANCE NO. 07023,
DECLARATION OF SURPLUS PROPERTY,
and
STREET & ALLEY VACATION NO. 07008,
SO. 46TH & "O" STREETS.
REQUEST FOR DEFERRAL:

November 21, 2007

Members present: Moline, Esseks, Francis, Taylor, Cornelius, Larson, Sunderman and Carroll; Gaylor-Baird absent.

Ex Parte Communications: None.

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

This application was removed from the Consent Agenda and called under Requests for Deferral.

The Clerk announced that the staff has requested a two-week deferral.

Cornelius moved to defer two weeks, with continued public hearing and action scheduled for December 5, 2007, seconded by Francis and carried 8-0: Moline, Esseks, Francis, Taylor, Cornelius, Larson, Sunderman and Carroll voting 'yes'; Gaylor-Baird absent.

There was no public testimony.

CHANGE OF ZONE NO. 04075A,
AN AMENDMENT TO THE
VILLAGE GARDENS PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED
AT S. 56TH STREET AND PINE LAKE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 21, 2007

Members present: Moline, Esseks, Francis, Taylor, Cornelius, Larson, Sunderman and Carroll; Gaylor-Baird absent.

Ex Parte Communications: None.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda and had separate public hearing.

Staff presentation: **Brian Will of Planning staff** submitted two letters in opposition. Will explained that this proposed amendment to the Village Gardens PUD includes a request for modification to allow a center identification sign. Generally speaking, this approved

PUD adopted the B-3 regulations, which really never contemplated a center identification sign. Staff is recommending approval of a center identification sign at two locations. Additionally, this amendment changes the zoning on the two lots to the south previously identified for multi-family dwelling structures (mansion-plexes) in order to allow a hotel on those two lots, and staff is recommending conditional approval.

Esseks asked for the definition of a mansion-plex? Will explained that it would be considered a multi-family structure. It is a term that the developer had given to these structures in their development agreement. The previously allowed height was up to 40', and staff is agreeing to a 50' height with the change of zone to B-3.

Esseks stated that he is concerned about the townhomes immediately to the south of the hotel site. Will explained that the townhomes would have a maximum height of 35', but there is an existing change of grade, estimated at 10'.

Larson inquired why the odd configuration for the change of zone request. Will acknowledged that to have been a topic of discussion between the applicant and the staff. As a PUD, the developer would not have had to move the zoning district boundary and could have adjusted the regulations to allow both the signs and the hotel, but for both convenience and clarity, it was determined that it is probably easier to move the zoning district boundary so that we do not have to revise all the language in the development plan to make it fit. In addition, it gives notice to the public and draws a clear line between the commercial uses and residential uses. The orientation of the hotel is north/south with windows facing east/west.

Cornelius commented that despite the odd shape, this is in fact an expansion of the B-3 district to the east. Will concurred.

Esseks inquired as to the easternmost boundary of the B-3 under the previously approved plan. Will showed the boundaries on the map.

Proponents

1. Dick Campbell, 6111 Charcoal Lane, advised the Commission that he does not view this as a major change. The original PUD had one commercial building and two mansion-plexes (an 8-unit apartment building that could either be rented or condo'd) platted for this area. He views the hotel as a better transition between the commercial and residential areas. It will be very compatible with the homes in the traditional neighborhood development, which are smaller and built for everyday living needs and may or may not have rooms for guests. The hotel will be a high-end extended stay property and is walkable to the homes in the development.

2. Kent Seacrest advised that the hotel will be a Marriott Residence Inn extended stay

hotel, which generally does not want to be on the freeway/interstate but would rather be tucked into a neighborhood. They want the residence feel. This proposal substitutes two apartment buildings and one commercial building for this Residence Inn extended stay hotel. The mansion apartments were planned to be 40' in height. The B-3 zoning allows a height for the hotel of 50'. Seacrest pointed out that there is a difference in the grade – the homes are 8-12 feet higher than the hotel parcel. There is a cut and a retaining wall that will be built. There will also be a landscape screen on top of the retaining wall.

