

## 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 22, 2022.*

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, March 2, 2022, 1:00 p.m., Hearing Room 112, on the first floor of the County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, Nebraska.

**MEMBERS AND OTHERS IN ATTENDANCE:** Lorenzo Ball, Dick Campbell, Tracy Corr, Maribel Cruz, Gloria Eddins, Tracy Edgerton, Cristy Joy, Rich Rodenburg, and Cindy Ryman Yost. David Cary, Steve Henrichsen, Alexis Longstreet, Shelli Reid, and George Wesselhoft 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 16, 2022. Motion for approval of the minutes made by Campbell, seconded by Rodenburg and carried 9-0: Ball, Campbell, Corr, Cruz, Joy, Eddins, Edgerton, Rodenburg, and Ryman Yost voting 'yes'.

### **CONSENT AGENDA**

#### **PUBLIC HEARING & ADMINISTRATIVE ACTION**

##### **BEFORE PLANNING COMMISSION:**

**March 2, 2022**

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

**The Consent Agenda consisted of the following items: Comprehensive Plan Conformance 22002, Annexation 21005, Change of Zone 21038, Annexation 22001, Change of Zone 22003, and Change of Zone 21022A.**

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

**CHANGE OF ZONE 21054**  
**FROM AG (AGRICULTURAL DISTRICT) TO B-2 (PLANNED NEIGHBORHOOD**  
**BUSINESS DISTRICT), ON PROPERTY GENERALLY LOCATED AT NORTH 98TH STREET AND**  
**BOATHOUSE ROAD**  
**AND**  
**USE PERMIT 21010**  
**FOR MULTI-FAMILY DWELLINGS AND COMMERCIAL PAD SITES WITH 505 DWELLING UNITS**  
**AND 48,000 SQUARE FEET OF ALLOWABLE FLOOR AREA FOR COMMERCIAL USES, WITH**  
**ASSOCIATED WAIVERS, ON PROPERTY GENERALLY LOCATED AT NORTH 98TH STREET AND**  
**BOATHOUSE ROAD**  
**PUBLIC HEARING:** **March 2, 2022**

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

Staff Recommendation:	Change of Zone Use Permit	Approval Conditional Approval
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There were no ex-parte communications disclosed.

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

**Staff Presentation:**

**George Wesselhoft, Planning Department, 555 S. 10<sup>th</sup> Street, Lincoln, NE, came forward and stated that this request is for a Change of Zone at 98<sup>th</sup> Street and Waterford Estates Drive from AG (Agricultural District), to B-2 (Planned Neighborhood Business District) for 15.80 acres of land. The 15.80 acres includes a portion of Outlot B of Waterford Estates 26<sup>th</sup> addition. The 26<sup>th</sup> Addition is not zoned B-2, but there is an existing B-2 zoned area on the south side of Waterford Estates and west side of 98<sup>th</sup> Street, that was previously established in 2006 as part of Change of Zone 04019. Change of Zone 04019 was done without a use permit so that future residents of Waterford Estates would be aware of potential commercial development. The B-2 district does permit multi-family residential, in addition, to commercial use.**

The use permit would apply to the entirety of the outlot parcel. The request is for a new use permit with 505 residential dwelling units and 48,000 square feet of commercial floor area. This area includes 24.24 acres. Wesselhoft stated that access point includes connection south of Boathouse Road and Waterford Estates Drive north. There will not be a direct connection to 98<sup>th</sup> Street since it's an arterial street. In addition, to street connection and based on the conditions of approval, there would need to be a north-south street; it doesn't state that it has to be on the east or west side of the property, but there needs to be north-south connection for block length requirements. There also needs to be an east-west street which will be called, for now, the Boathouse Road Extension located on the south side. Another condition of this approval is street addressing and 9-1-1, Lincoln Fire & Rescue and Building and Safety Departments. There was a traffic study submitted as requirement of this development proposal. The recommended improvements based on the traffic study is to construct a south bound exclusive turn lane at N. 98<sup>th</sup> Street and Waterford Estates Drive which is located at the northeast end of the project. There are associated waivers associated with Use Permit 21010. There is a waiver to internal yard setbacks to allow 0-foot internal yard setbacks. He stated that this waiver has been approved previously for other projects and will not negatively affect the neighborhood since the setbacks are interior to the site. There is also a waiver request from design standards for outdoor lighting to allow light trespass along interior lot lines but no exterior. This waiver has also been approved for other projects previously. Wesselhoft showed an exhibit map showing the project in question with the use permit. The map shows the property to the west of the proposed project in which Wesselhoft stated that there will be another set of applications following this set of applications. The map is representation of the general framework for streets and block length for both projects. He reiterates that there will be a north-south street on the east side between the commercial area and apartments. Wesselhoft also stated that to the west there will be a north-south street as a condition of approval, for the Southeast Community College (SCC) application which is subsequent to the current application. There would also be an east-west connection or extension of Waterford Estates Drive as 'Boathouse Road'. There would be conceptual future streets including a conceptual street on the east side of the existing SCC campus as well, as what will be an adjusted conceptual connection that would connect to O street from the south. Wesselhoft reiterates that this framework is needed from the standpoint of emergency and street addressing purposes and due to the block length requirement, specifically, that the block length should exceed 1,320 feet, which is the perimeter of area divided by two. There were no block length requirements requested for this project or the subsequent project that will appear next on the agenda. There are also no block length exhibits, but they are assuming that it would be necessary based on reasonable estimates in terms of the geography.

