

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, February 9, 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, Jeanelle Lust, Jim Partington and Tommy Taylor (Roger Larson and Lynn Sunderman absent); Marvin Krout, Steve Henrichsen, Brian Will, Tom Cajka, Christy Eichorn, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Vice-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 January 26, 2011. Motion for approval made by Francis, seconded by Esseks and carried 7-0: Gaylor Baird, Cornelius, Esseks, Francis, Lust, Partington and Taylor voting 'yes'; Francis and Sunderman absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION BEFORE PLANNING COMMISSION:

February 9, 2011

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

The Consent Agenda consisted of the following items: **ANNEXATION NO. 11002; CHANGE OF ZONE NO. 11002; SPECIAL PERMIT NO. 1423J, amendment to Himark Estates Community Unit Plan; CHANGE OF ZONE NO. 06063A, amendment to the North Forty Plaza Planned Unit Development; and STREET AND ALLEY VACATION NO. 11004.**

Ex Parte Communications: None

Item No. 1.2, Change of Zone No. 06063A, was removed from the Consent Agenda and scheduled for separate public hearing.

Taylor moved approval of the remaining Consent Agenda, seconded by Francis and carried 7-0: Gaylor Baird, Cornelius, Esseks, Francis, Lust, Partington and Taylor voting 'yes'; Larson and Sunderman absent.

Note: This is final action on Special Permit No. 1423J, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**CHANGE OF ZONE NO. 06063A,
AMENDMENT TO THE NORTH FORTY PLAZA PUD
TO INSTALL A POLE SIGN
ON PROPERTY GENERALLY LOCATED
AT NORTH 84TH STREET AND ADAMS STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

February 9, 2011

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

Ex Parte Communication: None.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda and had separate public hearing due to a letter received in opposition.

Staff presentation: **Tom Cajka of Planning staff** submitted the letter in opposition, objecting to the lighted billboard which may deter from the aesthetics of the area and the proximity to Fairview Cemetery; light pollution; and could discourage home buyers from buying vacant lots in the area.

Cajka explained that this application amends the previously approved PUD to allow a center sign within the front yard setback of 84th Street that is taller and larger in area than what is allowed. The applicant is requesting to erect a pole sign that is 18' tall and 100 sq. ft., and within that 100 sq. ft. is an 80 ft. electronic changeable copy sign. This sign would be allowed by right if it was outside the front yard setback. The regulations currently allow a sign inside the front yard setback that is 12 ft. tall and a total of 50 sq. ft., so this is a request for an additional 6 ft. in height and 50 sq. ft. in area.

Cajka pointed out that the electronic changeable copy sign is allowed in all commercial districts except O-1 and O-2, with restrictions that no message shall be animated and that the display area shall not exceed 80 sq. ft. The applicant's letter states that the purpose of this request is to reduce sign clutter along 84th Street. The applicant has agreed that if this sign is approved, they would not have any additional signs along 84th Street. Currently, the B-2 district would allow one freestanding sign per main building. With there being four

outlots that could each have one freestanding sign by right, there could be four freestanding signs in addition to the one center sign. The freestanding signs inside the setback can also be 50 sq. ft. and 12 feet tall. Outside the setback a freestanding can be 100 sq. ft. and 8 feet tall. Typically, the sign envelopes are not placed on the site plan for use permits because the location changes from time to time. As long as it meets the sign code, the specific location is not required to be shown on the site plan. This applicant is allowed one center sign per frontage, giving them one along Adams Street and one along 84th Street.

Esseks recalled that when the ordinance for the electronic signs was approved, there was a concern about possible influence on traffic accidents. He inquired whether there is any evidence of accidents being associated with or caused by these moving signs since that ordinance was implemented. Cajka could not answer the question as he did not look into any traffic data.

Esseks suggested that the specific location of the sign might be relevant to the objections raised in the letter. Do we have any idea as to the distance between the front yard setback to the nearest residential lot? Cajka showed Lot 7 on the map as the nearest residential lot. The majority of the residential lots are further away from 84th Street. Cajka believes the sign would be about 600 ft. from the nearest residences.

