

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, March 8, 2022.

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, March 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, Cristy Joy, Rich Rodenburg; Lorenzo Ball, Tracy Edgerton, and Cindy Ryman Yost absent. Tom Cajka, 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

Commissioner Tracy Corr has been appointed by Chairperson Edgerton to serve as Acting Chair for the March 16, 2022, Planning Commission hearing, due to the absence of Chair, Tracy Edgerton, and Vice-Chair Cindy Ryman Yost.

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

Corr requested a motion approving the minutes for the regular meeting held March 2, 2022. Motion for approval of the minutes made by Campbell, seconded by Joy and carried 6-0: Campbell, Corr, Cruz, Joy, Eddins, and Rodenburg voting 'yes'; Ball, Edgerton, and Ryman Yost absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

March 16, 2022

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

The Consent Agenda consisted of the following items: Annexation 22002, Change of Zone 17030D, Comprehensive Plan Conformance 22003, Annexation 22003, Change of Zone 22005, and Special Permit 22003.

There were no ex-parte communications disclosed.

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

Item 1.2b Annexation 22003 was removed from the Consent Agenda by request of an interested party and scheduled for separate public hearing and action.

Campbell moved approval of the remaining Consent Agenda items, seconded Joy and carried 6-0: Campbell, Corr, Cruz, Eddins, Joy and Rodenburg voting 'yes'; Ball, Edgerton, and Ryman Yost absent.

Note: This is **Final Action** on **Special Permit 22003** unless appealed by filing a letter in the **Office of the County Clerk** within **14 days**.

Commissioner Corr called for **Requests for Deferral**.

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 16, 2022

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

Staff Recommendation: Two- week deferral

The Clerk noted that the applicant had requested a deferral on Item 5.1 – Preliminary Plat 04011A – for **two weeks** to the regular Planning Commission on March 30, 2022.

There were no ex-parte communications disclosed.

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

Opposition:

Joel and Linda Schreier, 9329 Southern Sky Road, Lincoln, NE, came forward to testify in opposition and stated that they are homeowners of the property located in the last block of Waterford Lane where the proposed lane will be located. Joel stated concerns of new development requiring a road to be established along the Waterford Estates properties. Joel stated that they were aware of a 40-foot easement behind their property and there would not be development in that area and that there would be a fair amount of space between their property and the easement. He stated that if they extend the proposed road out to Southeast Community College (SCC), there would be a road approximately within 10-feet of their property, which was not their expectation when they purchased the property. Joel stated that there are other property owners who are concerned and considering listing their properties due to the same concerns regarding new development. The Schreiers stated that they have concerns regarding disturbances caused by traffic due to students and late-night gatherings on weekends in the SCC parking lot. Joel suggested that SCC extend Linwood Lane towards O Street so that the roads developed would be closer to the SCC property and not Waterford Estates. He is concerned that the development of the road is not a considerate development for the 10 homeowners that are located along that area. Linda Schreier stated that her and her husband are retired and the development of the street near the property line is a disturbance and unsure as to why SCC needs the street located where proposed. Linda questioned why the road should be developed along the residential area which raises potential for litter and traffic disturbances, especially on the weekends. She stated that the police department tries their best to control the traffic disturbances.

Corr asked the Schreiers if they have reached out to SCC with their concerns. Linda Schreier stated that they have attempted contacting SCC and they do not consider their calls of high priority. She stated that they had an incident a few nights prior where someone lit a firework that ignited a fire along a few fences along the proposed extended road.

Eddins asked the Schreiers if they could state their address again for the record. Eddins, also asked the Schreiers if their driveway was located on Southern Sky Road. The Schreiers reiterated that they reside at 9329 Southern Sky Road. Joel stated, yes that the back of their property faces SCC campus. They also stated that they were the first to move in on the west end of Waterford Estates.

Campbell moved to grant the request for 2-week deferral, seconded Joy and carried 6-0: Campbell, Corr, Cruz, Eddins, Joy, and Rodenburg voting 'yes'; Ball, Edgerton, and Ryman Yost absent.

ANNEXATION 22003

TO ANNEX APPROXIMATELY 109.79 ACRES, MORE OR LESS, ON PROPERTY GENERALLY LOCATED AT N. 70TH STREET AND ARBOR ROAD

PUBLIC HEARING:

March 16, 2022

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

Staff Recommendation: Conditional Approval

There were no ex-parte communications disclosed.

