

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, May 14, 2008, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Gene Carroll, Lynn Sunderman, Wendy Francis, Dick Esseks, Tommy Taylor, Roger Larson, Michael Cornelius and Leirion Gaylor Baird; Marvin Krout, Stephen Henrichsen, David Cary, Sara Hartzell, Michael Brienzo, Jean Preister and Teresa McKinstry of the Planning Department; other departmental staff; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Special Public Hearing  
**2008 Comprehensive Plan Annual Review;**  
**FY 2008/09 - 2013/14 Capital Improvements Program; and**  
**FY 2009-2014 Transportation Improvement Program**

Chair Gene Carroll called the meeting to order and proceeded with public hearing on proposed amendments to the Comprehensive Plan, i.e. Comprehensive Plan Annual Review.

**COMPREHENSIVE PLAN AMENDMENT NO. 08002**  
**TO DESIGNATE LAND AS COMMERCIAL IN THE LAND USE PLAN**  
**AND DESIGNATE A COMMUNITY SIZE COMMERCIAL CENTER**  
**GENERALLY IN THE AREA OF**  
**SOUTH 84<sup>TH</sup> STREET BETWEEN SOUTH STREET AND VAN DORN STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:** May 14, 2008

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

Ex Parte Communications: None.

Staff presentation: **Steve Henrichsen of Planning staff** submitted two e-mails in opposition.

Henrichsen explained that this is an application to amend the Land Use Map in the Comprehensive Plan in the commercial section. The subject area is between 84<sup>th</sup> and 98<sup>th</sup> from Van Dorn Street to A Street. Currently, within that square mile, in a very general manner, the Comprehensive Plan designates a larger community-size center (300,000 to 500,000 sq. ft.). The staff is recommending that the commercial center be specifically designated on the east side of 84<sup>th</sup> between South Street and Van Dorn Street. The staff is recommending a very generalized land use – not specific as to where the future areas of office or residential would be located – but would generally reflect a larger type center. In the future, if approved, a developer would come forward with a more specific plan for change of zone showing access, etc.

Henrichsen went on to state that the proposed development would be done in two phases, the first phase being in the area of around 20 acres that could be served by gravity sanitary sewer today to the west. The vast majority of the property would have to wait for the Stevens Creek trunk line to be served by gravity to the east.

Henrichsen noted that a previous application on the corner of 84<sup>th</sup> Street and Van Dorn Street, showing a life station, etc., was turned down. In this particular application, phase one will meet city standards.

Staff is recommending approval of a site specific designation of community size center and to show the commercial on the east side.

Gaylor Baird inquired how typical it is to have phase one with phase two as much as ten years later. What would be accomplished in phase one? Henrichsen agreed that this would be unique in terms of commercial development. Most developments are usually all in an area that can be sewered at the same time. However, this application is not unique in that it will take many years to develop, e.g. Williamsburg Village.

Esseks noted that the current Comprehensive Plan makes provision for a large commercial center between 84<sup>th</sup> and 98<sup>th</sup>, and now the staff is recommending that it be placed on 84<sup>th</sup> Street and not further out, and then that area along 84<sup>th</sup> is no longer available for urban residential. There are some costs here, particularly to the residents to the north. What is the public benefit of locating it on 84<sup>th</sup> now? Henrichsen advised that there has been some interest from some of the larger box retailers for additional commercial sites on the east side of town. Long term, we do have more large commercial centers east of 98<sup>th</sup> as we develop Stevens Creek. 98<sup>th</sup> Street is not yet built, so there have been some retailers show an interest in 84<sup>th</sup> Street for sites that could be served by sanitary sewer. This does provide an additional site for near-term in terms of providing several choices.

The applicant did not testify.

Opposition

1. **Catherine Wilson**, 8240 South Street, testified in opposition. She had questions about the property owner notification. Her primary concern is the traffic on South Street. Could there be steps taken to slow down or make some alternative routes? There are already drivers at increased speeds in this area and not a lot of police stops or radar in the high traffic time frames. As far as the sewer, she would prefer Van Dorn be used. What thoughts or reasons are there for the need to change this area from urban residential to commercial at this particular point in time?

2. **Duane Kulhanek**, 8244 Karl Ridge Road, lives right across the street and when he bought his home he was told that the northeast corner of 84<sup>th</sup> and Van Dorn was all going to be zoned for residential housing. There are 20-30 offices on 84<sup>th</sup> Street in this area that are completely empty. We don't need any residential housing now either. The traffic is a problem. 84<sup>th</sup> Street has a lot of truck traffic. Most of the people in the area are opposed.

Staff questions

Esseks noted that the Commission received two e-mails from residents on Pinedale with concerns about their property be boarded by commercial development. The staff report recommends that a semi-circle area be declared appropriate for commercial development. How do you deal with the need to buffer these residents from office space, etc.? Henrichsen pointed out that the small cul-de-sac to the north is Pinedale. The commercial designation does not go up to nor as far as Pinedale. The commercial would not border any existing residential to the north, south or east. A future site plan would be more specifically addressed with a future change of zone application. This more general designation is the first step. The details as to traffic signals, transportation improvements, sewer service, the buffer and the transition would be more specifically addressed with a future application.

With regard to location of the sewer, Henrichsen advised that it has been discussed generally that the center part of the property is the part that can be sewerred today. In the past the applicant had always tried to serve the area to the south. Instead, the staff has found that it can be sewerred to the north into Deadmans Run. The sewer would run along 84<sup>th</sup> Street and tie into an existing sewer generally in the area of 84<sup>th</sup> and South, or 84<sup>th</sup> and Pinedale, and then connect into the city's existing system. There may be downstream improvements that will be necessary; however, it has been discussed that phase one development would probably be just retail in nature, resulting in a lot less sanitary sewer flow than with residential development. Again, that specific design detail would be addressed with a future application.

As far as the traffic on South Street, Henrichsen explained that this application may result in a future traffic signal both at South Street and Karl Ridge Road. South Street is generally about ½ mile north of Van Dorn and Karl Ridge Road is about 1/4 mile north.

