

FACTSHEET

TITLE: CHANGE OF ZONE NO. 14008
SPEEDWAY SPORTING VILLAGE Planned Unit
Development

BOARD/COMMITTEE: Planning Commission

APPLICANT: Speedway Properties

RECOMMENDATION: Conditional Approval (8-0:
Beecham, Sunderman, Corr, Hove, Cornelius, Weber,
Harris and Lust voting 'yes'; Scheer declared a conflict of
interest)

STAFF RECOMMENDATION: Conditional Approval

OTHER DEPARTMENTS AFFECTED: Urban
Development

SPONSOR: Planning Department

OPPONENTS: None

REASON FOR LEGISLATION:

To approve **CHANGE OF ZONE NO. 14008, Speedway Sporting Village Planned Unit Development**, for a change of zone from I-1 Industrial District to I-1 Industrial District PUD, generally located at Park Boulevard and Van Dorn Street; for a Planned Unit Development District designation of said property; and for approval of a development plan which proposes modifications to the Zoning Ordinance, Land Subdivision Ordinance and Design Standards to allow an indoor sports facility and outdoor soccer fields, with future shops and retail, and the sale of alcoholic beverages for consumption on the premises on the underlying I-1 District.

DISCUSSION / FINDINGS OF FACT:

1. This proposed planned unit development and the associated West Van Dorn Redevelopment Plan (Bill #14R-138) were heard at the same time before the Planning Commission.
2. The staff recommendation of conditional approval (with denial of two waiver requests) is based upon the "Analysis" as set forth on p.4-6, concluding that the proposed development demonstrates a site design that is sensitive to the existing environmental concerns of the site. The proposed use of ballfields at this location is encouraged in the Comprehensive Plan for sports-related activities in the floodplain. The staff presentation is found on 10-11.
3. The waiver requests are set forth on p.5-6. The two waivers recommended to be denied are #6.b and #6.c. The applicant agreed with the denial of these waivers.
4. The applicant's testimony and discussion with Planning Commission is found on p.11-13.
5. There was no testimony in opposition.
6. The Planning Commission discussion with staff is found on p.13-14, where there was considerable concern raised and discussion about the sale of alcoholic beverages for consumption on the premises.
7. On April 30, 2014, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend conditional approval (See Minutes, p.14).
8. On April 30, 2014, the Planning Commission also voted 8-0 to find the associated West Van Dorn Redevelopment Plan to be in conformance with the 2040 Comprehensive Plan (Bill #14R-138).

FACTSHEET PREPARED BY: Jean Preister, Administrative Officer

DATE: May 12, 2014

REVIEWED BY: Marvin Krout, Director of Planning

DATE: May 12, 2014

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for APRIL 30, 2014 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No. 14008

PROPOSAL: From I-1 Industrial to I-1 Industrial Planned Unit Development

LOCATION: Park Boulevard and Van Dorn Street

LAND AREA: 62.5 acres more or less

EXISTING ZONING: I-1 Industrial

CONCLUSION: This development demonstrates a site design that is sensitive to the existing environmental concerns of the site. The proposed use of ball fields at this location is encouraged in the Comprehensive Plan for sports related activities in the floodplain.

RECOMMENDATION:	Conditional Approval
<u>Waivers:</u>	
Parking lot screening (Design Standards Chapter 3.5 Section 7.1)	Approval
Location of parking lot trees (Design Standards Chapter 3.5 Section 7.1 (I))	Denial
Parking lot Islands within Outlot B (Chapter 3.45 Section 3.51)	Denial
Parking lot paving for non required parking stalls (Chapter 3.45 Section 3.5)	Approval
Curb and gutter adjacent to Outlot B (Title 26.27.010)	Approval
Sidewalks along one side of the Private Roadway. (Title 26.27.020)	Approval
Detention (Title 26.23.105) (Design Standards 2.05)	Approval
Increase size of directional signs to 24 square feet (Title 27.69.030 (m))	Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 111, 140, 141, 152, 153 and 154, I.T., and adjacent vacated 4th Street, Speedway Circle and Hill Street, located in the SW 1/4 of Section 35-10-6; and Lots 74, 91 and 92, I.T., located in the NW 1/4 of Section 2-9-6, Lincoln, Lancaster County, Nebraska

EXISTING LAND USE: Commercial and industrial uses as well as a sod farm

SURROUNDING LAND USE AND ZONING:

North: I-1 Industrial Industrial uses
P Public Sawyer Snell Park

East: I-1 Industrial Railroad tracks, future Jamaica North Trail, industrial uses

South/West: P Public Wilderness Park

ASSOCIATED APPLICATIONS: CPC14008 Comprehensive Plan Conformance for the West Van Dorn Redevelopment Plan.

