

MEETING RECORD

NAME OF GROUP:

PLANNING COMMISSION

**DATE, TIME AND
PLACE OF MEETING:**

Wednesday, November 2, 2011, 1:00 p.m., City
Council Chambers, First Floor, County-City Building,
555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN
ATTENDANCE:**

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

**STATED PURPOSE
OF MEETING:**

Regular Planning Commission Meeting

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

Cornelius then requested a motion approving the minutes for the regular meeting held October 19, 2011. Motion for approval made by Lust, seconded by Larson and carried 7-0: Gaylor Baird, Cornelius, Esseks, Larson, Lust, Partington and Sunderman voting 'yes'; Francis abstaining; Taylor absent at time of vote.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

November 2, 2011

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

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 11011, COMPREHENSIVE PLAN CONFORMANCE NO. 11012, CHANGE OF ZONE NO. 11037 and USE PERMIT NO. 11003.**

Ex Parte Communications: None

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

Note: This is final action on Use Permit No. 11003, 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. 11036
FROM R-2 RESIDENTIAL DISTRICT TO
R-5 RESIDENTIAL DISTRICT
and
SPECIAL PERMIT NO. 11025,
BEAUTIFUL DAY ACRES COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT NORTH 40TH STREET AND TURNER STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 2, 2011

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

There were no ex parte communications.

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

Staff presentation: **Tom Cajka of Planning staff** explained that the change of zone includes a small portion of R-2 zoned property with the remainder being zoned R-5. The change of zone will allow all of the property included in the community unit plan to be under one zoning district. If that small portion of the property remained R-2, there would be two different zoning districts on one lot.

The community unit plan special permit requests 16 single-family attached lots (townhomes) and one large lot for a future apartment complex for 266 units and a conceptual layout for 12 single-family lots. There will be two new street extensions out to 40th Street. With the R-5 zoning, the development could have been done by right as a preliminary plat; however, staff had requested the applicant to do a CUP so that building envelopes could be shown on the plan because the entire area is within the 100-year floodplain. The property owner previously received a letter of map revision to bring the pad sites above the floodplain. The building envelopes are outside of the floodplain. The staff requested the CUP in order to be specific on the plan so that there would be no question about where the house could be built to be outside of the 100-year floodplain and be in compliance with the letter of map revision.

Cajka then explained the waiver requests. One is for the reduction of the right-of-way width for Frederick Street from 60' to 58'. The reason staff and Public Works have agreed to this waiver is because houses were built after this outlot was platted. A regular width street would make those houses nonstandard because they would no longer meet the front yard

setback. To avoid that, staff agreed with the 58' right-of-way width with 1' outlots on either side of the street, which would retain the side yard setback for those houses and would be in conformance with the zoning code.

The stormwater detention waiver is not an issue because the property is so close to Salt Creek. The sanitary sewer opposite street grades is acceptable.

With regard to the centerline grade of more than 1' below the 50-year flood elevation, staff is recommending conditional approval whereby the developer and Public Works have to come to agreement. Public Works has requested more information to support that waiver.

Taylor inquired about the floodplain. Cajka explained that the building envelopes are being shown outside of the floodplain. They previously brought in fill to bring it above the 100-year flood elevation.

Gaylor Baird noted that there is a letter in opposition with concerns about there only being one entrance road. Cajka confirmed that there will be two new entrances to the development. A traffic study was not required because the zoning is already R-5 and R-5 allows this much density.

Gaylor Baird inquired about Frederick Street and whether that road had been planned prior to the houses being built on either side. Cajka explained that when this was final platted, it was not shown as right-of-way but one could have been lead you to believe it was set up for a future street. Gaylor Baird wondered if something should have been done differently or what should be done in the future to avoid this issue. Cajka suggested that it would have been better had the right-of-way been shown as a street on the final plat. It was not required at the time of the final plat and that final plat did not include a preliminary plat. Cajka was not sure why there was not a preliminary plat. Today, they would probably be required to submit a preliminary plat to show the streets.

Lust noted that Public Works seemed to have several concerns with this particular development, but as she understands it, the condition of approval requires satisfaction of Public Works before the project can go forward. Cajka concurred. Public Works' main concern was the street. **Buff Baker of Public Works** acknowledged that Dennis Bartels did also have comments on the drainage system. Public Works has had conversations with the developer's engineer and Baker believes they will reach agreement as to what is needed in accordance with the condition of approval.