That ½ and 1/4 mile spacing is very typical. The staff report is also pointing out that South Street is a neighborhood collector and there might be some people who might attempt to go through the neighborhood to reach the commercial center, but today South Street is fairly narrow and there are several stretches with parking and driveways on it and this tends to slow the traffic down.

With regard to notice to property owners, Henrichsen explained that a Comprehensive Plan Amendment does not require public notice but it was provided as a courtesy to property owners within 1/4 mile of this proposal in the same manner as the Department notifies for any change of zone.

**ACTION BY PLANNING COMMISSION:**

May 14, 2008

Esseks moved approval of the staff recommendation, seconded by Sunderman.

Esseks noted that this is an area which has been designated for commercial development between 84<sup>th</sup> and 98<sup>th</sup>. There is developer interest. Residential demand for that land is quite low now. There has not been strong opposition coming from the neighborhood. He is interested in giving the developer a chance to show what he or she can do.

Carroll commented that the staff recommendation is a smaller area than what the applicant had requested, and he agrees that the staff recommendation is adequate at this time until there are future capital improvements in the area that will allow the increase.

Motion for approval of the staff recommendation carried 8-0: Francis, Sunderman, Taylor, Esseks, Larson, Cornelius, Gaylor Baird and Carroll voting 'yes'. This is a recommendation to the City Council.

**COMPREHENSIVE PLAN AMENDMENT NO. 08004  
TO DESIGNATE LAND AS COMMERCIAL  
AND DESIGNATE A NEW "MIXED USE OFFICE CENTER"  
GENERALLY IN THE AREA OF  
SOUTH 62<sup>ND</sup> STREET BETWEEN OLD CHENEY ROAD AND HIGHWAY 2.  
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2008

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

Ex Parte Communications: None.

Staff presentation: **Steve Henrichsen of Planning staff** submitted two letters in opposition from property owners adjacent to the application.

Henrichsen explained that this amendment is for a specific commercial designation, “mixed use office center”, a designation which was added to the Comprehensive Plan in November of 2006, in an attempt to encourage office parks not to be 100% office. The applicant has envisioned an office designation that might have some accessory retail or restaurants, potentially even a hotel, to help serve the overall office center. The commercial designation has a fairly significant shape, but the details in terms of buffering and transition to the east would be an important part of a future change of zone. With this being designated “mixed use office”, it would be anticipated that most of the office uses would be to the east.

In terms of the property’s current use, the two properties on the southwest portion are now vacant. There is a vacant house not currently owned by the applicant, and another existing house not owned by the applicant. The back portion of the two acreage lots could potentially be developed as part of the overall center.

Henrichsen acknowledged that the traffic impact is a major concern. This designation does not approve any certain amount of square footage. A traffic study would be an important part of any future change of zone. Potentially, there is a traffic improvement that could result from this development – a new road connection from Old Cheney Road down to Hwy 2 might divert some of the traffic going to Lowe’s. A future issue would be the location of traffic signals.

Proponents

**1. Carl Sjulín, President of West Gate Bank and managing partner of Sydney Investments**, the applicant, made further comments about the proposal. The proposed area represents approximately 20 acres, immediately east of the West Gate Bank center on Hwy 2 and Old Cheney. The 20 acres has only one house that is currently occupied. This undeveloped area is bordered by Hwy 2 and Old Cheney Road, which are two of the best arterials in Lincoln that exist. Sydney Investments is proposing an infill redevelopment – a high-end office park - a group of smaller buildings with the same feel, style and building materials as the West Gate Bank center. The buildings would have almost a residential feel, being a group of buildings in the 5,000 or 6,000 sq. ft. range. This will be developed as building pad sites that will be available for sale.

Sjulín indicated that they have developed a rough site plan showing a low density, which they have shared with the City and the Sheldon Heights neighborhood to the east. The transition from the existing Sheldon Heights acreages would be buffered through the use of smaller buildings, very similar to the Heritage Park office buildings immediately across the street by Lazlo’s. There would be substantial landscaping. The topography in this area begins to rise such that the east border of the property is much higher than the west. They would drop that approximately 10 feet through a retaining wall or gradual slope with landscaping.

Sjulín stated that Apple’s Way opened up their vision for this proposal. There would be no

impact to the Sheldon Heights neighborhood because they are proposing the vacation of Sunset Ridge Drive. He has met with the neighbors over the last several years about this proposal.

Sjulin suggested that the proposed area is in a blighting type condition and he would like to see it developed to a higher and better use. He believes it will have an assessed value of 40 million dollars or better.

Francis inquired as to any contact the applicant has had with the adjoining property owners. Sjulin responded that they have had numerous meetings over a period of several years. One of the first steps that allows the applicant to come to agreement with the neighborhood is to know what the city's plan is with respect to this being developed into an office park as opposed to AGR. The plans have been shared with the neighbors over the past five years.

Esseks observed that retail uses can be more intrusive onto and more disruptive of residential lifestyles. Where do you expect to put the retail uses? Sjulin did not know yet for sure because this development could be 5 to 10 to 15 years in the future or perhaps even beyond. They do not have any potential users at this time nor do they have any vision as to how the retail might fit in yet. They do, however, view the retail uses as being incidental to the primary use of office. It would have the look and feel of an office park. They will not be significant type retail uses.

Esseks inquired whether the adjoining residents can be confident that there would not be retail uses right adjacent to their property. Sjulin responded in the affirmative. Along the eastern side (Hynes property), they are proposing a 1.5 story, 6,000 sq. ft. prototype like Heritage Park. The east portion should develop like the old R-T (Residential Transition) district.

**2. Mark Hunzeker** appeared on behalf of **Mr. and Mrs. Robert Winters**, 6111 Old Cheney Road, immediately to the east of the bank property. They are neutral at this point in time; however, they have met with the applicant and the discussions centered upon potential acquisition of their property by the applicant. A conceptual site plan was shared with very little substantive discussion about how their property might fit into the project. His clients agree that a mixed use office center is a reasonable long term use of this property; his clients also agree that there are a number of issues that need to be resolved. They are not opposed to the idea of amending the Comprehensive Plan in this fashion and are ready and willing to continue discussions with the applicant and the city.

