MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, May 9, 2007, 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, Roger Larson, Mary Strand, Lynn Sunderman and Tommy Taylor (Gerry Krieser absent). Marvin Krout, Ray Hill, Mike DeKalb, Brian Will, Tom Cajka, Christy Eichorn, Brandon Garrett, 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 April 25, 2007. Motion for approval made by Taylor, seconded by Carroll and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Krieser absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: May 9, 2007

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

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 07009; CHANGE OF ZONE NO. 07023; CHANGE OF ZONE NO. 2938B; CHANGE OF ZONE NO. 07021; CHANGE OF ZONE NO. 07024; USE PERMIT NO. 154C, Wilderness Hills Commercial Center; USE PERMIT NO. 123E, Landmark Corporate Center; SPECIAL PERMIT NO. 07012; STREET AND ALLEY VACATION NO. 07005; and STREET AND ALLEY VACATION NO. 07006.**

Ex Parte Communications: None.

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

Note: This is final action on Comprehensive Plan Conformance No. 07009, Use Permit No. 154C, Use Permit No. 123E and Special Permit No. 07012, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 07022
FROM R-6 RESIDENTIAL DISTRICT
TO B-4 LINCOLN CENTER BUSINESS DISTRICT
ON PROPERTY GENERALLY LOCATED
AT SOUTH 19TH STREET AND L STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 9, 2007

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

Staff recommendation: Approval, subject to a zoning agreement.

Ex Parte Communications: None.

Staff presentation: Christy Eichorn of Planning staff advised that the city staff does not object to a change of zone from R-6 to B-4 as it generally conforms with the Comprehensive Plan, the Antelope Valley Redevelopment Plan and the Downtown Master Plan; however, the staff does have some concerns.

Eichorn pointed out that the B-4 District is pretty open. The zoning ordinance states that it is "....intended that relationships between permitted functions will be carefully developed, and the need for access, circulation and amenities will be given special attention." It is important to understand the B-4 possibilities.

Eichorn also pointed out that there are four purposes of the Antelope Valley Redevelopment Plan and Design Standards, i.e. to support the development and conservation of livable neighborhoods; to strengthen Downtown Lincoln and UNL; to provide direction for shaping infill development in east Downtown and surrounding residential neighborhoods; and to leverage the public's large investment in flood control. Eichorn reminded the Commission that there is a purpose and design for this area. It is important to understand that the City has spent so much time and energy into getting this vision and that we cannot ignore the design standards and Redevelopment Plan of this area when other changes are requested.

Eichorn pointed out that on December 20, 2006, the Planning Commission heard an application for change of zone from R-6 and R-7 to B-4 on property located northwest of this requested change to B-4. In that situation, we talked about how it was a key block in the Antelope Valley plan; that 19th Street is to become the terminus of the north/south boulevard for Antelope Valley; and that the corner of this block should be developed to

reflect the goals of the Downtown Master Plan. That applicant was asked to bring a zoning agreement forward, and the application was withdrawn by the applicant after that hearing.

Eichorn also advised that another development is occurring in this area, i.e. Hamilton College is looking to expand, and the City anticipates receiving a site plan from them in the near future and hopes to work together to come up with a common vision for this block that is in conformance with the Antelope Valley Redevelopment Plan.

Eichorn noted that the applicant on this change of zone wants assurances of zoning before investing in detailed design work. Therefore, the staff is recommending approval of the change of zone conditioned upon a zoning agreement as set forth in the staff report.

Additional information for the record: Eichorn submitted a letter in support from Fernando Pages, who owns the property at 1941 and 1943 K Street and 505 So. 20th Street, directly across the street from this change of zone requests. Mr. Pages suggests that the entire block be changed from R-6 to B-4. Eichorn clarified that the multiple family dwelling on the southeast corner is the only property not included in this change of zone.

Strand referred to the auto body shop in this area that was approved by the City Council and it was confirmed that a development agreement accompanied that change of zone. Upon further discussion, Eichorn acknowledged that the Antelope Valley design standards are still in draft form and have not yet been adopted. The Redevelopment Plan does address these standards, but they have not been adopted.