HISTORY: This area was zoned for Light Industrial and Local Business and was rezoned in 1979 to Public, Local Business and Industrial.

COMPREHENSIVE PLAN SPECIFICATIONS:

The Future Land Use Map shows this area as industrial. (Page 12.3)

Business & Economy (Page 5.2)

- Focus primarily on retention and expansion of existing businesses; attracting new business should also be encouraged.
- Seek to efficiently utilize investments in existing and future public infrastructure to advance economy.
- Strive for predictability for neighborhoods and developers.
- Encourage preservation or restoration of natural resources within or adjacent to commercial or industrial development.
- Encourage commercial centers to encompass a broad range of land uses with the integration of compatible land use types.

Mixed-Use Redevelopment (Page 6.2)

- Target existing underdeveloped or redeveloping commercial and industrial areas in order to remove blighted conditions and more efficiently utilize existing infrastructure.
- Be located and designed in a manner compatible with existing or planned land uses.
- Encourage substantial connectivity and convenient access to neighborhood service (schools, parks, stores) from nearby residential areas.

Parks, Recreation, and Open Space (Page 9.1)

- Parks and open space enhance the quality of life of the community's residents and are central to the community's economic development strategy - the community's ability to attract and retain viable businesses, industries, and employees is directly linked to quality of life issues, including indoor and outdoor recreational opportunities.
- Sports Facilities encompass special or unique facilities and features that are of interest to diverse groups throughout the community. Fields and courts for organized sports activities may be secondary or primary uses in regional parks.
- Public and private partnerships are important in the development of recreational opportunities and the preservation of environmental resources that bring a high quality of life to the City and County.
- Locate Community Parks on a collector or arterial street to accommodate automobile access and parking; park sites should also be readily accessible by pedestrians and bicyclists from a
- commuter/recreation trail.
- Community Parks should be adjacent to greenway linkages.
- Provide buffering between Community Park activities and adjacent residential areas to minimize traffic and noise impacts.

Environmental Resources (Page 3.9)

The overriding policy for the floodplain is a "No Adverse Impact" policy for the City and County, which means that the community has a goal of insuring that the action of one property owner does not adversely impact the flooding risk for other properties.

UTILITIES: There is a 115,000 volt overhead line that runs through the development area north to south. Land use and grade changes need to be restricted near the line. All grading should be coordinated with Lincoln Electric System (LES). Utilities are existing in Speedway Circle.

TOPOGRAPHY: This area is relatively flat outside of the Salt Creek Levee.

TRAFFIC ANALYSIS: Van Dorn Street turns into West Van Dorn Street at this location and functions as an Urban Arterial. Local streets include Speedway Circle and Park Boulevard. The right-of-way and the paved area for these local streets don't align. There is also some unused and unnecessary platted right-of-way in to the northwest of this PUD that will be vacated with a future

street and alley vacation. The developer is proposing a private roadway system south of Speedway Circle. This private roadway system would meet most design standards except for curb and gutter adjacent to Outlot B. The waiver is justified to better facilitate drainage of this very flat piece of ground.

TRAILS: This property currently is bounded on the west by the Salt Creek Levee Trail which is crushed limestone. This trail connects to the Bison Trail just outside the northwest corner of this PUD. The Bison Trail continues north to the Jamaica North Trail which traverses into the Downtown Lincoln area. The Jamaica North Trail is planned to run adjacent to this PUD on the east side between the recreational facility and the railroad tracks. That trail connection will likely be concrete and will connect to the Jamaica North trail south of this property.

PUBLIC SERVICE: The City has three public parks just north of the proposed PUD, Sampson Park, Standing Bear Park and Sawyer Snell Park. Van Dorn Park is located approximately a quarter of a mile to the east. Wilderness Park is located to both the west and the south of the PUD.

REGIONAL ISSUES: A blight study MISC14001 determined that this area was Bighted and Substandard with a strong need for infrastructure improvements.