### Opposition

**1. Gerald Bryant**, 6101 Frontier Road, which borders the southeast edge of the proposed change, testified in opposition because a commercial encroachment is not conducive to what he wanted when he purchased his home. There is more and more trash blowing over

from Apple's Way now. The intersection stop light that goes in at Apple's Way stops enough semi's that he has semi's backed up all the way along his 600' along Highway 2.

**2. Gene Schwenke**, 6061 Frontier Road, testified, stating that he is somewhat neutral at this point. The back portion of his acreage abuts the property being discussed. He did meet with the applicant on several occasions. He has lived in this area for 37 years and has seen many things develop south of Hwy 2 and south of Old Cheney Road. He knew that development would surround his property in a matter of time. He has previously expressed his concern about further development but maybe this proposal is the lesser of two evils, as long as he does not have a restaurant in his back yard. He could probably accept an office building. He does not want a lot of traffic flow at night.

**3. Jerry Hynes**, testified in opposition. There will be buildings on two sides of his property, to the west and to the south. It is commercial and it is very close. Historically, this area has been left in an urban residential designation, even as late as the update of the Comprehensive Plan two years ago. One of the guiding principles is that new commercial development should not invade existing neighborhoods. The access to this property can very easily be achieved by bringing the road in as planned and not putting buildings on the south edge where his property is located. He would like to preserve as much of the view from his home as possible. With regard to the traffic issues, eliminating Sunset Ridge Drive would almost be a must. He has had conversations with people on the north side of Old Cheney in Black Forest. They are in the information gathering stage, but their initial reaction sounds very negative.

**4. Art Zygielbaum**, 6601 Pinecrest, slightly east of the area, testified in opposition. He previously served on the Comprehensive Plan Committee and the Beal Slough task force. He is current chair of the Cable TV Advisory Board. Sheldon Heights is an in-town acreage and the residents are working hard to maintain the rural setting and rural environment. The neighbors do not want to subdivide. The proposed amendment at this time came as a bit of a surprise. There are very strong protective covenants in Sheldon Heights, zoned AGR, with business uses being prohibited. They had discussions with Mr. Sjulín two years ago. They did not know this action was going to take place at this time. The concerns are the extra traffic at Old Cheney & Hwy 2; they would not want Sunset Ridge to connect; there must be visual breaks to separate the businesses from the residential area; and the cost of the sewer connection must be mitigated.

Zygielbaum requested that action on this application be delayed to give the applicant an opportunity to seek the support of the Sheldon Heights neighborhood. These residents need assurance that the plans they saw two years ago are still valid, with no further business expansion into the Sheldon Heights community.

Staff questions

Esseks inquired of staff whether the two-week postponement would be a problem. Henrichsen did not believe it would create any problem. We typically like to have all the proposed Comprehensive Plan amendments reviewed at one time, particularly if there are amendments that are nearby each other. In this particular circumstance, the applications on today's review are much more scattered about and there is much less in terms of implication of one upon the other. A delay would not be a problem.

It was confirmed that the subject property is currently zoned AGR and designated in the Comprehensive Plan as urban residential.

Response by the Applicant

Sjulin would prefer to proceed as opposed to a delay. He believes that the applicant has shared a lot of detail with the neighborhood and more than you typically see at this stage. He suggested that many of their questions relate to issues which will be engaged fully with respect to future zoning changes and permits. They have previously met with the adjoining neighbors individually as well as collectively on a number of occasions.

**ACTION BY PLANNING COMMISSION:**

May 14, 2008

Cornelius moved approval, seconded by Larson.

Cornelius believes this appears to be an opportunity to develop the property in a way that is sensitive to the people living nearby. A delay at this point is probably not going to help much because there is plenty of protection built into the change of zone process. He gets the impression that there will be continued contact between the developers and the neighbors.

Esseks stated that he will vote against the motion because he thinks a delay is appropriate since there is nothing to be lost in terms of waiting two weeks and there is potential for gaining some new insights and perhaps some general buy-in by the neighbors. Since there is no deadline facing them he thinks a two-week delay would be an appropriate courtesy to the residents.

Cornelius then stated that he is somewhat persuaded by Esseks' comments and tempted to vote no on his own motion because there really is not a down-side to a delay. He is concerned that we are putting the cart before the horse asking for design decisions to be made before there is room in the Comprehensive Plan for that design.

Carroll agrees that this is preliminary – this is an amendment to the Comprehensive Plan.

There are many more meetings to come for design decisions and meetings with the neighborhoods. This is a good first step for the city and he knows West Gate Bank will do a very good job of working with the neighbors.

Motion for approval carried 7-1: Francis, Sunderman, Taylor, Larson, Cornelius, Gaylor Baird and Carroll voting 'yes'; Esseks voting 'no'. This is a recommendation to the City Council.

**COMPREHENSIVE PLAN AMENDMENT NO. 08005  
TO CHANGE 11 ACRES FROM URBAN RESIDENTIAL  
TO COMMERCIAL AND TO DESIGNATE A  
NEW "NEIGHBORHOOD CENTER"  
ON THE NORTHEAST CORNER  
OF N.W. 48<sup>TH</sup> STREET AND W. HOLDREGE STREET.  
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2008

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

Ex Parte Communications: None.

Staff presentation: **Sara Hartzell of Planning staff** presented the proposal to change the Future Land Use Map to change this area from future urban residential to commercial and to show a neighborhood center at this location.

Hartzell pointed out that the Planning Commission recently had a change of zone to B-2 PUD on this very site. Therefore, this area has already been rezoned to B-2 PUD with the intent of developing it as a neighborhood center. This Comprehensive Plan amendment would make those two maps in the Comprehensive Plan current with what has already been approved.

Proponents

**1. Mark Hunzeker** appeared on behalf of **Hub Hall Company**, the applicant, and agreed that this is a logical follow-up to the action already taken on the B-2 PUD.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

May 14, 2008

Cornelius moved approval, seconded by Gaylor Baird.