Carroll inquired about the property that is not included in the change of zone. Eichorn explained that it was left out because the applicant did not include it in the change of zone request and this applicant does not own that property. Fernando Pages does not own that property either. The Planning Department did not contact the owner of the multiple family dwelling.

Proponents

1. Fred Hoppe explained that he and his brother are proposing to redevelop the majority of the block between 19th, 20th, K and L into a signature office building over street level commercial, together with a banquet hall and meeting space. They do have a letter of intent from one tenant and the uses of the building are intended to be complementary to the Capitol and associations that would use the banquet hall in conjunction with their office uses and their association headquarter type uses in that building. The first floor will be commercial uses, but the two main uses are banquet hall and office space to complement each other.

Hoppe submitted that the proposed uses will very much complement the Antelope Valley Redevelopment Plan, particularly the initiation of the south end of 19th Street. The banquet hall use requires the B-4 zoning. As a matter of fact, Hoppe advised that the B-4 zoning

was recommended to the applicant by the Director of Planning.

In regard to Antelope Valley and dealing with the future land uses for east Downtown, Hoppe pointed out that this is intended to be a mixed use streetscape oriented infill development. The future land use designations would encourage mixes of uses, i.e. offices, retail and services. And that is exactly what is being proposed here. Under the future land use patterns for mixed use, the proximity of these blocks (K and L) with the State Capitol provides for government or statewide association facilities. This will be a mixed use facility with a service hall for banquets, as well as office, and commercial on the first level. This will be a complement to Antelope Valley and will be an extreme enhancement, both aesthetically and practically, to that area.

Hoppe reiterated that they do have one letter of intent that is an association for this space.

Hoppe expressed concern about the conditions being required in a zoning agreement. He believes the design will greatly enhance the area. Two of the conditions suggested in the staff report restrict or lessen the on-site parking, and parking on-site could be an issue. Hoppe believes that the parking issues could be met in different ways, such as the screening that is being proposed.

Hoppe is also opposed to the condition that does not allow an entrance to the property half-way down the block on L Street, which is the logical location for an entrance.

Hoppe requested that the change of zone be approved, without the conditions and zoning agreement.

He also advised that the intent for the visual impact along L Street will be the banquet hall as a signature area for the associations. The building will be aesthetically pleasing with the streetscape along 19th, but the setbacks being required by the staff are too limited.

Larson inquired as to the entrances and exits besides L Street. Hoppe explained that the principal entrance will be on 19th Street into the lobby. They are proposing a vehicle entrance off of L Street at the half-way point, and an entrance off of K Street at the half-way point. They will undoubtedly have to vacate the alley to provide an entrance as well.

Esseks inquired how the proposed plan conflicts with the conditions being recommended by staff. Hoppe reiterated that the setback requirements are a problem. He believes there is ample setback to the property lines. The staff is requiring an additional setback of 20' for most of the parking, which removes a substantial number of parking spaces. The entry off of L Street comes in at the half-way point. The staff recommendation would require them to shift the entrance off of L Street back so that it would be in the east half as opposed to the midway point.

Hoppe believes that Condition #1 is substantially met by their designs.

Esseks inquired as to the normal setback for parking in this part of the city. Hoppe suggested that there is no setback for parking in the B-4 requirements. The property line goes to the front of the building lines. The building lines would be set right on the property. The sidewalks would be in the right-of-way, and that is part of the streetscape proposals that are part of the Antelope Valley Plan. The sidewalk would be in addition to the 20' setback being requested. The applicant would prefer to keep the parking at the edge of their property line and provide some sort of screening.

Esseks inquired what difference moving the entrance to the east on L Street would make to the viability of the project. Hoppe's response was that, "it just works where it is now as designed. It would require moving the parking lane over."

There was no testimony in opposition.

Staff response

Eichorn advised that this is the first time she has had the opportunity to see the site plan, but it appears that the staff would not have a whole lot of objections, and the zoning agreement would allow more understanding and a guarantee of what will be developed. The zoning agreement would also give staff and the applicant an opportunity to work through some of the concerns the staff is seeing. There are some details that should and could be handled in the zoning agreement.

Marvin Krout, Director of Planning, acknowledged that various departments did see conceptual plans for this property earlier, but he had not seen this specific site plan until today. He advised that the intent of the proposed condition for the access on L Street was to locate it to the half block and have substantial part of the west half of the block not interrupted by a driveway. However, he stated that placing it in the centerline of that block is acceptable.

