

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, February 17, 2016, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Cathy Beecham, Michael Cornelius, Tracy Corr, Maja V. Harris, Chris Hove, Jeanelle Lust, Lynn Sunderman and Ken Weber. (Dennis Scheer absent); David Cary, Steve Henrichsen, Brandon Garrett, Rachel Jones, Geri Rorabaugh and Amy Huffman of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission meeting

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

Hove requested a motion approving the minutes for the regular meeting held February 3, 2016. Motion for approval made by Lust, seconded by Beecham and carried 7-0: Beecham, Cornelius, Corr, Harris, Lust, Sunderman, and Hove voting 'yes'; Weber abstaining; Scheer absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

February 17, 2016

Members present: Beecham, Cornelius, Corr, Harris, Hove, Lust, Sunderman, and Weber; Scheer absent.

The Consent Agenda consisted of the following items: **TEXT AMENDMENT NO. 16001; COUNTY TEXT AMENDMENT NO. 16002.**

There were no ex parte communications disclosed.

Beecham moved approval of the Consent Agenda, seconded by Cornelius and carried 8-0: Beecham, Cornelius, Corr, Harris, Lust, Sunderman, Weber and Hove voting 'yes'; Scheer absent.

COMPREHENSIVE PLAN AMENDMENT NO. 15004
TO CHANGE THE FUTURE LAND USE DESIGNATION TO RESIDENTIAL-URBAN
DENSITY, GREEN SPACE AND ENVIRONMENTAL RESOURCES
ON PROPERTY GENERALLY LOCATED AT SW 30TH AND WEST A STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION: February 17, 2016

Staff recommendation: Approval.

AND

ANNEXATION NO. 15014
TO ANNEX APPROXIMATELY 41.84 ACRES
ON PROPERTY GENERALLY LOCATED AT SW 30TH AND WEST A STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION: February 17, 2016

Staff recommendation: Conditional Approval.

AND

CHANGE OF ZONE NO. 15036
FROM AGR AND AG DISTRICTS TO R-4 RESIDENTIAL DISTRICT
ON PROPERTY GENERALLY LOCATED AT SW 30TH AND WEST A STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION: February 17, 2016

Staff recommendation: Approval.

AND

SPECIAL PERMIT NO. 15072
FOR A COMMUNITY UNIT PLAN CONSISTING OF 582 MULTI-FAMILY UNITS
ON PROPERTY GENERALLY LOCATED AT SW 30TH AND WEST A STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION: February 17, 2016

Staff recommendation: Conditional Approval.

Members present: Beecham, Cornelius, Corr, Harris, Hove, Lust, Scheer and Sunderman present; Scheer absent.

There were no ex parte communications disclosed.

Staff presentation: Rachel Jones of the Planning Department stated the current use of this area is a tree farm. To the west and east of the area are agricultural uses, to the north is Middle Creek and to the south there is single-family housing. The area is outside of City limits and is currently designated as future commercial uses in the 2040 Comprehensive Plan. The Comprehensive Plan Amendment would change this designation to Residential-Urban Density use. The Environmental Resources category designates floodway, floodplain, and riparian corridors. The Green Space category designates open space reserved for storage water detention purposes.

The applicant has requested approval for up to 582 units, which is the maximum allowed number within a CUP. The site plan currently only shows 432 units. There are two access points including one from West A Street at S.W. 30th Street and a temporary drive to the west that would be removed at the point when the development connected to future development to the west via Rabbit Run Road.

Two waivers to the Zoning Ordinance are requested to increase the maximum height from 35 feet to 40 feet and to adjust the front yard setbacks from 25 feet to 15 feet along the two private roadways. There are also two waivers to Design Standards requested. The first is to allow sanitary sewer to run opposite street grades and the second is a waiver of the stormwater detention requirements.

There are also a number of requested deviations to the Access Management Policy requested. There is a reduced storage length for the right turn lane at the permanent access at S.W. 30th. There are several that relate to the temporary driveway which are approved because they are temporary conditions, including waiver of the requirement to provide a right turn lane. There is a request for a waiver of the requirement to provide a left turn lane at the S.W. 30th Street access. At the time the Staff Report was published, there was no decision made, but it has now been approved by Public Works, conditioned upon the timing of development to the west.

Lots 1 and 2 are adjacent to West A Street and Lot 3 is to the north. A large portion of Lot 3 is currently within the floodplain. Fill will be added to raise the proposed buildings out of the floodplain. In compensation for that, the area farther to the north in Outlot B will be designated a permanent non-buildable conservation easement that will also include an area for compensatory storage.

The general topography of the site slopes down to Middle Creek from south to north. Lots 1 and 2 will be able to connect via gravity to the existing sanitary sewer in West A Street. Lot 3 is not able to connect via gravity and will require a privately-owned and maintained sewer ejector pump.

