

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, August 10, 2011, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Leirion Gaylor Baird, Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Jeanelle Lust, Jim Partington, Lynn Sunderman and Tommy Taylor; Marvin Krout, Mike DeKalb, Nicole Fleck-Tooze, Ed Zimmer, Christy Eichorn, Rashi Jain, Sara Hartzell, Logan Christy, Scott Richert, Ryan Axmann, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Lynn Sunderman called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Sunderman then requested a motion approving the minutes for the regular meeting held July 27, 2011. Motion for approval made by Francis, seconded by Larson and carried 7-0: Cornelius, Esseks, Francis, Larson, Lust, Partington and Sunderman voting 'yes'; Gaylor Baird abstained; Taylor absent at time of vote.

A Resolution of Appreciation was read into the record and presented to Mike DeKalb for 36 years of service in the Lincoln-Lancaster County Planning Department, who is retiring on August 17, 2011. Partington moved to adopt Resolution No. PC-01245, seconded by Francis and carried 9-0: Cornelius, Esseks, Partington, Taylor, Lust, Larson, Francis, Gaylor Baird and Sunderman voting 'yes'. Sunderman expressed appreciation to Mike DeKalb on behalf of the Planning Commission. He has appreciated DeKalb's assistance, his wit, his character and the respect that DeKalb has shown to everyone that came forward. The City and County is losing a valuable resource.

There was no Consent Agenda.

There were no Requests for Deferral.

**CHANGE OF ZONE NO. 11027,
TEXT AMENDMENT TO TITLE 27
OF THE LINCOLN MUNICIPAL CODE
TO ALLOW ADULT CARE CENTERS
AS A PERMITTED USE IN THE
O-1, O-3, R-T, B-2, B-5, H-2, H-3 AND H-4
ZONING DISTRICTS.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 10, 2011

Members present: Cornelius, Esseks, Partington, Taylor, Lust, Larson, Francis, Gaylor Baird and Sunderman.

There were no ex parte communications disclosed.

Staff recommendation: Approval.

Staff presentation: **Christy Eichorn of Planning staff** explained that the adult care center use became a permitted use in the B-3 district in 1992; since then it has been added to the B-1 district as a permitted use; as a special permitted use in the R-2 through R-4 Residential districts; and in 2004 it was added as a permitted use in the O-2 district. In 2004, there were discussions about the need to pay more attention to adult care facilities and at that time there was a specific user for an adult care center in O-2 zoning.

At this time, we have another user making application currently located in I-1 zoning looking to move to H-3 zoning. By default, adult care facilities are allowed in I-1 and I-2 (default means that in those two industrial districts all uses are allowed unless specifically excluded, and adult care centers are not specifically excluded). The impact of an adult care center is minor and they do not generate a lot of traffic.

This proposed amendment is to add adult care centers to all commercial zoning districts with the exception of H-1 because the H-1 is a very small district located in a very small piece of the city with a very limited number of uses already that do not fit the character of adult care facility. The applicant for this proposal is specifically requesting to allow adult care centers to move from a more intense to a less intense district, which is the H-3. All of the other districts in this proposal were brought forward by the Planning Department.

Lust noticed that the Lincoln Municipal Code refers to “adult care centers” while the State of Nebraska code refers to them as “adult day services”. Why the difference in the language? Eichorn suggested that the likely difference is that when the state updated their definition in regard to health care facilities, our city code was not updated. The Planning staff has spoken with the Law Department and as we try to move through future changes we are going to try to align some of the definitions, as appropriate, to match the state definitions.

Esseks referred to page 2 of staff report where Health is recommending that adult care centers not be allowed in I-1 and I-2. Does this proposal deal with that recommendation? Eichorn explained that this text amendment does not take the use out of the I-1 and I-2 districts because the applicant is not the city, but rather another entity, and we have not researched to see how many adult care centers might be located in the I-1 and I-2 currently and how that might make them nonconforming. At this time, the staff wanted to accommodate this applicant. Staff will be considering future changes to the zoning ordinance and how we might make it more streamlined and better including further meetings and discussions with the Health Department.

Proponents

1. **Travis Jacobs**, 7508 S. 37th Street, associate director for Community Alternatives Nebraska, the applicant, explained that Community Alternatives Nebraska is planning to relocate their adult day support facility from an industrial district at 4851 South 16th Street to 2801 North 27th Street, which is a commercial district. They believe that the building and location at North 27th Street is ideal for their day service program. Community Alternatives Nebraska serves people who have a primary or secondary diagnosis of a mental illness. They provide breakfast, lunch and afternoon snack, socialization, recreational activities, and community outings, providing structure to individuals who otherwise may not have structure to their day.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

August 10, 2011

Taylor moved approval, seconded by Esseks.

Sunderman believes this is pretty straight forward and makes sense. He does not foresee any problems in the future.

Motion for approval carried 9-0: Cornelius, Esseks, Partington, Taylor, Lust, Larson, Francis, Gaylor Baird and Sunderman voting 'yes'. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 11028,
TEXT AMENDMENT TO SECTION 27.35.025
OF THE LINCOLN MUNICIPAL CODE
TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES
FOR CONSUMPTION ON THE PREMISES
IN THE B-4 LINCOLN CENTER BUSINESS DISTRICT
AS A PERMITTED CONDITIONAL USE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

August 10, 2011

Members present: Cornelius, Esseks, Partington, Taylor, Lust, Larson, Francis, Gaylor Baird and Sunderman.

Ex Parte Communications: Gaylor Baird disclosed that she received a call from an individual concerned about the impact this might have on downtown and his business and other bars that would like to locate downtown, and the practicality of implementing this particular change. She stated that she asked the individual to testify or email the commissioners.

Staff recommendation: Denial.

Staff presentation: **Marvin Krout, Directors of Planning**, advised that this is a request by a well-known prominent downtown resident and property owner who is asking to change provisions in the B-4 Lincoln Center Business District (downtown zoning district) regarding alcohol sales, specifically for on-site consumption as opposed to a liquor store or food store. The downtown zoning district is liberal in many ways and allows alcohol sales for on-site and off-site consumption as a permitted use with no special conditions or special permit requirements. This proposal would create alcohol sales for on-site consumption as a conditional use, and the conditions have to do with separation requirements.

