MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, May 2, 2012, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Leirion Gaylor Baird, Greg Butcher, Dick Esseks, Wendy Francis, Chris Hove, Jeanelle Lust and Lynn Sunderman (Michael Cornelius and Ken Weber absent). Marvin Krout, Steve Henrichsen, Brian Will, Tom Cajka, Christy Eichorn, Brandon, Rashi Jain, Sara Hartzell, Stacey Groshong Hageman, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Vice-Chair Wendy Francis called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Francis then requested a motion approving the minutes for the regular meeting held April 18, 2012. Motion for approval made by Hove, seconded by Sunderman and carried 7-0: Gaylor Baird, Butcher, Esseks, Francis, Hove, Lust and Sunderman voting 'yes'; Cornelius and Weber absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **May 2, 2012**

Members present: Gaylor Baird, Butcher, Esseks, Francis, Hove, Lust and Sunderman; Cornelius and Weber absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 12006, CHANGE OF ZONE NO. 12007, SPECIAL PERMIT NO. 12011, SPECIAL PERMIT NO. 12012, PRE-EXISTING SPECIAL PERMIT NO. 28C and STREET AND ALLEY VACATION NO. 12003.**

Ex Parte Communications: None

Item No. 1.4, Special Permit No. 12012, was removed from the Consent Agenda and scheduled for separate public hearing.

Lust moved approval of the remaining Consent Agenda, seconded by Esseks and carried 7-0: Gaylor Baird, Butcher, Esseks, Francis, Hove, Lust and Sunderman voting 'yes'; Cornelius and Weber absent.

Note: This is final action on Special Permit No. 12011 and Pre-Existing Special Permit No. 28C 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.

COUNTY SPECIAL PERMIT NO. 12015
AND CITY SPECIAL PERMIT NO. 12016
FOR A RECREATIONAL FACILITY
ON PROPERTY GENERALLY LOCATED AT
S.W. 29TH STREET AND W. WITTSTRUCK ROAD.
REQUEST FOR DEFERRAL: May 2, 2012

Members present: Esseks, Hove, Lust, Sunderman, Butcher, Gaylor Baird and Francis; Cornelius and Weber absent.

The Clerk announced that the applicant has requested a deferral of the public hearing until Wednesday, May 16, 2012.

Esseks moved to defer, with continued public hearing and action scheduled for Wednesday, May 16, 2012, seconded by Butcher and carried 7-0: Esseks, Hove, Lust, Sunderman, Butcher, Gaylor Baird and Francis voting 'yes'; Cornelius and Weber absent.

There was no public testimony.

SPECIAL PERMIT NO. 12012
FOR EXPANSION/RECONSTRUCTION OF A
NONCONFORMING USE ON PROPERTY
LOCATED AT 2900 S. 28TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 2, 2012

Members present: Esseks, Hove, Lust, Sunderman, Butcher, Gaylor Baird and Francis; Cornelius and Weber absent.

Staff recommendation: Conditional approval.

There were no ex parte communications disclosed.

This application was removed from the Consent Agenda for further discussion due to a letter received in opposition and a revised site plan from the applicant.

Staff presentation: **Christy Eichorn of Planning staff** explained this proposal for expansion of a nonconforming use. The applicant intends to remove the existing structures and build a brand new house on the property. This special permit is required because the site plan as originally submitted shows encroachments into the side yard and rear yard.

Since the submittal of the original application, the applicant has talked with more of his neighbors who have some concerns about the new dwelling. He is now submitting a revised site plan. The difference is that originally he was requesting a reduction of the rear yard setback along the east lot line, the side yard to the north and the side yard to the south. The R-1 district normally requires a 10' side yard setback. The side yard proposed for the north would be a 5' side yard setback from the garage. The reason why the applicant was requesting the encroachment into the north side yard was to preserve some of the trees that existed on the southern part of the lot. The applicant today is no longer requesting an encroachment into the rear yard. The revised site plan will meet the 24' rear yard setback by moving the house further to the west. The existing structure encroaches into the required front yard setback, so the new structure can also encroach into the front yard setback, if desired. The revised site plan submitted today sets the house back a little more. Today, there is a detached garage on the property sitting approximately 2-3 feet from the north property line. The new structure will sit further back from the north property line than the detached accessory garage does today.

Eichorn confirmed that the revised site plan only seeks one encroachment, i.e. 5' into the side yard along the northern part of the lot.