Seacrest submitted additional exhibits, showing a three-story hotel facility. The staff encouraged this slight expansion of the B-3 zoning to solve the issues. This type of extended stay is very desirable – no bar, no lounges, no restaurants. It is residential. A condition has also been agreed upon that if the hotel is not built, then it will flip back to the two apartments previously approved. This is not a bait and switch. It is drafted as either the extended stay Marriott or the two apartment buildings and a commercial building.

Esseks assumed that the landscape screen is already in place based on the approved plan for the apartment buildings. Campbell stated that the screen is evergreen, mostly pines and a few deciduous trees, which are already growing and developing. The evergreens are 8-10' tall now. There is an 8-10' slope down to the hotel site from the townhomes. Seacrest added that in addition to the landscape screen and slope, the building will be moved from 5' to 32' away – the second floor of the townhomes line up with the third floor of the hotel facility.

Cornelius asked for a description of the market at which an extended stay hotel facility like this is targeted. Campbell stated that the market studies in the Midwest have been done to determine the size and type of hotel to be constructed. He made application to Marriott for the Residence Inn, which has been approved. Traditionally, in a Residence Inn, most of the rooms are 1- and 2-bedroom suites with kitchenettes, set up for the business traveler that is here for an extended stay. Marriott marketing is geared toward the business traveler. Campbell did not know for sure how long an “extended stay” would be, but he did know that their main business is not a one night stay.

Francis inquired whether there will be any plans for any conference rooms in the hotel. Campbell stated that there would be a liquor license because they do provide wine for guests on a Friday night or something like that, but there will not be a bar. There is a lounge area where they have the breakfast, etc. Alcohol is a permitted use on the PUD development. Campbell reiterated that they could go ahead and make this change without going through the amendment to the PUD, but they felt it was better to go through the public process and show everything. As far as conference rooms, there may be one small one. He was not quite sure of the first floor layout, but he assured that this is not a convention hotel. The gathering place where the wine would be offered is in the area that is B-2 today.

With regard to the height of the 3-story hotel, Campbell explained that the height goes to

the mid-point of the roof making it 42'.

3. Dan Spiry, 6053 Hidcote Drive (about 1.5 blocks south and about 1 block east of the proposed hotel site), testified in support. He remembers reading an article in the paper about the Campbell's starting the process of designing this special neighborhood. A couple of years ago the infrastructure started showing up and he decided to get serious about purchasing in the neighborhood. He has lived there for about a year. The "village center" is very appealing to him. It will be pedestrian-friendly and the neighborhoods will love it and appreciate it. When he heard about the hotel being added to the mix, and particularly the Marriott product, he thought it would be perfect. He downsized his home and he may have guests that need a place to stay. It will add a nice complement to the "village center". It is also physically very comparable to the apartments that could be constructed there. Perhaps it is even physically better than the apartment option. It will be a nice quiet addition or modification to that corner of the "village center". Spiry also observed that the Campbell's are not doing this project the easy way. They live in the neighborhood. He has come to learn that they are not a developer that is here today, gone tomorrow. This is personal for them. They would not be here proposing this adjustment if they didn't think it was the right thing to do for Village Gardens.

Opposition

1. Jim Hansen, 3324 Crestridge Road, owner of the townhouse at 5820 Billings Court, testified in opposition. He purchased the townhouse for his son. At the time of purchase, the realtor said they would have a nice development with retail shops. He would not have purchased had he known it was going to be a hotel. There will be light and noise pollution 24 hours a day. He has experience staying in extended stays with diesel trucks idling all night long. The motel rooms will look directly into the townhouses. He is worried about the trash and debris in the landscaping and screening. He suggested they move the hotel one block north into the "village center". Other than 27th & O, he believes this will be the closest hotel to a residential area. He does not want his grandson living next to a motel or hotel so he will put the property up for sale.

2. Don Busch, 5834 Billings Court, property owner and president of the Homeowners Association to the south along Billings Court, testified in opposition. There is a lot of discussion about the slope that exists. He clarified that the slope extends away from the townhouses on Billings Court to the north, but does not begin until several lots to the west. He suggested that the subject property is on the same grade level as those townhouses. He acknowledged that the developer has put in a screen of evergreens, but many have died, and the developer has put up a plastic orange snow fence. The photo shown of the change in grade is at the center of the townhouses. It is important to understand that the developer did have a public informational meeting, but between that meeting and this afternoon, we have heard three different heights for this hotel.