West A Street is currently a 2-lane asphalt road. It is shown in the Capital Improvement Program (CIP) for construction of two permanent concrete lanes and a left/right turn lane, along with some intersection improvements.

There are two Motions to Amend. The first has a number of points, including clerical corrections and additions to the conditions of approval that relate to the fact that a couple of the deviations to the Access Management Policy are conditionally approved by Public Works. The second is related to Note 16 on the site plan. The applicant requests to modify that condition to state, "The site layout is conceptual. Minor modifications are allowed without an administrative amendment." Staff prefers that the new note not be included and that the normal procedures regarding determination of whether site plan changes are "major" or "minor" be followed. We do not want to see a deviation from that policy.

Several neighbors submitted comments mostly relating to concerns about traffic and conditions on West A Street. A letter was submitted by the West A Street Neighborhood Association that was in support, but also expressed concerns about traffic and other infrastructure impacts.

Lust asked what is accomplished by approving a change for this area from Tier I, Priority 'C' to Priority 'A'. Jones said that Tier I is for land that is appropriate for immediate annexation and development. Category 'A' means utilities and infrastructure are in place. For Priority C land, all utilities are not yet available. In this case, the site is suitable for immediate development with the exception of Lot 3, but with the pump, it is developable.

Lust said the notes indicate that most of the fill used to raise the site out of the floodplain will come from the site. She wondered how that is monitored.

Ben Higgins of Public Works and Utilities came forward. He said that is a good question. He assumes the applicant will get the fill from the site due to the cost effectiveness of that choice, but that is only tracked for special projects such as Antelope Valley. It is not a normal practice.

Beecham asked why the area was designated with the Environmental Resources category and whether the new Green Space designation will still offer the same protection. Higgins said the Environmental Resources area was centered along Middle Creek and remains in place since the property does not extend all the way to the creek. There was a small portion that comes up a channel that will be preserved as a minimum corridor. The boundaries of the buildings meander because they have intentionally avoided those minimum corridor areas. The areas not showing buildings will be set aside as conservation easements and will not be built upon. Beecham said that should take care of concerns about flood waters and storage. Higgins said yes, and the applicant was also asked to submit hydraulic runs for the site so that we could make sure there were no substantial increases in floodplain heights.

Harris asked the opinion of Public Works on the motion to amend requesting to delete the note. Higgins said he would defer to Planning on that. In his opinion, you would want to leave that up to Planning as to whether an amendment is needed in order to avoid the potential for an applicant to make an incorrect decision about what constitutes a “minor” change. Jones added that this site has several factors that make this issue more important, such as the sewer pump, the floodplain and fill, and the West A connections. Those are additional reasons we feel it is better to keep with our standard policies.

Hove said this special permit would approve 582 units even though they only plan to build 432 at this time. He asked why they request more than shown on the plan and whether the applicant plans to add more. Jones said they may, and that is why they are requesting 582 units--the maximum that is allowed in a CUP in the R-4 district. They are just asking to reserve that so if they have additional units, they won't have to come through with a full amendment. Hove asked whether they would have to purchase or have access to more land to add units. Jones said that is likely because the layout is relatively maxed out. If they wanted to add units such that they would expand the boundary, increase height, or adjust the setbacks, that would have to come through the process again.

Weber asked what would happen with the sewer ejector pump in times of loss of power. Jones said she is unsure and the applicant can speak to that.

Proponents

1. Marcia Kinning, REGA Engineering, came forward on behalf of Anderson Homes, Inc. to state the lift station is located in the far northwest corner of the site where it could be connected to the sewer that will be along the north side of the site. It then follows along the western line of the property down to West A. If the power goes out, the apartment complex would be responsible for having a backup generator to make sure the system works.

Lust asked if the lift station is designed to be temporary and will be decommissioned once there is sewer. Kinning said yes.

Lust went on to ask for further explanation for the request for the Motion to Amend. Kinning said Building and Safety will flag to Planning Department if they believe it is necessary to have an administrative amendment for changes. Without the note, any minor change such as a parking stall deletion or relocation of a dumpster will require an amendment, so no matter what, this would have to go back to Planning. We would like to get rid of the note because if there is a major change like height, it will go through a full amendment. We would like to avoid the amendment for minor items that will have little effect

Corr asked for a clearer idea of the timeline for this project. She knows two phases were mentioned for construction. She wondered when it would start or if there is an estimated completion date. Kinning said that it depends. The owner is open to either selling the property to a developer, or he may develop it. If he does it himself, it would probably be a couple of years for development on the first phase, which includes Lots 1 and 2. Corr said the roads are scheduled for improvement in 2018-2019, so there is a possibility that those could be improved before this is fully built out. Kinning said that is correct.

