MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, September 26, 2007, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Leirion Gaylor-Baird, Gene Carroll, Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Robert Moline, Lynn Sunderman and Tommy Taylor; Marvin Krout, Ray Hill, Mike DeKalb, Brian Will, Kent Morgan, Sara Hartzell, Mike Brienzo, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Chair Gene Carroll called the meeting to order and requested a motion approving the minutes for the regular meeting held September 12, 2007. Motion for approval made by Taylor, seconded by Sunderman and carried 6-0: Carroll, Cornelius, Esseks, Larson, Sunderman and Taylor voting 'yes'; Gaylor-Baird, Francis and Moline abstaining.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: August 29, 2007

Members present: Gaylor-Baird, Carroll, Cornelius, Esseks, Francis, Larson, Moline, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 07037: SPECIAL PERMIT NO. 07038; and CITY SPECIAL PERMIT NO. 07041 and COUNTY SPECIAL PERMIT NO. 07042, Fox Trail Estates Community Unit Plan.**

Ex Parte Communications: None.

Item No. 1.2, Special Permit No. 07038, and Item No. 1.3a and 1.3b, City Special Permit No. 07031 and County Special Permit No. 07042, were removed from the Consent Agenda and scheduled for separate public hearing.

Taylor moved to approve the remaining Consent Agenda, seconded by Cornelius and carried 9-0: Gaylor-Baird, Carroll, Cornelius, Esseks, Francis, Larson, Moline, Sunderman and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 07037, 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.

REQUESTS FOR DEFERRAL:

COUNTY CHANGE OF ZONE NO. 07052,
COUNTY SPECIAL PERMIT NO. 07039,
PARKLAND ESTATES COMMUNITY UNIT PLAN,
and
COUNTY SPECIAL PERMIT NO. 07040,
ON PROPERTY GENERALLY LOCATED
AT N.W. 118TH STREET AND W. FLETCHER AVENUE.
REQUEST FOR DEFERRAL: September 26, 2007

Members present: Esseks, Sunderman, Cornelius, Taylor, Larson, Gaylor-Baird, Francis, Moline and Carroll.

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

Cornelius moved to defer, with continued public hearing and action scheduled for October 24, 2007, seconded by Esseks and carried 9-0: Esseks, Sunderman, Cornelius, Taylor, Larson, Gaylor-Baird, Francis, Moline and Carroll voting 'yes'.

There was no public testimony.

SPECIAL PERMIT NO. 07038
FOR AUTHORITY TO SELL ALCOHOLIC BEVERAGES
FOR CONSUMPTION ON THE PREMISES
ON PROPERTY GENERALLY LOCATED
AT N. 59TH AND ADAMS STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 26, 2007

Members present: Esseks, Sunderman, Cornelius, Taylor, Larson, Gaylor-Baird, Francis, Moline and Carroll.

Ex Parte Communications: None.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda and had separate public hearing due to a letter received in opposition.

Staff presentation: **Brian Will of Planning staff** explained that this is a request for a special permit to allow sale of alcohol for consumption on the premises located at 5925 Adams Street (the former Hinky Dinky grocery store site), bounded on the north by Adams, by 59th Street on the west, by Cleveland Avenue on the south, and by 60th Street to the east. Only a portion of the building will be authorized for the sale of alcohol. This request meets the requirements of the zoning ordinance. Staff is recommending conditional approval, subject to a revised site plan for some minor adjustments to the notes on the plan.

Gaylor-Baird inquired whether approval of this permit today would allow the owner to begin serving drinks tomorrow regardless of whether or not the social hall comes to pass. Will answered in the affirmative, stating that the property is zoned B-1. It is the staff's understanding that the intended use is a social hall; however, any permitted use within the B-1 zoning district could go into that premises, so it would not be limited to the social hall. Yes, it could be a bar. A special permit authorizing the sale of alcohol is required prior to the business being in place.

Esseks asked why the staff is recommending approval. Will's response was that the zoning ordinance sets forth fairly specific and explicit requirements for both on-sale and off-sale special permits. The presumption is that if the applicant meets those requirements, the use would be presumed to be compatible, barring some overriding factor. In this case, the application meets all of the ordinance requirements.

Esseks asked Will to recite two or three of the requirements that are particularly appropriate for the welfare of the people in the area. Will explained that there are several criteria required in an attempt to insure compatibility to those uses where alcohol is a component. The primary criteria are some sort of separation distance (100' in this case), or if a door were to face that residential district it is 150', as well a adequate on-street parking, etc.

Proponents

1. Andrew Loudon, of the Baylor Evnen law firm, appeared on behalf of the applicant. He indicated that they have received comments and concerns from the neighbors and he requested that this matter be deferred for two weeks for the applicant to have a meeting at the site next week for any neighbors with concerns about this proposal.

Opposition

1. Jerry Henrichs, 2902 N. 60th, his property being 101' feet from the proposal, testified in opposition. He was encouraged by the request to have a neighborhood meeting.

