

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, April 13, 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 (arrived at 1:03 p.m.), Michael Cornelius, Tracy Corr, Maja V. Harris, Chris Hove, Jeanelle Lust, Dennis Scheer, Lynn Sunderman and Ken Weber; David Cary, Steve Henrichsen, Tom Cajka, Rachel Jones, Andrew Thierolf, Brian Will, 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 revised minutes for the regular meeting held March 30, 2016. Motion for approval made by Corr, seconded by Harris and carried 8-0: Cornelius, Corr, Harris, Lust, Scheer, Sunderman, Weber and Hove voting 'yes'; Beecham absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

April 13, 2016

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

The Consent Agenda consisted of the following items: **ANNEXATION NO. 16005 and CHANGE OF ZONE NO. 16013 and PRELIMINARY PLAT NO. 16001; SPECIAL PERMIT NO. 16008; SPECIAL PERMIT NO. 16011 and SPECIAL PERMIT NO. 16013.**

There were no ex parte communications disclosed.

Item 1.1a, **Annexation No. 16005**, and Item 1.3, **Special Permit No. 16011**, were removed from the Consent Agenda and had separate public hearing.

Lust moved approval of the remaining Consent Agenda, seconded by Beecham and carried 9-0: Beecham, Cornelius, Corr, Harris, Lust, Scheer, Sunderman, Weber and Hove voting 'yes'.

Note: This is final action on **Preliminary Plat No. 16001, Special Permit No. 16008 and Special Permit No. 16013**, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days.

SPECIAL PERMIT NO. 16011

**FOR CONSTRUCTION AND OPERATION OF A FIBER OPTIC UTILITY BUILDING,
ON PROPERTY GENERALLY LOCATED AT
SOUTH 70TH STREET AND OLD CHENEY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

April 13, 2016

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

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

Staff presentation: Brian Will of the Planning Department came forward to state the site plan shows the proposed area to be leased from Sheridan Lutheran Church. It is a shelter occupying 450 square feet located in the south area where the parking lot wraps around the church building. An elevation has been provided to approximate what the facility will look like. The applicant is Allo Communications, who are in the beginning phases of building a fiber optic network throughout Lincoln. This is the first area. There are a couple of conditions relative to landscaping, which were not shown on the original plan. It is appropriate to have some plantings to break up the design. Some design criteria were proved by the applicant. Subject to the conditions, we find this to be an appropriate land use.

Hove asked if there are any noise restrictions. Will replied that there is a noise ordinance in the City of Lincoln and it does impose some external noise limits. The noise generated here is below that limit. On a related note, there is another minor change. There will be operational testing on a weekly basis at the facility. We ask that it be done during daylight, business hours. The Staff Report originally stated business hours were 6:00 a.m. through 6:00 p.m. but it should be 7:00 a.m. through 6:00 p.m., which would match the hours of the noise limits in the Municipal Code.

Will went on to say this application was removed from the Consent Agenda due to a letter from a neighbor. It was not necessarily in opposition, but they raised three issues. First, the neighbor believed we had the zoning incorrect. That neighbor resides in an R-3 area and the application area is in R-1. The Register of Deeds has the zoning listed incorrectly. Second, he asked about security and monitoring of the facility. The applicant can address those issues. Staff does not believe any additional security fencing would be warranted. His final concern was with potential noise, which we have addressed.

Lust asked if the error will be corrected with the Register of Deeds. Will replied that they have been informed.

Proponents:

1. Mark Palmer, Olsson Associates, came forward to introduce **Todd Havlat from the Automation and Technology Group at Olsson Associates**. Todd is working with Allo on this project for Lincoln. The southeast is the first quadrant receiving the fiber installation, so this will be the first facility constructed. These are modular bunkers that come fully secured and weather-proofed. They come as a raw structure that is then amended to fit in with the surrounding neighborhood using brick, siding, paint, and even the style of roofing prevalent in the surrounding area; great effort is made to relate each new structure to the neighborhood. There will be landscaping and we continue to coordinate with the church to get approval to finalize the terms of the lease.