Harris asked for the language of Note 16 on the original site plan. Kinning said it states, "Apartment layout is conceptual. Variations to the conceptual layout will not require an administrative amendment." The language makes it seem like buildings and drives could be moved around, so then it is understandable why Planning would want to review. We have already gone through extensive work with Planning and Public Works to make sure all of the grading, compensatory storage and requirements are met.

Opponents:

1. Mark Antonson, 1521 S.W. 30th Street, came forward to thank Commissioners for their time. This is the first time he has offered testimony at a public hearing, but he feels strongly enough about this application to come forward today. He thanked Jones for answering his long list of questions. He clarified that he is not strictly in opposition of this application. He asks that approval be tied conditionally to the improvements to West A Street. Having read through all of the application documents, it appears that the traffic study addresses issues of flow and interruption, but not safety. West A Street is in very poor condition and the added capacities could create worse conditions. He respects the property owner's rights to develop the land, he just asks that the project wait to move forward until road improvements are made.

Corr asked where the temporary asphalt begins. Antonson said he drives West A Street everyday. It begins shortly west of Coddington and continues on until it turns to gravel near the railroad tracks, which he believes is roughly 40th Street. He is most concerned about the stretch of road between S.W. 30th and S.W. 37th Streets. That area is in especially poor condition.

2. Vickie Jenkins, 3007 W. Washington Street, came forward to state that she just purchased her home. She is opposed to this application and worries about the safety of children, traffic, and changes in property values. She worries about the impacts of adding the buildings across the street. She has a good view of West A, West O, and out to the Interstate. She drops kids off a half hour early because she is unable to get into traffic the way it is now. She also sees many kids on bicycles riding along West A Street which is dangerous because there is no shoulder. Traffic is really heavy in that area.

Staff Question:

Weber asked if it was typical to not require any provision for alternate power in cases where there is a privately-owned sewer pump, and particularly in a case like this, where there is not a definite timeline for hookup to the adjacent sewer line.

Randy Hoskins of the Public Works and Utilities Department said he would be surprised if they did not have backup generators; that would be rare. Weber asked for confirmation that it is not a requirement. Hoskins stated it is not required, but would be in their best interest to protect their own property from significant damage by having the backup generators.

Beecham asked for more information about the traffic, road conditions, and potential trails for this area. Hoskins said West A Street is a standard county road. It has been in place a long time and although it is well rutted, it is not in terrible shape. The ruts do fill in with water when it rains, so that could increase some concern. The main concern is lack of sidewalks and pedestrian facilities, particularly for getting kids to area schools. That is the major reason we have worked to get West A in the CIP.

Beecham went on to ask about the use of “temporary” asphalt versus regular. Hoskins said he is not a fan of calling the surface “temporary”. It is asphalt, and is not the standard concrete that would be in place for an arterial street. When the street is rebuilt, it will be three lanes including a center turn lane. This will make it safer at intersections because there will be no traffic stopping in through lanes, which creates safety concerns. There will be a right turn lane.

Beecham asked if there will be a shoulder and sidewalk. Hoskins said with reconstruction such as this, it would be typical to add sidewalks on both sides, depending on availability of right-of-way. Beecham asked for an estimate of when people can expect this project to be underway. Hoskins said it is shown in the current draft for the CIP for the 2018-2019 fiscal year. It is viewed as a fully-funded, priority project.

Harris asked if there is some way to combine staff's preferred language with that proposed by the applicant for Note 16, including both language stating the site plan is conceptual and administrative amendments will be required to revise the plan, but minor modifications are allowed without amendment. She wondered if there is any way to possibly come to an agreement where it is pointed out that there is a limit to what will be flagged for an administrative amendment. Jones said some agreement could probably be reached. It should be noted that the applicant is not necessarily required to do an amendment for the most minor changes like a parking stall change, for example. The note would require defining in certain terms what is meant by “minor modification”, but it is possible.

Lust wondered if there is some misunderstanding regarding what the Building and Safety

Department would flag. This is the first time this has been an issue, so she wonders what the source of the concern is. Jones said it seems like the applicant is under the impression that Building and Safety will flag very minor changes. Lust said she assumes that Building and Safety is efficient at determining the type of changes that require an administrative amendment. Jones agreed that they make those decisions all the time. Beecham asked if moving a dumpster would require an amendment. Jones said no, moving a dumpster or a parking stall here or there would not require that. Lust asked for confirmation that the administrative amendment process does not come back before Planning Commission but is approved internally by the Director. Jones said that is correct.

Corr wanted to note that the Staff Report mentions a future trail planned for the south side of West A Street. She believes that could alleviate many of the concerns about pedestrians and children riding bicycles. Jones agreed.

