FACTSHEET

TITLE: Comprehensive Plan Amendment No. 17007 – Designate the NW corner of South 98th Street and Van Dorn Streets as a Neighborhood Center and as “Commercial” on the Lincoln Area Future Land Use Map. (Northwest corner of South 98th and Van Dorn Streets)

APPLICANT: Matodol, LLC

RECOMMENDATION: Approval (9-0: Beckius, Edgerton, Finnegans, Harris, Joy, Hove, Corr, Washington and Scheer voting ‘yes’).

STAFF RECOMMENDATION: Approval

REASON FOR LEGISLATION:
Amend the 2040 Lincoln-Lancaster County Comprehensive Plan in the following areas:

- Amend the 2040 Future Land Use Map to show Commercial at the northwest corner of 98th and Van Dorn. The area is currently shown as Residential.
- Amend the Commercial Centers map to show a Neighborhood Center at the same location.

DISCUSSION / FINDINGS OF FACT:

1. On December 6, 2017, this proposed amendment to the 2040 Comprehensive Plan, the associated Annexation No. 17019 (Bill #18-10), and the associated Change of Zone No. 17030 (Bill #18-11) were heard at the same time before the Planning Commission. In addition, there is an associated amendment to the Annexation Agreement (Bill #18R-20) which is being prepared by the Law Department.

2. The staff recommendation of Approval for this requested amendment is based upon the “Analysis” as set forth on pp.4-6, concluding that a Neighborhood Center and the associated Commercial land use are appropriate for this site. Neighborhood Centers are intended to provide services and retail goods oriented to the neighborhood level. This amendment is part of the associated Wandering Creek PUD which includes a mix of residential uses that would be served by the Neighborhood Center. The staff presentation is found of pp.15-16.

3. Testimony on behalf of the applicant is found on pp.17-18. There was no testimony in support of this application. Testimony in opposition is found on pp.18-19. The applicant’s rebuttal is found on pp.20-22.

4. On December 6, 2017, the Planning Commission voted 9-0 to recommend Approval of this requested amendment, as set forth in the revised staff report dated November 3, 2017.

5. On December 6, 2017, the Planning Commission also voted 9-0 to recommend Conditional Approval of the associated Annexation No. 17019 (Bill #18-10), as set forth in the revised staff report dated November 2, 2017, and subject to the Amended Annexation Agreement (Bill #18R-20); and voted 9-0 to recommend Conditional Approval of Change of Zone No. 17030 (Bill #18-11), as set forth in the revised staff report dated November 2, 2017.

FACTSHEET PREPARED BY: Geri Rorabaugh, Administrative Officer
DATE: January 12, 2018

REVIEWED BY: David R. Cary, Director of Planning
DATE: January 12, 2018
COMPATIBILITY WITH THE COMPREHENSIVE PLAN
The area meets the criteria for locating a Neighborhood Center and associated Commercial land use. It meets the Neighborhood Center spacing requirements, it has multiple connections to the adjacent neighborhood, and it is designed as a “node” rather than an auto-oriented strip development.
KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

Business & Economy Guiding Principles (p. 5.1-5.2)
- Focus primarily on retention and expansion of existing businesses; attracting new businesses should also be encouraged.
- Promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life of the community.
- Seek to efficiently utilize investments in existing and future public infrastructure to advance economic development opportunities.
- Provide flexibility to the marketplace in siting future commercial and industrial locations.
- Strive for predictability for neighborhoods and developers.
- Encourage Commercial Centers to encompass a broad range of land uses with the integration of compatible land use types.

NEIGHBORHOOD CENTERS

Center Size: Neighborhood Centers typically range in size from 50,000 to 150,000 square feet of commercial space, with those meeting the incentive criteria having up to 225,000 square feet. Existing centers may vary in size from 50,000 to 225,000 square feet. (p. 5.11)

Description: Neighborhood centers provide services and retail goods oriented to the neighborhood level, with significant pedestrian orientation and access. A typical center will have numerous smaller shops and offices and may include one or two anchor stores. Residential mixed use is encouraged. In general, an anchor store should occupy about a third to half of the total space. In centers meeting the incentive criteria, anchor store(s) may be larger, however the goals of Neighborhood Centers are to be diverse and not simply one store. Examples include Lenox Village at S. 70th Street and Pioneers Boulevard, and Coddington Park Center at West A Street and Coddington Avenue. These smaller centers will not include manufacturing uses. Neighborhood Centers may be considered a “Mixed Use Redevelopment Node” if they generally conform to the strategies listed in the Mixed Use Redevelopment chapter.

During the planning period, several additional neighborhood centers will be needed. These centers are not identified on the future land use plan and will instead be located as part of plans for future neighborhoods based on the commercial guidelines. (p. 5.11)

Market Area: These centers typically serve the neighborhood level. It is anticipated that there will be no more than two neighborhood centers per one square mile of urban use. For areas of less than one square mile, the number of the centers will be reduced. (p. 5.12)

Center Spacing: Neighborhood Centers should be located approximately ½ mile apart, depending upon their size, scale, function and the population of the surrounding area. When located at intersections, they should also not be located across an arterial street from a Community Center or another Neighborhood Center. (p. 5.12)

