MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, December 20, 2006, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Jon Carlson, Gene Carroll, Michael Cornelius, Dick Esseks, Gerry Krieser, Roger Larson, Mary Strand and Tommy Taylor; (Lynn Sunderman absent). Marvin Krout, Ray Hill, Steve Henrichsen, Brian Will, Christy Eichorn, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held December 6, 2006. Motion for approval made by Taylor, seconded by Carroll and carried 7-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson and Taylor voting 'yes'; Strand abstained; Sunderman absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: December 20, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand and Taylor; Sunderman absent.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 04002.**

Ex Parte Communications: None.

Larson moved approval of the Consent Agenda, seconded by Strand and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand and Taylor voting 'yes'; Sunderman absent.

SPECIAL PERMIT NO. 1989A,
TO REVISE THE LIGHTING PLAN
FOR SID DILLON AUTO,
ON PROPERTY GENERALLY LOCATED
AT S. 27TH STREET AND KENDRA LANE.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: December 20, 2006

Members present: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson; Sunderman absent - also declared conflict of interest.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

The Clerk announced that Peter Katt submitted a request for two-week deferral on behalf of the applicant.

Strand moved to defer for two weeks, with continued public hearing and action scheduled for January 3, 2007, seconded by Carroll and carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson; Sunderman absent, also declared conflict of interest on this application.

CHANGE OF ZONE NO. 06081
FROM R-6 AND R-7 RESIDENTIAL
TO B-4 LINCOLN CENTER BUSINESS DISTRICT,
ON PROPERTY GENERALLY LOCATED
AT THE NORTHEAST CORNER OF
18TH AND L STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION: December 20, 2006

Members present: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson; Sunderman absent.

Staff recommendation: Approval, subject to a Development Agreement.

Ex Parte Communications: None.

Staff presentation: **Christy Eichorn of Planning staff** explained that this application changes the zone from high density residential to B-4 Lincoln Center Business District, and is located on the block from L Street to M Street and 18th to 19th Street. It is also part of the Antelope Valley Redevelopment Plan area and in the area of the Downtown Master Plan.

Staff recommends conditional approval with a development plan, which will be provided by the applicant. It is very important, with 19th Street and L Street being major corridors, to make sure there is some sort of programmed development agreement to provide some assurance that the redevelopment of this block will meet the goals of the Antelope Valley Redevelopment Plan and the Downtown Master Plan as well as the Comprehensive Plan.

Carlson inquired whether paragraphs 1 and 2 on page 5 of the staff report are intended to be conditions of approval to set the direction of the development agreement. Do we need a condition that says the developer will agree to a development plan? Marvin Krout, Director of Planning, noted that there were parties such as the Urban Development Department and the Historic Preservation Commission that suggested that no zoning be approved until there is a redevelopment plan. Krout believes that these two conditions, or something similar, would allow the zoning change to be approved. We do not have guidelines or standards in place for exactly what the City wants. There is an intent to establish guidelines which will cover this area in the future. The idea is that these two conditions should cover the key issues about how that block might develop along those frontages, and probably by the time someone would have a redevelopment plan, there might be some design standards and a process in place to cover such plan approval. If that never happens, the staff believes that something like these two conditions would be adequate.

Carlson thought there would need to be a condition of approval that the developer will engage in some sort of development agreement as part of this zoning change. Krout believes what is in the staff report is adequate and that it is incumbent on the city to deal with these blocks. If there is no subsequent agreement with other property owners, it should not be made a requirement on this applicant.

Cornelius wondered whether it would be correct to say that the staff recommendation on the change of zone is approval. Krout suggested that the Planning Commission could make a recommendation as part of the motion that the City Council not rezone those lots without an agreement.

Carroll noted that the applicant only owns two of the lots on the block. Why are we approving something without the other owners? Krout believes the applicant may have had discussions with the other parties and he believes they may be in agreement with this zoning.

Proponents

1. Mark Hunzeker appeared on behalf of **B&J Partnership and Awards Unlimited,** the owners of most of the block in question. He showed the ownership of the properties at the map, and he stated that all of the property owners have been involved in the discussion. This change of zone request is in conformance with the Comprehensive Plan. The Downtown Master Plan and the Antelope Valley Redevelopment Plan all contemplate

mixed use. The problem is that we have a recommendation that this application be approved only upon presentation of a project which is in compliance with someone's view of what those plans mean. That places a great deal of uncertainty on this property, which they are trying to eliminate by the rezoning. This change of zone will allow the owners to go forward with confidence to design a mixed use project knowing that the uses are available and the parameters. The applicants are not terribly interested in investing a great deal of money in design contingent upon the future approval of a particular design. If the Antelope Valley Redevelopment area is to become a city project, then the city should buy it all and develop it. When you have two long-standing good corporate citizens of this community (Awards Unlimited has been in business for 30 years and in this neighborhood for over 20 years, and B&J Partnership has been in business for 50 years and has a very good record of having developed and redeveloped property within the community for a long, long time), they should be given a little bit of a benefit of the doubt, particularly when the change of zone is in conformance with the Antelope Valley Redevelopment Plan and the Downtown Master Plan.

Hunzeker acknowledged that the conditions proposed are not horribly or terribly onerous, but they do limit the flexibility of design for this site. There are going to be multiple opportunities for the city to have input into the project ultimately done on this block. It is very likely, almost a requirement, that the applicants come back and request a vacation of the alley. It will also definitely be required that they come to the city for approval of a Redevelopment Plan if they seek to take advantage of TIF, which will be available on this site. But, they need to know what the uses are going to be. Hunzeker suggested that the uses could be limited if there are particular uses that the city does not want on this block. "But, don't give us directions that are vague and limit the design of the project on the site."

Carroll clarified that the applicants are agreeing to stay with a mixed use development and comply with what Antelope Valley is wanting to do, and not go out to the extreme uses that are allowed in B-4. Hunzeker responded, stating that the applicants do not have a project designed. It does not make sense to design a project until they know what the likely use parameters and setbacks and parking requirements are going to be. Under the current R-6 on the east side of the block, it would be very difficult to put together a project that is likely to meet what anybody thinks is acceptable, even under the proposed criteria. We want to go forward with a project that everyone is going to like. The Antelope Valley Plan itself talks in terms of low rise office buildings in this immediate area. He does know what that means. There needs to be some ability to come back with a fairly creative design. There is some conflict between the conditions that are proposed and some of the remarks by the Historic Preservation Commission. These applicants would like the opportunity to design a project and come back with a proposal most likely in the form of a Redevelopment Plan to use some TIF, but not necessarily have someone designing criteria to which they must comply without having any real stake or understanding of where they want to go with the project.