Esseks confirmed that the building pads are at least 1' or more above the 100-year floodplain elevation. Cajka agreed. Esseks then commented that the homes themselves will not be flooded, but other parts of the property could be flooded, such as the sidewalks, driveways, parking lots, etc. Cajka agreed. Esseks stated that he can see the point of infill development in this area – convenient to shopping and employment opportunities – but do we as a city have plans for dealing with a situation whereby a large number of people could

be surrounded by water? What kind of plans do we have from Health or other agencies to deal with such a situation? Cajka was not aware of any plans, such as evacuation plans, emergency access, etc., but in general, the Comprehensive Plan talks about trying not to develop in the floodplain unless the issues can be worked out. There are a lot of places in the city where houses are already in the floodplain. But, Esseks pointed out that here, the Planning Commission is deliberately approving something in the floodplain.

Steve Henrichsen of Planning staff suggested that it is not necessarily up to the Health Department to create their own emergency management plan for the city. There is a separate agency dealing with those emergencies and that plan is for the city as a whole. There is certainly a concern by the city and county with evacuation plans and ways to notify people when there is concern about floods. In this case, the rules allow them to at least get the house above the flood elevation and you would hope people would follow the emergency evacuation plan that is called out for a particular area. In terms of emergency management preparedness, there has been a whole Salt Creek Floodplain Study done that is part of the floodplain regulations to try to preserve the flood storage in these areas as much as possible.

Esseks noted that there is a condition that all purchasers and users of land within the floodplain will be informed about these risks. How will they find out? Henrichsen indicated that there are lots of ways, such as on-line mapping, etc. In addition, our process does require with the final plat, and as part of this CUP, that the developer notify the lot owners and there is a subdivision agreement that would be filed against each of the lots identifying the floodplain. A deed search or title search should discover this information.

Proponents

1. Lyle Loth of ESP Engineers appeared on behalf of the **Bob and Sally Schmieding**, the applicants. The letter in opposition was received from the Keifer family, who live in the area. Their biggest concern was the single access. The developer contacted the Keifer family and when it was pointed out that there would be two accesses, their concerns appeared to be mostly resolved.

Another concern on this project has been drainage. A floodplain fill permit was issued and the pad sites were raised above the base flood elevation such that all of the structures that will be built will be at least one foot above the base flood elevation. The building restriction agreement approved by the city prohibits building basements or any floor elevations lower than that grade. That agreement would be provided to any future lot owners.

Loth also discussed the waiver request to have the streets lower than one foot below the 50 year flood elevation. That requirement has been that in the case of a severe flood, if the water was no more than two feet deep, then emergency vehicles could get into the neighborhood and could evacuate. Because of the low lying neighborhood areas immediately adjacent, the developer has been having difficulty getting low enough to

adequately drain the property during the normal events. It was suggested by Public Works that maybe we could consider going below that a little bit more in a fairly short area to provide a little bit of additional fill to adequately drain the properties. When we do that, along with the storm sewer system, the water level in the Turner ditch will impact how the storm sewer system works. Public Works has requested that we obtain the various water level information for certain storm events as it will be flowing in the Turner ditch. Turner ditch is immediately along the north side of the property. At this point in time, we only have the 100-year flood elevation information, so we are now trying to get the flood levels or water levels in Turner ditch for the 5, 10, 25 and 50-year storm events from Watershed Management to see how well the storm drainage system will work. Loth stated that he is confident that no properties will be jeopardized. He is also confident that the Public Works' concerns on the drainage can be satisfied. Therefore, the applicant is in agreement with all conditions of approval.

There was no testimony in opposition.

CHANGE OF ZONE NO. 11036

ACTION BY PLANNING COMMISSION:

November 2, 2011

Taylor moved approval, seconded by Lust.

Cornelius believes this to be a fairly minor change and small strip of land where the intent is essentially administrative.

Motion for approval carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Taylor and Sunderman voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 11025

ACTION BY PLANNING COMMISSION:

November 2, 2011

Taylor made a motion to approve the staff recommendation of conditional approval, seconded by Lust.

Francis thinks this is a good layout and she is pleased to see a second entrance into this subdivision.

Gaylor Baird commented that this proposal falls in line with the Comprehensive Plan goals about increasing density and encouraging infill development in the existing developed environment. We live in a community where floodplain is an issue almost everywhere, so she is pleased to see that the engineer has been working carefully with Public Works to address the floodplain issues.

Esseks observed that this development appears to follow the recommendations of the Mayor's Floodplain Task Force and there cannot be excessive fill brought in, which could increase the possibility of flooding downstream. This appears to be a responsibly designed development.

Taylor stated that he appreciates the developer's efforts to make sure they are following the regulations and the contact with the individual who wrote the letter in opposition.

Motion for conditional approval carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Taylor and Sunderman voting 'yes'. This is a final action, unless appealed to the City Council within 14 days.

There being no further business, the meeting was adjourned at 1:30 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on November 16, 2011.

F:\FILES\PLANNING\PC\MINUTES\2011\pcm110211.wpd