2. Todd Havlat, Olsson Associates, said the building will be an unmanned facility, housing the electrical equipment for the southeast quadrant. The services will also feed into the northeast area a bit. The facility will have an alarm system and two security cameras to monitor the entrance and exterior. The only time personnel would be notified is if the alarms were activated. General maintenance will be done once a month. There is also a generator that will be run once a week for 30 minutes to make sure it will operate smoothly if it is needed. The time that it runs can be arranged.

Corr asked if the cameras will record or be monitored. Havlat said they are not monitored and only record if the alarm goes off. Allo will be notified and record based on if motion is detected. Corr asked if it would be able to catch someone tagging or spray painting the building. Havlat said that it should, but he can check to confirm that for sure. If it does not, it can probably be set up to do that. He added as a side note that he is a member of that church and they are in the process of installing cameras to monitor the full exterior and interior of the church, so the entire parking lot and facility will be monitored. If it seems feasible to add a camera to the facility, there would probably be no opposition to that.

Corr asked, based on a letter from the neighbor, how the applicant feels about installing a fence around the facility. Havlat said Allo would not be against that and their original design showed a fence, but the team feels that a fence would make the facility stand out more. The point is to have it look like a garage or shed that is part of the neighborhood. There is a chance the church would oppose a fence.

Harris asked if the one hour change in the Staff Report causes any problems. Palmer said it does not cause any problem and we agreed to the change. Havlat added that the hours cover the time of the noise restriction. The only time it is an issue is during the once-a-week test run of the generator to make sure it is functioning properly. The time that generator is exercised does not matter as long as everyone is happy with it.

Opponents:

There was no testimony in opposition.

SPECIAL PERMIT NO. 16011

ACTION BY PLANNING COMMISSION:

April 13, 2016

Cornelius moved Conditional Approval, as amended; seconded by Beecham.

Cornelius expressed his enthusiasm for this project. This gigabit fiber network can't be built fast enough, so if more of these facilities are needed, let's build more and continue to keep them in line with the neighborhoods they are in. He is very excited about the whole project.

Corr thanked the applicant for working with the church and matching the materials right down to the detail of the pitch of the roof. That is fantastic. She is not concerned about the fence now that she sees the mock-up of the design. It will just look like a shed or other structure that the church uses, so that will be fine.

Hove said he will support this item. It is a good move and exciting for Allo to be here.

Motion for approval carried 9-0: Beecham, Cornelius, Corr, Harris, Lust, Sunderman, Weber, Scheer and Hove voting 'yes'.

Note: This is final action on **Special Permit No. 16011**, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days.

ANNEXATION NO. 16005
TO ANNEX APPROXIMATELY 22.36 ACRES
ON PROPERTY GENERALLY LOCATED AT
WEST SILVERADO COURT AND HIGHWAY 34.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 13, 2016

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

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

Staff presentation: Andrew Thierolf of the Planning Department came forward to state there are three associated applications including the annexation, change of zone and preliminary plat. The annexation is 22 acres. A portion of this area was already rezoned R-3, but it was outside of the City, so there is an additional 1.9 acres that will change from AG to R-3. The preliminary plat includes 571 lots on 157 acres; 88 lots have been final platted. The Future Land Use Map shows this area as Urban Residential. There is already a preliminary plat for this area from 2005, so this is essentially just amending that plat by changing some block and lot layouts.

Lust referred to a map included in the packet to Commissioners. Corr stated she believes an incorrect map was included. Thierolf confirmed that was the case.

Proponents:

1. Mike Eckert, Civil Design Group, came forward on behalf of the applicant, Starostka-Lewis. The area was picked up out of foreclosure. The first preliminary plat was approved in 2005 and the first phase of development was done. As we examined the plat, we realized that the layout made by a previous engineer showed several blocks that did not meet current block length standards, so those were adjusted. The grading has also been modified to cut the cost of development by about half. This is a fairly straightforward request to update the plat and to annex another portion of the area to do the next phase.