Carlson sought a characterization of how the process works. It seems par for the course that the Planning Commission see a change of zone accompanied by a special permit, use permit, or PUD, via site plan. His concern is an opportunity to review the design. Hunzeker does not think this block is likely to be developed without the vacation of the alley and a Redevelopment Plan proposing to use TIF funds. There will be ample opportunity for the city to have some input in the design. There is multiple ownership. Hunzeker suggested that the arbitrarily set parameters in the staff report do not give the owners much incentive to be creative.

There was no testimony in opposition.

Response by staff

Krout suggested that if the owners do not vacate the alley or ask for TIF financing, there needs to be something in place to guarantee that there is something substantial on this block. This is really a compromise - we shouldn't approve zoning without a redevelopment plan. The staff report proposes some minimum guidelines that the project should meet. Esseks wondered whether the applicants could build something incompatible with the community's plans for this corridor if they do not ask for TIF funds. Krout responded, stating that the two suggested guidelines would be sufficient at this time to assure that there would be a substantial investment in a good project in this area. If the applicants do not need any other assistance and think they have a good plan, then they can ask to amend or terminate that agreement.

Esseks wondered whether the B-4 zoning would allow certain buildings and certain uses. Krout agreed that to be true without some sort of development agreement in place. The staff is suggesting that a development agreement is a way to not necessarily limit the uses, except indirectly. Another possibility is to look at what uses we do not want to have, and some of them are probably obvious but some of them are not, e.g. auto body shop, used car sales. The staff is suggesting that what is more important with the redevelopment of this property is how the project is designed and what it looks like than the specific uses.

Esseks observed that a vote for B-4 zoning, without any conditions, gives the owners a tremendous amount of freedom. A lot of what we do here is not just for a specific property but it is setting a precedent. It seems that we have to be concerned about this precedent. He likes paragraph #14 of the staff report analysis. He would like to make that a condition. Krout suggested that it could be included in a motion that goes forward to the City Council.

Strand believes the staff recommendation is the same as conditional approval subject to a development agreement. The applicants could then appeal that to the City Council and bring forward a different plan. Krout stated that if the applicants do not agree with the wording suggested in #1 and #2, or something like it, then the staff would not recommend that the City Council approve the B-4 zoning.

Response by the Applicant

Hunzeker submitted that imposing this condition on this block that does not exist on any other B-4 zoning in the area is arbitrary. At least this applicant should have the opportunity to put together a plan that meets the requirements of the ordinance. Half of this block is already a parking lot. What if they wanted to utilize what is already a suitable parking lot? These applicants have a track record of investing in this neighborhood and in other older neighborhoods in this community for a very long time. There should at least be a certain amount of leeway granted when talking about a rezoning request that is in conformance with all plans that exist.

Esseks believes this is an area of the city that has very high volume for the community and there have been at least two applications, including the U-Stop and the body shop which is now being built off of K Street. Given the importance of this corridor, he believes the Planning Commission has an obligation to look at the type of design coming in there.

Hunzeker pointed out that the approval of that building design and materials was mandatory on one part because it fell under the Capitol Environs District. The other was done voluntarily by the applicant. This is one where we have multiple ownership but do not yet have a plan. The applicants would like to have the zoning in place to put together a plan to bring back for review by the Planning Commission and/or the City Council, if necessary, which is in accordance with the redevelopment process in conjunction with the vacation of the alley. The applicants would prefer to go forward with the zoning and move ahead with a redevelopment plan.

ACTION BY PLANNING COMMISSION: December 20, 2006

Strand moved approval of B-4 zoning, seconded by Taylor.

Strand pointed out that the other side of 19th Street is also B-4 and is not subject to any other agreements.

Carroll moved to amend to add staff conditions #1 and #2 on page 5 of the staff report, and the condition to sign a development agreement with minimum development specifications, as set forth in Analysis #14 of the staff report, seconded by Esseks.

Carroll commented that if the applicants receive the change of zone, he is concerned because the property could change hands and they could build industrial, manufacturing, etc. This is a very important area for Antelope Valley, the entrance to the City and the boulevard on 19th Street. It is important to realize what plan is going to be there. He supports development but he would like to know what it is going to look like. The conditions of approval will help the City know what is going to be developed. If they want to move forward with a good plan, then it will be fine. Without the conditions of approval, the City would have no control if the land changes hands.

Strand again pointed out that the people on the west side of 19th Street do not have the same conditions on their B-4 zoning. They should be treated the same.

Esseks believes this provides the opportunity to promote design standards that are valuable to the community. He does not want to lose that opportunity.

Motion to amend to add the conditions of approval carried 7-1: Cornelius, Taylor, Esseks, Carroll, Larson, Krieser and Carlson voting 'yes'; Strand voting 'no'; Sunderman absent.

Main motion for approval, as amended, carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent. This is a recommendation to the City Council.

WAIVER NO. 06009
TO WAIVE THE STORMWATER REQUIREMENTS
ON PROPERTY GENERALLY LOCATED AT
S.W. 17TH STREET AND WEST A STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: December 20, 2006

Members present: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson; Sunderman absent.

Staff recommendation: Denial.

Ex Parte Communications: None.

Staff presentation:

1. Tom Cajka of Planning staff presented this application to waive the design standard for stormwater associated with the use permit for Geico Development. The use permit was approved, with conditions, by the Planning Commission in October of 2005. The applicant has met all of the conditions, with the exception of the design standard for stormwater. The development would increase runoff on adjacent properties to the south.

2. Devin Biesecker, Public Works & Utilities, explained that historically, the stormwater on the proposed development site flowed across this property before crossing A Street at the northeast corner. Based on the drainage study submitted by the applicant, the proposed development would add fill to this site and increase ponding on the lots to the south. Both in the 5-year and 100-year events, the drainage study shows an increase of just under one foot. The properties to the south will have one foot more of water than what they are seeing today in the 5-year and 100-year event.