ENVIRONMENTAL CONCERNS: the Corps of Engineers critical area, the 500 foot setback to the levee, is included in this PUD. This 500 foot setback precludes any filling, construction of buildings or planting of trees in this area, but does allow athletic fields.

The entire area of the PUD is in the floodplain and specifically within the Salt Creek Storage Areas. From Calvert Street to Van Dorn, the floodplain is in Storage Area 2 with a 60% maximum allowable fill volume. Any fill on public or private property in conjunction with a project using Tax Increment Financing (TIF), as proposed with this development must either meet the No Net Fill (no net fill as a result of proposed grading) or the No Net Rise (no appreciable rise in the Salt Creek base flood elevation as a result of grading) policy for Lincoln, as determined by the Mayor. This project will meet the No Net Rise requirement.

AESTHETIC CONSIDERATIONS: The new development proposed within the PUD is isolated from arterial streets and from adjacent neighborhoods. The new development will be blocked by existing commercial development along Van Dorn Boulevard. There is a levee that separates the activity of this use from Wilderness Park to the west and south. Although there are railroad tracks to the east and industrial building to the east of the railroad tracks, some consideration should be given to the impact of the proposed buildings that back to the future Jamaica North Trail. The large metal buildings should be buffered with additional landscaping between the buildings and the trail. This should be shown on a revised landscape plan.

ANALYSIS:

1. This Planned Unit Development is located south of Speedway Circle and includes approximately 55 acres that are currently vacant with no internal road system. This site was previously used as a sod farm. The project includes the development of indoor and outdoor recreation facilities that includes a new 95,484 square foot of commercial/recreational facilities and ten 10 outdoor sports fields. The recreational facilities could also house special events such as weddings and dog shows. A proposed 34,000 square foot trampoline center is part if the indoor recreational facility.

2. This is an I-1 zoning district with the PUD overlay. The PUD will allow for the sale of alcoholic beverages for consumption on the premises (on sale alcohol). A separate special permit will not need to be obtained.
3. The parking requirement for this development will be the same as the parking requirement for a similar recreational facility being proposed near Sun Valley Boulevard and West Charleston. Parking on Lots 1 - 6 will be calculated as 1 stall per 300 square feet of floor area, regardless of use. (No additional parking is required for the sale of alcoholic beverages for consumption on the premises.) Outdoor recreational facilities shall provide 60 stalls per field. The parking for Lots 1 - 6 and the outdoor recreational facilities is then reduced by 50% due to the operating characteristics of the recreational facility as a whole. Parking on Parcel 1 shall be per the zoning ordinance.
4. Retail is also planned to support the sporting events. Although the site plan shows proposed square footage, staff has recommended that the square footage be dictated by the ability for the developer to meet the parking requirements as described above. There is an existing 43,000 square feet of commercial on the site today.
5. This site has some existing light industrial uses north of Speedway Circle. The developer and the Health Department have worked out an agreement to limit the chemicals that can be used in the buildings south of Speedway Circle. The applicant will add to the PUD "*The owner or operator shall prohibit the use, storage, or manufacture of chemicals listed in 40 CFR Part 68, Section 130 in quantities that exceed the threshold values specified in Table 1. If 40 CFR Part 68, Section 130 is amended and additional chemical(s) are added to the list, the Lincoln-Lancaster County Health Department will establish a modified threshold quantity for the new chemical(s). In addition, the owner or operator shall prohibit the use, storage, or manufacturer of explosives as defined by LMC 19.03 Fire Code.*" Attached is a chart of the types and quantities of chemicals to be restricted.
6. Requested Waiver discussions:
 - a. Parking lot screening is requested to be waived. This waiver is justified since the parking area will be surrounded by green space.
 - b. The applicant is requesting to not provide parking lot trees, but to provide additional trees at alternative locations within the development. A portion of the parking lot is under an LES easement. Although there are limited types of trees that can be planted in that easement there are some ornamental trees that would be acceptable to LES. The waiver is not justified to allow the trees to be planted in an alternative location.
 - c. Parking lot islands within Outlot B have also been requested to be waived. The City Watershed Management Department has commented that paving can be graded to prevent the curbs on the parking lot islands from being an impediment to drainage. Parking lot islands are necessary to provide parking lot trees so the waiver is not justified.
 - d. The applicant has asked that paving of parking lot stalls not be required until a building permit is taken out for a building or for a new field. This will be a phased development. It is reasonable to pave only the required stalls for the uses that are constructed. There may be times, during large events, when overflow parking may be

needed. The applicant intends to gravel additional parking above the required parking for these events which will likely only occur a few times a year. All parking will be required to be paved at full build out of the development. The applicant will be required to meet Health Department regulations for dust control. This waiver is justified.

