MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, November 17, 2010, 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, Roger Larson, Jim Partington and Lynn Sunderman (Wendy Francis, Jeanelle Lust and Tommy Taylor absent); Marvin Krout, Steve Henrichsen, Tom Cajka, Jean Preister and Teresa McKinstry 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 acknowledged the posting of the Open Meetings Act in the back of the room.

Sunderman then requested a motion approving the minutes for the regular meeting held November 3, 2010. Motion for approval made by Larson, seconded by Cornelius and carried 6-0: Gaylor Baird, Cornelius, Esseks, Larson, Partington and Sunderman voting 'yes'; Francis, Lust and Taylor absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **November 17, 2010**

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

The Consent Agenda consisted of the following item: **SPECIAL PERMIT NO. 10031.**

Ex Parte Communications: None

Item No. 1.1, Special Permit No. 10031, was removed from the Consent Agenda and scheduled for separate public hearing.

SPECIAL PERMIT NO. 10031
TO OPERATE AN AUTO SALVAGE YARD
ON PROPERTY GENERALLY LOCATED
AT NORTH 70TH STREET BETWEEN
FLETCHER AVENUE AND McCORMICK DRIVE.
PUBLIC HEARING BEFORE PLANNING COMMISSION: November 17, 2010

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

Ex Parte Communications: None

Staff recommendation: Conditional approval, including approval of the waiver to reduce the 100' setback to zero along the east lot line.

This item was removed from the Consent Agenda due to the Motion to Amend submitted by Kent Seacrest on behalf of Cather Construction Company.

Staff presentation: **Tom Cajka of Planning staff** explained that this is a proposal for a special permit for an auto salvage yard located on the east side of 70th Street a little bit north of Cornhusker Highway. The property is zoned I-1, and there is I-1 zoning to the north, south and west, with AG zoning to the east of the subject property.

The applicant has requested a waiver to the setback on the east lot line. The special permit regulations require the 100' setback when the property abuts a different zoning district. Staff has recommended approval of the waiver based on the Future Land Use Plan in the Comprehensive Plan which shows the AG zoned area as industrial for future development.

With regard to screening, Cajka explained that the City design standards require a screen of 90% from the ground to 6' above the ground. The site plan shows a 10' high privacy fence pretty much all the way around the property. Attorney Kent Seacrest has submitted a motion to amend on behalf of Cather Construction, which owns property to the north, to add a condition of approval as follows:

2.4 Relocate the ten foot high privacy fence along North 70th Street to provide a sight triangle at the North 70th Street driveway (Cather Construction Company) located immediately north of the site to provide proper sight distance for North 70th Street roadway and sidewalk pursuant to City of Lincoln Driveway Design Standard, Chapter 4.00, Appendix A.

There is a private driveway entrance and Cather is concerned that the 10' fence may block the sight view on 70th Street. The Planning Department does not object to the requested motion to amend. The applicant will be required to get a building permit from Building & Safety for the fence, and it would be reviewed for sight distances at that time, also.

Cajka also advised that the area of application is not located in the floodplain and it is not in any entryway corridor.

Partington expressed his concern about what effect this use might have on the soil erosion. **Dennis Bartels of Public Works & Utilities** stated that historically, there is drainage that comes in from the south and from the north which drains across this property. He has visited with the engineer for the applicant and believes they are agreeable to some minor changes to correct that. The grading will require a permit from the city and an erosion sediment control plan will be required before they do the grading. Therefore, Bartels anticipates the construction activity should be protected. The area where they would be performing the salvage operation drains to where it drains today at the far east end. They are showing a stormwater detention facility in the southeast portion of the site which should handle the similar drainage that is going there now.

Esseks inquired about the "processing building (fluid draining)" as shown on the site plan at the north end of the proposed salvage facility. Bartels explained that when they haul in the salvage cars, they are required to drain the fluids out of the vehicles and that is where they intend to do it. This would be covered by the Health Department and state regulations.

Proponents

1. Rick Onnen, E & A Consulting Group, testified on behalf of the applicant, **U-Pull-It Auto Parts,** and referred to the conditions of approval.