Cornelius noted that this brings the maps into reconciliation with actions taken by this body and the City Council.

Motion for approval carried 8-0: Francis, Sunderman, Taylor, Esseks, Larson, Cornelius, Gaylor Baird and Carroll voting 'yes'. This is a recommendation to the City Council.

**COMPREHENSIVE PLAN AMENDMENT NO. 08006**  
**TO CHANGE LAND FROM TIER II AND TIER I, PRIORITY B,**  
**TO TIER I, PRIORITY A, GENERALLY BETWEEN**  
**S.W. 12<sup>TH</sup> STREET TO S. CODDINGTON AVENUE**  
**FROM W. DENTON ROAD SOUTH TO THE**  
**CARDWELL BRANCH CHANNEL.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2008

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

Ex Parte Communications: None.

Staff presentation: **Sara Hartzell of Planning staff** explained that Tier I is anticipated to be served in the next 25 years. Tier I is divided into A, B and C. A is the area anticipated to be served with capital improvements within the next six years. This is the only request to move a piece of land from Priority B to Priority A. The property is west of S.W. 12<sup>th</sup> Street south of West Denton Road going down into the Cardwell Branch.

Esseks inquired as to the closest city fire station. Hartzell stated that the area is currently served by the Southwest Rural Fire District. In Priority A, it would no longer be served by the rural fire district. The nearest city fire station would either be on Coddington between South and A Streets or 27<sup>th</sup> and Old Cheney, approximately 3.5 miles.

Proponents

**1. Mike Eckert, Civil Design Group,** appeared on behalf of **Reserve Development, LLC,** the applicant. This project was on its way to becoming phase two of the development that would have extended the remaining 30 units of residential homes onto the north side of the creek. Phase one was 30 lots previously approved in the AGR CUP. That CUP had been amended to do 30 more urban style lots on the north side. There are some issues with Cardwell Branch as far as discharging sewer systems such that the 30 additional lots would have required a full retention lagoon in the neighborhood of 7-8 acres. That began the process of urbanizing this area and the applicant began to work with staff. The developer came in with proposals that did not burden the CIP. Most of the details have been worked out to bring this development in as an urban format upon approval of this Comprehensive Plan Amendment, followed by an annexation, change of zone and amendment to the CUP. Eckert's client has been working with the owner of the 160 acres, Cardwell Branch, LLC,

and working with both Planning staff and Law Department on a contiguous annexation. There is a general agreement on how that will be done. The Cardwell Branch annexation will come in before this one in order to make it contiguous.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

May 14, 2008

Francis moved approval, seconded by Sunderman and carried 8-0: Francis, Sunderman, Taylor, Esseks, Larson, Cornelius, Gaylor Baird and Carroll voting 'yes'. This is a recommendation to the City Council.

**COMPREHENSIVE PLAN AMENDMENT NO. 08009  
TO ADOPT TEXT AND MAP CHANGES TO THE  
ENVIRONMENTAL RESOURCES AND MOBILITY  
AND TRANSPORTATION CHAPTERS RELATED  
TO THE MULTI-USE TRAILS AND PUBLIC TRANSPORTATION SECTIONS.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2008

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

Ex Parte Communications: None.

Staff presentation: **David Cary of Planning staff** presented the proposal on behalf of StarTran Division of Public Works & Utilities and the Parks and Recreation Department, the joint applicants. There are language text changes in the Mobility and Transportation Chapter dealing with public transit and other changes, both text and map, dealing with multi-use trails. Cary listed the updates and changes to the trails plan, and noted letters in support from the Mayor's Pedestrian and Bicycle Advisory Committee and from the City of Waverly.

The text changes to the transit plan refer to the plan adopted last year as a result of the study completed. The first open houses on the new routes being proposed begin today and the new routes are being implemented on June 5<sup>th</sup>. This amendment shows the completion of the study.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

May 14, 2008

Larson moved approval, seconded by Francis and carried 8-0: Francis, Sunderman, Taylor, Esseks, Larson, Cornelius, Gaylor Baird and Carroll voting 'yes'. This is a recommendation to the City Council and the Lancaster County Board of Commissioners.

**COMPREHENSIVE PLAN AMENDMENT NO. 08011  
REGARDING THE CITY'S POLICIES ON ANNEXATION  
AND PROVISION OF INFRASTRUCTURE CONCURRENT  
WITH DEVELOPMENT.  
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2008

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

Ex Parte Communications: None.

Staff presentation: **Steve Henrichsen of Planning staff** explained that this is a series of text amendments to the Plan that would result in looking more promptly at annexing areas that are in Priority A that are areas that may not be developing on their own – in other words, areas already zoned residential and developed with acreage development and areas that the city can provide with city services.

It is still the goal of the Comprehensive Plan to attempt to provide all of the needed services to an area at or before the development proceeds. An example would be Southwest High School with the high school open and later the road had to be closed to change from two to four-lane. This amendment will more accurately reflect what the city has done in terms of urban development where the improvements are phased in over time. The basic infrastructure improvements, i.e. water, sewer, paved road system, would be in place day one, with a lot of the other improvements phased over time.

This amendment is being proposed by Mark Hunzeker on behalf of the Home Builders Association, and staff is recommending approval after discussions and negotiations.

Esseks stated that he is sympathetic to the principle but wondered whether the department has thought about the outer limits such as the nearest advance life support services. Is there some outer limit beyond which the city will not go? Henrichsen pointed out that this general policy does not specifically state those limits. The community would have to consider that as the developments proceed. Distance doesn't necessarily always equate to time.

Cornelius wondered whether this change in the Comprehensive Plan might compel the Planning Commission to perhaps approve development that might not be adequately served, and how would the Planning Commission know? Henrichsen pointed out that everything is still routed to all the other departments for comment. The Commission would hear from the Fire Department if it were too far away.

