

MEETING RECORD

Advanced public notice of the Planning Commission meeting was posted on the County-City bulletin board and the Planning Department's website. In addition, a public notice was emailed to the Lincoln Journal Star for publication on Tuesday, February 8, 2022.

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, February 16, 2022, 1:00 p.m., Hearing Room 112, on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska.

MEMBERS AND OTHERS IN ATTENDANCE: Dick Campbell, Tracy Corr, Maribel Cruz, Gloria Eddins, Tracy Edgerton, Cristy Joy, Rich Rodenburg and Cindy Ryman Yost; Lorenzo Ball arrived at 1:05 p.m. David Cary, Steve Henrichsen, Brian Will, Rachel Christopher, Alexis Longstreet, and Geri Rorabaugh of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Hearing

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

Edgerton requested a motion approving the minutes for the regular meeting held February 2, 2022. Motion for approval of the minutes made by Campbell, seconded by Rodenburg and carried 8-0: Campbell, Corr, Cruz, Joy, Eddins, Edgerton, Rodenburg, and Ryman Yost voting 'yes'; Ball absent at time of vote.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

February 16, 2022

Members present: Campbell, Corr, Cruz, Joy, Eddins, Edgerton, Rodenburg and Ryman Yost.

The Consent Agenda consisted of the following items: Use Permit 117F and Special Permit 22001

There were no ex-parte communications disclosed.

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

Campbell moved approval of Consent Agenda items, seconded by Joy and carried 8-0: Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg, and Ryman Yost voting 'yes'; Ball absent at time of vote.

Note: This is Final Action on Use Permit 117F and Special Permit 22001 unless appealed by filing a letter in the Office of the City Clerk within 14 days.

Chair Edgerton called for **Requests for Deferral**.

Campbell moved to grant request for 2-week deferral, seconded Joy and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg, and Ryman Yost voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT 22002

TO AMEND THE LINCOLN-LANCASTER COUNTY 2050 COMPREHENSIVE PLAN TO REVISE THE FUTURE LAND USE MAP IN MULTIPLE AREAS ON A PARCEL OF APPROXIMATELY 42.15 ACRES, BY REVISING PORTIONS OF THE WESTERN AND ORTHERN SECTIONS FROM URBAN RESIDENTIAL AND GREEN SPACE TO COMMERCIAL AT 7230 YANKEE HILL ROAD, GENERALLY LOCATED NORTHEAST OF SOUTH 70TH STREET AND YANKEE HILL ROAD

AND

ANNEXATION 21010

TO ANNEX APPROXIMATELY 41.99 ACRES, MORE OR LESS, ON PROPERTY GENERALLY LOCATED NORTHEAST OF SOUTH 70TH STREET AND YANKEE HILL ROAD

AND

CHANGE OF ZONE 21053

FROM AC (AGRICULTURAL DISTRICT) TO R-3 (RESIDENTIAL DISTRICT) PUD (PLANNED UNIT DEVELOPMENT) FOR THE MARKET POINTE PUD FOR UP TO 120,000 SQUARE FEET OF COMMERCIAL FLOOD AND UP TO 464 MULTIPLE FAMILY DWELLING UNITS WITH ADJUSTMENTS TO THE ZONING AND SUBDIVISION ORDINANCE, ON PROPERTY GENERALLY LOCATED NORTHEAST OF SOUTH 70TH STREET AND YANKEE HILL ROAD

PUBLIC HEARING:

February 16, 2022

Members present: Ball, Campbell, Corr, Cruz, Joy, Eddins, Edgerton, Rodenburg and Ryman Yost.

The Clerk noted that the applicant requested a deferral on items 4.1a, Comprehensive Plan Amendment 22002; 4.1b, Annexation 21010 and Item 4.1c, Change of Zone 21053 – for two weeks to the regular Planning Commission hearing on March 2, 2022.

David Cary, 555 S. 10th Street, Suite 213, Lincoln, NE requested to rescind the previous motion for deferral since incorrect items were announced. The correct items requested for deferral are items 4.2a, Comprehensive Plan Amendment 22003; 4.2b, Change of Zone 22001 and 4.2c, Preliminary Plat 04011A.

Campbell moved to rescind his motion for a 2-week deferral for public hearing and action on Comprehensive Plan Amendment 22002, Annexation 21010 and Change of Zone 21053, seconded by Joy and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg, and Ryman Yost voting ‘yes’.

COMPREHENSIVE PLAN AMENDMENT 22002

TO AMEND THE LINCOLN-LANCASTER COUNTY 2050 COMPREHENSIVE PLAN TO REVISE THE FUTURE LAND USE MAP IN MULTIPLE AREAS ON A PARCEL OF APPROXIMATELY 42.15 ACRES, BY REVISING PORTIONS OF THE WESTERN AND ORTHERN SECTIONS FROM URBAN RESIDENTIAL AND GREEN SPACE TO COMMERCIAL AT 7230 YANKEE HILL ROAD, GENERALLY LOCATED NORTHEAST OF SOUTH 70TH STREET AND YANKEE HILL ROAD

AND

ANNEXATION 21010

TO ANNEX APPROXIMATELY 41.99 ACRES, MORE OR LESS, ON PROPERTY GENERALLY LOCATED NORTHEAST OF SOUTH 70TH STREET AND YANKEE HILL ROAD