Cajka further explained that the condition of approval on the use permit was to revise the plan to eliminate this increase or get an agreement from the abutting property owners to

the south. The applicant has been unable to get that agreement and thus the reason for this waiver request.

Proponents

1. Peter Katt appeared on behalf of **Geico Development,** and provided a history on the property in question. This property was originally developed as a residential development and showed pictures of the area that was left as open green space. Subsequently, the property to the west was developed as a shopping center. There is no way for the water to properly drain to get back to the drainage tube as a result of the shopping center development. Geico went through the process of what to do to fix the problem and make the property productive. After several years and after spending $15,000, the plan was developed that was approved in October of 2005, which was a combination of actually dedicating a little over half of the site to detention, providing adequate drainage to get it across and through and have it be maintainable, and developing a small office building to offset the costs and put it into productive use. As a part of those discussions, it was the developer's understanding that there was a recognition that there would be a slight increase in the ponding elevation in a 100-year event. The issue that staff came back with was to delineate that and "make sure you don't harm anybody," which the developer did. Katt stressed that no one is in jeopardy of having their basements flooded, no matter what occurs.

Katt acknowledged that, in general, one should not run stormwater onto a neighbor's property, but it is not an absolute rule and that is why the ordinance allows for waivers. Katt believes that this is an appropriate place for the waiver to exist.

Katt then referred to the photograph depicting the existing condition of the ponding created by the city when it approved the commercial property to the west. The city has done nothing. How valuable is this standard if it can be used for some and not for others? This developer is asking for the ability to waive the requirement. The other potential solution that the developer offered is to build an embankment or a dike on their south property line to prevent this developer's overflow and that of the city. The staff did not like that solution. If that were a solution, this developer would be willing to agree to build an embankment on the south property line to solve the problem. The developer also tried to contact all of the neighbors to get an easement for the stormwater.

Opposition

1. Bill Vocasek, President of the **West A Neighborhood Association,** read a letter into the record in opposition on behalf of the West A Neighborhood Association. Geico Development has asked the five affected neighbors to sign an easement and be paid $250.00. The property in question had been set aside as a detention cell as part of the original plat for New Century Estates in 1993, at which time there were concerns expressed by the West A Neighborhood Association about drainage problems. Nothing has changed,

but additional development has created additional storage requirements in the area. The owners of 1700, 1710, 1720, 1730 and 1732 West Washington are in opposition to this waiver and the record consists of a petition in opposition signed by these five affected property owners. They are also concerned for the property owner on the east side of this development.

2. William Hergott, past President of the **West A Neighborhood Association,** board member for 18 years, and one of the property owners affected at 1710 West Washington, testified in opposition. He has actually witnessed the water rise in the back yards. He is in favor of this development, but there is a water problem. The property owners affected have witnessed stormwater during normal rainfall coming within feet of some homes. If this waiver is granted, who will be responsible in the event of the 5-year to 15-year flood? The property owner at 1732 West Washington had water in his basement window under current conditions. If the building goes on this property, the retention pond will be directly behind 1732 West Washington. Hergott stressed that the development is an improvement to the area, but he is opposed to this waiver.

Strand asked whether Hergott would be opposed to a structure to hold the water back. Hergott would not be opposed to a structure, but if a structure is built, where does the water drain? There is already a problem on West Washington. He believes the developer is seeking this waiver because of the cost involved in correcting the problem.

Esseks inquired whether Hergott would still be opposed if there were a way to evacuate the stormwater from his property and still have an embankment. Hergott would not be opposed if there is a way, but it requires grading and people's yards will be affected. A retaining wall only holds the water and it will have to drain somewhere.

Esseks confirmed that the expectation on the Hergott property at 1710 West Washington was that the water would drain to the north and that is why this land was left undeveloped. Hergott agreed, but he does want to see the property developed.

3. Randy Cecrle, 1633 West A Street, testified in opposition. There was a considerable redesign of the plan, which he appreciated. The ponding was moved from the east side, which was close to his side, over to the west side for reasons of water problems in his basement. He has seen the water flow over A Street. Snow removal is a problem. He would hope that there could be some level of redesign with some berm or some dike on the south end of the drainage area. He also suggested that the developer consider working with the owners of the shopping center (B&J Partnership) to try to move some of the ponding further up into the ditches or expanded detention areas. The hole from the drainage tubes referred to by Mr. Katt was not dug until after the plan was approved in October of 2005.

Staff Questions

Esseks wondered whether he is correct in assuming that the residential development to the east and south could not have been approved without this area of stormwater detention being set aside. Cajka believes that was two different developments. The five properties to the south were developed with New Century Estates, which left the subject property as an outlot to be open space and recreation. The stormwater runoff does drain to the north toward A Street. The berming on the south was discussed with Public Works and he does not believe it was acceptable. If they bermed it, they would have to figure out a way to not block the drainage.

Esseks wondered why there is water getting into this area from the west. Dennis Bartels of Public Works explained that we have to keep the water going downhill. This outlot being redeveloped was historically where the water drained from well over 100 acres to the culvert under A Street. This valley that has been filled to build the office building and the detention pond was the historical drainage area. It is physically impossible to keep all the water on your property. It is not unusual if the ditch is on private property.

Esseks wondered whether the city has made it worse by allowing drainage from the commercial development to the west. Bartels explained that when the shopping center was developed, that developer's professional engineer submitted a drainage plan, including some stormwater detention. According to their calculations, that drainage plan met the standard of the day, which has since changed. Their calculations were based our the standards in existence at that point in time, and their calculations showed that they did not increase the flow to this ditch (this outlot). The calculations and the map were based on calculations presented to Public Works by Mr. Geiger's engineer. We knew there were drainage concerns in this general vicinity. There has been a problem for a long time. The general guidance was to develop it if the development does not make the problem worse. It was assumed that it would make it worse on the neighbor's property and they were required to show it – it was .8 foot and Public Works determined that it was not satisfactory. Thus, the reason for this waiver request.