Criteria: Future Neighborhood Centers are not sited in advance, but are identified once approved or built and are added to the land use plan. Neighborhood Centers should generally not develop at corners of intersections of two arterial streets due to limited pedestrian accessibility and impact on the intersection - locations 1/4 to ½ mile from major intersections are encouraged, particularly if there is to be more than one Commercial Center within a square mile of urban residential use. There may be circumstances due to topography or other factors where centers at the intersection may be the only alternative. When a square mile of urban use contains a Community or Regional Center, then only one neighborhood center should be sited within that square mile. (p. 5.12)

Siting Process: The exact location and land use composition of the Center should be determined as part of development proposals. (p. 5.12)
Floor Area Incentive: New Neighborhood Centers will typically range from 50,000 to 150,000 square feet of floor area per square mile of urban use. For centers meeting the incentive criteria, a 50% floor area bonus of up to 25,000 square feet of retail space and 50,000 square feet of office space could be added to the 150,000 square feet total, for a center total of 225,000 square feet. (p. 5.12)

Incentive Criteria: Community and Neighborhood Centers meeting the criteria below are eligible to increase their floor area, as described in those sections. (p. 5.13-5.14)

- The center is located in a neighborhood with greater residential density than is typical for a suburban area, and the center itself contains higher density residential uses (density above 15 dwelling units per acre) integrated within the development.
- Provides a significant mix of uses, including office, service, retail, residential, and open space — far more than typical single use centers.
- Includes multi-story buildings, including residential uses above stores and throughout the site. Integrates some light industrial or manufacturing uses within Community Centers.
- Provides public amenities such as recreational facilities, significant open space, plazas, public squares, and other types of public/community facilities or meeting areas.
- The center is supported by a street network with significant traffic capacity in the future, rather than on streets that already have significant commercial development.
- Provides for a significant pedestrian orientation in the layout, including the physical arrangement of buildings and parking, with buildings oriented to pedestrians.
- Provides a “town center” orientation in the overall center plan to create a quality mixed use environment (e.g. by having design elements such as a “main street” environment with a row of on-street parking on both sides, slower traffic speeds, and the majority of parking at the rear with buildings, sidewalks, benches and other amenities oriented to pedestrians).
- Traffic, pedestrian circulation and utilities are planned to facilitate a future intensification of the center, if parking needs and requirements are reduced and traffic capacity allows for additional space in the center in the long term.
- Location is ¼ to ½ mile from major intersections in order to facilitate traffic movements. Provides for transit opportunities in the center design.

Strategies for Commercial Centers (p. 5.7)

- Disperse Commercial Centers throughout the community to support convenience of access and to lessen impacts on infrastructure.
- Locate Commercial Centers where they will have access to arterial streets with adequate capacity and be supported by transit, trails, sidewalks, and local streets.
- Discourage “four corner commercial development.”
- Encourage multiple street connections to adjacent residential neighborhoods to allow convenient access for neighboring residences and pedestrians without the use of arterial streets, but exercise care in designing the street network to minimize undesirable traffic impacts.
- Develop smaller stores next to larger anchor stores in centers to encourage small businesses and to provide a variety of goods and services for customers utilizing the centers.
- Design streets and public spaces to enhance pedestrian activity and support multiple modes of transportation.
- Create a pedestrian-oriented environment in the physical arrangement of buildings and parking.
- Develop Commercial Centers as compact clusters or mixed use nodes with appropriate site design features to accommodate shared parking and ease of pedestrian movement, to minimize impacts on adjacent areas, and encourage a unique character.
- Discourage auto-oriented strip commercial development; Commercial Centers should not be developed in a linear strip along a roadway or be completely auto-oriented.
- Design new Commercial Centers in a manner that facilitates future development and intensification of land uses on the site.
- Redevelop existing commercial strips for residential mixed use and/or transit oriented development where appropriate.
• Design buildings and land uses at the edge of the center to be compatible with adjacent residential land uses. Examples of compatible land uses include apartments, mixed use residential buildings, offices, assisted living facilities, or child care centers.
• Buildings should be compatible in terms of height, building materials and setback. Small compatible commercial buildings at the edge could include retail or service uses. Buildings with more intrusive uses should have greater setbacks, screening requirements and be built of more compatible materials.
• Locate the most intensive commercial uses, such as restaurants, car washes, grocery stores, gas stations/convenience stores and drive through facilities nearer to the major street or roadway and furthest from the residential area (unless contained within a mixed use center). Lighting, dumpsters, loading docks and other service areas should be screened from residences.

FUTURE LAND USE PLAN

This area is currently shown as Urban Residential on the 2040 Future Land Use Plan. (p. 12.3)

Urban Residential. Multi-family and single family residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre.

Commercial: Areas of retail, office, service and residential mixed uses. Commercial uses may vary widely in their intensity of use and impact. Individual areas designated as commercial in the land use plan may not be appropriate for every commercial zoning district. (p. 12.4)

ANALYSIS

1. This request is to change approximately 24 acres from Residential to Commercial on the Future Land Use Map and designate the area as a Neighborhood Center. This request is part of the overall Wandering Creek PUD, which would primarily include residential uses with the Neighborhood Center in the southeast corner of the development. The Neighborhood Center would be a future phase and is not included in the associated change of zone and annexation applications.

2. The Comprehensive Plan includes a detailed description of what constitutes a Neighborhood Center.

   Center Size: Neighborhood Centers typically range in size from 50,000 to 150,000 square feet of commercial space, with those meeting the incentive criteria having up to 225,000 square feet. Existing centers may vary in size from 50,000 to 225,000 square feet.