In other commercial and industrial districts we have use permit or special permit requirements for alcohol sales, both on-sale and off-sale, and those requirements have to do with distance from residential zoning districts, first floor residential use (recently amended), churches, schools, and day care centers. This proposal would require that new bars in the B-4 have a similar distance requirement of 100 feet from residential uses that are on the first floor downtown or from multi-family uses that are three or more dwellings that are in a separate building. In addition, there are other uses, such as churches, day care centers, schools, museum, library, domiciliary care, private recreational facilities that cater to children, from which the 100 feet would have to be measured to locate a new bar in downtown. There are exemptions in this proposal, such as a restaurant, which is already differentiated from a bar. But this proposal takes that definition and provides that if a restaurant receives more than 40% of the sales from alcohol, with outdoor activities until 10:00 p.m., it must be 100' from a residential use. There is also an exemption for bars

that are part of a hotel use. If you have a building with a first floor bar, the distance is measured to another building. This proposal does not protect the residents of that building from having a mix of uses.

In terms of impacts, Krout reminded the Commission that zoning is not basically retroactive in Lincoln. If a use becomes nonconforming as a result of a zoning change like this, with bars within 100' of a residential use or one of the other sensitive uses, it can continue as a legal nonconforming use even with a change in ownership as long it remains a bar. It would lose the legal nonconforming status if the use is changed.

Krout then referred to the map in the staff report which is not intended to portray complete accuracy but gives a sense of the impact of this proposal.

Krout suggested that the basic question is: Should we treat the downtown district in terms of alcohol sales like we do commercial and residential districts outside of the downtown where we have distance separations where there is a certain expectation about how much peace and quiet you are expected to maintain in a city neighborhood zoned residential. Should we apply that same kind of standard in the downtown area? Krout advised that the staff cannot bring themselves to recommend that downtown is close enough to these other neighborhoods to apply the same kind of principles. Downtown has always been a mixed use neighborhood; it has always had a residential component; it is an active, vibrant and sometimes noisy area; it is the entertainment center for the community; and by and large, most people who have moved into the downtown have a fair expectation that they are not going to be protected by zoning to the extent that they would be protected in a traditional neighborhood. The mix is not a mix of residential and non-residential, but a whole variety of different kinds of bars, with a whole variety of different sensitivities, including some residents who have submitted comments who are not expecting or need that kind of protection. The staff is not ready to say you should apply the lowest common denominator. There are already a lot of bars in close proximity to residential uses. There would be some administrative difficulties in trying to keep up with use changes and make sure we could discern a bar from a restaurant. And then there may be some unintended consequences. We have not yet found a downtown with zoning provisions like this in terms of protecting residences from bars by a separation requirement, but we have seen a discussion about separating bars from each other. When you start to narrow the available choices, you may have the unintended consequence of engendering further concentration by limiting the potential locations. There has been some interest in considering separation requirements for downtown and there may be more conversation about that in the future. This ordinance does not go in that direction.

Krout suggested that there is a need to explore some non-zoning options before attempting a zoning solution. In addition, there is a noise ordinance for downtown with a different threshold than at the edge of a residential neighborhood. It has not been used often, but it has been used to prevent excesses of unwanted noise, especially in the late hours. The noise ordinance is a potential tool without going to this zoning proposal. Another tool is the

issuing of the liquor license. With all the other options available and the difficulties of administering this with unintended consequences, staff is suggesting that this proposal is premature and there is a need to have a discussion with the key stakeholders in the community and in the downtown area, i.e. downtown business and residential population owners and tenants. The University has an interest in the general issue of bars near the campus. Krout suggested that the Downtown Lincoln Association (DLA) represents a lot of those people and could be a forum for those discussions.

While the staff is not recommending approval, Krout indicated that the staff does agree that there is an issue to be discussed. The Comprehensive Plan recommends to promote and facilitate substantial additional population downtown, but it does not recommend that bars be controlled, and the staff is not ready to do that yet.

Krout noted that the Commission has received several letters in opposition.

Lust inquired whether there have been any studies about the population that is attracted to living in the urban area – whether they prefer entertainment options that are readily available and that is why they are selecting downtown, etc. Krout believes there may be such studies. But he believes there is some self-selection that goes on and most people who move into the downtown area have a fair idea about what to expect.

Cornelius inquired as to the affect this proposal has on an existing on-sale use that may be in conformance with the proposed language if, for example, a day care center were to open within 100' after the fact. Krout indicated that it would become a legal nonconforming use.

Cornelius inquired about the special set of requirements for hours of operation for establishments within the 100' separation. Krout clarified that this proposal disallows a bar within 100 feet, but if it is a restaurant, a 10:00 p.m. closing time is required.

Esseks noted that several of the uses with the 100' buffer seem to have time limits, such as an early childhood care facility, museum, recreational facility, school, church. Do we have any data as to when these conflicts tend to cluster? Perhaps there is a time pattern such that the other uses should not be determined to require the 100' buffer because they would not be used or have clients during the times of the conflicts with bar uses. Krout acknowledged that this was not noted in the staff report, but staff did raise that point with the applicant in their discussions. Krout agrees that the conflicts are more limited.

Esseks wondered whether there is data as to when there are noise disturbances coming from the bar and affecting the quality of life. Krout suggested that this issue should be addressed by the Police Department. He knows that 2:00 a.m. is probably the most difficult part of their assignments. We would want the Police Department to be part of the group discussing problems and solutions.

Francis inquired whether the history is available about residential in the downtown area. Krout responded that the downtown area is something that grew from the 9th and O Street circle to the east and west and north and south – it was originally very small and grew over time. There were residential buildings in what later became the expanded downtown and some of them remained, resulting in a mix of residential and commercial uses in the expanded downtown area. The first zoning ordinance for Lincoln dates back to 1923 and identified a commercial district for downtown separate from residential, and the commercial zone did allow residential uses. Downtown has always had a substantial number of residential units.

As part of the Downtown Redevelopment Plan established several years ago, Francis assumes part of that plan was to help downtown grow by allowing more mixed uses to keep Downtown vital. Krout agreed.

Larson confirmed that if an existing permitted use is sold, the permit goes with the property. Krout agreed. The property could change hands and the use could continue.

Gaylor Baird asked Krout to discuss the potential administrative burden, i.e. the calculations that have to be made to differentiate bars from restaurants. She believes that calculation is required in other kinds of situations. How is this more burdensome here? Krout explained that the burden would be the numbers we would be dealing with. We do have the provision for restaurants serving alcohol, but only one so far and there has not been a problem of tracking their sales. However, there is a shady area between bars/restaurants that would take some continued auditing and working with those business owners to keep up-to-date on those records. We also see residential uses come and go. You have to be on the ball in terms of having an up-to-date land use map to make sure there is not a sensitive use. It is possible. He also acknowledged that the state has licensing provisions that do have some overlap to a certain extent with what is being proposed here. The state licensing provisions also differentiate between a bar that is in a hotel and between a restaurant and a bar, but for the state it is a question of the type of license as opposed to allowing it or not.