Proponents

**1. Mark Hunzeker** appeared on behalf of the **Home Builders Association of Lincoln**. The Home Builders Association proposed a series of amendments for the purpose of expressing a somewhat more aggressive annexation policy for the city and to tone down just a little bit some of the concurrence language as it relates to infrastructure. We think that the aggressive annexation policy is important so that the city and our current residents are not effectively subsidizing people land banking at the edge of the city and driving up costs of land for future growth. By adding some land already in the plan as Tier I, Priority A, and bringing some of that land into the city limits, we will encourage people to place their property either in the development pipeline or up for sale for that purpose rather than holding on and hoping to monopolize the end of the pipe.

Secondly, we had some language which latched onto the term “concurrence” in a way that we thought has been interpreted too far in the direction of requiring that all elements of infrastructure that could ever conceivably be needed or would be required to be in place prior to approval of the development. We don’t think that has ever been the case or a prudent policy. Cities grow incrementally. You don’t build the roads, a new school, etc., to serve each new section of land. You don’t go out and build a new fire station to serve each new parcel. It is incremental and a process that grows along with the city. The Comprehensive Plan is a very general document and it is easy to overstate the importance of an amendment like this. The Planning Commission decisions are guided by and not bound by some very rigid standard of conformance. The word “general” is used 13 times in describing what sorts of things should be included in the Comprehensive Plan and the Supreme Court has interpreted the use of the Plan as being a guide, not a rigid document. This proposed language fits with the policy that the staff and administration have been attempting to pursue with respect to annexation.

Hunzeker concurred that he has met with staff to discuss the specific language and the proposed language represents their agreement.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

May 14, 2008

Larson moved approval, seconded by Francis and carried 8-0: Francis, Sunderman, Taylor, Esseks, Larson, Cornelius, Gaylor Baird and Carroll voting ‘yes’. This is a recommendation to the City Council.

**COMPREHENSIVE PLAN AMENDMENT NO. 08012  
RELATED TO ROAD IMPROVEMENTS.  
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2008

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

Ex Parte Communications: None.

Staff presentation: **Mike Brienzo of Planning staff** presented the following changes to the County Rural Road element and the National Functional Street and Road Classification maps:

- A. North 141<sup>st</sup> Street:** Amend the *2030 Lincoln City-Lancaster County Comprehensive Plan*, County Rural Road element, to show North 141<sup>st</sup> Street, Raymond Road to Davey Road, 2.0 miles for “potential paving”.
- B. South 148th Street:** Amend the *2030 Lincoln City-Lancaster County Comprehensive Plan*, County Rural Road element, to show the realignment of South 148th Street north of Nebraska Highway 2, approximately 1.5 miles of 148th Street and .25 miles of 162nd Street, and the closure of at-grade north and south access at Nebraska Highway 2 to/from 148th Street.
- C. West Vine Street:** Amend the *2030 Lincoln City-Lancaster County Comprehensive Plan*, National Functional Street and Road Classification maps, (pages 102 & 103 and A48 & A49) to show West Vine Street, NW 40<sup>th</sup> Street to NW 56<sup>th</sup> Street, as an “urban collector.” This is to generally follow the alignment in the *Airport West Subarea Plan*.

All three of these changes have been recommended for approval by the MPO Technical Committee. The Federal Highway Administration did offer comments on West Vine Street, pointing out that this is the first step in a larger process that would include their approval at the end of the process. We recognize that the Comprehensive Plan is a starting point for this change.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

May 14, 2008

Sunderman moved approval, seconded by Taylor and carried 8-0: Francis, Sunderman, Taylor, Esseks, Larson, Cornelius, Gaylor Baird and Carroll voting ‘yes’. This is a recommendation to the City Council and Lancaster County Board of Commissioners.

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**PLANNING COMMISSION REVIEW EDITION  
OF THE CITY OF LINCOLN'S DRAFT  
SIX-YEAR CAPITAL IMPROVEMENTS PROGRAM  
FY 2008/09 - 2013/14**

**and**

**THE DRAFT FY2009-2014 TRANSPORTATION  
IMPROVEMENT PROGRAM FOR THE  
LINCOLN METROPOLITAN AREA.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2008

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

Ex Parte Communications: None.

**Sara Hartzell of Planning staff** explained that this public hearing is on two separate but related items:

1. The Planning Commission Review Edition of the City's 6-year Capital Improvement Program (CIP); and
2. The Lincoln Metropolitan Area 6-year Transportation Improvement Program (TIP).

As specified in the City Charter, the role of the Planning Commission in the CIP and TIP process is to determine if the capital projects being requested by the various City and County departments are in conformance with the adopted Comprehensive Plan.

According to the Charter, City Council ordinances and resolutions dealing with capital improvements cannot be acted upon until a finding of Plan conformity has been made by the Planning Commission and/or the Planning Department. However, the Charter does NOT prohibit the City Council from approving capital projects which are not in conformance with the Plan; but only that a finding of conformity needs to be established.

In the Project Summary for each department's project, Planning staff has provided the Commission with a recommended finding of conformity. As in past years, the staff has employed a four-tiered approach to the conformity finding. A project can be determined to be within one of the following categories:

- In Conformance With Plan
- Generally Conforms with Plan
- Not In Plan
- Not In Conformance with Plan

This year all of the projects have found to be “In Conformance” or “Generally in Conformance” with the Plan.

Following Planning Commission action on the CIP, the Planning Commission recommendations will be forwarded to the Mayor for incorporation into the City Council Edition of the CIP. This edition of the CIP will be issued in conjunction with the City's Operating Budget -- tentatively targeted for release sometime in late June. The Council will have a hearing on both the Operating and Capital Budgets in August, with approval of both budgets typically occurring in late August -- the City's 2008-2009 Fiscal Year begins on September 1<sup>st</sup> of this year.

As a reminder, the City Council does not approve the CIP; the first year of the CIP becomes the Capital Budget. No formal action is taken on the remaining five years, although it is part of their discussion of the capital improvement needs.

