

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, December 13, 2022.

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, December 21, 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: Tracy Corr, Maribel Cruz, Gloria Eddins, Cristy Joy, Cindy Ryman Yost, and Tracy Edgerton; Lorenzo Ball, Dick Campbell, and Rich Rodenburg absent. David Cary, Steve Henrichsen, Shelli Reid, Ben Callahan, George Wesselhoft, and Jennifer McDonald of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Hearing

Chairperson 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 December 7, 2022. Motion for approval of the minutes made by Joy, seconded by Eddins and carried 5-0: Cruz, Eddins, Joy, Ryman Yost, and Edgerton voting 'yes', Corr abstained; Ball, Campbell, and Rodenburg absent.

There were no Consent Agenda items.

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

**PRE-EXISTING SPECIAL PERMIT 23J
TO AMEND PRE-EXISTING SPECIAL PERMIT 23I, CHANGING THE BOUNDARY OF THE SPECIAL PERMIT TO BUILD PARKING LOTS, ON PROPERTY GENERALLY LOCATED AT 5033 AND 5435 HUNTINGTON AVENUE AND 2427 NORTH 56TH STREET. THE PLANNING COMMISSION ACTION IS FINAL, UNLESS APPEALED TO THE LINCOLN CITY COUNCIL.**

PUBLIC HEARING

December 21, 2022

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

Staff Recommendation: Staff Recommendation to defer to January 11, 2023

There was an ex-parte communication disclosed.

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

The Clerk noted that staff is recommending a deferral on Pre-Existing Special Permit 23J to the regular Planning Commission on January 11, 2023.

Eddins moved to grant the request for deferral for public hearing scheduled for January 11, 2023, seconded Joy. Motion carried 6-0: Corr, Cruz, Eddins, Joy, Ryman Yost, and Edgerton voting 'yes'. Ball, Campbell, and Rodenburg absent.

CHANGE OF ZONE 22038, FROM H-3 (HIGHWAY COMMERCIAL) TO R-2 (RESIDENTIAL DISTRICT) FOR 0.35 ACRES AS PART OF THE COYOTE LANE PLANNED UNIT DEVELOPMENT (PUD), WITH UP TO 32 DWELLING UNITS AND UP TO 21,500 SQUARE FEET OF COMMERCIAL FLOOR AREA, WITH ASSOCIATED WAIVERS, CONSISTING OF 7.17 ACRES IN TOTAL, MORE OR LESS, ON PROPERTY GENERALLY LOCATED NORTH OF O STREET BETWEEN N. 66TH AND N. 70TH STREETS ALONG THE MOPAC TRAIL.

PUBLIC HEARING:

December 21, 2022

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

Staff Recommendation: Conditional Approval

There were no ex-parte communications disclosed.

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

Staff memo was sent out on December 20, 2022, to get revisions of approval as agreed upon by staff and applicants.

Staff Presentation:

George Wesselhoft, Planning Department, 555 South 10th Street, Lincoln, NE approached and stated the general location is between North 66th and North 70th Street between Mopac Trail, with the PUD total area to be approximately 7.1 acres. Wesselhoft stated as part of this proposal, it includes rezoning of a small area in the northwest part of this site where it is not already zoned

to an R-2. There will be access to the site on N. 66th and N. 70th St. for emergency access vehicles and that has been worked out with LTU and LFR. Wesselhoft explained that there are multiple waivers requested and explained the request and how it pertains to the Change of Zone request. Wesselhoft stated that there were meetings held prior to this hearing that set the stage for this new PUD with the mix of commercial and residential development, which was the intent. The developer met with the Neighborhood Association and residents on May 10th, 2022. In August 2022, the City Council approved the related Comprehensive Plan Conformance related to the redevelopment plan for the property. Wesselhoft stated that it is noted on the staff report that no new conditions need to be added to the PUD respective of the trail because there is an existing trail easement that protects the trail.

Edgerton asked if the only conditions of approval that are up to debate are those relating to the storm water needs? Wesselhoft stated that LTU watershed reviewed that, and it is conditional approval if they provide the information that LTU Watershed requested is to their satisfaction at this point.

Applicant Testimony:

Nate Barnett, 601 Old Cheney Road, Suite A, REGA Engineering, Lincoln, NE approached and thanked multiple people who had a part of the process, and it has been a long time coming. Barnett stated the potential of future development along with using the trail as an amenity is a unique project and there has been significant input and support. Barnett stated that while working with the Wastewater Department, who is strongly in favor of this project, have been in discussions about a joint project which would remove and abandon old clay tile and move within the 20 ft easement. This will help with maintenance and would be a “win” for everyone as well.