Proponents

1. Cecil Steward, 125 N. 11th Street, the applicant, requested additional time for his testimony. He called attention to the article that was in the Neighborhood Extra. In summary, the article makes the points that downtown Lincoln is a unique and special place that has experienced two complete transformations in its 150- year history. It is now in the early stage of a third form and function transformation. These cycles are occurring at approximately 60-year intervals, and they are leading to the need for this proposed change in public policy, if we care to make the most of Lincoln as a sustainable, growing and dynamic city.

Steward went on to state that the first cycle established the framework for the original business and commercial district and the grid pattern of the early residential districts surrounding the downtown districts. Uniquely, the early land use plan established the location for the railroad yard, rights-of-way and an adjacent wholesale district (forming the western edge of the district, and ultimately becoming the Haymarket), the land dedicated to the University of Nebraska (forming the northern edge of the district) and the land that would be reserved for the new capital uses of state government (forming the southern edge of the district). Steward stated that from about 1860 to roughly 1920, the downtown district grew into the principal business and commercial center that is today designated as B-4, defined generally by an area from 7th Street on the west to 20th Street on the east, and R Street on the north boundary to K Street on the south.

Steward then described the second transformation which began around 1920 with the rising popularity, availability and use of the automobile. Ultimately, the conditions of downtown congestion and a desire for front-door convenience provided opportunities for dispersed commercial, business and shopping along the new motor-car arterials and finally in clusters as shopping centers, and then everything in one big box.

The first zoning ordinance for Lincoln was proposed in 1922 (and Steward believes he may have the only copy) and was adopted in 1923 – interestingly, this was only six years behind the first zoning ordinance for the City of New York. In the opening section of this publication, there is strong language about the purposes of zoning, and one of those principal purposes is the protection of property values. Another purpose so stated is the sanctity of the residents – the home – as being and needing protection. The first map did not indicate mixed uses, but separate districts. There were nine separate districts proposed.

In this second transformation cycle, the subsequent flight by business and commerce from the center to the strips and edges left vacancies and falling property values. An almost desperate search for “fillers” for the vacant buildings preoccupied both government and private resources. Bars were some of the benefactors because of falling values and the proximity of more liberal clientele on the University campus, especially in the smaller one- and two-story buildings along O Street.

The third transformation (of which we are now in the middle) began around 1980. This transformation is driven by well-documented changes in demographics, lifestyles, economics of transportation, housing and basic needs, and a shift in attitudes about social relationships and home ownership versus leasing of property. There is a corollary desire for a return to foot-power and mass-transit vs. automotive power. This new market for an “urban village” must be accommodated by the proximity of convenience and access and some reasonable regulatory protection of property values.

Steward stated that he is 100% convinced that over the next 30 years Lincoln will experience an accelerated continuation of these trends and more dramatic growth of this

new mixed use urban neighborhood, with a mix of housing types, styles and a range of affordability leading to the new developments with mixtures of retail, business and entertainment uses.

Steward then discussed his personal motivation for this proposal. Since relocating his family to Lincoln to be the Dean of the College of Architecture at the University of Nebraska in 1973, he has been observing and helping to plan the environmental, economic and social uniqueness and the incredible developmental opportunities for the future of this city. The districts that form the boundaries of the central business district, and the numbers of people already within walking distance of the CBD make Lincoln a unique city, and this uniqueness was recognized even in the original writing of the very first zoning ordinance in 1922:

Some cities have only three zoning districts, very few have more than six or seven; Lincoln has nine, because Lincoln is a composite type city. It is industrial; it is a great trade center; an important railroad point, the state capital, and an educational seat. Provision must be made for all of the activities which naturally arise from these variegated interests.

This proposal is based upon the aggregate of almost 50% of Steward's life studying, observing and living the underlying principles of the dynamics of urban life and the environments needed to support the evolving changes within cities.

Since becoming a resident of this city, Steward has: 1) originated and lead the study of the Nebraska Capitol Environs (in the 1970's) that downzoned building heights in the CBD, established protected view corridors and formed the Nebraska Capitol Environs Commission (NCEC) for the protection of this unique and magnificent piece of architecture; 2) served approximately ten years on the original NCEC ; 3) suggested in the 1980's that downtown needed an eastern edge and a market district other than O Street (this concept became a part of the planning discussion for the Antelope Valley project and the Downtown Master Plan); 4) made public suggestions that Lincoln Children's Museum should not be relocated to an edge site and served on the Board during the "green" retrofitting of its current facilities; 5) served for seven years as a member of the Planning Commission; 6) developed the first first-floor housing project in downtown by the conversion of a former commercial building to accommodate his family, plus two low-income rental units; 7) assisted as an advisor in the writing of the 2030 Comprehensive Plan; 8) co-chaired the Citizens' Action Committee for oversight of the current Downtown Master Plan; 9) initiated the volunteer organization, Lincoln Green by Design; 10) assisted as an advisor with the writing of LPlan 2040 under current review; 11) currently serving another term on the NCEC and assisting with the retrofit and rehabilitation of Centennial Mall; and 12) is engaged in comparative and parallel studies of many cities around the world in the context of international projects with the Joslyn Institute for Sustainable Communities.

Steward stated that by and large, his point is about the protection and sanctity of residential developments in downtown; it is about the protection of property values for those residential

developments; and it is about the future of the evolution and transformation of the center of the City. The 1922 zoning ordinance states, “The value of thy house dependeth upon thy neighbor”.

In summary, Steward stated that the principal effect of placing the serving of alcohol as a primary business under conditional uses will be to give priority to urban style housing and civic and social community uses for the land in the center of the city. The secondary effect will be growth of a more dense housing inventory (as is being projected in LPlan 2040) under the developmental principles of mixed income and mixed uses. This change in public policy will provide more predictability for developers and property owners that will result in more stable and predictable property values. He believes this is a soft regulation. It will provide for more growth in housing and related development. This soft regulation will provide for more growth in housing development. This growth will naturally lead to a rise in property values and the accommodation of new accessory business and commerce to serve the residents, as well as the out-of-town and out-of-district visitors being attracted to the other attractions of this unique CBD.