Krout also agreed to make the adjustment that the minimum buffer width for the parking be 6' instead of 20'. He is not sure whether they intend to not have a 6' setback for parking. If the alley is going to be vacated, and if the lot is more than 150' in depth (which it will be), the City's design standards require a 6' setback for parking for any combination of berms or low walls or screening.

There was some discussion about how to change the staff recommendation. Carroll does not believe it is fair to require staff to be specific at this point and he suggested that it could be resolved between now and City Council.

Larson began asking questions about the traffic movements and parking at the intersection of K Street and 19th Street. Krout advised that this change of zone does not include a review of how we treat the right-of-way. In earlier meetings, the applicant has requested to do diagonal parking along that block face in order to attract tenants for the retail on the

ground floor. Public Works did have problems with it because this is a major north/south boulevard that is being constructed with six lanes. But that is not an issue before the Planning Commission because it is in the right-of-way, which is a separate issue from the zoning.

Dennis Bartels of Public Works offered that Public Works is concerned about the diagonal parking on 19th Street because it is a major intersection. The initial design would have dual left turns off of K Street onto 19th Street, and the design is set up to accommodate triple turns for future traffic. Public Works did not believe that any parking maneuvering that close to turning movements would be safe.

Esseks suggested that in lieu of the design standards for Antelope Valley, there is a need to maintain the practice of requiring zoning agreements which impose some minimum standards until those overall design standards are legislated. Eichorn suggested that the condition of approval requiring a zoning agreement would address the three important and major standards set forth in the staff report.

Response by the Applicant

Hoppe suggested that if the design standards of the B-4 District require a 6' setback, there is no need for a zoning agreement. They would be required to meet the requirements of the zoning district. He also acknowledged that there will be a need to address the issue of on-street parking, but that is outside the boundaries of this B-4 request. Anything on the first level will require on-street parking.

As to the issue of a zoning agreement, Hoppe suggested that it circumvents the public processes of developing the design standards for Antelope Valley and pushes this applicant to reach an agreement with staff. B-4 has its own standards and Hoppe believes that he has presented a project that conforms to those standards. He reiterated his request that there be no requirement for a zoning agreement.

ACTION BY PLANNING COMMISSION: May 9, 2007

Carroll moved approval, with conditions, seconded by Taylor. Carroll pointed out that the only condition is the zoning agreement. The staff has not have time to review the site plan. He knows the applicant does not want to invest before getting the zoning, but he wants the security that it will look like it belongs in the Antelope Valley project. The applicant is asking for a “leap of faith” without the zoning agreement. He believes that the staff will make some changes and will work with the applicant on the design. He does not believe it is that much of a burden on the applicant.

Strand suggested a friendly amendment to change #2 from 20' to 6'. Carlson believes that the motion only includes the condition of approval on p.129: “That the owner sign a Zoning

Agreement with the City providing assurance that redevelopment of this block will meet the parameters listed above." He suggested that the specific directions can come from the minutes.

Carroll does not believe #1, #2 and #3 on Page 128 are the conditions. The only condition of approval is a requirement to sign a zoning agreement. This can be negotiated with the staff.

Strand is not comfortable approving it because the language says it will reach the "parameters listed above".

Esseks observed that it looks as though there is agreement between the developer and the Planning Director. The Planning Director has said he can put the access on L Street half way in the block, and the Planning Director says he will accept 6' because that is the normal setback from the sidewalk in B-4. It looks like the conditions can be met. He supports providing some parameters, and then the developer and staff can work within those parameters.

Carlson suggested that any controversy or difficulty will be worked out at Council.

Krout indicated that he has no problem with a friendly motion to amend to indicate that the parking setback would be reduced to 6' on all frontages and the access on L Street would be moved to the east to the centerline of the block. That makes the intent clear and the concerns of the applicant clear. We are trying to create the basic building envelope for this development.

Carroll indicated that his motion to approve includes the changes agreed upon by the Director of Planning.

