MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, July 23, 2014, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Michael Cornelius, Tracy Corr, Maja V. Harris, Chris Hove, Jeanelle Lust, Dennis Scheer and Lynn Sunderman (Cathy Beecham and Ken Weber absent); Marvin Krout, Steve Henrichsen, Brian Will, Tom Cajka, Christy Eichorn, Paul Barnes, Sara Hartzell, Jean Preister and Amy Huffman of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission meeting

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

Lust requested a motion approving the minutes for the regular meeting held July 9, 2014. Cornelius moved approval, seconded by Scheer and carried 7-0: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust voting 'yes'; Beecham and Weber absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **July 23, 2014**

Members present: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust; Beecham and Weber absent.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 14014, CHANGE OF ZONE NO. 07018A, SPECIAL PERMIT NO. 14018 and STREET AND ALLEY VACATION NO. 14004.**

There were no ex parte communications disclosed.

Hove moved to approve the Consent Agenda, seconded by Sunderman and carried 7-0: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust voting 'yes'; Beecham and Weber absent.

Note: This is final action on Special Permit No. 14018, unless appealed to the City Council within 14 days.

COMPREHENSIVE PLAN CONFORMANCE NO. 14015
TO DECLARE PROPERTY AS SURPLUS
GENERALLY LOCATED AT THE NORTHEAST CORNER
OF SOUTH 27TH STREET AND OLD CHENEY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: July 23, 2014

Members present: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust; Beecham and Weber absent.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

There were no ex parte communications disclosed.

Staff presentation: **Christy Eichorn of Planning staff** explained that this particular property on the northeast corner of South 27th Street and Old Cheney Road houses a fire station and the rest is vacant. In 2006, this application for surplus came before the Planning Commission and the Planning Commission did vote in favor, finding conformance with the Comprehensive Plan. At that time, the surplus declaration was going through the process along with a change of zone. This application has been re-routed by Urban Development because so much time has passed since the original finding of conformance.

Eichorn stated that the subject property has access issues because it sits right at the corner of two large arterial streets, with access being highly discouraged by Public Works for safety reasons and it does meet the Access Management Policy. It has been determined that the best opportunity for this piece of land to develop would be to have it become part of the apartment complex to the east, with internal access through Hub Court and the other internal streets.

Eichorn further explained that the Planning Commission action is a finding as to conformance with the Comprehensive Plan. If approved and the property becomes surplus, then the applicant would be working with Urban Development and the Planning Department to come back through with a change of zone request as well as an amendment to the existing community unit plan which authorized the apartments to the east.

Eichorn pointed out that the Urban Development Department did route this application to other city departments and it was confirmed that the other departments no longer have a need for this property. It was originally intended to be used as a library but another site was chosen for a library.

Corr inquired whether this is one of the fire stations that is proposed to be moved. Eichorn stated that when this application was routed to Chief Huff, he indicated that this is not a fire station that is likely to be moved in the future. In terms of expansion, the Fire Department indicates that as long as they retain the one acre of land, that should be plenty of room for expansion, if needed.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: July 23, 2014

Cornelius moved to approve a finding of conformance with the Comprehensive Plan, seconded by Hove.

Cornelius pointed out that this parcel was found to be in conformance in the past, and despite the fact that it is shown in the Comprehensive Plan as public use, there are a number of Comprehensive Plan tenets which fit with making the property surplus and redeveloped in some other way. It appears that the access issues will be resolved.

Motion for a finding of conformance with the Comprehensive Plan carried 7-0: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust voting 'yes'; Beecham and Weber absent. This is a recommendation to the City Council.

COMPREHENSIVE PLAN CONFORMANCE NO. 14016
TO DECLARE PROPERTY AS SURPLUS GENERALLY
LOCATED AT THE SOUTHEAST CORNER OF
SOUTH 84TH STREET AND YANKEE HILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: July 23, 2014

Members present: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust; Beecham and Weber absent.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Ex parte communications: Harris disclosed that she was briefed on this project last fall at a meeting of the Library Board of Trustees, and she asked Pat Leach about this parcel specifically as it relates to a potential new branch library.

Staff presentation: **Brian Will of Planning staff** stated that the property consists of approximately 26 acres and is located southeast of the intersection of Yankee Hill Road and South 84th Street. The description commonly used is "Jensen Park", as part of the larger approximately 200-acre tract owned by the City known as Jensen Park because the future intent is that there be a city park located on the property.

