

CITY OF LA VISTA
PLANNING COMMISSION MINUTES
MAY 21, 2009

The Planning Commission meeting of the City of La Vista was convened at 7:00 p.m. on Thursday, May 21, 2009, at the La Vista City Hall, 8116 Park View Boulevard. Members present were: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, Gahan and alternate, Nielsen. Also in attendance was Marcus Baker, City Planner, John Kottmann, City Engineer and Ann Birch, Community Development Director.

Legal notice of the public meeting and hearing was posted, distributed and published according to Nebraska law. Notice was simultaneously given to all members of the Planning Commission and a copy of the acknowledgement of the receipt of notice is attached to the minutes. All proceedings shown were taken while the convened meeting was open to the attendance of the public.

1. Call to Order

The meeting was called to order by Chairman Krzywicki at 7:00 p.m. Copies of the agenda and staff report were made available to the public.

Citizens may address the Planning Commission about items not on the agenda on the comments from the floor. Comments should be limited to five minutes. We ask for your cooperation in order to provide and organize the meeting.

2. Approval of Meeting Minutes – April 17, 2009

Hewitt motioned to approve the minutes of April 17, 2009. Alexander seconded the motion. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch and Gahan. Nays: None. Abstain: Circo, Alexander and Horihan. Motion carried.

3. Old Business

None.

4. New Business

Krzywicki asked if everyone had a chance to read the letter from Ann Birch about the open meeting, regarding fairness in a public hearing and if anyone had any item to discuss before going further.

A. Public Hearing for a Conditional Use Permit to allow outdoor storage for Waldinger Corporation on Lot 4 of Papio Valley 2 Business Park in the NE ¼ of Section 19, Township 14N, Range 12W.

i. Staff Report: The applicant requests outdoor storage of materials to be used in the production of finished goods and for storage of finished product prepared for shipping. Outdoor storage shall mean the storage of any material for a period greater than 72 hours not in an enclosed building, including items for sale, lease, processing, and repair (including motor vehicles).

Planning Staff finds that the application can satisfy the standards set forth in Sec 6.05 of the Zoning Ordinance and therefore recommends approval of the Waldinger Corporation's Conditional Use Permit with the following conditions:

1. A security fence shall be constructed around the graveled surface to reduce the chance of gravel dust going airborne due to vehicles driving or parking on the graveled area.
2. Visual screening of the outdoor storage area shall meet the requirements of Sec 7.17.04 of the Zoning Ordinance.
3. All landscaping requirements in Sec 7.17.03 shall be satisfied.

Malmquist asked the size of the storage area. Baker said the square footage was not shown on the plan, so during the public hearing the developer could help answer this question.

- ii. Public Hearing: Malmquist motioned to open public hearing.

Circo seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo and Gahan. Nays: None. Public hearing opened at 7:15 p.m.

Blaine Wilcox, Waldinger Association, presented to say the size of the storage area is just over one acre. He states they tried to go to great lengths to address the landscaping requirements. There is also a concrete curb (6"-8" high) at the edge of their paving which will eliminate traffic going through to the storage area. Wilcox questions the need for fencing and feels it would be more attractive without a fence, but are willing to include a fence if security dictates.

Gahan inquired if the graveled area requires a forklift. Wilcox said yes, it would be a staging area of raw material, for a couple of weeks, until they are shipped out to project sites. Fabricated product would be stored there for a period of days until it is loaded and shipped to job sites. It is not vehicle storage, or a bone yard, it would be used for raw material and finished product.

Circo asked if there would be any semi truck traffic. Wilcox said there will not be semi truck traffic, and not intended for any vehicle traffic.

Circo asked if there is any type of fence around the property. Wilcox said none at all.

Krzywicki asked if the manufactured product would be stored outside awaiting shipment. Wilcox said both raw and manufactured product would be stored outside.

Malmquist asked about the one curb cut. Wilcox said his plan is to have it 30-35 ft wide to get forklift traffic in and out.

Circo asked about the average weight of a piece that would be stored in the area. Wilcox answered about 200-300 pounds, some 2,000-3,000 pounds.

Circo motioned to close the public hearing. Andsager seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, and Gahan. Nays: None. Public hearing closed at 7:22 p.m.

Circo asked if there was a question as to whether staff was requiring a fence to be constructed. Baker said staff was looking for some way to deter cars from driving over the gravel and kicking up dust and dirt. If the commission thinks the curb is enough, conditions of approval could be changed.

Malmquist voiced concerned about the way a fence would look and felt landscaping or berthing would be more attractive. A fence may not lead to dust abatement.

Hewitt asked if condition #1 could be changed to read, "a security fence or landscape screening" to allow for an additional option.

Circo felt a security fence would not stop the dust. Baker said the fence was suggested to keep vehicle traffic from crossing the area or parking on the gravel.