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

Staff Presentation:

Steve Henrichsen, Planning Department, 555 South 10th Street, Lincoln, NE, stated that Annexation 22003 is associated with the “Lincoln Logistics Hub” located on the south of Arbor Road. Henrichsen also stated the associated Change of Zone is located in between 56th Street and 70th Street for about 21 acres that is located north of Arbor Road. He stated that as a result of annexing the northern area of the Change of Zone, the middle portion of the area was surrounded by city limits. Henrichsen noted that there is a small piece of land that would have been left out if the city annexed the Change of Zone of about 100 feet and the county engineer noted they did not want to maintain a 100-foot strip between 56th Street and 70th Street. Henrichsen reiterated the policy of the Comprehensive Plan is that when the property is completely surrounded by city limits, it shall be annexed. He stated that this is an area in which all services are available and developing. In addition, to annexing the requested area, the Planning Department added 80 acres to that request that includes more of the “Lincoln Logistics Hub” and three other private property owners. Henrichsen stated that it conforms with city policies, so the Planning Department recommended approval of the larger annexation and notified all involved property owners that the area was proposed for annexation.

Applicant Testimony:

DaNay Kalkowski, Seacrest & Kalkowski Law Firm, 1128 Lincoln Mall, Suite 105, Lincoln, NE, appeared on behalf of Tribedo, LLC who is the owner of the property that requested the initial annexation for the Lincoln Logistics project. Kalkowski stated that they just made the request for what is considered the first phase of the project, which is property located along Arbor Road which leaves the south two-thirds unannexed. Kalkowski reiterated that the Planning Department then recommended the expansion of the annexation which includes all of the Lincoln Logistics property and the two properties that would be surrounded by the annexation

located adjacent to their property. Kalkowski reiterated that they are supportive of the annexation.

Proponents:

No one came forward in support.

Neutral:

No one came forward in neutral testimony.

Opposition:

Nick Cusick, 6400 Westshore Drive, Lincoln, NE, read a letter into the record on behalf of property owner, Sam Sampson. The letter stated that Sam Sampson is opposed to being annexed by the city for several reasons in which Nick Cusick presented. Cusick stated that Mr. Sampson is in support of the annexation and the associated applications except for the proposal to include Lot 40 and 42, SW ¼ Section 28-11-7. Cusick pointed out the area of Sam Sampson's property in the annexed area and stated the rationale for objecting is multiple issues. Cusick stated that one issue being that the property was included in the annexation by administrative amendment, not by request of owner. Cusick stated that they understand their property would be unannexed and surrounded by city limits and the contiguous nature of the policy. Cusick stated that he could provide examples of where there are existing areas on the outskirts of the city that are unannexed and surrounded by city limits. Cusick stated another issue the property owner has is that the land is undevelopable marshland and serves as buffer between industrial and commercial areas to the north and south and further west of 56th Street. Cusick stated that the land often has as much as two or three feet of water in it. He stated that it also acts as a buffer to collect pollutants and sediment that runs off nearby developments. Cusick stated that the property owner has the land enrolled in one or more conservation programs and/or the Nebraska Natural Resources District (NRD), but he is unsure due to the short time frame of gathering information from the property owner. Cusick stated that he was forwarded the information about a week ago when the property owner was notified a week ago as well. Cusick stated that the last issue is in the event that the land is undevelopable, it is not beneficial for the land to be within city limits and resources (water, sewer, transportation, fire, and safety, etc.). Cusick noted that the annexation of the property into city limits could increase the taxes on a piece of property that has no commercial value. Cusick reiterated that while they are supportive of the annexation, they request having that section of property removed from annexation despite the typical policy regarding having unannexed property surrounded by city limits.

Campbell asked if there is a possibility to develop on the property which appears on the north end of the property. Cusick stated that area is higher than the east end of the property and there is a possibility. Cusick personally cannot imagine development since there is a waterway and unofficial dam located in that area and will require major fill. Campbell asked which direction did the water flow from. Cusick noted that the majority of the water flows from the west commercial

property into the marshland area. Campbell asked where the water travels after traveling to Sam Sampson's property. Cusick noted that it travels to an agriculture holding pond that drains down to the creek and at some point, reaches salt creek.