In addition, Busch pointed out that the PUD ordinance requires that all development meet

the intent and spirit of the Comprehensive Plan. The staff report recognizes that this section of land is designated for commercial and residential land use in the Comprehensive Plan. Busch recited several significant conflicts between this proposed development and the Comprehensive Plan, including:

- New or established commercial uses should not encroach upon, or expand into, existing neighborhoods.

This proposal will expand the B-3 zoning into a developed and occupied neighborhood.

- Maintain and encourage retail establishments and businesses that are convenient to, and serve, neighborhood residents, yet are compatible with, but not intrusive upon residential neighborhoods.

The purpose of this request is to build a hotel, not offices or child care center, which would be bound on three sides by residential properties. This is not done anywhere else in Lincoln.

- Adjacent residential neighborhoods should have two or more vehicle access points to the center. In general, the major access points to the commercial center should not bring outside traffic through the residential area.

This rezoning will extend the B-3 to the east side of Kentwell Lane. It will allow for signage at the intersection of Kentwell Lane and Pine Lake Road, which will entice commercial traffic to reach the businesses.

- Encourage convenient access to neighborhood services from residential areas.

This rezoning will make Kentwell Lane a busy commercial street. Kentwell Lane separates the market area from the residential areas. This creation of Kentwell Lane into a commercial street will be in conflict with the Comprehensive Plan.

Busch further pointed out that the staff was able to provide only one reason why the rezoning is valid – because it lies within a section of land designated as commercial and residential. Busch believes there are at least six principles where this proposal is in conflict with the Comprehensive Plan. The market area is completely undeveloped. He suggested that adequate space exists for the hotel development without this unnecessary expansion of the B-3 zone at the expense of residential neighborhoods. This proposal contradicts the Comprehensive Plan more often than it complies.

Staff questions

Esseks asked staff to discuss the concept of either screening or transition between commercial and residential use. If you put the hotel on Kentwell Lane, what do we have across the street? Will stated that it is currently shown as both townhomes and single family across the street to the east. Esseks pondered that it is better to have some transitional use. Will agreed that in a perfect world, that would be true. At some point, you have B-3 up against the R-3 so you have to make the transition somewhere. Staff looked at this in the context of the use being proposed, i.e. commercial, but also residential in nature. With the screening, he does not believe it creates a conflict with what is across the street.

Esseks inquired whether there will be screening on the east side of the hotel property. Will stated that there would be screening required along the eastern boundary.

Moline asked staff to discuss the light pollution from the parking lot. Will pointed out that there were going to be parking areas on both plans. There are design standards for lighting in parking lots that would be applicable in this case.

Francis wondered about redirecting the traffic coming in on Kentwell Lane to get to the hotel, i.e. to get it off Kentwell Lane. If you were to come in from Pine Lake Road on Kentwell Lane, is it possible to have a sign at Hidcote Drive directing the traffic to the west? Will was not sure how that could be done. Kentwell Lane is a major access point. It would be difficult to somehow limit or prohibit that traffic heading to the hotel to somehow direct it to the west. At a minimum, Kentwell Lane will meet the residential street standard. It is a divided roadway. 33' would have acknowledged some commercial uses.

Tim Gergen of Olsson Associates, the engineer for the developer, stated that they anticipated that Kentwell Lane would be used both commercially and residentially. It was built as a 33' wide street for commercial street activity and then it reduces down to 27' when we got to Minter Lane, the furthest south street in Village Gardens. There are bump-outs narrowing the street to 27' in areas to reduce the speed of the vehicles on a 33' wide street.

Esseks wondered whether it is anticipated that most of the people will be coming south from Pine Lake Road and then turn in at Boboli Lane to the hotel. Gergen would expect most of the people to be entering from 56th Street on Boboli Lane, and not 59th from Pine Lake Road. The street is 33' wide all the way down to Boboli in combination with 59th and Kentwell Lane, except for the bump-outs to control the speed.