Opponents:

1. Mike Boyle, 5408 Dove Lane, Kawasaki Motors, came forward to show the proximity of the Kawasaki plant to this development and a nearby golf course. He is concerned about the proposed area of development, though he recognizes that it was already approved. He did not receive his notification letter until two days prior to this meeting. He has received regular feedback from golfers at the nearby course that they can smell paint from the plant

when the wind conditions are right. It is not a huge concern, since they are outdoors, but for those who may make the significant investment in a their homes, and who want to spend time outdoors with their families, this could be an issue. He noted that the Kawasaki site is completely EPA-approved, but the human nose can pick up very minor percentages of particles and industrial solvents in the air. Even though the plan is already approved, he wanted to come forward and express concerns to have the opposition on the record.

Hove asked for clarification on how close this development will be to the plant. Boyle said it will be as close as, or closer than the golf course. The plant has been at this location for over 40 years. We never expected homes to be cropping up so close to this industrial site. Kawasaki owns land from the plant all the way to the Highlands area, so we have the right to establish other industrial sites. He wonders how home owners will feel if their quality of living is affected by this.

Harris asked for clarification that the odors pose no hazard to people in the area. Boyle said that is correct, but it is a potential nuisance that could make people nervous. We have concern about interactions between our company and the community. There are also concerns about any restrictions that could be placed on our business from that type of public fallout, should it occur. Harris asked what that could be. Boyle said he does not know at this time; the laws are always changing. With any new construction, we could be asked to take additional and costly precautions in order to mitigate concerns from neighbors.

Lust asked if Boyle had reached out to neighbors about this. He said he had not since he only just found out it. Lust said noted that Mr. Eckert would be a good resource to turn to for further discussion.

Corr asked if any complaints have been received from the existing homes in the area. Boyle said no, but they are a little farther east. His concern is for the new area as it encroaches to the west, since they have heard from golfers who are farther away.

Staff Questions:

Thierolf showed the correct map to provide context. He noted that the area closest to the plant includes an outlot for drainage, so no homes will be there, though there will still be homes located a few hundred feet away. He reiterated that this plat was already approved.

Hove asked for clarification about the location of the drainage areas, which Theirolf located on the preliminary plat map. It occupies the southwestern most corner and runs slightly northeast towards the center of the area.

Corr said that recently Planning Commission had a discussion about how close an industrial parcel could be to a residential area. She asked what that distance is. Thierolf said it is 300 feet. Corr asked if the distance in this case is over 300 feet. Thierolf said that it appears so, but he cannot confirm with certainty because that aspect falls under the Health Department's review. They did review this application and issued their approval.

Harris said this process is already in motion. She wondered, as long as Kawasaki is meeting all safety and Health Department requirements and no concerns have been raised, if there is any scenario that can be envisioned where new restrictions would be placed on the plant as a result of this development. Thierolf said that it is his understanding that there could not. There is also I-2 zoning to the east of this area, so they could expand into that area now. The Land Use Map also shows all other surrounding areas zoned for industrial. He cannot imagine any restrictions on Kawasaki's operations in the future.

Beecham wondered generally about records kept in files regarding concerns from neighbors. She recalled a past case where there were neighbor concerns; the fact in that case was the applicant was in the location first. So if Kawasaki were trying to develop, that would be the same scenario. If neighbors were concerned, it would come out through public process that Kawasaki was in the area first, and even raised these concerns for their potential neighbors. Thierolf said yes, that is a fact. The plant was there and residential has grown in around it. Beecham asked if they would have a legal footing to say that they have owned the land for a long time. Thierolf said yes.

Weber asked if they would be allowed to expand to the east into their I-2 zone by right and without questions. Thierolf said there is that 300-foot buffer that could come into play. The area is zoned for industrial now, and in the Future Land Use Map, and it has been identified as that for a long time. The neighborhood is going into an area that was planned for residential.