Condition #2.1 requires that the north entrance shown on the site plan be removed. He explained that this entrance is identified as an emergency access, and they would agree to clarify on the site plan that it is for emergency access only and that they would not request a curb cut permit. The idea is strictly emergency access. There is a fire hydrant located on 70th Street and one of the thoughts would be that if there was a need for fire protection, that gate would provide access for the Fire Department. Onnen requested that Condition #2.1 be deleted.

Onnen then indicated that the applicant will comply with Condition #2.2 to move the gates at the two driveway entrances to provide room for stacking of at least one vehicle between the gates and the property line. Onnen also stated that the owner has considered eliminating the fence along 70th Street along that stretch.

Condition #2.3 requires revision to the grading and drainage plan to the satisfaction of Public Works & Utilities. Onnen has visited with Public Works and believes they can revise the grading plan accordingly to provide a buffer strip.

With regard to the request by Kent Seacrest to add Condition #2.4 to move the fence, Onnen stated that the current plan does meet the sight triangle requirements. The right-of-way is 19.5 feet back of the curb, and the fence is shown another ½ foot back from that. Onnen does not see any reason to relocate the fence, especially since they will be required to get a building permit for the fence.

2. Kent Seacrest appeared on behalf of **Cather Construction Company,** in support of the proposed land use, with one minor issue related to the sight distance. Cather Construction is the neighbor to the north, operating an asphalt processing facility with a lot of big, slow trucks. The only entrance into the Cather plant is immediately north of the applicant's north property line. We need to be able to insure that the truck drivers can see safely around that 10' high fence on 70th Street. The proposed amendment to add Condition #2.4 simply suggests that the site plan be revised to verify that the applicant is meeting the sight distance standard and the sidewalk standard. This applicant is required to show a sidewalk and we want to be sure the trucks can also see the sidewalk. Seacrest understands that the applicant believes they meet that standard, but Seacrest is suggesting that it would be appropriate that the applicant be required to submit a revised plan showing the actual dimensions so that we can be sure that the standard is met. Seacrest does not know how the city would interpret the sidewalk triangle. Cather Construction welcomes this business to the area.

Opposition

1. Mark Hunzeker appeared on behalf of **Wapiti Enterprises,** the owner of the property just up the street on 70th at Salt Creek. Wapiti owns property which is currently licensed for a salvage yard and which has a special permit for a salvage yard, but which is not currently being operated as a salvage yard. The property has been offered to multiple local salvage operators for a year. Hunzeker suggested that the proposed operation is an operation which will be geared toward bringing in salvage vehicles form the region as opposed to serving Lincoln. The parcel that is licensed and approved north of this location is less than one mile away, along Salt Creek, and is already screened with trees on three sides and along the creek. It is available and it is a little over half the size (10+ acres). Therefore it appears that there is at least no crying need to create a new special permit for a salvage yard which appears to be importing salvage vehicles to Lincoln as opposed to serving the Lincoln area.

2. Del Stork, President of Bestorq, Incorporated, located immediately west of the proposed facility, testified in opposition based on the performance of this applicant in the past at other locations. This proposal puts this retail site right in the middle of an industrial site. This site will most likely look like the U-Pull-it site in Omaha, with the fence in disrepair

and overgrown vegetation. Stork showed and submitted photographs and a list of complaints and negative public comments about the U-Pull-It facility in Omaha which he Googled on the internet. Stork does not want this type of operation in this nice area. He suggested that the applicant could use what already exists. He does not believe this is the place for a retail establishment.

Esseks inquired how a complaint could be filed if there were problems or unsatisfactory use of this property under this special permit. And is there a process whereby such problems could be resolved? Cajka pointed out that one of the pictures shown by the opposition shows a chain link fence, which is not an approved screening for this special permit. The fence is required to be a solid privacy fence and that is what they are showing on the plan. If that fence came into disrepair or it was removed, the applicant would be in violation of the special permit. Those complaints should be sent to Building & Safety, who would then inspect to determine whether or not the permittee is in violation. Ultimately, the city can revoke the special permit, if necessary; however, it could end up in court if it went that far.

