

REVISED MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION
DATE, TIME AND Wednesday, June 10, 2020, 1:00 p.m., Hearing Room 112,
PLACE OF MEETING: on the first floor of the County-City Building, 555 S. 10th
Street, Lincoln, Nebraska

MEMBERS IN Shams Al-Badry, Dick Campbell, Tracy Corr, Tracy
ATTENDANCE: Edgerton, Cristy Joy and Dennis Scheer; Tom Beckius,
Deane Finnegan and Cindy Ryman Yost absent; Steve
Henrichsen, David Cary, Tom Cajka, Rachel Jones, George
Wesselhoft, Brian Will and Geri Rorabaugh, and Rhonda
Haas (via broadcast) of the Planning Department; media
and other interested citizens.

STATED PURPOSE Regular Planning Commission Hearing
OF MEETING:

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

Chair Corr requested a motion approving the minutes for the regular meeting held May 27, 2020.

Motion for approval of the minutes made by Campbell, seconded by Scheer and carried 6-0: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr voting 'yes'; Beckius, Finnegan and Ryman Yost absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

JUNE 10, 2020

Members present: Campbell, Edgerton, Joy, Scheer and Corr; Beckius, Finnegan and Ryman Yost absent.

The Consent Agenda consisted of the following items: Comprehensive Plan Conformance 20007, Change of Zone 08066B, Comprehensive Plan Conformance 20008, Annexation 20010, Change of Zone 20018, Preliminary Plat 20003 and Change of Zone 20016.

Clerk noted that on item 1.1a Comprehensive Plan Conformance 20007, the applicant has requested a name change to this proposal to "2236 R Street" Project.

There were no ex-parte communications disclosed.

There was no ex-parte communications disclosed relating to site visits.

Campbell moved approval of the Consent Agenda items, seconded by Edgerton and carried 6-0: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr voting 'yes'; Beckius, Finnegan and Ryman Yost absent.

Note: This is **FINAL ACTION** on **Preliminary Plat 20003** unless appealed by filing a letter in the Office of the City Clerk within 14 days.

SPECIAL PERMIT 20015

TO ALLOW FOR AN ACCESSORY DWELLING UNIT WITH ASSOCIATED WAIVERS, ON PROPERTY GENERALLY LOCATED AT 1950 SW 112TH STREET

PUBLIC HEARING:

JUNE 10, 2020

Members present: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr; Beckius, Finnegan Ryman Yost absent.

Staff Recommendation: Denial

There were no ex-parte communications disclosed.

There was no ex-parte communications disclosed relating to site visits.

Staff Presentation: Tom Cajka, Planning Department, came forward and stated this is a request for an Accessory Dwelling Unit (ADU) with waivers for an increase in size, reduce the side yard setback and increase the distance between the main house and the ADU. The lot is 22.95 acres. The special permit is for an existing house that is 1,650 square feet, which was built illegally. An agreement between the owner and Lancaster County Board of Commissioners reached in 2018 allowed the house to remain but would not be used as a dwelling while trying to find a permanent solution.

Campbell asked what the ADU is being used for. Cajka stated they might be using it for storage.

Edgerton asked how the CUP would work. Cajka stated that a CUP would require a different application, minimum area of 75 acres and that would be 5 lots, a site plan, layout with the placement of the lots, and a road connection to West A Street. Edgerton asked if on a CUP the dwellings could be on one part of the property that was just 20-acres. Cajka said no because each dwelling would need to be on its own lot.

Campbell asked if they did a CUP would the land keep the AG zoning. Cajka said yes. Campbell stated it would not make a difference with the taxes. Cajka stated that he is not aware of what the tax implications would be.

Cajka stated that he wanted to walk back on his statement on the maximum size, because under a CUP, 70 percent of the total area has to remain in an unbuildable outlot, and he further stated that there would be a limit to the size of the lots.

Joy inquired if main level of the building was 824 square feet. Cajka said yes. Corr stated that it was 864 square feet. Corr stated that the aerial shows them taking access to their property from the corner lot, which is not part of this application, and she asked if that was correct. Cajka said yes. Corr stated that they do not own that portion. Cajka said no, but there is an easement over it.

Applicant:

Timothy and Linda Aschoff, 1950 SW 112th Street, came forward and stated that the property was purchased in 2013, and the existing house and ADU were there when purchased. He stated at the time of the purchase, they were told it was legal. He shared when getting a building permit, staff said the ADU was not legal. Working with Mr. Hunzeker and the County, it was agreed that they would not use the ADU during the construction of the new building. The three waivers requested are allowed by ordinance and staff has no opposition with two of them. Aschoff stated that neither of his neighbors are in opposition to this ADU. The ordinance does not restrict applying for a waiver on the size of an ADU. He stated that they do not want to develop their property into a CUP, which would have additional costs. Aschoff stated that the waivers they have applied for do not create a health or safety issue, and he respectfully requests that the waivers be granted.

Corr asked what they have been using the ADU for. Aschoff stated that their parents would live there someday in the future and they are currently using it for a guesthouse.

Edgerton asked if the is barn was finished. Aschoff stated it is finished.

Joy asked if the basement was finished. Aschoff stated the basement is half finished. Joy asked if it was a walk out. Aschoff said yes, with a single door.

Corr asked Mr. Aschoff what made him go the ADU route instead of the CUP. Aschoff stated in the beginning he was not going to do anything because they thought that it was legal, and now he just wanted to clear everything up. To apply for a CUP, there would be a lot required that does not apply to what they want to do.

Mark Hunzeker, Baylor Even, 1248 O Street, Suite 600, came forward on behalf of Tim Aschoff and stated that this is the only time in 43 years of practicing land use laws that records have disappeared. He stated that there were hearings on this property, and he feels that at the time, they would have applied to it being a caretaker's residence. When the agreement was made with the County in regards to the use of the ADU, the language they used was clearly designed not to admit there was any illegality about this building, and the County did not insist that there was. Hunzeker explained that doing a CUP would be expensive for them if they are not making changes.

Corr asked Mr. Hunzeker if he was on ADU committee. Hunzeker said he was not.

Proponents:

Dan Klein, 1960 SW 112th Street, came forward and stated that he lives to the west, and they are a delight to live by. He shared that there is an easement for the driveway, and he is fine with that. He stated that he encourages the members to approve the waivers.

Opponents:

No one came forward.

Staff Questions:

Campbell asked why the basement is being counted in the square footage. Cajka stated this was discussed in the past, and it was decided if the basement were finished it would be included as livable space minus any mechanical area. Campbell stated real estate does not count the basement.

Edgerton stated that conditions of approval are included, but staff is recommending denial. Cajka said it is standard to add just in case it would be approved. Edgerton stated that there are less than two bedrooms. Cajka stated that there was some confusion because of how it was listed, so that condition was added for clarity.

Joy stated that she was on the task force and she thought that less than 40 percent still allowed for a waiver for more than 1,000 square feet, because of the concept that the existing house might be bigger. Cajka stated he recalls needing to go to the intent of what an ADU is-- the city has 800 square feet for an ADU, and the task force went to 1,000 square feet. He shared if you had a 1,500 square foot house, the ADU would be so small; that is why the task force wanted to have a waiver process for those types of cases.

Corr stated that she too was on the task force for the city and that it should be for an accessory use. She stated that the basement square footage should be counted. Corr stated grandfathering it in was mentioned, and she asked if because of the problems with the records they could grandfather this in without calling it an ADU. Cajka stated that there has been some disagreement on if this was legal or not. He shared that he did research Planning's records and County Board agendas and could not find anything, not to say that there is not one, but for something to be grandfathered in there would need to be legal documents saying it was legal.

Applicant Rebuttal:

Klein stated that for Commissioner Campbell's question, the assessor does count this as a 824 square foot house with 1 bedroom, and there is a second bedroom in the basement; the basement is an exact mirror of the main level.

Hunzeker said there should be some flexibility with this because it does fall within the intent of what is listed in the Comprehensive Plan. In 1999, when they built the ADU, they did not need a building permit because it was on a farm and not required on a farm.

Staff Questions:

Corr inquired if they were to go the CUP route, would they have to take access off A Street or could it be 112th Street. Cajka said they would have to show a road off A Street. Corr asked about taking access from another area. Cajka said to the north it could come off 112th Street. Corr asked when doing a CUP does the land need to be developed. Cajka said no. Corr inquired what would be required when doing a CUP. Cajka stated they would need a site plan, grading drainage plan, street profile plan and construct the street, which can be gravel. Corr asked about the cost difference between an ADU application and CUP. Cajka stated that he believes a CUP application is \$988.00 and the ADU application was \$412.00.

Applicant Rebuttal:

Aschoff stated that his application for this was \$988.00, and he told that the application for the CUP would be more. He shared that he did pay for surveyors in preparation of this application. He shared that the surveyor told him a CUP would be \$10,000.00, which would include some engineering. With the grade of the property and an old dam, it would be expensive to create an alternative access to the property.

Campbell moved to close the public hearing on this item, seconded by Edgerton and carried 6-0: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr voting 'yes'; Beckius, Finnegan and Ryman Yost absent.

SPECIAL PERMIT 20015

ACTION BY PLANNING COMMISSION:

JUNE 10, 2020

Campbell moved approval, seconded by Al-Badry.

Campbell stated that this is an unusual situation. He shared that in 1979, when he built, a permit was not required and it was not unusual in those times. The intent that they have for this property is exactly what an ADU is. Campbell shared that this special permit should be granted and is in support of the applicant trying to make what is already there legal.

Scheer stated that is going to support the motion. He shared that the applicant has made this application in good faith and what the applicant is trying to do does meet the spirit of the ordinance. Scheer stated that there has been a lot of discussion on the waivers and they removed two of the conditions for waivers and this is not one of them, and he further stated that this fits with what they were trying to accomplish. He shared that a CUP would be a worse fix than just granting this waiver and approving the motion.

Joy stated that she also would be supporting this waiver as her fellow commissioners have mentioned, and she further stated that she appreciates the due diligence of the staff. She shared that from the county's standpoint, there was a lot of discussion on size and this ADU does meet the intent of what the task force was looking for.

Al-Badry stated she is in support of this application, and further stated she understands the staff's concerns of other waivers that come through if this is passed.

Corr stated that she still has concerns and does understand that the grading and the topography does make it challenging to create a driveway. She stated she has concerns with the ADU because what the committee came up with was a compromise between different perspectives. Corr stated that they do need to look at the long-term use of the property. She stated that part of the problem she sees with ADUs is separating it out and having the ability to sell it on its own. She shared that she does realize that this was pre-existing and maybe they need to go back and look at having larger square footage for the county, but will be voting for denial to protect the rules put in place.