David Cary, Director of Planning, came forward to state that the Highway 34 right-of-way itself is 300 feet, so the separation we usually work with exists just with that right-of-way. Foul smelling air in prevailing winds is something that can be typical with a mix of uses in a generalized area. As far as what we look at, that 300-foot buffer is met by the right-of-way.

Cornelius wanted to make sure that the only area that is covered by the Change of Zone is a small area that bumps out into AG zoning. Thierolf said that is correct; it is only two acres. Cornelius asked if the rest is already zoned R-3. Thierolf confirmed the remaining area is already zoned R-3, but is just outside of City limits, so it is being annexed.

Applicant Rebuttal:

Eckert said he appreciates the clarity that has been brought to these applications by today's discussion. This area, the area to the north of it, and even a portion to the west and directly north of Kawasaki, have all been identified in the last three Comprehensive Plans as residential areas. This is a previously approved plat. We are simply making some changes. Even though the annexation covers an extra 1.5 acres and there is a change of zone, what is being approved is the amendment which includes everything shown from N.W. 12th Street to the border of the property on the west and from Alvo Road to the highway on the south, so the entire area is going through the revision, from the preliminary plat perspective. Even though the change of zone and annexation are for smaller pieces, Kawasaki has an EPA standard and a Lancaster County Health Department standard that they have to meet at their property lines, and Health Department had no issues with this application.

ANNEXATION NO. 16005

ACTION BY PLANNING COMMISSION:

April 13, 2016

Cornelius asked if separate motions needed to be made. Administrative Officer, Geri Rorabaugh, clarified that even though all items were discussed during Public Hearing, the change of zone and preliminary plat were approved under the Consent Agenda.

Cornelius moved Conditional Approval; seconded by Scheer.

Cornelius stated that he appreciates the perspective that Kawasaki brings and their desire to avoid conflict. The bulk of the land is already zoned R-3 and could be built out. Because this application is in reference to a CUP that was approved in 2005, and because the area approved under the change of zone is farther away from Kawasaki from the rest of the Preliminary Plat area, he will support it. We already approved the change of zone, so we are only talking about the annexation of previously-zoned property.

Lust said she also appreciates Kawasaki being a good neighbor and bringing concerns to Planning Commission's attention. Kawasaki was in the area first and is a great employer and asset for the City. People may not like the smell on some days, but this has been on the books for so long. People buying in the area will also be aware that they are buying next to a major highway and industrial plant. She appreciates the concerns, but believes the situation will turn out okay.

Corr echoed that she appreciates Kawasaki coming forward. She agreed with Lust's point that since the plant is already there, new buyers will be cognizant that there could be some isolated issues. She does have hesitations about industrial uses next to residential, and maybe this is something that needs to be looked at. For example, on the south side of Highway 34, we may need to think about it more.

Hove said he intends to support this. He really appreciates that Kawasaki came forward with recognition and acknowledgment of the concerns of their neighbors. It makes them an even better citizen in our community. It is on the public record now, so if it becomes an issue in the future, they can refer back to this meeting to exhibit their efforts and concerns.

Motion for Conditional Approval carried 9-0: Beecham, Cornelius, Corr, Harris, Lust, Scheer, Sunderman, Weber, and Hove voting 'yes'. This is a recommendation to the City Council.

MISCELLANEOUS NO. 16001
FOR A FINDING OF SUBSTANDARD AND BLIGHTED CONDITIONS
ON PROPERTY GENERALLY BOUNDED BY
HOLDREGE AND FRANCIS STREETS, AND 48TH TO 49TH STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 13, 2016

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

Commissioner Scheer declared a Conflict of Interest.

Staff recommendation: Finding of Substandard and Blighted Conditions

There were no ex parte communications disclosed.