   This area is conceptual and no specific floor area has been determined, but it would likely fit within this criteria.

   Description: Neighborhood centers provide services and retail goods oriented to the neighborhood level, with significant pedestrian orientation and access. A typical center will have numerous smaller shops and offices and may include one or two anchor stores. Residential mixed use is encouraged. In general, an anchor store should occupy about a third to half of the total space. In centers meeting the incentive criteria, anchor store(s) may be larger, however the goals of Neighborhood Centers are to be diverse and not simply one store. Examples include Lenox Village at S. 70th Street and Pioneers Boulevard, and Coddington Park Center at West A Street and Coddington Avenue. These smaller centers will not include manufacturing uses. Neighborhood Centers may be considered a “Mixed Use Redevelopment Node” if they generally conform to the strategies listed in the Mixed Use Redevelopment chapter.

   The conceptual plan shows multiple pedestrian connections to the residential portion of the PUD. Details such as building layout haven't been determined, but based on the proposed street network through the center, it could include multiple buildings of various floor area and use.

Page 4 - Comprehensive Plan Amendment #17007, Wandering Creek
During the planning period, several additional neighborhood centers will be needed. These centers are not identified on the future land use plan and will instead be located as part of plans for future neighborhoods based on the commercial guidelines.

This proposed center is part of the overall Wandering Creek PUD development.

Market Area: These centers typically serve the neighborhood level. It is anticipated that there will be no more than two neighborhood centers per one square mile of urban use. For areas of less than one square mile, the number of the centers will be reduced.

Within the same square mile there is a proposed Community Center near 84th and Van Dorn. Community Centers are intended to serve a larger market area than Neighborhood Centers, and in this case would be serving residents in east Lincoln beyond just the Wandering Creek neighborhood. The next closest Commercial Center is more than a mile away. The map of Commercial Centers is attached to this report.

Center Spacing: Neighborhood Centers should be located approximately ½ mile apart, depending upon their size, scale, function and the population of the surrounding area. When located at intersections, they should also not be located across an arterial street from a Community Center or another Neighborhood Center.

The next closest Neighborhood Center that is currently approved is approximately two miles away. This proposed site is at an intersection but it not across from any other Commercial Center.

Criteria: Future Neighborhood Centers are not sited in advance, but are identified once approved or built and are added to the land use plan. Neighborhood Centers should generally not develop at corners of intersections of two arterial streets due to limited pedestrian accessibility and impact on the intersection - locations 1/4 to ½ mile from major intersections are encouraged, particularly if there is to be more than one Commercial Center within a square mile of urban residential use. There may be circumstances due to topography or other factors where centers at the intersection may be the only alternative. When a square mile of urban use contains a Community or Regional Center, then only one neighborhood center should be sited within that square mile.

This site is at the intersection at two arterials (98th and Van Dorn Streets); however, it will have multiple access points from the neighborhood, and the proposed accesses onto the arterials will comply the Access Management Policy. Due to these circumstances, the center would have good accessibility from the neighborhood and should not have a significant impact on the intersection. The drainage way that runs through the southern portion of the PUD limits the ability to place the Neighborhood Center at the ¼ or ½ mile points from the intersection. With this proposal, the square mile would include one Community Center and one Neighborhood Center.

Siting Process: The exact location and land use composition of the Center should be determined as part of development proposals.

This proposed center is part of the overall Wandering Creek PUD development, with the details to be determined at a later date once the center is ready for development.

Floor Area Incentive: New Neighborhood Centers will typically range from 50,000 to 150,000 square feet of floor area per square mile of urban use. For centers meeting the incentive criteria, a 50% floor area bonus of up to 25,000 square feet of retail space and 50,000 square feet of office space could be added to the 150,000 square feet total, for a center total of 225,000 square feet.

It’s too early to determine whether the site will meet any incentive criteria since the area is only conceptual at this time. Those details will be addressed with a future PUD amendment when the commercial area is ready for development.
3. The Comprehensive Plan includes several strategies for Commercial Centers that apply to this proposal.

- **Disperse Commercial Centers throughout the community to support convenience of access and to lessen impacts on infrastructure.**

- **Locate Commercial Centers where they will have access to arterial streets with adequate capacity and be supported by transit, trails, sidewalks, and local streets.**
  This site would have access from arterial and local streets, and sidewalks. A future trail is located just to the north of this center.

- **Discourage “four corner commercial development.”**
  The other three corners of the intersection are currently identified as Residential and Green Space. The southwest corner of the intersection is Firethorn Golf Course.

- **Encourage multiple street connections to adjacent residential neighborhoods to allow convenient access for neighboring residences and pedestrians without the use of arterial streets, but exercise care in designing the street network to minimize undesirable traffic impacts.**
  The center has multiple connections to the proposed residential development.

- **Discourage auto-oriented strip commercial development; Commercial Centers should not be developed in a linear strip along a roadway or be completely auto-oriented.**
  This center is a “node” that includes multiple entry points for both automobiles and pedestrians.

**EXISTING LAND USE & ZONING:** Agriculture, AG Agriculture

**SURROUNDING LAND USE & ZONING**

| North:          | Agriculture, AG Agriculture |
| South:         | Firethorn Golf Course, AGR Agriculture Residential |
| East:          | Agriculture, Acreage Residential, AG |
| West:          | Agriculture, Acreage Residential, AG |

**APPROXIMATE LAND AREA:** 24 acres

**LEGAL DESCRIPTION:** A portion of Lot 64, located in the SE 1/4 of Section 35-10-7.

**PROPOSED AMENDMENT:**

Amend the 2040 Lincoln-Lancaster County Comprehensive Plan as follows:

Amend the 2040 Future Land Use Map (Maps 1.1, 1.2, 12.1, 12.2) to show Commercial at the northwest corner of 98th and Van Dorn as shown in the exhibit.