Eddins asked what the back side would look like with the trail. Barnett showed a rendering of what that view would be.

Joy asked if the veterinarian clinic waiver was for the number of animals being changed from three to four. Barnett stated that there was confusion with the lots and that the number of animals was a total or per lot. After further discussion, Barnett stated that it was realized that it was 3 separate lots and not total of lots.

Edgerton wanted clarification about the storm water and the status update of this. Barnett stated that they have not specifically discussed with Watershed and there are some concerns with the proximity and requesting a waiver for the storm water detention however, they are providing water quality on site. Barnett stated that has been further discussion internally and has not yet been discussed with Watershed Management Quality.

Proponents:

No one came forward for support testimony.

Neutral:

No one came forward for neutral testimony.

Opposition:

No came forward in opposition testimony.

Staff Question

Corr asked about the projects in regard to Deadman's Run through the NRD and how it affects this project. **Tim Zach, 555 S. 10th St, Lincoln, Ne Watershed Management**, approached and stated that the project does not extend past 48th Street.

Joy stated that it was discussed that they are going to take care of Water quality and wanted to know from Zach how he feels about that. Zach stated that they are concerned with the location of the basin. There was a previous issue with the saturation of the bank, and it did fail, so there is a concern with location and providing justification that the detention should be waived. Zach stated that they would like supporting evidence to make that determination.

Applicant Rebuttal:

Barnett approached and said that they are looking into the storm water issue. Barnett stated that this plan is unique and that it is consistent with the Comprehensive Plan.

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

CHANGE OF ZONE 22038

ACTION BY PLANNING COMMISSION

December 21, 2022

Corr moved to approve Change of Zone 22028, seconded by Eddins.

Corr stated that she used to ride the bike path years ago and it will be good to have more "eyes" on the trail to prevent certain activity. Corr stated further up on the trail, more towards the center of town, that the houses get closer to the trail. Corr stated that this will be a change, but a positive and well received change.

Eddins stated she agrees with Corr and that this is a good project. Eddins hopes that the Watershed issue in the floodplain is worked out so that the people buying new houses are not in danger.

Edgerton stated she will support this Change of Zone and that the mixed-use development is a good thing and is excited to see this move forward.

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

CHANGE OF ZONE 22035
FROM B-1 (LOCAL BUSINESS DISTRICT) TO R-1 (RESIDENTIAL DISTRICT) AND B-2 (PLANNED NEIGHBORHOOD BUSINESS DISTRICT) AND FROM R-1 (RESIDENTIAL DISTRICT) TO B-2 (PLANNED NEIGHBORHOOD BUSINESS DISTRICT), ON PROPERTY GENERALLY LOCATED AT 2201 OLD CHENEY ROAD.

AND

USE PERMIT 22013

TO ALLOW FOR A USE PERMIT WITH AN ASSOCIATED CHANGE OF ZONE TO B-2 (PLANNED NEIGHBORHOOD BUSINESS DISTRICT) AND ALLOW UP TO 75,000 SQUARE FEET OF COMMERCIAL FLOOR AREA, ON PROPERTY GENERALLY LOCATED AT 2201 OLD CHENEY ROAD. THE PLANNING COMMISSION ACTION IS FINAL, UNLESS APPEALED TO THE LINCOLN CITY COUNCIL.

AND

SPECIAL PERMIT 22038

TO ALLOW FOR A CUP (COMMUNITY UNIT PLAN) FOR UP TO 36 DWELLING UNITS, WITH ASSOCIATED WAIVERS TO THE MAXIMUM BLOCK LENGTH AND SETBACK REQUIREMENTS, ON PROPERTY GENERALLY LOCATED AT 2201 OLD CHENEY ROAD. THE PLANNING COMMISSION ACTION IS FINAL, UNLESS APPEALED TO THE LINCOLN CITY COUNCIL.

PUBLIC HEARING:

December 21, 2022

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

<u>Staff Recommendation:</u>	Change of Zone 22035	Approval
	Use Permit 22013	Conditional Approval
	Special Permit 22038	Conditional Approval

There were ex-parte communications disclosed. Corr, Yost, and Cruz stated that they received an email, and Joy stated that she had a few conversations from people wanting to discuss. All the contacts were referred to the Planning Department and the Planning Commission Hearing.