Taylor moved to defer two weeks, with continued public hearing and action scheduled for

October 10, 2007, seconded by Cornelius and carried 9-0: Esseks, Sunderman, Cornelius, Taylor, Larson, Gaylor-Baird, Francis, Moline and Carroll voting 'yes'.

CITY SPECIAL PERMIT NO. 07041
and
COUNTY SPECIAL PERMIT NO. 07042,
FOX TRAIL ESTATES COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED AT
S.W. 56TH STREET AND OLD CHENEY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 26, 2007

Members present: Esseks, Sunderman, Cornelius, Taylor, Larson, Gaylor-Baird, Francis, Moline and Carroll.

Ex Parte Communications: None.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda and had separate public hearing at the request of Don Abbey.

Staff presentation: **Mike DeKalb of Planning staff** explained that this is a proposal for a community unit plan, in split jurisdiction, for 5 acreage lots on a 90-acre parcel. West Denton Road is on the south edge of the application. There will be one lot on Old Cheney Road at the north end. The proposal is to extend the existing street off the subdivision to the south. The drawing reflects the ghost platting of the future build-through for splitting those lots at the time when the city gets to this area.

Proponents

1. Mike Eckert of Civil Design Group appeared on behalf of the applicant and agreed with the staff recommendation and conditions of approval.

Support

1. Rob Otte, attorney, appeared on behalf of seven property owners/neighbors to the east who have developed property on acreages which are generally dry land farming. His clients are in support of this proposal; however, this is an area fraught with water difficulties. The Denton Comprehensive Plan shows that water in this area is a very difficult subject. The water field is very shallow. These neighbors want to go on record that the water is difficult in this area. There are studies that show that there are water issues, so as we add residents and wells to this area, there is some concern that there will be a water problem in the future. His clients support this application in a limited form, but the water issues in this area are difficult and if there is any future development, it rests on the

Commission and the various governmental bodies to make sure there is good water and good water supply. Otte acknowledged that the water appears to be sufficient at this time.

Esseks inquired whether Otte is aware that the Comprehensive Plan is revised often and if the area is designated for this type of residential development in the Comprehensive Plan, then people will buy the land with the expectation of development. Esseks urged Otte to get involved in the next consideration of the Comprehensive Plan so that the water issues can be raised and addressed with possibly a change to the Comprehensive Plan. Otte agreed. His clients are very aware of the future process and want to start that by going on record as early as today about the water issues.

Moline indicated that he lives in this area and he has never had a problem with his well or any water. He asked Otte for more specification on the water problems. Otte referred to the Denton Comprehensive Plan, which refers to shallow supplies of groundwater and trouble with contamination such as nitrates, etc. The NRD has issued a summary report which indicates that in areas where groundwater is poor in quality and quantity, residential wells may not be able to support residential development. A report from Hanna Keelan & Associates indicates that there is not a high enough quality or groundwater to support acreage development. Otte reiterated that his clients are not opposed to this particular development. His clients have adequate water at this time, but they are concerned with the long term and how many wells will be drilled in this particular area.

Opposition

1. Don Abbey, 5810 Pine Knot Drive, Denton, who resides immediately adjoining the proposal in Timberline Estates, testified in opposition. When he purchased his property in Timberline Estates, he understood that the minimum lot size was to be 5 acres, and all of the lots in Timberline Estates were 5-6 acres. This proposal is only for 5 lots, but there is a 90-acre parcel. He would want to see the full proposed development plan for the entire 90-acre parcel if he were to be in support of future development in the area. He is not opposed to future lots, but he would like to see the plans for the future development. There are 70.9 acres left in this parcel that could accommodate more lots. He reiterated the concern about adequate water supply. Another issue not adequately addressed is stormwater drainage. There is a slope going down from this property toward Timberline Estates and if stormwater drainage is not appropriately addressed, it will drain down onto Timberline Estates. Another concern is that the restrictive covenants for this area need to correspond with the restrictive covenants of the adjoining Timberline Estates. He does not see any restrictive covenants in the proposal. He would support future development in the area, but before it is approved, he and other acreage owners are interested in seeing the plan for future development beyond these five lots. If those 3-acre lots are broken down into 1-acre lots, water supply for the area could be acute and a major problem.

Gaylor-Baird inquired whether Abbey has water problems currently. Abbey indicated that

he does not, but when he bought his property, he was told that the minimum lot size would be 5 acres.

Esseks believes that Abbey's concerns are genuine and he suggested that Abbey visit with Mike DeKalb in the Planning Department. He also suggested that the information should be distributed to the adjacent landowners.

Moline observed that the property to the north is all pasture land. It is not a steep hill. He inquired whether Abbey has problems with runoff now. Abbey responded that anytime grasses are removed, it erodes very quickly. It is a problem during the development process unless there are restrictions put into place during the development process.