Corr went on to ask for more information about the setbacks and how they have sited the roads along the sides instead of in the middle of the site. Jones said there are two private roadways within this development--Rabbit Run Road and S.W. 30th. There are a couple of ways to show private roadways. One is to locate them in an outlot. The other is to simply show them without an outlot, where the center line of the street would be the meeting line of two adjoining lots. In this case, because these are in an outlot, the setback is going to begin at the edge of the outlot versus the center of the street. That is the way we prefer it in an outlot. So based on that, they request the reduced setback since, instead of being counted from the center line, the setback will be counted from the edge of the outlot. This is a waiver that is approved often. Corr said this is not a decrease in any number of feet, it is just where the count is starting. Jones said that is right. It is also important to note that they are internal to the development as opposed to along the boundaries. Corr asked if it is also pretty normal to have the owner maintain an ejector pump until they can connect to City resources. Jones said yes, there are several around town. Corr asked if there was a bond required for the maintenance or input, in case anything happens. Jones said she is not sure.

Henrichsen said this is a private ejector pump for one lot, owned by one party. He noted that if there were a single-family house in which a basement bathroom can't quite get water up to the sewer in the street, there could be an ejector pump. It is the owner's problem if it floods the basement or something goes wrong, so people will typically have backup power to protect themselves. So, for an individual lot, one pump is their responsibility. There is a separate policy that talks about a pump station that would serve multiple properties, maybe 400 or 500 acres. There the concern for the City is much greater because there are multiple parties involved. In those circumstances, the City actually maintains it and has warning systems and even has backup pumps. In this case, it is one pump for one property, so it is in their best interest to maintain it. Corr noted that this one pump will serve more than one building. Henrichsen agreed there are multiple buildings, but it is all on one lot and with one owner; one owner will be controlling the pump because they own the entire complex.

Applicant Reputtal:

Kinning came forward to point out that this development is a reason West A improvements are in the forefront of the City now. Before this application came forward, this wasn't on the books. The project does have the neighborhood in mind with the improvements that will come to West A.

COMPREHENSIVE PLAN AMENDMENT NO. 15004

ACTION BY PLANNING COMMISSION:

February 17, 2016

Beecham moved Approval; seconded by Corr.

Beecham said she will comment about all four items. She thanked the applicant for meeting with neighbors because it helps to create a more successful project. She thanked the neighbors for taking their time to testify today. And those who sent comments, including the neighborhood association. She recognizes that there are always concerns when there are single-family homes and apartments are added. A plan like this is ideal because people will know what to expect. She is concerned about traffic and pedestrians. This is an appropriate use for this site, but the improvements to the road should be made as soon as possible.

Hove said he also plans to support this. He understands the issues with the traffic and the road, but he hopes this will spur the road improvements.

Motion for approval carried 8-0: Beecham, Cornelius, Corr, Harris, Lust, Sunderman, Weber, and Hove voting 'yes'; Scheer absent. This is a recommendation to the City Council.

ANNEXATION NO. 15014

ACTION BY PLANNING COMMISSION:

February 17, 2016

Beecham moved Conditional Approval; seconded by Cornelius.

Motion for approval carried 8-0: Beecham, Cornelius, Corr, Harris, Lust, Sunderman, Weber, and Hove voting 'yes'; Scheer absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 15036

ACTION BY PLANNING COMMISSION:

February 17, 2016

Beecham moved Approval; seconded by Cornelius.

Motion for approval carried 8-0: Beecham, Cornelius, Corr, Harris, Lust, Sunderman, Weber, and Hove voting 'yes'; Scheer absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 15072

ACTION BY PLANNING COMMISSION:

February 17, 2016

Lust moved Conditional Approval as recommended by Staff; seconded by Beecham.

Lust stated she understands where the applicant is coming from in their Motion to Amend, but as a practical matter, there is not a reason to treat this development differently from what the standard policy is. She speculated that it is not as big a deal as the applicant was led to believe because Building and Safety is good about determining what changes would require an administrative amendment. If one were required, the Director completes them in a timely manner.

Harris said she agrees. She would not have problem with combining them and keeping some type of statement that says minor modifications would be allowed, but that seems to be implied. It will have the same result, so she is inclined to go with Staff's recommendation.

Hove said he agrees. City staff, having done this multiple times, understands how to consider minor changes.

Motion for conditional approval as set forth in the amended conditions as recommended by staff carried 8-0: Beecham, Cornelius, Corr, Harris, Lust, Sunderman, Weber, and Hove voting 'yes'; Scheer absent. This is final action, unless appealed to the City Council within 14 days.

There being no further business to come before the Commission, the meeting was adjourned at 2:08 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, March 2, 2016.