Steward submitted that this strategy for development is the only means for a sustainable rebirth and revitalization of retail and commerce in downtown – a response to a demand of employees and residents that desire to be within walking distance of their daily needs. The sub-districts originally platted in the heart of the city already provide a huge volume of potential consumers. However, the future development strategy requires more people living in the district. In order to attract more people and more related businesses and retail shops (including bars) , the living conditions and sustainable property values will need to accommodate the growth of both residents and employees.

The continued proliferation of bars in close proximity to residential properties through unrestricted permitting in the B-4 district, and the consequence of lowering adjacent property values, is a major barrier to this potential market for downtown development as an urban village.

In response to the staff presentation, Steward suggested that the map shown by the Director of Planning indicates that there are more than 100 licenses for alcohol consumption on the premises in the downtown, but that map does not distinguish between restaurants and bars. Steward acknowledged that restaurants add value, but they are not the issue here. He displayed a map showing more than 55 residential properties that now exist in downtown, most of which did not exist 15 years ago. This is the trend we have been seeing and it should continue. The early zoning map did not indicate a mixed use – the mixed use has developed through the second and third cycles.

With regard to the expectation that people know what they are moving into, Steward stated that when he developed his property on 11th Street, Sandy's (bar) was directly across the street. He knew about that, but it was across the street—it was not next door. It was more than 100' away. How many people have elected to move downtown because of the proliferation of bars? Those of us who are there have accepted that.

As far as unintended consequences, i.e. the potential for aggregation of new locations, Steward believes the market for alcohol consumption in free-standing bars is based on convenience and cost of the property primarily, and if the cost is appropriate, there are hundreds of sites that will still be available for bar development.

With regard to conflicts, Steward suggested that disturbance is a relatively minor point. The protection of property values is a greater concern.

In terms of the administrative burden, Steward suggested that the city should take an audit approach rather than a monitoring approach – if there was reason for questioning a profile of a company, that could fairly easily be done, but it does not mean every company in the district.

Lust was interested in hearing more about the idea that when bars are eliminated it increases the amount of retail and other items of commerce. Where does that come from? Steward clarified that that is not his conclusion. His conclusion is that a safer protection for residential development will increase the volume and the demographics of residents living downtown. Those demands for daily convenience within walking distance of the living environment will increase the market for other retail.

Lust then gave as an example – we have heard that you need to have so many residents in an area to attract a grocery store. Is it that the elimination of bars will encourage more residents, which then will encourage more commerce? Steward stated that he is not proposing the elimination of bars but rather the control of the proliferation of bars.

Esseks inquired as to the basis for the 100' radius buffer. Steward stated that it is partly because that is language that already exists in the code and partly because, frankly, how many churches, museums, or potential day care centers will move in where bars already exist? Again, it is property value. It is an image relationship. It is not so much the day or night disturbance. If noise and potential disturbance was the only motivation, he would fully agree that maybe these are uses that should not be included. But they are socially sensitive issues and the language in other districts already defines them.

Esseks commented that Steward's reasoning makes sense for the traditional residential neighborhood, but an urban residential neighborhood may be different. Esseks stated that he is sympathetic, but is persuaded that we need to look at this more carefully and bring in data from other parts of the country. If we had some data from other parts of the country which support Steward's cause and effect, he might be more persuaded.

Support

1. Judy Zohner, President of the Downtown Neighborhood Association, testified in support. We are trying to get a grocery store and more retail downtown. A lot of people have moved downtown with the new condo's so we need to promote that. You cannot have liquor establishments that close. We have too many bars downtown. The Liquor Commission won't allow a bar within 100' of residential uses. It is in the state statutes.

Opposition

1. Joyce Durand, 2343 Calvert, who has been involved in the bar business for 40 years as a bar owner and as a musician, testified in opposition. "Bar" is not a four letter word. It is the most regulated business. Downtown is the entertainment center. She owned and resided in a condo next door to the applicant. There were bars across the street and tailgates right in the back door. She moved downtown – not for the tranquility but to be near the activity – she wanted to be near the movies, restaurants, bars, University. If we are worried about noise and traffic downtown, maybe we should call off Nebraska football.

2. Mark Hunzeker appeared on behalf of **B&J Partnership**, which owns several properties downtown, one of which is in the final stages of negotiating a lease which would renovate a substantial building which has been vacant several years into a restaurant/bar. He is not sure whether it would qualify under this arbitrary 40% limitation on alcohol sales, but he has his doubts. In terms of property values, it seems to him that a vacant building does more to damage property values than does a new restaurant/bar. In fact, these are arbitrary limits we are talking about in terms of a 40% limit on alcohol sales, because it is not very hard to conceive of a restaurant which seeks to provide an upscale wine list where sales of the alcohol could easily exceed the sales of food.

Hunzeker went on to state that the Commission really needs to think about some of the administrative problems as well as the fact that for years and years and years, the downtown has been encouraged to be an activity center – the center of entertainment, night life, high energy activity. Downtown living implies embracing a lifestyle which enjoys easy access to entertainment – movies, plays, live music, dancing and dining. This proposal throws a wet blanket on that concept. It puts the earlier definition of residential uses in conflict with the goal of keeping the downtown a vibrant and dynamic entertainment center. Every time you place a new residential building, you draw a new circle which excludes the facilities excluded by this 100' area. In addition, it places a single property owner who chooses to develop a first floor residential use in a position where it could wipe

out the potential in an entire block for development of a bar. In fact, Mr. Steward's home is located in the middle of a block and it goes all the way to the alley, and when you take a 100' arc off the property line of his property, it virtually wipes out that entire block (and the lease that his client is negotiating).

Hunzeker also pointed out that the proposed ordinance does not address what happens to an existing legal restaurant (that would even meet the criteria) if they stop serving food. Do they have to get a new occupancy permit, and, if so, could they? Maybe not.

Hunzeker believes that the state statutes control issues with respect to schools and churches and that they need not be incorporated in any regulation of this kind. Restricting the location of these establishments in an entertainment district causes more problems than it solves.

As far as whether there were residential uses in the downtown early on, Hunzeker knows there were residential uses in the second- and third-story of downtown buildings when he came to college. Moreover, all of the old zoning ordinances in effect from 1953-1979 were pyramid style. There were single-family districts that allowed single-family houses only. There were duplex districts that allowed single-family and duplex. There were multi-family districts that allowed single-family, duplex and multi-family, and other multi-family with higher density uses. There were commercial districts which allowed all of the above plus certain commercial uses. The B-4 and I-1 allowed all uses, including residential. Yes, they have always been allowed. There has always been mixed use in the commercial districts, particularly in the downtown.