Krzywicki pointed out that the documents suggested that a gravel surface provided the benefit of the water to infiltrate the ground instead of running off into streams, creeks, etc..

Hewitt suggested that condition #1 be altered to read, "a barrier and/or landscape screening shall be constructed around the gravel surface to reduce the chance of gravel/dust going airborne due to unnecessary driving" may address the concerns.

iii. Recommendation: Hewitt motioned to recommend approval of the Conditional Use Permit with conditions # 2 and 3 as is and set forth in the planning staff recommendation with the exception of item #1 to read: "a barrier and/or landscape screening shall be constructed around the gravel surface to reduce the chance of gravel dust going airborne due to unnecessary driving or parking on the gravel area." Malmquist seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo and Gahan. Nays: None.

This project is tentatively scheduled for City Council agenda of June 16, 2009.

B. Public Hearing for Cimarron Terrace Preliminary Planned Unit Development (PUD) and Preliminary Plat located at Lot 380, Cimarron Woods Subdivision in the NE ¼ of Section 16, Township 14N, Range 12W, City of La Vista, Sarpy County, NE.

i. Staff Report: Applicant, Pedcor Investments, LLC has submitted a proposal for subdivision of Lot 380, Cimarron Woods into two (2) lots for phased development of apartment buildings as a Planned Unit Development (PUD). The 25.938 acre property is owned by Torco Development, Inc. The area is currently zoned as R-3, High Density Residential.

Several phone calls have been received by the Planning Staff regarding this application from concerned neighbors. Primarily, comments have focused on traffic concerns and the quality of the proposed development.

Planning staff recommends approval of the Preliminary Planned Unit Development (PUD) Plan with the following conditions:

1. The Preliminary PUD Plan and application refers to the property as being zoned R-1 (PUD). This needs to be revised on the Final PUD Plan to read R-3, PUD-1 zoning.
2. A traffic signal shall be installed at the intersection of 99th and Harrison Streets as part of the development of Lot 380, Cimarron Woods, as per the Cimarron Woods Subdivision Agreement. The traffic signal and all additional improvements recommended by the updated traffic study shall be installed before final building occupancies are allowed in Phase I.
3. A 10-foot wide trail shall be installed in Phase II of the development, as per Exhibit E-1 of the Cimarron Woods Subdivision Agreement. An opening or gate needs to be provided in the fence to access the pedestrian trail on the Westside of the property. Preferably, the gate should be at a convenient and accessible location to apartment buildings 7 and 14.
4. Revisions requested by the City Engineer, in his letter dated April 30, 2009, shall be incorporated into the Final PUD Plan and Conditional Use Permit submittal.
5. Revisions and additional information requested by the City's Design Review Architect shall be incorporated into the Final PUD Plan and Conditional Use Permit submittal.
6. Other revisions stated in this report shall be addressed prior to Final PUD Plan and conditional Use Permit submittal.

Planner Baker welcomed Commissioners' questions before proceeding into public hearing.

Hewitt asked about the access from 99th Street which reads that there are two access points, however, it appears that there is an island that follows 99th up to the round-about and would look like a piece would need to be cut from that median.

Kottmann clarified that there is one full access and one right-in, right-out.

Gahan asked if the traffic signal on Harrison Street would have turn signals for those going westbound.

Kottmann said there would be left turn arrows, left turn phases and signals eastbound and westbound on Harrison with left turn phases.

Gahan asked if it were possible to enter the main entrance and go all the way through the complex and come back around and leave, Baker affirmed that would be correct.

ii. Public Hearing: Circo motioned to open public hearing. Hewitt seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo and Gahan. Nays: None. Nays: None. Public hearing opened at 7:35 p.m.

Larry Jobeun, appeared on behalf of the applicant, Pedcor Investments LLC, accompanied by Mike Smith and Mark Westergard of E & A Consulting Group.

Jobeun gave a slide presentation on the Pedcor Investment LLC, explaining that they are a suburban fringe developer with projects in Indiana, Tennessee, and Nebraska.

The project under consideration tonight is currently zoned R-3, PUD-1 with a Gateway Corridor Overlay District. This declares that the land use has already been decided as a multi-family residential site. The zoning code allows for 19.36 units per acre.

In 2008, Pedcor applied to construct 354 multi-family units in two phases that had a total density of approximately 13.6 units per acre. The proposal tonight is to construct 276 multi-family units, in fourteen buildings, in three phases with a total of 168 garages. The total density of the overall development is 10.64 units per acre, well under the 19.36 units allowed in this R-3 zoning.

