MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, September 1, 2004, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Jon Carlson, Eugene Carroll, Gerry Krieser, Roger Larson, Dan Marvin, Melinda Pearson, Mary Bills-Strand and Lynn Sunderman (Tommy Taylor absent). Marvin Krout, Mike DeKalb, Ed Zimmer, Brian Will, Tom Cajka, Derek Miller, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Chair Mary Bills-Strand called the meeting to order and requested a motion approving the minutes for the regular meeting held August 18, 2004. Motion for approval made by Krieser, seconded by Carroll and carried 7-0: Carlson, Carroll, Krieser, Marvin, Pearson, Bills-Strand and Sunderman voting 'yes'; Larson abstaining; Taylor absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: September 1, 2004

Members present: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand and Sunderman; Taylor absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 04054; SPECIAL PERMIT NO. 1654B; COUNTY SPECIAL PERMIT NO. 04039, PRAIRIE VIEW ESTATES COMMUNITY UNIT PLAN; COUNTY PRELIMINARY PLAT NO. 04018, PRAIRIE VIEW ESTATES; STREET AND ALLEY VACATION NO. 04010; and WAIVER NO. 04009.**

Item No. 1.4, Street and Alley Vacation No. 04010, and Item No. 1.5, Waiver No. 04009, were removed from the Consent Agenda and scheduled for separate public hearing.

Larson moved to approve the remaining Consent Agenda, seconded by Krieser and carried 8-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand and Sunderman; Taylor absent.

STREET & ALLEY VACATION NO. 04010
TO VACATE THE EAST/WEST ALLEY BETWEEN
GARFIELD STREET AND SUMNER STREET
GENERALLY LOCATED AT 6TH STREET AND
GARFIELD STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 1, 2004

Members present: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand; Taylor absent.

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

Ex Parte Communications: None.

This application was removed from the Consent Agenda and had separate public hearing.

Derek Miller of Planning staff submitted a letter in opposition from Shirley Wahlgren, who is concerned about the potential expansion of the Lincoln Plating facility with this street vacation.

Proponents

1. DaNay Kalkowski appeared on behalf of **Lincoln Plating Company and JoAnn LeBaron,** the owners of the property located north and south of the portion of the alley requesting to be vacated. Lincoln Grain Exchange is the owner of the other two lots. All of the abutting property owners have signed the petition. This alley is not utilized for access; there is no existing road through there; it dead-ends at the west side. The vacation is being requested to give some flexibility for utilization of the area. The petitioners are proposing to purchase the alley from the City. The City has indicated that there is an existing LES line so the City would be retaining an easement through the entire area, which would severely restrict what kind of expansion could be done. The LES easement would limit the ability to use the area for much of anything other than parking. This area is zoned I-1 so it does permit industrial use. The neighbor who sent the letter in opposition is across the street. Lincoln Plating has pledged to respond to the neighbors about their concerns.

Kalkowski pointed out that the staff is recommending that this vacation is in conformance with the Comprehensive Plan. Some of the uses might help eliminate some of the problems if it could be used for parking. The area being vacated could not be used for building expansion because of the LES easement.

Marvin noted that the letter in opposition also discusses traffic problems. Kalkowski stated that because the City will be maintaining an easement, Lincoln Plating would be limited to the use and parking would be one potential use.

Marvin noted that another concern in the letter is noise and an orange colored residue that persisted for three years. Kalkowski does not believe the vacation of the alley really has anything to do with most of those issues. If the area is utilized to expand the parking area, she believes it would help the traffic problems. The other two issues (noise and orange residue) are issues with the business and they would need to address those issues with the neighbors. The alley vacation does not have any bearing on those pollution items.

The alley right-of-way is about 16' wide.

Opposition

1. Wesley Wahlgren, 600 Sumner, testified in opposition. Lincoln Plating has been in the area for some time and they have had nothing but problems and promises that have been broken. They have a rock parking lot at this location already. They are stirring up dust on Sumner Street with this rocked road. The loading dock blocks the traffic in front of the houses. He has never found a building permit on all of the work that Lincoln Plating has done. The neighbors are fearful about expansion and they believe this business needs to move out of the neighborhood.

2. Marilyn Hergenrader, 1615 S. 6th Street, testified in opposition. The neighbors have had so many problems with Lincoln Plating. She has asthma; she has to change her furnace filter once a month; her house is covered with dust by noon every day as well as her car. The noise is a problem. The employees have parties on their breaks. When they leave the plant, they leave black marks on 6th & Sumner and 6th & Garfield. Lincoln Plating has promised to take care of the noise and the traffic problems, but they have done nothing. They did put up a big fence, but it doesn't help anything.