Campbell shared that he understands Commissioner Corr's argument on giving this a special permit will not split this into lots and if the applicant were to do CUP it would, which would allow a future owner to sell the property separately.

Corr stated that is why she wants the applicant to do a CUP, because this allows the owner to do what he wants and still protects the ADU so it does not become an issue later.

Motion carried 5-1: Al-Badry, Campbell, Edgerton, Joy and Scheer voting 'yes'; Corr voting 'no'; Beckius, Finnegan and Ryman Yost absent.

Note: This is **FINAL ACTION** on **Special Permit 20015** unless appealed by filing a letter in the Office of the County Clerk within 14 days.

[Break at 2:20 P.M.]

Resumed at 2:22 P.M.]

SPECIAL PERMIT 20013

TO ALLOW FOR A CUP (COMMUNITY UNIT PLAN), WITH ASSOCIATED WAIVERS TO SETBACKS, LOT AREA, BLOCK LENGTH, AND THE SANITARY SEWER DESIGN STANDARDS, ON PROPERTY GENERALLY LOCATED AT SOUTH 46TH AND HILLSIDE STREETS
PUBLIC HEARING:

JUNE 10, 2020

Members present: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr; Beckius, Finnegan Ryman Yost absent.

Staff Recommendation: Conditional Approval

There were ex-parte communications disclosed. Commissioner Corr stated that she was present during a zoom meeting for the College View Neighborhood Association on May 13, 2020, when Mr. Euler presented his plans for this project.

There was no ex-parte communications disclosed relating to site visits.

Staff Presentation: Rachel Jones, Planning Department, came forward and stated this is a request for a Community Unit Plan (CUP) to develop 16 single-family dwelling units within an existing residential block. The units will take access from a new internal street. The CUP includes eight new lots that would take access from the new public street and eight existing

houses that will remain and will continue taking access from S. 46th or S. 48th Streets. This CUP is submitted as the first phase of development. The requested waivers allow flexibility to create a logical lot layout within a challenging site. The city allows streets to dead-end as long as it will be developed later. The applicant has a phase two conceptual layout with additional lots added and a connection to Hillside Street but, to do this, the applicant would need the approval of any property owners involved.

Corr inquired if this would come back to Planning Commission or if it would be an administrative amendment when they start phase two. Jones stated they would need to come back to the Planning Commission for phase two because it is not in the proposed boundary.

Applicant:

Phillip Euler, 5520 Grouse Place, came forward and stated he has been using REGA Engineering to process this. He shared he has been a resident in Lincoln since 1968, and is now retired. In the 1980s,, he was asked along with other to form a housing corporation, whose primary purpose was to assist single-parent families that are having a difficult time finding clean and affordable housing. Years later, the corporation decided to financially support Habitat for Humanity in Lincoln, because of their wide region that covered the city. Euler shared that with his rentals he has a similar objective, and tries to find good, clean and affordable housing for his renters.

Dan Rosenthal, REGA Engineering, 601 Old Cheney Road, Ste. A, came forward and stated that there was a neighborhood meeting last week and there were several comments on increased traffic to the area. He shared that the trips generated for the number of lots to be developed is less than three vehicles per hour in the a.m. during peak hours and 1 trip per lot during the p.m. peak hours, which would be 75 vehicles for the entire day. There were also concerns with possible sanitary sewer lines across different properties. Rosenthal shared that Mr. Euler would fix anything that needed to be fixed during installation and they would have non-abutting agreements in place to ensure the sewer lines would be compliant with the city's standards. There are concerns with the closeness of the new road to the existing houses in the area. Rosenthal stated that they have been working on this for over a year to ensure that everything is correct to meet the criteria for new design standards. They have been working with Watershed Management on the storm sewer system, which is another concern mentioned.

Campbell asked Mr. Euler if he owns Lots 6-10 and Lots 1-3. Euler stated that he does own those properties.

Corr asked if the house that was being removed was on Outlot A. Euler said correct. Corr asked if Outlot A is large enough for a dwelling unit. Rosenthal said no, that the house that is currently there will be moved across the street and it will become an outlot, which is not a buildable lot and it will always be a greenspace.

Edgerton asked about the new culvert in the area. Rosenthal stated that last spring the city had done some work around High Street where they built a new storm sewer pipe to increase its capacity. Edgerton stated that there was some discussion about the closeness of Peanut Hill Road and High Street, and she asked if it is an appropriated distance for a cross street. Rosenthal said that was correct and does meet the design standards.

Corr asked how many were in attendance at the June 2, 2020 meeting and what their concern were. Rosenthal stated that 10 attended in office and another 6 or 8 attended by Zoom. He shared some complaints were that they did not want this in their backyard and they do not want the project. Corr asked if the lot needed removed for water detention was in the Outlot C area. Rosenthal said yes, and that is in the second phase.

Rosenthal stated that they would not be doing grading on anyone else's property, so easements will not be needed.

Proponents:

None in support

Opponents:

Nancy Selzer, 3229 South 48th Street, came forward in opposition. Selzer stated the notices sent out were not received by a two of the neighbors. She stated that some of her concerns are that this has been going on for so long, it is during Covid, loss of trees, barking dogs, traffic, noise, crime and her largest concern is the flooding.

Tammy Lingle, 4737 Hillside Street, came forward in opposition and submitted a petition in opposition from neighbors and a certified letter from her sister (Exhibit "1").

Dale Klever 3328 South 46th Street, came forward in opposition with concerns of street construction, pooling water, narrow streets, sanitary sewer capacity, heavy trucks crushing the sewer lines, fast traffic already in the area, and slick roads in winter and if they dead-end the street will emergency vehicles be able to get in and out.

Rebecca Cast, 4831 Mandarin Circle, came forward in opposition with concerns of excessive water runoff and that the detention pond would back-up and damage her barn. She stated that the second phase will never happen because she will never sell to Mr. Euler and neither will her heirs.

Barb Sullivan, 2962 South Street, came forward in opposition and stated the Comprehensive Plan states many reasons why this development should not happen in this area, and asked the commissioners to consider how this will have a negative effect on the current residents. She

stated property tax will increase on the houses in the area, and further stated that she and her brothers are the heirs of the property, and will not be selling to any developers, so the second phase will never happen.

Ray Royal, 4706 Hillside Street, came forward in opposition and stated that if a new road goes in by his house, he will need to put in a new basement because the old foundation of his basement will not be able to withstand the heavy equipment shaking the ground. He stated that he also has concerns with where the water will flow from to the detention pond.

Larry Czolgos, 4648 Hillside Street, came forward in opposition and stated he has concerns with the roadwork done during the second phase, because the proposed road would be next to his house, and he is concerned about disturbance to his foundation.

Elizabeth Terry, 3427 South 48th Street, came forward in opposition and submitted a signed petition into the record and a letter that she has received from Mr. Euler. She stated that it will increase traffic, increased noise and they like it quiet and do not want to move.

Dave Sobotka, 4635 High Street, came forward in opposition and stated that their backyard is a victim to flooding, because of the trees that Mr. Euler has removed and never cleaned up. The road being proposed behind his house he would have no privacy and would want a privacy fence, but would prefer to not have the road behind his house at all.

Linda and Kenneth Bro (via zoom), 4625 High Street, stated they are in opposition. Linda Bro stated that they have concerns with safety because of the proposed road, traffic noise, street lighting, flooding and her big concern is that property taxes will increase and house values will decrease. Kenneth Bro stated he has concerns with flooding in the area, traffic, lighting and the speeds of traffic in the area.

Staff Questions:

Edgerton stated there are several concerns with regards to water issues in the area, and she asked for more details on what will be done to address the issues. Jones stated that watershed staff has looked at this, and there are conditions of approval, which require a number of changes to be made. Edgerton asked if they were to meet the requirements of watershed management. Jones said correct, and she stated that they are not allowed to put additional water onto neighboring properties.

Corr stated that this area acts like a basin, and she asked what needs to happen to alleviate the flooding issue. **Tim Zach, Watershed Management**, came forward and stated that in the review one of their conditions is that they show the water leaving their site does not exceed the capacity of the pipe recently constructed by the city. Watershed is requiring that the detention cell to the south hold enough water back so that it does not cause any issues when

water leaves the site and flows to north. Corr asked about the drainage that is already coming from the south. Zach stated that all of the water would flow into the detention cell. Corr asked if it would be large enough to hold all of the runoff. Zach stated that they need to make corrections to their detention cell and that is one of the conditions. Corr asked who is responsible for the maintenance of the alley. Zack stated that street maintenance would be responsible if the alley was a public alleyway. Corr stated that watershed is not concerned with the amount of runoff that is flowing into the basin on the south, and asked if that was correct. Zach stated that the applicant would need to revise their drainage report, the detention cell and the grading to address watershed's concerns, which will be looked at closely. Corr asked about the new pipe and if it was in the same location as the culvert. Zach stated that there were two parts to the project-- on High Street, a larger culvert was put in, and a pipe was extended on south side on Hillside Street. Corr stated that several neighbors mentioned after a rain they still see water running in this area, and she asked how this happens. Zach stated it could be that the ground is saturated and water is trickling out or those areas that are ponding are just draining out slowly.

Scheer asked if there was enough room for emergency vehicles turning around at the end of the dead-end street. Jones stated that the Fire Department has standards and dimensions that they apply to see how big of a truck they can get in and out of places, and they did not express any concerns.

Edgerton stated that the only waivers in place in regards to this application are the setbacks, the block length, and the lot area with regard to a couple of lots, and she asked if that was correct. Jones said correct, and that also includes the sanitary sewer.

Corr inquired about the sanitary sewer and if they were going to divert Lots 1-3 from 46th Street to Peanut Hill Road. Jones said yes, and explained that the lots that border along 46th Street and 48th Street will have their sewer connections redone to take access to the new sewer line that will go through the new street, and there are non-abutting easements. Corr stated that she knows this is for phase two, but some of the neighbors brought this up. She shared that Trolley Lane is showing a connection through Hillside Street, and she asked if the residential lot would be wide enough to accommodate the road and if they would need easements or property from the two sides. Jones stated that it was looked at when the application came in and the standard right-of-way for a public street is 60-feet, and the applicant would have to show how they met that distance. Corr inquired if there were screening requirements along Outlot A or Outlot B. Jones said not along the north side of the roadway, and she did not think that there would be any required screening.