There is an abundance of green space and landscaping and the existing treed areas will be preserved to the highest extent possible. There are on-site detention ponds, storm water management plans in place and the traffic signal at 99th and Harrison Streets will be installed with the first phase of the proposed development and will have access to the trail system. A perimeter fencing will run approximately from the round-a-bout to the upper south of the property constructed of black steel consistent with that approved by the residents of adjacent Cimarron Woods.

The club house is 3,317 square feet; professionally staffed and includes an entertainment room, full service kitchen, tables, chairs, swimming pool and playground.

Parking is sufficient in that there are 590 parking spaces for the 540 unit project.

The proposed project plans by phase:

Phase One: 9.887 acres, 84 multi-family units in 5 buildings and 64 garages. Density: 8.5 units per acre. Composition will be: 24 one bedroom units, 36 two bedroom units and 24 three bedroom units.

Phase Two: 16.05 acres, 192 multi-family units with density of 11.96 units per acre.

Jobeun continued saying the proposal is a well designed, attractive project that preserves a substantial amount of green space, is low density, heavily landscaped, and is consistent with the zoning and as previously subdivided. The conditions of staff are acceptable and feel that all outstanding issues will be appropriately addressed in the final PUD.

Horihan asked about the volume of the BMPA in the post construction water quality exhibit, areas A and B, and the square footage. She wondered which detention basins would be built, she doesn't see the run-off going into the BMPA in Phase I.

Westergard said it has to yet be determined which of the BMPs (Best Management Practices) would be built. The entire site will probably be graded at one time, so all three of the BMPs, if required, would be constructed. The drainage would be immediately constructed in Phase One of the project and would meet the criteria of the City.

Horihan asked if that takes into account the new crossing in between Phase One and Two. Westergard said that does take into account both of the culvert crossings. Phase one is a 24 inch culvert and Phase Two has been downsized to limit the discharge from a 6" x 6" box to a 36 inch culvert.

Horihan asked on the overall site if there was 30% open space. Birch responded that some of the PUD ordinances require 25% open space. This amount can be established by the PUD.

Nielsen asked why vinyl siding was chosen for the project. Jobeun explained this was in compliance with the architectural review by the city and it is a long lasting building material.

Kramolisch asked about the maintenance landscape. Jobeun said Pedcor Investments LLC would continue to maintain the property.

Krzywicki stated there is a lot of water that flows through the property, down towards the south of the entire development that pools into a marsh area and asked what would become of the detention ponds if there is no water running through. Jobeun said these are normally dry detention ponds, the storm water management ponds would be wet after a storm and would be released over a 48-hour period. The primary detention, in the middle, would be controlled by the 36 inch outlet pipe to the south, and 24 in on the north.

Krzywicki asked how these detention ponds ensure that the neighbors will not have water in their homes. Jobeun said the complex would ensure that the historical storm is not made any more severe by this development.

City Engineer, Kottmann added that a great deal of time had been spent on the drainage on this project. All studies have been consistent. The drainage system in Cimarron Woods originally had been designed in anticipation of apartments being constructed on this property. With regard to the apartment site, which is approximately 8% of the total drainage area down to a particular group of homes, a request has been made for no increase in peak run-off from the 2-year through 100-year storm events, which is in excess of the subdivision requirements; and is in excess of the original design criteria for the subdivision, but there is adequate green space on the site and there has been a recent adoption of storm water quality regulations. This apartment complex should not be contributing to whatever problems are or are not occurring downstream.

Jennifer Taylor appeared on behalf of some of the neighbors in Cimarron Woods to present their concerns and comments. Some of those comments have already been addressed tonight.

It was pointed out that the group she represents is not opposed to apartments and they understand this piece of land was always to be apartments. Also, the neighbors do not oppose a tenant mix. They desire to ensure that this particular development adheres to all of the R-3 and gateway corridor requirements to include maximum pervious coverage percentages, drainage and flooding issues, and set back and building design requirements.

Taylor generally states that the goals set forth in the code of the gateway corridor provisions intend to ensure a continuity of character between the neighborhood and the proposed development and to enforce certain guidelines so that the proposed development fits in with the entire neighborhood. These neighbors want to make sure when you drive into the entrance on 99th Street that what you see in that development reflects the same character, nature, design and feel that the Cimarron Woods single family home development has.

Taylor confirmed that Phase One needs to be a stand alone development, in case Phase Two does not get built. Taylor stated the maximum pervious coverage ratio is actually 48.72% for Phase One, as submitted. The maximum pervious coverage rate allowed in R-3 is 40%; therefore, the coverage rate in the Phase One development exceeds impervious coverage by nearly 10%. The site as a whole is about 41.5% because Phase Two is less than the maximum coverage.

Birch pointed out that the City has maximum building coverage, but not maximum impervious coverage. Building coverage is listed as 40% which includes buildings, not pavement. Therefore, proposed impervious coverage is acceptable.