Carroll observed that the approved plan was for a total of 16 multi-family apartment units. With two cars for each unit, would that generate the same traffic as the hotel? Will believes it is likely that the apartments might generate more traffic than the hotel. **Chad Blahak of Public Works** advised that the trip generation manual for "all suites hotels"

shows about the same amount per room and maybe a little more trips per day than a single family unit. Moline pointed out that the commercial building is also being eliminated, so that would have had some trip generation as well.

Response by the Applicant

Seacrest stated that the slope at the far east end is not very big, but as it goes up it climbs very rapidly up to the 12'. "It is a climbing slope".

With regard to lighting, Seacrest stated that the parking lots are virtually the same for both uses – hotel versus apartments. The lights will be fully shielded. The lighting standard is .5 footcandle at the property line. It is somewhere between twilight and deep twilight, getting close to full moon.

Seacrest clarified that the height to the top of the third floor of the hotel is 32', and then half way up to the roof, it is 42'.

With regard to traffic, Seacrest advised that the front door to the hotel is going to be on S. 56th Street – if the traffic chooses to go to Pine Lake Road, they are driving on a commercial collector size street. Realistically, because these are not daily residents, the hotel traffic will come in and out and will not have any reason to drive back into the neighborhood to the church, the school, day care facilities, etc. If it were apartments, there would be more trips back into the neighborhood. The 14,000 sq. ft. commercial building would also have generated more traffic.

Seacrest suggested that Lincoln needs new "alternative products". When you have less density, you then have the public picking up more costs. The Comprehensive Plan does talk about compaction and this new type of neighborhood. In addition, if there is a guardian of the Comprehensive Plan, it is the Planning Department. The staff is recommending support for this proposal.

Campbell pointed out that the "village center" is where you shop and dine and retail and office, as well as civic uses. The closer you get to the "village center", the denser the residential becomes. The further you get away from the "village center", the residential gets more sparse. There are literally six different single family size lots in Village Gardens as well as the townhouse lots, row house lots and mansion-plex lots, and eventually 18 units of courtyard type apartments. The row houses are platted to back up to the "village center". Seacrest sees the extended stay hotel as residential, the transition then being single family to townhomes to row homes to residential extended stay.

Esseks believes it looks to be very well designed, but he expressed concern about the 5 homes to the south which expected a different type of development. He does realize, however, that there needs to be flexibility, so we have to come to a balance. Can one of these hotel room windows look into the windows of the adjoining homes to the south?

Campbell stated that the hotel windows face east and west. There is an emergency stairway on the end. There are no rooms facing that direction until you get to the piece that is "clear over here", and then they would have to look clear across the parking lot. The windows adjacent to the townhomes would be against the emergency stairwell or rooms that are across the parking lot.

Seacrest reiterated that the setback is also being extended from 5' to 38'.

As far as diesel trucks idling in the parking lot, Seacrest pointed out that this site is not very close to any south beltway, west beltway or I-80. He would be real surprised if truckers would stay at this hotel. The residents could complain to the hotel if there is such a problem. The parking lot is not laid out for the large semi-trucks. Campbell is inclined to believe that truckers would stay at 91st & Hwy 2.

Cornelius commented that at this point, the rest of this development is still on paper and there is room for this hotel at a different location. Campbell advised that there will be a final plat for the live-work units (small shops with living above) which have been contracted with tenants already lined up. Therefore, that area has already been taken and is being developed. Marriott specifically requested a residential approach. They did not want to be in the middle of all the commercial activity.

ACTION BY PLANNING COMMISSION:

November 21, 2007

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

Esseks believes there is a need to balance the interests of these five townhome property owners with those of the community that would benefit from this development. He feels conflicted here, but the additional 33' setback, the vegetative screen, the trees, the fact that the adjoining hotel would not have close windows looking on the residential properties to the south, and with the traffic all to the north of these five homes, he is inclined to vote for approval.

Cornelius agreed with Esseks. He further reiterated that the Comprehensive Plan encourages these newer style of developments within the city as something that is desirable for the city, and for economic development and retail employers in the city.