Campbell asked Wesselhoft to locate the Sesostri Shrine land. Wesselhoft pointed out that the land is located on the east side of Lincoln Electric System (LES) facility and north side of O Street. Campbell asked if the land on the north was parallel with the LES land or if it stretched further north. Wesselhoft pointed out that LES is the rectangular area shown on the map on O

Street and north of the property would be SCC and east of that is Use Permit 21010 in the white area shown on the map. Campbell asked if the lots north of the northern apartment buildings across the street had driveways off of the interior street. Wesselhoft stated that he believes that is correct. Campbell asked if the three or four lots would have backyards towards the apartments. Wesselhoft believes that is correct. Campbell reiterated that there is a street in between the lots and apartments across the street. Wesselhoft agreed and stated that there would also be a B-2 setback of 20 feet for front yard.

Ball asked for clarification on requirement for street and block length expectations. Ball reiterated that there is not a waiver for Waterford Estates Drive and asked whether the expectation for this application is to extend to the west? Wesselhoft stated that's correct and the ariel shown is not up to date, but it that shows the street physically. Ball asked about the requirement for the bike trail and for Wesselhoft to locate it. Wesselhoft pointed out that it is located on southside of the two projects.

Campbell asked about the 'notch' located to the west of the property that extends into the detention basin, if it was a floodplain? Wesselhoft stated that it is a floodplain, and it will be discussed on the next application as to why the conceptual street needs to be shifted.

Corr asked if the lot directly south of Use Permit 21010 is developable or is there a floodplain located in that area. Wesselhoft stated that it is a floodplain on the majority of that property. Corr noted that in the application letter it was requested for a rear yard setback reduction along the south property line, lot C, and wanted to know if the request had been rescinded. Wesselhoft clarified why the request is not included in the staff report; is because the applicants have to put in the public street and the request would not apply since their initial proposal has a private drive.

Corr noted that there was discussion if the development did not go as planned, that there would be the exchange of commercial for residential at a rate of three units per 1,000 square feet by administrative amendment and wanted to know if that still a consideration and does it have to be inserted into the site conditions? Wesselhoft clarified that they are limited by the B-2 lot area requirements which is 2,000 square feet per dwelling unit, and it is included in the staff report that they could go up to 527 from their requested 505 units. He stated that as long as they do not exceed 15 percent of the 505, they could administratively add it.

Corr asked if there was a neighborhood meeting held? George stated there was a meeting held but he was unable to attend, but the applicant could speak more about it. Edgerton asked for Wesselhoft to point out the proposed traffic signal. Wesselhoft stated that it be for the right southbound turn lane on 98<sup>th</sup> Street. Edgerton asked where the entry points into the development. Wesselhoft pointed out that there would be access points on the south and Waterford Estates Drive north; no direct access to north 98<sup>th</sup> street.

Corr asked Wesselhoft to clarify the two access points to Waterford Estates as noted in the site plan. Wesselhoft stated that they are both private drives, but one has to be a public street.

Edgerton asked if there was any discussion regarding screening or any differences in the B-2 zoned area in regard to the neighborhood located to the north. Wesselhoft stated that they will be required to have street trees as well as landscaping for the apartments.

Edgerton asked what the next steps after use permit is in place. Wesselhoft stated that the final plat is the next step in the process and then the applicant will be able to apply for building permits. Edgerton asked if during that process, would waivers come forward regarding block length. Wesselhoft stated the Planning Department is presuming that the framework map would address that concern. He stated that otherwise without north-south streets, the area to the west would be 6,000 feet divided by 2. Wesselhoft clarified that just because there is not a block length waiver requested, the Planning Department is not suggesting that one is needed at this point. Edgerton asked if a waiver could be requested during the final plat process. Wesselhoft stated that it would have to be a part of the current process if requested.

Edgerton noted that, regarding the Change of Zone, Wesselhoft mentioned that the request being AG to B-2 isn't for the entire area because the northern and east portion of the property is already zoned B-2. Wesselhoft stated that is correct and it was established in 2006 for future possibility of commercial development and reiterates that this can include multi-family residential.

Corr reiterated that even if they didn't approve the Change of Zone and Use Permit today, the applicant is still able to build multi-family units in the area zoned B-2? Wesselhoft answered no and stated that there is no use permit for the zoned B-2 area. He stated that it was waived in 2006, there was no use permit approved, so they would have to have a use permit even if they came in from the linear area of the proposed project.

**Applicant:**

**Ann Post, Rembolt Ludtke, 1128 Lincoln Mall, Suite 300, Lincoln, NE**, appeared on behalf of the Aristos Properties, LLC. The intent of the project is to build resort style apartment community similar to one of the builders existing properties, located at 40<sup>th</sup> Street and Hohensee Drive. Post stated that the apartment community will include ample green space and parking listed at market rate price. Post stated that on the south side of property is to include flexibility under the B-2 zoned area that allows both commercial and residential development. The idea is that if the market changes, they will be able to build commercial, if residential development slows in the market and vice versa to maintain productive land. The project is intended to be built in phases. The builders anticipate about three to four phases. Post stated the project will start at the south end of the property, taking access from Boathouse Road. Post stated that it is anticipated to build