Will further pointed out that the Comprehensive Plan designates the property as “green space”, reflecting both public ownership but that a community park is identified by the Parks Department in the Comprehensive Plan for this location. Will recalled that community parks are generally 50 acres in size or larger. Even after deeding off this 25 to 26 acres, approximately 170 acres would still remain, which is well in excess of enough property to accommodate a community park at this location.

Will then explained that the intent is to sell the property to Lincoln Public Schools as a future site for a middle school. The Comprehensive Plan talks about the use of shared or joint facilities where possible, so we potentially could have a middle school at this location. Will also pointed out the odd shape of the surplus property, taking into account the possibility that there would also be a public library located here as well. The joint facilities possibility allows those entities to take advantage of the efficiencies of collocating, and thus it is in conformance with the Comprehensive Plan.

Lust inquired whether the potential library would be accommodated within this footprint. Will showed the area for the library on the map.

Proponents

1. Nicole Fleck-Tooze of the Parks and Recreation Department advised that on Monday, July 21st, the City Council did approve an agreement with Lincoln Public Schools for the sale of this property, contingent upon the property being declared surplus. Fleck-Tooze showed the area proposed for surplus on the map including a conceptual layout for the middle school, parking and future YMCA. The area west of the future drive is an area that may be a future library site and will be retained in city ownership. Ultimately, this area is expected to develop as a community park with 10-12 ball fields and a series of 6-8 multi-use recreational fields as well.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: July 23, 2014

Cornelius moved to approve a finding of conformance with the Comprehensive Plan, seconded by Harris.

Cornelius commented that this seems straightforward, facilitating the transfer of land and all of the stakeholders seem to be on the same page.

Lust commented that it is nice to see various public and private groups cooperating to develop very nice facilities in the future.

Motion for a finding of conformance with the Comprehensive Plan carried 7-0: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust voting 'yes'; Beecham and Weber absent. This is a recommendation to the City Council.

TEXT AMENDMENT NO. 14006
AMENDING TITLE 27 OF THE
LINCOLN MUNICIPAL CODE
RELATING TO VETERINARY FACILITIES
IN THE O-1, O-2, O-3 AND R-T ZONING DISTRICTS.
PUBLIC HEARING BEFORE PLANNING COMMISSION: July 23, 2014

Members present: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust; Beecham and Weber absent.

Staff recommendation: Approval.

Ex parte communications: Corr disclosed that she was present at the Mayor's Neighborhood Roundtable on July 14, 2014, when planner Paul Barnes presented this proposal to the attendees.

Staff presentation: **Paul Barnes of Planning staff** explained that this proposed text amendment is requested to allow a veterinary facility in the R-T zoning district. Currently, veterinary facility is not permitted nor permitted conditionally in the R-T zoning district. By this text amendment, it would be allowed as a conditional use in the R-T district.

Barnes then advised that in reviewing this request, the staff determined that it also seemed appropriate to consider allowing a veterinary facility in the O-1, O-2 and O-3 districts, which has been included in this amendment request.

Barnes explained that today, a veterinary facility is defined differently than a kennel and is essentially a medical office for animals, with a kennel and/or outdoor area as an accessory use. The primary use is the medical office type use. Kennels are defined separately and are primarily used for boarding with an outdoor area.

Barnes further explained that today, veterinary facilities are a conditional use in the B districts as well as H-2, H-3 and H-4, and the conditions in place are there to regulate the outdoor area. If there is an outdoor area, it cannot be located closer than 200 feet from any residential zoned property and no more than 3 animals can be outdoors at one time. There is also a provision where, if the facility cannot meet the conditions, there is opportunity to request a special permit to modify or add requirements for that outdoor area.

Barnes stated that today's proposal is to allow a veterinary facility as a conditional use in the R-T and O districts. The conditions of separation from residential zoned property as well as the number of animals would also apply to these districts. Since medical use is allowed, it seems appropriate to allow a veterinary facility as a permitted conditional use. If the outdoor area does not meet the conditions, the applicant can apply for a special permit to modify those conditions.

Again, Barnes pointed out that the staff is also proposing to amend the special permit section to make clarifications. Today, in the special permit section, there is a term "outdoor exercise area" and with this amendment, the word "exercise" is being removed because whether for exercise or other uses for these animals, there is potential for a nuisance regardless. That section is being "cleaned up" so that the same guidelines are being applied to all outdoor areas regardless of the zoning district. Those guidelines can be modified by the Planning Commission through the special permit and public hearing process, so there is a built-in mechanism to review on a case-by-case basis.