- e. Curb and gutter adjacent to Outlot B, the parking lot area, can be waived as it is not necessary to facilitate drainage.
- f. Sidewalks are proposed along one side of the private roadway. The southernmost part of the PUD functions like a parking lot with many drive openings, which is not conducive to a sidewalk on that side of the street. The proposed sidewalk plan will show sidewalk connections to all field and buildings within the site.
- g. An increase in the size of directional signs from 6 square feet to 24 square feet has been requested. These signs will be internal to the development and should have no adverse impact on surrounding properties. And is appropriate for this site.
- h. A waiver to onsite detention has also been requested. Public Works and Utilities has determined that the waiver is acceptable due to the proximity to Salt Creek.

This approval permits the development of the I-1 Industrial Zoning District with a Planned Unit Development Overlay that permits the sale of alcohol for consumption on the premises, and waives the requirements for parking lot screening (Design Standards Chapter 3.5 Section 7.1), parking lot paving for non required parking stalls (Chapter 3.45 Section 3.5), curb and gutter adjacent to Outlot B (Title 26.27.010), sidewalks along one side of the private roadway, (Title 26.27.020), detention (Title 26.23.105) (Design Standards 2.05), and increase in the size of directional signs to 24 square feet (Title 27.69.030 (m)).

CONDITIONS OF APPROVAL:

Site Specific Conditions:

1. Before receiving building permits or before a final plat is approved the developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including copies with all required revisions and documents as listed below upon approval of the planned unit development by the City Council.
 - 1.1 Show parking lot trees on the landscape plan.
 - 1.2 Eliminate the Land Use Table and ** Note underneath the table.
 - 1.3 Eliminate General Notes 6, 13, and 17.
 - 1.4 Revise General Note # 19 sta state "*Parking on Lots 1 - 6 shall be calculated as 1 stall per 300 square feet of floor area, regardless of use. (No additional parking is required for the sale of alcoholic beverages for consumption on the premises.) Outdoor recreational facilities shall provide 60 stalls per field. The parking for Lots 1 - 6 and the outdoor recreational facilities is then reduced by 50% due to the operating characteristics of the recreational facility as a whole. Parking on Parcel 1 shall be per Chapter 27.67.*"

- 1.5 Add to General Note #22 *"The owner or operator shall prohibit the use, storage, or manufacture of chemicals listed in 40 CFR Part 68, Section 130 in quantities that exceed the threshold values specified in Table 1. If 40 CFR Part 68, Section 130 is amended and additional chemical(s) are added to the list, the Lincoln-Lancaster County Health Department will establish a modified threshold quantity for the new chemical(s). In addition, the owner or operator shall prohibit the use, storage, or manufacturer of explosives as defined by LMC 19.03 Fire Code."*
- 1.6 Add general note to site plan that need NRD/COE approval prior to any grading in 500' buffer area or culvert work in levee.
- 1.7 Add minimum floor elevation table (at least 1' above maximum Base Flood Elevation) on site plan
- 1.8 Revise General Note #12 to correct the 0.05 reference.
- 1.9 Provide cross-sections within storage area #2. For labeling use the lettered cross sections and have distance in feet.
- 1.10 Provide a table in Summary Report on Floodplain Management that gives total available volume in ac ft, volume in ac ft of proposed fill, % of fill, % of allowable fill.
- 1.11 Show setbacks and or building envelopes on the site plan.
- 1.12 Show pedestrian connections to Lots 4, 5 and 6 from all four directions.
- 1.13 Remove square footages and land use labels on lots.
- 1.14 Label lot 1 as commercial.
- 1.15 Show pedestrian connection to the Jamaica North Trail from Speedway Circle.
- 1.16 Add to Note #21 that directional signs identifying the fields and their sponsors are permitted to be up to 24 square feet in area.
- 1.17 Add to Note #21, "Signs need not be shown on this site plan, but need to be in compliance with chapter 27.69 of the Lincoln Zoning Ordinance, and must be approved by Building & Safety Department prior to installation".