Edgerton stated that it looks as if there will be significant tree removal for this development. Jones said yes, they would need to remove trees in the area.

Corr asked if the new culvert along High Street and 46th Street would need to be reconstructed with this project. **Bob Simmering, Lincoln Transportation & Utilities (LTU)**, came forward and stated that would need to include that in all of their calculations that

watershed considers, and if it needs rebuilt, it would be the developer's responsibility. Corr asked if the heavy equipment would damage existing sewer lines. Simmering stated that they would be rebuilding the sewer line through the subdivision and, once built, a video inspection is done, and would show if there were damage.

Al-Badry inquired if there was any fear of affordable housing being taken away with this project. Jones stated that in general they only look at land use.

Applicant Rebuttal:

Rosenthal stated that he wanted to reiterate the justification for this recommendation, because this is an infill project that does use up under-utilized property. Lincoln Electric would design the lighting and their design standards do not allow light pollution to go across a property line. He explained that with the traffic, multiple plans regarding traffic are reviewed by the city. Brian Kramer reviewed the sanitary sewer and there were discussions with Mr. Simmering in LTU to work out the non-abutting agreements. The detention cell will be 5-feet below the adjacent properties and there is a requirement that it has to be 1 foot above any opening to the dwelling for the 100-foot storm. Rosenthal shared if there is water standing in a parking lot it can take a while to drain.

Edgerton asked about the tree removal for this project. Rosenthal said they would only remove the trees needed for a foundation, parking or the street, and they plan to keep the majority of the trees. Euler stated there are 20 trees that would need removed, because of the road. He explained that the covenant states there needs to be 1 tree on every 2,500 square foot lot.

Campbell moved to close the public hearing on this item, seconded by Al-Badry and carried 6-0: Campbell, Edgerton, Joy, Scheer and Corr voting 'yes'; Beckius, Finnegan and Ryman Yost absent.

Special Permit 20013

ACTION BY PLANNING COMMISSION:

JUNE 10, 2020

Edgerton moved approval, seconded by Scheer.

Campbell stated that he empathizes with the people that have lived there for 30 plus years, and knows that most do not like to see change from what has been there. He stated this project was planned out well and does encourage the developer to do screening on Outlot A and B. This will create some separation and recreate the privacy with the trees if they were already there, and he further stated that he is in support.

Edgerton stated the developer has brought this together with minimal waivers. There has been discussion on the issues mentioned by neighbors including the flooding. The new culvert and the design standard of the sanitary sewer seems to be in order, and she is in support of this application.

Scheer stated everyone should remember that the special permit has many conditions attached to it for the developer to follow. Scheer stated that he wanted to point out that today's voting is on the first phase of this project, and there has been a lot of testimony on the second phase, which is not relevant now. The developer cannot do anything with property he does not own. Scheer stated that he agrees with the comment on having screening on Outlots A and B, and is in support of the first phase.

Joy stated she appreciates everyone taking the time to come in and discuss their neighborhood, because it is important for them, as commissioners, to hear all of the concerns. Joy stated as her fellow commissioners stated, this is on the first phase and they are focused on making sure the neighborhood is protected and to reduce the impact to properties. She stated that she is in support of phase one of this project, and they will be watching the conditions placed on this project. She shared that she hopes that the developer continues to reach out to the neighbors in the neighborhood.

Corr stated that this is a tough decision for her, because she is familiar with this area. She shared that they could be putting 31 units in the area and that would be a lot, but they are only asking for 17 units, and 8 units already exist. She stated that this property, at some point, would be developed. Corr stated that this is just the first phase and they are just looking at land use, and she further stated that she would like to add a friendly amendment to require screening along Outlot A and B.

Tim Sieh, City Attorney's office, came forward and stated that there is a motion with a second on the floor, and to make an amendment Commissioner Corr would need to offer the amendment and there would need to be a second. Then you would discuss the amendment and vote on the motion to amend, and then the vote on the main motion.

Corr offered an amendment to add a site-specific condition to add screening to Outlots A and B, seconded by Campbell.

Edgerton stated that the motion is vague. Campbell stated that there are city standards for screening. Campbell discussed screening with the use of trees. Corr stated that she was not sure that it needed to be trees, because it could be a fence. Sieh came forward and cautioned the commissioner against referring to screening design standards, because there are no design standards for screening like this. He explained a motion for screening needs to be clear so everyone understands. Discussion continued between the commissioners on the type and area for the screening.

Corr amended her motion to add a condition of approval to add screening along Outlots A and B that meet current parking lot design standards, seconded by Campbell and carried 5-1: Al-Badry, Campbell, Joy, Scheer and Corr voting 'yes'; Edgerton voting 'no'; Beckius, Finnegan and Ryman Yost absent.

Vote: Main motion, as amended, carried 6-0: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr voting 'yes'; Beckius, Finnegan and Ryman Yost absent.

Note: This is **FINAL ACTION** on **Special Permit 20013** unless appealed by filing a letter in the Office of the City Clerk within 14 days.

[Break at 4:17 P.M.]

Resumed at 4:25 P.M.]

ANNEXATION 20009

TO ANNEX APPROXIMATELY 61 ACRES, MORE OR LESS, AND ADJACENT RIGHT-OF-WAY, ON PROPERTY GENERALLY LOCATED AT THE NW CORNER OF SOUTH 40TH STREET AND ROKEBY ROAD

AND

CHANGE OF ZONE 20017

FROM AG (AGRICULTURAL DISTRICT) TO R-3 PUD (RESIDENTIAL DISTRICT PLANNED UNIT DEVELOPMENT) FOR UP TO 506 DWELLING UNITS AND 120,000 SQUARE FEET OF COMMERCIAL FLOOR AREA, WITH ASSOCIATED ADJUSTMENTS TO THE ZONING AND SUBDIVISION ORDINANCES, ON PROPERTY GENERALLY LOCATED AT THE NW CORNER OF SOUTH 40TH STREET AND ROKEBY ROAD

PUBLIC HEARING:

June 10, 2020

Members present: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr; Beckius, Finnegan Ryman Yost absent.

Staff Recommendation:

Annexation 20009
Change of Zone 20017

Conditional Approval
Approval

There were no ex-parte communications disclosed.

There was no ex-parte communications disclosed relating to site visits.

Staff Presentation: Brian Will, Planning Department, came forward and stated this is a combined staff report for two related applications for the Wilderness Hills South Planned Unit Development (PUD). The total area of the two requests is slightly different, as a portion of the land within the change of zone (PUD), which is already annexed into the city. The change of zone is from AG to R-3(PUD). Will stated that the applicant has a motion to amend that is essentially to allow B-2 uses over all of the areas including mini-storage, and the Planning staff is fine with the amendment. The site plan for the PUD shows 120,000 square feet of commercial floor area, and up to 506 dwelling units. There are a couple of adjustments to go along with the PUD, and the first one is adjusting internal setbacks to 0-foot setback and provided a 20-foot setback along S. 40th Street and Rokeby Road, and maintain a 6-foot setback along the remaining perimeter. The second adjustment is an increase in height from 35-feet to 55-feet for multiple-family dwellings, all in the underlying R-3 Residential Zoning District.

Joy asked if the street connection was a recommendation from Planning. Will clarified if she was asking, to not making the street connection. Joy said correct. Will stated that decision was made collectively, prior to this application.

Edgerton stated that it was an entryway into the development and it stops. Will said yes.

Corr asked why this is called an R-3 PUD, when none of the underlying uses would be an R-3 use. Will stated that that they try to have an underlying zoning to match what is in the area and maintain consistency. Corr stated a letter the commissioners received discussed the connectivity to the east and to the school and not adding 34th Street concerned them that there was not a good connection to the future school. Will stated where the connection would have gone and it would have been another connection to an arterial street and for this development, there were other concerns.

Edgerton asked if this was contingent on Natural Resources Districts (NRD). Will said yes, because of the land swap with NRD.

Applicant:

Brad Marshall, Olsson Associates, 601 P Street, came forward and submitted a motion to amend to the commissioners (Exhibit "2"). He shared that this development was approved in 2006, and, at that time, there was a settlement agreement that dedicated a conservation easement, which set some of the guidelines for development, specifically on the park land and the land exchange concept. Part of the motion to amend handed out shows the darker orange color as the B-2 area that was proposed, and the lighter yellow area is B-5 (Exhibit "3"). Marshall stated to answer Commissioner Corr's prior question about the underlying R-3 zoning, that is not the dominate zoning was done to provide some comfort to the residents in the area that it would be maintained as R-3. The height waivers will provide some flexibility for the height and the internal setbacks. The park land was part of the settlement in 2006, which included 3.06 acres. The developer, without extending 34th Street, would donate the land to parks. With the donating of the land, they can utilize the impact fees to build the equipment. Marshall stated that a year ago, there were discussions with the home owners association and they asked why the park would be by Rokeby Road. The Parks and Recreation Department came back recently with a proposal to co-locate the park on LPS property. The developer will donate three lots for the park and, in return, the developer will get the land along Rokeby Road. The developer has agreed to provide a pedestrian trail and a connector crossing the tributary to connect to the future Caveat Trail and a connector to the PUD area, which is shown in red (Exhibit "3"). The NRD Board rejected the land trade exchange at last night's meeting. The proposal will be removed from the agreement with few modifications before it goes to City Council.

Corr inquired how the neighborhood meeting went on May 19, 2020. Marshall stated the meeting went well; they introduced both projects, which received favorable comments. Corr

stated that they have received letters on 34th Street and the park land, and she asked if that is what they discussed. Marshall stated that there was more discussion on the park land.

Joy asked if the change to the amendment was adding the mini storage to the corner. Marshall said that the mini storage would be an allowed use in a B-2 area, and could be in any of the commercial areas.

Proponents:

No one came forward in support.

Opponents:

Joe Armstrong, 3001 South Creek Road, came forward and stated he lives to the north of this development and he is not in opposition, but does have issues with what this may do to their property value. He voiced concerns with the view, the height of the buildings, and they already have water issues, and this will make it worse. He shared they would want barriers to hide the commercial portion.

Lori McCarthy, 9410 Keystone Drive, via zoom, stated that she is in opposition and has concerns with the park location, the roadways, and the amount of traffic on the roads. She stated that there should be another entry point for the area. She asked if they read the letter sent in. Corr said yes.

Staff Questions:

Campbell asked if they should even vote on this today because of the changes that are still need to this development, due to the NRD not wanting to continue with the land swap. Will stated it is fine going forward the way it is.