out over 8 to 10 years, depending on market conditions. Post stated the concern of traffic that this project would produce would not be an issue until they began to build out with the additional units and subsequent phases being built. Post reiterated what Commissioner Corr asked regarding the property designation. Post stated that the property is designated in the future land use plan for commercial use. There has been a strip of B-2 zoning along the roadside of the property for years with the intention that Waterford Estates homeowners were aware that when they bought their homes, the property would eventually develop commercially. Post stated that in the covenants for the single-family homes, there is an acknowledgment that the property will be commercial and with uses allowed in B-2. A neighborhood meeting was held with limited attendance, at 40<sup>th</sup> Street and Hohensee Drive in regard to the project. The location of the neighborhood meeting was to give an idea that the new development would be similar to the existing project at 40<sup>th</sup> and Hohensee. There has been communication with the Waterford community and making efforts to engage and answer questions. Post introduced the use permit and stated that the Planning Department discussed several conditions of approval that are contained in the use permit. Post distributed the motion to amend two major conditions of approval. Motion to Amend #1 (MTA #1) is to remove the southbound turn lane at 98<sup>th</sup> Street and Waterford Estates Drive. Motion to Amend #2 (MTA#2) is to clarify the public street on the south end of the property.

Post referenced the site plan and stated that it is different from the plan included in the applicant packet, because it reflects that the south street is a public roadway, instead of private roadway. The difference between the public and private roadway is that the setback that was identified and that there is not parking off of the street. The conditions of approval regarding the south bound right turn lane would require project to build a turn lane on 98<sup>th</sup> Street to access Waterford Estates. Motion to Amend #1 is because there was a traffic study performed that this project does not see a need for the southbound turn lane. Post stated that when the traffic study was performed, it was demonstrated that conditions already exist that would require the turn lane. The 2006 traffic study was done when the larger plan for Waterford Estates was put in place, in which there was need for a turn lane. Post stated when 98<sup>th</sup> Street was constructed in 2014, the city decided not to construct the right turn lane. Post stated that even if the turn lane is built, the project wouldn't trigger the need for the turn lane, therefore, this project shouldn't carry the cost. With the project being phased from south to north, meaning that the project will be taking access from Boathouse Road onto the south public street, it will not move traffic or connect to the intersection at Waterford Estates Drive until it is close to being complete, as the northern buildings will be the last portion of development (8 to 10 years). Post stated the apartments being built will be increasing traffic and that the developers will be paying impact fees. The goal of impact fees is so when there is new development, the fees are used to expand city's infrastructure capacity. Motion to amend #2 is clarification amendment, regarding the public street at the south end of property. Post noted that the condition of approval 2.9 stated that should be clarified what the width of the street would be, and the applicant is asking that the width of the street be 33-foot-wide to accommodate commercial traffic off of Boathouse Road

and as you travel past the commercial development, it would taper to 27 feet wide. The 27 feet wide taper end of street would connect to the private roads proposed for the SCC development, which are proposed to be 27 feet wide. Post distributed letters for Planning Commission members to read. Post asked that the commission support the Change of Zone and Use Permit with amendments as proposed.

Corr asked for an example of luxury apartments (bed/bath and price point). Post was unable to provide an accurate price point, with construction anticipated to begin phase one in 2024 and it is intended that price point will be market rate. She also stated that she is unsure about the number of beds/baths per unit, but she will provide the information. Corr noted that there is confusion based on the letters that the commission has received regarding whether the development is luxury or affordable housing. Post clarifies that there is no affordable housing component to this development. Corr asked when was the neighborhood meeting held? Post is unsure on an exact date, but it was before the application was submitted. Post stated that the notice was sent to everyone that the notice of the zoning application was sent to, the applicant also provided a notice of meeting to Waterford Estates, LLC so that they could post and provide information to the homeowner's association (HOA). Corr asked if the 40<sup>th</sup> Street and Hohensee Drive project was complete. Post believes that they are finishing the final phases of the project.

Campbell asked Post to discuss more about Motion to amend #3, section 3. Post stated that section 3 would require escrow for any improvements to arterial streets and they are asking to remove the condition that the applicant has to put a turn lane on an arterial street, therefore there wouldn't be an improvement and no need for escrow. Campbell reiterated that the original traffic study was done in 2006 and the traffic study of 2014 stated that there was a need for south turn lane and asked what the reason was for needing a southbound turn lane. Post stated that the 2006 traffic study anticipated traffic based on 2015 anticipated generated traffic due to the development would require a turn lane at that location. Campbell asked if most of the traffic would come off of O Street and on to 98<sup>th</sup> Street? Post anticipated yes and reiterates that this project will be taking access from Boathouse Road which is where majority of the traffic will be. Post also stated that the clubhouse and main entrance is located, and the layout of this project will be driving all of its traffic to that connection off Boathouse Road. Post stated that Brad Marshall could answer Campbells questions about the traffic study in more detail.

**Brad Marshall, Olsson Associate, 601 P Street, Suite 200,** stated that traffic study was done when Waterford Estates was new and being approved for the preliminary plat. Marshall stated that the 2006 traffic study was much larger and that it studied several different intersections and beyond project limits. Marshall stated what the study projected at Boathouse Road, was to project growth assumptions for 2015 to 2030, which showed a dedicated right turn lane. Marshall stated that as a part of the development, the city built from O Street to Boathouse Road. Marshall references a 2014 image of the area to show that the city built everything south of Waterford Estates Drive. He clarifies that the study today is smaller, but it is more directed to this specific

project and the impacts it will have. Marshall stated that the developers extended up to Holdrege because 98<sup>th</sup> Street and Holdrege is an important intersection. The study also focused on O Street and 98<sup>th</sup> intersection and Waterford Estates Drive and Boathouse, as part of this project. Marshall stated that the study is saying, while taking into consideration of access management policy, because the intersection connects to an arterial street it requires a turn lane. When the city built the extension and developed everything north in 2014, the turn was not built. Marshall stated that Olsson actually designed with the city on the extension and Marshall stated that he asked what the reason for the turn lane and no definite answer was given for the turn lanes purpose.