Hunzeker submitted that this proposed ordinance places two worthy goals in conflict when they don't need to be. Please deny this application.

3. Ed Swotek, Chair of the Downtown Lincoln Association (DLA), stated that the DLA is currently taking the position of non-support of this amendment. The DLA's position is based upon 1) business and property owner input, and 2) the need to build broader community consensus. The DLA represents a wide spectrum of property owners, businesses and residents in the downtown, each with a large financial stake in their properties. Under this proposed amendment, a number of the property owners have expressed concern about restricting the ability to lease or sell to alcohol related businesses, thus limiting marketability, as well as the potential for unintended consequences in that this amendment could draw future bars to the outer fringes of downtown that may infringe on additional residential development.

Swotek advised that downtown residents are mixed on this issue. Some do not want to see further escalation of bars in their downtown neighborhood, yet others have said their decision to move downtown was made with the understanding that choosing to live in high density brings with it higher concentration of alcohol related establishments. Due to mixed responses, there are many unanticipated questions and concerns.

Downtown Lincoln is a very special place. It is the heart and soul of our city. Downtown is also a place in transition, moving from what was once dominated by business and commerce to one offering a unique blend of employment, housing, entertainment, government, education and a growing number of retail uses. The 2005 Downtown Master Plan which was crafted from a broad community input process has guided us and serves as an invaluable road map for the future of the downtown. The Downtown Master Plan has community buy-in. A few weeks ago this same question was posed to our community in regard to expansion of sexually oriented live entertainment establishments. The response was swift and overwhelming. With continuing evolution, transformation and new development in West Haymarket, the issue of density and proximity of on-sale businesses begs the same question. What do we want our downtown to be?

Since this issue involves a broad scope, the DLA believes that a community conversation needs to be held to gather this input and collectively build a thoughtful approach to address this issue. The DLA believes it is premature at this time to legislate a new ordinance impacting the density and proximity of alcohol businesses until there can be constructive community conversation. Swotek suggested that the Downtown Master Plan is being updated and that might be the appropriate forum for generating community dialog and soliciting thoughts for the future of downtown. Therefore, DLA cannot support this proposal and respectfully requests that it be denied.

Staff questions

Esseks asked whether it is true that some of this regulatory issue is already in the hands of state government which preempts what the city might choose to do. Krout agreed that to be true, but to a limited extent. The state does distinguish between restaurants that serve alcohol and bars. There is a 300' distance, more or less, from south of R Street and west of 10th Street where a new bar cannot be approved by the Liquor Commission without approval of UNL. There is a 150' distance limitation if you are near a school, hospital, home for the aged or indigent or veterans home. There is no jurisdiction when it comes to residential uses outside the specific types of group housing and there is no jurisdiction when it comes to some of the other kinds of sensitive uses, i.e. museum, day care, which mirror the standards in our current local ordinance for separation or in the recently approved ordinance on sexually oriented live entertainment establishments. The Liquor Commission can approve even if 150' from a church, but is required to give notice of the public hearing and take their input.

Response by the Applicant

Steward stated that this is a rare privilege – to live in this community and to live in a democratic society where some individual like himself, fitting certain conditions, can cause a community discussion to be surfaced. Steward acknowledged that perhaps more deliberation is required as the DLA has suggested. The question is still out there - if the conditions were slightly more restrictive, how many more people would be attracted to this

entertainment district? Steward submitted that this proposal does not take the vitality and vibrance away; it provides balance; the Liquor Commission has set the precedent for distance requirements and that is reason enough for further consideration.

Steward agrees with DLA that it is a very special place and he agrees that it is in transition. That is his principal point.

What do we want our downtown to be is a very, very important and timely question. If DLA is about to stimulate an update of the Downtown Master Plan, Steward is pleased – it is timely and needed, certainly in advance of the implementation of LPlan 2040. Therefore, Steward requested that the Planning Commission put this proposal on pending for 16 weeks (until November 30, 2011), rather than indefinitely, with a request to the Director of Planning that staff manage the organization of a stakeholder study group in the community during that time. And hopefully, DLA will support being a vital part of that study effort.

Esseks moved to defer for 16 weeks until November 30, 2011, seconded by Francis.

Francis stated that she would oppose if the Commission were to vote today. The highest and best use for B-4 zoning is probably business, not necessarily residential. People avoid the downtown because of parking and the affordability. She would like to see the entities come to some happy medium or an opportunity for compromise. She does not buy the suggestion about decrease in property values.

Lust appreciates that this application is hopefully going to spur more community discussion and she is pleased that the applicant has agreed to at least defer. The limited time to study the wisdom of this proposal was not conducive to voting on this text amendment now.

Taylor appreciates Steward bringing this forward because it definitely agrees with some of his thinking. He agrees that there needs to be more dialog and he has listened carefully to DLA.

Larson believes that the downtown is very unique and the stakeholders of the downtown include not only the property owners but the entire city and nearly the entire state. It is looked upon as the place to go, not only by the people in our community but throughout the state. He believes that property values are important, not only to the current owners but also to future investors who might feel restricted if this ordinance is passed. He has been impressed by the number of residents and potential residents who have indicated they want to move into an area that has bars because they want to be in the center of a vital, dynamic area. He thinks proper regulations can be set to insure that that is the end result. This 16 week delay is a good idea. It will allow a broader discussion by more people. We should all recognize that this is really an important issue, not only for the downtown but for our entire city and community. He will support the delay.

Gaylor Baird expressed appreciation to DLA for being a part of this. They have the ability to reach out to the stakeholders and she hopes they will be involved in this dialog on the question of what is a vibrant downtown.

Cornelius echoed his colleagues. The weakness of this application comes in the inability to make a decision due to the absence of hard numbers and facts, so the pending status is appropriate, assuming that the leg work is done to come up with the numbers to make this issue decidable.

Partington agreed that this is a question where the broad implications deserve more study.

Sunderman is hopeful that the Planning Department has the ability and resources to do something with this during that amount of time. LPlan 2040 is coming forward so they are going to be very busy with that. He does not want this to be a mandate that in 16 weeks there will be a report. He would vote against the original proposal. He is a little torn about the deferral. He supports the applicant's right to put something on pending, but he is concerned about unintended consequences with other applications that may come forward. He may not support a further deferral in 16 weeks.