Amend the Commercial Centers Map (Map 5.1) to show a Neighborhood Center at the same location.
Prepared by
Andrew Thierolf, Planner

November 3, 2017
Revised: December 1, 2017

Applicant/Owner: Matodol, LLC
601 P Street
Lincoln, NE 68508

Contact: DaNay Kalkowski
1128 Lincoln Mall, Suite 105
Lincoln, NE 68508
(402) 435-6000
danay@sk-law.com

Page 7 - Comprehensive Plan Amendment #17007, Wandering Creek
Proposed Land Use Change and New Neighborhood Center

Legend
- Area of Amendment
- Ownership Parcels

Residential - Urban Density to Commercial and New Neighborhood Center

CPA # 17007
Wandering Creek
S 98th St & Van Dorn St

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(CPA17008)
October 18, 2017

HAND DELIVERY

David Carey, Planning Director
City County Planning Department
555 South 10th Street
Lincoln, NE 68508

RE: Applications for Annexation, Change of Zone to R-3 Planned Unit Development and Comprehensive Plan Amendments

Dear David:

Our law firm represents Matodol, LLC (“Matodol”), owner of the real property legally described as Lots 50, 51, and 64, located in the South Half of Section 36, Township 10 North, Range 7 East of the 6th P.M. and Outlot A, FBT Addition, all located in Lancaster County, Nebraska (the “Property”). Matodol is a party to the Annexation Agreement for Van Dorn Coalition approved by the City on March 9, 2017 that master planned the infrastructure to provide for the future annexation of the Property and other Van Dorn Coalition property.

Matodol is ready to move forward with development of its first phase of the Property which contains approximately 78.66 acres and is legally described and shown on Exhibit “A” enclosed herein (“First Phase Property”). Matodol is seeking to annex and change the zone of the First Phase Property from AG to R-3 Planned Unit Development. While Matodol’s requests for annexation and change of zone only affect the First Phase Property, the PUD plans show conceptual uses on the remainder of the Property and neighboring properties. The Grading and Drainage Study also covers the entire Property. Development of the Property is planned to provide a variety of housing types in varying price ranges.

The proposed R-3 PUD for the First Phase Property contains a residential area showing a variety of single family residential uses. It also includes a multifamily area and residential transition area. A height increase to 50 feet is being requested for the multifamily area to allow adequate height to construct three story buildings. Similar height adjustments have been granted on many recent multifamily projects. A decrease in the rear yard setback from 30 to 10 feet is also requested in the multifamily area where the rear yard abuts a nonbuildable outlot. A height increase up to 35 feet is also requested for the residential transition area which increases the height in this area to match what is permitted in the R-3 zoning for the residential area and also what is permitted within the Firethorn CUP.
In addition to the above, Matodol is requesting amendments to the 2040 Lincoln/Lancaster County Comprehensive Plan ("Comp Plan") to designate the northwest corner of S. 98th Street and Van Dorn Street as (i) a (N) Neighborhood Center on Map 5.1: Existing and Proposed Commercial Centers; and (ii) as "Commercial" on the Lincoln Area Future Land Use Map. This area is anticipated to ultimately contain a mix of retail, office, and service uses that are oriented to the neighborhood level, and may also include residential uses. There are no Neighborhood Centers identified within over a square mile from this newly developing area.

Enclosed please find the following:

1. City of Lincoln Application for annexation of the First Phase Property;
2. City of Lincoln Application for a change of zone from AG to R-3 PUD for the First Phase Property;
3. City of Lincoln Application for Comp Plan Amendments;
4. Application fees in the amount of $4,695;
5. PUD Site Plan;
6. Exhibits for the Comp Plan Amendments.

The development team has met with City Staff multiple times to discuss the proposed applications and will continue to work on issues that arise. The development team has also held individual meetings with property owners whose parcels are impacted by the layout of the PUD and will continue to work directly with those property owners as the PUD site plan is developed for future phases. In addition, an informational meeting was held with surrounding neighbors on September 25, 2017 to discuss the proposed zoning and land uses for the First Phase Property as well as the proposed Comp Plan amendments. The meeting was well attended by acreage neighbors and neighbors from the Firethorn neighborhood to the south. The neighbors expressed concerns about the density of the proposed uses, setback of the uses from Van Dorn Street, drainage from the Property and increased traffic on Van Dorn Street.

The proposed multifamily area is set back over 170 feet from the north line of the future Van Dorn Street right-of-way with nonbuildable green space in between. The multifamily area will provide an appropriate transitional use between the anticipated future commercial uses on the Realty Trust property to west and the proposed single family uses within the R-3 PUD to the east and north. A 20 feet outlot is also proposed along the north side of Van Dorn Street adjacent to the residential transition area and the residential area. This 20 feet outlot will be utilized for green space and berming similar to the berming installed along the Firethorn townhome area south of Van Dorn Street.

There is significant green space shown throughout the proposed PUD development with the owner maintaining the minimum flood corridors and wetland areas. Stormwater runoff and water quality measures will be accounted for within the development and are outlined in the Grading and Drainage Study.