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

Staff Presentation:

Ben Callahan, Planning Department, 555 South 10th Street, Lincoln, NE stated that the request is a Change of Zone with a Special Permit and a Use Permit associated with it. There currently is a Senior Living Facility there and this is the remaining of the green space. Callahan stated that

the area is R-1 with a B-1, and the request is to rezone to R-1 and a B-2. Callahan showed a map of the proposed plan with up to 36 dwelling units in the CUP which is less than what the density is allowed with one access off Norman Road. Callahan explained what waivers are included and the effect to the proposed area. Callahan stated that the proposed Use Permit will include one access off Norman Road. Within the site, it will follow the B-2 including eight types of uses that will be prohibited. This is in respect to the neighborhood. Callahan stated that regarding the Comprehensive Plan, the area follows compliance with the Comprehensive Plan, and it is still below what is anticipated. Callahan stated that the main reason for the CUP is for the additional waivers.

Corr asked for an example of what B-1 uses could be. Callahan stated a convenience store, auto repair, vet services, and multi-family. Corr asked if sidewalks would be required along Norman Road. Callahan stated that there will be sidewalks in the new developed area and the existing neighborhood would not be required to put in sidewalks.

Joy asked about the traffic study previously done with the Senior Living Facility and how will the traffic change with this. Callahan stated that there was a traffic study done and a right-turn lane is going to be required. Joy stated when going from south to north, there is a 30+ foot drop and is wanting to know what is being done for water control. Callahan stated that there is a detention area and watershed has reviewed that. The CUP will also be served by that detention area.

Edgerton stated that an amendment to the Comprehensive Plan is not needed because it is less than five acres. Callahan stated amendments to the commercial area is when there is 5 acres or more and with this, it is less than 5 acres. Edgerton confirmed that outlets and detention areas are excluded from determining the size if an amendment is required. Callahan stated that is correct.

Steve Henrichsen, 555 S. 10th St, Planning Department, approached and explained how the total of acres is determined. Henrichsen stated that sometimes commercial areas are not designated B-2 and you are trying to look at the commercial use that is left. When looking at this in a whole, it is clearly adding less than five acres. Edgerton is concerned about the expanding commercial area so that it abuts the current the R-1. Callahan responded that with the set back and the zoning code requirement of 25 feet and the developer is providing 50 feet set back. Edgerton was wondering about the questions about the current covenants. Callahan stated that the Planning Department would not be involved with covenants, that would be through the neighborhood association.

Corr stated that there was concern with the fast track of this project and is wondering how long the applicant has been talking to Callahan about this project. Callahan stated that the applicant started talking to the Planning Department about three months ago and there was one delay of Planning Commission hearing two weeks ago.

Cruz stated that several of the letters submitted mentioned that the traffic would significantly increase with school children and the elderly living facility. Cruz wanted to know about how traffic will be impacted.

Bob Simmering, 555 S. 10th St, Lincoln, NE Lincoln Transportation and Utility, approached and stated a traffic study was received from the developer. Simmering stated when it is received, LTU reviews and does believe that this is an accurate traffic study which shows that there needs to be a provision of a right-turn lane going into the commercial somewhere.

Corr asked Simmering what kind of increase of traffic in present conditions to what is being proposed. Simmering stated that the Traffic Engineering will need to answer this.

Joy asked about how the travel path will go along with Hill Elementary. Simmering stated that traffic engineering will need to answer that.

Applicant Testimony:

Andrew Willis, 233 S. 13th St., Lincoln, NE approached on behalf of Southhills, LLC. Willis stated that the Change of Zone is for 36 villa single family homes and commercial property on 19 acres total. The proposed Change of Zone moves the commercial zoning off Norman Road and onto the frontage of Old Cheney Road. The CUP piece of this, is a little over 13 acres, which is a smaller community compared to the lots adjacent. Willis stated that this is going to be higher-end Villa lots, but similar in quality and value. The current zoning is R-1 and could put 51 developments on this property without the proposed CUP. The developer is proposing to lower this to 36 single family dwellings and to decrease the setback to make it fit into the area. By decreasing the setbacks, will allow a larger home and smaller yard. Willis stated that there are other waivers associated that will create a better layout and make improvements to the pedestrian connection where needed. In the B-2 Use Permit area, this would bring the traffic off Old Cheney and not Norman. The use would be the removal of heavy traffic and the commercial use would be beneficial to the overall neighborhood. Willis stated that efforts are being made to make this work. Willis stated that they are trying to create a better buffer with landscape to the adjacent properties. Willis stated that this is in conformance with the Comprehensive Plan. Willis stated that the meeting was deferred two weeks ago so that could discuss concerns with the neighbors. There was a neighbor liaison they were working with and addressed some of their concerns, but some of the points were not met but some concessions made. Willis stated that there have been several conversations and are working on trying to keep the line of communication open. Willis stated that they have tried to work with the neighbors but unfortunately, it did not work out.