Standard Conditions:

2. The following conditions are applicable to all requests:
 - 2.1 Before occupying the buildings all development and construction shall substantially comply with the approved plans.
 - 2.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established association approved by the City Attorney.

- 2.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
- 2.4 The terms, conditions, and requirements of the ordinance shall run with the land and be binding upon the developer, its successors and assigns.
- 2.5 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the Change of Zone. The City Clerk shall file a copy of the Ordinance approving the Planned Unit Development and the letter of acceptance with the Register of Deeds, filling fees therefore to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.

Prepared by:
Christy Eichorn, Planner
402-441-7603
ceichorn@lincoln.ne.gov

DATE: April 21, 2014

APPLICANT: Speedway Properties
Ken Fougeron
340 victory Lane
Lincoln, NE 68528

OWNER: B & J Partnership
340 victory Lane
Lincoln, NE 68528

CONTACT: Mark Hunzeker
Baylor Evnen Law Firm
600 Wells Fargo Center
1248 O Street
Lincoln, NE 68508
402-458-2131

**COMPREHENSIVE PLAN CONFORMANCE NO. 14008,
WEST VAN DORN REDEVELOPMENT PLAN
and
CHANGE OF ZONE NO. 14008,
SPEEDWAY SPORTING VILLAGE PLANNED UNIT DEVELOPMENT**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 30, 2014

Members present: Beecham, Sunderman, Corr, Hove, Cornelius, Weber, Harris and Lust; Scheer declared a conflict of interest.

Staff recommendation: A finding of conformance with the 2040 Comprehensive Plan on the redevelopment plan and conditional approval of the PUD.

There were no ex parte communications disclosed.

Staff presentation: **David Landis, Director of the Urban Development Department**, explained that this is the second of three steps on this project. The area has previously been correctly identified as blighted and substandard. The blighted designation authorizes the use of redevelopment tools that the city has available in areas identified as blighted and substandard. The second piece is the creation of a plan on redevelopment for that area, and the third is a specific project designated to be inside the plan. Today's focus is the redevelopment plan itself. Landis stated that this plan is proceeding toward a 13 million dollar project that has a number of soccer fields and associated uses with other potential improvements and suggestions as set forth in the plan. Landis pointed out that currently, a good deal of this area is supported by very bad public streets. The market would easily go to an area with built-out infrastructure, which this area does not now have. There is going to have to be storm sewer, water and electricity run to this area. This area is in the floodplain so it is a good area for the kind of use being proposed. It meets the no impact policy of the city and it is well located for the city and winds up being accessible to a large portion of the city.

Landis advised that most of the land that will be turned into the soccer fields is currently vacant; it is in the floodplain and it is ripe for the kind of infill development that we want in the city. The area has older structures, although there is not a great deal of residential. There is some existing commercial next to the playing fields. The roads will come into the development; there will be parking and connections to the trails on either side; and one will be a trail head.

Landis further pointed out that the proposed project includes a championship field next to the main structure, subject to the approval of the City. The structure oversees a lit area with a higher quality turf that could be used at night. The proposed redevelopment project will require a planned unit development; however, the current industrial zoning will not change. It will continue to be industrial with a PUD overlay.

Landis concluded, stating that the redevelopment agreement is in its final stages, but the necessary pre-condition is the adoption of a redevelopment plan for the area.

Christy Eichorn of Planning staff presented the proposed PUD. The tool used in this particular development is the PUD, for the reason that outdoor recreational facilities are a permitted use in the I-1 Industrial District. The applicant could have come in and done an outdoor recreational facility on this property without the PUD, but the PUD helps us keep track and monitor the restrictions that the applicant is voluntarily putting upon itself in order to facilitate development in this area, including working with the Health Department on prohibiting certain materials and certain quantities of materials used in this area. Usually the Health Department wants a 300' buffer between hazardous materials and facilities. The applicant has worked with the Health Department to develop that list of materials which will be included in the PUD so that there is good documentation.

Eichorn also pointed out that Speedway Circle is already in existence. There are currently some buildings located north of Speedway Circle that do have some light industrial uses and they already meet the 300' separation. Another reason for the PUD is to keep track of the requirements due to the development in a floodplain. The PUD also allows the development to have private roadways instead of public streets, which is beneficial to provide flexibility on the width of the roadways, and there is more flexibility in the standards for private roadways than public streets. There is a public roadway coming off of Speedway Circle which circles all around the project. It is a private street and will have a public access easement over it.