Carroll suggested that if the alley is vacated and is purchased by the petitioners, it reduces their setback requirements by 16' feet so they could add onto the building. Miller stated that it would be 8' on each side and he agreed that they could expand the building into the rear yard because this would reduce that setback.

Response by the Applicant

Kalkowski believes that a lot of the issues of concern are business issues and she believes Lincoln Plating is committed to meet with the neighbors and resolve some of these issues. She is not sure that they can necessarily build up to the lot line in I-1. The setback from the home owners, however, would not change.

Kalkowski clarified that this application does not request vacation of the alley as it abuts the residential lots.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 1, 2004

Larson moved to find the vacation in conformance with the Comprehensive Plan, seconded by Sunderman and carried 8-0: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand voting 'yes'; Taylor absent. This is a recommendation to the City Council.

WAIVER NO. 04009
TO WAIVE THE MINIMUM LOT DEPTH REQUIREMENT
ON PROPERTY LOCATED AT 3959 S. 40TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 1, 2004

Members present: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand; Taylor absent.

Staff recommendation: Approval.

Ex Parte Communications: Marvin reported that he talked to Steve Henrichsen about this application because there was not a zoning action sign posted on the property.

This application was removed from the Consent Agenda and had separate public hearing.

Tom Cajka of Planning staff submitted a letter in opposition from the property owner at 3805 Calvert Street with concerns about additional traffic, safety and additional on-street parking on Calvert Street.

Proponents

1. Bill Olson, 134 S. 13th, testified on behalf of the applicant, who lives at the northwest corner of 40th & Calvert. The applicant has been through this process before in 1999, at which time the Planning Commission recommended approval and the City Council disapproved it after neighborhood objections. This time the applicant has contacted all of the abutting neighbors personally and there have been no objections.
The purpose of this waiver is to accomplish subdivision of the two lots and the waiver is required to get the subdivision approved. Staff has recommended approval. This area is zoned R-4 and will support a single family house on each of the lots or a duplex. The applicant has a contract to sell the new lot and the intended use is to put in a duplex which would maximize the use of the property. There is a pattern of subdividing weird oversized lots throughout the city. The abutting property to the west was subdivided similarly in 1975, and the Planning report includes a copy of that subdivision permit.

With regard to the letter in opposition, Olson pointed out that this is a property owner almost 2 blocks away at 3805 Calvert. Their concerns have to do with traffic and parking. Olson could not address whether 40th Street will ever be expanded, but if it is, it will affect the setback off of 40th Street. He does not believe it is important in the consideration of this waiver.

With regard to additional traffic and parking, Olson agreed that a duplex might have six cars sitting on Calvert Street but they are going to have to have some kind of parking on-site. Olson believes that the traffic this development will actually add to Calvert Street would be minimal. The lot will only support a duplex under the existing zoning regulations. It just cannot add much to traffic on Calvert.

There was no testimony in opposition.

Carlson inquired about the reasons for the City Council denial previously. Cajka was not here at that time, but looking back through the files, it appears that it was based on the opposition from adjacent neighbors. He did not go back and read the minutes from the public hearing.

Marvin confirmed that the Planning Department mails notice of this hearing to the property owners within 200' of the application boundaries, but there is no requirement to post a zoning action sign on the property. Cajka concurred. This is not an action of the zoning ordinance which requires the posting of a sign. This is a waiver to the subdivision ordinance so it is not technically a zoning action. Notice was mailed to 18 residences.

Carroll inquired whether a duplex would need to comply with the new urban design standards. Cajka confirmed that they would be required to meet the urban design standards. Carroll believes then that they would be limited as far as garage doors facing the street because you would only get one garage door per unit. Cajka clarified that the requirement is two off-street parking stalls per dwelling unit. You can do tandem parking. Carroll believes that they might only have a single car garage, so you would have one car in the garage and one car on the driveway behind the garage. The rest would have to park in the street.

Response by the Applicant

Olson stated that he read the 1999 minutes of the City Council and the denial was based upon neighborhood opposition. He pointed out, however, that none of those neighbors live in the area any longer.

With regard to parking, they would be required to provide four parking stalls. You could probably get six cars in the parking if you built another parking space along the duplex. These lots are big enough to meet the design standard requirements.

The house immediately to the west is single-family. There are duplexes down 39th Street.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 1, 2004

Larson moved approval, seconded by Sunderman.