Proponents

1. Peter Katt appeared on behalf of the developer and applicant for this sign. He referred to 2006 when this project was approved. At that time, it was approved with the standard sign conditions for the B-2 and PUD, i.e. building signage – pole signs were banned. Since that time, there has been a significant change to the sign ordinance. Katt understands from staff that for purposes of the PUD, the community standards for signage on this type of commercial center would be followed. This client is requesting to restore the possibility of replacing what would otherwise be permitted under the current sign ordinance (freestanding sign for entire center and for each building) with the idea of requiring everyone to consolidate on one sign on the 84th Street frontage. This developer believes it is a more attractive and aesthetically pleasing development with just one sign as opposed to multiple signs for every tenant on every lot. The advantage of these electronic signs is that they can put different information on them so that every tenant and business owner in the center can have their own time on these signs. This applicant is asking for a sign that would normally be permitted in the center, the tradeoff being a larger sign closer to the street and the loss of four other signs that might be located there.

Katt further stated that when this project was approved in 2006, the city approved a private drive into the commercial center, which would have been a better location for signage, but that driveway was denied by the Department of Roads. The expected sign location would be about the mid-point between Adams Street on the north and Windmill on the South.

There is a significant grade differential between Windmill and Adams, so the sign will be strategically placed to be visible at both intersection locations.

Esseks inquired whether the sign would be parallel to Adams Street or 84th Street. Katt indicated that the sign would be perpendicular to 84th Street so the traffic going both ways north and south will see it.

Lust inquired how often the illumination on the sign would change. Katt stated that the sign would comply with the sign ordinance requirements. This particular developer also has a sign like this on Highway 2 at Apple's Way.

Taylor commented that there has been great concern about light pollution and this new technology. He inquired about the difference between the light pollution prior to this new technology and what we should expect now. Katt responded that all of the signs operating today operate within the standards. He personally does not find the signs distracting. These signs provide for multiple different displays in a location where people can see them without being distracting. Clearly, this will be less light pollution with one sign as opposed to five signs. Therefore, Katt believes it could be 20% less light pollution by consolidating on one sign. Katt agreed that the new technology provides less light pollution.

Gaylor Baird observed that B-2 PUD zoning is intended to serve and integrate with neighboring residential uses. She appreciates the desire to avoid sign clutter; however, because this is a kind of zoning trying to blend and integrate and serve the consumers who live nearby, was there any attempt to discuss the options with the neighbors? It does not seem a given that they might prefer one tall electronic sign versus four smaller ones. Katt again suggested that one sign is less cluttering and more visually appealing than having five signs, and there would be more control over the signs. It is this developer's opinion that less signs is more aesthetically pleasing in this development. The applicant did not poll the neighbors and he believes the impact on the neighbors, both in the development and driving by, is so minimal that the neighbors were not consulted and the staff had put this application on the consent agenda.

Lust noted that the opposition is concerned about what else could be erected if this application is granted. Katt stated that the PUD is entitled to two center signs plus one sign per main building. If you take the example on the 84th Street frontage, there would be a lot more signs if this is not approved. Each building would have its own sign. This is an improvement. Katt requested that the Planning Commission approve this as an improvement in the overall aesthetics for this area and as being consistent with what the sign ordinance is attempting to accomplish.

Esseks observed that Lot 7 appears to be the closest residential lot. He assumes the house will face onto Windmill Drive. Is there any natural buffer between Lot 7 and where the sign will be located? Katt stated that the entire outlot was constructed at a considerable expense to protect the existing residences. The entryway has been landscaped with

boulders and trees. There are detention cells on either side which will have landscaping, trees, buffers, etc. Lot 7 is probably at least 10 to 20 feet at a lower grade elevation from where the sign will be located. The potential for impact on any of the existing homes would be very, very small.

There was no testimony in opposition.

Cajka clarified that if the sign being requested were outside the front yard setback, (20' from 84th Street), it would be allowed by right. They could go get a building permit and build the sign because they are not exceeding the size or the height. The real question is, do we want to allow the same size sign in the front yard setback closer to 84th Street? Staff supports the tradeoff of no more freestanding signs along 84th Street.