The proposed development includes full access intersections with Van Dorn Street at Resort Drive and S. 91st Street. These two full access intersections were approved in the Annexation
Agreement. Owner plans to install right and left turn lanes at both intersections as outlined in the Annexation Agreement to improve safety and capacity at these two intersections.

Additional waivers are requested to address block length issues caused by the green space and drainage ways shown throughout the development. Adjustments to the lot regulations are also requested on certain blocks within the residential area to provide flexibility for new urbanism style townhomes and patio homes served by alleys.

We look forward to continuing to work with the City and neighbors on the above applications. Brad Marshall from Olsson Associates will be uploading the proposed plans. Please feel free to contact me or Brad should you have any questions or need any additional information.

Very truly yours,

DANAY KALKOWSKI
For the Firm

Enclosures

cc with enclosures: Jon Camp
   Neighborhood Meeting Attendees
   Jack Wolfe
   9080, LLC
   Roger H. Graff
   Greg Bohac
   Timothy Lieske
   Daryl and Kristie Bohac
   Todd Lorenz
COMPREHENSIVE PLAN AMENDMENT NO. 17007, ANNEXATION NO. 17019, AND CHANGE OF ZONE 17030

COMPREHENSIVE PLAN AMENDMENT NO. 17007, AMENDING TO DESIGNATE THE NW CORNER OF S. 98TH STREET AND VAN DORN AS (N) NEIGHBORHOOD CENTER ON MAP 5.1: EXISTING AND PROPOSED COMMERCIAL CENTERS, GENERALLY LOCATED AT THE NW CORNER OF S. 98TH AND VAN DORN STREETS. December 6, 2017


Staff recommendation: Approval.

AND

ANNEXATION NO. 17019, TO ANNEX APPROXIMATELY 73.53 ACRES, MORE OR LESS, ON PROPERTY GENERALLY LOCATED AT 91ST AND VAN DORN STREETS. December 6, 2017


Staff recommendation: Conditional Approval.

AND

CHANGE OF ZONE NO. 17030 FROM AG (AGRICULTURAL DISTRICT) TO R-3 (RESIDENTIAL DISTRICT) PUD, WITH SINGLE-FAMILY, MULTIPLE-FAMILY, AND RESIDENTIAL TRANSITION USES, WITH VARIOUS WAIVERS, ON PROPERTY GENERALLY LOCATED AT 91ST AND VAN DORN STREETS. December 6, 2017


Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

Staff Presentation: George Wesselhoft of the Planning Department stated he will discuss the annexation and change of zone. Andrew Thierolf, Long Range Planner, will discuss the amendment to the Comprehensive Plan. The change of zone area is slightly larger than the annexation area because there is an area that was annexed as part of the Van Dorn Coalition. This rezoning consists of 72.66 acres and the developer requests approval of 104 dwellings, 595 total multi-family, a 489-person residential healthcare facility, and office. There are a total of eight waivers requested.
The site map shows the Phase I area. The multi-family units would be zoned R-5 and are along the west of the site. The office or R-T area would be located at the south end in the center of the property. The remaining areas would be R-3, with the exception of the substantial green space. Key to this area is the extension of the Steven’s Creek sewer line. The application proposes that building permits be allowed prior to completion of that trunk line so long as there are street water mains. The main arterial for the area is Van Dorn. As a condition, a roundabout is proposed at the intersection of 91st and Van Dorn. 98th Street is scheduled to be paved in 2018. There is a 20-foot trail easement along the north side of the creek. A memo was sent out December 5th pertaining to additional clarifications to conditions. In the R-5 area, a few uses were deemed inappropriate, including broadcast towers, personal wireless towers, and solar energy conversion systems. A comparable development is land use, density, and scale is Lennox Village. This proposal is typical for suburban land use density and is compatible with adjacent developments. The property is adjacent to City limits and can provide a full range of municipal services.

Andrew Thierolf of the Planning Department, said the amendment applies to the southeast corner of the area, at 98th and Van Dorn Streets, and does not change the zoning but amends the future land use to show a commercial center. Neighborhood centers are usually between 50,000 and 150,000 square feet and have to meet several criteria, which are listed in the staff report. This would be the 2nd center in the square mile. A future trail is also shown for the area.

Corr said this is an early stage so nothing is shown in detail. She wondered if Planning Commission will see the area again. Thierolf said the annexation and change of zone would still need to be done and more details and the density would be shown at that time.

Corr asked if the topography limits areas of development on other corners. Thierolf said much of the area is flood plain and floodway. The perfect spot would be a little more to the west, but the drainage way prevents that.

Hove asked for more information about the roads. Wesselhoft said there is not a plan to turn this into a 4-lane arterial. Turn lanes will be added at other sections, along with the roundabout at 91st Street. Hove asked if that is included in the first phase. Bob Simmering of the Public Works Department said the roundabout and turn lanes will be built as permanent improvements, meaning they meet the full extent of standards required for City streets.

Harris noted there were public comments and concerns about the height of the multi-family buildings. Wesselhoft said there have been similar waivers granted for other developments. Steve Henrichsen of the Planning Department said there are multiple examples around town such as Woodlands at Yankee Hill. Lots of new complexes are going to first-floor and underground parking so it is difficult to keep the height under 40 feet. If there is a large buffer area and the development is planned in advance, this request is more routine.