The Planning Commission Review Edition of the CIP, and all subsequent editions, are available on the Internet, at the City of Lincoln's web site –

<http://www.lincoln.ne.gov> (KEYWORD = CIP)

The Chair then commenced to call the individual department CIP's for public hearing:

**Building and Safety: Bill Moody, Chief Fire Inspector, Bureau of Fire Prevention,** made the presentation for a digital x-ray system and a Morton steel building. There was no other testimony.

**Finance Department: Communications:** No one testified.

**Finance Department: Pershing Auditorium:** Tom Lorenz, General Manager of Pershing Center gave the presentation for continued refurbishing of existing infrastructure and to purchase relevant equipment in order to adequately serve the needs of the city and county. It is conceivable that Pershing will continue to be called upon as an active public facility for many years. These improvements will allow Pershing to be maintained as a safe and efficient facility. There was no other testimony.

**Fire and Rescue: John Huff** made the presentation for six projects, including automatic vehicle locator; replacement of four aerial pumpers; replacement of fire station #12 at 84<sup>th</sup> & South Street; station #15 generally between Superior and I-80; education training service campus; and station #16 in the extreme south part of Lincoln. Esseks inquired about whether or not we have reached a period where there is a significant percentage of calls that cannot be answered in terms of response times for fire and emergency medical. Huff stated that the longer a fire goes unattended the greater the loss; and the longer a medical response, the more likely that they will not survive. Everything that Fire & Rescue does is written by response time. They have not added a facility since

1995. Fire & Rescue struggles every day to respond in a timely fashion to all calls, using every efficiency they can. It is a challenge.

There was no other testimony.

**Libraries:** **Carol Connor, the Director of Libraries,** made the presentation for replacement of the roof at Bethany Branch and replacement of the headquarters at Bennett Martin. There was no other testimony.

**Lincoln Electric System:** **Dan Pudenz, Vice President in charge of engineering,** gave the presentation and highlights of the LES 6-year CIP for just under 258 million dollars: The Walter Scott Energy Center in Council Bluffs came on line this year; looking to add just under 12,000 customers in the next six years, bringing us to the equivalent of adding the city of Fremont; continue to have joint planning sessions with Norris, which have been very successful. There was no other testimony.

**Aging:** **June Pederson, Director of Lincoln Area Agency on Aging,** gave the presentation for a new active senior center in Northeast Lincoln in future years. There was no other testimony.

**Police:** **Sara Hartzell of Planning staff** presented the Police CIP request for a K9 training facility, garage maintenance and repair facility and a Team Assembly Station in the southern part of the city. There was no other testimony.

**Urban Development:** **David Landis, the Director of Urban Development,** made the presentation of the Urban Development CIP requests, including two general fund projects this year: \$100,000 for a retail program to entice retail in Downtown and tree replacement program downtown in the amount of \$110,000. There are three projects using CDBG funds. A revenue bond is listed for next year for the creation of a parking garage. Government obligation bonds will be used for Haymarket Redevelopment.

There are about 13 TIF projects, including 10<sup>th</sup> & Military; 19<sup>th</sup> & K; Antelope Valley; South Street parking lot; home ownership in 19<sup>th</sup> & Washington area; 48<sup>th</sup> & O on the north side; Concorde/Bank of the West redevelopment in downtown (O Street with multi-purpose and condo regime); Havelock revitalization; North 56<sup>th</sup> and Arbor Road redevelopment; older business district revitalization with general funds starting next year; University Place revitalization at 48<sup>th</sup> & Madison; Van Dorn Redevelopment; Earl Carter and Cold Storage on West O.

Other testimony

1. **Rick Krueger** posed questions and made some comments. What happens to the allocated dollars if the projects do not come forward, e.g. last year Catalyst One was shown in 6-year funding and it does not show up this year.

He is in favor of the older business district revitalization projects.

He wonders why the West Haymarket redevelopment is shown in this year's CIP even though we have not voted on it yet. Is this a requirement? Are we presently spending any Urban Development dollars on this project?

With regard to money not spent or projects not coming forward, Landis stated that the projects still exist and are under negotiation. They will keep that allocation until the project is completed. He assured that the money is not reallocated and that they do not try to spend it a second time.

The West Haymarket project does appear in this year's CIP because the projected timeline for a vote of the people to authorize the use of bonds will be in 2009. If the public says yes, we would want to bond as quickly as possible. He did not know whether it is required to be shown by charter or ordinance, but it appears for the purpose of fair notice as to what we intend to do.

Esseks noted that the Planning Commission's formal role is to decide whether a proposed expense is in conformance with the general Comprehensive Plan. If a project turns out to be not worth carrying out, what happens to the money? Landis observed that Steve Hubka in the City Budget Office knows where the money is allocated and if a project occurs and we do not spend all of the money, the budget office makes the adjustment. It does not sit there forever.

**Parks & Recreation: JJ Yost of the Parks & Recreation Department** presented the Parks CIP showing multiple funding sources consisting of general revenue, keno funds, athletic fees, impact fees and other financing such as grants and private donations. The major effort is certainly the development of Union Plaza (Antelope Valley park development), which is the new park being constructed along the Antelope Creek Waterway between O and R and 21<sup>st</sup> and 22<sup>nd</sup>, consisting of both city funding for the basic park development, and private donations for the park enhancements and the long term care. The short term financing will be repaid with keno funds. Lincoln Parks Foundation, in cooperation with Vision 2015, is conducting a private fund-raising campaign.

There is a need for about 1.3 million dollars annually for repair and replacements to maintain the existing park infrastructure. With increasing demands on general revenue funds, the proposed CIP for this upcoming year and over the next several years is simply an amount to address priority repair and replacements in order to keep the facilities open to the public. There is a need to work toward a strategy of ongoing funding to support the repair and replacement of facilities. Keno funding generates approx one million per year towards the parks budget.

In keeping with the Comprehensive Plan for new growth, Parks is proposing the use of impact fees for the development of one or two neighborhood parks per year and one-half to one mile of new trails per year.