Marvin stated that he will vote against this because he does not believe the general concept of putting a duplex on such a small lot in an established area of single family homes is appropriate.

Pearson also stated that she will vote against this waiver. The access for the two houses originally along Calvert is on 39th Street and one is off of 40th Street. A new duplex would double the traffic coming onto Calvert. It looks like this would greatly increase the in and out, backup traffic onto Calvert.

Bills-Strand stated that she will support the waiver because there is a duplex directly across the street and there are at least three or more duplexes along 39th Street plus duplex lots. It is a mix between 39th and 40th to Sheridan. If we are trying to increase density, this is a good use.

Motion for approval failed 4-4: Sunderman, Krieser, Larson and Bills-Strand voting 'yes'; Carlson, Pearson, Marvin and Carroll voting 'no'; Taylor absent.

Carlson moved to deny, seconded by Marvin and failed 4-4: Carlson, Pearson, Marvin and Carroll voting 'yes'; Sunderman, Krieser, Larson and Bills-Strand voting 'no'; Taylor absent.

Application held over for continued public hearing and administrative action on September 15, 2004.

COUNTY CHANGE OF ZONE NO. 04053
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL
ON PROPERTY GENERALLY LOCATED AT
S.W. 40TH STREET AND ROKEBY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 1, 2004

Members present: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand; Taylor absent.

Staff recommendation: Denial.

Ex Parte Communications: None.

Proponents

1. Mark Hunzeker appeared on behalf of **Wapiti Enterprises,** the owner of the property. This is an area that has been developed into acreage type dwellings for the past 20 years. The area immediately surrounding the site is not divided into a lot of small acreages; however, if you go to the north and east you notice a lot of acreage development and also to the northwest of Yankee Hill Lake. Looking further to the south and east, the area has been divided by deed into a number of small parcels. Looking to the west, the area has been divided by deed into a lot of rural acreage type developments.

Hunzeker further pointed out that the acreage build-through or similar system for expanding the ability of acreage development land has been talked about for a long time. We have had the most recent version of the Comprehensive Plan in place for well over one and one-half years, and we still don't have any sort of criteria developed or adopted for acreage development. It is not an adopted system that is being applied by the staff on these change of zone requests.

Hunzeker advised that this property is in an area proven to have good water. The well driller for this site is very confident of a good supply of both quantity and good quality water. It is near Yankee Hill Lake and surrounded by acreage type developments.

The policy of requiring areas like this to develop into 20-acre parcels or greater has succeeded, which will in his view have as much or more detrimental effect on future urban development in this area as having well-planned suburban type subdivisions. Five or six single family lots is what is anticipated on this property. It won't adversely affect the ability of the city to expand in the future and certainly will continue a pattern of development which has been ongoing in this area for the last 20 years.

Hunzeker recognizes that the Comprehensive Plan and the lack of adopted standards makes this somewhat problematic, but he believes this property is in a location that deserves consideration for AGR zoning.

Pearson observed that Game and Parks notes that there is hunting on the Yankee Hill wildlife management area, which is across the road diagonally. Hunzeker believes the lake property has a notch cut out of it at the corner of 40th & Rokeby Road for a Norris PPD substation, but aside from that there is hunting allowed on every piece of farm ground in the county.

There was no testimony in opposition.

Bills-Strand asked for clarification from staff as to the difference between this change of zone request (where staff is recommending denial) and the Masek's 1st Addition (where the staff is recommending conditional approval) on today's agenda. Mike DeKalb of Planning staff explained that Masek's is an acreage subdivision and the change of zone is not a

subdivision, but only a zoning request. Masek's is an "AG" cluster using the existing zoning to create a cluster of small lots without a change of zone. They are totally separate issues. The staff has been very supportive of AG and AGR clusters, but does not support zoning requests to AGR which are not in conformance with the Comprehensive Plan.

Sunderman confirmed that S.W. 40th and W. Rokeby Road are gravel roads and not planned for paving. DeKalb concurred.

Pearson observed that there could be up to 11 acreages on this parcel with the AGR zoning, and she assumes that each would have their own individual water and sewer. DeKalb could not answer this because a plat has not been submitted.

Response by the Applicant

Hunzeker believes it is presumptuous to consider the number of units absent the plat. He pointed out that the Planning Commission has to approve a plat before any lots can be subdivided out of this parcel. While this may be the first step toward development of acreages, it does not permit development of acreages as a matter of right without going through the plat process. With respect to the roads, people are out there living on gravel roads all over the county and they apparently want to do that. The fact that this road is not paved does not necessarily make that a bad thing, and the inclusion of an interior road seems preferable than having a series of driveways along the major roadways, which we are beginning to see happening all over the county. He understands that this is a little outside the box in terms of the Comprehensive
Plan, but it is serving what is obviously a strong demand for people to have property they can live on outside the city in Lancaster County. Hunzeker does not believe it is helpful to refer to a point system which has not been adopted by anybody for the purpose of analyzing these types of applications.