AND

CHANGE OF ZONE 21053

FROM AC (AGRICULTURAL DISTRICT) TO R-3 (RESIDENTIAL DISTRICT) PUD (PLANNED UNIT DEVELOPMENT) FOR THE MARKET POINTE PUD FOR UP TO 120,000 SQUARE FEET OF COMMERCIAL FLOOD AND UP TO 464 MULTIPLE FAMILY DWELLING UNITS WITH ADJUSTMENTS TO THE ZONING AND SUBDIVISION ORDINANCES, ON PROPERTY GENERALLY LOCATED NORTHEAST OF SOUTH 70TH STREET AND YANKEE HILL ROAD

PUBLIC HEARING:

February 16, 2022

Members present: Ball, Campbell, Corr, Cruz, Joy, Eddins, Edgerton, Rodenburg and Ryman Yost.

Staff Recommendation:	Comprehensive Plan Amendment	Approval
	Annexation	Conditional Approval
	Change of Zone	Conditional Approval

There were no ex-parte communications disclosed.

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

Staff Presentation:

Brian Will, Planning Department, 555 S. 10th Street, Lincoln, NE, states that applications were delayed. The original applications were missing two items which prompted the recommendation of denial from the Planning Department. The traffic study and Comprehensive Action Plan were submitted. He pointed out that the proposed area along property NE 70th and Yankee Hill Road has three applications attached, CPA, AN, CZ. To maintain consistency with the plan, the proposed area is to be taken from open green to commercial and urban residential to commercial. The staff recommendation from the Planning Department is approval. His report noted that the development done in compliance with the floodplain and Watershed Management regulations would be consistent with the Comprehensive Plan. ????(please revise to clarify this sentence Flexibility in comp plan allowed reevaluation of plan as proposed. For annexation, larger area of site sits in 70th Street to 84th Street, Yankee Hill Road to Pine Lake Road, is fully surrounded and set to be reviewed for annexation in near future. This property can be served by all municipal services and ready for development. Recommendation for annexation is for approval. The staff of Planning Department is recommending approval with conditions of PUD from AG to R3. Note that there is a deviation request for access point on Yankee Hill Road. It is his understanding that it will be approved. The plan designates three different areas, and the Planning department is supportive of all these applications. Within Area A designated for mini storage along 70th grocery/commercial; Area B apartments--up to 250 units; and Area c will eventually be residential. Subject to recommended conditions.

Campbell noted that in staff report, 'No Net Fill' along with a lower section is in the 100-year lower flood plain. How will it be offset? Will deferred this to the applicant. Campbell understands this may mean a detention basin.

Corr asked Will to show the connecting street on the map. Will pointed it out. He noted where traffic will be coming off. He pointed out the location of his concern on the map. It needs to have a good connection.

Edgerton asked about the status of the traffic study. Will noted it has been submitted to Lincoln Transportation and Utilities and is under review at this time. He believes they will want to know about possible improvements to 70th Street and turn lanes.

Campbell believes if comments come back and require turn lanes or other items, those will be handled with the building permit process. Will anticipates off-site improvements will be addressed in the annexation agreement. There will be meetings with the applicant and its representatives to discuss details. Campbell asked about 72nd Street and Yankee Hill Road and if that is anticipated to be a right-in, right-out only. Will believes so. Campbell noted there is a median at that location. Will agreed.

Applicant:

Tom Houston 233 S. 19th Street, Suite 1900, Lincoln, NE, stated that he is appearing on behalf of the applicant. Huston provided proposed text consisting of 5 motions to amend to the proposed Change of Zone. See Exhibit "1". He agrees with Will's testimony. The site is ready for development. The site is very visible to two important arterial streets. There both natural and man-made challenges to site. The railroad is located on the northern end of site and that is now active. That is why the mini storage is proposed on the north end. There is a pipeline planning area on the south side of the property. Along the western edge is Beal Slough that complicates the design. He appreciates being able to hit the reset button. He believes that there is no dispute on the Comprehensive Plan Amendment and Annexation as they are the two easier items. He wanted to address the Change of Zone and the proposed mixed-use development. The northern end of property deals with 95,000 SQFT for mini self-storage. This provides a buffer to the effects of the railroad. The east side of property is proposed for 250 multi-family units. There is a demand for additional dwelling units. The west side of 70th Street focuses on commercial development and includes a grocery store, convenience store and fuel station. He handed out a motion to amend that addresses five issues on the conditions of approval. MTA #1 would allow parking in the pipeline planning area. He believes staff agrees with that. He wanted to get the comments on record from Dave Beyersdorf regarding MTA #5. One condition is regarding parking in the setback. They would still have to comply with screenings. Another amendment addresses the connecting street. There are floodplain and topographic challenges. They wanted to discourage cut-through traffic. The last amendment, MTA #4, relates to clarify comments specific to Watershed Management.