Finnegan noted the hilly topography and wondered how it will affect traffic in the roundabout. Simmering said the roundabout will have a direct impact on the speed of traffic coming in -- 22 mph is the rate one can comfortably drive through, including the grade. There is a throat that extends out so drivers will know the roundabout is coming up.
Proponents:

1. DaNay Kalkowski, Seacrest & Kalkowski, 1128 Lincoln Mall, came forward representing the applicant. In 2016, the owner was part of the Van Dorn Coalition, along with five others. In total, they controlled 300 acres. At that time, they worked with the city to amend the Comprehensive Plan to show the majority of the area as Tier I, Priority B. They then worked on the annexation agreement that would master plan 280 acres, including roads, water, trails, and parks. That plan also contained preliminary plan of site use. The reason for this planning is that the City opened up this vast area for development by deciding to fund the extension of Steven’s Creek.

These applications are for the first 78 acres of development. The uses are consistent with the Land Use Map. This proposal creates a unique environment with a mix of uses. One thing that stands out is the amount of drainage and green space being preserved, particularly in this first phase. Those open spaces provide ample buffering.

The anticipated uses for the higher density R-5 area include multi-family and elderly housing. The height waiver for the area is supported by staff. The property to the west is anticipated to be commercial, so these proposed uses will provide a nice transition to the single-family residential to the east. The large amount of natural buffers also mitigates the impacts to adjacent properties. The small R-T area is a unique property and is cut off from other residential uses at 91st street and also to the west because of the drainage. This makes the parcel appropriate for a small office or daycare. It could even be used for residential and the proposal is for 10,000 square feet of office, or 12-units density. The final area is R-3 which generally follows the rules for that zoning district. There is also a 20-foot buffer of green space between the R-T and the single-family.

Grading and drainage were areas of concern to neighborhoods. While this is only the first piece, the site plan shows a conceptual layout for the remainder and master plans the entire area in terms of grading. In September, we hosted a neighborhood meeting and presented the conceptual plan. It was well-attended. The concerns were related to the drainage, density, height and setback waivers, and traffic, especially at the 91st Street intersection. We did try to address those concerns as best as possible and copies of the plan were sent out to anyone who signed in at that meeting. A major concession made by the developer was the agreement to fund and install the roundabout. The annexation agreement master planned all of the road improvements and the left and right turn lanes were included. These are intended to be permanent improvements that will not have to be removed in the future should the City widen Van Dorn Street. There were many conditions and we worked through many of them. There is only one item of disagreement with regard to Waiver No. 8 related to vertical deflections or vertical curves and we submit a motion to amend that.

2. Brad Marshall, Olsson Associates, noted the amount of trees and green space being retained. There is a stream stabilization project completed by the NRD and the site plan was modified to work around that. Considerable grade separations from street to drainage are proposed to slow down water flow to dissipate energy. This may be an area that can be worked out with Watershed Management in the upcoming year. Parks and Recreation has been involved with the trail which will follow drainage and runs from the southwest out to 98th Street north of Van Dorn where it will continue to connect with the MoPac Trail. They are also working with LPS about the possible colocation of a park near a school.
Harris asked if the applicant agrees with the memo that was received. Kalkowski said they do with the exception of Waiver 8, which is the only part that their motion to amend applies to.

Harris asked what the maximum density is for Phase I and how it relates to other developments. Kalkowski acknowledged that the density will appear skewed due to the fact that Phase I contains all of the proposed multi-family dwellings for the entire area. The rest of the area is anticipated to be single-family dwellings. The Comprehensive Plan encourages density to make for more efficient use of infrastructure.

Hove asked where the entry and exit points will be. Kalkowski said the first phase has two points to Van Dorn and there is the entrance to Firethorn at 91st Street. A connection to the west can be expected when they develop and there will be multiple access point once other areas included in the master plan develop.

**Opponents:**

1. **Mark Hunzeker, Baylor Evnen, 1248 O Street,** came forward representing Firethorn. These applications should be delayed. There should also be a roundabout at 88th Street and his client also disagrees with the use of waiver. Changes were made and we only found out via email yesterday. There has been no comment regarding the waterline for the golf course. Firethorn was asked and agreed to dedicate right-of-way. The roundabout at 91st Street is offset to the south. We request a deferral to the December 22nd hearing to allow for time to discuss these changes. The request is to put 495 dwelling units in 20 acres. That is a larger population than most Nebraska towns. The request for the height waiver is necessary because it is impossible to build to that density and not put parking underneath. The use of waivers in R-5 and R-T give us pause. There are a lot of uses that are conditional or specially permitted that require some degree of compliance or use of a public hearing. There is high potential for unforeseen consequences that could be avoided by denying the waivers. This project is not so special that it should be permitted to avoid traffic issues or waive due process.

Harris asked what scenarios are of concern with the use of waivers. Hunzeker responded there are special uses that could raise concerns, like an outdoor recreational facility or some group living uses like imprisonment facilities.

2. **Tam Allen, 1045 Lincoln Mall,** stated he is a developer and he believes this area was always destined to be developed. He will live on the corner where the roundabout will be located. More traffic control should be considered for the area. The hills make those intersections dangerous and he is strongly in support of adding roundabouts at other intersections. The answer he received from the developer is that it is too expensive to add more. He also believes the very high density use will be problematic. Though many access points are planned, there are only two in the highest density area of the development. He supports the request for a delay in order to better understand the proposal. Firethorn is willing to donate the property for the roundabout, but there is a waterline there that feeds the golf course. His final concerns are related to the spacing between the intersections and whether they comply.