Brad Marshall, Olsson, 601 P St. Suite 200, Lincoln, NE approached and explained the intent of a Villa lot. Marshall stated that the villa houses is a target market for retirees, empty nesters and people looking to downsize on their home. Marshall stated that they are targeting the value of

these homes to be somewhere in the magnitude of \$750,000 and up for a custom-built villa. The covenants of this will be restricted to the materials, look, and feel of the development. Marshall continued to state that the intent is to provide a new market to The Knolls Neighborhood by creating a private area, minimal connectivity to The Knolls to the east or south, and low maintenance. There is some conversation about drainage and that they are working with watershed regarding that. Marshall stated that there is limited infrastructure on The Knolls Road with water and will continue to consult with Tim Zach. This property sits low, and the project presented in the plans is that it will be graded flat by design. Marshall stated that the drainage will come through the development, and they are planning to take care of that. Marshall stated that there currently are overhead power lines, and through discussions with LES, the developers are going to bury the power lines. The Villas will be side load entry garages, which is allowing the homes to be pushed more to the side yard and front yard which is allowing the home to be shifted away from the perimeter homes in their backyards. Marshall stated that there will be a HOA, governing body that will enforce the covenants that are put together. There will be 50-foot buffers that will be landscaped as part of the screening and is currently working with an owner for that vision. Marshall stated that there were two options for traffic; it was elected to bring a new driveway through the commercial area. Marshall added that when they look at a traffic study, they look at what the property was previously to establish a baseline. Marshall went over the timeline of preparation, which started in August of this year to reach out to get general feedback. The first meeting with the Planning Department was on August 31, 2022, and then met several times with neighbors in October, and had a neighborhood meeting on November 28th, 2022. Marshall stated that there has been complete transparency and willingness to work with the neighbors.

Joy asked when the density for R-1 is discussed, does it include only the permitted activities, or does it include the conditional and special use activities? Willis stated that the 51 units is permitted uses. Joy stated that it was mentioned to not consider keeping the lots the same size as in the area; Marshall stated there were plans but it never moved forward due to the cost. Marshall stated that there are not too many multimillion-dollar houses built in Lincoln. Joy asked about the Villa example in Bishop Heights, and if it is a gated community and Marshall stated that he does not know if it is gated, but he has seen gates there. Marshall stated that Bishop Heights is townhomes, this location is for single family homes. Marshall stated that they looked at similar types of homes that they are trying to establish with character that is within the city. Joy asked from an access point from traffic study and comparisons, was it looked at for access to the residential internally from Old Cheney Road? Marshall stated that they tried to maintain a separation between the residential and the commercial areas and there will be sidewalks added.

Edgerton asked if the entrance point to the commercial area off Old Cheney Road is definite. Marshall stated that it is definite off Old Cheney Road. There will be an access off Old Cheney and a driveway off Norman Road.

Ryman Yost asked if the sidewalk being built is accessible between the villas and the commercial area. Marshall stated no, there will be trees and berms. This was later clarified that it will be accessible in one spot from the Villas to the Commercial Property. This must meet the Pedestrian Circulation Standards.

Marshall clarified a question that Corr had previously asked about the Zoning. Marshall stated with the current zoning, it carries a lot of flexibility with convenience stores, a Starbucks, Chick-fil-A, or anything else. This can also include a total of 61 dwelling units. Marshall stated that this is not what they are envisioning.

Eddins asked to clarify, a convenience store with a vape shop could go there, but if the Change of Zone is to happen, then it will limit what can go there. Marshall verified that is correct.

Eddins confirmed that a sidewalk will be in place. Marshall confirmed that it will be.