Eichorn further pointed out that the PUD allows the regulation of alcohol as part of the whole development. The I-1 district allows on- and off-sale alcohol by special permit. The PUD allows the sale of alcohol without going through the separate special permit process. The proposed PUD meets those special permit requirements and the liquor license must be obtained through the State Liquor Control Commission where they will have to define the premises. The PUD specifically sets forth that alcohol is permitted as part of the PUD so a separate special permit is not required.

Eichorn emphasized that this tool (PUD) is being used because the underlying zoning already facilitates the proposed uses.

Beecham inquired where the alcohol will be allowed on the premises – is it anywhere within the PUD? Eichorn explained that from a zoning perspective, on-sale would be permitted within the boundaries of the PUD. In terms of the definition of the premises, that would happen with the State Liquor Control Commission. Beecham confirmed that the special permit for alcohol sales will not come back to the Planning Commission. Eichorn agreed.

Hove asked staff to explain the reason for the waivers recommended to be denied. Eichorn acknowledged that there are several waivers requested and staff is recommending that two of them not be granted, i.e. parking lot trees and the islands that the parking lot trees would be located upon. The applicant requested to relocate those parking lot trees to other places on the site. Staff is recommending denial of that waiver because parking lot trees are there to provide shade in the parking lot and to break up the large area of concrete – it is an environmental aspect. Without the parking lot islands, there is not place for the parking lot trees.

Corr asked about the parking. Eichorn stated that the stalls were calculated based on the same calculation used in other recent projects for outdoor facilities, i.e. 60 stalls per field, based on a team coming and a team waiting to take the field after the first team. This is not currently in the zoning ordinance but it has been a commonly used equation. The other parking standard, i.e., 1:300 ratio, which is common in the commercial zoning districts for retail and office uses, takes into account that it is not likely that all of the retail and office commercial type uses will be in use at the same time as the fields. There is a 50% break with concurrent parking. That makes the parking requirement

ratio 1:600 in this circumstance. Eichorn also stated that staff has talked about a phasing plan with the developer because we do not necessarily want to see a sea of paved parking that is not utilized. As the fields are built, the applicant will need to come in at the time of building permit and show the parking to be provided.

With regard to the alcohol sales, Cornelius inquired how to arrive at the conclusion that on-sale alcohol is a compatible use with a youth sports complex. Eichorn responded, stating that this particular sports complex is going to serve both youth and adults. In I-1 zoning, they could apply for a special permit and staff would make the case that the whole complex functions as one big unit. The applicant does intend to have weddings and other functions in the buildings when not utilized for athletic events. There will be restaurants. At this point in time, there were no specific areas shown where the alcohol sales would be permitted; and the PUD meets all of the setback and separation restrictions required in the B-2 or B-5 zoning districts, which do not require special permits. If this were B-2 zoning, the applicant would not have to apply for a special permit for alcohol sales. When staff evaluated this site, it was determined that the PUD could meet all of the conditions of the B-2 and B-5 as one large property, or even as several smaller properties. Since this site meets all of the conditions, the staff is recommending approval of an I-1 special permit within the PUD.

Beecham wondered what happens if the use is changed to be all kids sports all the time. Wouldn't that need to come back because it is no longer a compatible use? She is very concerned about giving a blanket approval of the alcohol sales. The role of the Planning Commission is to check for compatibility. Eichorn referred to the three applications on today's agenda with alcohol sales, and stated that staff finds it important to be consistent on how the sale of alcohol is treated in three very similar types of developments. The Great American Sports Park up north will be B-2 zoning with a use permit, so they do not need to apply for a special permit for alcohol sales, meeting all of the separation and setback requirements for B-2 and sale of alcohol. In this case, there would be the option to rezone the property to B-2, but the choice to do a change of zone just did not make a lot of sense in this area. To say that they would have to come back and get a special permit here when it is a very similar type of development as the B-2 zoning, staff just did not think it made sense. That is why staff is recommending approval of the alcohol sales as part of the zoning and the PUD, and allowing the premises to be defined when they apply with the State Liquor Control Commission. It is a consistency issue. Beecham inquired whether the state considers compatibility. Eichorn did not know.