Gaylor Baird inquired why the sign is not allowed to be in the front yard. Cajka believes it has to do with the aesthetics for the street traffic.

ACTION BY PLANNING COMMISSION:

February 9, 2011

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

Taylor applauds the developer for being conscientious about the signage. He believes the setting is considerate and reasonable. He thinks it satisfies some of the goals that we have for our city planning as well as our Comprehensive Plan. They could have done otherwise which might have produced a problem. It appears that there is very little concern from the community.

Francis commented that she drives past this area every day and she is much more likely to appreciate one sign on this stretch of 84th Street than four or five signs.

Cornelius believes this represents a theme of predictability. The opposition is worried about what the sign will display and what else might be erected, and we heard that the developer is actually foregoing the right to erect a greater number of what could be very similar signs.

Motion for conditional approval carried 7-0: Taylor, Gaylor Baird, Partington, Esseks, Lust, Francis and Cornelius voting 'yes'; Larson and Sunderman absent. This is a recommendation to the City Council.

ANNEXATION NO. 11001

and

CHANGE OF ZONE NO. 04075B,

AMENDMENT TO THE VILLAGE GARDENS PUD,

ON PROPERTY GENERALLY LOCATED

AT SOUTH 63RD STREET AND PINE LAKE ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 9, 2011

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

Ex Parte Communication: None.

Staff recommendation: Approval of the annexation and conditional approval of the amendment to the PUD.

Staff presentation: **Brian Will of Planning staff** explained that this is Phase II of the Village Gardens development. The existing Village Gardens development is just to the west of the area proposed to be annexed and zoned with this application.

The intent of this amendment to the PUD is for the purposes of amending the development plan to allow a domiciliary care facility as a permitted use, and to bring in more area for residential development. Staff finds that this application meets both the intent of the original PUD and the Comprehensive Plan.

Will explained that the only issue relates to the waivers being requested, which boils down to one issue. Within the development plan now described, there are a couple of street connections containing reduced width streets. The waivers requested are to the typical 60' right-of-way width for public street in addition to sidewalk and street trees on one side of the street as opposed to both sides. One street tree has already been deleted from one side at the request of the staff. The request is for 43.5' right-of-way as opposed to 60' and they are showing a paved 22' wide driving lane as opposed to typical 27'. Staff has been talking about an alternative somewhat similar to this which has not yet been presented to the Planning Commission. It is suggested that in those cases where, due to block length or pedestrian connection, something less than the 60' right-of-way public street might be required. The proposal requested by this application is fairly consistent with the discussion that the staff has had to this point. The Planning Department is not opposed to the waivers being requested, but others among city staff do have some concerns.

Will deleted the condition that an amendment to the previously approved annexation agreement be required. That will no longer be necessary.

Esseks inquired whether there is any issue as to whether these acres should be annexed. Will stated that the proposed annexation meets the annexation policy within the Comprehensive Plan.

Proponents

1. Dick Campbell appeared on behalf of **Village Gardens**, along with Tim Gergen of Olsson Associates. Campbell stated that the developer is in agreement with most of items contained in the staff report. He proposed the following amendments relating to the new street profile which the developer has been discussing with the staff:

~~2.3 Change Blenheim Road to a numbered street as approved by Building and Safety.~~

~~2.10 Revise the Development Plan as appropriate to note that the applicable minimum setback for dwellings fronting onto Olmstead and Balboa Way is 20'.~~

2.13 ~~Revise the Development Plan as appropriate to require that the minimum setback for dwellings adjacent to Olmstead and Balboa Park Way is 20'. Add a note that a setback easement for the sight triangle shall be granted on the final plat for the lots adjacent to the reduced right-of-way abutting Olmstead and Balboa Park Way, to the satisfaction of the Planning Department.~~

Campbell showed the overall master plan for Village Gardens. The area to be annexed is Phase II of the development. Some of the street profiles were adjusted to develop the lot for the domiciliary care facility. The Emergency Management 911 Center has requested that the street name for Olmstead Way be changed, and Campbell stated that they will agree to change the name, probably to Sunken Garden Way.