Corr asked Marshall what the vision for the B-2 tenants are. Marshall stated the preserve area on Pioneers Blvd has the perfect vision is with a bank, medical office, sit down restaurant (no fast food or drive thru) just to name a few.

Corr asked about the traffic study and comparing what it is now to the potential use with the increase or decrease of traffic.

Shane King, 601 P St. Suite 200, Lincoln, NE with Olsson approached to state that there is net increase daily about 1100. As of today, that is about a 4% increase to the intersection. North of Old Cheney and south of Old Cheney is used for comparison. King wanted to clarify that there is a difference between vehicles and trips. The example that he gave is if a car leaves in the morning and comes back, that is one vehicle and two trips. Marshall added that a pedestrian count was done. The pedestrian count is taken on a school day. In April 2021, there were 2 pedestrian and 2 bikes that was recorded crossing Old Cheney at peak time.

Corr asked Willis about the neighborhood meeting and what compromises were discussed. Willis stated that one of the concerns was the B-2 and the max of the height of 55 feet. Willis stated that an example was to maximize at 35 feet. Marshall stated that there was a proposal for providing additional screening with trees and offered to move them to an area of advantage. There was a request for an 8-foot fence, dumpster placement, eliminated signage and screening the dumpsters. Willis clarified that this is proposed to 36 family dwellings and that there are no plans to go any further. Corr stated that she wanted to make sure that there was a give and take at the meeting.

Proponents:

No one came forward for support.

Neutral:

No one came forward for neutral testimony.

Opposition:

Tom Smith, 5910 Norman Road, Lincoln, NE stated that he has known for 48 years that the land could be residential, and that it can be B-1 Commercial. Smith stated that he is not opposed to this B-1 and there are many office spaces for commercial spaces available within the area, but he is opposed to changing the R-1 to B-2 and B-1 to B-2. Smith stated that the traffic did not bother him in the past, but he is against any zone change at all. Smith also stated that based on the description of the lots being built, he will have approximately a portion of three lots backing up to his back yard. Smith stated there does not need a zone change, but a better plan. He is open to affordable housing being built there.

Corr wanted to clarify with Smith that he would be open to a gas station put there, Smith stated absolutely yes, put a gas station there.

Craig Smith, 5930 Norman Road, Lincoln, NE approached and stated that he has 3 properties in the area and is in opposition. Smith stated that he is agreeing to Tom Smith's previous testimony about leaving this zoning the same. Smith (Craig) likes the concept of the villas but is concerned with the setback between each of the properties and if they could come up with a plan and go higher density along Old Cheney would be a good solution. Smith stated that he had done a flood plain analysis that showed flood issues on The Knolls Drive and on Norman. There are 2 inlets that flow into a pipe and there is so much surface drainage, that all the water overflows the street and finds its way between a two of the houses. Smith stated that he suggested to Zach and Simmering to expand and follow the Topography line with what he recommends should be done. Zach and Simmering should consider doing an analysis on this so they can understand the issues. Smith also stated that there are not any sidewalks on Norman and The Knolls Drive and safety is a concern.

Corr wanted to make sure that she is understanding what Smith is saying regarding leaving it a B-1 because Smith does not think it will develop as a B-1. Smith stated that there will not be the density that they indicate. Smith stated with this, there will be only one user. Smith stated that the driveways do not align with the others either.

Edgerton asked Smith about the pending flood plain guidelines and for him to go over it again for her understanding. Smith stated that the way he understands this is that it will change the water way, how it drains and how it is managed. Smith stated that it instills safety for all the new tenants building and buying houses, so they do not have a flood issue. Smith recommend that Zach discuss what the changes are and what those changes would do to affect the design in this project.

Lisa Smith, 5921 The Knolls, Lincoln, NE stated that she wanted to convince the Commissioners of the negative impact that this will have on the area. Smith feels that this is being pushed through very fast. The neighborhood is historic, has character and that the changes will change the dynamics of the area. Smith stated that she wants to keep the essence of the neighborhood intact and by piling villas on top of each other and building commercial buildings will change that. The type of villas being built do not match the market in Lincoln. Smith also states that the villas will appear more crowded being built on small lots. Smith opposes the residential portion due to safety issue. There are a lot of elderly and young families in the neighborhood and without sidewalks, they walk through the streets. Smith is concerned with adding the 3000 cars to the area and wants to keep the zoning as it is. Smith stated that she does not want one mans greed to get the absolute last cent out of this piece of land to ruin our neighborhood.