Cornelius asked for the staff's position on the applicant's request to delete the requirement to remove the north entrance (Condition #2.1). Cajka stated that the Planning Department would not object to leaving the emergency access in place as long as there is no curb cut. Bartels stated that since the gate is in the fence, it is not a problem. Public Works just did not want another driveway on 70th Street as it is an arterial. Fire Prevention did not want the access, so that is why Public Works made the recommendation.

Esseks wondered about allowing the gate without a curb cut. Bartels agreed, but suggested that there is less chance of abusing it or using it for other than emergency situations if the gate is not in place. They could provide another emergency gate on the south side just north of the parking lot and accomplish the same thing.

With regard to the proposed motion to amend to add Condition #2.4 about the sight triangles, Gaylor Baird suggested that Seacrest is just interested in at least verifying that the sight triangles are being respected. She wondered whether the requirement to relocate the fence is really necessary as stated in the proposed Condition #2.4. Bartels explained that Public Works would expect the applicant to dimension the sight triangles on the site plan for that driveway location as well as their own driveways. There would be no change in the location of the fence if it meets the criteria.

Response by the Applicant

Onnen agreed that the sight distance dimensions could be put on the site plan.

In terms of operating the business, Onnen submitted that there are a lot of additional permits that are required to run this type of business, i.e. Health Department regulations, State regulations for stormwater runoff, etc., so there are a lot of safeguards in place.

In terms of the condition of some of the sites in Omaha, Onnen stated that the applicant is not confident that the one photo shown was actually a U-Pull-It site. The U-Pull-It sites in Omaha are sites that they purchased in the past so some of those conditions were inherited. They would be starting from scratch at this site.

As far as land use, Onnen submitted that the salvage yard is an approved use by special permit under the existing zoning. The applicant is just asking for the right to use it.

Larson referred to the west side of the property across the road from the opposition, and inquired whether there will be some sort of buffer. Onnen advised that there is a 10' privacy fence around the processing yard and the storage yard. The parking lot and parts building may not be fenced, with just a driveway into the parking lot.

Gaylor Baird asked the applicant to explain why they are choosing not to accomplish the emergency access by using the southern portion. Onnen believes that Bartels was referring to a secondary gate in another location on the south. There are two hydrant locations along 70th Street. Public Works is also requiring a fire hydrant internal to the site. He understands that the Fire Department would allow a dry hydrant. The internal hydrant would be charged from the hydrant on 70th Street. Therefore, he believes that the emergency access gate would facilitate bringing emergency equipment in and out for emergency purposes.

Esseks inquired where there would be the greatest possibility of a fire on this property. Onnen suggested that it would probably be the processing building where they remove gasoline, oil, and other fluids from the vehicles. If there is a fire there, it is probably not a fire they would want to fight with water; however, the applicant is required to show a road that they can navigate with the fire trucks.

Esseks wondered how important it is to the applicant to have the pipe coming from the hydrant. Onnen suggested that it is more important to the Fire Department as a condition of the building permit. The fire code requires a hydrant within so many feet of the building.

ACTION BY PLANNING COMMISSION: November 17, 2010

Larson moved to approve the staff recommendation of conditional approval, with amendment removing Condition #2.1 and adding Condition #2.4. Upon further discussion, Larson agreed that his motion amends Condition #2.1 to show the north entrance with no curb cut and for emergency access only, and that Condition #2.4 be added to provide the sight dimensions that show compliance with sight triangles as set forth in the design standards, seconded by Cornelius.

Larson stated that he is in favor of the amendments because they are both in the interest of safety, they don't materially affect anything else and they are logical conditions.

Sunderman commented that he believes this application is appropriate. There are good conditions in place. There is nothing wrong with the alleged regional draw because it brings more business to Lincoln.

Motion for conditional approval, as amended, carried 6-0: Esseks, Cornelius, Partington, Gaylor Baird, Larson and Sunderman voting 'yes'; Lust, Francis and Taylor absent. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 1:35 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on December 1, 2010.

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