Staff response

With regard to the water concerns, DeKalb acknowledged that in Lancaster County, water is a continuing point of discussion on rural acreage developments. A groundwater report is required to be submitted on these applications. The southeastern portion of Lancaster County is covered by the Lancaster County Rural Water District #1. The other portions of the County do not have that option. The water quantity and quality tends to get worse in the northwestern part of the County. The groundwater report on this application indicated a quantity of 10 gpm, or more, and that the quality was manageable and treatable. The threshold used by the Planning and Health Departments has been 5 gpm per house. As far as quality, the Health Department has said that as long as the water is treatable so that it is not a hazard to public health and there is knowledge to the buyers that the water needs to be treated, then that is acceptable.

Related to the issue of future development, DeKalb advised that the proposal is an AG cluster subdivision based on 1/20. The proposal clusters the development down to three-acre lots to preserve the rest as open space for long term future development when the City gets there. In the three-mile jurisdiction, we do require a build-through "ghost plat" so that the acreage lots can be split in the future. In this case, the application provides for development at AG density with a bonus. The shadow plat shows the future splits which would not occur until City services get there. The property is in Tier III, which is over 50 years before the City intends to provide services. Additional acreage development would not be allowed without a change of zone to AGR. The Comprehensive Plan shows this property retained as agriculture. This area is not shown for additional development in the future.

With regard to stormwater runoff, DeKalb clarified that this issue is considered in reviewing the application. It has been found that the runoff of acreages is generally equivalent to or less than pasture, and typically better than farm land.

Esseks suggested that there is the equivalent of an easement on the land if it cannot be

developed until the city arrives – so the neighbors don't have to worry about that land being developed until city services arrive. DeKalb agreed that to be the intent. Before it could be further developed, it would require a change of zone, which would not be consistent with the Comprehensive Plan. There could be a request for Comprehensive Plan amendment and there certainly would need to be another application for a community unit plan, all of which require public hearing.

Esseks inquired whether DeKalb is aware of any outlots that have been developed in his long history as the county planner. DeKalb responded in the affirmative. The outlots that are reserved in cluster subdivision close to the city have been developed. There is a mix of circumstances where they have been reserved for environmental purposes. There are other cluster subdivisions close to the city, e.g. Crooked Creek, where the outlot it used for a golf course. DeKalb believes that the City of Lincoln will eventually get to the Village of Denton.

Sunderman observed that the plat shows a road ending in a cul-de-sac. DeKalb agreed that to be the staff requirement for future extension to the north. We have to make the provision, but it is not in any plans at this time.

Response by the Applicant

Eckert advised that the two wells drilled were quite sufficient. He clarified that this proposal takes the normal 20-acre density with the bonus and transfers it into clustering. The outlot is restricted only for AG use and open space at this point. It would require a change of zone to AGR, and urbanization means the city comes out with services. If there is a change between now and urbanization in 50 years, there would be a public hearing.

With regard to stormwater drainage, Eckert pointed out that there is a hill there. They are showing the road right on the hill, so the ridgeline runs on the contour. Thus, most of the lots will drain directly to the east and to the west. Therefore, he does not believe there will be that much coming down the road. Neither the City nor County agencies had any issues with stormwater runoff.

As far as restrictive covenants, Eckert stated that the developer does intend to develop the four lots adjacent to the existing subdivision in similar size, shape and style as the adjoining subdivision.

CITY SPECIAL PERMIT NO. 07041
ACTION BY PLANNING COMMISSION: September 26, 2007

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

Taylor does not believe there is any true opposition – he believes all of the issues have

been addressed.

Motion for conditional approval carried 9-0: Esseks, Sunderman, Cornelius, Taylor, Larson, Gaylor-Baird, Francis, Moline and Carroll voting 'yes'. This is final action, unless appealed to the City Council within 14 days of the action by the Planning Commission.

COUNTY SPECIAL PERMIT NO. 07042
ACTION BY PLANNING COMMISSION: September 26, 2007

Cornelius moved to approve the staff recommendation of conditional approval, seconded by Taylor and carried 9-0: Esseks, Sunderman, Cornelius, Taylor, Larson, Gaylor-Baird, Francis, Moline and Carroll voting 'yes'. This is a recommendation to the Lancaster County Board of Commissioners.

COMPREHENSIVE PLAN CONFORMANCE NO. 07017
LANCASTER COUNTY ROAD AND BRIDGE CONSTRUCTION PROGRAM
FY 2008 AND 2009-2013.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 26, 2007

Members present: Esseks, Sunderman, Cornelius, Taylor, Larson, Gaylor-Baird, Francis, Moline and Carroll.

Ex Parte Communications: None.

Staff recommendation: A finding of general conformance with the Comprehensive Plan, with conditional approval of the N. 141st Street project subject to amending the Comprehensive Plan.

Staff presentation: **Mike Brienzo of Planning staff** presented the proposal to review the proposed Lancaster County Road and Bridge Construction Program for FY 2008. The staff analysis and review process is identified in the staff report.