Applicant Rebuttal:

Corr stated in relation to the height of the building, how many feet is in between for a buffer on the west side. Marshall stated that he does not have the exact number, but it is about 300 feet, and the limits cannot be expanded. Corr asked if that was because of the flood plain. Marshall said yes, that it does flood back there; he has seen it. He shared that the conservation easement has language in it about maintaining the trees in the area. The setback reductions that were asked for do not change-- the developer is still required to screen regardless of the distance of the house. Lastly, on the connectivity, they did have discussions with LPS on the connections and they voiced no concerns with the with the road connections.

Joy asked what the access points there will be for the development. Marshall stated they are on 34th Street, 37th Street and 38th Street going into the development and an additional one on 29th Street.

Marshall stated with the NRD's decision and moving forward, they do not see major changes to the site plans. They may ask for a reduction in the plan and it may take away some greenspace, but it will not change what is shown in the residential or commercial.

Joy asked about having the mini storage on the corner in public view, and asked if it was a make it or break it for the developer. Marshall stated that corner lot uses are more for retail and commercial. Mini storage is a less intensive use and not a noisy neighbor to have.

Edgerton moved to close the public hearing on this item, seconded by Campbell and carried 6-0: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr voting 'yes'; Beckius, Finnegan and Ryman Yost absent.

ANNEXATION 20009

ACTION BY PLANNING COMMISSION:

JUNE 10, 2020

Edgerton moved approval, seconded by Al-Badry.

Edgerton stated with regards to annexation this makes since and is contiguous with the city limits. There is no reason not to annex this given what is around the site. Edgerton stated that she does not have any concerns with the change of zone either. She shared that many things need to take place for this to move forward. Everything makes since including moving the park by the school.

Scheer stated that he agrees with both the annexation and change of zone. He stated that the distance mentioned by Mr. Marshall is a little off and is closer to 500 feet, and that open space is a great buffer, and he is not worried about it at all.

Corr stated that she agrees with her fellow commissioners. She shared that the annexation and change of zone is appropriate. She stated that she is not worried about the 34th Street connection and can see both sides of that. Corr hopes that the park is built sooner than later, and this will speed that up.

Motion carried 6-0: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr voting 'yes'; Beckius, Finnegan and Ryman Yost absent.

CHANGE OF ZONE 20017

ACTION BY PLANNING COMMISSION:

JUNE 10, 2020

Campbell moved approval, as amended as offered by the applicant and agreed upon by staff, seconded by Scheer and carried 6-0: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr voting 'yes'; Beckius, Finnegan and Ryman Yost absent.

SPECIAL PERMIT 20016**TO ALLOW FOR A NEW CUP (COMMUNITY UNIT PLAN), ON PROPERTY GENERALLY LOCATED AT THE NE CORNER OF SOUTH 27TH STREET AND ROKEBY ROAD****PUBLIC HEARING:****June 10, 2020**

Members present: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr; Beckius, Finnegan Ryman Yost absent.

Staff Recommendation: Conditional Approval

There were no ex-parte communications disclosed.

There was no ex-parte communications disclosed relating to site visits.

Staff Presentation: Tom Cajka, Planning Department, came forward and stated this is a request for a Community Unit Plan (CUP). This proposal is for 132 dwelling units with waivers to the lot width and lot area, which is typical for this type of development. These dwelling units will be multi-family buildings with either 3 or 4 attached units and are not immediately adjacent to the existing single-family dwellings. This is located at the intersection of two major arterial streets, and the area to the east is open space and proposed commercial.

Joy asked if there were any street improvements coming up for the access on to 27th Street. Cajka said not that he knows of.

Edgerton inquired about the “water quality request for alternative form”, which was included in the information that they received on this item, and she asked what it was concerning. Cajka stated that Mr. Marshall will have a motion to amend, and it was worked out with Watershed Management.

Applicant:

Brad Marshall, Olsson Associates, 601 P Street, came forward and submitted a motion to amend to the commissioners (Exhibit “4”). This is part of the preliminary plat just discussed, but with fewer details. In 2018, the duplexes were changed to single family. There will be 3-plexes and 4-plexes, and there will be a row of 13 lots that will have single-family homes to be used as a buffer. The 132 units will have their own HOA, which will maintain the area and the landscaping. The price market is between \$240,000 and \$300,000, and will be sold, and not rented. He stated that he has heard concerns that neighborhood valuations will decrease, and the average value in the area is \$356,000, which is why they have created a buffer from the existing homes. He shared that there are 70 parking spots on the street, and they feel that this is adequate parking. Marshall stated that he stopped by the area at different times throughout the day to take pictures of parking currently in the area (Exhibit “5”).

Joy asked if they were 2- stall garages. Marshall said yes.

Edgerton inquired about the water quality question she had asked earlier. Marshall explained that they are proposing an additional corridor adjacent to the property to the east, which is a drainage way that has some channel erosion, which they will be providing a corridor and following the guidelines for that. They have also proposed to add an additional corridor beyond what is there today, as part of the water quality. Across the creek, there are portions still forming, so the city has agreed to convert the cropland to prairie grass, which is part of the water quality proposal. Marshall stated that the motion to amend is for Watershed Management, and relates to those two items, and watershed has reviewed and approved the amendments.

Campbell said townhouses have to go on 24-foot lots to get a 2-stall garage of decent size. Marshall said that the minimum is 24-foot and the waiver is the standard for R-5, and he further stated the minimum lot area and the lot width they are following the R-5, which is an allowed use for townhomes.

Proponents:

No one came forward in support.

Opponents:

Clerk noted that copies of comments from Mr. Bruce Prenda were submitted and distributed to the commissioners.

Lori McCarthy, 9410 Keystone Drive, via zoom, stated she is in opposition and she has concerns with the traffic on Hoy Street and the potential of decreased home values.

Edgerton asked if her concerns were on Hoy Street. McCarthy said correct, and Keystone Street as it comes in, because there is just one entrance from the north. Edgerton asked if Hoy Street goes to 27th Street. McCarthy said yes.

Staff Questions:

Edgerton asked Cajka if they were good with the motion to amend. Cajka stated Tim Sieh from the Law Dept. said yes.

Campbell moved to close the public hearing on this item, seconded by Al-Badry and carried 6-0: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr voting 'yes'; Beckius, Finnegan and Ryman Yost absent.

SPECIAL PERMIT 20016

ACTION BY PLANNING COMMISSION:

June 10, 2020

Campbell moved approval, as amended as offered by the applicant and agreed upon by staff, seconded by Edgerton

Corr stated that this looks like an interesting project and it checks all the boxes.

Motion carried 6-0: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr voting 'yes'; Beckius, Finnegan and Ryman Yost absent.

Note: This is **FINAL ACTION** on **Special Permit 20016** unless appealed by filing a letter in the Office of the City Clerk within 14 days.

[Break at 5:56 P.M.]

Resumed at 6:00 P.M.]

SPECIAL PERMIT 20005

TO ALLOW FOR AN ALTERNATIVE TO IMPRISONMENT FACILITY WITH UP TO 6 PERSONS IN AN EXISTING RESIDENCE, ON PROPERTY GENERALLY LOCATED AT 420 SOUTH 28TH STREET

PUBLIC HEARING:

June 10, 2020

Members present: Al-Badry, Campbell, Edgerton, Joy, Scheer and Corr; Beckius, Finnegan Ryman Yost absent.

Staff Recommendation: Conditional Approval

There were no ex-parte communications disclosed.

There was no ex-parte communications disclosed relating to site visits.

Staff Presentation: George Wesselhoft, Planning Department, came forward and stated this is a request for a special permit for an alternative to imprisonment facility. The proposal is for up to six women to reside in an existing residence. The intent is to provide transitional housing for up to three months so the women can reintegrate into society. Parking would be in the back of the property in the alley, which is appropriate and stacking is available.

Corr asked if the parking requirements for a group home would be three parking stalls. Wesselhoft said that might be right, but they do have six.

Al-Badry asked if they were to up the number of residents would they need to come back to Planning Commission or do an administrative amendment. Wesselhoft stated that it would be an amendment and they would need to come back to the Planning Commission.

Scheer inquired if this is a first special permit with this type of use. Wesselhoft said yes. Scheer asked if there were others like this operating without a special permit. Wesselhoft said that he was not aware of any specific addresses, but the applicant mentioned at a neighborhood meeting that there might be other facilities. Scheer asked if the enforcement of conditions would be from Nebraska Stated Probation Enforcement, Health Department or Police.

Wesselhoft stated that a license is not needed, but they are required to report to probation officer.

Edgerton inquired if Historic Preservation review needed to do something with regard to this property. Wesselhoft said only if they were to propose a change in the structure.

Corr asked if it is possible that other facilities might be operating in the city that started before the 2005, text amendment. Wesselhoft stated that he was not aware of any.

Edgerton stated that the Planning Commission can put in conditions that they may feel are necessary to protect the health, safety and welfare, and it appears that conditions that were proposed by staff are more related to the property. Wesselhoft stated that the various departments review this special permit like any special permit application-- Planning Department and Building & Safety had comments that were included like parking. Wesselhoft stated that general conditions used for all special permits can be added for a condition, but special specific conditions cannot be applied.

Applicant:

Tina Arsiaga, 6111 Rolling Hills Boulevard, came forward and used a PowerPoint presentation (Exhibit "6"), She stated that she has been doing this for 16 years. The staff is highly trained and will be available to the residents of the house 7 days a week and cameras have been installed for monitoring. The outside lights are lowered so they will not bother the neighbors. The women will have shared household responsibilities and several rules to follow with no visitors allow on the premises. Arsiaga stated that she wants these women to succeed and change their lives for the future.

Corr asked if someone would be there 24 hours a day and 7 days a week. Arsiaga said yes, and she was going to have a house manager. Corr asked what the current use of the house is; Arsiaga said they have been renting the house.

Edgerton asked about the description of the women being pre-released, released and probation and asked what that means, and further asked where the women would be if they were not here. Arsiaga said that they have already done their time and paid their debt to society, so they are fee and transitioning into society.

Corr asked if at her current practice if anyone stays the night. Arsiaga said no, that she just sees them during the day. Corr asked what the differences is with Honu Home and what you're wanting to do. Arsiaga said that it is the same thing as Honu House.

Proponents:

Tom Arsiaga, 6111 Rolling Hills Boulevard, came forward in support and stated that he is her husband and she has wanted to do this for a long time. He stated that he is in support of his for his wife. He shared that he knew that the neighbors might have concerns.

Tony Arsiaga, 3833 Chileno Drive, came forward in support and shared that her mother is the right person to be doing something like this.