Pearson believes that Hunzeker was involved with the Comprehensive Plan process and knows that this property is in Tier III, so at least in her mind, if the applicant is going to go against the Comprehensive Plan recommendations, she would think that there would be special conditions in place. Hunzeker responded, stating that Tier III is a very long way out, and Tier II in this vicinity is absolutely cluttered with acreages. Before any city sewer or water can reach this area, there is a monumental task for someone to decide how we're going to get there. So to call this Tier III and simply ignore it is to say, "well, we're just going to cut it up into 20's and deal with it someday later." What you are going to see more of is 20 acre parcels, which are very difficult to maintain, being cut up into various configurations with lots and lots of driveways that will extend out onto section line major roadways. This change of zone give the Planning Commission the opportunity to minimize the number of driveways on those county roads.

Pearson again stated that she believes this application goes against the Comprehensive Plan. Hunzeker suggested that it depends how you view the Comprehensive Plan. He

does not view the Comprehensive Plan as a detailed blueprint of what is going to happen over the next 25 years. The statutory language "peppered" throughout the Plan is the word "general", and he believes the Comprehensive Plan functions as a very general guide as to what this county should look like sometime in the future. If we're not going to do any real planning, then at least let individual landowners do things that minimize the traffic conflicts on county roads as these acreage type developments occur.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 1, 2004

Carlson moved to deny, seconded by Marvin.

Carlson commented that he was involved in the development of the Comprehensive Plan and he was on the acreage subcommittee. The policy determined was that we create sufficient opportunity for people to live on acreages in the county, but we would also respect the facts that influence the farming; i.e. the right to farm, environmental areas and costs to the county. The Tier II areas are set aside for acreages and we are prepared to meet the services those acreages will demand. The point system is intended to try to find those spots in the county that we may have missed in designating the areas for acreages. Why the County Board is hesitant to adopt that point system, he does not know, but he believes it is a helpful tool. Carlson does not believe this is an appropriate area for acreage development. He agrees that the Comprehensive Plan is a guide, but it is a guide that we use.

Marvin stated that he will not support this change of zone. He does not believe that the County Engineering department is anti-acreage and they do not support it. Furthermore, it sits on gravel roads. While Mr. Hunzeker may be right that people choose to live on a gravel road, the more people that choose to do so creates a trigger point to come in with an asphalt road and that cost is borne by all of us. He does not want to create a trigger point to put an asphalt road out there.

Bills-Strand believes that the letter from Don Thomas, County Engineer, carries a lot of weight on this one, but she believes there are good reasons the point system has not been developed and adopted. However, the staff is working on it and the Commission will hopefully have it soon.

Motion to deny carried 8-0: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand voting 'yes'; Taylor absent. This is a recommendation to the County Board.

COUNTY SPECIAL PERMIT NO. 04043
FOR AN EDUCATIONAL PHILANTHROPIC INSTITUTION
TO BE USED AS A NATURE CENTER,
ON PROPERTY GENERALLY LOCATED AT
S.W. 100TH STREET AND WEST SALTILLO ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 1, 2004

Members present: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand; Taylor absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Mike DeKalb of Planning staff submitted six letters in support.

Proponents

1. Don Helmuth, Vice-President of the of **National Audubon** and State Director for **Audubon Nebraska,** presented the application. This permit is for a 6,450 sq. ft. education center on the prairie, which is consistent with the use designated in the Comprehensive Plan and an endorsement by the County Board in 1999. This facility will be used mostly for educational purposes of children in elementary school. We try to enable the children to think, to rationalize and to be the leaders of the future. The prairie itself is in a beautiful condition right now.

Helmuth advised that the traffic would be off of S.W. 100th Street, which is a paved road. People get to the prairie via the bypass on Highway 77 or the route that goes to Crete coming up north on S.W. 100th Street. There will be some redesign of the entrance and exit with the building.

Carroll inquired whether the existing house will be removed. Helmuth stated that the house is going to stay. It may eventually be used as some space for some environmental interns. The new facility will be located between the house and the pole building. The pole building will be removed. The building will have an exposure mostly to the southerly latitude up the draw. One wing will be entirely educational. It will be a green designed building as much as possible.