Brienzo advised that the project receiving a recommendation of conditional approval (North 141st Street) is in the out-years. It is not a funded project at this point in time. There is agreement with the County Engineer not to bring that project forward until it is amended into the Comprehensive Plan. It will be brought forward through the Annual Review process this spring.

Gaylor-Baird inquired whether there have been any changes in the way that roads and bridges are assessed because of the new public interest in safety. Brienzo stated that there is a standard protocol on reviewing bridges and rating them on an ongoing basis. As far as he knows, that protocol has not been changed. The federal government has put forward additional funding for questionable bridges, but none of our county bridges are in that condition.

Esseks asked for clarification of the difference between a finding of "conformance" and "general conformance". Brienzo explained that anything not specifically spelled out in the Comprehensive Plan as improvements would be considered to be in "general" conformance, i.e. safety projects, etc.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: September 26, 2007

Cornelius moved a finding of general conformance, with conditional approval of the North 141st Street project, subject to amending the Comprehensive Plan, seconded by Sunderman and carried 9-0: Esseks, Sunderman, Cornelius, Taylor, Larson, Gaylor-Baird, Francis, Moline and Carroll voting 'yes'. This is a recommendation to the Lancaster County Board of Commissioners.

COMPREHENSIVE PLAN CONFORMANCE NO. 07019
AMENDMENTS TO THE LINCOLN CENTER REDEVELOPMENT PLAN.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 26, 2007

Members present: Esseks, Sunderman, Cornelius, Taylor, Larson, Gaylor-Baird, Francis, Moline and Carroll.

Ex Parte Communications: None.

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

Staff presentation: **Sara Hartzell** of **Planning staff** submitted a letter from Crandall Arambula, consultants for the Downtown Master Plan, in support of this proposal.

Hartzell explained that this proposal has three parts: 1) add the recently adopted West Haymarket Blight Study Area to the Lincoln Center Redevelopment Area. This expands the Lincoln Center Redevelopment Plan area so that it abuts the Antelope Valley Redevelopment Area, the West O Redevelopment Area and the Northwest Corridor Redevelopment Area; 2) change the text of Sections 1, 2 and 3 to incorporate some of the projects that have been adopted over time, the Downtown Master Plan and some minor grammatical changes; and 3) define the West Haymarket Project Area, generally bounded by BNSF and Union Pacific railroad lines on the west, approximately N. 7th Street on the

east, the south interior roadway of Haymarket Park and Bereuter Pedestrian Bridge on the North and M Street on the south.

Hartzell advised that the Watershed Management Division of Public Works and Utilities wants to make sure that some of the maps are consistent with labeling. The cells shown are cells 7 through 11 and cell 14 of the Salt Creek Floodplain Area. Watershed Management is requesting that those cells be labeled with the SA #, and also suggested that we might possibly show the class "category one" wetlands that have been identified and discussed in the text. These changes to the maps will be made as this proposal moves forward.

Proponents

1. Dallas McGee of the **Urban Development Department** explained that this is an amendment to an existing redevelopment plan known as the Lincoln Center Redevelopment Plan, which has been amended many times as downtown has developed over the past 20 years. This would add another Project Area to Section 4 of the Redevelopment Plan. The new Project Area is only a portion of the area just declared blighted as well as being a portion of the Haymarket Area.

Once approved by the City Council, the Redevelopment Plan amendment will allow the city to proceed to advertise a request for proposals from developers to see if there is private interest in building a hotel and convention center. Until the RFP is issued, we do not know whether that interest exists. We do not know the size of hotel, whether the developer would participate in a convention center or maybe build a convention center jointly with the hotel. Those questions can only be answered after we issue the RFP, select a developer and then begin negotiating. At that time, we will be able to answer many of the questions being raised about the impact on the street system, the relationship of a hotel to the arena, etc. A lot of that will depend on the private developer that is selected that will be a part of this process.

Today, Urban Development is asking the Planning Commission to recommend that this project is in conformance with the Comprehensive Plan. That finding will then be taken to the City Council. Once the City Council has acted, Urban Development would then proceed on many of these other fronts to find more detailed answers to many of the questions on how this area would develop.

McGee pointed out that there is a group, West Haymarket Action Team (WHAT), chaired by Mayor Beutler, Wendy Birdsall of the Lincoln Chamber of Commerce, and Cori Sampson-Vokoun, of Sampson Construction, who have been working extensively for a period of time to begin to address the issues, but the issues will only be addressed once we know all of the components, including a private developer willing to work with the city on this project.

Esseks expressed concern about what documents the Planning Commission should be working with, i.e. Section 4, West Haymarket Redevelopment Project, Event Center evaluation and site analysis which the Commission received at noon, etc. McGee explained that Section 4 is the actual amendment to the Redevelopment Plan and that is the scope of the Planning Commission review. The other documents submitted reflect the work that is ongoing with the WHAT. The team is continuing to look at the issues with floodplain, environmental issues, circulation, etc. That effort will continue as we proceed with the Redevelopment Plan.