Motion for approval, subject to a zoning agreement, with amendments to reduce the parking setback to 6' on all frontages and to move the access on L Street to the east to the centerline of the block, carried 8-0: Strand, Carroll, Taylor, Esseks, Cornelius, Sunderman, Larson and Carlson voting 'yes'; Krieser absent. <u>This is a recommendation to the City Council.</u>

COUNTY SPECIAL PERMIT NO. 07011
WILD ACRES COMMUNITY UNIT PLAN
ON PROPERTY GENERALLY LOCATED
AT N. 14TH STREET AND ASHLAND ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 9, 2007

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

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Staff presentation: Mike DeKalb of Planning staff explained that this application is an AG cluster community unit plan with 16 acreage lots, including a 20% bonus for preservation of farm land. It is located in the very north part of the County on a 270 acre parcel. Ashland Road is the north Lancaster County line, three miles west of Hwy 77. The property is shown as AG in the Comprehensive Plan. 14th Street is a paved north/south County road. The north boundary is Ashland Road, which is mostly under the jurisdiction of the Road Superintendent for Saunders County. It is a dirt road, the western end being currently under construction by Lancaster County. The west side is a gravel Lancaster County road.

DeKalb suggested that if the applicant is claiming the 20% bonus for preservation of farmland, the staff is suggesting that Outlot A is not preservation of farmland. Thus, the requirement in Condition #3.8 to "Reduce the size of Lots 15 and 16 to be similar in size to the other lots and an outlot reserved for agriculture".

Condition #3.6 requires an extension of Wild Acre Road to the west and a new north/south road connecting Wild Acre Road to Ashland Road. Some connection to the west needs to be provided.

Carroll observed that if the applicant is being asked to preserve the farm land to the west, then they would not be able to build any residential on that land. DeKalb agreed. If they chose to put two lots on the west end and preserve the bulk of the two big lots, that would serve the same purpose but not as much as we would like. Carroll does not understand the need for the access road going west if they cannot build there. DeKalb explained that it is an effort to provide long term access to land for any future purpose.

Esseks referred to the County zoning resolution relating to a 20% density bonus for the preservation of agricultural land. He agrees that there needs to be some parcel that is either cultivated or pasture to qualify. It cannot be land that is going to be flooded. Given that condition, is there something in the staff recommendation which will make that condition a reality? DeKalb again referred to Condition #3.8 which requires that Lots 15

and 16 be reduced in size. Esseks wondered why they must be similar in size. DeKalb explained that the point would be to minimize the size of the lots and maximize the size of the agricultural land. He does not want to see any 10 acre lots.

Proponents

1. Lyle Loth of ESP appeared on behalf of **Keith Stewart,** the applicant. In addition to the issues addressed by Mr. DeKalb, he suggested that the applicant also has an issue with Condition #3.7 dealing with renaming the streets. He believes this condition should be deleted because the property is on the east side of 1st Street.

With regard to Condition #3.8 to reduce the size of Lots 15 and 16, Loth indicated that the applicant would prefer to cluster Lots 15 and 16 to the very west edge of the project, taking access to N.W. 1st Street, which is a gravel road. They would then be designated as Outlot B reserved for agricultural land uses, and with the 60' wide finger, it could provide for a future access if some other future use would require that connection. The access out to Ashland Road is shown and that location would be primarily dictated by sight distance considerations. That could be shifted one way or another. The applicant has not spoken directly with the Superintendent of Saunders County about improvements to Ashland Road, but Loth believes that all he is really talking about is upgrading it to a passable road that would be rocked and essentially a secondary access. The applicant agrees.

Opposition

1. Alan Dzerk, 23300 N. 14th Street, testified that he is not really opposed but he has some concerns about where the road entry off 14th would be located. He is concerned about it being at the top of the hill. It is not a straight corner on 14th and Ashland Road – the road veers off at an angle. He wondered if any of the triangle could be incorporated to help the traffic flow into and out of this area.