Geoff Basler, 5805 The Knolls, Lincoln Ne approached with four issues that he has with the proposed development. First, is the lack of transparency throughout the design process of this development. Basler stated that the solution requires the disinfectant of sunshine and transparency, and the city leaders must step forward to protect the interests of the citizens and these families. Basler stated the second issue is the increase of traffic, and the solution would be to leave the commercial zoning as it is. The third issue is the lack of reasonable setbacks. The homes are packed in density and the setbacks are the bare minimum. The solution would be larger setbacks including side and rear setbacks. The last issue is that cul-de-sacs and parking lots backing up to backyards of homes with no buffer. This creates danger to families creating an unknown of property damage, theft or children hit by cars if they are playing. The solution would be to have back yards abutting to backyards.

Ryman Yost asked what is the difference between side yards versus back yards, and is there a reason to looking at someone's side of their house versus hanging out in the backyard? Basler stated that there is more space in the backyard. Ryman Yost stated that this is a spacing issue and Basler confirmed yes. Ryman Yost and Corr clarified that side yards were only reduced internally.

Corr stated that there is increase screening in the cul-de-sac and Basler stated yes. Corr stated to Basler that his letter stated the opposite. Basler stated that the screening comes up to the neighborhood. Corr stated that there is some confusion.

John Badami, 5909 Norman Road, Lincoln, NE approached to restate to leave the commercial zone as it, there is storm water concerns, largest building should be moved, setbacks for rear yards and much more. Badami stated that what is being heard is the lack of communication between the developers and the neighborhood to make it better for both parties. Badami stated what was done in another neighborhood area and compared it to this area and feels that this

was not done. There was expedited communication with the neighborhood and that the need to consider the neighbors' concerns then come back and vote.

Ryman Yost asked if Badami was at the meeting on the 28th. He stated yes, he was there. She asked approximately how many neighborhood members were there. Badami stated about 40-50 neighbors were there.

Jacob McGlade, 5727 The Knolls, Lincoln, NE approached on behalf of himself and the neighbors who could not attend due to weather, age, and the strategic timing from the developer for the meeting. McGlade stated that the Comprehensive Plan is not a tool for developers to exploit loopholes and sneak through the process. McGlade stated this Change of Zone has only been approved twice since 2010. The neighborhood concerns are with the increase in traffic, and if it was to be kept with the current plan, it would drop the traffic count. McGlade stated that they are walking the streets in the neighborhood without sidewalks. It is not uncommon for cars to leave the road and the accidents that have happened. McGlade is requesting to deny the Change of Zone request even though the scare tactics provided by Olsson's, they still want that change.

Nikki Scott, 5727 The Knolls, Lincoln, NE approached to state she is opposed to the commercial proposal, and it does not comply with the 2050 Comprehensive Plan. This directly affects her since her property backs up to her property. It is being proposed that a medical building that will be taller and closer to her property and does not comply with the 2050 Comprehensive Plan. Scott cannot find any example of this in Lincoln or Omaha area. Scott also stated that this is not safe for the neighborhood. Scott stated that the residential proposal concern is the density, and it is not comparable to Firethorn, in her opinion, in which Olsson's used as an example.

Edgerton asked Scott if her lot is abutting to the new commercial proposed commercial area. Scott stated that they are one lot in. Edgerton asked if Scott's property line would have a portion of that proposed commercial area as well as the northern most residential area, Scott stated yes.

Michelle Burr, 5707 The Knolls, Lincoln Ne approached and stated that they went into full knowledge knowing that it was an R-1 and was ok with that at the time of purchase. There is a portion on Old Cheney that can currently house commercial buildings and stated she does not understand why this building needs to abut to her entire back yard. Burr stated that she strongly opposes the change of R-1 to B-2. Burr stated that this neighborhood is a type of neighborhood that you do not see in Lincoln. Burr is asking that this is a coming together as a community and is asking that there be a coming together and not to take away from the owners who have lived there their whole life. Burr is requesting opposing the zoning change and if possible, to make the lots bigger so there is not three and a half lots behind a house.

John Svoboda, 9500 W. Dodge St., Omaha, Ne approached to discuss the covenants issue that is in discussion today. If the covenants are proposed, then the whole plat would need to be

redrawn. What the covenants state is that no lot shall be used except for residential purposes and no lot shall be subdivided into smaller building tracts. Svoboda also wanted to mention is the pending flood plain guideline changes and the importance if those and where they are at regarding the city. Svoboda stated that they have asked the city to look at the broader Topography showing the whole drainage area and that further study is needed to be done.