2. Terry Uland, Deputy Director of DLA, testified as the Chair of the Public Engagement Committee of WHAT. He conveyed that WHAT is recommending that this Redevelopment Plan amendment be approved. The Pershing Center is way beyond practical renovation. This is an opportunity for economic development, maximizing the quality of life in Lincoln and a good business generator for new sorts of venues and activities. Of all of the sites considered, this is the preferred site. While no site is perfect, this site has several advantages, especially in the use of existing transportation infrastructure, parking, etc. The consensus on WHAT is that all of the issues look feasible and solvable and we need to send the signal and adopt the Redevelopment Plan and get it moving so that we can proceed with the other steps involved.

3. Carrie Campbell Grimes, 6802 Hawkins Bend, testified in support. She grew up in Lincoln, went to Chicago on a job opportunity and the opportunities for musicals, sporting events, etc., and then chose to move back to Lincoln to be closer to her family. However, she has reservations about finding ways to interact with other young single professionals in Lincoln. She encouraged the Commission to move this forward for the Haymarket Area. As a young professional in Lincoln, she has chosen to come back to this great City. She owns her own home and she is a taxpayer. We need to move this community forward. We do not want other young professionals to choose to leave.

4. Stephanie Dostal, testified in support on behalf of the **Lincoln Chamber of Commerce**. The Chamber leadership is not able to attend today's hearing due to the fact that they are in Washington, D.C., leading a delegation to press for federal participation including the West Haymarket Area. These amendments are clearly in conformance with the Comprehensive Plan. The amendments assist and encourage private investments, job growth and redevelopment of downtown Lincoln. They enhance the proposed project area, and further integrate the campus into the downtown. These are necessary precursors to redevelopment of the West Haymarket Area. As the holder of the Convention and Visitors Bureau contract, the Chamber understands the importance of maintaining facilities for visitors and guests. The West Haymarket and sports triangle concept are large undertakings requiring partnerships and cooperation. Let's get moving together. We need to show the will and the cooperation to start some action.

5. Tom Lorenz, General Manager of Pershing Center, testified in support. The timing of this process is appropriate. Pershing reached its 50th year of service this year, but now

is the time to look toward the future. The original plans for Pershing were drawn in the early 1940's. After World War II, it was pursued to have a premier facility to serve the community. The first shows were staged in 1957. The original purpose has been fulfilled. The quality of life in Lincoln has been enhanced by the presence and use of Pershing. A lot has changed – patron amenity expectations have expanded. Today, people expect large concourses, more bathrooms, wide variety of food and beverage, custom seating options and entertainment. Larger areas and more extensive modern infrastructure is required to stage today's entertainment or exhibitions. The competitive environment between cities has heightened, bidding against each other for the economic advantage. Lincoln is behind or lacking in every area. Pershing is woefully inadequate at this time. While Lincoln has several fine establishments, overall Lincoln has fallen behind the curve in providing a blend of entertainment and exhibition venues. Lincoln has lost the NSAA wrestling tournament and some state association meetings. Family shows like Disney on Ice and Manheim Steamroller have bypassed Lincoln. As you plan Lincoln's growth, please support the proposed process of redevelopment relating to a new arena and convention facility. Advancing this process will allow more detailed documentation, proposals and answers to key questions.

6. Tom Ball, member of the **Pershing Advisory Board,** testified in support. Pershing's management staff does an excellent job in mitigating the problems at Pershing; however, the Pershing stage does not support the equipment of the different groups that want to come here to perform. Pershing does not have enough seating. The World's Toughest Rodeo was held in Lincoln for 25 years, but it has moved 60 miles east. Disney on Ice has also moved 60 miles to the east. Ball personally supports this effort, and the Pershing Advisory Board supports this effort as well as the efforts of the 2015 Vision.

7. Peter Hind, 5140 Valley Road, testified in strong support as an architect, a professor at the UNL College of Architecture, principal of Studio 951, and President of the **Haymarket Development Corporation**. The Haymarket Development Corporation consists of a lot of business owners and residents that live in the Haymarket. Their mission is to make this area much stronger. He has lived in Lincoln for 14 years. He believes that a very strong core rests in Lincoln and that this development will strengthen that core and make it even stronger. He calls this reclaimed land. This is a huge opportunity for Lincoln to move forward and improve what we have in our downtown. As a UNL professor, he teaches sustainable design and he talked about doing the most with the least. This is a great example of that – capitalizing on the possibility that exists here. He encouraged that we move on this quickly. "The slower we are in the front, the longer it takes to get things rolling on the back."

8. Scott Miller, President of Telesis, Inc., testified in support as a business and property owner in the Haymarket.

9. Charlie Meyer, of Nebco, Inc., and President of The Lincoln Saltdogs, testified in support. Haymarket Park is a very special place for families. This proposal takes more

exciting steps in the Haymarket Area. The convention center and hotel will provide synergy to Haymarket Park. There is potential to share parking lots and other related amenities. The Convention and Visitors Bureau will be able to market to bigger indoor and outdoor trade shows, sports and community events. We need to create more economic prosperity not only for Lincoln, but also for the State of Nebraska. The expansion of Haymarket Park can create a premier arena for baseball, soccer, football, and ice skating. The 2015 Vision hopes to expand Haymarket Park to include the area north of Haymarket Park. There are over 270 events happening at the Haymarket Park facility. More sports fields and amenities is a great thing. The Lincoln Saltdogs are excited to continue to work with the City, UNL and 2015 Vision group to expand Haymarket Park and the Nebraska Sports Triangle.