Other testimony

1. **Rick Krueger** pointed out that it has been 10 years since he deeded Porter Park to the City on South 27<sup>th</sup>. This past year, 27<sup>th</sup> got improved and Tamarin Road became a 4-way intersection. A soccer field was graded out next to 27<sup>th</sup> Street with an access point and place for parking. He requested that the Porter Park parking lot be moved up to the first year and show it as impact fee funding. We want to see kids playing on that soccer field that was graded a decade ago. Presently, the best information he has is that there is \$1,335,000 in impact fee funding. He believes impact fee funding can be used on parks throughout the city. This is in District 7. He would like to see the public and the neighbors in Porter Ridge be able to use that park. He estimated that the improvement to gravel/rock the parking lot would be \$25,000 to \$30,000. We don't need any active play areas.

JJ Yost advised that the Porter Park project is shown in year 2010-11 at \$65,000, which is an estimate at this point, for a crushed rock parking lot with some curbing and fencing along the graded soccer field. We have not designed that parking lot to know whether the \$65,000 is correct. As far as the use of impact fees, impact fees are for the development of new neighborhood parks and trails. Porter Park is classified as a neighborhood park, but by definition they typically do not have off-street parking. We would have to talk with the Law Department to determine whether construction of a parking lot is a defensible use of the impact fees. We do have a sufficient balance in Zone 7 to cover that expense, but we also try to project our new park development that comes along with growth areas. He would have to take a look at the bigger picture if we use those funds now.

**Public Works & Utilities:** **Greg McLean, Director of Public Works & Utilities,** presented the CIP for the various divisions of Public Works & Utilities. The CIP is developed to serve the existing community; it exists to serve the approved annexation agreements and the Comprehensive Plan as a whole. It also includes careful long term planning for all the different systems in Public Works.

StarTran: The CIP for Startran is a little over \$1,000,000, the majority being phased funding for bus systems in 2010-11 because there are 15 buses that will exceed their federal life.

Streets and Highways: This year's CIP will allow for a lot of major projects, including the Antelope Valley area, with 4.5 million coming from wheel tax. The CIP will partially fund the ongoing activities on a day-to-day basis including traffic signals, modification, safety improvements, etc. 1/4 million is associated with the South Beltway, with construction and completion multiple years out. All of the projects are included which serve the Comprehensive Plan; however, they do not have adequate funding to serve and be in full compliance with the Comprehensive Plan. Thus, there will be projects identified and shown

as unfunded. There is a shortfall in traffic signalization and zero in arterial rehabilitation.

Watershed Management: Anticipate 13 million dollar bond issue in November of 2010.

Street Maintenance: Three projects.

Water Supply & Distribution: The 6-year CIP is almost 110,000 million, with the first year being 20.5 million. Includes replacement of existing ozone system at Ashland; initiation of new horizontal collector well in Ashland; multi-year project to expand the transmission capacity from Ashland to Lincoln; other water distribution mains total about 1.7 million with six year total of 31 million dollars. Six-year total for water main replacements is 20 million. This year's budget is 2.8 million.

Wastewater: First year is just shy of 17.5 million; 6-year total is 102 million. Included in this year's budget is about 4 million for Theresa Street and the Northeast Wastewater Treatment Plant facilities; 1.1 million for replacement of existing collectors; trunk sewer projects make up the balance at 12.2 million. New trunk sewer projects will meet the requirements of the annexation agreements on the northwest and east side of town.

Solid Waste: Total for year one is 5.6 million, including the Bluff Road liner installation and one million for a potential gas collection project in the first year. It is more of a place holder than anything.

Other Testimony:

**1. Coby Mach of the Lincoln Independent Business Association** raised a question about the 15 new buses. Is the 12 years a minimum number of years we are required to keep the buses running on the streets, or is that a maximum number of years?

MacLean explained that the federal life refers to the projected life span of the bus. The City uses 35' heavy duty buses. The 12-year life span is the point when the cost of maintenance and equipment exceeds the tipping point. The City buses are very well maintained to extend the life as long as possible. We do exceed the national average and federal recommended standards. The 12 years is more of a guide.

**2. Rick Krueger** noted that in some of the Antelope Valley projects, it appears that there is some money coming through Public Works through the traffic component to fund some planning of parks and urban development. Why is that? What projects are actually being built with impact fee dollars?

Krueger objects to the use of the component of the wheel tax that is for new construction being used in Antelope Valley. The history of the new construction wheel tax was when Johanns was the Mayor, at which time the wheel tax was increased to do certain projects generally in the south and east part of Lincoln. That portion was going to be segregated

for “new construction”, primarily for converting county roads to either two or four lane cross-sections. There have not been any new wheel tax dollars spent in the new growth areas of the city. The new wheel tax portion over the next six years is projected to be 33 million dollars. If you take that money and you put it with the impact fee dollars, there would be a chance to develop some four-lane arterials in the growth areas of the city. It appears that everything is going other places. There are no streets and highways projected for new growth areas of the city. We need to get back into balance, e.g. 33 million of the new wheel tax would do the better part of nine miles of four-lane road anywhere in the city. This is the reason we are having some problems in the development and construction industry of our city because over the last number of years we have gotten out of balance. He wants to at least get some money put into these new areas.

MacLean’s response was that there is a \$50,000 line item in the Urban Development CIP to cover some of the transportation-related planning elements coming out of the redevelopment of Antelope Valley.

With regard to the impact fee question, MacLean is currently aware of two projects that are impact fee funded, i.e. N.W. 56<sup>th</sup> Street north of the Interstate, and 98<sup>th</sup> Street from Pine Lake Road to Old Cheney Road. Impact fees are spent in the districts in which they are collected.

Relating to the wheel tax issue for new construction, MacLean acknowledged that a big chunk has been allocated for Antelope Valley, and he believes strongly that Antelope Valley is in compliance with the Comprehensive Plan. It does need to be funded and the wheel tax has been chosen for that funding. Krueger makes a good point about coming back into balance, but MacLean suggested that can happen after the completion of Antelope Valley. In fact, he thinks it will shift naturally. He is interested about combining the wheel tax with impact fees. The Mayor just completed some work with a task force on road standards which changes the phasing of construction of the roads in the perimeter. That will come into play as well to maximize the ability to build roads in the new areas.