Carroll also agreed. This is important to the community. It is a well thought-out development. He knows the developer will do a very good job of continuing to make it grow. It is an improvement to go from a commercial apartment complex to a Residence Inn. He thinks the traffic will be less and he knows that Marriott will build a quality product. It is a very big plus for this area because the hotel is needed.

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

CHANGE OF ZONE NO. 07057
TEXT AMENDMENT TO THE ZONING ORDINANCE
RELATING TO HEIGHT AND AREA REGULATIONS
IN THE B-2, B-5, H-1, H-2, H-3 AND H-4 ZONING DISTRICTS.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 21, 2007

Members present: Moline, Esseks, Francis, Taylor, Cornelius, Larson, Sunderman and Carroll; Gaylor-Baird absent.

Ex Parte Communications: None.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda and had separate public hearing.

Staff presentation: **Brandon Garrett of Planning staff** explained the e-mail communication received from Lisa Good at 3036 Franklin Street . Part of her concerns had to do with grammar in the staff report and he has made that correction. Secondly, she was concerned why we did not consider the P Public Use district along with this text amendment. Garrett explained that the P district is typically publicly owned land and it does not have any height and area regulations or setbacks. Thus it was excluded from this text amendment.

Garrett then used visual aids to illustrate the impact of this text amendment, i.e. to increase the maximum height of buildings to 55 feet, and to provide that if the height of the building is over 40 feet in the B-2 and B-5 districts and over 45 feet in the H-1, H-2, H-3, and H-4 districts, that portion of the building in excess of such height shall be required to have one additional foot of setback to any required side and/or rear yard abutting a R-1 through R-4 Residential District for each one foot of building height in excess of the applicable 40 feet or 45 feet, depending on the zoning district in question, except that the additional rear yard setback is not required in the B-5 district.

Moline inquired as to the genesis for this change. Garrett stated that the Planning Department received a request from a developer at the North 27th and I-80 area that wanted to build a hotel in the H-3 zoning district, the maximum allowable height of that zoning district being 45'. The hotel was going to be 52' tall, due to some architectural features to add character and interest to the building. That developer submitted a text

amendment to allow architectural features to extend above the maximum height. The staff discussed the proposal with other departments and it seemed to make more sense to just increase the maximum height rather than create additional definitions and additional review that would be required with the developer's proposed amendment.

Garrett believes that the result will be that the adjacent properties would be seemingly less impacted by the additional height by having the building graduated at 1-to-1. There would not be the perception of too much additional height. There would be less shadow cast if the portion of the building is set back. To further support the proposed amendment, Garrett stated that the Planning Department is getting more and more applications for taller buildings and it is definitely something the Comprehensive Plan supports, i.e. additional density for infrastructure. This text amendment covers just the B-2 and B-5 and H-1 through H-4 districts, which would impact the commercial development type of sites. For example, 40' would be a four-story building and 55 feet would be a five-story building.

Moline wondered why the entire building height couldn't be 55' as opposed to the graduated levels. Garrett advised that the additional setback is only triggered when it is adjacent to a residential district. Moline thought the 1-to-1 to be an arbitrary number – are we really gaining anything? Garrett suggested that from the neighborhood or residential neighbor standpoint, you would be gaining the perception of the building not being as tall or the additional shade that an additional 15 feet would cause on the property.

With the 1-to-1, Cornelius suggested that when looking up at the top of the building, the sight line stays the same – it maintains the visual profile of the building when you are looking at it from across the street because the taller portion is set back equal to how much taller it is. Garrett agreed.

Proponents

1. Jeannine DeVetter, testified on behalf of **Dial Realty**, the applicant. Dial Realty is building a hotel on N. 27th and I-80. The building height is only 45', but the parapet and architectural features increase the height. They desire to allow for these features to alleviate there being a flat building. Hampton Inn and Suites would not have allowed a flat building without the architectural features. This is being requested only for the aesthetic purposes. There is a vehicle to amend and increase the building height if the property is within a PUD, but the Dial Realty property is not located within a PUD. DeVetter used the example of Candlewood Suites at 70th & Pioneers which exceeds the 45' height.