Staff presentation: David Landis, Director of Urban Development, came forward to state that this area was brought to our attention by a developer who is interested in the area for housing and mixed uses. The declaration of blight is the outcome of a study conducted by Hanna:Keelan Associates after a thorough examination of the parcels and properties in the approximate 30-acre area. A well-known building in the area is that of the former Tastee Inn, who were in business for 65 years. That building has been unoccupied for more than two years. If the market had better use for it, it would likely have been purchased and revitalized by now. The former Q.P. structure is also unused. Other buildings in the area are dilapidated and this condition is not the exception in the area, but a common occurrence where over 70 of the structures were deemed dilapidated or deteriorated. The average age of homes in the area is 91 years, while the average age of commercial structures is 65 years. Standards have risen over the years, so these buildings would not be rebuilt as they are; they have been grandfathered in. The water mains and sewers are also 60 years old. These conditions of blight and substandard allow the use of the tool of Tax Increment Financing (TIF) and will help to jumpstart the redevelopment currently being pursued with a developer out of Minneapolis, Minnesota. They brought their ideas to the Urban Design Committee, who were unanimously in favor of the building design, materials, and the developer's ability to harmonize with the surroundings. This finding is the initial step.

Lust asked why the Parks Department public area is included in the blight and substandard area. Landis said that the City negotiates how TIF funds will be used; funds are not simply handed over to a developer to use as they see fit. Including the area allows the opportunity to negotiate and suggest that, for example, the park is an amenity to a housing project, so a portion of the funds might be used to develop or improve that public resource. An example of this type of negotiation for the public good is a student housing project near downtown where some funds were used to help develop the N Street Bikeway. The use of funds is good for both the developer and the public. That is a strategy that could be used in this case with the park. For use of resources, the area must be within the boundary of the area.

Lust asked if the park is part of the finding. She wondered if the park contains substandard property. Landis said it is not necessary to find every parcel in the area blighted, but there must be a rationale as to why they are related in a mixed-use area. In this case, there is rationale for having a park next to a family-oriented residential use.

Harris asked if the park or public portion has to be included in the blighted area to make use of the funds. Landis said yes, we are bound by State law to spend the TIF dollars inside the project area. First, the area must be drawn. Then, individual boundaries are identified for projects within that area. On occasion, the boundaries have been altered by City Council action, but the reason for that is because the use of TIF is limited, first within the area, and then in the project area described. In downtown areas, for example, it is not uncommon for areas to extend beyond the immediate project area since there is often landscaping or other public facilities that might make use of the funds in the public right-of-way.

Harris asked if a specific area is declared blighted, but then a project area extended a little bit outside of that area and included a public park, can the area be amended at that point. Landis said a project area can be amended, but not the entire area, which in this case is created by the boundaries identified in the Blight and Substandard Determination Study. The study identifies the area, and then inside that, there is a project. That project area can be adjusted. This area is south of University Place which has a blighted area itself. That boundary does not include this area. It is not impossible to have two blighted areas right next to each other. The studies are paid for by the developer for the area they plan to ask the City for help with.

Beecham noted that every few years when looking at the budget, one thing that people argue about cutting is funding for parks and schools. She asked if including the park in this determination in anyway harms it. She does not want the park or pool to close. They are so important to this area. Landis said that TIF money cannot be spent on maintenance of the area, including the park. As an example of what can be done, he referred to Havelock Park, where outdated playground equipment was replaced with the newest generation of equipment. That is a one-time improvement and expense. The money could also be used to create an entirely new public amenity, like a park, that is not necessarily part of the development, but is within the boundary and built through an understanding with the developer, who also sees the park as an amenity.

Beecham asked Landis to address the issues with traffic and block lengths that do not line up. She wondered if there is a plan to change that. Landis said he does not have the answer, though the idea the developer shared in early stages includes a long building. He shared that the developer also met with the neighbors very early in the process for input. They had no difficulty with the dilapidated buildings being torn down and more pedestrian-friendly environments being created. Landis said he has heard nothing to indicate that this would take a bad situation and make it worse; the uniform message is that this is a good thing.