Campbell asked if the traffic would justify the turn lane that would be from the northern residential area that extends to Holdrege Street from the south to turn onto Waterford Estates Drive and not the apartments? Marshall clarified that the apartments would increase traffic. Campbell stated that they will not be traveling south. Marshall clarified that they will be traveling south and there will be a full access turn. Marshall stated that there is an upcoming application for rezoning to the west and that this study doesn't consider any planned/anticipated development for the west. That plan will be to show Waterford Estates Drive to extend to SCC. Marshall stated that because of the size and requirements of the traffic study, the applicant did not expand the study to show impacts to SCC. Marshall reiterates that the city is requiring this specific project to carry the burden. Campbell stated that he is having difficulty understanding the amount of traffic coming from the north that would justify the turn lane at any time. Campbell believes that the only justification would be if traffic was coming from Holdrege travelling to O Street or turn to go to SCC from the north. Marshall reiterated that there are many factors to consider. Campbell asked what the price of the impact fees on an apartment project is, Marshall stated that the fees are set to \$1,600 per unit (500 units) will pay for a turn lane. Marshall stated that the city will have the impact fees available to them. Marshall stated that he has told the Planning Department that any impact fees in Waterford Estates are being directed to 104<sup>th</sup> Street for the roundabout project next to the school. Marshall clarified that if Aristos is approved for this project and came in for a building permit and paid their impact fees, they would not be able to pay themselves back immediately since their impact fees would be directed to other obligations within the development until that's paid off then it could be directed to 98<sup>th</sup> Street.

**Proponents:**

**DaNay Kalkowski, Seacrest & Kalkowski Law Firm, 1128 Lincoln Mall, Suite 105, Lincoln, NE,** appeared on behalf of Waterford Estates, LLC., the underlying property owner who got the contract to sell the property to Aristos. Kalkowski stated that she has been working on this property for almost 20 years. Kalkowski stated that she has been active in the public realm started having conversations in 2005 regarding the annexation agreement that was approved in 2006. Kalkowski stated that it was important for the developers to inform future homeowners that there would be future commercial development and B-2 zoning on the east and west. Kalkowski stated that when the developers first put into the place the R-3 zoning for residential, they also put in place the strips of B-2 zoning. She reiterates that they filed covenants on the entire project

at one time in which the developers put specific language about the two commercial lots and the B-2 was already in place. She stated that there was also a small portion of B-1 zoning on the east side. She explains that the language included that there could be any and all uses permitted in a B-1, B-2, and I-3. She stated that they have taken efforts to put the homeowners on notice, the annexation agreement, master plan for their future development, road improvements, sewer water for the entire development. Kalkowski reiterated what Brad Marshall mentioned regarding working with the city regarding accommodating for traffic resulting from commercial uses or B-1, B-2, or I-3 at the two corners of the project. Kalkowski stated that in support of this application, it provides another type of housing choice within a large development. Kalkowski noted that this application does not change the plan and that it developed as expected compared to the 2006 annexation agreement plan.

Ryman Yost noted that there are some questions that homeowners have submitted regarding the lake is access to the water. Kalkowski stated that a part of the covenants set up in Waterford Estates there is a lake association that serves to maintain the lake. The entire development are members of the lake association since the main purpose of the lake is to serve as a detention center. Kalkowski stated that both commercial corners are a part of the lake association as far as paying dues to contribute to the maintenance of the lake as a flood storage facility. The commercial corners have no right to access the lake. Kalkowski reiterated what Ann Post mentioned regarding the apartment complex having full amenities. Policing the lake may be an issue due to non-Waterford homeowners not having rights to the lake.

Edgerton asked if the neighborhood located north had access to the lake. Kalkowski reiterated that only residents from Waterford had access to the lake. Edgerton referenced the annexation agreement plan that Kalkowski use to show who had access to the lake and asked about the school location and access being north of 98<sup>th</sup> Street and outlet being south of 98<sup>th</sup> Street. Kalkowski agrees that they will travel north for access and south to outlet.

Corr noted that there was a comment in one of the letters about paying to access the lake and if those were included in the covenant fees that Kalkowski mentioned earlier. Kalkowski stated all single-family residential homeowners have rights to access the lake and that there are special rights for the lots on the lake with the ability to have docks and things of that sort.

Campbell asked if there was public access to the lake. Kalkowski reiterated that there is not public access to the lake but there are points of outlots around the lake where standing is permitted.

Rodenburg asked that the Homeowners Association isn't in the hands of the homeowners currently. Kalkowski agreed and stated that they are trying to get that figured out and anticipates for it to be figured out by end of summer. Kalkowski stated that is a matter of having all outlots completed and transferred to the association.

**Neutral:**

No one appeared for neutral testimony.

**Opposition:**

**David Wagner, 1050 Saltillo Road, Roca, NE**, appeared on behalf of the Sesostris Shrine. Wagner stated that legal counsel could not be present, he read into the record a letter that was sent to George Wesselhoft. The legal council stated in his letter that legal counsel and the engineering firm would like to request for a 2-week deferral to encourage direct communication between budding landowners.