Brad Marshall, Olsson Associates, 601 'P' Street, Suite 200, Lincoln, NE reviewed the waivers. He mentions that the traffic study was submitted and in review. There is one deviation that discusses turn lanes. They will be working with LTU staff on geometrics on the 70th Street side. The Access Management Policy would dictate that connecting to an arterial roadway will require right turn lanes. Those are not being contested, just how it is done. 70th Street has railroad tracks to the north. He knows the city worked with the owner on the west side. They will work with staff. He wanted to speak to the amendment. They are asking for a reduction of setbacks. Marshall states that it is common in this zoning district to have perimeter setbacks. He pointed out building setbacks but are asking for 20-foot setbacks for the buildings. He thinks this is commonplace within commercial developments. This is a private roadway, not public. Harvest Hills across the street has a similar waiver. Wilderness Hills has private roadways as well. There are still street trees and sidewalks. The second proposed motion to amend is regarding the street connection. City staff has asked for a connection. He pointed out the drainage and detention. The last amendment is from Watershed Management as well. They tried to clarify the floodplain from a development perspective. New growth standards apply to this project and will be in compliance. One is LOMR is being requested. They are also trying to clarify that the floodplain can encroach into the commercial lots. They have done a good job to remove most of it. There was a comment regarding the driveway extending to the mini-storage units. In preliminary

conversations with Watershed Management, it was suggested they downsize the storm event that the driveway can carry for the train structures. Anything over a 5-year event will go over the driveway. Watershed Management has asked to carry a 50-year event. On 70th Street and Bridle Lane, there is a triple box culvert. Watershed Management is saying the applicant needs to meet the 50-year standard. They felt they were following the guidance and then management at Watershed Management changed.

Edgerton asked about the first motion to amend. Asked if the applicant is hoping to allow parking in the setback for bigger buildings or better use of land. Marshall thinks if this was a commercial center, Planning staff would be okay with it. This isn't a gigantic commercial center. He thinks it makes more sense to utilize more of the property that has a lot of constraints. Edgerton asked if the applicant is having any problems trying to meet the required parking. Marshall responded no.

Campbell would like the applicant to go over the site of the detention basin and the street again. Marshall noted the site was selected due to the way the property was laid out. They thought from the grocery store position with the apartments to the west, they felt the traffic was going to go through north/south anyway and decided to utilize the space as green space and detention. Campbell noted with culverts underneath the driveway to the storage units and the applicant wanting to size those to a 5-year instead of a 50-year event, if that detention basin is to get the holding water that the small culverts would let through. Marshall stated they aren't trying to attenuate the drainage. They don't want to back up the water behind the driveway. There are lower flows and higher flows that can top over the driveway. Another regulation on the floodplain side, they could have been put into a situation because of the rise to the floodplain. Campbell noted the applicant could overflow the road and get some broadening while doing that. How do you anticipate handling that? Some commercial pad sites are lower. Marshall stated that right now, it is designed to go over the top. For all pad sites, the building elevations will be above minimal. Those will be set appropriately. Campbell knows the area and the three bay boxes on Pine Lake Road and Blanchard Road have helped to move the water. He can see where some of these commercial sites might have problems. There are times there is a lot of water sitting in that property. Marshall noted that 70th Street is unimproved and a box culvert that needs to be improved.

Edgerton asked about Bridle Lane and if it were to be constructed, what it would mean in terms of construction if 72nd Street connected on the back side of the building. Marshall answered that they haven't done that analysis yet. They would have to find the storage outside of the realms of the floodplain.

Eddins asked the applicant if driveway is the only way in and out of area. Marshall agreed and stated it's the result of proximity to railroad tracks.

Campbell noted the 300-foot railway corridor and the storage units on the map. He asked about the requirements of a 300-foot railway. Marshall believes it is recommended because the railway may carry hazardous materials so the types of uses in those areas are limited. He would compare it to the pipeline planning area. Campbell knows the pipeline standards. He believes they allow commercial. Marshall agreed. No housing can be built there.

Proponents:

No one came forward in support.

Opposition:

No one came forward in opposition.

Staff Questions:

Edgerton requested staff perspective on the applicant-requested waivers. Will responded that the first one relative to the 25-foot setback, staff does not support that. When there are driveways through developments, private roadways and public streets aren't treated different. Staff feels this should be treated like any other roadway, providing for open space, and having that setback from a roadway is typical throughout Lincoln. Planning staff is not aware of a unique circumstance in this point. The second point is for clarification. Staff has no issue with that. MTA #3 is for the street connection behind the store. Planning staff feels that connection is very important. It feels like poor planning to have no connection from the north to the site. This could have been laid out very differently. Forcing people to drive in front of a pedestrian heavy grocery store doesn't make sense. MTA #4- Watershed can address. MTA #5 was clarification--staff has no issue with that either. Will would like Tim Zach from watershed to speak to MTA #4.

Tim Zach, Watershed Management, 555 S. 10th Street, Suite 203, Lincoln, NE, received the memo regarding waivers yesterday. He hasn't had time to work through these. He will work with engineer and applicant.

Corr doesn't support number 4 now. Zach agreed. He does not support but could later be worked out. There hasn't been a chance to discuss these yet.

Edgerton asked if Zach sees another option regarding detention if connection was done as asked by staff. Zach says that its possible, but you may possibly lose developmental land.

Steve Henrichsen, Planning Department, 555 S. 10th Street, Suite 213, Lincoln, NE clarified that Brad Marshall mentioned the Harvest Hills development relative to internal to site are driveways. They do not have setbacks but along private roadways there are 20-foot setbacks. All along the

public streets are 25-foot setbacks. Harvest Hills didn't have the waiver requests that this is asking for. A 20-foot setback along public streets is very typical. He wanted to note also that the street connection for the proposed development was shown on an exhibit regarding the floodplain.