The reason for this new street profile is the fact that the lots are going to face each way with the drainage area, so having the narrower street does allow greater connectivity in the block, which is one of the main principles of traditional neighborhood development. We will recommend one side only for parking on the narrower streets, leaving a 13.5' driveway and a sidewalk on one side of the street. The traditional street profile has sidewalks on both sides of the street with two trees on both sides – with two cars parked, that leaves a 10' wide driveway. Campbell believes that the profile being requested is better for the connectivity in the neighborhood and to create a new element for the City that can be a stronger plus than what all of us see in so many subdivisions with two wood fences and a 5' wide sidewalk in between. This is a far more positive solution and direction for our community.

Campbell explained that the only other issue is that the city is requiring that Blenheim Road be renamed as a numbered street. Village Gardens is attempting to maintain the famous garden concept as much as possible throughout the development. Blenheim does not connect with anything so someone has to live in the neighborhood to even be concerned about Blenheim.

Gaylor Baird asked the applicant to clarify why the street needs to be a smaller width. Campbell explained at the map. The front of the residential lot will have a front load or side load garage driveway because there is a pond behind those lots that is a detention basin and aesthetic benefit. The house will not be facing the street because of the aesthetics behind the house. Blanchard is significantly at a higher elevation than Blenheim Road, so the lots on Blanchard would be walkout lots because of the natural grade.

There was no testimony in opposition.

Lust noted that Public Works had objections to the street profile. **Dennis Bartels of Public Works** explained that most of the comments had to do with information and details that were left out of the application versus comments in opposition. He agrees with the concept of a narrower street – there are just some details that need to be worked out in order to meet the state and federal design standards. Those kinds of details warrant discussion that has not occurred at this point.

Lust inquired about deleting the condition to change Blenheim Road to a numbered street. Will stated that the staff understands and respects the developer's concept, but the ordinance requires that north/south streets be numbered. He does not believe the unique circumstances in this case are compelling enough when looking at the overall development and the greater good. Numbered streets provide a good reference point, and for that reason the staff is suggesting that it makes common sense to make it a numbered street.

Lust was not sure how important the numbering issue is now that we are in the days of GPS and Map Quest. She can understand when there were not a lot of options to find locations, but in these days when you can get turn by turn directions, why do we want to stick with the numbered streets concept? Will suggested that the issue would require more discussion and would need an amendment to the ordinance. He believes it pertains to the pedestrian public as well as the driving public. Emergency responders perhaps have the electronic devices, but it is hard to find a good reason for not using a numbered street.

Taylor inquired whether Blenheim Road goes into another street. Will stated that Blenheim Road terminates on the south so it does not continue to the south. The houses will have numbers. Taylor understands the big picture, but in terms of looking at this neighborhood in its totality, the named street does make a lot of sense. Will agreed that the overall naming concept makes sense, but staff is suggesting that there is a larger purpose in naming versus numbering. It relates more to wayfinding, reference marking, etc. If this were any other development, the staff would be making the same recommendation. Village

Gardens is unique in a lot of good ways, but that does not appear to be justification to override the numbering rationale.

Francis noted that she knows of several other north/south streets throughout the city which are not numbered, e.g. Idylwild Drive. The street in question is only four or five blocks long like some others in the city. She does not see the need to shove a numbered street into this subdivision. She thinks the name works great and people will know that it is in Village Gardens.

Lust pointed to Phase I where it appears that Kentwell Lane is a north/south street. Did the Planning Department require that to be changed to a numbered street? Will stated that it was not a requirement. He did not know whether that was debated at the time.

Response by the Applicant

Campbell advised the Planning Commission that throughout the entire process of developing this PUD, the developer's working relationship with Public Works and Planning has been excellent. As exhibited by Public Works, they have really jumped out of the engineering mind set in dealing with Village Gardens and have explored a lot of new possibilities. Village Gardens has different cul-de-sac designs, street platforms, etc.

In relation to Kentwell Lane, Campbell advised that city staff did desire it be numbered as 59th Street. The compromise was that it would be 59th Street for one block and then changed to Kentwell. However, when the street signs were put up, they put up Kentwell. The street sign for South 59th Street never showed up.