Response by the Applicant

Katt indicated that he does not know exactly what the neighbors said. They want the development but they don't. This is a problem property that we need to fix. His client has been very proactive in trying to find a reasonable solution, given the existing facts and given what he has to deal with. Over $15,000 of engineering fees were paid to Flatwater Group to study the problem. The real source of the problem is the undersized city culvert under A Street. The water can't get through fast enough. The city has a legal obligation to pass this stormwater through its road network and it has an undersized culvert. If the city would make the culvert big enough, this whole thing would drop down. Drainage is a problem in West A and has been for a long time. Katt suggested that this proposal improves the situation. As it sits today, water backs up on these lots if nothing is done.

This waiver means that water will sit for 20 minutes at most, in a 100-year event. He thinks that is a reasonable request. They can construct a berm and stop the water. Surface water, under Nebraska Law, is a common enemy that anyone can defend against. It will make their back yard soggy. We could fill their yards up. All of the solutions require cooperation from the neighbors. We think the best way to resolve this is to waive the stormwater requirement for this incremental small area and allow this development to go forward.

ACTION BY PLANNING COMMISSION: December 20, 2006

Carroll moved to deny, seconded by Esseks.

Carroll noted that when the original development set aside this land for green space, the discussion of flooding was then and it hasn't changed to now. We should not waive something that the developer agreed to when he developed the houses. It does severely push water onto property owners that it should not do.

Esseks hopes that the developer, the city and the property owner association can get together and solve the problem. Let's make every effort possible to achieve the goal. But he certainly cannot agree to enlarging an area where there is going to be standing stormwater, even for a short time. That would be a terrible precedent to set.

Motion to deny carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent. This is a recommendation to the City Council.
*** Break ***

ANNEXATION NO. 06020,
CHANGE OF ZONE NO. 06077
FROM AGR AGRICULTURAL RESIDENTIAL
TO R-3 RESIDENTIAL (Revised to R-1 Residential on 12/20/06)
and
SPECIAL PERMIT NO. 872F,
AMENDMENT TO THE FIRETHORN COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT S. 84TH STREET AND PIONEERS BLVD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: December 20, 2006

Members present: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson; Sunderman absent.

Staff recommendation: Approval of the annexation, subject to an annexation agreement; approval of the change of zone and conditional approval of the amendment to the community unit plan.

Ex Parte Communications: Strand disclosed that her stepdaughter was counsel to the applicants but that they had not had any ex parte communications and there is no financial interest to her family. Carlson disclosed a telephone message on his answering machine but he did not reach the caller.

Staff presentation: **Brian Will of Planning staff** submitted a letter in opposition from Dr. Steven Lehr, 9230 Pioneer Court. He also submitted a letter from the applicant revising the change of zone request to R-1 (as opposed to R-3) dated December 20, 2006.

Will presented the three applications, including an annexation and change of zone covering approximately 304 acres, and the community unit plan amendment, which covers an area of approximately 498 acres. The boundary of the special permit is different than the annexation and change of zone because the amendment to the community unit plan includes the property out to S. 98th and up to Van Dorn. Will noted that the annexation is a voluntary request by the developer. The city reviews these requests for consistency with the annexation policy of the Comprehensive Plan, and staff has found that this property is contiguous to the city limits and generally urban in character. The question is whether the city can provide this area with utilities.

Currently, the properties immediately adjacent to South 84th Street are in the city. The rest of the property to the east is not. Firethorn proper is served by a community well and septic system. The question becomes: How will the property be served by city sewer? Will explained that the community septic system currently has a pump station and collects the effluent and pumps it back to the southwest. The applicant is proposing to replace that pump station and force main, and pump the sewage back and connect to the city's sewer system located south of Pioneers east of South 84th Street. The staff has found that this proposal generally complies with the city's pump station policy. However, there are two significant areas where it does not - it is not in Priority A (but actually in Priority Area C), and thus is not currently or planned to be served, and it is not in the CIP. Staff is saying that it "generally" complies with the policy. And it certainly complies with the intent of the policy. It is an existing development. The developer is suggesting to make the improvements to the sewer and the water system at their cost, and it won't be a financial burden to the city. Based upon that, staff has made the finding that it is consistent with the Comprehensive Plan and is recommending conditional approval.

In reviewing the community unit plan, one of the questions becomes: if we can accommodate this development, is there a limitation on capacity? There is a limitation on capacity, but there does not appear to be any danger; however, the Planning staff has recommended a cap of 545 units on the community unit plan, which is the maximum amount the city can accommodate with the existing sewer system.

The only other issue is relative to the community unit plan and relates to an extension or connection with South 88th Street. There is opposition to this connection from other property owners in the area. Staff is suggesting that making that connection is consistent

with the Comprehensive Plan. Staff is recommending that South 88th Street be shown extended to the southern limit of the CUP.

Esseks inquired as to the implications of R-1 versus R-3 in terms of density. Will stated that R-3 allows upwards of 3,000 units. R-1 would accommodate approximately 1900 units, well in excess of what is being requested.

Esseks inquired about the comment in the staff report that having Firethorn within the city limits is a substantial benefit to the city. Will responded, stating that primarily, it is a development that is on the edge of the city that would be made a part of the community. Once annexed, then that portion of the city tax levy would be paid to the city. It would also come within the LPS school system versus the Waverly/Eagle school district. And the city would have additional water customers.

In relation to R-1 verus R-3, Carlson observed that the capacity of the sewer discharge is the controlling factor as opposed to the density. Will agreed. The CUP is regulating the density of the development and that is why the staff is recommending a cap as part of the CUP.

Proponents

1. Mark Palmer of Olsson Associates appeared on behalf of **Mark Wible**, managing member of **Firethorn Golf, LLC.** The homeowners have been kept informed of the negotiations through their Web site. There have been four neighborhood meetings. Each home owner is being assessed a $4,000 annexation fee. This totals about 30% of the actual annexation costs being incurred. The new developed lots will be covering the other 70% of the costs. The improvements will be the extension of a 16 inch water main along Pioneers Boulevard, internal 12 inch water mains and complete new 6 inch water mains to all existing homes. There will be new water services constructed to each of the existing homes. A new pump station and force main will be constructed. When all complete, the existing roadways will be new asphalt overlay. Mark Wible represented to the residents of Firethorn when this process began that he would not proceed with the annexation without a majority vote from the residents. A vote was taken on May 20th and showed a 77.5% approval of the annexation.