Taylor continued to say that this is a concern of the neighbors that there is so much building and pavement coverage on Phase One. She felt in speaking with Mr. Westergard that the issue of detention ponds and drainage issues on Phase One has been addressed, although she feels it is not clear as to which ones will be included in Phase One.

The neighbors, Taylor says, are concerned with tree removal. Pedcor acknowledges that they intend to keep all of the trees in the center and part of the drainage plan. The staff report indicates that some of the trees and vegetation would be conserved but that fill material for building sites and parking would cause many trees to be removed, and installation of the proposed storm water detention areas would likely cause existing trees to be removed. Thus, there seems to be a disconnect between the staff's view and Pedcor on how the trees will be dealt with. If some of the trees are lost are there plans to replace those?

The Gateway Corridor District requires certain criteria for appearance, Taylor states. The city's architect has reviewed and had input into the plans of this development, the neighbors had a certain idea into what these buildings would look like. For example, the district requires that the height and scale of each building shall be compatible with its site and existing buildings; that monotony design in a single or multiple building project shall be avoided; that natural and topographic patterns are preserved; and, that the primary building material of all portions of structures be brick, clay, stucco, glass, wood, masonry, etc. and the neighbors were looking for these buildings to reflect something that resembles the style and character of existing single family homes.

Taylor points out that Mr. Kottmann has indicated that the water and wetland study needs to be updated from the existing one of 1999. She feels this leaves some questions open as to how this is going, how this development will actually be affected by any sort of Army Corp of Engineer permits or any wetland or waterway study.

Taylor closes with a few suggestions that if Phase One is to function as a stand alone development, the neighbors would like to see a drainage study that addresses just Phase One. There are additional design plans in consideration that are of concern. She feels that the proposed development may, or may not, meet the necessary requirements, but that there seems to be a lot of information that was to be provided, or will be provided, or will be reviewed between now and the final PUD and they would ask that the Commission take this as a point that Pedcor answer all of those questions, put forth all of that information, and bring everything together before the preliminary PUD proceeds to City Council.

Tom Ecker, Cimarron Woods resident, passed out pictures of flooding that occurred in his yard in the past. He indicated there are flooding issues which have not been addressed and adding apartments that have a vast amount of parking lot poses a concern. He feels the culvert beneath the railroad tracks is not sufficient to drain all the water it would need to with the proposed development.

Eileen Williamson, Cimarron Woods resident, re-iterated that items she discussed in a previous Planning Commission regarding timeliness of information to be under consideration on this proposed development is lacking and the neighborhood should be given the respect of time to review these materials themselves. She, too, has flooding which comes out of the creek bed through a 60 inch culvert and the same engineer that said that would not cause flooding is saying this proposed development will not cause flooding.

Williamson asked the developer about tornado safety and was surprised that there is no requirement from the City of La Vista for tornado shelters to be included in the development of an apartment complex.

Williamson argued that within the Gateway Corridor requirements is a setback requirement of 30 feet from the road, but it should be harmonious with neighboring development. Immediately across 99th Street are villas which are 75 feet back from the street because there is a planned outlot. So, driving down Harrison Street there is 75 feet, at 99th Street you have 30 feet at the proposed development, so there is no harmony. Regarding buffers and landscaping, the 10 foot trail which extends up to the round-a-bout is nice, but requirement E-1 in the subdivision agreement requires that a minimum of 3 feet is necessary between the sidewalk and the avenue, but the proposed trail abuts someone's property line along with a see through fence. People living in lots 301-309 in the villas decide they want one of two fences; you could have a house, a backyard, a white or black fence, a 10 foot sidewalk and another fence. There is no room for landscaping. She asks that a Planning Commission vote be delayed until the neighborhood can review newer submittals to the proposed development.

Jobeun responds that impervious coverage, drainage requirements and any other applicable site regulator has been complied with. As far as the setbacks, the PUD does say 25 feet. These items have been reviewed by the city staff, engineer, and architect and were found to be in compliance and therefore the favorable recommendation report to the commission.

Jobeun feels there has been a lot of effort by Pedcor to make this property consistent by material choices, architectural design and compatibility and a first class development. Pedcor cannot change anything themselves without coming back to the Planning Commission and City Council for further

review. There is no intention to cut down any trees, and he is not aware of any tree mitigation requirements with the city.

Jobeun asks that the preliminary PUD be forwarded to City Council and they would continue to work with the city and staff towards a first class project.

Westergard said the preliminary submittal made was complete to the extent that staff would recommend approval with conditions. Pedcor chose to submit things that were really not required, until the final plat, just to give a level of comfort that it could be done. So, items that appear to be submitted late were actually items that show, at a final stage conditions would be met.