Bills-Strand noted that there would be no more than four events of more than 50 participants per calendar year, and that parking would be provided for 36 cars with overflow for over 300 cars. Is there bus parking? Helmuth stated that the events are not considered the visits by the school children. Those would be festival events.

There was no testimony in opposition.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 1, 2004

Larson moved to approve the staff recommendation of conditional approval, seconded by Krieser.

Larson believes it is a nice development and this will add to its usefulness and its accessibility by students.

Bills-Strands wants the "events" to be made clear so that it does not exclude children coming out in buses from school.

Motion for conditional approval carried 8-0: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand voting 'yes'; Taylor absent. This is a recommendation to the County Board.

COUNTY SPECIAL PERMIT NO. 04041,
MASEK'S 1ST ADDITION COMMUNITY UNIT PLAN,
and
COUNTY PRELIMINARY PLAT NO. 04019,
MASEK'S 1ST ADDITION,
ON PROPERTY GENERALLY LOCATED
AT N.W. 27TH STREET AND WEST MILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 1, 2004

Members present: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand; Taylor absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Mike DeKalb of Planning staff submitted three letters from property owners who reside in the subdivision immediately to the south, Valley Home Farms. They desire that N.W. 23rd Street not be connected to this subdivision. The issues are traffic and safety.

Proponents

1. Brian Carstens appeared on behalf of **Mark Masek,** the applicant. This is a preliminary plat and community unit plan in the AG zoning district. This is not a request for change of zone, but a cluster community unit plan. This proposal clusters eight single family lots on top of the ridge line, with one lot that is going to be a farm type use with a house and outbuildings. The applicant is considering building his own house there. The applicant had no objection to staff conditions except Condition #1.2, which required the street connection to N.W. 23rd Street, to which several of the neighbors are opposed. That connection would

add 1/4 mile of gravel street that serves no one other than that connection. The extended street would be isolated because of the tree mass and there would not be any neighbors adjacent to that road. Carstens pointed out that West James Drive goes through. Carstens requested to delete Condition #1.2 in both the preliminary plat and the community unit plan.

Carstens also requested amendment to Condition #1.4. Staff is requesting that Lot 4 up along Mill Road be relocated down to this development's private roadway. The applicant would like to keep that "floating" lot for the eventual farm use. Carstens has done many CUP's in the past with that kind of a "floating" lot, which is then finalized at time of final plat. Carstens requested amendment to Condition #1.4 in both the community unit plan and preliminary plat as follows:

> Relocate Lot 1, Block 4 to ~~front and access an internal street~~ provide an acceptable access point to the satisfaction of the Lancaster County Engineer.

Carstens also requested an amendment to Condition #3.5.4 in the community unit plan to add "south" to the list of variances for block length waiver. This is already listed in the preliminary plat, but did not appear in the community unit plan.

Bills-Strand inquired whether the owner is still planning to farm the property in the meantime. Carstens stated that the owner does not presently live on the land but he does farm it.

There was no testimony in opposition.

Staff questions

Marvin noted that the point system analysis does not appear in the staff report. Mike DeKalb of Planning staff explained that the points are set up for increased density so they are not used for clusters that use the existing zoning and density.

Carlson noted that this is close to the Raymond jurisdiction. DeKalb stated that it is sort of between Lincoln's 3-mile and the Raymond 1-mile. The property is in the Raymond School District. Carlson recalled that during the Comprehensive Plan hearings there were people talking about Raymond and the difficulty with more acreages because they are up against their limit as far as school capacity. DeKalb did not know the current circumstances of the Raymond School District.

DeKalb offered that the County Board has indicated they would like to proceed with the point system. We would presume that if they will adopt the policy, it will also be reflected in the city. The three-mile jurisdiction is primarily a city issue. This happens to be one of the minor ones impacted outside the three-mile.

Pearson asked for staff response to the proposed amendments. DeKalb suggested that the amendments reflect two issues. With regard to the “floating” lot, it is desirable to do a cluster. We have had a lot of floating lots. Usually it is going to be the farmer’s lot or dictated by topography. We didn’t have that explanation in our review.

With regard to the connecting road, DeKalb explained that it is a dedicated public road. It would be highly desirable to connect the road between the two subdivisions. The point is, if we don’t get it now, we won’t get it for 20-30-40 years. It provides a back door entrance to both subdivisions and that is why the staff is recommending it.