10. Michael Rierden appeared on behalf of **JA Woollam Company,** located at 645 M Street. Rierden pointed out that M Street was vacated some time ago and basically ends at 7th Street. He submitted photographs of the building where JA Woollam is located. JA Woollam originally purchased the property for over two million dollars, has made improvements of over $400,000 and has pending projects of $260,000, making a significant investment in this area.

The JA Woollam Company was founded in 1987 as a spinoff of the College of Engineering. It is the world's leading manufacturer of ellipsometers, selling over 1500 since 1987. This is a high end, high tech key to success. There are 21 engineers out of 40 employees. Their wages over the last 20 years have been in the range of 40 million dollars. Because of the success of this company, they have determined that they want to reinvest into the community such as UNL, Libraries, Lincoln Bike Trails, Lincoln Public Schools, YMCA, Edgerton Center. etc. Rierden then submitted a map showing where the employees of the company have come from.

Rierden stated that his client is in full support of this project; however, they have a concern about what is being proposed for the JA Woollam property in this plan. All four concepts of the proposal run M Street (currently vacated) into the "backbone road" and then place surface parking in his client's parking lot. Woollam would have to relocate if this happens. Rierden requested that the Commission strongly consider recommending the elimination of the M Street concept. As an alternative, Rierden suggested taking it over to N Street and then everything would be acceptable to his client. He requested that none of the proposed plans designate the parking lot of the JA Woollam Company for future development or surface parking. It would be devastating to this business.

Esseks inquired where Rierden saw this road plan. Rierden stated that his client first saw it in the newspaper, and then obtained the drawings from Urban Development. Esseks inquired whether it was presented as a likely scenario. Rierden stated that it was presented as one of four concepts, but all four concepts show this particular design of the roadway on the Woollam property. Mr. Woollam has built a park area and he planned to add onto the building in the future, but those plans will be on hold based on the West Haymarket

Plan. Rierden's proposed amendment is to eliminate the designation for development and/or surface parking and not to extend M Street, but utilize N Street instead. The ellipsometers are very delicate and Mr. Woollam has developed and redeveloped the building to eliminate vibration, smoke, dust, etc. They are very concerned about the high volume of traffic going right by the building.

Francis inquired about the use to the south of the Woollam building. Rierden indicated that there is an electrical supply building to the south and it is kind of a junky area. Francis then inquired whether there is a lot of traffic going out of that property to the south. To Rierden's knowledge, there is not much use of that area as far as traffic is concerned.

Rierden reiterated that M Street is now vacated and does not exist. It terminates at 7th Street. The proposal is to rededicate M Street through the parking lot.

11. James Hilfiger, Engineer with JA Woollam Company, gave further testimony about the JA Woollam Company. The Company still has strong ties to UNL, both financial and with joint research. Woollam has been able to provide to UNL some research opportunities, first coming about in the form of small business innovative research grants. That allowed Woollam to subcontract to many professors. Hilfiger supports the ideas in the plan to improve the downtown area. They get researchers from around the world. He encouraged the Commission to seriously think about taking out the M Street extension in the development plans.

12. Marge Knight, employee with **JA Woollam Company,** also gave testimony about the Company. it is such a low profile, unassuming company that does wonderful things. In the last year, they had 20 million dollars of sales, none of which originated in Nebraska. This company is bringing money into Lincoln. In addition to the sales, they bring international visitors to the community who utilize the hotels and restaurants. Because of increased product demands, they keep two machine shops in Lincoln busy full-time year around. Lincoln should want to keep this company here at all costs. If M Street is rededicated, this company will relocate. A street in front of the front door also causes a safety concern. It would cost over 5 million dollars for the company to relocate. Production would be down for six months, costing two to three million dollars. The instruments are sold under contract. A delay in production would cause penalties under those contracts. She would not say the Company would move out of Lincoln, but they would look at other options.

Gaylor-Baird inquired as to what happens on this street now. Knight believes that tenants of the building park on the street now. The Woollam employees park south of the building. M Street would decrease the aesthetics of the property.

Moline inquired whether vibrations outside the building cause problems. Hilfiger explained that with the instrumentation itself, vibrations would be less of a concern. Dust is more of a concern. It is an optical instrument measuring thin films composited on computer chips, etc. Dust and pollutants would be a detriment. They have been careful to reduce these aspects in the building.

13. Michael Rierden appeared on behalf of **George Easley** and **Bill Whittmer**, owners of the property at 731 O Street, which used to be historic buildings in the Haymarket, now occupied by Dave Littrell, in full support of the project as it exists in the four concepts; however, they are concerned about eminent domain in regard to the blighting designation.