2. Kent Seacrest appeared on behalf of **Colorado Hospitality Services, Inc.**, the owner of the existing Airport Inn near the Airport, which is interested in making changes to the straight line look of their building as well. They also need some architectural relief. Some of the hotels built at 84th & Hwy 2 required height waivers. The protocol for these hotels

is now four stories and the 45' height is not realistic. Land in Lincoln has gotten very expensive and the more we can utilize it efficiently, the more it will reduce the room rates. It will be more economical for both the business traveler and our own family members.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

November 21, 2007

Larson moved approval, seconded by Francis and carried 8-0: Moline, Esseks, Francis, Taylor, Cornelius, Larson, Sunderman and Carroll voting 'yes'; Gaylor-Baird absent. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 3134C,
AN AMENDMENT TO THE WILLOW SPRINGS
PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED
AT LUCILLE DRIVE AND PIONEERS BLVD.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 21, 2007

Members present: Moline, Esseks, Francis, Taylor, Cornelius, Larson, Sunderman and Carroll; Gaylor-Baird absent.

Ex Parte Communications: None.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda and had separate public hearing.

Staff presentation: **Brian Will of Planning staff** explained this request to amend an existing PUD. The original PUD approved office floor area for this site at 17,000 sq. ft. This is a request to increase the medical office floor area to 22,500 sq. ft. Anything over 15% cannot be approved administratively and thus the reason for this proposal.

Staff viewed this amendment as an efficiency. It is a higher FAR, makes better use of the land and allows more efficient use of the property. The setback originally approved was 30'. Since then, the setback requirements have been adjusted to 20'. By utilizing that reduced setback it allows more efficient use. The 30' setback is still maintained along the rear of the office complex and the existing residential uses. There would be required screening for the parking lot and the office complex.

Proponents

1. Gus Ponstingl, REGA Engineering, testified on behalf of the developer. This is a minor revision to the existing PUD. The original PUD approved an office medical building

of 18,000 sq. ft., and the developer is requesting to increase the building to 22,500 sq. ft. for efficiency reasons. This proposal decreases the setback to the now allowed 20' along Pioneers Boulevard, Lucille Drive and an existing Christian retirement home to the east. The 30' setback is being maintained along the north side of the property where the residential neighborhood is located. There is an opportunity to "slide the entire building" close to 6' to the south, increasing the ability to screen the residential area along the north side of the property.

Opposition

1. John Fowler, the listing agent of the property located at 7741 Lowell Avenue, just north of the east building in the plat layout, testified in opposition. The additional 3,000 sq. ft. on the east building is going to be 50' closer to the property lines of the property to the north. The Lowell Avenue property has been on the market since May. With the proposed revision, the parking lots will be closer to the 30' setback. There is screening, but you still have to worry about the trash bins and the activity back there. With the building 50' closer to the property line, Fowler believes it will add more challenges to selling the Lowell Avenue property. It will be a detriment to the seller of the property and the financial loss they will incur. One option would be to make the east building an L-shaped building. It is a loss of green space with the parking lot coming closer to the 30' setback.

Fowler clarified that he is speaking on behalf of the sellers of the Lowell Avenue property and not on behalf of Home Real Estate.

Esseks inquired whether Fowler has approached the medical office building developer and asked for a plan as to how they expect to use the back portion of the property. Fowler stated that his client had another plat that showed the two-building setup totaling 18,000 sq. ft. It showed Outlot A as all green space so there was almost 90' to 100' with no parking lot on the north side. He did not know whether his client had approached the applicant.

Response by the Applicant

Ponstingl showed where the trash bin would be located on the map, and it will not be adjacent to the residential property owner. This is the second modification to the PUD. There were buildings that did go along the east property line originally. There was not any green space specifically on the site. The applicant can utilize all of the space except for the setback areas, and they wish to keep a 30' setback along the north side.

ACTION BY PLANNING COMMISSION:

November 21, 2007

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

Esseks observed that the representative of the adjoining parcel has raised a concern about the design of the expansion. Is there anything the Planning Commission can do about that? Carroll suggested that the Commission has the authority to say "no" to the expansion. As far as the design on the lot, he does not believe the Commission has that discretion except for the setback requirements. Esseks acknowledged then that the expansion is within the zoning requirements.

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

There being no further business, the meeting was adjourned at 2:35 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on December 5, 2007.