Bills-Strand wondered whether that contradicts the right to farm if you run the road through the middle of the farm ground. DeKalb agreed that we do not want to introduce conflicts to farming operations. The outlot is going to be purchased by the landowners in the south and used as a separate pasture. It is generally pastureland that the road will run through and would not interrupt any farm operation. It will be a 60' right-of-way typical rural cross section gravel road. South of the proposed subdivision, west of the connecting road would be a pasture, and then the balance of the outlot would be farmland, pasture or otherwise to the east and north.

Response by the Applicant

With regard to the schools, Carstens stated that if they developed 20-acre parcels, there could be eight homes. The cluster only proposes one additional home.

Carstens reiterated the request that the road connection not be required.

Sunderman wondered about an easement that says the road will exist at some point in the future. Carstens indicated that the applicant would not disagree.

Bills-Strand suggested platting the connection and not require it to be built at this time. Carstens indicated that also to be acceptable.

COUNTY SPECIAL PERMIT NO. 04041
ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 1, 2004

Marvin moved to approve the staff recommendation of conditional approval, seconded by Sunderman.

Marvin believes it makes sense to have a separate lot away from the farmhouse. Having tractors drive through the residential area is a conflict. He also believes that Carstens has made a good point regarding the road. It is not going to get used and the neighbors don’t want it. If we could get an easement or assurance that that road would go in there at some point in the future, that would be acceptable.

Marvin made a motion to amend Condition #1.2 such that the property owner will provide an easement for future road connectivity between the two subdivisions, and to approve the remaining amendments requested by the applicant, seconded by Sunderman. DeKalb suggested that Condition #1.2 be amended to add language that the road does not have to be built at this time. The County Engineer's preference is that the road surfacing be built at the time of the subdivision. This amendment suggests that the road stop at West Masek Drive with the retention of right-of-way for the road or an easement. They have maxed out the density on this property.

Carlson suggested that if the density is maxed out, then the call should be whether the connection is necessary for what is sitting there right now, because any additional density would require a change of zone. Philosophically, what we are doing is the smart thing to do. We are "build-throughing" showing that we should have some easements and right-of-way in place.

Pearson stated that she will vote against the motion to amend because the road is never going to go in. Who is going to pay for it but the existing people who live there? She thinks that isolating the one lot is absolutely essential to the subdivision. If the road goes through, the farmstead lot could be clustered with the others. She will not support the amendments.

Bills-Strand believes the highest and best use of land is to leave as much to farming and pasture as possible.

Motion to amend carried 6-2: Sunderman, Krieser, Marvin, Carroll, Larson and Bills-Strand voting 'yes'; Carlson and Pearson voting 'no'; Taylor absent.

Main motion for conditional approval, as amended, carried 8-0: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand voting 'yes'; Taylor absent. This is a recommendation to the County Board.

COUNTY PRELIMINARY PLAT NO. 04019
ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 1, 2004

Pearson moved to approve the staff recommendation of conditional approval, seconded by Carlson.

Carroll moved to amend to revise Condition #1.2 the same as in County Special Permit No. 04041, and to amend Condition #1.4, the same as in County Special Permit No. 04041, seconded by Sunderman and carried 6-2: Sunderman, Krieser, Marvin, Carroll, Larson and Bills-Strand voting 'yes'; Carlson and Pearson voting 'no'; Taylor absent.

Main motion for conditional approval, as amended, carried 8-0: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand voting 'yes'; Taylor absent. This is a recommendation to the County Board.

COMPREHENSIVE PLAN CONFORMANCE NO. 04004
AMENDMENTS TO THE LINCOLN CENTER REDEVELOPMENT PLAN
and
STREET VACATION NO. 04011
TO VACATE A PORTION OF P STREET, GENERALLY
LOCATED AT THE S.W. CORNER OF
8TH AND "P" STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 1, 2004

Members present: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand; Taylor absent.

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

The Clerk announced that Jon Camp has submitted a written request for two-week deferral on the street vacation.

Ex Parte Communications: Bills-Strand reported that she had a phone call from Jon Camp with concerns about creating another wind tunnel from the Haymarket. He would like the opportunity to further study and make an appearance in two weeks. He is out of town this week.

Proponents

1. Dallas McGee of the Urban Development Department presented the proposal. The Urban Development Department did receive the communication from Jon Camp and has had a number of meetings to address his concerns.