Esseks inquired whether the statute or city ordinance provides where the wheel tax proceeds can be spent. MacLean stated that “new construction” is the designation, and that has been interpreted by some to be in new areas of town. In the case of Antelope Valley, he would consider a new bridge in Antelope Valley to be “new construction”. This is the way we have been doing it for the last 4-5 years.

There was then a discussion about where the wheel tax is allocated. Tom Shafer, Design and Construction Manager for Engineering Services, suggested that a history of the wheel tax can be found on the city’s Web site. There are four components: 1) wheel tax for new construction – not put to geographic area; 2) snow removal component; 3) residential rehabilitation - streets not designated arterial with speed limit of 25-30 or less; and 4) wheel tax residual - used for any component of Public Works in maintaining and constructing new roads. No part goes directly to the schools.

**Draft FY2009-2014 Transportation Improvement Program (TIP):** Mike Brienzo of Planning staff presented the proposed TIP, which is brought forward with the CIP for joint public review since there is an overlap in the projects. The City streets and StarTran projects are included in the TIP. The TIP is developed annually to satisfy requirements to use federal funds on projects. It becomes a document to oversee or coordinate the construction and funding of those projects in Lancaster County. It is a 6-year document with the first four years identified as priorities. Projects included in this document are those seeking federal funds. It also includes funds for pedestrian and trails.

Brienzo submitted some corrected maps for the state element of the TIP.

The state identified a funding shortfall for project #20 (US 34 Lincoln East) so it fell out of the programming year and will be programmed beyond 2014.

Brienzo explained that the Planning Commission is the review body for conformity with the Comprehensive Plan.

Other testimony on the CIP/TIP as a whole:

**1. Coby Mach appeared on behalf of the Lincoln Independent Business Association,** and acknowledged that the Planning Commission's purpose is to determine conformity with the Comprehensive Plan and not necessarily to recommend or to deny specific line item budget details; however, LIBA wants to be on record at this time and the areas of concern are as follows:

With respect to StarTran and the request for 15 new buses, LIBA is concerned because with the rising fuel costs and marginal ridership, is the City tying its hands unnecessarily? Are 15 full-size buses really necessary? Do we need to replace the handivans now or can it wait? How many handivans do we intend to purchase? Do we know the details surrounding the depreciation life of these vehicles?

With regard to Parks & Recreation, LIBA recognizes that trails, bridges and other neighborhood amenities need to be maintained. However, the Comprehensive Plan seems to indicate that there should be a park for every one square mile of residential property. Is this a realistic venture we should continue to pursue? Can we afford it? Would we be better off creating expansive parks that are perhaps easier to maintain and take fewer personnel, thus reducing expenditures but maintaining a park system of which we can be proud?

Mach then discussed LIBA's concerns about Pershing Center. LIBA would recommend holding the \$46,000 allocation until we know the results of the 2009 arena bond vote.

With respect to the Automatic Vehicle Locators requested by Fire & Rescue, LIBA suggests that this purchase be delayed one year unless Chief Ford indicates that the AVL's are

necessary for safety purposes or unless this purchase is helpful in reorganization and efficiencies in the Department.

Mach noted that the Landfill Gas Control System requested by Public Works is not currently required by any federal regulation and must only be installed if emissions exceed the threshold set forth. LIBA wants to know whether Bluff Road exceeds the allowable emission threshold, and why are we spending 2.7 million if there is not a federal requirement to do so?

Mach also expressed concern about this version of the CIP not being on the City Web site in sufficient time for review by the public.

**PLANNING COMMISSION REVIEW EDITION  
OF THE CITY OF LINCOLN'S DRAFT SIX-YEAR  
CAPITAL IMPROVEMENTS PROGRAM FOR  
FY 2008/09 THROUGH 2013/14.**

**ACTION BY PLANNING COMMISSION:**

May 14, 2008

Taylor moved approval of staff recommendation of a finding of full or general conformance with the Comprehensive Plan, seconded by Esseks.

Esseks made a motion to amend to move Project # 0481 of the Parks & Recreation CIP, the Porter Park Parking lot, to the 2008-09 fiscal year, provided discussion with the City's Law Department indicates that impact fees can be used, seconded by Francis.

Esseks noted that it has been 10 years, it looks like a very modest project, and to make that park fully useful he thinks the expenditure is justified.

Cornelius asked for a point of order in that he did not believe it to be the Planning Commission's role to adjust specific line items. Marvin Krout, Director of Planning, believes the easiest thing is to keep the two issues separate. The Planning Commission should vote on the finding of conformity and then could make a recommendation to the City Council by separate vote on specific line items. Typically, the Planning Commission has not made formal motions and taken votes on specific line items, but there is nothing that prohibits it. It is direction and advice to the City Council when they review the first year as part of their capital budget.

Esseks withdrew the motion to amend, and Francis, who had seconded the motion, agreed.

Carroll commented that the staff has worked very hard to come up with these documents.

It is very difficult. He does not know why the Web site was not updated. He is sure it will be corrected. It is important to approve the issue of conformity.

Motion for a finding of full or general conformance with the Comprehensive Plan carried 8-0: Francis, Sunderman, Taylor, Esseks, Larson, Cornelius, Gaylor Baird and Carroll voting 'yes'.

**THE DRAFT FY2009-14 TRANSPORTATION  
IMPROVEMENT PROGRAM.**

**ACTION BY PLANNING COMMISSION:**

May 14, 2008

Larson moved a finding of conformance, seconded by Francis and carried 8-0: Francis, Sunderman, Taylor, Esseks, Larson, Cornelius, Gaylor Baird and Carroll voting 'yes'.

Additional recommendation: Motion was then made by Esseks, seconded by Cornelius and carried 8-0, to recommend that the Mayor and City Council consider moving the Parks & Recreation Department Project #0481: Porter Park Parking Lot, to the first year (2008-09) and pay with impact fees, subject to a determination by the City Law Department as to whether impact fees can be used for this improvement.

Meeting adjourned at 3:55 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their regular meeting on Wednesday, June 4, 2008.