Barnes also noted that screening and landscaping can be part of the review because the R-T and O-3 districts are use permit districts requiring site plan review. A lot of times a landscape plan is requested and additional landscaping can be part of the conditions of approval. The O-1 and O-2 districts also have provisions where additional review is required. The O-1 district is also part of the capitol environs and would require review by the Nebraska Capitol Environs Commission. There are provisions for screening and landscaping in the design standards today.

Barnes further advised that this request comes specifically from the All Feline Hospital, which is seeking to locate in a R-T district. The facility is for pets and does not require an outdoor area. If approved, the All Feline Hospital would meet the conditions because there is no outdoor area.

Barnes advised that this application was presented to the Mayor's Neighborhood Roundtable on July 14, 2014. The overall consensus was support for this amendment. There was some discussion and questions about how kennels would be affected, and Barnes stated that this amendment has nothing to do with kennels being allowed in the districts.

Lust noted that the amendment language for the special permit refers to "use of the outdoor areas between 10:00 p.m. and 7:00 a.m. is prohibited. Do we have any direction on what "use" means? Barnes suggested that the restriction on hours would be enforced on a complaint basis. If the neighbors would complain, that would come to the attention of the city and be addressed at that time.

The applicant did not appear.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: July 23, 2014

Hove moved approval, seconded by Scheer.

Lust observed that this seems to be a good cleanup and it makes a lot of sense in these areas to allow a medical facility as well as a veterinary facility.

Corr was concerned because the R-T district is usually a residential-transition so there could be a potential problem with barking dogs, but the limitation of three animals in the outdoor area at one time negates a lot of her concerns, and the special permit portion would take care of that.

Motion for approval carried 7-0: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust voting 'yes'; Beecham and Weber absent. This is a recommendation to the City Council.

COUNTY CHANGE OF ZONE NO. 14019
FROM AG AGRICULTURAL DISTRICT TO
AGR AGRICULTURAL RESIDENTIAL DISTRICT
and
COUNTY SPECIAL PERMIT NO. 14017
TO DEVELOP THE BRONCO HILLS ESTATES
COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT S.W. 56TH STREET AND W. DENTON ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: July 23, 2014

Members present: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust; Beecham and Weber absent.

Staff recommendation: Approval of the change of zone and conditional approval of the special permit for community unit plan.

There were no ex parte communications disclosed.

Staff presentation: **Sara Hartzell of Planning staff** presented the two applications for a change of zone from AG to AGR and for development of property into a 10-lot community unit plan (CUP). The property is located on S.W. 56th Street and West Denton Road. There are acreage developments both to the north and south, both already zoned AGR and shown as future low density residential. There is also an older development built prior to the 1979 zoning update. At that time, the minimum lot size

was one acre. It is still zoned AG and was not automatically changed to AGR in the zoning update because it was assumed it would become AGR if they came forward to develop. If that were to happen, the subject property would be surrounded on three sides by AGR zoning. It is currently shown as agricultural, but in reviewing the surrounding land uses and the Comprehensive Plan criteria, it makes sense to support this change of zone.

In terms of the criteria, Denton is a paved road, and S.W. 56th Street is gravel. Denton Road has been widened up to this point, but in the future this leg of Denton Road would also be widened.

In terms of water and wastewater, well information has been provided from surrounding properties which was found to be adequate to demonstrate sufficient quantity and quality, and wells will be required to be drilled before building houses. The soils are sufficient for septic or lagoon. There are lots that have some floodprone area and there is always an attempt to make sure the home sites are outside of the floodprone area.

With regard to emergency services, the closest is the Southwest Rural Fire Department on Burnham and Folsom Street, which is about six miles away on paved roads. It is a rural volunteer fire department but probably has better service than a lot of the acreage developments in the county.

In terms of agricultural productivity, Hartzell stated that there is some prime farm land close to the drainageway; however, overall, the property is not shown as prime, so the overall rating is not prime and there is sufficient building area to stay out of the prime farm land. It is not a large farmed parcel.

This property is not shown as part of the growth area for Lincoln or the Village of Denton.

Hartzell pointed out that the applicant has requested to modify the setback along the cul-de-sac to allow more flexibility in siting houses on the property. This is a pretty standard request in the county and is supported by staff.