Motion to defer, with continued public hearing and action scheduled for November 30, 2011, carried 9-0: Cornelius, Esseks, Partington, Taylor, Lust, Larson, Francis, Gaylor Baird and Sunderman voting 'yes'.

** break **

**CHANGE OF ZONE NO. 11029,
TEXT AMENDMENT TO TITLE 27
OF THE LINCOLN MUNICIPAL CODE
TO ALLOW HOTELS AND MOTELS IN THE
H-4 GENERAL COMMERCIAL DISTRICT
AS A PERMITTED CONDITIONAL USE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

August 10, 2011

Members present: Cornelius, Esseks, Partington, Taylor, Lust, Larson, Francis and Sunderman (Gaylor Baird absent).

There were no ex parte communications disclosed.

Staff recommendation: Approval.

Staff presentation: **Christy Eichorn of Planning staff** explained that this text amendment simply is to allow hotels in the H-4 zoning district. H-4 is a highway commercial district. It is unique in that it has the special permit for planned service commercial, which is a special permit that functions like a use permit, with a whole list of uses that you cannot do

in H-4 by right but are allowed by special permit for planned service commercial. The H-4 was originally developed and used at the Trade Center at 56th & Hwy 2, but H-4 zoning and planned service commercial have now spread throughout different areas of the city.

The staff report includes a table concerning the history of the H-4 district. The one thing that stands out is the number of by-right commercial uses that have been added since 1979 to the H-4 that used to be in the special permitted uses. Similar to other districts, this amendment carries over conditions such as each room being a minimum of 200 sq. ft. and buildings at least 20 feet apart, which are standard conditions in other zoning districts.

Proponents

1. **Mark Hunzeker** appeared on behalf of **Scott Anderson** who owns property zoned H-4 and has been approached by a hotel developer who wishes to place a hotel on the property. Hunzeker was party to the original H-4 as well as the planned service commercial special permit, and he believes it could stand to be revised again. Initially, he thought this should be a permitted use, but in the interest of deferring that discussion to a time when there is a more comprehensive look at the entire district, he decided to stay consistent and make it a permitted conditional use.

There was no testimony in opposition.

Cornelius inquired whether there is a relationship between the “use group” work that is going on and this application. Eichorn believes there is an indirect relationship. That group is looking at ways to consistently streamline the zoning ordinance to make it more consistent and more specific to each zoning district. We could have just said, “well, hotels should be allowed by right in H-4”, but the problem with doing that is that we have done text amendments like that for so long, making the zoning ordinance complicated and inconsistent. We are trying to be careful about being consistent for the future changes coming out of that working group.

ACTION BY PLANNING COMMISSION:

August 10, 2011

Lust moved approval, seconded by Francis and carried 8-0: Cornelius, Esseks, Partington, Taylor, Lust, Larson, Francis and Sunderman voting ‘yes’; Gaylor Baird absent. This is a recommendation to the City Council.

**SPECIAL PERMIT NO. 1174H,
AN AMENDMENT TO THE CHATEAU DEVELOPMENT
COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT 1313 NORTH 63RD STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

August 10, 2011

Members present: Cornelius, Esseks, Partington, Taylor, Lust, Larson and Sunderman (Francis and Gaylor Baird absent).

There were no ex parte communications disclosed.

Staff recommendation: Conditional Approval.

Staff presentation: **Rashi Jain of Planning staff** explained that this is a proposal to expand the boundaries of the community unit plan by 1.4 acres and to add a 36-unit apartment building. The Commission has received one letter in opposition related to traffic and parking. The community unit plan is currently approved for 1,294 units, of which 920 are built.

Lust understands that the CUP is currently approved for nearly 1300 units, but they are 300 short of that limitation. Jain confirmed that 920 of the 1300 units are built. The area that is going to be added is in R-2 zoning and allows 8 units, so they are using units from the existing CUP for this expansion.

Esseks referred to the bottom of page 4 of the staff report where it talks about the Lower Platte South NRD being in negotiations with the developer to purchase land for a conservation easement. Does the property under consideration today include such land? Jain answered in the affirmative. Esseks confirmed that the issue before the Planning Commission is the fate of the property in the northeast corner. Jain agreed.

Esseks also noted that the staff report encourages the developer to negotiate with the property owners directly to the west to enable the residents of the new development to get to Holdrege Street to the north via the property to the west, and hence not overburden 63rd Street which consists entirely of single-family homes. He is curious how practical that recommendation is – whether the property owners in the multi-family to the west would agree to those coming through there from this new development. Jain agreed that it is beyond possible now but it will be possible in the future.

Proponents

1. Mark Hunzeker appeared on behalf of **Chateau Development**, the applicant/developer. This is a project which fits very nicely into the vision for the future as stated in the newly revised Comprehensive Plan, i.e. there has been a lot of discussion about increasing the

density of housing within the current urban boundary, and trying to do so in a way which is consistent with existing development and for the purpose of using available land, efficiently using our infrastructure and adding to the variety of housing types available.

This project has been around since 1968. Chateau Le Fleur apartments have been one of Lincoln's premier apartment complexes for over four years. It is a remarkable statement of good management. The complex and the company are very highly regarded and voted the best in Lincoln the last 10 years in a row.

This property is being incorporated into an existing project which is very compatible and architecturally compatible with existing buildings. The developer is able to comply with all the parking requirements. They have yet to use all of the density that is available under the existing CUP. This small parcel zoned R-2 barely adds to the density of the overall complex – they are simply moving about 28 units of those already approved onto the additional area.

The developer held a neighborhood meeting on June 14th to discuss the site plan and to address the neighbors' concerns.

Hunzeker pointed out that the property is close to a home that has been red-tagged and an eyesore for the neighborhood for quite some time. This home will be removed. The property does have a residential neighbor to the north and residential neighbors to the east. The property with the possibility of an easement for access is to the west and to the north. There is a 144-unit townhome complex on that property to the north. In this area, combined with the Chateau CUP and the abutting property, there are well over 1,000 units which have been there approximately 40 years. They did in fact have discussions with the owner of that property to the north about the possibility of either acquiring it or having some access, but those negotiations were unsuccessful for understandable reasons. It would cause a lot of difficulties in terms of the Chateau residents using their parking areas and how to allocate maintenance responsibilities, etc. Eventually it may be possible that those two complexes will come under common ownership and then there could be an access out to Holdrege, but we do not know when that will happen.