Campbell noted with Yankee Hill Road being right-in, right-out, it is very likely someone from the apartment could come in off 70th Street and must go in front of the grocery store to get to their apartment. Henrichsen point out an existing roundabout. The access point now is off the property.

Campbell noted with Yankee Hill Road being right-in, right-out only it is likely that someone from apartments will come in off 70th Street and having to go in front of the grocery store to get to their apartment. Henrichsen points out an existing roundabout.

Corr inquired where Harvest Hills is located. Steve states that it's being developed.

Corr is trying to think outside the box. If the applicant did something in front of the grocery store, would that ease some of the staff concerns about connecting 72nd Street and Bridle Lane? It could be a barrier. She doesn't know if that would be islands or something. Will stated they aren't trying to discourage access. Driving in front of a store is a bad idea. Staff is suggesting making that easier and safer. The best option is to build the street that is suggested. He doesn't believe the cut-through traffic argument is valid. Corr wondered if you could establish more of a drive aisle in the parking lot as an acceptable alternative. Will doesn't believe that changes the dynamic or the condition.

Campbell pointed out a possibility for a connection. Will stated that a roadway connection where Campbell pointed out could be problematic. He believes it is probably unlikely.

Corr noted that in the staff report under 9a talks about a PUD note and clarifying use. She doesn't see them in the site conditions. Will noted that states the language needs to be revised a little. The applicant is limiting themselves unnecessarily. Staff is suggesting modifying the language so it can be opened to a few other things.

Applicant Rebuttal:

Huston wanted to talk about the motions to amend. They would like action on the two amendments that staff agree on. They are still in discussion regarding the annexation agreement and the other conditions are still being discussed.

Campbell asked about the roadway connection being proposed by staff. He asked where detention would be if that was done. Marshall doesn't have an immediate answer. They are still working with Watershed Management. He feels they presented a plan to comply with

regulations. There are still items to work through. The setbacks come into play as well. There are some challenges to this site.

Campbell noted the applicant is asking to go ahead with MTA #2 and MTA #5. Marshall believes both sides are agreed on those.

Campbell moved to close public hearing, seconded by Corr and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT 22002

ACTION BY PLANNING COMMISSION:

Campbell moved approval, seconded by Corr.

Campbell believes there must be some solutions to the detention without sacrificing developable land. He believes the other amendments as proposed need to stay in place at this point and he would support the Planning Dept. recommendation.

Eddins noted the roundabout is there for access. She thinks people going to the storage on the north side is a little isolated. She doesn't believe that is a big deal. She believes a larger culvert is acceptable.

Corr believes the Comprehensive Plan Amendment and Annexation make sense to go forward. She is pleased the Comprehensive Plan can be amended so this property can be developed. She would support Campbell's idea on the waivers.

Rodenburg asked if the waivers would come before Planning Commission. Edgerton noted that would most likely be between the department and applicant.

Motion carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

ANNEXATION 21010

ACTION BY PLANNING COMMISSION:

Campbell moved conditional approval as set forth in the staff report dated February 3, 2022, seconded by Corr, and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost

CHANGE OF ZONE 21053**ACTION BY PLANNING COMMISSION:**

Campbell moved conditional approval as set forth in the staff report dated February 3, 2022, recommending the approval of MTA #2 and MTA #5 as presented by the applicant and agreed upon by staff; seconded by Rodenburg and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost.

CHANGE OF ZONE 20036**FROM AG (AGRICULTURAL DISTRICT) TO H-3 (HIGHWAY COMMERCIAL DISTRICT) ON PROPERTY GENERALLY LOCATED AT 8230 SOUTH 91ST STREET****PUBLIC HEARING:****February 16, 2022**

Members present: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost.

Staff Recommendation: Denial

There were no ex-parte communications disclosed.

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

Staff Presentation:

Brian Will, Planning Department, 555 S. 10th Street, Lincoln, NE, stated this is a straightforward change of zone request. He pointed out the intersection of S. 91st Street and Yankee Hill Road. This parcel is 2.9 acres. This property is within the Cheney SID (Sanitary Improvement District). There is a paved roadway coming in. It is paved on to the south for about a quarter mile. Otherwise, the roadways here are gravel. Cheney is a sanitary improvement district. They have detention ponds to the northwest for the effluent. The property is close enough that it could be annexed by the city but since its located in SID, the city can't annex the parcel without annexing the entire SID or not at all. The owner of property has approached the SID for release and was not granted. He believes that they opposed the Change of Zone as well. The staff report references some passages in the Comprehensive Plan where it notes it is inconsistent to annex properties beyond the city limit. The rationale is properties should be annexed where they can be served with the full range of city services such as street maintenance, water, sewer, etc. In this case, if this parcel was to be rezoned, it would be without those support services. There are two issues. On the face, it is inconsistent with a long-standing policy to rezone properties adjacent to the city limit. Number two is the unpaved roads within Cheney. There are a mix of land uses adjacent to this as well. He would characterize it as largely residential. The Planning Dept. is recommending denial, but stated if the City Council should approve it, there is a draft zoning agreement to go along with this that staff believes establishes a draft minimum criterion. Most important is the connection of the roadways going through here. This could establish a

precedent if it were approved. There have been multiple requests from landowners in Cheney over the years.