Westergard says the outline of the trees is the drip line. The intent is to save everything inside of that except for the two street crossings that they have. The post-construction storm water detention basins are outside of the drip line, but again the intent is to save everything with the exception of the two street crossing areas.

Tom Ecker, Cimarron Woods resident, indicates that there is still flooding despite the efforts that have been tried by E&A Consulting. The water issue is one of his biggest concerns.

Hewitt clarified with Williamson that a four page document had been signed by Williamson, but that there are two pages that were added that did not have any signature and wondered if they belong to her as well. Williamson identified the pages as belonging to her.

Taylor returned with additional comments that the primary concern is drainage. Although Mr. Westergard indicates that there will be no increase in drainage problems there are substantial problems now and one can see how it is that the neighbors might be concerned about so much additional development and how that basin would drain. She appreciates what Pedcor has done, but would propose that anyone that could put 502 units on a piece of ground while adhering to the Gateway Corridor regulations, setbacks and all the other zoning requirements it would be very difficult to put that number on this particular piece of ground. This is a unique parcel that has substantial limitations based on location, setbacks, trees and the creek bed that would make that number difficult.

Horihan asked about the wetlands study, specifically about wetland mitigation if needed. Westergard responded that the preliminary indications show that there was little or no change. They do not expect to have any mitigation required by compromising any wetlands above the 10th of an acre to do their street crossings, which would be in the allowable limits.

Horihan also asked if a Section 404 permit would be needed from the Army Corps of Engineers. Westergard affirmed both crossings would require a permit.

Malmquist motioned to close the public hearing. Circo seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo and Gahan. Nays: None. Public hearing closed at 8:30 p.m.

Baker clarified that the deadlines are set for Planning Commission applications. As long as a complete application has been received by the deadline, then the City can move forward with the review process. However, revisions and corrections are requested by staff and new material can be presented to staff and to the commission up until the meeting night itself. If the Planning Commission ever feels like they do not have enough information to make a recommendation, then they can choose to continue the public hearing to give staff more time if needed.

Hewitt asked Kottmann about the first entrance and how you cannot get to it from Harrison Street because of the median and what kind of traffic study would be needed. Kottmann answered that the proximity of it to Harrison Street is too close for that to function during peak hours.

iii. Recommendation: Malmquist moved to recommend to City Council approval of the Preliminary Planned Unit Development with the conditions stated in the staff report and add a condition #7 stating a preliminary assessment of the potential waterway wetland issues will need to be performed by a qualified environmental consultant before Final PUD approval and all applicable Army Corps of Engineer's permits shall be completed before the Final PUD approval.

Kottmann suggested that relative to the testimony heard about drainage and the applicants engineer, it may be appropriate to add another condition that approval would be subject to no net increase in peak run-off for storm events 2-year through 100-year frequency and to provide a detailed phasing of the storm water detention. Malmquist agreed to include this statement in her motion. Gahan seconded. Ayes: Krzywicki, Malmquist, Andsager, Kramolisch, Alexander and Gahan. Nays: Hewitt, Horihan and Circo. Motion passed on a 6 to 3 vote.

Item is tentatively scheduled for City Council's agenda of June 2, 2009.

C. Public Hearing for Harrison Heights Preliminary Planned Unit Development (PUD), Preliminary Plat, Comprehensive Plan Amendment to the Future Land Use Map, and Re-zoning request for property located at Lots 13 and 14 of Crestview Heights Subdivision in the NE ¼ of Section 14, Township 14N, Range 12W.

i. Staff Report: The Empire Group, LLC, applicant and property owner proposes to subdivide Lots 13 & 14 in Crestview Heights into five (5) lots for the development of elderly/retirement housing, an assisted living facility, and three commercial uses as a Planned Unit Development (PUD). The lots are 12 acres in size and are currently zoned TA, Transitional Agriculture.

The proposal includes 112 senior living apartment units with 55 garages and 48 assisted-living units with no garages. Three commercial buildings are proposed that would total 20,500 square feet of flex commercial space. The site is currently being graded for building pads.

City Engineer recommends the following:

1. A traffic impact study was prepared and submitted that complied with the scope set forth in our initial review letter. The services of Felsburg, Holt & Ullevig were utilized to review this impact study. It has been determined that the Level of Service will be satisfactory given the current proposal.
2. There is an existing break in the controlled access along Harrison Street at roughly the center of the project area. The proposed development plan will require relocating this break to the west. Cross easements will be needed to allow for sharing of accesses and a development agreement will be needed to provide for shared maintenance of the accesses and any other shared improvements.
3. The proposed commercial buildings have a combined 20,500 gross square feet. This would require 103 parking stalls and the plan shows 109 stalls. The final PUD plan will need to address ADA parking stalls. The proposed senior independent living apartments are proposed to be two-thirds 2 bedroom and one-third 1 bedroom units. The parking regulators would require one stall for each bedroom. For a total of 112 units this would require 187 stalls. However, the applicant has indicated that since these are senior apartments, the second bedroom is most often used for hobbies, storage, or occasional guests. Therefore, they indicate the required parking is 118 stalls rather than 187. They are proposing 157 spaces between garage and open parking stalls. I find this to be satisfactory based on the apartments being used for senior housing. The assisted living facility is proposed to have 48 units. The parking regulators would require 1 stall per unit plus space per employee on the largest shift. The plan for Lot 4 proposes 76 stalls and indicates that 52 are required implying a staff of 4 persons. There appears to be a generous amount of parking and some of the long continuous rows of parking should receive some landscaped islands to improve appearance and reduce impervious coverage which appears unnecessary.

Several phone calls have been received by the Planning Staff regarding this application from concerned neighbors. No written letters have been received. Concerns appeared to be alleviated when neighbors understood the development proposal was for elderly and retirement housing.

Planning Staff recommends the following:

Approval of the Comprehensive Plan Amendment to change the Future Land Use Map designation for proposed Lots 4 & 5 in Harrison Heights Subdivision from "Public" to "High Density Residential" and for proposed Lots 1-3 in Harrison Heights Subdivision from "Public" to "Commercial."

Approval of Rezoning proposed Lots 4 & 5 in Harrison Heights Subdivision from TA, Transitional Agriculture to R-3 PUD-1, High Density Residential and rezoning proposed Lots 1-3 of Harrison Heights Subdivision from TA, Transitional Agriculture to C-2 PUD-1, General Commercial.

Approval of the Preliminary PUD Plan / Preliminary Plat of Harrison Heights Subdivision with the following conditions:

1. A variance needs to be granted to Section 5.15.04.13 by the Board of Adjustment to allow for residential access onto an arterial street. This variance is required prior to Planning Commission's review of the Final PUD Plan and Final Plat.
2. City Staff will need to review the phasing of this development during the Final PUD review period. The applicant shall submit the phased development plan with the Final PUD and Conditional Use Permit.
3. The draft text of the PUD plan needs modifications to limit the uses of Lots 4 & 5 to elderly / retirement housing and assisted living facilities.
4. Revisions requested by the City Engineer, in his letter dated May 4, 2009, shall be incorporated into the Final PUD Plan, Final Plat and Conditional Use Permit submittal.
5. Other revisions stated in this report shall be addressed prior to Final PUD Plan, Final Plat and Conditional Use Permit submittal.
6. Commercial development shall meet the design standards set forth in the City of La Vista's Commercial Building Design Guidelines.

ii. Public Hearing: Malmquist motioned to open public hearing. Alexander seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, and Gahan. Nays: None.

Morgan Sykes, with E & A Consulting Group, represented the applicant, Empire Group, LLC. Mr. Sykes apologized for an error in the application that identified this as assisted living, which it is not. Lots 4 and 5 are both independent senior living. Lot 4 would be a three-story market rate senior living apartments restricted by age to 55 years or greater. Lot 5 would be independent senior living that is age and income restricted apartments for those seniors living on limited incomes. An occupant would need to be over 62 years of age in the single bedroom unit and gross income would not exceed \$25,000 annually; the two bedroom unit would require gross income of not more than \$30,000 annually.

The developers for Lots 4 and 5 propose to start construction in late fall of 2009 with completion in late 2010 or early 2011. Lot 1-3 would have commercial buildings constructed only after tenants were found.

Hewitt asked if the commercial buildings are to support the independent living apartments. Sykes said they were intended to be general commercial for the area, so they are looking for more of a service oriented tenant, potentially office space. However, this type of housing could attract a certain type of commercial tenant.

Krzywicki asked if they had looked at the shopping center across the street and saw the vacancies there and wonder about the viability of having additional commercial tenants here on this site. Sykes stated the developer feels confident that tenants can be found for this space.

Krzywicki wondered about the one building setting so far back on the lot. Sykes said there had been potential interest about that being a daycare which has considerable green space requirements.

Krzywicki asked if the Crestview Heights Apartments east of this project property were restricted income. Baker suggested those apartments may be income restricted, but not age restricted.

Krzywicki also questioned the general market in the area for both age restricted and income restricted apartments. Sykes did not have that information available. The developers had a study done and it was felt this was a very good location, especially since there is not any age restricted independent living in La Vista, or Sarpy County.