This is an amendment to the Lincoln Center Redevelopment Plan initially approved in 1985. That plan has been amended a number of times to accommodate various redevelopment projects in Downtown and Haymarket. Most recent was the entertainment center and Old Federal Building project. This amendment will accommodate two significant projects in the Haymarket: A mixed used project proposed at 7th & R Streets, which will consist of a six to seven story building with retail, office and residential uses, and on-site parking, proposed by Fernando Pages and Bob Hampton. The second project is the redevelopment of four buildings in the Haymarket that used to house the Salvation Army operations at 8th and P. This is being redeveloped by B&J Partnership. Both projects have been reviewed and recommended for approval conceptually by the Historic Preservation Commission.

McGee explained that approval of the Redevelopment Plan amendment will allow the City

to used tax increment financing (TIF) funds that are generated to fund public improvements. These improvements could include demolition, street and sidewalk construction and pedestrian lighting. Once the Redevelopment Plan is approved and official, the City will begin discussions to develop a Redevelopment Agreement with each of the two developers, specifying in detail what the City TIF funds will be used for and what the developer will be doing in terms of square footage and various types of uses.

With regard to the street vacation, which is proposed as part of the 8th and P project, the vacation includes both the vacation on P Street as well as 8th Street. The vacation on P Street will allow for an increase in parking on P Street, changing from eight stalls to ten stalls. This vacation would result in a decrease of parking on 8th Street. When the Salvation Army operated this facility there were seven parking stalls on 8th Street. This proposal would show five stalls on 8th Street. In talking to Jon Camp, one of the main concerns is the loss of parking on 8th Street. After a number of meetings with Public Works and B&J Partnership, and in order to change this plan to not reduce the parking on 8th Street, it was determined that instead of vacating 18' of width on P Street, it would reduced to 14' of width, which would correspond to the width of the dock itself. This would preserve angle parking and instead of five stalls, there would be nine angle spaces on 8th Street, which increases the parking on both 8th and P Streets.

Carlson believes there should be a way to do public parking improvements without vacating the streets. McGee explained that it would require some funds to build sidewalks and to do the other improvements. In this plan, those funds would be generated by the redevelopment of that building.

Marvin inquired whether the TIF money would go toward the off-site improvements. McGee stated that the TIF dollars will be used and identified in the Redevelopment Agreement. Typically, the improvements will include the sidewalk improvements and moving of the curb, and could include the city assisting with the demolition of the existing building. Those details have not yet been worked out.

This area was determined blighted in 1984.

Bills-Strand noted that the Salvation Army building is the north half of the block and the second half has some very nice retail. It is difficult to walk down 8th Street. McGee agreed that to be one of the key concerns and will be renovated. They are working now to address the entire length of 8th Street from O to the pedestrian bridge at Haymarket Park to look at providing sidewalks on both sides of the street.

Carroll assumed that approval of the Redevelopment Plan now would allow them to proceed with the Redevelopment Agreement prior to the street being vacated. McGee explained that after the Redevelopment Plan amendment is approved, the Redevelopment Agreement would be negotiated. The developer has asked that they be allowed to proceed with the redevelopment of those building. They would be making the improvements on the

dock and in the area that would be vacated at their expense. The City would proceed with the public improvements. The one condition is that a Redevelopment Agreement be completed between the City and the developer. If that agreement is not completed, then the vacation would be contingent upon that being completed.

Carlson inquired whether the Development Agreement will show exactly what the situation is going to be. He believes there are other avenues to create those public improvements than vacation. If possible, it would be nice to see the Redevelopment Agreement and weigh the benefits of the new configurations versus the loss of public ownership and the loss of public use. McGee stated that Urban Development looks at how they can assist in the redevelopment. The developer has asked for Urban Development's assistance in terms of a Redevelopment Plan amendment that would allow the use of TIF funds. Without that, the City would have no funding available to do any of the public improvements. It would make it difficult to redevelop those buildings without the City participating in the public improvements.

2. Fernango Pages, owner of **Brighton Construction,** unveiled the "Option", the name given to the mixed use residential, retail and office complex. This will be a high-end residential loft condominium, all for sale with the exception of the retail space. The location at the corner of 7th and R is a real prime location. It will be a six-story building with four stories of large condominiums of 1200-2500 sq. ft. range, designed with the high-tech, high design, industrial look. With the living units above, there will be a lot of support for some small retail operations below. They are considering a small bank on the corner with two drive-up tellers. The second floor of the building would possibly be offices. This will anchor the northwest corner of the Haymarket, bringing traffic down the street. They hope to use some of the public improvements dollars not just in making the project feasible, but also to bring some life down the block on R Street with some improvements on the Hardy Building and dock area to bring it more into conformance with what has been done in the Haymarket. This model has been successful in a number of cities.