Edgerton noted the applicant provided letter that describes proposed zoning agreement and made some changes. Will stated the way the agreement as written is the minimum standard. That would apply to any property being rezoned if it was within the City. Annexed or not, those are the minimum conditions.

Applicant Testimony:

Ann Post, Rembolt Ludtke, 1128 Lincoln Mall, Suite 300, Lincoln, NE, appeared on behalf of the applicant. This is a unique piece of property. She understands there has been a lot of interest in rezoning this piece of property. This application was originally made in September 2020. She would like to think they have been trying to work with the Planning Dept., County, Nebraska Department of Transportation (NDOT) and the SID to try and find some creative solutions. She thanked everyone for their efforts. The biggest issue is the cost and expense of installing a road. That road is designed to address a problem that will be created with adjacent properties, not this one. This property presents a unique situation. It is zoned agricultural. The property just to the south is zoned industrial. There is another property that is storage units and the railroad zoned industrial to the south. This is surrounded by commercial and industrial uses. This refers to the first application. The Comprehensive Plan has a policy of not putting residential within 300 feet of industrial. There could be hazardous materials or chemicals. This is a less than 3-acre parcel that is not practically useful for agricultural uses. The Comprehensive Plan wouldn't support residential. She believes this makes it ideal for commercial development. The project the developer is proposing is contractor bays rented out for individual commercial services, plumbing, electric, those types of services. This is within the Cheney SID. They went to the SID in 2020 and the request was denied. That leaves us at requesting commercial zoning outside City limits. Rural water is available. Cheney SID doesn't want to detach properties at this time because they had to build a larger lagoon system. If they begin to detach properties, that leads to less functionality. The city has provided a zoning agreement. This is to make sure if there is commercial outside City limits--it makes sure it is more easily assimilated if it is brought into the city. That include payment of any fees to detach from rural water. Mr. Hanshaw is willing to agree to pay that fee, as well as anything with fire protection. The biggest points of contention are the sewer and water connection. Mr. Hanshaw has agreed to connect but not extend to the Cheney SID. The concern would be that if the sewer and water were extended to this, it would be most likely that services would be provided through a district which this property owner would be required to participate in. This owner would pay the cost to connect when they are available in the adjacent right-of-way. The next issue is the road connection. She doesn't believe this property will create traffic on 1st Street. What would create that problem is when the surrounding properties are identified as commercial. The owner has agreed to create a 60-foot area so there

are no buildings in the way. The road would be a significant cost to this project. The owner is interested in preserving a cohesive development.

Corr asked if this was approved and building began, would the existing property be removed? Post replied that there is an existing house located there and it would be removed.

Campbell asked about the other property in this area that was annexed. Post believes that annexation agreement was in the staff report. There were turn lanes and extension of utilities involved. Campbell thinks that with lack of cooperation of other landowners around this property, this application might be ahead of itself. If other owners were involved, it would allow for better planning. He wondered if the applicant is a little ahead. Post noted that as of now, the property isn't of much use. To not allow a change of zone would make the property remain vacant and unused. They reached out to surrounding property owners and no one is interested in the expense that it would take to make this area commercial. Campbell asked if the applicant is willing to relinquish any fire assistance or Sheriff access. Post responded they are aware they are outside the City and City services.

Support:

Bill Rentschler, 8200 S. 91st Street, Lincoln, NE, grew up in this area. This is a unique location. He is interested also. Twenty-five years ago, or so, he remembers people saying this property will be commercial. He understands the problem with the road. There just wasn't enough time to get this worked out. He is to the north, so potentially he will be asking for a change to commercial zoning as well. That could make things on the corner a little more workable. He is not against this project. He would advocate for it.

Edgerton asked if he was ready for a change of zone. Rentschler responded no and noted a problem with the road and easements to allow a bike path. Edgerton asked about the location of the easement. Rentschler believes that is about one-third of his property on the north side

Opponents:

No one came forward in opposition.

Cruz moved to close public hearing, seconded by Campbell and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

CHANGE OF ZONE 20036

ACTION BY PLANNING COMMISSION:

Corr moved denial, seconded by Cruz.

Corr appreciates what the applicant is trying to do, but the city has dealt with these in the past. She believes this area is not ready yet. It is too early in the process.

Campbell had mixed emotions on this. He can understand the applicant's desire to improve his property, but he can see the City's point on their desire to serve with City services. This can always come back as more of the property owners work together. He is not sure that coming off an unpaved 1st Street would be the best idea.

Cruz agreed. There needs to be a discussion and vision for what this area should look like.

Edgerton agreed with Campbell. She appreciates the adjoining landowner coming forward. She hopes the conversation can be continued. Perhaps a group consensus can be reached. She felt she wasn't necessarily against the proposed changes to the zoning agreement. She just isn't sure this is ready yet.