Cornelius noted for clarity that it is possible for a well-maintained old building to fall into a substandard condition, not because it is dilapidated, but simply due to the evolution of building standards. Landis agreed that is true. Dilapidated and deteriorated is one factor, but it is not the same as substandard. For example, a building may not meet current fire or safety codes; the building can still be honored, but would not be built in the same way again due to risk.

Lust noted that there is a study being done on Dead Man's Run flow capacity as a drainage creek area. She asked if that is something that, if problems are found, TIF funds could be used for. Landis replied that if the project area included land that implicated those issues, TIF could be spent for public purposes. It can be used for sidewalks, sewers, burying electrical lines, energy efficiency above codes, for higher-end building materials that the public can view and enjoy, as opposed to something internal meant only for a resident to enjoy inside the building. The expenditures must be for public purpose. That would include the management of floodplain issues. He does not know of such a case here.

Corr asked how old the pool in the park is. Landis said he does not know. Corr said she assumes it is in okay condition. She wondered if it needs work, if TIF funds could be used to replace a filter system or something similar. Landis said it depends on if the area is within the project area. It is inside the larger Blighted and Substandard area, but now is the time we come up with the project area with the developer. If we put that space in, it would be a public expenditure, and the legal possibility is there. Understand that this is a voluntary agreement between two parties. The City cannot impose that on the developer, but we would like to help them and have them help us.

Corr said there is a project in mind for some of these blocks. She asked if those sewer and water mains will be replaced. Landis said we do not yet have a set of sources and uses. The right to have that conversation depends on the action of this body today. Developers want to move quickly. Most developers would say they can find areas close to their building where the funds can be spent. They would not come to us to suggest that the City use most of the funds. That would not meet the purpose of the funds, which is to help a project to cross the finish line that would otherwise be too difficult to complete. It does not mean they might not do something on a smaller scale without the help. The City, at the margin, finds use for some of those funds. Good landscapes and pedestrian areas are the kinds of things we push for.

Corr said that in the report there is a Recognizable Environmental Condition. She wondered if that was a gas station. Landis said it was previously a gas station so it can be easily predicted that there will be problems. The developer is aware of it and is taking it into account—it will add to the cost. Corr asked if they know they will have to remediate the problems. Landis said they do. If they were building in a pristine building environment, these challenges would not exist and it would be cheaper. In this case, Tastee Inn must be purchased and torn down, the infrastructure is 65 years old, and there has to be remediation of a gas station. If left to its own devices, the market would choose to sprawl to the edges of the City. Infill has its own functions and difficulties not present otherwise.

Corr went on to say that another issue mentioned is inadequate street layout and lack of pedestrian and vehicular safety devices. She asked what is meant by that. Landis said he guesses it refers to stop signs and traffic lights.

Harris asked if blight determination can be removed from the park even if that area is included within the blight area now, but then the park is left out of the project area and that blight designation causes a problem down the road. Landis said State law is silent on that, but he believes the City Law Department would reason that if the City has the right to grant an area as blighted and substandard, they also have the ability to undo that decision. They have to be able to support it with evidence. Not all cities do the thorough study that we do. He said he is not sure that it would say that the land is not blighted and substandard anymore, but that the tools granted by that designation are not going to be used, and therefore, the designation is revoked.

Proponents:

1. Tom Huston, Cline Williams Law Firm, 233 S. 13th Street, came forward on behalf of 48th Street Development, LLC, which is a new company comprised of Shafer Richardson of Minneapolis and Greenleaf Properties of Lincoln. Over the past eight years, Lincoln has seen immense urban renewal and many infill projects in the core area of downtown that have

been successful. It is nice to see a project coming forward in another area. North 48th Street is an important corridor with University Place. The ability to use the same urban renewal tools in other parts of the city that need attention is vital; this blight study is the first step in that process.