2. Rick Wyrens, 360 County Road 21 (N. 14th), expressed his reservations about this project, that being the fact that they are asking for approval without any restrictions or stipulations on the type of building styles without improvements to the property. Someone could go in there with a mobile home or a tent as it sits now. He also expressed reservations about the fact that there are farming uses in the area. Are the residents in this development going to have a problem with noise, barking dogs, moving cows, etc.? He has reservations about the sites that are not included, such as the large area to the west of Lots 15 and 16. Will there be more lots going in there with more people? He pointed out that the property is in a 10-year floodplain. That is why the dam was built. He has seen it flood. He is concerned about there being no stipulations on the property as far as stormwater detention or retention. This area is farmable now. It is on a hillside with

terraces. What is going to happen when they start to grade the property? Do they have to maintain the terracing? If there is no stipulation on stormwater detention, then they can apparently take the terraces away causing runoff down to the dam. That dam is there for a purpose – to retain the water running off of a large area.

Wyrens also expressed concerns about the location of the access to these properties. The area being discussed is the "S" curve which already has safety problems. The access to the area probably needs to be moved further south, not towards the top of the hill. If there is no stipulation on landscape screening or ornamental lighting, sidewalks, etc., and there is no restriction on the size or cost of the housing being developed, will this increase or decrease property values?

Wyrens advised that he is also speaking for the neighbors around him.

Staff response

DeKalb confirmed that a tent would not be allowed. All dwellings have to meet minimum housing code.

With regard to the access to N. 14th Street, the Lancaster County Engineer did indicate that the road had to be shifted to the top of the hill.

As far as additional lots, this proposal maximizes the density of 1 per 20. All of the lots are accounted for, so unless there is a change of zone or some other zoning action, there will not be additional acreages.

DeKalb also clarified that this property is not in a mapped floodplain. In the watershed master plan type of approach as far as runoff, acreages tend to be better than the standard.

Regarding the possibility of additional lots, Esseks inquired of DeKalb whether in his long experience in the county, there been a case where after a parcel has been rezoned to a cluster development with a bonus, that the County Board has come along and allowed housing on the outlots. DeKalb answered "no". He has seen one occasion of a change of zone from AG to AGR, but the acreage cluster still meets the density of 23 dwelling units per square mile and the change of zone was not approved. In a transition case you would anticipate that eventually the city would get there and there would be amendments to the Comprehensive Plan, etc. But, this is 10 miles north of Lincoln and he does not expect that scenario.

Upon further discussion, DeKalb agreed with Mr. Loth's comments and the only change needed in the conditions of approval is to delete Condition #3.7.

Response by the Applicant

Loth clarified that there will be covenants on this project to preserve the type, quality and size of the homes being built. He also pointed to the general notes on the plan:

> Note #14 provides that, "This acreage development (I) is not entitled to extra buffering protection greater than the acreage property lines from existing agricultural practices and from future urbanization and (ii) waives any future right to protest the creation of lawful centralized sanitary sewer, water and paving special assessment districts or other lawful financing methods at a later date when urbanization is appropriate."
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> Note #15 is a note to Future Lot Owners: "Please be advised that this subdivision is in a rural area surrounded by farming activities and other uses permitted in the AG zoning district. Normal and customary farming operations and other permitted uses shall not constitute a nuisance".
>
> Note #16 provides that "Junk Cars" shall be prohibited.

With regard to erosion and sediment control, Loth advised that there is a 120' permanent grass buffer strip completely around the lake, and that is being preserved to prevent significant siltation and erosion.

Esseks inquired when prospective buyers read that warning that they are going into an agricultural area. Loth believes that that notification and such things as a water report, soil report, etc., are part of a package that is given to the future lot owner by the realtors involved in marketing the lots. Mr. Stewart, the applicant, confirmed that as soon as people are interested in the property, the covenants are presented to the them. They are disclosed well in advance of any offers. Esseks believes it could make the life of farmers more tolerable if the residents know ahead of time. Stewart also confirmed that there will be covenants restricting manufactured housing, etc.

Larson commented that the right to farm conditions are noted in the Comprehensive Plan anyway.

ACTION BY PLANNING COMMISSION: May 9, 2007

Carroll moved approval, with conditions, with amendment to delete Condition #3.7, seconded by Cornelius and carried 8-0: Strand, Carroll, Taylor, Esseks, Cornelius, Sunderman, Larson and Carlson voting 'yes'; Krieser absent. This is a recommendation to the Lancaster County Board.

Chair Carlson noted that the special public hearing on the CIP/TIP will be held next Wednesday, May 16, 2007, at 1:00 p.m.

There being no further business, the meeting was adjourned at 2:10 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on May 23, 2007.

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