**Steve Henrichsen, Planning Department, 555 S. 10<sup>th</sup> Street, Lincoln, NE**, approached the podium to clarify that his opposition is related to the next agenda item and Wagner is welcomed to come back up to give his testimony. Henrichsen stated that there is someone on Zoom appearing in opposition.

**Travis Suckstorf, 9521 Southern Sky Road, Lincoln, NE**, stated that he is opposing the project in general. Suckstorf stated that it is hard to comprehend how a traffic study is going to give realistic vision to the issues that will need to be addressed before a school and two huge complexes are being built on Holdrege Drive and on 105<sup>th</sup> Street and O Street. Suckstorf stated that with all the variables, this traffic study is premature for the impact that traffic will have in this area. He stated that the streets are already 'bottlenecked', and it doesn't accommodate the projected traffic. Suckstorf stated the apartments at Waterford Estates Drive is proposed to be directly across the street for the homeowner's backyard with just a 20-foot easement with about an 80-foot-tall building right behind homeowners. Suckstorf stated that homeowners were under the impression that B-2 zoned area would be dedicated to retail. He believes that the pre-existing lots will lose their value. He stated that many homeowners didn't receive the notification letters. Suckstorf asked for the Planning Commission not to pass as is, because there is a lot at stake from investment from the homeowners. Suckstorf stated that he did not receive a notification letter and would like for all the homeowners to be given a fair chance to be notified and heard.

**Staff Questions:**

Lorenzo Ball asked to get a visual of what is currently located on 98<sup>th</sup> street. Wesselhoft noted that there is green area in the right- of-way which shows that the turn lane component was not installed previously.

Campbell asked if someone was in attendance to represent Lincoln Transportation and Utilities (LTU). Wesselhoft stated that Robert Simmering was in attendance on behalf of LTU.

Ball asked if the widening of the green space was for the turn lane. **Robert Simmering, Lincoln Transportation and Utilities, 555 S. 10<sup>th</sup> Street, Lincoln, NE**, stated the greenspace shown on map is where the turn lane would be built.

Edgerton asked for Simmering to talk a little more about the traffic study that was referenced in 2006 and the decision to say whether it was already necessary or whether it's becoming necessary as a result of this project. Simmering stated that there are as many housing units in this parcel as there are in all Waterford parcels. Simmering stated the peak turning movement is 2 and it is going to change to 45 based on what this development shows. He stated that is what LTU typically looks at as far as the traffic congestion issues, safety and peak hour action. Simmering stated that based on those factors, number of units, peak hour, and traffic, it would be time to build that turn lane. Edgerton asked about the long-term plan at 98<sup>th</sup> and O street. regarding turning off of O street from either direction onto 98<sup>th</sup> Street going north. Simmering stated there is attention being given to this corridor and for the sake of homeowners that had questions regarding traffic in the area. Simmering stated that there is a proposal for a study, safety improvement and capacity improvement at 84<sup>th</sup> Street and O street. Simmering believes at 98<sup>th</sup> Street and O Street, the turn lanes are built already. He stated that at some point there may be a signal required there or other adjustments on that level. Simmering stated that there is a school safety crossing study being done at 98<sup>th</sup> street, as well. Simmering stated that there are other studies set to come after development starts but hopefully before its finished.

Campbell asked how this development is going to affect traffic coming from the north to go onto Waterford Estates Drive from 98<sup>th</sup> Street. Campbell stated that he can only think about traffic from when parents are traveling north to the school and traveling back south. Simmering stated that would be a major effect on traffic, but also believes that traffic from a place like Hy-Vee would route traffic the same direction.

Joy asked for Simmering to address the comment the was brought up regarding the use of impact fees for the turn lane versus the developer doing the turn lane. Simmering stated that it could still be paid for by impact fees but would not be paid immediately. Simmering stated that there is a district for the impact fees, the developer could build it, but unfortunately, for the entire Waterford subdivision in this parcel, it's going from Holdrege and 98<sup>th</sup> Street so there will not be anything that the developer could take for that turn lane. He stated that within the district there could be other impact fees and as they come in, they can be reimbursed eventually.

Corr asked if there are any plans to extend the four lanes out east. Simmering stated that in some long-range plans maybe, but he couldn't put a date to that.

Ball asked approximately when might 98<sup>th</sup> Street go south of O Street to A Street. Simmering stated that it needs to be done before 2030, but anywhere between now and 2030.

Campbell asked if the state has already done engineering out past 134<sup>th</sup> Street? Simmering agreed that they had.

Corr asked Wesselhoft how he felt on the amendments that the applicant presented. Wesselhoft stated that they weren't aware of them and haven't had a chance to review them. Wesselhoft suggested a 2-week deferral to review those proposals. Corr asked if Wesselhoft knew how high the apartment buildings were going to be. Wesselhoft stated that no height waiver was requested, and the B-2 height limit is 55 feet so it would be per standard of the B-2 requirement. Corr asked for clarification that it would be 5 stories. Wesselhoft stated that he will allow the applicant to speak to their specifics. Corr asked Wesselhoft to explain mailing notice practice for the record. Wesselhoft stated that the requirement is a 200 ft radius around the outermost boundaries of property in question, it is not a requirement to notify every resident in the adjacent Waterford Estates subdivision. Wesselhoft stated that it is a distance requirement in addition to signs being posted on the property along with a newspaper ad. Corr reiterated for clarification that when the present homeowners purchased their lots, they would have been notified that there was a B-2 zoned area which permits commercial development and possibly some residential development. Wesselhoft stated for clarification that there is not a use permit for the B-2 zoned area which was established for future B-2 use. Corr clarified that she is asking that the homeowners were told that within in the B-2 zoned area, there could be potential residential or commercial. Wesselhoft agreed that residential and commercial could be permitted under B-2. Cruz stated, for clarification, that many people will not understand a B-2 zoned area permits both commercial and/or residential and that's where the confusion may arise.