ANNEXATION NO. 11001

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 9, 2011

Lust moved approval, seconded by Francis. An amendment to the annexation agreement is not required.

Gaylor Baird commented that the Fire Department points out that there could be a lack of timely response in this area due to lack of nearby fire facilities. This is important to recognize.

Motion for approval carried 7-0: Taylor, Gaylor Baird, Partington, Esseks, Lust, Francis and Cornelius voting 'yes'; Larson and Sunderman absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 04075B

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 9, 2011

Lust moved to approve the staff recommendation of conditional approval, with the amendments requested by the applicant, seconded by Francis.

Lust complimented the Campbells on just a wonderful development for the city. She is encouraged to see it going forward and is encouraged that the staff is flexible in giving this type of development and neighborhood design. Through the planning process, we have all been involved in lots of discussions on how we make neighborhoods more sustainable and more walkable and encouraging healthy habits. She is pleased to see this development go into the second phase. She does not believe the numbered street is necessary in this particular development, especially when we have allowed it in the past.

Gaylor Baird believes that the concept of “new urbanism” in this development does have some special bearing. Given the choice, she believes people would rather live on a named street rather than a numbered street. She believes that the developer’s target market for home buyers may care quite a bit about this issue.

Cornelius stated that he does not have data on named versus numbered street, but he anecdotally suggested that there is very little more harmful to his wayfinding than being on 118th Street, for example, and finding that it hits some other street and stops and then begins again later. That is more of a problem than having a north/south street with other connections on either end.

Motion for conditional approval, with amendments, carried 7-0: Taylor, Gaylor Baird, Partington, Esseks, Lust, Francis and Cornelius voting ‘yes’; Larson and Sunderman absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 10037

FOR A DOMICILIARY CARE FACILITY

ON PROPERTY LOCATED AT

4305 SOUTH 84TH STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 9, 2011

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

Ex Parte Communication: None.

Staff recommendation: Conditional Approval.

Staff presentation: **Brian Will of Planning staff** explained that this is a request for a special permit for a domiciliary care facility southwest of the intersection of Pioneers

Boulevard and South 84th Street. The larger area is zoned R-3 where a domiciliary care facility is allowed by special permit. Staff found this request to be in compliance. There are conditions of approval and at the last meeting the applicant suggested they wanted a two-week delay to allow more time to resolve the conditions. The staff recommendation of conditional approval has not changed.

Proponents

1. Mark Hunzeker appeared on behalf of the **Emerald Care Company**. Emerald Care Company is in the business of providing Alzheimers care and operates four facilities in Lincoln. This is a residential use and the building is designed to be compatible with the residential uses surrounding it.

There are two issues. The company attempts to provide affordable Alzheimers care and is the only provider in Lincoln which accepts Medicare patients. There are two issues with the conditions of approval which bear significantly on the costs of this project.

Conditions #1.1.4 and #1.3 have to do with the requirement for a right turn lane in 84th Street to serve the driveway for this facility. The location proposed is near the north edge of the property. The suggestion was that we provide a consolidated driveway with our neighbor to the north and a turn lane to the north of that. There is not enough right-of-way at 84th to provide a turn lane and they would have to acquire that right-of-way from the neighbor to the north, who has declined this opportunity.

The second option is to move the driveway from the north end to near the south part of the property. Again, there is a problem with insufficient right-of-way and an existing retaining wall which runs 100' and the grades of the property which raise about 10' from 84th Street to the existing house. The intention has been to leave that 4-5' retaining wall in place and some distance behind it to allow for the trees and some landscaping. The intent is to try to maintain a buffer and to go in behind that area and create a second retaining wall to maintain a nice high buffer. Taking out that retaining wall and building the turn lane will be a cost of more than \$100,000. In addition to that, the driveway as shown is at the high point of the hill. The alternative option would make the sight distance less desirable and the cost is prohibitive.

Therefore, Hunzeker requested that Conditions #1.1.4 and #1.3 be deleted because this use has a very light traffic load. The total traffic has been counted from 8:00 a.m. to 5:00 p.m. at about 72 trips. Peak hour is around 3:00 p.m. during a shift change. The deletion of the turn lane is justified. He does not believe that Public Works will agree, but he believes they would agree that the world will not end if this turn lane requirement is deleted.