With respect to the site plan, Hunzeker explained that the developer had shown an access centered on the site, which would have exited traffic right on the property line of the two single-family homes across the street. It was suggested that we should move that access down to the existing Dudley alignment where there is an access into Chateau's existing complex. The applicant/developer has agreed to move that access. At the suggestion of staff and property owners, the applicant has also moved the building and parking 10' to the south, which gives more room on the north for landscaping and a very substantially screen, not only in the form of landscaping but also in the form of differentiating elevations. The profile above the surface of the neighbors' property line is a two-story building rather than three. This is a fairly low profile.

Hunzeker further explained that the access that will be reserved for the future will be located “in this area” (as shown at the map) and a place for a future access to the west will be shown in the event an access easement is granted out to Holdrege, giving reciprocal back to 63rd Street.

Hunzeker agreed with the revised staff recommendation which eliminates Conditions #1.1 and #1.2.

Hunzeker requested an amendment to Condition #1.6, which asks the applicant to relocate the utility easement so that the sewer pipe is on the centerline of a 30' easement. Hunzeker requested that they be allowed to work with Public Works so that the easement can be slightly off center to facilitate moving the building southward. Thus, Hunzeker requested Condition #1.6 be revised as follows:

~~Relocate the utility easement such that the existing sewer pipeline is along the centerline of the 30 ft easement~~ to the satisfaction of the Public Works & Utilities Department.

Esseks noted that there is no access to North 63rd Street, and the tenants moving into the new apartments would use that very same access and nothing else. Hunzeker explained that their original design would have had an access coming out further to the north. The revised design comes down and winds up with existing Dudley Street. There is an existing parking lot which dead-ends at Dudley. There are two or three access points on 63rd to the south, but they are fairly remote from this location. The access is aligned with Dudley Street.

Sunderman does not believe that will change the amount of traffic at 63rd Street – it just changes the access. Hunzeker suggested that it may facilitate a little less of a back-up onto 63rd as people are coming into the apartment complex and a little less backup as people are coming out. This development does not have direct access to any arterials.

Hunzeker believes that there are 1800 residents.

Opposition

1. Bonnie Ackerman, 1355 N. 63rd, testified in opposition. She has lived at this address for 36 years. She and her neighbors are opposed to this application because it will further compromise the integrity of their neighborhood. Five neighbors stood in the audience in support of this testimony. Ackerman submitted 30 signatures from neighbors who are opposed but could not attend this meeting.

In visiting with the neighbors, Ackerman found that people no longer have the same sense of security in this neighborhood as they did in the past. There are issues with people parking their cars on 63rd Street and their passengers carrying beer to parties; there are

issues about litter and beer cans on their front lawns, as well as loud music, loud voices, and maybe event fighting. The neighbors are concerned about home property values as apartment buildings encroach from every direction. If this permit is approved, Ackerman will live in one of the only six remaining homes on the west side of 63rd Street from X to Holdrege.

There are recurrent themes in the neighborhood – 63rd Street and Orchard Street are dragstrips, and Dudley will become the same with additional access into the Chateau complex. More apartments will equal more people which will equal more cars parked the length of 63rd Street. This is not the fault of Chateau or all the people who live in neighboring apartments. What has happened is that numerous manufactured dwellings have brought tremendous change to the density of this neighborhood – changed from single-family to multi-family with largely transient population. It draws more and more people who are not invested in the neighborhood. It has changed the character and feel of the neighborhood. A neighborhood watch is no longer viable. They no longer know who does or who does not belong in this neighborhood. The 1.4 acres will affect the last area of green space left. An adjacent wooded area to the west was destroyed to build Adriana Courts. The wooded area behind Ackerman's home was destroyed to extend the apartment complex managed by RD Hinkley. This 1.4 acres of land and the trees is the last buffer from the population, the noise, the view, and the atmosphere of apartments. Currently, this green space offers distance and buffering.

Ackerman noted that the applicant referred to an approved total of 1,302 units. It is unclear if that includes the units from Charleston Courts and Chateau Le Fleur. It is also unclear whether it includes units in the current construction. This neighborhood is saturated with multi-family dwellings: Chateau Le Fleur and Charleston Court and Gardens is located from 60th and Vine to Cotner, north to Holdrege; Adriana Courts located south of Holdrege stretching east from 56th; and four apartment buildings south of Holdrege at Valley View Drive.

Ackerman also pointed out that the Lincoln Police Department advertises “stronger safer neighborhoods.” The focus of the partnership is improving neighborhoods. She fails to see how building more multi-family units will make this neighborhood strong or safer.

2. Mable Quick, 1300 N. 63rd, stated that she is in opposition.

3. Shirley Young, 6301 Dudley, stated that she is in opposition because it is a raceway up and down 63rd Street.

It was pointed out that there are two entrances into the apartment complex off of 63rd Street.

4. Corinne Neel, 6310 Dudley Street, testified in opposition. The house to the east of her at 6330 Dudley is a rental and she and her neighbors have made countless calls to the

Police Department about parties. The young people that now live there park over in the Chateau Apartments, so every weekend they walk back and forth. She has also called them in because Dudley Street is already congested with the young children living on that street. It is hard to get out of her driveway. It is going to be a bottleneck.

Neel acknowledged that the police do come out when they call, but they have to wait and it is an inconvenience. This additional area of apartments will add to this inconvenience. This is a very nice, family oriented neighborhood and that entrance will make it difficult to get out.

Sunderman asked staff to respond to the applicant's proposed amendment. **Dennis Bartels of Public Works** agreed with the proposed amendment to Condition #1.6. With regard to traffic on 63rd Street, Bartels stated that from a street point of view, it is not a volume question. This development won't intentionally increase the traffic north or south. With 36 units you would estimate 200 cars per day, but it is not a capacity issue on a street like that. Sunderman wondered whether Public Works would consider "no parking" on 63rd Street. Bartels stated that there is a speeding problem along 63rd as well as the parking problem. Prohibiting parking is possible and there is a process for doing that, but we need to be careful because if there is already a speeding problem, that can be exacerbated with no parking on the street. It may solve one problem and create another. If you pull parking on 63rd, it just may move it to a different neighborhood. This is a problem anywhere there is high density next to a traditional neighborhood.

Response by the Applicant

Hunzeker acknowledged that they heard discussion about the traffic and parking issues at the neighborhood meeting held in June. He understands that there are parking issues but he does not believe anyone has accused the Chateau apartments of having caused the parking issue. Chateau has its own parking and meets the parking requirements. In addition, he does not believe he has heard any sort of implication that the management of Chateau is responsible for the problems being described. He suggested that there are always issues with respect to traffic or parking when it comes to intensification of the density of the city, which is one of the goals of the Comprehensive Plan.