Thomas Arsiaga, 808 S. 30th Street, came forward in support and stated that some of the complaints were that there would be more crime in the area if allowed, which would not be the case and the women need a chance.

Maycee Clapp, 3833 Chileno Drive, came forward in support and said this is the best and most effective way to help these women, and everyone one needs to have an open heart and mind for these women.

Jane Harrison 3735 Pace Boulevard, came forward in support and stated she thinks that this is a great way to reintroduce someone from the prison system back into society to help them.

Jordan Hasselbach, 816 South 32nd Street, came forward in in support and shared his father spent 2-years in federal prison, and he feels that these women deserve this. He stated that he has a different perspective from his Neighborhood Association and that is why he came in.

Gill Peace, 1835 Kings Hwy, via Zoom, stated that he is in support of this. He shared that his team has been working with Ms. Arsiaga to ensure that the property would be safe and that they are following all the requirements.

Edgerton asked if they have made any changes to the property. Peace said that they are not proposing any changes to the interior or exterior of the house. Edgerton asked if there has been discussion about a fence. Peace stated that there may have been, but was not discussed with him.

Ivy Lutz, 536 South 29th Street, via zoom, stated she is in support of this request, and prisons are overcrowded and when released, it is hard for them to find a job and place to live. She stated this will help with keeping them sober, and these women deserve the opportunity to change their lives.

Opponents:

Pam Hirschmann, 423 South 28th Street, came forward in opposition. She stated that she has worked for the corrections for 13 years and she is not afraid. She stated in the past, when there were problems with renters, it took hours for the Arsiaga to respond. She stated that she is not

allowed to park her sailboat in her backyard, but they can park in the yard. Property value will drop in the area.

Jayne Sebbby, 320 South 29th Street, came forward in opposition. She stated that she is with the Woods Park Neighborhood Association. She stated that others that are running a business like this as group homes.

Tom Keifer 426 South 28th Street, came forward in opposition and handed in a copy of his testimony (Exhibit "7"). He stated this will make it harder to sell his house, and this will affect the health, safety and welfare, which should be considered.

Dominique Cheenne, 1636 South 23rd Street, came forward in opposition and stated this property is clearly a nice single-family home and this use is not, and should not be used for six unrelated adults. This will open the door to more absentee landlords that will be guaranteed an income from the state.

Scheer left the Chambers at 7:20 P.M.

Daniel Sloan, 405 South 28th Street, came forward in opposition and shared that the Arsiaga's are good people, but their path is different and they are absentee landlords. With problems in past, as a rental, this is not a good idea. Lincoln needs families to live in the intercity areas. They will be unsupervised and it is not appropriate; they do not want to have to watch this property.

Randy Smith, 705 South 32nd Street, came forward in opposition and stated that he is the President of Woods Park Neighborhood Association. This would have a negative impact on house values. There are concerns of the impact on the area with trespassing on adjacent properties, people around late at night and no night supervision for the facility. Smith shared that single-family R-2 zoning district is not the right place for this type of facility.

Staff Questions:

Campbell inquired if you could have three unrelated people living in a house. Wesselhoft said yes.

Al-Badry inquired if there were any related police reports for that property. Wesselhoft stated that he was not aware of any, and he further stated that the Police Department reviews special permit applications and they did not have any concerns. Al-Badry inquired if they could add a condition that the facility is required to have staff presence 24 hours a day or is it already implied in the application. Wesselhoft stated that he would have to defer to legal, because he was not sure that a condition that specific could be place on the special permit.

Tim Sieh, City Attorney's Office, came forward and stated that the commissioners need to keep in mind that this is about land uses and not the internal operations of the facility.

Edgerton asked about how far apart these types of facilities need to be from each other. Sieh stated that it is around 1,000 feet apart with group homes, and he further stated that is a land use, but staffing and managing questions would not be. Edgerton stated that there are some regulations on where they would be located, but not on the facility itself. Sieh said correct, the Planning Commission is to deal with land use issues and is not a regulatory body that dictates how a facility is ran.

Al-Badry inquired about information in the staff report about the number of staff that would be present. Wesselhoft stated that information is what the applicant had provided, and it was not information that the staff had asked for.

Corr asked about the difference between this transitional facility and Honu House, which says it is a residential healthcare facility. Wesselhoft stated that he does not know about the specifics on the other facility, but when this application came in, it was decided that this facility better fit the definition of transitional facility. **Steve Henrichsen, Planning Department**, came forward and stated that Honu House was considered a convalescent home. The people are staying there for a very short time to convalesce, and they lived somewhere else. Discussion continued on the difference between this application and Honu House.

Sieh stated he appreciates the questions and where the commissioners are coming from, but with all due respect, this conversation and decision needs to be focused on this application and what they have applied for, which is an alternative to imprisonment. Discussion continued on the facilities.

Applicant Rebuttal:

Edgerton said that there are some discrepancies in some of the information shared from the handbook, and as discussed it would not necessarily be in the conditions, but she asked for some clarification. Arsiaga said she was trying to tailor the business to what was discussed at the neighborhood meetings. Edgerton stated that the book just has not been updated yet to reflect what you are intending to do. Arsiaga said yes. Edgerton asked about being licensed by the State of Nebraska, which was mentioned in the handbook. Arsiaga stated that Mark Luger from the State was unable to come to today's meeting, although he has sent an email that explains that a license is not required for this facility.

Al-Badry asked for clarification for the neighbors if a staff member would be staying the night. Arsiaga said that she would be having overnight staff.

Corr asked if staff would be present all the time for any issues that may come up. Arsiaga said yes. Corr asked how she screens people that will live there. Arsiaga stated that they would fill out an application and they would be screened to see if they would be compatible. Corr asked if sprinklers were required. Arsiaga said no.

Arsiaga shared that she has read all of the complaints and this is how she came up with a plan for this facility. There is plenty of room in this house for this facility. There is no evidence that this will change the value of neighborhood house. They installed cameras because of the concerns of trespassing. Arsiaga said she is doing this legally and the correct way, and she always responds if called.

Campbell moved to close the public hearing on this item, seconded by Edgerton and carried **6 5-0**: Al-Badry, Campbell, Edgerton, Joy, ~~Scheer~~ and Corr voting 'yes'; Scheer, Beckius, Finnegan and Ryman Yost absent.

SPECIAL PERMIT 20005

ACTION BY PLANNING COMMISSION:

June 10, 2020

Campbell moved denial, seconded by Corr.

Campbell stated that his reason for this is that Mr. and Mrs. Arsiaga have put together a good program, but his biggest concern is that there are not parameters' in place. The applicants would be good operators, but the staff comes up with some guidelines for this. At that time, he would urge the applicant to come back. Campbell stated a report should be submitted to ensure that the facility continues to run properly.

Joy stated the reason that she did not provide a second for the motion is because if it should be tabled, instead of putting a vote on record.

David Cary, Planning Department Director, came forward and strongly recommended against the tabling concept, because this needs acted on based on the regulations that are on the books today, because that is when this was applied for. This can be voted down. Corr asked if it were denied, they would need to reapply and pay the fees again. Cary said yes, if the applicant decided to do something different. Campbell asked if this could be postponed. Cary stated that they are not in a position to postpone for an indefinite amount of time, to wait for other regulations. Corr asked what if they wanted to defer for another reason. Sieh stated that he had no objections to deferring for another reason, and tabling this to wait for regulations, is not allowed by the Supreme Court. If denied this can be appealed to the City Council.

Joy stated with the motion that is on the table, and land use is what they are charged with and will vote against denial.

Edgerton shared that she is torn with the information presented. The permit process for this permit was put in place in 2005, and the transitional housing was put in place in 2015, and has not been reviewed since then. The Arsiaga permit has qualified for everything, and they have met the requirements, and stated she would vote against the current motion.

Al-Badry said that she too, would be voting for denial because they have met the land use requirements.

Corr said that this is a difficult situation. She stated that she is still uncomfortable with this classification, and she further stated that she does not understand why this is an AIF and not something different, like a residential health facility, and for this reason, she is abstaining.

Motion failed 1-3: Campbell voting 'yes'; Al-Badry, Edgerton and Joy voting 'no'; Corr abstained; Beckius, Finnegan, Ryman Yost and Scheer absent.

Joy moved approval, seconded by Al-Badry and failed 4-0; Al-Badry, Campbell, Edgerton and Joy voting 'yes'; Corr abstained; Beckius, Finnegan, Ryman Yost and Scheer absent.

Note: This is **FINAL ACTION** on **Special Permit 20005** unless appealed by filing a letter in the Office of the City Clerk within 14 days.

Corr stated at this point, we generally invite anyone wishing to speak on an item not on the agenda to come forward and do so. However, we are suspending this portion of the hearing until further notice. If you do have comments please direct them to Plan@lincoln.ne.gov or by calling 402-441-7941.

Joy moved to adjourn the Planning Commission Meeting of June 10, 2020, seconded by Edgerton and carried 5-0: Al-Badry, Campbell, Edgerton, Joy and Corr voting 'yes'; Beckius, Finnegan, Ryman Yost and Scheer absent.

Meeting adjourned 8:13 p.m.

Note: The Planning Commission will not formally approve these minutes until their next regular meeting on Wednesday, June 24, 2020.

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Meeting Wed. June 10 @ 2 PM

City/County Building Room # 112/113

PLANNING EXHIBIT #1 SP20013

PC HEARING 6/10/20

TAMMY LINGLE

Petition Against Prairie Hill Place

Development

<u>Name</u>	<u>Address</u>	<u>Email</u>
1. Elizabeth Terry	3427 So. 40	bterry201ps.org
2. Tracy A Green	4706 Hillside St	taggreeng@gmail.com
3. Larry & Margaret Izolaos	4648 Hillside	mizolaos@yahoo.com
4. Tyler Enrberg	4604 Hillside	qwan199@gmail.com
5. Matt Nilsen	3404 S. 46 th	
6. Jan Nilsen	3404 S. 4 th	
7. Anthony Marshall	3230 S 46 th	PeKbcbhl@gmail.com
8. Philip Mayo	3204 S 46 th	
9. Chris Reinram	4655 High St.	benellikid1@windstream.net
10. Steve Maen	4847 Hillside St	sm43659@windstream.net
11. Inez Lucar	Floor 402	9375543
12. Lanny Knutson	3435 S. 48 th	knutsonlanny@yahoo.com
13. Brooke & Stefan Carlson	4636 Hillside St.	brookecarlson22@gmail.com
14. Brian Ky	3427 S. 48 th St	btyphen772@gmail.com
15. Tammy J. Lytle	4730 Hillside St	tequeredemits1@gmail.com
16. Albert C. Klue	3328 S. 46 St.	
17. Roberto L. Klue	3328 S. 46 th St	
18. Rebecca Cast	4831 Mandarin Ct	beckycast@juno.com
19. Barbara Sullivan	2962 South Street	bsullivanart@yahoo.com
20. Ray Royal	4906 Hillside	ray.royal@gmail.com
21. Tony C. Lupo	4648 Hillside St	
22.		