Rodenburg stated that there were some inquiries about the proximity of the apartment building to the homes located across from Waterford Estates. Rodenburg asked about including the setbacks and width of the street, how close would the apartments be to the homes across from Waterford Estates. Wesselhoft stated that the right-of-way length is about 60 feet, if not wider, in that location at Waterford Estates Drive. Wesselhoft stated that there is 20-foot setback for B-2 zoned area, in addition, to the rear yard setback in the R-3 zoned area, which is approximately, 100 feet depending on the specific lot. Wesselhoft reiterated that there would be landscaping and three specific requirements; street trees along Waterford Estates Drive, visible land would need to be screen with 3-foot-tall screens and the multi-family building would need to be screened with additional landscaping.

Edgerton asked about the misunderstanding regarding affordable housing within the letters received by the Planning Commission and reiterated that the applicant did state that affordable housing is not a component of this project. Edgerton noticed in the staff reports one of the goals were affordable housing. Wesselhoft stated that it was included from a general standpoint and affordable housing wasn't included in the applicant's letter.

**Applicant Rebuttal:**

Ann Post clarified about applicant development status at Aristos located at 40<sup>th</sup> and Hohensee Drive. She stated that they are in the end of phase 2. Post mentioned Wesselhoft's suggestion for deferral and stated that she doesn't suggest that the application be deferred due to the applicant's timeline under the purchase agreement and the applicant needs this zoning matter to move forward. Edgerton asked if the applicant prefer the Planning Commission to defer or vote to approve without proposed amendments and stated that she would not be approving this application without the planning staff having the opportunity to review amendments. Post stated that the applicant would like to go forward without their amendments. Post commented on the testimony of opposition and stated that notice was provided. Post noted that because there has been other development in the area, she reached out to some of the neighborhood members and provided them with contact information. Post mentioned the request for removal of the turn lane and reiterated that this project doesn't promote the need of the turn lane as the need for it is already present and generated by the development in the area. Post reiterated the developer should not bear the cost of the turn lane and it should be borne by impact fees. Edgerton asked about the development at 40<sup>th</sup> and Hohensee, she noticed that it seemed to be 3-story development. Post clarified that the intent is for 3-story buildings for the north and 4-story buildings at the alternate end.

Brad Marshall stated that Bob Simmering is referring to the peak traffic in the morning and afternoons and that there is very lite traffic in the morning from the previous traffic study. Marshall stated that the recent traffic study showed morning trips are at peak of 23 and 35 which is a result of retail and office uses in the B-2 zoned area. Marshall stated that if those variables were removed, the traffic would decrease. Rodenburg stated that they could all agree that the turn lane is necessary and that it is just a matter of who pays for it. Marshall agreed.

Campbell asked the turn lane cost would be \$75,000. Marshall has budgeted about \$250,000 if the city accepts their proposal for the tun lanes.

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

#### **CHANGE OF ZONE 21054**

#### **ACTION BY PLANNING COMMISSION:**

Campbell moved approval, seconded by Corr.

Campbell stated that he has mixed emotions on approving the use permit at this time as Ann Post mentioned that plans are to discuss with the Planning Department regarding the use permit and relative issues that have arisen.

Corr agreed that she doesn't want to amend the use permit at the moment especially since Planning Department staff has not had a chance to review. Corr stated that a successful development has various housing opportunities and believes that these will be great apartments

and great use of land. Campbell stated that there are people who don't own homes but, in this area, would be great prospective apartment dwellers.

Edgerton supported the change of zone and agreed with Corr and Campbell.

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

**USE PERMIT 21010**

**ACTION BY PLANNING COMMISSION:**

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

**COMPREHENSIVE PLAN AMENDMENT 22003**

**TO AMEND THE LINCOLN-LANCASTER COUNTY 2050 COMPREHENSIVE PLAN TO REVISE THE FUTURE LAND USE MAP FROM "COMMERCIAL" AND "URBAN DENSITY-RESIDENTIAL" TO "PUBLIC AND SEMI-PUBLIC", ON PROPERTY GENERALLY LOCATED AT WATERFORD ESTATES AND LINWOOD LANE**

**AND**

**CHANGE OF ZONE 22001**

**FROM AG (AGRICULTURAL DISTRICT), B-2 (PLANNED NEIGHBORHOOD BUSINESS DISTRICT) AND R-3 (RESIDENTIAL DISTRICT) TO P (PUBLIC USE DISTRICT), ON PROPERTY GENERALLY LOCATED AT WATERFORD ESTATES DRIVE AND LINWOOD LANE**

**AND**

**PRELIMINARY PLAT 04011A**

**FOR A PRELIMINARY PLAT AMENDMENT TO SHOW A REVISED STREET LAYOUT, WITH ASSOCIATED WAIVER, ON PROPERTY GENERALLY LOCATED AT WATERFORD ESTATES DRIVE AND LINWOOD LANE**

**PUBLIC HEARING:**

**March 2, 2022**

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

Staff Recommendation:	Comprehensive Plan Amendment	Approval
	Change of Zone	Approval
	Preliminary Plat	Approval

There were no ex-parte communications disclosed.