Staff response

Taylor asked staff to respond regarding the Woollam Company. Hartzell indicated that the M Street issue is not mentioned in the text as part of the Redevelopment Plan amendment; however, it may be part of the concept plans.

Dallas McGee stated that he met with Mr. Rierden and Mr. Woollam last week and assured them that their business is the type that we want to remain right where it is – we want this project to enhance it and not create problems. There are other alternatives with respect to M Street and he has pledged to look at other alternatives. M Street right in front of the building has been vacated and it is private property. The proposal was to extend a roadway to connect to the “backbone road”, but McGee agreed there are other alternatives that need to be carefully considered.

Esseks expressed concern that other property owners may not know that their properties are in the way of or vulnerable to the road plans being considered. Section 4 does not include a map of the road plans. What are the road plans? Kent Morgan, Assistant Director of Planning, explained that that level of detail is not included in Redevelopment Plans. We do not have a final road design. We are not at that point in this step of the process. This is a long process and there is a lot more discussion that needs to take place. We are asking permission to move ahead to begin to talk to these property owners to find out what their interests are. Morgan believes that this proposal can enhance their properties and the value of their properties.

Esseks stated that his intent is to find something whereby the public can come forward and express their concerns. Morgan explained that the maps are not part of the Redevelopment Plan. WHAT has ideas that have to be taken to the public. We are looking to get people to respond and to give ideas.

Carroll pointed out that the Commission is discussing only the issue of conformance with the Comprehensive Plan.

Rick Peo, City Law Department, explained that the role of the Planning Commission in this case is limited, and that role is approving a plan as to conformance. Before the City can negotiate a redevelopment agreement to do anything, the Redevelopment Plan has to be approved. The Redevelopment Plan is going to be more generic because you do not know what types of proposals are going to come in. The proposals for redevelopment will determine the questions being asked today. WHAT is doing some preliminary conceptual planning, but those are not in any way final. Any type of redevelopment agreements will have to spell everything out. No landowners are being short-changed by a proposal that is not in a definitive state at this point in time. The Planning Commission role is limited as to the conformance finding.

Esseks referred to the Comprehensive Plan, where he finds that there needs to be adequate road capacity. We need to discuss whether the capacity is adequate. We were told about a decision made not to cross Salt Creek. If you ask us to approve a Redevelopment Plan, it seems like that information should be shared. He is confused as to the role of the Planning Commission. He has asked about flooding risks and got very good responses. The Planning Commission has also asked about possible chemical pollution of the area and we were told that studies have been made and it looks as though this is not a serious problem. What about roads? Peo stated that with respect to this application, the Planning Commission duties and authority are established by state law, which says that before the City Council can approve a Redevelopment Plan, that Plan has to be submitted for review as to conformance with the Comprehensive Plan. It does not give the Planning Commission any authority or rule-making policies as to agree or disagree with the Plan elements unless you can say they are not in conformance with the Comprehensive Plan. This is a limited role. It is not the same as on zoning issues or subdivision. This is strictly a finding of conformance or non-conformance with the City's overall plan of development.

Esseks wanted to know what to do about the Comprehensive Plan, which states that the road system serving the area must be adequate. Peo suggested that Esseks can vote that it is not in conformance. As far as Mr. Rierden's issue about M Street being the "backbone road", Peo advised that the "backbone road" does not have a defined location at this time.

Moline inquired whether it would be appropriate for the Commission to propose an amendment to the City Council that would include not using M Street. Peo does not believe it would be an appropriate recommendation to be made by the Planning Commission. Mr. Rierden will have an opportunity to testify before the City Council.

Response by the Applicant:

McGee submitted that the Redevelopment Plan amendment is general. It is general because we don't know all of the answers on many aspects. We don't know whether or not there is private development interest. We are hopeful to find a developer that will help us with a hotel and a convention center. We will not know that until we submit a RFP. Then

we will have another partner, who will help shape the road system, the size of the hotel, and other relationships. There are a lot of pieces yet to be worked out. He understands the desire to know the pieces, but this piece needs to move ahead in order to get answers to those other questions. This is a plan that looks to Lincoln's future. It looks to addressing facilities like Pershing – the need to keep entertainment and activities in the City, some of which have already been lost. This is a long term plan. What is before the Commission today is a conceptual plan that amends the Lincoln Center Redevelopment Plan that allows us to proceed.

Larson inquired whether any of this will come back before the Planning Commission once it proceeds and a developer comes forward. McGee believes that there will be a number of public hearings. The key public hearing would be a Redevelopment Agreement between the city and a developer. That agreement itself does not come before the Planning Commission. The Planning Commission would be able to act on CIP items, and other budgetary items included in future CIP's.