Hartzell also pointed out that the applicant is requesting a waiver of block length. The proposed road will hook up to S.W. 61st Street; S.W. 61st Street intersects with Yankee Lake Road, which provides access to S.W. 56th Street and potential access to the west. Another access within the property to the west would be crossing a major drainageway and probably not feasible. The area on the other side of the drainageway does have

access to Denton Road. Also, another access to the west would put it closer than generally acceptable in the county and would not align with the existing intersection. Staff is supporting this waiver request.

Sara submitted that the only change the staff is recommending in the conditions of approval relates to a street name change to rename S.W. 59th Street as Bronco Hills Drive. Since there are only two lots along that portion of the street, it seems to make more sense to maintain continuous names, thus the staff recommends that the name "Bronco Hills Drive" be continued all the way out to Denton Road.

Proponents

1. Mike Eckert of Civil Design Group testified on behalf of the owner and developer, **Gary VerMaas.** Mr. VerMaas has built a house within this development, which really started this CUP process. This development is on paved roads; there is good water; the property is outside of the Lincoln growth area and the Denton growth area; and the property is surrounded by acreages.

Eckert stated that the developer worked extensively with the County Engineer on the access points, and worked with staff quite a bit on the layout, including the block length waiver in order to not disturb the property to the east. A full hydrology study has been done so that the lagoons and septics are out of the 10-year event.

Opposition

1. Elizabeth Taylor, 6001 Yankee Lake Road, testified on behalf of the neighbors representing 15 lots in Yankee Lake Estates just south of this development, and they do have some concerns because the road proposed is going to come off Denton Road and connect with their acreages. The Yankee Lake Estates acreages are 5.2-acre lots, developed uniformly back in 2005-06, and they have just now sold the last two lots with two houses yet to be developed.

Taylor stated that Anne Hobbs, who was unable to attending this meeting, is concerned about the floodprone area. She said it does flood and she has some standing water.

Taylor stated that the property owners in Yankee Lake Estates would like to see what sort of protective covenants Bronco Hills Estates might have, including the structure and house sizes; the setbacks; the side setbacks if the lots are sitting on two frontages; will the roads be paved – if so, the cost and timing of the paving and if the property owners would be assessed; will there be protective covenants, such as will they allow horses, style of the homes, etc.; and compatibility with the overall look of the area – support footage, styles, covenants for building the homes and outbuildings – Yankee Lake Estates does have square footage requirements with maximum of three outbuildings,

also with size restrictions; and information about fences, electrical lines and other utilities like septic, propane, and what kind of covenants will be provided as to where the utilities are located.

Hove asked whether Ms. Taylor had contacted the developer. She stated that she has not because she did not have sufficient time to talk with the neighbors and then the developer.

2. Joe Bower, 6205 West Denton Road, the property just to the west, stated that he is not necessarily opposed but he has questions. His property is along the drainage ditch. He purchased three acres on the corner in 2008, and then purchased the seven-acre tract to preserve the tree line. He does not mind the development, but he wants to keep the tree line and drainage ditch in place. His concern is the three lots that back up to his property and the way they will drain into the drainage ditch. In the spring of 2008, he thought it was a 100-year rain event when the water level was above the culvert, and it was a lake for three days. There have been a couple of other events since then. He is curious how this development will handle the runoff and limit the amount of erosion that is already taking place. He does not want the banks to erode and lose trees. Bower also has not had opportunity to meet with the neighbors or the developer.

Bower also wondered about the lagoons. There are already multiple lagoons and he cannot imagine having 7-8 more. He has a lagoon, but it will be gone on his 10-year plan and he will go back to a leach field. He just put in a new well. He is concerned about 9 more wells within that area.

Response by the Applicant

Eckert pointed out that the provision to either do roads as gravel or paving is in the plans. There will be no financial impact on the neighbors if the developer decides to pave the roads.

Eckert also pointed out that the setbacks are generally the same as the other subdivision, except for the changes to three lots where we have the 100- and 10-year events, and we want them to be able to put the house closer to Bronco Hills Road. Otherwise, the setbacks are the same as the other acreages.

Eckert confirmed that there will be covenants; however, covenants are a private issue and the Planning Commission does not have any authority on the covenants. The developer has built a very nice home within this proposed CUP and he assured that the remainder of the property will consist of a similar quality.

Eckert stated that the developer did try to reach out to all of the immediate neighbors. He believes there is a great solution for the concern about runoff. There was some fill

needed to get the roadway to work at a proper slope, so they have created a basin and modeled it to hold some of those more localized events. It will provide a holding area for some of the water, then the water will go under Denton Road so that it should disperse that water in a more timely and more controlled fashion. When you look at the runoff, the conversion from AG land to grass causes less runoff, but this is a big basin upstream and he does not believe these three lots will make a huge difference.