Logan Otto, 6000 Norman Road, Lincoln, NE stated that this is important to him and the community. Otto feels that there is no need or desire for this change to be made. Otto also stated that the proposed lots are smaller and are not in character with the neighborhood. Otto stated that he is in favor of maintaining the R-1 zoning and if the density is higher, he is ok with that. Otto stated that the watershed is another issue, there will be some health and safety issues with this being fast tracked and not addressing. Otto is requesting that they want to maintain the integratory of the neighborhood and the character of the neighborhood without changes to the zoning. Otto would like to address the watershed issue.

Jeff Burr, 5707 The Knolls, Lincoln NE approached and stated that they walk through the neighborhood, see the traffic and it is going to be dangerous and increase of traffic. Burr read a message from an opposition (Hannah Elliott with the Senior Living facility) that was on zoom and had to disconnect due to the time frame. Per the letter from Elliott, Burr stated that the concern is the single access point on Norman Rd and puts a strain on the safety of the residents walking down the street. Burr stated for himself that during a public meeting with Olsson, the attitude about the development says a lot. On multiple occasions, there has been a vehicle with the name of "Excellence in Affordability Housing" on the side of the vehicle and does not feel like there might be a little smoking mirror here.

Staff Question

Corr asked Callahan the year that the dial community was approved and or built. Callahan stated it was in 2015. Corr asked does this fit in with the Comprehensive Plan. Callahan stated that the Comprehensive Plan is stating what the current plan is and compared to how it is in the future. Corr confirmed that it is in Conformance with the Comprehensive Plan and Callahan stated that it is. Corr asked what the setback for the existing shed that is behind the Burr's house. Callahan explained the setbacks are pending on the type of home and rear or side yard.

Edgerton stated that the setbacks are asked for variance and not the lots size. Callahan confirmed that is correct. Edgerton asked if it was unusual for this R-1 to B-2 change in Lincoln.

Steve Henrichsen, 555 S. 10th Street, Lincoln, NE, Planning Department, approached and stated examples in Lincoln of multiple zone changes involving commercial. Henrichsen stated that this is by far the lowest density residential that has been seen on this project. Henrichsen proceeded to explain some of the types of previous proposals and plans that have been discussed in this area and the reasons as to why they would not work. Henrichsen stated that the flood plain

items moving forward, if they are approved, with an affected date of March 1st for any proposal that comes through, will not be affected for the new flood plain proposal on March 1st. It will be grandfathered in.

Edgerton noted that what Henrichsen stated clarified much that was being said. Edgerton wondered if the deadline is getting in the way of the guidelines and safety issues. Henrichsen approached and stated that a lot of the items involved properties in the flood plain and increasing the elevation of those properties. None of these properties being developed are in the flood plain.

Mike Middendorf, 555 S. 10th St, Lincoln Ne, Watershed Management approached and stated that there is no enforcement on this due to changing of the rule accordingly, so there is not any authority to enforce that on this development. Middendorf stated that there is water quality set up and enforced with this development and will look at this other concerns. Olsson also agreed to look at this in more depth to make sure that they are capturing all the water issues.

Applicant Rebuttal:

Marshall clarified that the approach is to be more proactive with the CUP and waivers, so they can request the setbacks and sidewalks. That was the good faith that they came forward to help the neighborhood. The question about the density will not work with the overall vision of the Villa. The Villa concept needs to be consistent. Marshall addressed the drainage issue that has been discussed and will continue to work with Middendorf on making the adjustment as needed. Marshall clarified that the size of the Villas includes main floor only. They will have basements, flat, grade changes, or zero entry. The homes will be custom built to the buyers need. The location of the building size is the buildable footprint. When it is sold, then plans will need to be submitted and to meet zoning codes. Willis stated that the covenants are in place and with the new development, there will be protective covenants in place and is controlled on the private level. There will be sidewalks on all new streets. There is concern about no sidewalks currently, and this has nothing to do with the new development and is an issue on its own. Willis stated the single-entry way to the road, by zoning regulations, there can be up to 40 dwelling units, and they are at 36, so the city standards are being met. Marshall referenced to the Firethorn Project with one road in and one road out is a good example to use for comparison. Willis stated that the neighbors want to keep the zoning the same but also want bigger lots. It cannot be both. The new development should not shut down while waiting on new regulations that are not there yet.