Cornelius commented that inasmuch as this proposal doesn't directly address the issue of the road system, he wondered whether it is appropriate for the Planning Commission then to consider it in the absence of that being addressed. In other words, we can find that it is in conformance with all of the things it does address, or are we not exercising our own due diligence in not calling forward something about whether the road network is sufficient to support a facility of this kind in that area? Without knowing what's going to happen, Peo suggested that the Planning Commission cannot address whether or not the street system is adequate. He suggested that those issues are addressed to the degree that they have the ability to be addressed at this stage in the process. If what comes forward is sufficiently different, the Redevelopment Plan would have to be further amended, and that amendment would have to come before the Planning Commission.

Marvin Krout, Director of Planning, stated that he does not want to deny the Planning Commission their role as advisors to the City Council on planning, but he suggested that the Commission needs to separate any advice for the City Council in terms of road planning or public participation from the statutory responsibility, which is looking at a conceptual plan. Krout assured that the Planning Commission would have the opportunity to make recommendations on any amendments to the transportation plan through the public hearing process.

If this is really only a concept plan, Esseks wondered whether the Commission can approve it or disapprove it, given the information provided. He confirmed with Krout that it is Krout's opinion as the Director of Planning that the Planning Commission has received as much as they are going to receive. Krout explained that we have to take it in steps. We know there are going to be more steps and more investment to get to some of the details that the Commission is wanting to see now. It is prudent to be dealing with this level of information at this time. The Planning Commission will see more information later in terms of any amendments to the transportation plan.

Esseks wanted counsel on what to do with the part of the plan that requires a fair and predictable way of acquiring infrastructure. Krout explained that the Redevelopment Plan deals with it conceptually. Until we have a project agreement and more details and a CIP, we cannot answer those questions now. There were a number of studies that tried to provide an order of magnitude and a range of possibilities about the types and amounts of funding, but at this point those are not in the Redevelopment Plan.

If the Commission does not approve this, Esseks wondered if it holds up the whole process. Krout clarified that the Planning Commission is required to make a finding. Even if the Commission finds it is not in conformance, the City Council can still proceed. Peo explained that there is no super majority vote that the City Council has to take whether the Planning Commission approves or denies the Redevelopment Plan. The Planning Commission action is just a finding. Krout also clarified that any amendments to the transportation plan would require a super majority vote of the City Council to override a recommendation of the Planning Commission.

Sunderman noted that the area is currently zoned industrial, and wondered whether an arena can be located on industrial land. Krout answered in the affirmative. If it is a public facility, then it is exempt from zoning, but we do not know that it is going to be a public facility. Industrial is a very wide open district. An arena is an allowed use, as well as a convention center and hotel.

Gaylor-Baird referred to the Health Department memo that recommends that at least a Phase I Environmental Assessment be conducted. Is that underway, or should it be included in the list of implementation steps? Kent Morgan stated that Phase I is in the process of being completed and we are moving into Phase II. Phase II will be done within the next month with approval from EPA, NDEQ and the property owners. It will be part of the public record. There are a lot more other environmental standards and processes that will have to be done. Gaylor-Baird believes that the environmental assessments should become part of the public record.

ACTION BY PLANNING COMMISSION: September 26, 2007

Larson moved a finding of conformance, seconded by Taylor.

Larson believes that this is one of the most important things that has become before this Commission while he has served. We should not stagnate this process. The concerns are valid, but there is going to be ample opportunity further down the line to address those concerns. We should not hold up the process that has been in process for several years. He has been involved in some of the planning for three or four years. He does not believe that there is going to be any railroading or overriding of the rights of property owners and businesses in the area. We need to allow the process to continue so that the concerns can be addressed.

Taylor commented that this is a preliminary process and it is a “process”. We have done this before. We have made many suggested amendments during the process. We need to get this thing started.

Esseks stated that he will abstain because he thinks the Planning Commission approval should be based upon more solid information, particularly on the issue of an adequate road system. He expected a more elaborate plan that he could endorse.

Esseks was advised that he will need to vote in favor or opposed and not abstain from voting.

Moline stated that he will vote in favor. There is a lot of work that has been done.

Carroll believes that the presentation just given to the Planning Commission before this meeting today has been given to other people. The Planning Commission received a short presentation that should have been three hours to provide the information. This is a very, very important issue for the Planning Commission to vote upon. He believes that the information provided was inadequate. This continues to happen and the Commission is expected to vote on something that they don’t know everything about. We had questions at our meeting this morning. “If you (the staff) are going to give a presentation to us, give us time to absorb it and give us documents that we request. It is difficult for us to give a recommendation if we don’t have all the adequate information.” We do not set the agenda. We request information and sometimes we don’t get it. We need information prior to our meetings. He agrees that this is a great project but he is disappointed in how it has been presented. It is very disappointing to be put into a position to approve something where we don’t have all the answers.

Motion for a finding of conformance with the Comprehensive Plan carried 8-1: Sunderman, Cornelius, Taylor, Larson, Gaylor-Baird, Francis, Moline and Carroll voting ‘yes’; Esseks voting ‘no’. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 3:20 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on October 10, 2007.

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