Palmer agreed with the conditions of approval set forth in the staff report, except for two changes:

> 1) The request submitted by the applicant today revising the change of zone request to R-1 is a result of neighborhood feedback. The applicant knew the density was being controlled by other means, and the R-1 (as opposed to R-3) can be accommodated in the new lots being developed.

2) Delete Condition #3.1.1.3 (the 88th Street connection). A lot of landscaping has occurred in this area. The neighbors are concerned that the existing trees would be removed and the aesthetics would be impacted by that street connection. The plan has been redesigned to provide for other access as described on the map.

Palmer also distributed an additional e-mail that Mark Wible sent to the homeowners earlier today, explaining this change. The question came up regarding the number of lots allowed. The limitation to 545 lots is a sewer capacity issue and is all that is being requested. If the developer is paying to upsize the sewer line, Firethorn should be eligible for that capacity. There are no plans for any additional lots, but there is reserve capacity for some time in the future.

Strand suggested that rather than delete Condition #.3.1.1.3, it should be revised to require a street connection to the west. Palmer pointed out that the plan is showing a street connection to the west but this developer does not own all the property. They will show the connection to the median opening, but this developer does not control the properties.

Esseks referred to Mr. Wible's e-mail noting the discussion about the conservation easements, and inquired about those that will be terminated. Wible explained that there are conservation easements over all portions of the golf course today. There are some minor portions that would need to be vacated as explained at the map. Esseks asked what steps would need to be taken to terminate a conservation easement. Wible stated that he is working with the Law Department to go through those steps and it will be included in the package that goes to the City Council with the annexation agreement.

If the connection to the south is removed, Carlson wanted to know what facilitates movements onto Pioneers Boulevard. Palmer explained that there would not be an access onto Pioneers. There are other areas around town that do not have through connectivity. The golf course somewhat limits the connectivity in this area.

2. Jeff Schumacher testified in support. He has been President of the Firethorn Homeowners committee. When Firethorn was established in the mid-80's, the covenants provided for a formal homeowners association, but unfortunately, it never got off the ground. When Mark Wible came in 2005, he asked Schumacher to chair a Firethorn homeowners committee, and four other members and Schumacher have been on that committee for the last couple of years. He explained the process that they have gone through. Their goal was to do what was in the best interest of the Firethorn homeowners. Some problems developed with the wetland system in early 2005, and at that point in time, they had to start looking at alternatives to rebuild or replace the wetland system. One of the other alternatives was to consider the annexation issue. They held four homeowner meetings, all of which were very well attended, and one of which was attended by Steve

Henrichsen of the Planning staff. About a year ago, they conducted a ballot vote, even though they are not a formal legal entity. 77% of the Firethorn homeowners authorized Mark Wible to proceed forward with the annexation. The property owners were also provided with a lot of financial information regarding the annexation.

3. Roger Massey, 4130 Taliesin Drive, which is located in the subdivision immediately to the south and next to 88th Street, testified in support. He expressed appreciation to the developer for working with his neighborhood to attempt to make sure that it is compatible with what they like to see in the area. He requested that the Planning Commission delete Condition #3.1.1.3, deleting the street connection to 88th Street. There is a letter in the record from the homeowners dated September 6th requesting that this connection be eliminated. He referred to the map on page 5 which shows where 88th Street comes north off of Pioneer. The 20 acres above it was school land and in the 1960's, LPS had a policy of land banking land in Stevens Creek in anticipation that it would be needed. That school land has since been declared excess by the schools. 88th Street was dedicated all the way to that school land, but the whole remaining section was agriculture at that time and the only way you could get to the school land was from Pioneers up 88th, and we were happy to do that. In the 70's the Planning Commission and City Council changed the zoning ordinance to allow a CUP in the AG district, so we have had development completed all the way over to 84th and now they are urbanizing to the north of us. He is not objecting to the additional development, but the platting of 88th Street from Pioneers up to that school land was for the school. There were two other means of egress provided and he urged the Commission to delete the 88th Street connection.

Opposition

1. Charlie Wright, 4020 Thorn Court (in Firethorn), testified in opposition. He will be requesting a two-week deferral because of the complexity of the issues involved and his need to do further research before finalizing his position. He submitted a letter dated September 20, 2005, and other correspondence he has had with Mr. Schumacher. The two principal issues are putting a pump station and force mains in an area that is designated Tier I, Priority C, when the provisions in the city's resolution and ordinances and the design standards say that these facilities are permitted only in Tier I, Priority A. He questions whether it is even proper for the Planning Commission to recommend a transfer from a C priority into a situation like this where that is pretty well etched in stone by the resolution and definitions. He understands that there is a 30-year plan but the specific definition of pump station design states very objectively that the transfer of wastewater from one watershed to another by any means, such as a lift station or construction of a sanitary sewer which runs through the edge of separating wetlands, shall not be permitted.
The other issue he wants to address needs some history. The resolution approving the Firethorn CUP required the developer in this case to enter into a contract with the city to operate and maintain the sanitary sewer system and the water system for the benefitted residents. This is the only thread that we as residents have. We have to have this sanitary sewer and we have to have the water. When we purchased our lots, that was part of the

deal, and we were aware that this was the requirement that the developer had promised to the city. What is happening is that Firethorn, in essence, wants to get out of the sanitary wastewater business and the water business and have the residents pay for a new system. Whether that will be allowed or not will depend in part upon the recommendation of this Planning Commission and the final decision on the zoning and annexation by the City Council. If that happens, we homeowners need to have some protection from the city as to how these costs are to be apportioned. There have been some attempts to discuss those matters. He believes that eventually they will reach an agreement, but it has not yet happened. He needs to have a comfortable feeling that these costs are going to be fairly apportioned among the people in Firethorn, including the golf course and the clubhouse.

In addition, the developer must demonstrate how the necessary infrastructure improvements could be provided and financed. Wright has had no information on how they are going to pay for it. He has requested information concerning the estimated cost of the new sewage treatment and water, information on the estimated cash flow, and information on how the costs will be allocated. He needs that information in order to assess his position on these applications. To his knowledge, there has been no explanation or meetings with the landowners since last April or May. During that time, there have been numerous meetings between the developer and staff and none of the information has been made available to the property owners.