There is an existing blight study in place for University Place. One option would have been to extend that area. This area stood on its own and the other study was over 20 years old, so we felt it was best to start from scratch with a new analysis. The study by Hanaa:Keelan finds that 4 of 4 requirements for finding of Substandard conditions are met, and 7 of 12 for blight are met. The next steps in our process, will be a submittal to Planning for a change of zone, an alley vacation, and a planned unit development. The existing zoning is a combination of three different zones so we would like to consolidate to allow for a mixed-use, urban development project. We hope to be in front of you again by mid-May.

Huston went on to say that an early step taken by his client in mid-March was a neighborhood meeting. It was particularly to address the neighbors on the east side of 49th Street, since they are directly affected. One of the good things about this project is that access and circulation will be improved through compliance with the Access Management Policy and removal of unneeded driveways. In addition to those neighbors, we also met with University Place Community Organization and the East Campus Homeowner's Association. All were very supportive of the project.

Corr asked if the building spans more than one block. Huston said this site is unusually configured. It has a length that is probably beyond a standard block. There was a T-shaped alley at one time. The west portion was vacated so now there is an L-shaped alley. Ultimately, the overhead lines will be buried. The sewer will be left in place. We will seek to vacate the alley to configure the necessary parking. Huston said he asked the planning consultant to include the environmental remediation as further evidence of blight. Corr asked if the alley referred to runs north/south. Huston said there is one that runs east/west, also. Corr asked if Martin or Ayelsworth Streets will come through to 48th Street. Huston said Ayelsworth does. Corr asked if that will remain. Huston said yes.

2. Don Linscott, Green Leaf Properties, 300 N. 44th Street, stated they have been working on this project with Schafer Richardson for the last six months and have had contact with them for many years. They bring the development expertise necessary to really upgrade and transform this area to include both retail and market apartments. He is here to answer questions. Many plans will be coming forward in the very near future.

Opposition:

There was no testimony in opposition.

MISCELLANEOUS NO. 16001

ACTION BY PLANNING COMMISSION:

April 13, 2016

Lust moved for a Finding of Substandard and Blighted Conditions; seconded by Harris.

Corr stated she has no problem declaring these block blighted. She was questioning including the park area, but understands Mr. Landis' reasoning for including it, so will support it.

Harris echoed that. The discussion was mainly caught up in the park portion because, overall, this a great and much needed infill project. Anytime you talk about declaring blight on a public portion, it is important to ask if it is a step worth taking due to the image it could potentially project when that information stands alone somewhere. But it is right to be pragmatic about it, and if it can lead to some improvements, then all the better.

Hove said he will also vote in support. He has never been more confident of an area being blighted.

Motion for a Finding of Substandard and Blighted Conditions carried 8-0: Beecham, Cornelius, Corr, Harris, Lust, Sunderman, Weber, and Hove voting 'yes'; Scheer abstaining. This is a recommendation to the City Council.

Removal of Item from Pending List:

SPECIAL PERMIT NO. 15064

AVALON EVENT PARADISE

ACTION BY PLANNING COMMISSION:

April 13, 2016

Administrative Officer, Geri Rorabaugh, stated that a written request was submitted on behalf of Viann Martin, the applicant of County Special Permit No. 15064, to remove this application from pending to be placed on the May 11, 2016, Planning Commission agenda. This special permit application involves a request that Avalon Event Paradise be allowed to hold special events on property generally located at 12788 W. Roca Road. On November 18, 2015, the Planning Commission approved a motion to place this item on pending for two weeks to allow staff additional time to research what would be allowable if this permit was either approved or denied. As part of the motion, the public testimony on this application was closed and limited to staff findings followed by applicant rebuttal. Following that hearing, three consecutive requests for 2-week deferrals were requested by the applicant, with the last one being on January 6, 2016, at which time the Planning Commission passed a motion to place this application on indefinite pending until such time that the applicant was prepared to move forward.