3. **Kristine Sewell, 3605 Doonbeg Road,** has lived in the area for six years and has two children. She is not opposed to development but her main concern is safety. The roundabout is needed at Resort Drive where kids access the pool and restaurant.
4. Mark Wibel, Manager of Firethorn Golf Course, stated he is also not opposed to
development and thinks this will be good for the community. However, there are concerns
about the density being added. He receives numerous calls about close-call accidents from
residents who exit onto Van Dorn. Firethorn is willing to donate property for another
roundabout. There is also concern about the waterline located in right-of-way. Some of the
assurances made should be formalized. It is important moving forward to consider how we can
get creative with funding to make sure citizen safety is a priority.

5. Kandice Denker, 8931 Eagle View Way, came forward as chairman of the Firethorn Board.
She echoes the concerns of previous testimony regarding citizen safety.

Staff Questions:

Corr asked for Staff position on the motion to amend Waiver No. 8. Jared Nelson, Watershed
Management, said that water is heavy and has momentum. By changing direction, water
slams into the pipe and this leads to the eventual creation of a weak point. This is a standard
that the City does not allow deviation from. A second concern is safety. If something gets
stuck, it could cause flooding. A final point is the ease for inspecting the system, as is
required by Federal law.

Corr asked how long Nelson has been on staff. Nelson said over five years. The developer is
building up the site next to drainage ways. In general, the City prefers to dissipate the energy
of the water in more sustainable ways rather than doing it within the pipes.

Corr asked if he would still recommend denial. Nelson said yes.

Harris asked staff to address the issues presented by Mr. Hunzeker. Wesselhoft said that with
regard to the waivers, the original report was looser. It referenced Planning Director approval
for some of the uses. We looked at what should be permissible. One of the criteria that was
significant in our minds was the considerable amount green space.

Harris asked where staff stands on the argument that changes were made late in the process
and the opposition did not have enough time to respond. Wesselhoft said work has been down
with the applicant the past several weeks. It is true that a memo was just issued yesterday.
David Cary, Director of Planning, stated that the question about taking action is up to
Planning Commissioners. Good-faith negotiations have taken place. From a staff perspective,
we have had enough time to work out issues. If this body feels it does not have enough
answers, then it is possible to delay.

Washington asked about the possibility of having two roundabout in such close proximity to
one another. Simmering said there are other examples in town. The issue is funding the
building of an additional roundabout.

Hove asked for comment on the fact that the proposed roundabout on 91st Street is curved
and there appears to be another drive just to the north. Simmering said these issues are
addressed in the Access Manual. The driveway just north of the roundabout at 91st would need
to be at least 50 feet away.

Edgerton asked staff’s view on having two roundabouts in this area. Simmering said that it is
true that it would increase safety, but no force has been exercised to require that many. The
impact fees for the area would probably not be enough to build both.
Hove asked why the roundabout is more south of the street. Simmering said they are generally offset, but he would have to defer to the designer as to why it goes south instead of north.

Scheer asked if this plan is still conceptual. Simmering said yes.

Corr asked how the right-of-way plays into the waterline. Simmering said it is substantial that it could remain under the road by permit. It is still the responsibility of the owner of the line.

Washington said if it is under that part of the road, it is the responsibility of Firethorn, but their cost for accessing it becomes more expensive. Simmering said that is correct.

Cary said that the topic of two roundabouts is a good example of plans that are generally in conformance and have staff support, but cannot be afforded. Our current plan does not include the widening of Van Dorn until 2040. This is a topic staff is working on - if there were an opportunity to take impact fees from elsewhere to use City-wide so that they are used in the best way. The 2nd roundabout is preferred, but there is not the funding or directed impact fee to pay for it. This is something that will be heard again as new developments come forward so it was important to let Commissioners know that it is being discussed.

Corr asked if the road is eventually widened, would the roundabout have to be rounded to two lanes. Cary said there is not enough information to answer that at this time.

Corr asked if roundabouts are more difficult to maintain. Simmering said they are less expensive to maintain than stop lights.

Finnegan asked how the decision to put the roundabout at 91st street, versus another intersection, came about. Simmering said that the conclusion was that it is the best location to catch and slow down traffic travelling in both directions.

Washington asked if Van Dorn will eventually be an exit to the East Beltway project. Simmering said he cannot answer that.

**Applicant Rebuttal:**

Kalkowski said that a deferral is not warranted. The use of waivers was related to each zoning district used and what did or did not meet the regulations for those districts. The original proposal was broader and Staff asked that it be narrowed. The R-T area was originally open to all uses so we went back and said we would follow code with a couple of exceptions for uses that are appropriate, such as a childcare facility. The only area that was kept broad was use in the R-5 area. The applicant is not asking to be treated specially. The PUD grant more flexibility for uses when it makes sense in a specific area. In this case, the significant buffer areas allowed some leeway. There are still provisions in place to protect neighbors, and there were no specific concerns mentioned about the uses. The annexation agreement was approved for 300 acres in the area. The agreement maps all of the access points. In that agreement, all that was said was that right and left turn lanes must be installed. While the R-5 is dense, it is not more than requested in other similar areas. Despite the fact that our original agreement did not require a roundabout, the applicant has agreed to fund one because it will be a benefit and will address some of the safety concerns. This is a permanent improvement, done to the ultimate grade and with a $750,000 price tag. There is no funding for a second roundabout, nor is one necessary. In addition to the cost, there is a large
drainage way that will need to be moved. These are all issues that the City will run into in the future when they widen the road, and it is not fair to make the developer address all of these things at this time.