Staff Questions:

Rodenburg reiterated that Steve Henrichsen stated the land "shall" be annexed and that leaves the property owner with no other option. Henrichsen reiterated that the two unannexed areas that are surrounded by city limits that were referred to earlier by Nick Cusick, one which is located from Yankee Hill Road north to Pine Lake Road which was proposed for annexation several years ago. Henrichsen noted that land was not 100 percent surrounded by city limits and the City Council decided to not annex at that time, but in the future. He stated that the Planning Department sent a notice to all property owners last fall of annexation. Henrichsen stated that, in the summer, the Planning Department will be appearing before the Commission and hosting neighborhood meetings to answer all questions. Henrichsen stated the other area referred to by Cusick is located southwest of the airport. Henrichsen clarified that it occurred when a nearby property requested an annexation agreement acknowledging property owners did not want water and sewer services but would like to develop their property for commercial and industrial use. He stated that the Planning Department annexed the property with agreement that it did not have water and sewer services and it created a small area in the city limits where services are not in that area. Henrichsen reiterated that Sampson's concerns are regarding the tax value of his property and the annexation is not rezoning his property or affect the characteristics of his property other than being city limits. Henrichsen noted that taxes could change depending on the value of his property. He agreed that from the city maps, it looks as if Sampson's property is very low value, 100 percent in the floodplain and the vast majority is wetlands. Henrichsen stated that acquisition of the property was to retain the wetlands and it is zoned General Commercial District (H-4) so if the property owner was to do a conservation easement or rezone it from General Commercial District (H-4) arguing that it cannot be developed for commercial use, that would be appropriate. Henrichsen stated that there have been other wetland areas they were zoned out of commercial use. Henrichsen stated that the Planning Department could work with Sampson regarding addressing the value of the property with the accessor and whether or not rezoning the property helps.

Campbell asked what would the Change of Zone be changed to? Henrichsen stated that it could be rezoned to Agricultural (AG) to display that it is not approved for commercial use. Henrichsen stated that there was a recent project on West O Street where the new sport recreational center is located to zone a wetland area west of property platted as an outlot zoned as Agricultural (AG) to portray its low value to the accessor. Henrichsen noted the accessor could possibly say that is low value and it may not need to be rezoned and he stated that he believes property owner Sampson has an IT buildable lot. Henrichsen stated that Sampson would just have to address the floodplain, wetland, and lack of accessibility along with other issues. Campbell asked if the Planning Department would be willing to work with Sampson on determining if change of zone

is needed. Henrichsen stated that they would work with Sampson and/or representative(s) and Accessor's office on determining factors on property value and need of zone change. Campbell asked if Agricultural (AG) zoned areas still exist within city limits. Henrichsen answered yes. Commissioner Joy asked if it was acceptable to change zone to agriculture surrounded by General Commercial District (H-4). Henrichsen answered yes and stated that the particulars of the property are that the property cannot be used.

Campbell asked for Nick Cusick to approach and asked if Sam Sampson's property had a conservation easement. Cusick stated that it is in some programs, but it is unsure and reiterated that Sampson just received the notice about a week ago despite Henrichsen efforts to notify property owners in advance.

Applicant Rebuttal:

Applicant did not appear in rebuttal.

Campbell moved to close public hearing, seconded by Joy, and carried 6-0: Ball, Campbell, Corr, Cruz, Joy, Eddins, and Rodenburg voting 'yes'; Ball, Edgerton, and Ryman Yost absent.

ANNEXATION 22003

ACTION BY COMMISSION:

Campbell moved conditional approval, seconded by Eddins.

Campbell commented that he would like for the Planning Department to work with Sampson on the Change of Zone.

Campbell stated that it is realistic to approve annexation, but Cusick has brought forth some knowledge on the additional property regarding the value other than the property owner has sold the rights of certain pieces of that property for people to offset wetland areas. Campbell stated that the property is piecemealed as projects need to find to offset wetlands but as a rule, it does not have a lot of value. Campbell noted that he thinks it is best to encourage assistance for Sampson regarding zoning and the value. Corr agreed.

Motion for approval carried 6-0: Campbell, Corr, Cruz, Joy, Eddins, and Rodenburg voting 'yes'; Ball, Edgerton, and Ryman Yost absent.

Motion for adjournment by Campbell, seconded by Joy and carried 6-0: Campbell, Corr, Cruz, Joy, Eddins, and Rodenburg, voting 'yes'; Ball, Edgerton, and Ryman Yost absent.

There being no further business, the meeting was adjourned at 01:41 p.m.

<https://linclanc.sharepoint.com/sites/PlanningDept-Boards/Shared Documents/Boards/PC/Minutes/2022/pcm031622.docx>