Jim Saunders, local resident, questioned the assisted living reference in the staff report and the letters they had received. He points out that on page six of the staff report it is stated that the city supports the use of lots 13 and 14 of Crestview Heights subdivision for elderly housing and assisted living, but nowhere does it say support for restricted income living. He felt residents of Crestview Heights did not know it was going to be income restricted over 62 years of age, and residents thought it was assisted living. His question was does the City still support this proposal, now that the City knows it is not proposed as assisted living. Saunders felt this would be affordable, restricted living housing, but it is still low income housing. He moved into the area because it was a single family area with a farm field next to it, not high density, not senior living, or anything. They were told there was a reservoir under the ground and no one would ever build anything there. Now they find there are apartments being built on it.

Baker explained that he himself was under the impression originally that one building was to be assisted living and one independent living facility and felt the two worked well to accommodate the senior housing needed in La Vista. Baker felt the city should plan for the aging population of the city and try to accommodate those life long residents who wish to stay in the city.

Saunders asked if the Planning Commission was going to vote tonight on this. Krzywicki said they could have motions to vote on the three separate items on the agenda. Hewitt said the commissioners make recommendations to City Council and it is Council that would make the final approval.

Quinn Abraham, local resident, had concerns because he is close to the commercial area and asked if the developer would be planting a minimum number of trees. He would like to see something more substantial as a buffer to the proposed buildings. Another concern was the entrance from Emiline. He felt it would be nicer if that entrance could be moved closer to Harrison Street, but realizes that may be a traffic issue. As far as assisted living goes, his concern would be the garages. They seem awfully close to his property cutting into that hill. Also, the dumpster would be located there and would not be very appealing. He also does not like the fact that the apartments are three stories and vinyl sided. He would like to see more brick or something nicer in that area. He was concerned about traffic as well.

Krzywicki asked the applicant about the exterior of the finish. Sykes said the rendering reflects what they are currently building in Omaha.

Terrie Saunders, local resident, who was also looking forward to an assisted living facility in the area so that she could 'move across the street in a few years'. She emphasized the density of low income housing already in that neighborhood. She assumes that all of the low income/subsidized within the City of La Vista is going to be located in that 2 or 3 block square at 74th and Harrison. Since the developer is from Idaho, absentee landlord is a concern as well.

Krzywicki asked about the age and income restrictions and how the age restriction would be enforced after a unit has been rented. Sykes said that site will have an on-site manager. The program is funded through tax credits and the project is audited a couple of times a year to make sure all the tenants meet the requirements of age and income. Sykes also added that this age group is not those who are all getting up and going to work at the same time every day. Typically the peak hours are offset.

Terrie Saunders returned to state that there is a considerable difference between low income and assisted living in terms of the facility and the type of the tenants. She was not concerned so much about the senior residents of the low-income facility as she is about their children and grandchildren moving in too. Family would only be visitors in an assisted living facility. She urged Planning Commission and Staff to consider this.

Baker said the City needs to avoid discussions of income class or age restrictions, but there are different land use considerations to be evaluated between assisted living and independent living facilities.

Vic Pelster, property owner, said his team of developers specializes in independent living. The commercial end is more in line with what he himself does. As a whole, he feels this makes a nice

neighborhood and shopping center. Pelster conducted a neighborhood meeting for Crestview Heights and those who attended were informed this project was independent living and not assisted living.

James Heesacker, local resident, appeared with concerns that deal with the property itself and any kind of units put on there, be it residential or commercial and how much power these proposed units will draw. The neighborhood currently has frequent power surges for which there does not seem to be a fix. Another concern is people currently slide off the road into the bean field, and now there are steep slopes after the grading of the site. Also, businesses that are vacant are a concern because it becomes another giant Lund sign trying to lease buildings. A concern exists for the driving ability of the seniors who may drive about the neighborhood as the elevation of the street is misleading and there are children to be aware of. He felt if too many parking spots are removed from the project, people visiting will be parking on the streets.

Baker asked for clarification of the street Mr. Heesacker was referencing. Heesacker said it was the entire curvature and length of Gertrude Street.

Heesacker also had concerns with the water drainage on the lower end of the field during high rains as parts of Gertrude Street has been filled with dirt during high rains.

Don Hanover, local resident, voiced concern with the number of entrances to the project with five entrances on this small project. The mature trees that are intended to be a buffer are about one block long and the rest of the property is wide open. If the people in Lot #5 are to be in excess of 62 years old, he wonders how the elderly are going to live happily next door to all of the traffic and noise. He also wonders where the snow removal will go.

Heesacker wondered if the property would be maintained while the construction was in progress.

Scott Kennedy, representing the developer on Lot #4, clarified that the independent living facility is age restrictive and it is well regulated and restricted. The facility is maintained by a full-time staff member, facility management. This is a new concept senior living facility in that the tenant to take care of themselves, but they do bring in outside services for testing and they partner with companies to provide services for the elderly. They feel this is becoming a national trend for average income seniors. Rents are very marketable and compare to apartments. As developers they are very considerate of landscaping and try to be a good community partner.