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

**Staff Presentation:**

**George Wesselhoft, Planning Department, 555 S. 10<sup>TH</sup> Street, Lincoln, NE** pointed out that this project is located west at Waterford Estates and Linwood Lane of the prior project on the agenda. Wesselhoft stated that there is existing Agricultural (AG), Business (B-2) and small area of Residential (R-3) zoning located at the terminus of Waterford Estates Drive. He stated the proposal is to change zoning of outlot parcel that consists of 34 acres to (P) public use district and 7.79 acres from office park district (O-3) to public use district (P). Wesselhoft stated that the property in question for the undeveloped area is owned by SCC. He stated that while the exact buildings/uses are not identified, the uses will be those of the college. Wesselhoft stated the area of the 7.79 acres to is to rezone an area that was changed in 2009 in partnership, planned with a different entity that would necessitate the O-3 zoning. Campbell asked Wesselhoft to zoom out of the map to see the larger scaled area. Wesselhoft pointed out the SCC campus area for O-3 to P and then the larger area to the east is the R-3, B-2, and AG to P to reflect college of ownership and uses. Wesselhoft stated the related comprehensive plan amendment (CPA) for the outlot parcel at Waterford Estates Drive and Linwood Lane is identified future land use of commercial. Wesselhoft introduced the preliminary plat amendment and reiterated that the amendment area is in the southwest are of the Waterford Estates preliminary plat. Wesselhoft stated that the request is to amend the preliminary plat for street layout and refers to the first exhibit which shows 98<sup>th</sup> Street to the east and Waterford Estates Drive. Wesselhoft stated that the existing preliminary plat shows a curvilinear extension of Waterford Estates Drive going south to an east west. The proposed to change is for Waterford Estates drive to extend to west; there would be the east-west street that would connect to the east-west street on the neighboring property to the east and shift this conceptual connection to O street. Wesselhoft clarified that there is a north-south street that's directly to the west of existing SCC campus that would also be conceptual. Campbell asked if Linwood Lane was located south. Wesselhoft stated that is Anthony Lane located south; Linwood Lane is located north of Waterford Estates Drive. Wesselhoft stated that it should be noted that the owner of lot located east of the substation facility wouldn't have to connect to O Street, but they could gain access from the east-west street to the north. Wesselhoft stated that as part of the conditions of approval, there is a north south street that is required on the east of the SCC property to connect to the Waterford Estates Drive east-west street. Wesselhoft stated that there aren't any uses identified at this time but there could be later. Campbell asked if there is an SCC drive on the west side, north of the parking lot shown? Wesselhoft stated that the applicants have some existing and planned facilities and mentioned that the conceptual street would not bind them or obligate them to install a public or private street. Campbells asked If the suggested route through shrine temples property isn't certain, Wesselhoft stated that is correct, but if they would request a change of zone from agricultural (AG) than the recommendation would be to have that street included in the development proposal. Campbell asked if the street could be put back on to shrine temple property line, and both can share the cost. Wesselhoft stated that he cannot speak to the cost sharing component, but the Planning Commission doesn't necessarily have to approve the

proposal, the Planning Department is recommending; otherwise, it would be the floodplain concern.

Campbell asked if there is a need for the other connection to O Street. Bob Simmering, LTU, stated that it would depend on the use since LTU does not require it. Simmering stated that it is located in the floodplain and drainage way; meaning it may double the cost for that connection to be made. Campbell asked if the connection would still require median break for left turn lane and deceleration lanes for traffic travelling west. Simmering agreed and stated that it would be a major intersection. Campbell asked if it is halfway between the existing entrance on the east end of SCC's property. Wesselhoft stated there is a small piece of existing SCC property that is budding O Street. Campbell asked if the road going to O Street be eliminated in the road going through Wilderness Hills and connect through the SCC property then to the existing signaled intersection. Wesselhoft stated that it is possible. Campbell noted that the in preliminary plat motion, staff is proposing the angled street. Wesselhoft agreed and stated that it is changed it from where it's presently located east, conceptually. Wesselhoft noted that the shift is because of the drainage and floodway concern to the west. Edgerton clarified that the shift puts the road on to the property owner not involved with this preliminary plat, conceptually. Campbell reiterated that it is only conceptual at this point. Wesselhoft agreed. Corr asked that depending on how the shrine temple property develops in the future, the connection on the north side of O Street may not be necessary if Anthony Lane was to be extended. Wesselhoft stated that may or may not be necessary depending on the proposal.

**Steve Henrichsen, Planning Department, 555 S. 10<sup>th</sup> Street, Lincoln, NE**, suggested utilizing the development viewer for the sake of clarification. Henrichsen noted that property owned by SCC is what is being shown and stated that if there may ever be a connection through the floodway, it needs to be shown now and approved to be included in the preliminary plat. Henrichsen stated that deciding to remove the connection, it can't go back onto the property in the future. Henrichsen reiterated that George showing the conceptual plan. The city isn't requiring this connection and if the connection isn't shown in preliminary plat, it will be done elsewhere or not at all. Campbell reiterates that it would just eliminates the original location. Henrichsen agreed and stated that it either is going to happen on the adjacent property or not at all.