June 2, 2019

Council Members

This letter is in regards to the property, 4730 Hillside, owned by Tammy Lingle and Barbara Murkle, sisters.

I am writing this letter to have my name, Barbara Murkle, added to the petition against the RECA Group to build homes in the meadow area.

Excess rain water along with snow melt drains into the meadow area from 47th St, 48th St, Hillside, and High Street.

Sincerely,

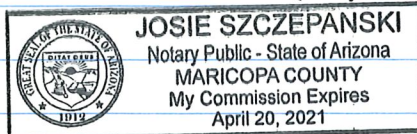
Barbara Murkle
863 W. Cheyenne Dr.
Chandler, AZ 85225
480-749-3991

State of Arizona

County of Maricopa

Subscribed and sworn (or affirmed) before me
this 3rd day of June 2020.

(seal)




Notary Public



DISTRIBUTION DEED

7/6
PESHAS

TAMARA J. LINGLE, Personal Representative of the Estate of Muriel E. Lingle, Lancaster County, Nebraska PR 14-796, pursuant to the intestate laws of the State of Nebraska, and other good and valuable consideration, receipt of which is hereby acknowledged, conveys to siblings, TAMARA J. LINGLE and BARBARA J. MURKLE, Grantees, as Tenants in Common, each with a 50% share of said real estate, all right, title and interest in the following described real estate (as defined in Neb. Rev. Stat. 76-201):

PESHAS SUBDIVISION, Lot 4, Lancaster County, Nebraska, more commonly 4730 Hillside Street, Lincoln, Lancaster County, Nebraska.

Grantor covenants jointly with the Grantees that Grantor:

- (1) is lawfully seised of such real estate and that is free from encumbrances subject to easements, reservations, covenants and restrictions of record;
- (2) has legal power and lawful authority to convey the same;
- (3) warrants and will defend the title to the real estate against the lawful claims of all persons.
- (4)

Executed: January 27, 2015.

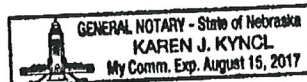
TAMARA J. LINGLE, Personal Representative

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me on the 27th day of January, 2015, by TAMARA J. LINGLE, Personal Representative of the Estate of Muriel E. Lingle.

Notary Public

Laura A. Lowe, Esq.
LAURA A. LOWE, P.C.
1614 L Street
Lincoln, NE 68508
(402) 477-0371



To Whom it may concern,
2020

June 6,

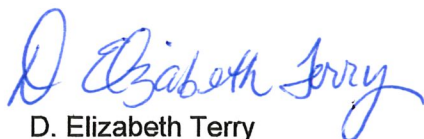
This is a letter in regards to our dealings with Mr. Phill Euler. Several years ago we had a car that we didn't use parked behind our garage. It was away from the street, we kept up the area around it and made sure it was running and usable. He turned us in because he never saw it moved. To comply, we were going to move it to a friend's property and a couple of tires needed repair work. We didn't want them to blow while driving it. Our friend came over to get the tires and replace them so we put the car on blocks, temporarily. The tires had not been gone 3 hours, when he called the police on us again, saying we were trashing it. This was simply not true. He owns properties around there but does not live there so he doesn't see everything, nor did he ask, he simply called the police. This was not very neighborly.

Secondly, our daughter's best friend was a renter of his. Unfortunately, he refused to fix the foundation and it constantly leaked whenever it rained. She tried several times to ask him to fix it, she also called housing but unfortunately, he knows people. They ended up having to move so instead of being 3 houses away, they are now over a mile, a distance the girls can't walk on their own. He did end up fixing it finally after they moved out but it should not have taken them moving out to get the foundation fixed. They moved since he wasn't doing the necessary repairs.

Lastly, one of our neighbors and we have trees on the property line. We had agreed to take several out and share the cost. Last fall, we took down one of them. They asked us to take the wood but we could leave it off to the side as long as we needed to. During the winter, Phil spoke with my husband about taking some of it. Brian said that he could take *SOME* it. He ended up taking 90% of it and took the wood off our land that he wasn't allowed to take. We called him regarding the wood that he had stolen. He "apologized" and said he "misunderstood" so he would replace it. He has yet to do this. The one log he didn't take, he put in our backyard but that does not cover what he stole. That was not the agreement. He stole wood, sold it and never compensated us for the theft.

Knowing his character as a "neighbor", I question any study or plans that he has. Or that he won't change them to suit himself. Retaliation is also a concern as he is a known bully. I know this is his "dream" but we as a community prefer the peace and quiet and the green space that is back there. He does not live there so any noise or traffic will not bother him. Our dreams are to remain in a quiet and peaceful neighborhood, where we can trust letting our children play outside. More people in this small area means more traffic, more chance to spread disease, more noise and everything else that comes with more people crammed in a small space.

Thank you for your time and consideration.



D. Elizabeth Terry

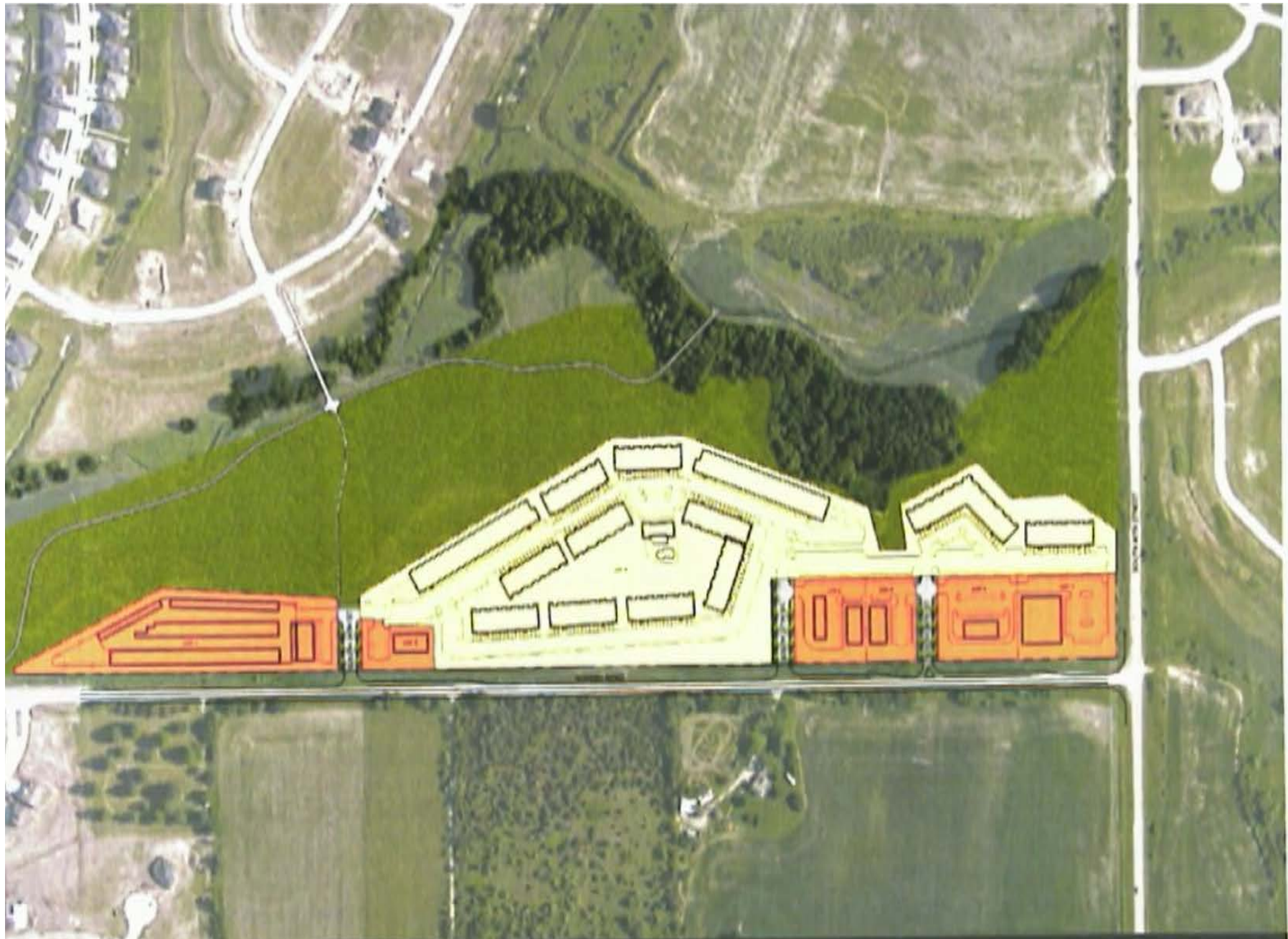
MOTION TO AMEND #1

I hereby move to amend the Conditions recommended by the Lincoln City/Lancaster County Planning Staff Report for Change of Zone #SP20017, Wilderness Hills South PUD, to read as follows:

CONDITIONS OF APPROVAL:Site Specific Conditions:

- 3.1 Revise the site plan to delineate Lots 1, 2, 4, 5, 6 and 7 as Area A; Lot 3 as Area B.
- 3.2 Revise the Planned Unit Development Notes by replacing Note #3 with the following:
Area A Permitted Uses - All permitted, conditional and special permitted uses per the B-2 zoning district including mini-storage; Area B Permitted Uses – Multiple-family dwellings and residential uses as per the R-5 zoning district. Dwellings on the first floor are allowed in all areas; all setbacks in all areas reduced to 0' except as shown on the site plan; maximum height for multiple-family dwellings is adjusted from 35' to 55' in all areas.