Motion carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

TEXT AMENDMENT 21011

TO AMEND ARTICLE 2 – DEFINITIONS; ARTICLE 4 - AG AGRICULTURAL; ARTICLE 5 – AGR AGRICULTURAL RESIDENTIAL; ARTICLE 6 – RESIDENTIAL; ARTICLE 7 – BUSINESS; ARTICLE 13 – SPECIAL PERMIT AND ARTICLE 17 – ADDITIONAL HEIGHT AND AREA REGULATIONS OF THE LANCASTER COUNTY ZONING REGULATIONS BY RESTRUCTURING ARTICLE 13 AND REFORMATTING THE ZONING CODE

PUBLIC HEARING:

February 16, 2022

Members present: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost.

Staff Recommendation: Approval

There were no ex-parte communications disclosed.

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

Staff Presentation

Tom Cajka, Planning Department, 555 S. 10th Street, Suite 213, Lincoln, NE stated that this text amendment was requested by the Lancaster County Board of Commissioners. The board requesting Planning Department review Article 13 to add conditions to uses that had none listed. After review, some of the special permit articles are proposed to be changed, removed, or placed on hold. For those being removed, SP healthcare non-residential are being removed and they haven't been used since adoption in 1979. The next is cemeteries are currently special permit in R and I district and never used, and require more land and should be AG or AG-R. The next item

is private recreational facilities and/or activities be removed from a special permit to special ag, items allowed to do on property without dwelling except for ag related on 20 acres or more, allows obstacle course, boat docks, etc. and accessory buildings. Riding stables/private stables are being removed, already in AG, by removing SP there were no longer allowing dwellings. Pet cemeteries being changed from permit to special use permit. Sale barn is being removed. No use for permit since 1979. Places of religious assembly, steeples or spires is being removed. You can already exceed the height in two other sections of the zoning code. Some of the other special permits where staff has added conditions are academies, private schools, clubs, healthcare facilities, dwellings for members of religious order, recreational facilities, and veterinary facilities. General conditions would address parking, site layout, number of clients, staff, floor area, setbacks, those types of issues. There are seven special permits in the code currently that are proposed to be placed on hold until conditions can be developed. Some of those are mobile home courts, campgrounds, industrial, facilities for storage of fertilizer, toxic flammable chemicals, garden centers and non-commercial storage of products. This doesn't prohibit someone from applying for a special permit, but they would have to propose a text amendment to add conditions. Staff also added a new conditional use in the AG district for a meteorological tower. Typically, these are towers that are only up for three or four years at most and record climate data. One change in the R District was to move a mobile home from special permit to conditional permit. It is already a conditional permit in the AG and AGR District.

Special permits, 13.008, 13.002, 13.021, 13.023, 13.026, 13.027 all have added condition such as parking, number of student and staff, setback issues. Special Permits that are proposed to be placed on hold until condition can be established. In addition to Special Permit chapter being changed, added condition use on ag district towers.

Corr wanted an example of a club. Cajka believes it would be perhaps a VFW. Corr noticed for those items which added conditions, all had some type of parking addressed except for veterinary facilities. Cajka believes since it must be on ten acres, he doesn't think that would be an issue. Corr wanted to know about sales barns and auctions. Is there a limit to how many auctions can be held in a year? Cajka is not aware of a limit. He doesn't know where the line is drawn between occasional auctions and a business. Corr noted for private recreational activities, she is curious that it talks about accessory buildings with heating but doesn't qualify as a dwelling unit. Cajka believes you must have a full kitchen to be a dwelling unit. Corr noticed two typographical errors. In Section 13.201, healthcare facilities, letter B, the last sentence before option 1. She asked if it should be four individuals, family, and family member? Cajka believes so. Staff will look into that. Corr also noted Section 13.027, veterinary facilities, letter B, maximum building size allowed up to 20,000 square feet. Cajka will check on that as well.

Campbell asked about the health care residence. He wondered if it could be so a family could live there and take care of residents. That is the way he interprets it. Cajka believes it is the option of a family as caretaker who didn't necessarily have to be 60 or older.

Cary stated that this discussion wasn't part of formal action. Staff will take it under advisement will review and hold off on discussion. Staff will present another application for amendment if needed.

Joy asked about those items that wouldn't be allowed anymore such as riding stables and a minimum of 20 acres. Cajka noted that you wouldn't be allowed to do it as a commercial business. You could do it for personal use. Joy wondered if current businesses would be grandfathered in. Cajka responded yes. They would be grandfathered in as a non-conforming use. Joy wondered about the concept of modifying it for a veterinary facility such as the one by Fallbrook. Would these also be non-conforming? Cajka replied yes. They would still be allowed to operate as non-conforming. This is about new applicants going forward.

Corr asked about a business giving private lessons. What about a volunteer or support group? Cajka noted there was one he worked on that received a special permit for equine therapy. They needed 20 acres.

Proponents:

No one came forward in support.

Opponents:

No one came forward in opposition.

Campbell moved to close the public hearing, seconded by Ball and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

TEXT AMENDMENT 21011

ACTION BY PLANNING COMMISSION:

Campbell moved approval, seconded by Rodenburg

Campbell believes these are good changes to clean up the text.

Corr agreed. This does a good job to provide some consistency and expectations.

Edgerton agreed. She appreciates the county board bringing this forward.