With regard to the water service (Condition #1.1.3), Hunzeker advised that there is a 24" water main in 84th Street, which is a non-tappable size main. They need to get water service to this project. There is a fire hydrant served by a 6" line at the northeast corner

of the property. At a different facility, Emerald Care was allowed to tap a water line that served a hydrant and they are proposing to do that at this location as well. Public Works says that if there is a problem in the 24" line, they can turn it off at Pioneers and at Mandarin Circle, which are about 1,000 feet apart. And if there is a break in that 1,000' stretch, this facility might be without water for a period of time. Hunzeker pointed out that as a condition of the facility's license, they are required to maintain a 24 hour potable water supply as a backup. There are two wells on this property, one of which serves the existing house, and the other is not being used and is operable and could serve as a backup for water supply in event of a water main break. This is a cost issue. The ideal solution preferred by Public Works is to go back to 84th & Pioneers and tap the 16" line in Pioneers, which is about 600'. There is not enough right-of-way, and there are other facilities in the right-of-way. We would have to acquire right-of-way from a neighbor when there is no power to do so.

Hunzeker suggested that this type of facility should be encouraged. We have thousands of residential units all over the community which are served by dead-end water lines (cul-de-sacs). He believes this risk is adequately addressed by the backup water supply and well.

Therefore, Hunzeker requested that Condition #1.1.3 be amended:

Revise the site plan to show water service as approved by Public Works and Utilities from the existing fire hydrant line with well service backup.

Esseks inquired as to the nature of the backup water supply. Hunzeker stated that the 48-hour backup is literally in bottled water for potable water use. They also have the capability to transport residents to other facilities on temporary basis, if it becomes necessary.

Francis inquired whether the well for the backup supply has been tested. Hunzeker indicated that the well which would be used has not been kept current on testing because the other well used by a residence is tested annually. It's the same aquifer and they have every confidence that it would test fine.

There was no testimony in opposition.

Lust asked staff to address the turn lane issue. She wondered whether part of the reason for requiring the turn lane is because we have plans to widen 84th Street. Bartels responded, stating that anytime you introduce a driveway on an arterial street, you increase the opportunity for rear-end accidents and you reduce the capacity of the arterial street. The turn lane serves as a deceleration lane for the driveway so you do not impede the through traffic. You can handle more cars on a street that does not have a lot of conflicts, i.e. a driveway or intersection. The only feasible way to reduce the conflict of a driveway is a right turn lane.

Lust asked whether Public Works has any reason to dispute the problems they are having with putting in that type of turn lane. Bartels understands the neighbor to the north does not want a common driveway, and he has no obligation to cooperate. But from an engineering standpoint, Bartels indicated that there are some grade difficulties and they have not shown him any engineering data with regard to the retaining wall. He cannot verify the cost, but he realizes there are some complications. He suggested the driveway on the south end. The typical standard would be a 200' turning lane – 150' would be the absolute minimum. The turn lane would be for southbound traffic only. There is enough frontage to have the turning lane. Somewhere midpoint or south of the frontage would allow a driving lane without requiring right-of-way from another property.

Gaylor Baird asked for other examples of such a requirement for turn lane. Bartels referred to an elderly project on the east side of 84th Street across from Pine Lake Road that was recently approved, where the entrance was required to be a right turn lane. There are other examples as well.

Francis wondered whether there would be any issue with moving this driveway if the property were not being rezoned. She understands rear-end accidents and not anticipating the turn. But if this house was sold and not being rezoned to be used as a commercial facility, would this driveway have to be relocated? Bartels stated that the driveway they are showing is in the same location as it would be for the single family house. Bartels assumes the city built the driveway that is there for a single family residence when 84th Street was built. Francis wondered why the turn lane was not an issue at that time. Bartels stated that a single family house will generate 6-10 trips a day, where we are probably talking about that many trips in the peak hours off this facility with employees and supply vehicles.

