MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, December 2, 2009, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Leirion Gaylor Baird, Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Jeanelle Lust, Jim Partington, Lynn Sunderman and Tommy Taylor; Steve Henrichsen, Tom Cajka and Jean Preister of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Chair Lynn Sunderman called the meeting to order and requested a motion approving the minutes for the regular meeting held November 18, 2009. Motion for approval made by Francis, seconded by Lust and carried 8-0:Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'; Gaylor Baird abstained.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **December 2, 2009**

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

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 09025 and SPECIAL PERMIT NO. 09026.**

Ex Parte Communications: None

Larson moved to approved the Consent Agenda, seconded by Gaylor Baird and carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 09025 and Special Permit No. 09026, 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.

USE PERMIT NO. 117C,
AMENDMENT TO HORIZON BUSINESS CENTER,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 14TH STREET AND YANKEE HILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: December 2, 2009

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

Ex Parte Communications: None.

Staff recommendation: Conditional approval.

Staff presentation: **Tom Cajka of Planning staff** explained that this is an amendment to revise the site plan for Use Permit No. 117 and to increase the square footage to 53,000 sq. ft. to the south. The revised site plan shows mini-storage warehousing. There is an office building already built. The street previously shown going further south has been pulled back and ends in a cul-de-sac. The mini-storage would be approx 43,600 sq. ft. A dwelling unit has also been added for a residential watchman/caretaker (a text amendment was approved recently to allow this in I-3 zoning).

The applicant is requesting a waiver to the landscape vegetation buffer along the west side which was previously added as a condition of approval by the City Council. When Use Permit No. 117 was approved back in 1999, it did not include this triangular piece, and there was a requirement for a 40' native vegetation buffer along that west boundary. Later in 2006, the triangular piece was added to the overall use permit; however, the buffer was missed because it was not shown on the previous site plan, but only as a note on the landscape plan and on the ordinance. Therefore, there have been some previous site plans approved that did not show that buffer. The applicant has indicated that the 40' buffer would not allow him to do what is being proposed and it would require moving the buildings. The applicant and staff have worked out a compromise where the area to the north would still have a 20' buffer; the center area would be about a 6' wide buffer with screening; and then going further south would be native vegetation with it being in the floodway. The aerial shows that the western boundary is quite a distance from Wilderness Park – it is a wide open area that is privately owned, ranging from approximately 800' and narrows to about 400' as you go further north. Staff believes that the intent of the 40' buffer area was to protect Wilderness Park and screen some of the warehouses. The conditions still require some screening, but with the distance to Wilderness Park, staff believes it meets the intent of the original buffer requirement. There are also railroad tracks along the western boundary.

Esseks wondered whether the railroad tracks alone are high enough to provide good screening. Cajka did not know the height of the railroad tracks.

Alan Schroeder, the applicant, advised that about three-fourths of the area is buffered by the railroad tracks.

Esseks pointed out that one of the purposes of the screening is to slow stormwater runoff. He wondered what would happen if the area to the west were to be developed privately. Cajka explained that the buffer was part of the use permit requirements. If the area to the west develops, this screening would still be required. But Esseks inquired whether that screening would be adequate if there were development between this use permit and Wilderness Park. Cajka believes the screening would be adequate. The area in the middle will be gravel with the rest being natural surface. Esseks wondered whether gravel slows down stormwater runoff and Cajka did not know.

Proponents

Alan Schroeder, 2621 N.W. 4th, the applicant and owner, explained that the buildings on the west end will have gutter systems, so most of that water is going to head to the south.

There was no testimony in opposition.

Staff questions:

Gaylor Baird observed that this development has been a long term process. It seems that there has been a breakdown and she does not believe the staff report is clear about what occurred. There was a landscape plan showing the buffer and then the site plan that did not. How did this happen? Cajka explained that typically, when there is a use permit approved and then later amended, the planner will look at the site plan and make sure the notes are transferred to the new site plan. He assumes that because the buffer was added as a condition of approval by the City Council, a note was never added to the site plan – only written into the ordinance and landscape plan. It was not caught because it was not shown on the site plan. There could be a case made that when the buffer was required, this southern tip was not part of the use permit. He also pointed out that I-3 zoning requires a certain amount of acreage, so any conditions or obligations that were on the northern part also apply to the entire use permit. We will make sure there is a note put on the site plan if this is approved.

Gaylor Baird wondered whether it would be possible to configure the buildings differently to maintain the 40' buffer. Cajka stated that staff did discuss this with the applicant and he said this project would go away if the 40' buffer is a requirement.

Esseks expressed concern about setting a precedent by not maintaining the 40' buffer. Cajka pointed out that the design standards only require a 6' landscaped strip. There will still be 20' of gravel area.

Steve Henrichsen of Planning staff gave some additional background on this use permit. In 1999, the entire vegetative 40' strip was something that was added on by the applicant at the last minute in order to get the original use permit approved. It is not something required by our standards. The 40' was over and above what would be required anywhere else. It was offered by the attorney for the Horizon Business Center to gain City Council approval. That is why this got missed – it was not any part of the proposal until it was approved by the City Council and adding it to their resolution. This small triangle was occupied by two houses zoned AG at that time. Those houses were later rezoned and added to the rest of the business center. That 40' buffer condition was never officially placed on the site plan. Mr. Schroeder has now gone through the entire process to amend the use permit and then it was discovered that the 40' strip was missed. Typically, in our process, if staff had met with Mr. Schroeder day one and required the 40' strip, he could have made his plans based on that. Henrichsen believes that they have worked out the best compromise possible with the 20' strip, which is twice the distance away from Wilderness Park than the rest of the use permit and has a much smaller area that would be draining to it than the area to the north. The land between the railroad tracks and Wilderness Park is all floodplain and a lot of it floodway, and the Comprehensive Plan designates that area to remain AG use in the future. It is not shown for development. It would not be a suitable location for residential because of the floodplain access and the 40 plus trains going by everyday.

Response by the Applicant

Schroeder clarified that the 20' buffer in the middle is for the RV storage. He has agreed to not put any kind of landscape felt down. It will just be gravel with the weeds growing right up through it. It will look like a buffer and will be mowed.

ACTION BY PLANNING COMMISSION: December 2, 2009

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

Cornelius commented that this seems like a reasonable compromise. Given the apparent breakdown of process a decade ago, they were able to come up with something that worked out reasonably well. It is distant from Wilderness Park and it sounds like there are no drainage issues.

Sunderman agreed that with the AG land in between, it is quite a distance from Wilderness Park so it should not be much of an issue.

Motion for conditional approval carried 9-0: Larson, Taylor, Francis, Partington, Lust, Cornelius, Esseks, Gaylor Baird and Sunderman voting 'yes'. This is final action, unless appealed to the City Council.

There being no further business, the meeting was adjourned at 1:25 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on December 16, 2009.

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