Harris referred to the parking lot trees, noting the letter from the attorney stating that there is an existing LES power line easement. Given that, would the trees be tall enough to provide shade, etc.? Eichorn stated that LES is in agreement with shorter, ornamental trees. As far as the impact of trees on open areas that are paved or concrete, even a little bit of tree is better than no tree at all. It made sense environmentally to distribute the benefits of the trees, even if not 35' tall.

Proponents

1. Derek Zimmerman of the Baylor Evnen Law Firm, 1248 O Street, Suite 600, appeared on behalf of the applicant. He referred to the site plan and advised that there will be an indoor soccer field and trampoline facility north of the turf field; the building to the north of the primary parking lot is a basketball, indoor volleyball facility and they anticipate using the building as reception facilities for larger gatherings more social in nature.

With regard to the parking, Zimmerman stated that they have discussed different phases with staff to make sure parking is based on the current uses. There will be over 1,000 parking stalls at full build-out. There will be in excess of 271 stalls in the north area and there are 130 existing parking stalls. Zimmerman then explained the different phases of the development. A future phase is the retail/restaurant component which is compatible with this type of facility. When discussing a large plan like this, it is not anticipated that it will just be used for a youth facility. More uses are necessary with this size of facility. That is why the special permit has been combined within the PUD to allow flexibility for adult use, receptions, kennel dog shows and more regional events. The flexibility is desired to be able to serve alcohol during those times, if they arise. The applicant still has to appear before the Liquor Control Commission and the City Council, which will require the premises for alcohol sales to be defined. At that time, a discussion will also be had about the appropriateness of the alcohol sales.

In terms of the staff report, Zimmerman acknowledged that the applicant is in agreement with the conditions of approval in the staff report, including the recommendation to deny two of the waiver requests. At the time the application for the PUD was filed, the applicant was working with the LES easement area and was not comfortable not requesting a waiver in case it was needed.

Beecham inquired whether there will be a perimeter fence around the fields. Zimmerman stated that there will be fencing along the western exterior portion. There is a park to the west and they have to be careful about animals entering, etc. The fencing would be limited along the eastern portion so that people can walk from the parking lot to the soccer fields.

Beecham stated that she likes the idea of the flexibility of the space. Certainly, we don't want to roadblock that, but she would like a sense of whether we are talking about the alcohol sales in a clubhouse or open containers throughout the fields. Zimmerman stated that most of the discussions have involved the interior; however, when there are outdoor events like the dog shows or adult leagues, it is possible that outdoor sales could occur. This is not something where the applicant is looking to have a beer stand next to a second grade soccer field. The desire is to have the flexibility for adult-type events. The development is not far enough along at this point to specifically define the licensed premises; however, the applicant wants to make sure to have flexibility.

Beecham inquired whether there is a plan for training staff and handling someone who buys alcohol for someone underage. Zimmerman suggested that it is preliminary for the developer to have that discussion. That would be part of the liquor license request and they are not there yet. This PUD looks at the overall scope of the development and the flexibility that goes with the special permitting process.

Hove inquired whether it is the train track that is on east, and whether the railroad is requiring any type of fencing. Zimmerman confirmed that it is the railroad track on the east and he believes there will be fencing along the eastern side along the fields but not necessarily along the building. Corr commented that she likes the attractiveness of the trails on both sides. Will there be openings in the fence for people to come from the trail to get in? Zimmerman responded that the applicant has discussed trail connections and sidewalks. There will not be any openings along the western side, but the trail head is up to the northwest. The connectivity has been designed so that sidewalks within the development are accessible to that trail head. In terms of the trail to the east, he believes there is going to be a connection along the northeastern portion and potentially another connection which he showed on the site plan.

Corr understands that this will be in the floodplain. Is the developer meeting all requirements for No Net Rise? Zimmerman answered in the affirmative. That is being addressed in the redevelopment agreement. When TIF funds are being used, it is a city policy that the No Net Rise or the No Net Fill standard must be met. No Net Fill is not attainable through this site because of the existing levee to the west. The building footprints are required to be brought up, but this development will meet the No Net Rise standard.

There was no testimony in opposition.