Motion carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

USE PERMIT 15002B

TO ALLOW FOR THE EXPANSION OF AN EXISTING USE PERMIT TO INCLUDE AN ADDITIONAL 9.89 ACRES AND 203 ADDITIONAL DWELLINGS, WITH NEW REQUESTED WAIVERS TO SETBACKS ON PROPERTY GENERALLY LOCATED AT NW 12TH STREET AND WEST HIGHLAND BOULEVARD

PUBLIC HEARING:

February 16, 2022

Members present: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost.

Staff Recommendation: Conditional Approval

There were no ex-parte communications disclosed.

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

Staff Presentation:

Rachel Christopher, Planning Department, 555 S. 10th Street, Suite 213, Lincoln, NE stated this is an application to amend existing use permit. The proposal was to expand apartment complex to include about 9 acres to the south and 230 multi family dwelling units. Land use to the west is the airport, north is Highlands Golf Course, east is residential, and south is some commercial. She showed the submitted site plan. The applicant is requesting some waivers. They are supported by staff. The Comprehensive Plan supports locating residences at least 300 feet away from industrial zoning. That is not possible on this site. The applicant worked to locate the residences as far north as possible. It was the southernmost building that was of concern to staff. The applicant was willing to look at redesigning that part of the site to achieve a greater setback. She showed a concept plan. The detention was moved to the south to gain some additional separation. Another condition stated the applicant needed to show a right turn lane.

Corr asked about the right turn lane. Christopher stated that is not noted on the plan currently. A 20-foot setback is standard that staff has supported in the past. Corr asked if that would put the building in line with the other buildings to the north on NW. 12th Street. Christopher believes it would.

Campbell wanted to clarify that the building on the industrial zoning to the south is office. It could be changed to industrial in the future. Christopher responded he was correct.

Ball wondered about the distance to the office building. Christopher doesn't know the measurement, but it would be moving it further away.

Corr believes it is important to note not only the office building, but a parcel south that is zoned industrial as well.

Edgerton was curious about the O-3 zoning in the area. She asked if the zoning is I-2 zoning south. Christopher stated yes. There is a large I-2 area.

Applicant:

Brad Marshall, Olsson Associates, 601 'P' Street, Suite 200, Lincoln, NE, appeared on behalf of Tomasek Investments. They purchased this in 2015 from the city. They are looking to expand a project. The waivers are all acceptable. They are trying to place the I-2 zoning as far south as possible and the residential as far north as possible. Along NW. 12th Street, the intent wasn't to get the setback, but discussions were held, and they are happy to receive a reduction. The site plan has been a work in progress. The buildings on the west have been moved as much as possible. He believes they have come up with a plan they are happy with. The detention will be moved south of the buildings where they can do some landscaping. They are working through some of the details. They worked on the golf course and the grading. They believe that worked well. They are working with Parks and Recreation.

Proponents:

No one came forward in support.

OPPOSITION:

Kelly Stage, 4921 W. Fairway Drive, Lincoln, NE, recognizes that housing development is important to Lincoln, states that she has worked hard to become a homeowner. The size of apartments seems to be larger than what exists for a smaller piece of land. The traffic is of concern--she would like the Planning Commission to reconsider changing speed limits. There is a speedway that exists. She is concerned that development would cause issues such as noise, traffic, and dirt. She is a little concerned about how these apartments will fill up and whether we are putting things in when there are concerns with industrial. She questions our practices when we are looking for a spot to place these in. She always assumed this would be a commercial space. Office seemed reasonable. She doesn't know that these will meet the needs that we have.

Cruz asked Stage where she enters here property? Stage enters NW 10TH.

Campbell moved to close the public hearing, seconded by Corr and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

USE PERMIT 15002B

ACTION BY PLANNING COMMISSION:

Campbell moved conditional approval as set forth in the staff report dated February 8, 2022, seconded by Rodenburg.

Campbell good solution for piece of property that completes piece of property and rent for golf course.

Corr appreciates the applicant willingness to rearrange the buildings. She understands why the area located south is zoned industrial. Corr believes that LTU would be responsible for analyzing speed limit.

Edgerton is always grateful to hear from folks in the area. She can appreciate the dust that can come from construction. She appreciated the comments regarding affordability and hopes it continues to be a priority for our community. Overall, she thinks this is a good continuation of the plan. It will create some livable units

Motion carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

MISCELLANEOUS 22001

TO REVIEW THE PROPOSED DETERMINATION THAT THE BISHOP HEIGHTS SHOPPING CENTER ENVIRONS REDEVELOPMENT AREA BE DECLARED BLIGHTED AND SUBSTANDARD AS DEFINED IN THE NEBRASKA COMMUNITY DEVELOPMENT LAW, GENERALLY LOCATED AT SOUTH 27TH STREET AND HIGHWAY 2

PUBLIC HEARING:

February 16, 2022

Members present: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost.

Staff Recommendation: Finding of Substandard and Blighted Conditions

Ex-parte communications disclosed: Rodenburg stated there were some Zoom meetings for neighbors in the vicinity of this project. He attended both.

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

Staff Presentation:

Dan Marvin, Urban Development Department, 555 S. 10th Street, Lincoln, NE, wanted to provide background on area. Marvin read an email from Tim Keelan regarding 2019 blight study into the record.

The commission asked if there were any revisions from Tim Keelan with Hanna Keelan Associates who prepared the study. Mr. Keelan visited the area and confirmed the findings of the study. The study documented six structures of major deterioration. These conditions still exist.