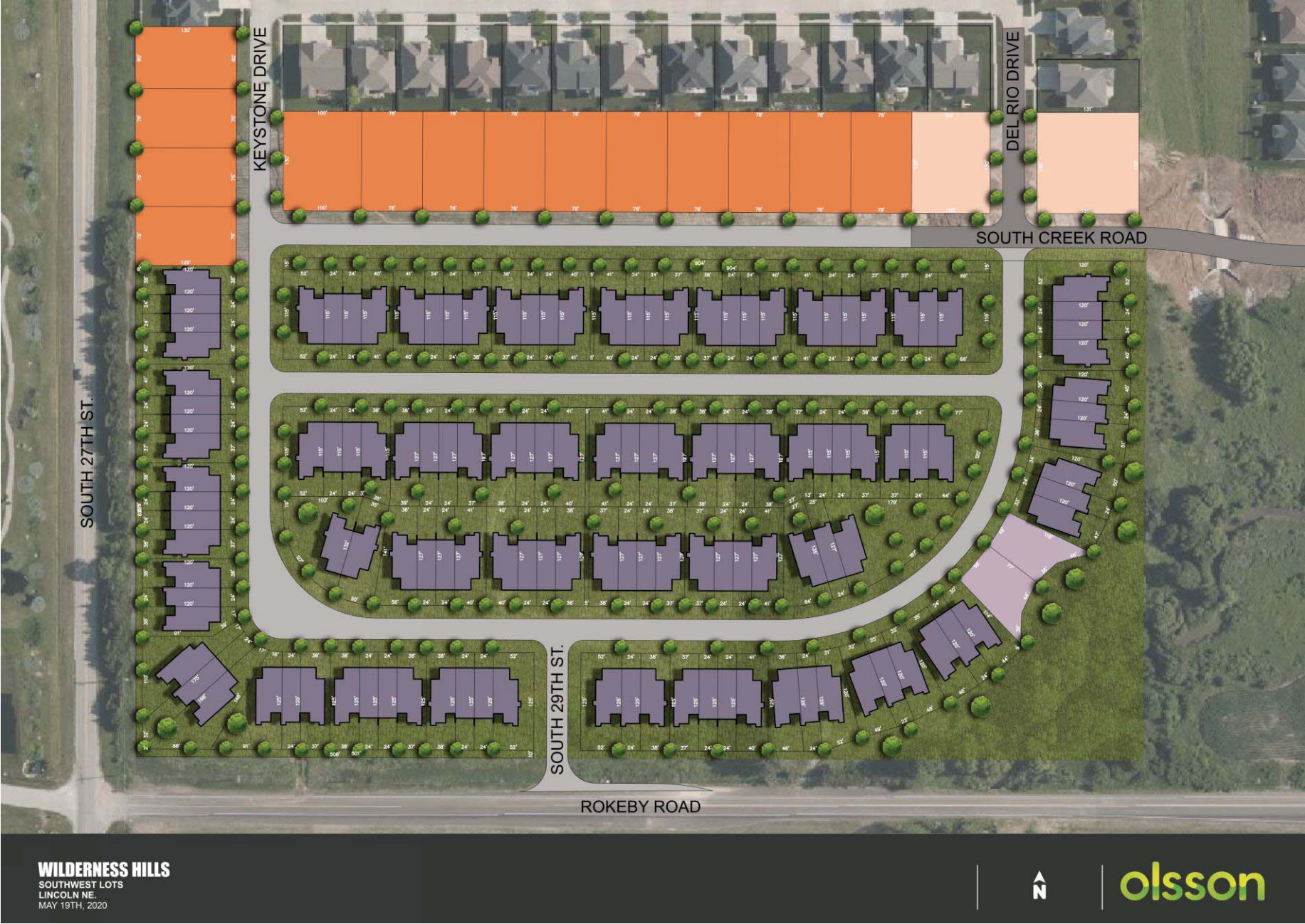
Introduced by:



Pedestrian Crossing to Cavett Trail



CUP Exhibit



MOTION TO AMEND #1

I hereby move to amend the Conditions recommended by the Lincoln City/Lancaster County Planning Staff Report for ~~Change of Zone~~ #SP20016, Wilderness Hills Townhomes CUP, to read as follows:

CONDITIONS OF APPROVAL:Site Specific Conditions:

- 2.7 Need to set minimum opening elevations for all lots 10-28 in Block 4 at 1 2 ft above the future Rokeby Rd overtopping base flood elevation, which is 1207.9. The minimum opening elevations for lots 10-28 will all be set at 1209.9. If a grade study for Rokeby Road is completed and approved by the City prior to final platting previously mentioned lots, the opening elevation will be determined to be 1' above the low point (overflow) elevation of Rokeby Road.

Reason: The City does not have a final or current grade study designating the elevations of Rokeby Road to provide a final overflow elevation.

Delete Condition 2.13.

- ~~2.13 Add the following not to the plans: "All proposed lots adjacent to the floodplain cannot be platted until a Letter of Map Revision has been approved by FEMA finalizing the floodplain boundary adjacent to the proposed lots."~~

Reason: The project does not show any impacts to the existing or proposed floodplain shown in the approved drainage study for Wilderness Hills; therefore, a LOMR would not be required for property adjacent to the floodplain. These areas are independent of each other and this project does not impact current regulatory floodplain or the approved FEMA CLOMR for Wilderness Hills.

Introduced by:





CONNECTING LINKS



Tina Arslaga M.A., LMHP

My Background and Qualifications

I've been running my own Drug and Alcohol Outpatient Facility since year 2006 located at 421 South 9th Street; Ste 107, Lincoln NE 68508 in the Heritage Square Building.

My experience:

- Dual Diagnosis.
- Conducting Co-Occurring Evaluations, Prison, Jail and Work Release Evaluations.
- Conducting group and individual counseling sessions for Intensive Outpatient Treatment and Outpatient Treatment Programming..

I have been a Provider through Probation Administration for 16 years and am in "Good Standing" with all Insurance Providers; BC/BS, Aetna, Midlands, Medicaid, United Healthcare and other forums.

Background Experience

Our staff has an ample range of experience within this field and with solid training and expertise we are confident that we can provide the best possible service.

- I want the women at *Connecting Links -Transitional Living with Programming* to trust that they are in safe and experienced hands. I'm confident in knowing that our two dual diagnosis therapist who are a M.A., L.M.H.P and other hired staff are competent and experienced.

continued..

- I have worked alongside Probation Officers, Parole Officers, and Navigation Officers both in the treatment facility setting as well as evaluating clients at D&E, Community Corrections and the Lancaster County Jail. I have been providing these services since year 2006 and have a good understanding of how the probation and post release processes work.
- My overall goal in beginning this type of programming is to be able to encompass the entire scope of treatment which is not only provide services therapeutically but to also provide a sober, safe housing unit in conjunction; which is this house. I have learned over the years that a client's opportunities increase and their success rate goes up with having an environment to reside in such as this to reintegrate back into society and work their recovery program simultaneously.

Why I am here...

I am here to apply for a permit legally and to let the community know about the needs of Transition Living in Nebraska. There is a lack of homes in the community that accommodate this population of people and to help women who need assistance to return to their families; (children), friends and lives after serving their time.

I want to open this house because I strive to help these women succeed and to reintegrate back into society again.. Too often do I see women from my group have either nowhere to live or live in an unsupported environment. This house gives this supportive environment.

24/7 Security

- I have a total of four Ring cameras that constantly monitor the perimeter of the house, I get Motion Notifications on my phone when there is movement outside of the premises.
- I also have Security door locks that lock automatically after the door is shut and only opens with a fingerprint from each individual women living there.
- At night, if there is any motion on the premises the cameras will illuminate the backyard, front yard, or side of the house. It will automatically start to record any motion, I can see my 'motion history' in the Ring app, if any women leave, or have any visitors over, I will know Immediately.
- The Ring security subscription professional monitors all security applications.
- We have lowered the flood lights to accommodate for lighting being too bright for neighbors.

Program Plan Purpose

- To provide housing for women in a sober and safe environment where they can succeed. This is specific to women who are transitioning from an incarcerated state(structured environment) to a sober living environment for the purpose of providing an environment that is sober, safe, structured, and allow women to establish themselves as a part of the reintegration process to the community as they continue to work towards their continued recovery efforts.
- To ensure the stabilization within the community which encompasses the holistic picture of all entities; treatment providers, probation officers, the housing unit, work environment working together collaboratively to ensure that efforts are concentrated on the stabilization of the client back into the community sober.
- As a part of the reintegration back to their community it will be expected to find full time employment, schooling and to regain their independence such as paying bills, budgeting, checking accounts, abiding by the house rules, child rearing, education with drugs and alcohol/relapse prevention with their. each week with programming at the house.

Program Plan; Service Expectations

- To Provide a structured, completely sober, safe living environment for women that offer peer support as women continue to work towards their recovery.
- To improve outcomes for women who reside in the home that are referred from outside sources, specifically the criminal justice system, Navigation Officer, Probation Officers or Parole Officers.
- For women to share household responsibilities/duties on a scheduled basis and consequences to allow each person to be accountable for their role in the household.

Set of Household Rules (Code of Conduct). No Visitors allowed on the premises at any time. No Sexual Offenders allowed. There will be a night time curfew unless one is working or if a curfew is sooner given by their probation officers. ***No illicit substances/alcohol are allowed****

continued..

- Expected to find work within 2-4 weeks, and the expectation to reintegrate back into independent living after 3 months' time. Phase 1: Continue with treatment programming after release from incarceration and treatment recommendations will be followed by evaluation recommendations or discharge recommendations from incarcerated discharge paperwork.
- Phase 2: Along with treatment programming find full time employment, work on job resumes, job searches, job applications, referrals to temp agencies that I have contact with for job referrals, save money, moving towards independent state.
- (Exceptions can continue to reside if necessary on a circumstantial basis).

Service Frequency

Staff will be at the residence 7 days a week to ensure safety and protection for the women and community.

Staffing:

- Tina Arsiaga; M.A., LMHP (Bachelor's degree in Psychology; Minor; Sociology, Masters in Counseling at Doane College)– House Manager
- Sean McClure; M.A, LMHP (Bachelors in Psychology, Masters in Counseling at Doane College).
- Interns from Colleges that are specifically versed in the human services field- and drug an alcohol field, and/or other hired competent staff will be there 7 days a week.
- There is a 2 LMHP to 6 woman ratio for staffing purposes along with 4-5 other hired staff to help with 24/7 security, having a sober living environment and programming.

Service Desired Outcomes

- Attendance and successful demonstrated participation as successful in all drug and alcohol treatment programming (successful discharge report from treatment provider) and following probation requirements.
- That goals have been met for treatment, probation and the house goals (following through with code of conduct and house rules).
- The activity of daily living (ADL's) are being met on a regular, consistent basis.
- For women to remain sober in this transitional living environment and to re-integrate back into the community by showing they are saving money, staying sober, looking for housing, good decision making.

continued..