Wright requested a two-week deferral.

2. Mike Donlan, 9270 Pioneer Court (located in the Fairway townhouse development on the south end of Firethorn), testified in opposition. He agrees with the change to R-1 zoning. But even with R-1 zoning, there will be an additional 400 units and up to 1700 units down the road, which severely increases the density in this area. Several months ago, the homeowners approved the development north of South 88th Street on the west side of Firethorn. The homeowners also approved the annexation of the entire area. He would like clarification as to why the entire Firethorn area is being changed from AGR to R-1. He is concerned about a change that does not address the future development that would severely impact the value of the existing properties. He wants some assurance that the golf course will not be abandoned, in part or in full, and turned it into another subdivision.

Response by Staff

With regard to the 88th Street connection, Will stated that staff is sensitive to the fact that maybe there are some improvements along the dedicated right-of-way to South 88th Street and it does not have to be at the specific location. It could perhaps be relocated to the east of the existing development. We need to be consistent in asking for these types of connections in terms of the Comprehensive Plan.

With regard to the pump station, Will suggested that it is important to bear in mind that the

pump station policy is just that – a policy. It was adopted to give us guidance but it is not a hard and fast rule. Staff is suggesting that this application generally complies, and complies with at least 19 of the 21 criteria.

With regard to revising the change of zone to R-1 as opposed to R-3, Will advised that this change does not require readvertising.

Esseks understands why the current owners of homes adjacent to the golf course are concerned that the conservation easement on the golf course can be terminated, making them next to urban density subdivisions. He asked Will whether he knew the status of those easements. Will stated that the intent is to have that process determined when this proposal goes to the City Council. He understands that it is a conservation easement granted to the City. It would be the City that would have to terminate it. Esseks believes that to be a very important provision in the annexation agreement. Will suggested that it is more important relative to the CUP in terms of the neighbors seeking some sort of long term guarantee of the golf course. The long term guarantee of the golf course is more an issue for the developer and the homeowners.

Esseks inquired at what point the Planning Commission can exercise the obligation to protect the interests of the property owners. Will suggested that it could be made a condition of approval on the CUP.

Carroll asked staff to explain again the difference between the boundaries of the annexation versus the CUP. Are we changing the zone on some of the property that we are not annexing? Will stated that all of the property being annexed is also being rezoned. All of the property within the CUP, however, is not being annexed and rezoned. Originally, the Firethorn CUP was defined by a certain boundary. This is an amendment to that original CUP. They are coming forward with an annexation and change of zone for something less than the CUP boundaries. The city was in agreement to something less because it does not include those adjacent arterial streets which are not improved and not planned to be improved. The area within the change of zone and annexation could be something less than what is being proposed; however, we need to make sure everyone served by city sewer and water are annexed.

Carroll confirmed that the owners to the east are not included in the annex but are included in the CUP. If those property owners would ask for annexation, why not include them now? Why would you allow Firethorn to have the controlling spectrum of the sewer and water versus the city? Will explained that Firethorn is making the improvements at their cost, and just about everyone that can be served is being included in the annexation. If there is another party that wants to be annexed and can be served or is willing to pay for the utilities, the city would be more than happy to include them. If they cannot be served,

either they have to extend those utilities to their property or join with Firethorn and connect to their private system. There has to be some cost-sharing mechanism and the city is not involved in that.

Carroll inquired whether any part of the new sewer or water system is going to be dedicated to the City. Will explained that the water line in Pioneers Boulevard will be a public system. The sewer system internal to Firethorn will remain private for the time-being, but it will connect to the public system south of Pioneers.

Palmer clarified that they are proposing a full public water system. The sewer system will be private and run by the Firethorn utility company. The water system will be dedicated to the city.

Carroll wondered whether the property owners on the east can get the water service if they want it. Will suggested that if they can be served by it, yes, they could be annexed without paying Firethorn.

Response by the Applicant

With regard to the conservation easement issue, Palmer explained that there are actually two separate conservation easements - one covering the new nine holes and one covering the original eighteen holes of the golf course. The criteria for the new nine is different than the original golf course. The conservation easement dissolves when city gravity sewer becomes available to the new nine holes and can be incorporated and potentially changed in use, but that is not until the Stevens Creek trunk sewer is connected. The conservation easement for the original 18 holes is 100 years. They are considering vacating a section of the conservation easement that will expire when the sewer comes there, and then some minor modifications to allow for a couple of lots to be moved around – nothing that takes away the use of the golf course or eliminates the use of the golf course.

Wible stated that he would not object to having the conservation easement re-established around the new homes. The golf course will be reconfigured on the north side and that is the portion that at some future date may sunset the conservation easement. The earliest that would occur is 2015, and only on the latest development within Firethorn. They do not plan to change any of the conservation easements on the original 18 holes and all existing homes, except where they are adding a couple lots here or there.

With regard to the costs of annexation, Palmer noted that Wible did represent to the home owners that there would be a cost of $4,000 per lot. The actual cost of the annexation to Firethorn over and above that $4,000 per lot has nearly been determined, and he estimated that there will be approximately $9,500 per lot that is being subsidized for each of the 129 existing lots and covered by the developer.

Palmer also explained that they need to change the zoning to residential because of the annexation into the City. We need to get all residential lots annexed to provide them with the public water service and fire protection. Firethorn is not currently at the city's required flow rates for fire protection so that is why they are annexing and changing the zone on all the lots.

With regard to the sewer, Palmer noted that the developer is agreeing to dedicate easements where future sewers would go. In the meantime this is a pump station operated and controlled by Firethorn.

With regard to the comments by Mr. Wright in opposition, Wible noted that the protective covenants on the property today allow for the owner (Wible) to charge back maintenance costs for the sewer infrastructure, water facilities, etc. The new development will have city water and will not have Firethorn water, but all of Firethorn will be served by the sanitary sewer, so the sewer costs will be apportioned to all of the lots, including the new lots. The new lots will not absorb any costs associated with the water system because it will be a city system.

Carlson inquired about the potential on 88th Street for any modifications that might avoid the improvements but still give a connection. Palmer does not believe there would be room on the east side to put a road through. He referred to HiMark to the south where there is no potential for any access from north to south. They looked at HiMark as being a precedent.