Edgerton asked if Marshall and Willis were involved with the retirement community in that area. They both stated that they were not directly involved. Edgerton noted that the neighbors have an impression that the transparency and process has been different this time. Willis stated that it may be different due to the Change of Zone, but also wanting bigger lots. Marshall noted that they have tried to get dialogue going with the neighbors or by getting feedback from the neighbors. They have delayed allowing more time to get the ball rolling and then another list

came out last week and have responded immediately. Marshall does want to move forward; and is very open and has offered discussable items.

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

CHANGE OF ZONE 22035

ACTION BY PLANNING COMMISSION

December 21, 2022

Corr moved to approve Change of Zone 22035, seconded by Eddins.

Eddins stated that placing residential along Old Cheney does not make sense and she does not know if this is the right thing to do. A business district along Old Cheney makes more sense.

Joy stated that this discussion is really similar to other discussions that they as commissioners have had. The existing expectations and the changes need to be worked through at this point. Joy feels that this is the opportunity to slow down and not approve the plan as it is proposed. This is the time for everyone to work together and think in and out of the box. Joy will not be supporting the Change of Zoning, Use Permit, or the Special Permit at this time. Joy respects how hard that the city has worked on this, however, she encourages the neighborhood and the residents to work together with the developer. Joy stated that it appears that the drainage can be tweaked and be worked out. Joy will be voting against the motions.

Corr stated that there is a big disconnect from the neighbor's testimony and the developers. Corr stated that she is not going to support the deferral and that there is four weeks to work this out before it goes to City Council. Corr stated that the neighbors are getting a lot of what they are asking and do not understand it. Corr stated that there are a lot of misconceptions and will support the project because she thinks that this is a good thing.

Eddins stated that the golf course has been there for many years and that this is an existing neighborhood. Eddins does believe that people want a smaller, higher end lots. Eddins noted that there were comments about having three neighbors back up to one house. In the case of a side lot, there will only be one neighbor backing up to one house. Eddins will be supporting this project and the residential area looks like it is what they are wanting.

Edgerton stated that she is torn with the understanding that the neighbors have the idea that they are wanting to leave it as it is. With that being said, it does make sense to have business along Old Cheney instead of residential. There is a doctrine of reliance that this was understood to be R-1 and there was a section that was set aside for B-2. The property owners along The Knolls that about this, had the idea that a R-1 was behind them, changing to a business behind them is what Edgerton is struggling with. Edgerton stated that she loves the Villa concept, and it

is different from what is there now. Edgerton stated that she will vote to deny the Change of Zone and is in favor of the Special Permit for the CUP.

Motion failed 3-3: Corr, Eddins and Ryman Yost voting 'yes'; Cruz, Joy, and Edgerton dissenting; Ball, Campbell and Rodenburg absent. The motion failed due to the lack of obtaining 5 affirmative votes. Planning Commission will take action on this application at the January 11th Planning Commission hearing. The public hearing on this application was closed.

Corr asked if it is possible to approve the Use Permit and Special Permit without approving the Change of Zone?

Tim Sieh, 555 S. 10th St, Lincoln, NE, City Law Department approached and stated that the Use Permit and the Special Permit are conditional on the Change of Zone. Since the Change of Zone was not approved, it would be better to defer voting on the Use Permit and the Special Permit until the next Planning Commission Hearing.

Edgerton requested to defer voting on Use Permit 22013 and Special Permit 22039 to the next Planning Commission Hearing on January 11, 2023.

Joy made a motion to defer Use Permit 22013, second by Corr. Motion carried 6-0: Corr, Cruz, Eddins, Joy, Ryman Yost, and Edgerton voting 'yes'. Ball, Campbell and Rodenburg absent.

Joy motion to defer Special Permit 22038, second by Corr. Motion carried 6-0: Corr, Cruz, Eddins, Joy, Ryman Yost, and Edgerton voting 'yes'. Ball, Campbell and Rodenburg absent.

Sieh clarified that there will not be public testimony at the next hearing.

Joy motioned to adjourn, seconded Corr. Motioned 6-0: Corr, Cruz, Eddins, Joy, Ryman Yost, and Edgerton voting 'yes'. Ball, Campbell and Rodenburg absent.

There being no further business, the meeting was adjourned at 4:37p.m.