Cornelius moved to Reconsider the item, seconded by Corr.

Rorabaugh clarified that a motion to Reconsider is not necessary due to the language included in the original motion to bring the item forward again when the applicant was ready.

Cornelius withdrew his original motion and moved to place the item on the May 11, 2016, agenda, seconded by Corr.

Corr asked if this would be closed to new testimony and would only let staff and the applicant speak.

Hove stated he thinks this is like starting over. Scheer echoed that thought since so much time has passed.

Lust said she thinks there should be a whole new Staff Report because she was hesitant to even remove the item without a new application. This was a moving target with some much need analysis of the legal standards, and Commissioners ended up with several memos amending things. She reiterated that she would really like to see a new Staff Report before considering this.

Hove said it would be like starting again and we need to make sure the applicant and those who wish to speak on it are aware of that.

Scheer asked if the condition about a new Staff Report would change the agenda date of the item. Staff said that the request was for May 11th so it would not have an effect.

Henrichsen came forward for clarification about the expectations of Commissioners. He asked Commissioners if they would like a full Public Hearing to allow all of the neighbors to come back and testify again. Lust said she would because at this point, she is not sure that there was any clarity about what would be allowed under the existing Home Occupation. Cornelius said he thought that is what the memos addressed. Henrichsen said we want to be clear in our notification that those who already testified could have the ability to come back and testify again. Lust said she thinks that should be the case. Cornelius said that was not the intent of his motion. Corr agreed that she may not have seconded that.

Lust said her thoughts are that from the original hearing to the second hearing, the ability to do things under an expanded home permit based on who was a contracted employee versus who was employed on the property changed significantly, so we may be looking at a very different type of use that can occur than was originally presented to the neighbors who testified in opposition. Those changes might change some of their positions, though she doubts it. They should have the opportunity to be heard on what the project looks like now.

Sunderman said that enough time has passed that even if nothing had changed, he would like to be refreshed on what people had to say.

Weber said there was some questioning on ownership and who actually operated the business. He suspects something may have changed and he would like to hear about any changes and any new responses.

Cornelius clarified that his motion was to return to the item under the same conditions that it was being considered under in the past. If any Commissioner thinks Public Testimony should be opened, then their vote for his motion should be 'no'.

Harris asked if that meant that it was still open for new information. Cornelius said yes. Hove agreed that the motion was only new information. Harris wondered if that would include an individual taking a new position.

Cornelius said he may not be in favor of his own motion anymore; however, it was his understanding that the cleanest way to move forward is to vote on the motion, as made and without amendments, and then move on from that vote with another motion, if necessary.

Rorabaugh clarified that the vote is to remove Special Permit No. 15064 from pending with Staff information and Applicant Rebuttal only.

Corr wanted to make sure the motion is to remove it from pending, but only for new information. She wondered if a neighbor with new information could come forward to testify. Commissioners answered 'no'. Rorabaugh stated it is for Staff presentation and Applicant Rebuttal only.

Motion failed, 3-6; Cornelius, Harris and Scheer voting 'yes'; Beecham, Corr, Lust, Sunderman, Weber and Hove voting 'no'.

Lust moved to remove the item from pending with full public testimony; seconded by Beecham.

Hove asked if everyone was clear on the motion. Commissioners agreed they were clear.

Scheer said he was clear but wondered what the implications of doing that means in terms of the Staff Report and process. Henrichsen said the Staff Report has already been revised, so the plan was to come back up again and review it with the County Attorney present to answer questions. Staff will look at it again to see if anything else should be added, but our Staff Report will be generally the same.

Rorabaugh added that the item will be re-advertised. Scheer said right, the entire public process begins again.

Motion carried, 6-3; Beecham, Corr, Lust, Sunderman, Weber and Hove voting 'yes'; Cornelius, Harris and Scheer voting 'no'.

There being no further business to come before the Commission, the meeting was adjourned at 2:25 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, April 27, 2016.