Lust inquired whether there are other situations where we have allowed applicants to tap into the hydrant lines for access to water. Bartels answered in the affirmative. "You can find an example or two". The design standards forbid tapping a sizable water main. The issue is the reliability aspect. While every other piece of property has paid for the water main that fronts that piece of property, this property has never paid for the water main. It was totally paid for by the city.

Other than the reliability of the water supply, Lust inquired whether there were other concerns about the tapping. Bartels reiterated that the reliability is the big concern.

Gaylor Baird inquired whether the Fire Department has concerns. Bartels did not recall that they had expressed any concerns.

Response by the Applicant

Hunzeker pointed out that the driveway has been located there for over 40 years (when the street was widened). The water has always tested well. There has never been a problem with water quantity or quality to serve the existing home.

In addition, the policy of requiring turn lanes off of arterial streets is mentioned in the report as being one for “commercial” driveways. The staff refers to this as a “residential” project – not “commercial”. There are two lots here. The second lot could have a single family or duplex built upon it as a matter of right without anyone requesting a turn lane. This is a situation where the policy is to request the turn lane, but he believes that everyone recognizes that there are circumstances when policy is more or less important, and Hunzeker submitted that this is one where policy is less important. Six to ten trips at peak hour amounts to one car entering or leaving the site about every six minutes during the peak hour – that is not a high volume of traffic. The applicant’s counts would suggest that it is probably even lower.

With respect to the water line, Hunzeker believes that there is an underlying concern at Public Works that this property has never paid for a portion of the water line to go in front of the house. This house has been here for 30 years. It was in the country when it was built. It was annexed relatively recently and they were mandated to abandon the septic system, but because there was no water line available they could not be required to hook onto city water. They stayed on the well. The city had the opportunity when widening 84th Street to install a water line that would have served these lots, and could have created a district to do so. And now, after we have pavement which is just about five years old in 84th Street, we are being told that it is appropriate to tear up the pavement and install the valves and create the necessary water lines to provide a loop, which is not even required of cul-de-sacs in other locations in the city.

Hunzeker reiterated the request to delete Conditions #1.1.4 and #1.3, and to amend Condition #1.1.3.

Lust wondered why they couldn’t use the well. Hunzeker believes the answer probably comes in the form of “we have to be here to ask you for a special permit so you could make us do things we wouldn’t have to do if we were building a single family house.”

ACTION BY PLANNING COMMISSION:

February 9, 2011

Esseks moved to approve the staff recommendation of conditional approval, with the amendment to Condition #1.1.3 as requested by the applicant (water service), seconded by Gaylor Baird. This motion does not delete the requirement for the turn lane.

Esseks believes that public safety requires the provision for a turning lane, even though it may cost over \$100,000. This is not a single family home. The total number of cars turning into that property will exceed two or three or more single family homes.

Lust has experience with long term care facilities that accept Medicaid and Medicare and the profit margin is “razor thin” if at all. She does believe the cost of the turning lane would be significant to this type of facility.

Francis disagrees with the requirement for the turn lane. She does not think that the turn lane is a needed. There are a lot of other streets that about 84th Street with lots of traffic going in and out of neighborhoods where there are no turn lanes. She will vote no on this motion.

Cornelius stated that he is uncomfortable with trying to use his own expertise to contradict an engineering principle that we are being told about in a land use decision where we are asked to examine a unique circumstance. We have a circumstance that is unique to the extent that we have a use that is very financially dependent upon initial conditions in terms of finances. On the other hand, the land use circumstance is not unique. It is the redevelopment of a parcel with some existing features that might be nice to keep. He is inclined to vote for the motion because he believes a right turn lane is sound on 84th Street.

Gaylor Baird would like further clarification from staff as to whether this is a “commercial” or “residential” use. Will confirmed that by definition the domiciliary care facility is a “residential” use.

Motion for conditional approval, with amendment to Condition #1.1.3, carried 5-2: Taylor, Gaylor Baird, Partington, Esseks and Cornelius voting ‘yes’; Lust and Francis voting ‘no’; Larson and Sunderman absent. This is final action unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days.

There being no further business, the meeting was adjourned at 2:15 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on February 23, 2011.