Carlson asked Pages to talk about the impact of a new building on the Hardy Building and the windows on the west. Pages stated that they are still working on the design because of the Hardy Building and they want the apartments to have good views. They are working on a couple of different schemes to minimize the impact on the Hardy Building. There is about 15'-20' space between the two buildings in which they plan to construct a "pocket park"–outdoor recreation area with benches, etc. They will be meeting with the Hardy Building board in September.

Marvin inquired about the use of the TIF funds. Pages stated that they do not have a Redevelopment Agreement yet so he could not provide that detail; however, he envisions site preparation, street improvements to bring that block into conformance with the rest of the Haymarket, street lighting, potential for some improvements at the Hardy Building to the docks or that street, design and construction of the pocket park, etc.

3. Craig Smith with **B&J Partnership** discussed the parking along 8th Street. They have worked very closely with the Haymarket renovation group in determining access into the building, into the basement for the parking and ADA access in front of the building. One concern was the fact that we were losing the parking on 8th Street so they worked with Urban Development and came up with another plan to extend the parking and get additional spaces besides the ten on the P Street side. The dock is currently 15' out and they are requesting an additional 6" to reface the docks or do any improvements to the basement so that they will not encroach into the public right-of-way. He believes they have addressed Mr. Camp's concerns to get a net increase in all of the street parking. The TIF funds cannot be used for repair or the ADA access into the building. From the existing loading dock down to the concrete, the concrete has dropped and is tilted back to the building, resulting in water damage into the basement. In working with the Historic Preservation Commission and all of the groups that have reviewed this application, this was the best answer in order to get going on this project. They have a number of prospective tenants interested in going into this building right away.

Pearson inquired as to the width of the sidewalk off of 8th Street before you get to the parking. Smith stated that it is 15' 6" from the face of the building out to the addition and then 6' 6" for the sidewalk, allowing two-way traffic and ADA access.

There was no testimony in opposition.

If the street is not vacated, Bills-Strand wondered whether it would be possible to make that sidewalk such that someone in a wheelchair does not have to go out in the street. McGee stated that the sidewalk needs to be below the dock. If they put the sidewalk on the dock, there would need to be a ramp at both ends. We could not build the ramp into the dock because there is a vault below it so we would need to build the ramp out to the sidewalk. With or without the street vacation, the sidewalk would be placed in front of the dock. We have talked about looking at a way to preserve the angle parking by changing the angle from 60 degrees to 45 degrees. By not vacating that area below the dock, we could get a public sidewalk 6.5 feet down in front of the dock.

COMPREHENSIVE PLAN CONFORMANCE NO. 04004
ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 1, 2004

Carlson moved a finding of conformance, seconded by Marvin and carried 8-0: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand voting 'yes'; Taylor absent. This is a recommendation to the City Council.

STREET VACATION NO. 04011
ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 1, 2004

Carlson moved to defer for two weeks, with continued public hearing and administrative action on September 15, 2004, seconded by Pearson.

Carlson noted the letter from Jon Camp requesting the delay. Carlson also believes it is important to get additional information. As we consider whether to vacate and sell or not sell publicly owned land, it is important to understand the trade-offs and the balances. The particulars of Redevelopment Agreement will be some indication of that, but he would like to see some history because it was his sense that we had been developing a pattern of how these types of uses were accommodated. This is a use that we have done repeatedly in the Haymarket and the Downtown and he would like to see a list of how that was accomplished, with or without the vacation of public way. He is excited about the changes but it seems there is probably a way to accommodate these changes short of vacating and selling public right of-way.

Carroll agreed. We have approved the Redevelopment Plan amendment, but before we do any vacating and giving away of some rights, he would prefer to see who is going to pay for what and how it is officially going to be designed.

Motion to delay carried 8-0: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand voting 'yes'; Taylor absent.

CHANGE OF ZONE NO. 04034
FROM AGR AGRICULTURAL RESIDENTIAL
TO R-3 RESIDENTIAL,
ON PROPERTY GENERALLY LOCATED AT
S. 66TH STREET AND HIGHWAY 2.

Members present: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand; Taylor absent.

Staff recommendation: Approval.

Ex Parte Communications: None.

The Clerk announced that the applicant has submitted a written request for an additional four-week deferral.

Larson moved to delay four weeks, with continued public hearing and administrative action on September 29, 2004, seconded by Pearson and carried 8-0: Carlson, Sunderman, Krieser, Pearson, Marvin, Carroll, Larson and Bills-Strand voting 'yes'; Taylor absent.

There being no further business, the meeting was adjourned at 2:55 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on September 15, 2004.

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