- To be independent, obtaining full time employment and maintaining that employment for self-sufficiency and to find safe, stable, living arrangements.
- To continue with pro-socials, A/A, N/A meetings, Church (or other), and to continue to be successful in their Post Relapse Programming with both their treatment providers and their Probation Officers.
- The House Manager can be in regular contact with professionals as needed.
- Regular UA's throughout.

Neighborhood Concerns

There will be 8-10 women at the Connecting Links Transitional Living and one is worried about overcrowding and health concerns. “Quite frankly I’m surprised that the Health Department and Fire Department would allow.” There is no question that this would have a negative impact on our way of life (safety, traffic, & lighting).

- I have agreed to Max out at 6 women and this is also noted by George from the Planning Committee (see application). Via our sight plans (<https://www.lincoln.ne.gov.aspx/city/pats/> (input SP20005- hit select for reference) from our architect shows four additional parking plans in addition to the double stall garage there will be a total of 4 parking places in the back of the house, which creates enough parking places for the max 6 women allowed. (most of the women don't own their own vehicles and take public transit)
- Safety issues. We are minimizing the maximum to 6 to alleviate the safety concerns of the neighbors
- See architect site and floor plans, the fire and safety committee have already commented on it.
<https://www.lincoln.ne.gov.aspx/city/pats>
- We also finished the attic making 2,800 square ft to accommodate the 6 women.

continued..

“The applicant has no previous experience with this type of facility and will not have on site 24/7 supervision.”

- As stated at the Woods Park Association meeting, we have 24/7 surveillance via 4 security cameras and we will have a person there at all times day and night. Previous experience 16 years owning my own drug and alcohol facility and this experience relates to the transitional living at 420.

continued..

“Would you care for a facility such as this in your neighborhood? Would Tina Arsiaga want this next door to her?” “This will affect the historical value of the neighborhood or property value of the neighborhood.”

There is no direct correlation with this type of permit negatively or adversely affecting property values or the historical value of the home.

- I in fact would want this in my neighborhood because these women are going to be functioning as a normal neighbor. Everyone claims to support the opportunity for these women until it comes to their neighborhood. It would be helpful if we start supporting these women that have paid their debt to society for the previous mistakes they have made. **(They have paid their debt to society)**
- It's the same as living next to an ex convict without knowing that they have ever committed any crimes.
- Sheridan has a home with 16 people and this does not affect the standing of the neighborhood.

“That I am trying to approve a permit for a correctional facility at 420 S 28th.” That I am trying to Re-Zone the Property from a R-2 zone.

continued

- This property is being Re-Permitted under this already existing R-2 Zone.
- This property is being Re-Permitted not Re-Zoned. This house in the R-2 Zone can be permitted as Residential, Group Home or Alternatives to Imprisonment. (Confusion about the yellow Re-Zone sign). This is protocol by the City.
- This pertains to the Development Viewer map (see link below). You can click on the property to show existing zoning and the one zoning action (SP20005) and also click the layers on the left to bring up the R-2 zoning. The Special Permit section is 27.63.750 (Alternative to Imprisonment Facilities). A Special Permit is not the same as a Change of Zone. <http://maps.lincoln.ne.gov/Default/index.html?viewer=DevRev>

“Late at night there will be horns honking and people coming over causing loud commotions at night.” “Things disappearing and panhandling at any time of the day.” “Will the applicant ensure there will be no drugs and alcohol at 420?” “The introduction of a business (AIF), operated by an absentee-landlord -- who has consistently demonstrated not sharing the values, interests, and incentives of the families in this neighborhood.”

continued

Absolutely no one is allowed on the premises ever, only the women that live there are allowed on the premises. If such an occurrence occurs, they will have one warning. If it happens again they will be escorted out of the house within 15 minutes. The house has been opened for 5 months now. Since February 2020 there have been no episodes of panhandling, honking horns, people causing commotion at night, etc. This is a normal residence housing sober women.

- Yes there will be daily checks and if there are any substances found on the property they will be escorted off of the property within 15 minutes. The women are given random drug tests by probation officers and our staff.

continued..

- I obtained my Masters Degree as a Therapist. Most therapists/counselors do not make much money it is the passion to help others.
- I've been working with this group of people for over 16 years and wouldn't still be doing so if I didn't feel passionate about helping people.
- Originally I started with 8-10 women and maxed out at 6 to appease the neighbors for traffic, lightening, safety, and a sense of community of concerns. I did not create the sliding pay scale for this endeavor. If it were less, I would still be thriving forward.
- If I were indeed a cash cow I wouldn't have gone through the length to make this a legal and inclusive process for all.
- Over the years with renting this property, we've always listened to the concerns of the neighbors and remediated the situation as needed.

Neighbors Concerns

- Most of these womens crimes were when they were under the influence of substances.”
- They are sober now and should not be committing these same offenses. These women are also overseen by probation officers and they have to answer to the judicial system while living here.
- They may be referring to the house across the street from the property 421 S 28th St where the landlord has lived in California for the last 20 years. That is an absentee landlord. I however, live in Lincoln Nebraska. I will be at this house daily along with my staff. I share the same values and interests of the families in this neighborhood as we have put in \$50,000 to this property by upgrading air-conditioning system (2 units), a new roof, new paint, and double stall garage. When this program comes up and running we will continue to invest and renovate this property as we have done for the last 20 years. Also, just recently installed new windows throughout the house in 2019 prior to choosing Transitional Living for this residence.

This is just a cash cow for Tina Arsiaga

Outlook Perspective

“Granting the permit would sow divisiveness instead of unity, would foster contempt instead of community, and would denigrate our collective efforts to establish a neighborhood that attracts families, supports responsible home ownership.”

This grant would harmonize the community instead of sow divisiveness. It would help build the esteem for these women. The permit would help flourish, grow, integrate, link, strengthen, and expand and provide solidarity for our community.

SUCCESS

- This transitional house will have MORE supervision 24/7 hour with a surveillance system set in place along with staff on site at all times around the clock.
- The women are sober, hence in the right state of mind to change their lives for their future.
- **Profits from this program will be directly re-invested back into the preservation and conservation of this historical home to help continue to restore its great historical value and structure.**

The Need for Transitional Living in Nebraska

- If these women cannot live in this house, they will have to live in another house in Lincoln.
- This house is as good as any location as Transitionals are filtered throughout Lincoln; Southside, Northside, Central.
- These homes are typically safe, structured, and are crime free to the neighborhoods in which they exist.

Spoken Comments 06/10/20
Thomas Kiefer

Good afternoon!

My name is Thomas Kiefer. I live at 426 South 28th Street, in the 1908 Ludwig-Taylor House, which my wife and I have owned for 33 years. I am here today to voice my very strong opposition to SP20005, the “Alternative to Imprisonment Facility” permit request. Since this is the first such application, and with similar facilities proliferating in Lincoln, it will set a precedent for future AIF applications. The staff recommendation justification is too weak, and the conditions for its approval too inadequate, for this important role.

The staff justification for approval is that the proposed use is comparable to a duplex and group home. A duplex, which 420 South 28th St. is not, provides separate living, cooking, laundry, and sanitary facilities for up to three unrelated persons in each unit. In contrast, with the AIF permit, there will be up to six unrelated persons, and up to two staff, sharing a single kitchen with one refrigerator, a single living room, and only one full bathroom. Duplexes do not have staff members or probation officers frequently visiting, inspecting, and counseling six unrelated adults. Facility residents will be cycling in and out every one to three months, unlike a duplex’s residents, which typically live in a unit on a longer-term basis, often on a year’s lease. Finally, unlike a duplex, we and our neighbors will have to include a formal notification in our seller’s agreement, notifying the buyer of our homes that an AIF is adjacent to the property.

The comparison with a group home is also faulty. Group homes have distance requirements: a new Group Home must not be less than one-half mile from an existing one. In contrast, this AIF permit allows the applicant to avoid distance requirements of any sort: 420 is less than one-half mile from at least one legal Group Home, less than one mile away from a Domestic Shelter, and close to multiple transitional facilities already operating in our neighborhood without permits as single-family rentals.

Moreover, if SP20005 is approved, you will be inserting a *commercial enterprise in a residential neighborhood, a for-profit probation facility within 100'* of twelve residential homes. Six of these have children, one a disabled adult, and four are owned by retirees. These are vulnerable persons deserving of consideration, especially given the incidents of trespassing which have already occurred after only one month of the applicant's business opening in January. Distance requirements protect adjacent residents, as well as the vulnerable clients in transitional living programs. This is why Omaha, Kansas City and Denver all impose geographic distance and other requirements on transitional living facilities, or locate them away from R-2 neighborhoods. [Please see Supporting Document 1 and 2.]

Furthermore, Group homes require a license from the State. The licensing process functions as a professional verification and enforcement mechanism. In contrast, this AIF requires no license or any other condition because the Department of Corrections has turned any licensure or zoning requirements over to the municipality. [Please see Supporting Document 2.] But Lincoln has no regulations on an AIF permit, other than restricting the number of residents to less than 16 and requiring a public hearing with *possible* conditions placed on it. The SP20005 Staff Report, which grants this first-ever AIF to someone with no prior experience running a transitional facility, reflects this complete lack of regulation.

Furthermore, the Staff Report has failed to exercise the Planning Commission's full regulatory authority. Under Analysis Paragraph 3, it states that "the Planning Commission will act pursuant to their authority to impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety and general welfare." We can find *no such safety conditions in*

the report. Every condition the report does have concerns the property's appearance, lighting and parking. *The health, safety and general welfare of both facility residents and the residents of the surrounding neighborhood are not addressed by these physical conditions.*

Finally, *it appears this permit is irrevocable and permanent as long as the cosmetic conditions are satisfied, no matter what other detrimental effects the facility has on its residents or the surrounding neighborhood. The permit is attached to the property, not the provider.* These are very serious, even harmful, omissions, and for an application that will function as a precedent, they contradict sound urban planning by ignoring the welfare and safety of both probationers and neighbors. Given the profitable opportunity transitional living facilities provide, this lack of regulation risks opening the door to exploitation of vulnerable neighborhoods like ours. It creates incentives for outside interests to turn our R-2 properties into money-making facilities, paid for by Corrections. These are core urban neighborhoods that now furnish much needed middle-income housing, and they require protection by our code. [See Supporting Document 2.]

For these reasons, I respectfully ask that you reject the SP20005 application until necessary codified and enforceable regulations are in place for the never used Alternative to Imprisonment Facility statute.

Thank you.