Ball asked if Shriners develop the road, then that would be a condition for that approval to have that road built. Henrichsen agreed and stated that it would be a condition of approval for a change of zone for example to connect to the left and right turn lanes. Edgerton clarified that the reality is that where it is conceivably put now, is not a great place for it due to the floodway. Henrichsen agrees. Edgerton stated for clarification that even if SCC were not proposing the changes that they are proposing, it's hard to say if the connection is wanted in this particular area. Wesselhoft agreed and reiterated that the connection point is shifting because of the floodway. Joy asked Henrichsen if the existing driveway is on the Shriner's property or SCC property. Henrichsen stated that it is located on both and could simply be farm access way that's

been there for decades and neither property owner has access but will be given access to Boathouse Road or generally north if they find it too expensive to use access to the south. Henrichsen stated that from a commercial standpoint it may be beneficial to have access to O Street.

**Applicant Testimony:**

**Erin Bright, Olsson Associates, 601 P Street, Lincoln, NE** stated that he wanted to clarify some things. The O Street connection is not the intent of the application, and it is actually out of their preliminary plat area. Bright stated that as part of their submittals they included conceptual layouts 300 feet adjacent to the applicant's parcel. Bright stated that SCC has pursued strategy to invest in campus and started off as master planning efforts, which resulted in identifying programs, building spaces and infrastructure. Some recent projects such as their health science building and student services addition. Bright stated there are three projects under design, residence hall, stem building and a technical trades building. Bright mentioned part of their masterplan includes the SCC traffic signal installed at 98<sup>th</sup> and O street and facility upgrades on sewer water systems. There is a goal from SCC to change from a commuter type of campus to developed campus environment. Bright stated that with the residential unit, they will displace about 600 parking spaces. The exhibit that Bright has shown is a conceptual idea of what SCC is expecting regarding paving for parking lots not in close proximity to the campus quad space. Bright noted that SCC purchased the Waterford Estates parcel in 2020. The current application is to develop the parking lot and to provide the SCC "loop road" which extends through the main campus then makes a connection through a private roadway over to Waterford Estates Drive. Bright noted that the site plan also shows the south roadway on the south side of the property that leads to the Boathouse Drive connection. Bright stated that SCC doesn't have much of a plan for the parcel just yet and he doesn't foresee the south roadway connection happening in the near future. The applicant did expect the conditions of the approval but wants to amend condition 1.1.4 and would like to remove that requirement of including a north-south private roadway on the SCC parcel to the east in order to maintain flexibility. Bright stated that they have spoken with Wesselhoft about alternative locations for roadway as the applicant doesn't know their specific plans for the targeted area. Bright stated that if they were to move forward with the current site plan without that north-south connection anywhere, the entire area would still be dedicated as an outlot reserved for future development and another application would have to come forward from SCC. Bright stated that there has been discussion with the planning department regarding that amendment.

Campbell asked if SCC would be willing to eliminate O Street connection. Bright stated that isn't SCC's property and it was shown as part of a conceptual layout, but it could be a possibility that it can be eliminated. Campbell stated that he has concerns regarding multiple connections with O Street although it has reduced speed limits. Bright stated that as it continues to develop out, speed limits will continue to be reduced.

Edgerton wanted to know if moving forward with condition 1.1.4 would be deal breaker. Bright stated that if he removed his request of amendment, they could move forward with understanding of being able to review resolutions with the planning department before going to city council.

**Proponents:**

No one came forward in support.

**Opposition:**

**David Wagner, 1050 Saltillo Road, Roca, NE**, appeared on behalf of Sesostris Shrine. Wagner stated that they want to connect with SCC to explore options for the sake of cost as Sesostris is a non-profit and the originally agreement was to split the cost with the previous property owners before SCC. Campbell asked if they could have an application done by upcoming City Council meeting. Wagner believes that they can have it done. Wesselhoft clarified that the preliminary plat is final action at planning commission unless appealed by city council which is 14 days from today.

**Staff Questions:**

Corr asked that when SCC figures out the parcel use, will they have to come back to planning commission with a use permit? Wesselhoft stated that there will not be a use permit and clarified that there is an exemption for government entities from zoning and the streets could be amended for future street. Wesselhoft reiterated that the initial plan is to final plat Waterford Estates Drive so they could physically build the connection. Corr noted that the letter stated future plans approved by administrative amendment and asked would that be necessary since they are a government entity. Wesselhoft stated respective of the subdivision, there could be administrative amendments to the plat.

**Applicant Rebuttal:**

Erin Bright requested for deferral on vote for the preliminary plat, item 5.1c.

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

**COMPREHENSIVE PLAN AMENDMENT 22003**

**ACTION BY PLANNING COMMISSION:**

Campbell moved approval seconded by Corr.

Campbell stated that he is comfortable holding the preliminary plat at this time to give owners opportunity to discuss details. Joy asked if there is a time frame for deferral and Campbell stated that the time frame is usually 2 weeks and could be extended from that 2-weeks.

Corr noted for clarification that she has not been employed by SCC for some time and has no conflict of interest.

Edgerton agreed with Campbell to move forward with Comprehensive Plan Amendment and Change of Zone and defer preliminary plat with additional public hearing.

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

**CHANGE OF ZONE 22001**

**ACTION BY PLANNING COMMISSION:**

Campbell moved approval, seconded by Corr.

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

**PRELIMINARY PLAT 04011A**

**ACTION BY PLANNING COMMISSION:**

Campbell moved deferral of item 5.1c with additional public hearing until March 16<sup>th</sup>, seconded by Rodenburg.

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

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

There being no further business, the meeting was adjourned at 03:18 p.m.