The average tenant age is 75 years of age; pre-dominantly a single, elderly female.

Nielsen says at 55 and 62 years of age these people do drive their own vehicles. Kennedy said their demographics do reflect the 75 years of age status; typically not driving as much and tend to avoid high traffic times. Nielsen asked about ratio of those who do have their own car or not. Kennedy said they shoot for one stall per unit. They try to keep the parking ratio down.

An unidentified resident felt the immediate area was full of townhomes with people on limited incomes already and with this proposed project more population density would be added to this area of La Vista. He felt adding more senior independent living would be an expansion of what the community already has. Instead he preferred to see assisted living to allow independent living to feed into a assisted living facility.

James Krause, local resident, at 74th and Josephine Streets said a broken stop sign exists on Gertrude that causes a safety factor as children play. Also, Krause does not believe the traffic study was done accurately by accounting for only one independent living facility.

Ron Sheehan, local resident, noted that Baker prefaced the project by pointing out that one of the key goals the City has is searching for new assisted living facilities. He suggests that Staff's recommendation may have changed since assisted living is no longer included in the proposal. Sheehan said he knows the dynamics of the entire project has to have changed as assisted living would accommodate people that would not be driving, but now there will be more cars in the area.

Hewitt asked Sheehan what made him think that people in assisted living do not drive. Sheehan suggested that rather than to prolong the agony, if the Commission feels that Planning Staff's opinion may have changed, then a new staff recommendation may be needed.

Horihan asked Kottmann if anything discussed tonight would change his recommendation to Item #3 on the review comments regarding parking stalls. Kottmann said in terms of quantity of parking, his opinion is no.

Malmquist motioned to close the public hearing. Horihan seconded. However, after some discussion regarding the intent of the application and traffic study needs, Horihan moved to re-open the public hearing again. Andsager seconded the re-opening. Horihan moved to continue the hearing to give staff time to review the proposal as two independent living facilities and to request an updated traffic study before the item appears on the next Planning Commission agenda. Kramolisch seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, and Gahan. Nays: None. Nays: None.

June 18, 2009 would be the tentative day for the continuance of the Planning Commission's public hearing on this item.

D. Public Hearing for revising Section 2.02.155, Section 2.02.156, and Section 7.10, all relating to Home Occupations

i. Staff Report: Home occupations have become increasingly popular as technology enables more and more people to work from computers and mobile devices in remote locations. Planning staff believes the zoning code needs to be modernized to reflect these advances in technology and provide an effective and efficient planning process to accommodate the trend.

In summary, the revisions seek to clarify the definition of "Home Occupation" and enhance existing code requirements related to home occupations and licensing. For example, Home Occupation II (Minor) permits would no longer require a resident to gather signatures of approval from neighbors within 200 feet. Also, the lists of uses defining specific home occupations have been replaced with generic performance standards or categories. According to the Home Based Business Council, over 200 potential home occupations have been identified. It is not possible to list them all in the code. Therefore, instead of regulating based on the type of business, the City could instead regulate based on necessary parking, number of employees, and other mitigating factors.

Staff recommends approval of the proposed revisions with any added changes, if applicable.

ii. Public Hearing: continued from May 21, 2009 Planning Commission.

Donald Lynam, appeared to say that he and his wife would like to open a bakery in their home and provide invitations for special occasions via internet and word of mouth orders.

Krzywicki stated that Home Occupation II would include minor home occupations occurring less than three days a week. Lynam states they would deliver their product.

Baker explained that the revisions to the code are trying to open home occupations up to additional businesses like the one Mr. Lynam describes. Baker added that currently the use Mr. Lynam explains is not allowed by code.

Hewitt explained that the proposed changes would allow Mr. Lynam's on-site retail sales more than three days a week by conditional use permit only. However, if he restricts his sales to three days a week, then he only needs to apply for a home occupation license. This scenario would only be applicable if this agenda item is passed by City Council.

Alexander motioned to close the public hearing. Circo seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo and Gahan. Nays: None.

iii. Recommendation: Circo moved to recommend approval of the proposed revisions with any added changes. Horihan seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, and Gahan. Nays: None.

This item is tentatively scheduled for City Council agenda of June 16, 2009.

5. Comments from the Floor

None.

6. Comments from the Planning Commission

Mike Circo was nominated and elected for the position of Vice Chairperson, vacated by Marv Carcich.

Baker announced that Marv Carcich is currently at Papillion Manor and there is a card to sign for him.

7. Adjournment

Gahan motioned to adjourn. Circo seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, and Gahan. Nays: None. Motioned carried. Nays: None. Meeting was adjourned at 10:30 p.m.

Reviewed by Planning Commission: John Gahan

Recorder

Planning Commission Chair

Approval Date