Palmer stated that the developer is not interested in a two-week delay, as requested by Mr. Wright. The cost is being capped at $4,000 per lot, with the standard assessments done by Firethorn utility company, but those assessments will diminish once they are out of the wastewater treatment business.

Wible advised that the committee assembled three highly respected financial people within the community to discuss the economics and whether it was an equitable distribution to the homeowners. This is what they arrived at and that was their recommendation back to the homeowner group.

ANNEXATION NO. 06020
ACTION BY PLANNING COMMISSION: December 20, 2006

Carroll moved approval, subject to an annexation agreement, seconded by Strand and carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 06077
ACTION BY PLANNING COMMISSION: December 20, 2006

Carroll moved approval of R-1, seconded by Strand and carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 872F
ACTION BY PLANNING COMMISSION: December 20, 2006

Esseks moved to approve the staff recommendation of conditional approval, with amendment adding a condition that the current conservation easement on the 18-hole golf course be retained, subject to minor modifications through agreement by the Planning Department. He wants to give property owners adjacent to the land some protection, seconded by Cornelius.

Carroll made a motion to amend to revise Condition #3.1.1.3 to "Show a street connection to Pioneers Boulevard.", seconded by Strand and carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent.

Main motion, as amended, carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent. This is final action, unless appealed to the City Council within 14 days.

ANNEXATION NO. 06021
and
CHANGE OF ZONE NO. 05054A,
AN AMENDMENT TO THE PRAIRIE VILLAGE NORTH
PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED
AT N. 84TH STREET AND ADAMS STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: December 20, 2006

Members present: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson; Sunderman absent.

Staff recommendation: Approval of the annexation, subject to an annexation agreement and conditional approval of the amendment to the PUD.

Ex Parte Communications: None.

Staff presentation: **Christy Eichorn of Planning staff** explained the proposed amendment to the Prairie Village North Planned Unit Development (PUD) located at North 84th and Adams Street. One of the major differences is that this proposal takes advantage of the

incentive criteria implemented in the new Comprehensive Plan to allow up to 600,000 square feet of commercial space. This proposed development now includes two big boxes of 175,000 square feet each, book-ending a "town center" type retail area proposed to be pedestrian friendly.

Eichorn explained that one of the major issues is the right-in/right-out being requested by the applicant. She suggested that one of the things to keep in mind is that this whole development is still conceptual and the site layout can be moved around. Public Works has taken the position that the developer should do a different job of rearranging to where they might not need the right-in/right-out because there will be an increase in traffic due to the increase in square footage for the commercial.

Proponents

1. Mike Eckert of Civil Design Group appeared on behalf of **Prairie Village Homes.** This is the proposal that follows through with the Comprehensive Plan Amendment on this same property where they shifted a neighborhood center on the south side of Adams and on the north side of Adams to become a community commercial center on the south side of Adams. The primary difference is the design, i.e. the two large retailers on each end of the development that would "book-end" the "town center" with a main street style shopping experience.

Eckert explained that the goal of doing a town center and all the changes that have been made was two-fold: 1) to create a more pedestrian oriented environment – there are nine criteria and this proposal is in conformance with almost all of them; and 2) to try to internalize more of the traffic trips. The idea now is that we have both of these boxes in a town center and some frontage pad sites all in one area to reduce the number of trips. He believes they have achieved this goal. The pm peak hour trips only went up 5%, with an increase of 300,000 square feet on both sides. They have deleted over 400 apartments in this plan. They were able to end up with a minimal increase in trip generation both by design and by removing some of the apartments. Of the 300,000 square feet added, only 116,000 was retail. A big chunk was office for the mixed use office use on the south side.

Eckert advised that Bob Gibbs, the Planning consultant that made a presentation in Lincoln a while back, was integral in helping tweak some of these design elements that he has seen working on a national level.

Eckert submitted proposed amendments to the conditions of approval as follows:

4.1.7 Make revisions consistent with Public Works - Development Services Division comments, with the exception of two items: 1) To remove the objection to the right-in, right-out movements as shown at Drive "A" and Drive "C" with the understanding that the turn-lanes to accommodate these drives will be the

responsibility of the developer and that a sufficient length for deceleration and storage will need to be provided per AASHTO standards; and 2) To amend the language in the "Water Main" section of the memo (2.1) to state that the proposed 16" water main in Adams Street from west of 84th Street will need to be in place, *under contract*, or under construction prior to the approval of any final plat in the PUD.

~~4.1.9 Delete comments to General Notes as addressed in LES memo dated November 21, 2006.~~

~~4.1.30 Remove Drives A and C from the Site Plan.~~

With regard to deleting Condition #4.1.9, Eckert stated that there is a note on the site plan that talks about the consolidation of two different power lines on North 84th Street. The previous annexation agreement for this property states that all parties would contribute to the relocation of this line. Eckert would prefer to leave this language in the existing annexation agreement.

With regard to deleting Condition #4.1.30, the right-in/right-out issue, Eckert explained that Drive A is located approximately 665' from the intersection and Drive C is about 640' from the quarter mile point. They believe they are providing really good spacing. Eckert referred to other comparable examples where these right-in/right-outs have been allowed, such as South Pointe, North 27th and Superior Street, 27th & Yankee Hill Road (Wilderness Hills Addition and Williamson Honda), and 48th & O Street. Bob Gibbs has suggested that the right-in/right-outs are key – it is important for people to have those access points when they are not going to do anything in the town center. Deleting the right-in/right-outs destroys the town center concept. If we have to move the intersection further back into the center or make much more adjustment, we would probably destroy any kind of east-west main street effect with only one main street effect going north/south. Based on Bob Gibbs' recommendation, along with the fact that we have them all over town, Eckert requested to amend Condition #4.1.7 as stated above, and to delete Condition #4.1.30.

Larson inquired about the big box users. Eckert confirmed that the boxes would be limited to 175,000 square feet and they are committed to maintaining office users on the north side of Adams as well as on the south side against 87th Street. This is in agreement with the church.

Larson believes the citizens have spoken and he does not want either of the two large pad sites to accommodate a Walmart. Eckert's response was that the only limitation now is a square foot limitation per box.