Staff questions

Cornelius inquired to what extent this “ties our hands” with a vote on the PUD with regard to alcohol. If we vote in favor of this, can we have a debate about the text amendment in the future? Eichorn acknowledged that there is a big picture question which talks about whether or not it is appropriate to have alcohol sales at outdoor recreational facilities. The text amendment is completely separate from this PUD because of the fact that there is still the opportunity to apply for a special permit for alcohol sales in the I-1 zoning district. If we weren’t doing a text amendment to deal with a different site and different facility that are not in B-2 or B-5 and did not have the use permit or PUD to deal with alcohol sales specifically, then we would be looking at it on those merits. The Planning Commission needs to consider it on the merits of the PUD based on the analysis that it meets all of the conditions of other zoning districts with alcohol sales.

Will advised that the state Liquor Control Commission considers some of the same things considered in a special permit, i.e. separation, etc., but it goes beyond that. The state licensing process is probably more involved with the character of the applicant and their background and history. The state liquor license process does have some separation requirements like the City’s conditional uses, e.g. separation from UNL, also from schools, etc., so there are some similar features like that. Those liquor licenses come to the City Council for review and recommendation; however, the state has ultimate approval authority. As part of the state liquor license process, the developer will have to define the licensed premises. In this case in I-1 zoning, separate from this PUD, an individual could apply for a special permit for on- or off-sale or both. Meeting those requirements, regardless of the use, it makes a really strong case for approval.

Beecham observed that it sounds like the state does not necessarily consider compatibility. It’s more the reliable of the owner, etc. Will agreed that compatibility relates more to land use and is probably not the state’s primary concern.

Lust pointed out that the liquor license does go to the City Council and the City Council would consider those things before making a recommendation to the state on the liquor license.

Corr inquired about the meeting held with the neighbors. Zimmerman acknowledged that they did hold a meeting and no one showed up in opposition; there were some representatives from the NRD and LES who were curious about the development. A representative from the Friends of Wilderness Park attended. They need to meet again, but Zimmerman has every indication that they are going to be in support.

Corr asked who was invited to the neighborhood meeting. Zimmerman stated that they invited everyone that the Planning Department notifies, and it was primarily businesses. There is a strip going north along some houses, the owners of which were invited, as well as the Friends of Wilderness Park.

Corr asked to see the sidewalk locations. **Nate Buss of Olsson Associates** showed the location of the sidewalks on the map. There is an existing sidewalk along Van Dorn Street; there is a connection along the south side of the road; and then on the east side of “this section of the road”; and across the road. The sidewalks will follow all along the outside of the parking, keeping the pedestrians and vehicles separated from each other. There is a proposed connection to the trails in two places. There are some internal sidewalks as well. Corr inquired about the northern end where all of the buildings are to be located. Buss acknowledged that there will be sidewalks alongside the buildings.

Beecham asked whether the developer is concerned about the one point of access. She wondered whether a traffic light might be necessary in the future. Buss indicated that they have analyzed the existing traffic patterns, but from the standpoint of a single point of entrance, he does not see any issues. Zimmerman added that for really large-scale events, one of the benefits of a private street is that it allows the flexibility to control access by setting up barricades, etc. In terms of a street light, the traffic warrants would have to be met before a traffic light would be installed.

COMPREHENSIVE PLAN CONFORMANCE NO. 14008

ACTION BY PLANNING COMMISSION:

April 30, 2014

Cornelius moved a finding of conformance, seconded by Hove.

Lust thinks this is a good redevelopment plan for the area. As we discussed two weeks ago, the area is a candidate for redevelopment.

Motion for a finding of conformance with the 2040 Comprehensive Plan carried 8-0: Beecham, Sunderman, Corr, Hove, Cornelius, Weber, Harris and Lust voting ‘yes’; Scheer declared a conflict of interest. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 14008

ACTION BY PLANNING COMMISSION:

April 30, 2014

Weber moved to approve the staff recommendation of conditional approval, seconded by Cornelius.

Beecham stated that the fact that this development will have a lot of adult-oriented uses makes her more comfortable with the idea of the alcohol sales.

Cornelius stated that he scratched his head over the issue of compatibility of uses. But hearing that it will have adult-oriented uses helps him get perspective. If he had to analogize this existing sort of use, he thinks of a bowling alley with a restaurant or sale of alcohol. He will support the motion.

Lust believes this is a good area for the use of the PUD overlay and appreciates the staff’s willingness to figure out the best way to handle this property for redevelopment.

Motion for conditional approval carried 8-0: Beecham, Sunderman, Corr, Hove, Cornelius, Weber, Harris and Lust voting ‘yes’; Scheer declared a conflict of interest. This is a recommendation to the City Council.