Eckert also stated that the developer is more than happy to warrant that all of the trees in the drainageway will remain. There is a general note on the plan as such.

As far as the lagoons and perc tests, the language is standard. If the ground does not perc, there will be a lagoon. The developer has a septic on his home. It is a state regulation.

COUNTY CHANGE OF ZONE NO. 14019
ACTION BY PLANNING COMMISSION: July 23, 2014

Scheer moved approval, seconded by Hove.

Lust believes that given that the surrounding properties are all on acreages, this is a good place in the county for additional acreages. She believes the applicant has answered the concerns of the neighbors. At this point, the covenants are not yet drafted but she believes it can be assumed that anyone wishing to build on these acreages will have to comply with some substantial covenants.

Motion for approval carried 7-0: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust voting 'yes'; Beecham and Weber absent. This is a recommendation to the Lancaster County Board of Commissioners.

COUNTY SPECIAL PERMIT NO. 14017
ACTION BY PLANNING COMMISSION: July 23, 2014

Hove moved to approve the staff recommendation of conditional approval, seconded by Scheer.

Lust believes this is a good use of the property and she will support it.

Motion for conditional approval carried 7-0: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust voting 'yes'; Beecham and Weber absent. This is a recommendation to the Lancaster County Board of Commissioners.

COUNTY SPECIAL PERMIT NO. 14002,
NORTHERN DIVIDE 1ST ADDITION COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED AT
RAYMOND ROAD AND NORTH 40TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: July 23, 2014

Members present: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust; Beecham and Weber absent.

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

The Clerk acknowledged the receipt of two letters in support and one letter in opposition.

Staff presentation: **Sara Hartzell of Planning staff,** presented this proposal for a community unit plan on approximately 77 acres on property about ½ mile to one mile away from Highway 77 on Raymond Road. North 40th Street is the boundary on the west side. The aerial image shows that a good portion is in cultivated farm land, but there is an area in the higher reaches of the elevations that is cedar trees and other mixed deciduous trees that have not been disturbed and not used as cultivated farm land. The proposed CUP takes advantage of some of those trees by clustering the five lots. 77 acres do not actually allow 4-5 lots outright, but there is a density provision when farmland is preserved, receiving up to a 25% bonus. After doing those calculations, we calculate 5 dwelling units on this property.

Access would be taken off of North 40th Street and off of Raymond Road. They show a future possible connection to the east should that property develop. At this time, the road is only shown to the end of the lots, about 60 feet from the property line. Staff is recommending that that road be continued to the property line. Although the lots do not reach the south boundary, the staff is recommending that the road continue to the south boundary.

Hartzell pointed out that the applicant is proposing gravel roads, and individual wastewater and water. The well tests result in sufficient quality and quantity of water but wells will be required to be drilled before houses are built. Perc tests will be done and if that fails, there is always the option to do the lagoon system.

Lust inquired about the existing tree mass to remain and the existing tree mass to be removed. Hartzell showed at the map that it follows the right-of-way of the roadway,

where they would need to remove trees to build the road and provide sight distance. Hartzell explained that the trees are relatively thick, and if you don't push them back, you won't have the necessary sight distance.

Proponents

1. Lyle Loth of ESP Engineers appeared on behalf of applicant, Harry Muhlbach and his son, Tom. He indicated that the developer agrees with all of the conditions of approval. The developer will extend the road to the south property line and make some additional revisions to the grading plan as requested by the County Engineer.

Scheer inquired as to the primary species of trees. Loth believes they are mostly cedar trees and a few Chinese elm.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: July 23, 2014

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

Scheer stated that he believes this is a really nice plan for this property. Just looking at the aerial, the part of the property that is in agricultural production will remain in agricultural production at this stage, and the lots are being developed in that tree mass. Some of the trees will go away but it is a nice kind of mix of both.

Lust agreed. As part of the Comprehensive Plan, we do like to support the maintenance of prime agricultural land in the county, but this particular acreage development accomplishes both of those goals in that there is a nice development in the tree mass and the agricultural production will be staying in place.

Motion for conditional approval carried 7-0: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust voting 'yes'; Beecham and Weber absent. This is final action, unless appealed to the Lancaster County Board of Commissioners within 14 days .

Meeting adjourned at 2:10 p.m.

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