Opposition

1. Randy Hoskins, Assistant City Engineer, testified in opposition to allowing the right-in/right-out accesses. He reminded the Commission that the recently adopted Comprehensive Plan does contain stronger language about access management than the past plan. With regard to "Principal Arterial", the Comprehensive Plan states that:

> Managing and controlling access to these types of roadways is very important. This access must respect and reflect the land uses and development context adjacent to each principal arterial. For example, managing and controlling access to and from a roadway in the "built environment" differs from that in developing locations, because of the varying character of these areas.

84th Street in this area is a principal arterial and it has been looked at as a 6-lane roadway at some point in the future. With regard to Mr. Eckert's reference to 48th & O as an example, Hoskins stressed that 48th and O was not a virgin site where you can do a lot of things. They previously had access to that site so it was more or less figuring out a way to get the best access and maintaining the access it had in the past.

In addition, Hoskins advised that when 84th Street was built, it was built with federal funding. At the time that right-of-way was purchased, access control was also purchased. At that time, they looked at quarter mile access points where the median breaks exist now. In order for development to add access points, not only will they need to purchase, but they will also have to have approval of the FAA.

As near as he can tell, Hoskins believes that the whole purpose for these two right-in/right-out driveways seems to be the internal site access. Public Works is looking at what that impact is on the 84th Street traffic already moving up and down the road, which will be increased by these developments. The revised traffic study talked about 85th Street and Driveway B on the plan. With the right-in/right-out driveways, that operates at level of service B, and operates at C or D without the right-in-/right-out driveways. That is an internal site driveway with C and D impacts. Their traffic study shows C, D and E impacts on 84th Street itself.

In addition, Hoskins observed that there will be more through traffic than right-turns, so the green time for through traffic will exceed what is needed for right turns. There will be no signal impact.

Hoskins also suggested that the right-in-/right-out at the North 40 Plaza is for a different purpose because the residents that lived next to the golf course did not want to be inconvenienced by lights flashing into their homes. However, Public Works also opposed that. At this location, however, there are none of those similar characteristics. There are no residents being impacted by the lights.

Larson asked Hoskins to explain what Public Works is advocating. Hoskins clarified that Public Works is requesting that the quarter mile access points that were originally set up for access to and from those locations be maintained as the access points and that no other access points on 84th Street be granted.

Esseks inquired about the configuration for Walmart at Highway 2. Hoskins stated that it ended up being approved with quarter-mile spacing, which he is advocating for this proposal. Highway 2 at that location, however, should have been maintained at ½ mile spacing.

Dennis Bartels of Public Works stated that the applicant's proposed amendment to Condition #4.1.7 is satisfactory. It relates to the final plat. They will need water mains in place before they can get building permits, which are in the CIP now.

Eichorn agreed with the applicant's request to delete Condition #4.1.9.

With regard to the right-in-/right-out issue, Carlson observed that, based upon the Comprehensive Plan, everyone is in favor of the town center concept. Eichorn suggested that the key is that this is a conceptual plan and what you see here is not necessarily exactly how it will be laid out. Until we have more site plan amendments, we do not know whether those right-in/right-out driveways will be necessary.

Larson does not understand why a full intersection would ruin the town center concept. Eckert explained that they are trying to avoid the amount of traffic coming in and out of the main entrance, and the amount of stacking that would be required might move the intersection further in and it would get into the area for the optimal location of the town center.

Esseks believes that this development will get a lot of their customers at the end of the day heading north, but they do present a traffic hazard. Is there any engineering solution such as asking them to pay for an entire lane, such as a fourth lane on the east side? Hoskins didn't think that would be a terrible idea, but a "right turn lane in" would get most of the traffic out of the way. If the lane is long enough, you will not have traffic slowing down in the 50 mph traffic. The greater concern would be those folks exiting out into 50 mph. If we were to put in an extra lane running the entire way that would afford folks the opportunity to better get up to speed prior to moving out into the through lanes, so it could help out from that standpoint.

Response by the Applicant

Eckert noted that there is a large segment in the Comprehensive Plan that encourages more pedestrian-oriented development and that is what they are trying to achieve here. The location of this site dictates that most of the movements coming out of the shopping center are going back south. As far as the right-out movement creating a hazard, the peak

hour site trips are 34 trips going out and 196 going in; the south right-in/right-out shows only 12 peak hour trips going back north but 249 utilizing it on the way in. Most of this traffic is coming from the south and would have to go back out through the major points. Allowing them two extra access points frees up that much more in-traffic.

The idea of doing a full turn lane, if justified by the traffic study, might have some merit, but it clearly does not justify it. We want to protect what we have designed. This is not Hwy 2. This is not a state highway. It is an internal urban arterial. Eckert believes the right-in/right-outs are a critical component of this town center development.

Strand asked Eckert whether his client would object to adding an extra acceleration/deceleration lane going into the two right-in/right-outs? Eckert indicated that they would be willing to evaluate the acceleration lane out, depending on the distance. Strand observed that she has also witnessed 70th & Pioneer where people use the deceleration lane as a way to go around on the right and it is quite a hazard. She also pointed out that Mr. Gibbs also commented that these town centers often cause a little controversy for traffic engineers. Eckert stated that it reminds him of new urbanism – there are good planning ideas which do not always fit perfectly with the standards of Public Works.

Larson confirmed that there are deceleration lanes on 84th, but not acceleration lanes. Eckert agreed. For the vehicles proceeding northward, there will be a taper segment and then a 300' turn lane. As you come out, it is a merge into the existing two lanes.

ANNEXATION NO. 06021
ACTION BY PLANNING COMMISSION: December 20, 2006

Carroll moved approval, subject to an annexation agreement, seconded by Strand and carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 05054A
ACTION BY PLANNING COMMISSION: December 20, 2006

Carroll moved to approve the staff recommendation of conditional approval, with the amendments requested by the applicant, seconded by Strand.

Strand assumes that the AASHTO standards may dictate that there needs to be an acceleration lane.

Carlson expressed appreciation to the applicant for working with Mr. Gibbs. He thinks this will provide retail in that part of town that will be attractive and good for everybody.

Motion for conditional approval, with amendments, carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent. This is a recommendation to the City Council.

Happy Holidays!

There being no further business, the meeting was adjourned at 4:15 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on January 3, 2007.

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