In terms of the existing shopping center, neighbors want to know what will happen to their neighborhood. Shopko declared bankruptcy in 2019 and no use of Shopko building since. Marvin believes that it meets the conditions of blight and substandard due to deterioration. The next step in process, redevelopment plan is expected to come, will include the concerns of neighborhood and concerns from Comprehensive Plan. It needs to speak to infill, 12,000 new dwelling units, about 25% of projected 40%, mix use nodes and corridors, increased density means increasing traffic. The corridor is near 27th Street. Complete Neighborhoods are addressed in the Comprehensive Plan and Marvin believes there are unique opportunities to work with the bicycle trail and appeal to users of all forms of transportation.

Ryman Yost asked about the condition of the house that was included in the study. Marvin noted that what he has seen would be to try and figure out a layout on this property that would address all the needs. The location of this residential lot is problematic for that. This happened with the Tabitha development. The home is owned by one of the developers.

Corr knows this has come up before. She asked how the blight study boundary is determined. She thinks of the bank on the corner. She doesn't think of that as blighted. She knows the larger Shopko building is vacant, but she wondered about the bank or Arby's. Marvin stated that the boundary is set by the perimeters that blight study rules allow. The age of structure is a key element. The average age needs to be over 50 years. It meets the age anticipation. It was anticipated to better use the unusual shape of the lot. Wells Fargo and Arby's have their own lots and were included for rational boundaries.

Cruz lives in this area. There are neighbors right across the street on N. 27th Street. She asked how the setbacks and issues of ingress and egress will impact those neighbors across the street. It is a bottleneck. 27th Street and Highway 2 is narrow. She wondered how the neighbors will be impacted. Marvin saw a letter about a possible light. He thinks that from his experience, it would be proximity that is too close to the Woods Boulevard light. He doesn't think it would be likely for a light to happen there. He would say there is a chance for some relief because the South Bypass will change the amount of truck traffic on Highway 2. Northbound on 27th Street is a narrow corridor. He thinks that removing trucks on Highway 2 would also allow for a reprogram of the lights. He recognizes there are some issues at this intersection.

Corr questioned if there would be any potential widening. Cruz noted that is what she was getting at. Marvin will take it under advisement. He believes there is an interest in keeping the character of a residential neighborhood the farther you drive north on 27th Street. He thinks there are compromises that can be had. He doesn't know if a turn lane at Woods Boulevard is needed. Cruz would like to see some green and buffering created as well that matches the residents in front of the square.

Cary wanted to remind everyone that there will be other opportunities to talk about the other projects when it comes forward. At this time, the discussion should be on the blight study.

Corr asked how the Planning Dept. decides on a blight study and when it is on Consent Agenda versus a regular public hearing. Cary replied it has to do with known comments or an area that has concern. This is a high-profile location. Corr asked if there is a reason why the study is coming before the Redevelopment Agreement. Marvin doesn't think you would get a blight study and redevelopment plan together. This is a multi-stage lengthier process.

Joy noticed that Marvin listed at least four of the blighted items. It seemed to her there were a lot of conditions of blight in the area. Marvin responded there was no question in the mind of Tim Keelan that this qualified.

Applicant Testimony:

Kent Seacrest, 1128 Lincoln Mall, Suite 105, Lincoln, NE came forward. He understands that there are curiosities. Under law, there are three steps for TIF (Tax Increment Financing): Blight then redevelopment plan then a redevelopment agreement. He reassures that a lot of their questions will be in answered in the plan. He wanted to assure everyone that this is being done in a logical approach. There are two lanes up to the Arby's entrance. They will be rebuilding this; right in, right out and left in only. He states that the traffic study is about 95% complete. Marvin is correct that the bulk of the truck traffic will move off Highway 2 when the South Beltway is opened. This will improve north-south movements as well. The area chosen for the blight study is the area that will be redeveloped. Arby's will bring their new look in the future. It was asked why the residential house was included in development. Seacrest states that the redeveloper owns the home. Marvin mentioned that is squares off the lot. He believes that is important. They have two options for the piece north of Woods Boulevard Option One is one building that allows more square feet, but the market might not want that. Option Two is off the table if they don't have the residential lot. They plan on doing some grading to help hide the cars in the parking lot. He showed a drawing for a potential building design. A retaining wall would be built so the neighbors wouldn't have to see the cars in the lot.

Corr thanked the applicant for being transparent in this process. Seacrest noted they are not done talking to the neighbors. They have already given good ideas.

Campbell moved to close the public hearing, seconded by Joy and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

MISCELLANEOUS 22001

ACTION BY PLANNING COMMISSION:

Campbell moved a finding of substandard and blighted conditions, seconded by Rodenburg.

Campbell believes it is obvious this whole area needs to be reworked. There is some good planning going on with Seacrest, the developer, and the Planning Dept. He will support this.

Cruz will support this as well. She finds it inspiring. This has made a real dent in the area to not have those anchor businesses. She believes it to be blighted by the definition.

Corr knows that anyone who drives by this area would agree that it is blighted. It is exciting to see some fresh air come into this.

Edgerton believes this meets the definition of blighted as well.

Motion carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

Motion for adjournment made by Campbell, seconded by Joy and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

There being no further business, the meeting was adjourned at 4:20 p.m.