Marshall said a revised speed study has been considered. The road may or may not warrant a reduction in speed so we asked what other means of traffic control could be used. This concept is a work in progress and he is confident that many of the concerns can be addressed. Roundabouts are not centered which is part of the mechanism to slow cars. He is willing to talk more about lessening the impact to Firethorn. Part of the annexation agreement language is to work out issues related to the waterline. While staff’s input is appreciated, we have presented a proposal that we believe is industry standard. It is possible the interpretation of design standards may be outdated and we should look harder at them.

Kalkowski noted that her clients have been upfront about not being able to fund a second roundabout. More specific questions about the design will be taken care of as we move through the process. There is an amendment to the annexation agreement to address the addition of the roundabout at 91st Street.

Beckius asked about the southward skew of the roundabout. Marshall said the roundabout is over 150 feet in diameter and is shifted 10 feet to the south. There are angles built in to slow traffic. Another consideration was the driveway to the north and providing a decent separation. Those things can be looked at and Firethorn has been gracious enough in dedicating that right-of-way.

Beckius noted the large buffer to the R-5 area to the south. He wondered what the northern buffer is. Marshall estimated that it is between 80 and 100 feet. Extending the minimum corridors has been discussed and it could easily be extended.

Corr asked if the channel will have to be moved to accommodate the turn lanes. Kalkowski said no. Corr said that even though there is no roundabout, there will be turn lanes installed for safe turning. Kalkowski said that is right. There are many instances of coming in and out at an unsignaled access point. Marshall added that as the commercial ground becomes viable, that may also warrant some additional infrastructure.

Hove asked how many vertical manholes there will be. Marshall said 15 to 20. He wonders about problems with many discharge points. Water will be collected from surrounding areas and the streets.

Washington asked if there are others that are that concentrated. Marshall said Waterford Estates, Charleston Heights, and Fallbrook are all examples. Hove asked why those were approved. Marshall said it is based on the interpretation of standards. He is not saying those standards have changed, but staff made a different determination in those cases. He is not aware of any issues or failures that ended up as expenses for the City. Scheer wondered why previous proposals were approved. Marshall said he does not know but the processes were different.

Harris wondered if there is any future phase where a second roundabout might be considered. Kalkowski said that in this area, once these are built to permanent grade, that will be it. If the commercial corner develops, the City has the right to ask us for a traffic study to see what needs to be done.
Scheer said that one thing that gives him pause is whether the roundabout is in the best location. He wondered if the greater volume and density to the west would make another location better. Kalkowski said that was considered. After weighing the factors, the scale tipped towards the 91st Street intersection that will serve traffic coming from both directions.

Washington said it is hard to look at past decisions. Kalkowski said that is a city-wide problem where access points are needed but do not have adequate funding. The permanent improvements will already be installed when the City does the road widening, but the problem is that those projects are in the future, so how do you attach that to one developer.

Scheer gauged if there would be any interest in deferral among Commissioners. They agreed there was no interest in deferral.

Cary noted that the East Beltway would be a State project, generally along 126th Street. As of now, it will connect at Pine Lake Road, Pioneers Boulevard, O Street, Adams Street, and Fletcher Avenue. 98th Street will be paved to County standards in the immediate future.

**COMPREHENSIVE PLAN AMENDMENT NO. 17007**

**ACTION BY PLANNING COMMISSION:**

December 6, 2017

Corr moved for approval, seconded by Beckius.

Hove said he will support these applications even though the discussion about the roundabout is difficult as safety is a big concern. 91st Street makes the most sense. As far as uses go, each party will have to trust each other and work through details. Hopefully, they will find solutions that work for all.

Beckius stated he will support this motion with the December 5th memo and deferral is not warranted. He would like to see a change to the roundabout from its off-center placement to the south. The waivers do not concern him because of the buffers.

Finnegan said she will support the motion as presented. She struggles with the waiver because if it has worked in other neighborhoods, she thinks it could work here, too.

Joy echoed the thoughts of her fellow Commissioners and will support the project.

Scheer said he would find it difficult to oppose this proposal. There are some issues to work out and there is some validity to the timing issues brought up by Mr. Hunzeker. He agrees that the roundabout should not be offset to the south. The developer should bear that consequence and not expect Firethorn to go above and beyond.

Harris said discussion about the location of the roundabout should continue and that can be done at the Council level. Another broader issue is dealing with annexation agreements. We have to ask what changes are reasonable and in the interest of having the predictability the Comprehensive Plan calls for. Deferring at this point will not yield more answers.

Motion carried, 9-0: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, Washington, and Scheer voting ‘yes’.

*Note: This is a recommendation to the City Council.*
ANNEXATION NO. 17019  
ACTION BY PLANNING COMMISSION:  
December 6, 2017


Note: This is a recommendation to the City Council.

CHANGE OF ZONE NO. 17030  
ACTION BY PLANNING COMMISSION:  
December 6, 2017

Beckius moved for approval, seconded by Hove.

Corr noted that due to holidays, there will be extra time to work things out.

Motion carried, 9-0: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, Washington, and Scheer voting ‘yes’.

Note: This is a recommendation to the City Council.