This process has been going on for 40 years in this neighborhood, and it has been done very successfully. The addition of 1.4 acres adds a location for the use of some of the already approved units, and it eliminates a building which is in dire need of removal. The property which is being removed to make room for this building is a red-tagged** house, and it is in deplorable condition. He does not believe this proposal will adversely affect the character of the neighborhood. This adds a few units to the number already there, but in terms of the total number of units authorized on the campus, this really only adds about

eight. There are other authorized units, some of which will be eliminated when the NRD completes the acquisition of the detention cell on the other side of the creek. That process is virtually settled and just has not closed. When that area is transferred to the NRD, it will reduce the amount of land area and number of units available.

In terms of the total density in this complex, Hunzeker advised that it is about 11 units per acre. It is really not as dense as we might like to see in terms of new complexes within the city limits, but we are dealing with an existing situation where we have to work around existing buildings and facilities. It is important for these complexes to have access. If the neighbors wish to petition Public Works to eliminate parking on one or both sides of 63rd Street, this developer will not object.

Hunzeker further submitted that this is a project which is right in the realm of what is attempting to be done with the Comprehensive Plan and with the future of Lincoln in terms of intensifying the use of existing infrastructure and intensifying densities within the existing city. You can do so here at a minimum of disruption and, in fact, in a way that is very compatible with the existing development.

Taylor confirmed that the house that is red-tagged is going to be removed. Hunzeker concurred.

Lust inquired about the meaning of "red-tagged". Hunzeker stated that it would be illegal to inhabit that house in its current condition.

Esseks inquired what kind of buffering can be offered to Ms. Ackerman for the 1.4 acres of open space and greenery being converted to an apartment complex. What can we do to lessen this conflict between multi-family and single-family on 1.4 acres? Hunzeker stated that the original site plan showed a 5' setback (which is the required setback) along the north property line between the apartment parking and the property to the north. The Ackerman property is two houses to the north. In response to the concerns of the property owner next door, the building and parking has been moved 10' to the south so that there will be a 15' wide buffer as well as a retaining wall that drops the grade by 11' down to the finished floor area of the building and the parking lot. There will be no cars parking against the property line. There will be a landscape screen which will also be planted along that property line. There is a significant differential in grade from the house on the north to the new building. There will be landscaping all along the north and front property line. We are required to meet design standards along that property line.

Taylor inquired about the meeting with the neighbors. Hunzeker advised that the applicant sent out a mailing to everyone up and down 63rd Street to Holdrege Street and along Dudley in the immediate vicinity. A few people came to the neighborhood meeting. They also invited Doug Emery of the City Council and Planning staff.

Partington noted that the issue does not appear to be the appearance of the building and landscaping, but the parking and increase in density of people added to the community, which appears to be a side effect of the policies and procedures we are putting in place for increased density in general. Hunzeker stated that he has pointed out in discussions that there is a practical limit on how many sites you can find and how much you can intensify in the existing community without creating some conflict. Here, we are using more than 3/4 of the units that are already approved. These units could be built elsewhere on the site. But when this property came up, it fit into the overall scheme of the project so well and so much better than some of the alternative sites.

Partington inquired about the options to move toward addressing some of the concerns of the neighbors. Hunzeker believes there is an option to address the parking question. If the neighbors want to eliminate parking on 63rd Street, Chateau will join in a request to Public Works to do that. Public Works has the authority to eliminate the parking either on one or both sides of 63rd Street, but sometimes the tradeoff is faster traffic rather than slower traffic. In any event, Chateau will support whatever the neighbors choose to do there.

In regard to traffic, **Mike Eckert of Civil Design Group**, believes that part of the positives of the Chateau complex are the access points onto Vine, 56th Street and Holdrege, and then the three points onto 63rd Street. Even though we have a complex that is going to be 900+ units, only 11 per acre, the dispersement points really help the traffic. In particular, from a capacity perspective, the additional units would generate 19 pm peak trips – in essence, that is saying there is a car coming in or out 19 times in that entire pm peak hour. Thus, the traffic impact from the 36 units is minimal. The density of the complex overall is such that capacity is not an issue.

ACTION BY PLANNING COMMISSION:

August 10, 2011

Larson moved approval, with conditions, as amended by staff and at the request of applicant, seconded by Taylor.

Larson believes this is a classic case of trying to achieve increased density and protect the landowners that are adjacent. This seems reasonable because it fits in with the rest of the apartments that are in the area and he believes that consideration should be given to the experience of the company that is doing it. They have been developing in this area for 40 years and have an excellent record of maintaining their property. He will vote in favor.

Esseks expressed sympathy to the neighbors. If a developer were expanding near where he lives, he would also not be happy, but times are changing. He does not believe anyone is going to purchase that 1.4-acre property as a single-family home. The city would have to buy it as a park in order to maintain the green space. It is no longer appropriate for a single-family home. We are faced with the possibility that multi-family housing is more desirable and affordable. Neighborhoods in our community are changing and the best the neighbors can do is hold the city to its standards of law and order – make the necessary

calls to the police. Hold the city to the standards to make sure the multi-family dwellings are suitable with the maximum amount of buffering. Times are changing and, unfortunately, he does not believe anyone wanted to buy the property as a single-family home.

Taylor agreed with Esseks. He expressed appreciation to the neighbors for stating their grievances and concerns. We are always in transition. The neighbors are encouraged to appeal to law enforcement for the traffic and parking issues.

Lust also expressed appreciation to the neighbors for coming forward, but she wants them to understand the role of the Planning Commission. It sounds like the neighbors have had bad experiences with some people in the area, but people that live all over the city can have bad experiences with bad neighbors. It also sounds like some of the parking problems may not actually be related to the apartment complex but relate to bad neighbors that live next door. She apologized for the situation with a few bad neighbors, but the role of this Commission is to decide what land use is appropriate, and in this circumstance with a tainted house on that property that is not appropriate for inhabitation which is already adjacent to a complex, she believes that this land use is appropriate for that parcel. She encouraged the neighbors to hold the city responsible – call the police.

Motion for conditional approval, with amendments, carried 7-0: Cornelius, Esseks, Partington, Taylor, Lust, Larson and Sunderman voting 'yes'; Francis and Gaylor Baird absent. This is final action unless appealed to the City Council within 14 days.

There being no further business, the meeting was adjourned at 3:50 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on August 24, 2011.