The detached garage today is located approximately 3' from the north lot line and 3' from the east lot line. That garage will be removed. It will be an attached garage when rebuilt. A detached structure more than 6' from the house is considered an accessory building and can be as close as 2' from the lot line. When it is attached to the main structure there are different setback requirements.

Proponents

1. Michael McCullough, 7410 Old Post Road, the applicant, expressed appreciation to the staff for being so helpful and making the process much simpler for him.

McCullough submitted the revised site plan, stating that the only thing he is not now in conformance with is the 5' setback on the north side. The only reason he is asking for this permit is because of the trees existing on the site. The original house was built in 1947, with numerous and diversity of trees being planted. When it came to building a new house, his first priority was to meet with an architect to make the house fit the site, preserving the existing trees. Many are estimated to be 75-80 feet tall at this time. He is planning to build a 2-bedroom house, 2.5 bath, fairly small, to be able to fit on this lot. There will not be any change in materials on the back or side yards. He has worked with some of the neighbors and as a result, he has agreed to move the house 14' further forward so not to encroach toward the DeBuse property. He may lose one or two trees but overall it will work fine, leaving a 5' setback on the north. He cannot move 5' to the south because he would lose additional trees.

Esseks wondered about bring the garage further south. McCullough explained that the garage will be attached to the house. The south side of the house is up against trees. He has already made the garage narrower and the laundry room actually extends out into the garage. Moving further south would remove additional trees.

Francis noticed on her site visit that the free-standing garage today is much closer to the lot line than what is being requested. McCullough agreed. It will be moving further away both to the south and to the west.

Support

1. Richard DeBuse, 2900 Georgian Court, advised the Commission that as of 4:30 last night, he was in opposition. He did not know until then that the staff and others have formally agreed to this revised site plan moving the house to the west. His property abuts to the east. With the changes as proposed today, DeBuse stated that he is now in full support of the application.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: May 2, 2012

Hove moved to approve the staff recommendation of conditional approval, subject to the revised site plan submitted today, seconded by Gaylor Baird.

Lust stated that she really appreciates it when applicants are willing to work with the neighborhood in advance to attempt to accommodate everyone and to save the existing trees. She appreciates the cooperation among all the neighbors.

Francis did drive past the site and she will look forward to the new house on the site.

Motion for conditional approval, subject to the revised site plan, carried 7-0: Esseks, Hove, Lust, Sunderman, Butcher, Gaylor Baird and Francis voting 'yes'; Cornelius and Weber absent. This is final action, unless appealed to the City Council within 14 days.

COMPREHENSIVE PLAN CONFORMANCE NO. 12003,
AMENDMENT TO THE LINCOLN CENTER REDEVELOPMENT
PLAN RELATING TO THE ENTERTAINMENT CENTER/OLD FEDERAL
BUILDING REDEVELOPMENT PROJECT.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 2, 2012

Members present: Esseks, Hove, Lust, Sunderman, Butcher, Gaylor Baird and Francis; Cornelius and Weber absent.

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

There were no ex parte communications disclosed.

Staff presentation: **David Landis, Director of Urban Development,** presented the proposal. The Lincoln Center Redevelopment Plan was created in 1985, and was essentially a box from 7th Street to 17th Street and R Street to Q Street. 10 years later, the plan was amended to include a retail marketplace strategy as part of the City. In 2000, the Entertainment District and Old Federal Building Project, one of a number of areas inside this larger redevelopment plan area, was created. The area was also changed in 2007.

This project was originally done in 2000 and will come to an end in 2016. In 2005, the Downtown Master Plan was adopted, in which a specific area of the city was listed for a primary retail corridor and a secondary corridor. In 2005, the Downtown Master Plan identified again this retail strategy that has gotten more and more specific. The Downtown Master Plan was amended into the Comprehensive Plan as a subarea. In 2007, the Downtown Master Plan was incorporated into the Lincoln Center Redevelopment Plan, so all the work that we did in 2005, 2006 and 2007 was added to this 1985 Plan. In every step, we talk about retail. We have come today to suggest that in the event we can change the boundaries to include essentially the primary retail corridor as identified in the Downtown Master Plan, we will be able to do the kind of work in the city's right-of-way that will be consistent with that strategy. We would try to make the street more attractive as a retail center.

Landis showed pictures of "good" retail streets – sensitive about how you cross the streets; curbless streets with shorter walk; areas that are easy to shop and easy to walk. It would have a place for pedestrians, biking in the street, consistent lighting, and some green. Those would be the kinds of things we would like to get to, but we're not there. We need resources to make that kind of a change. This amendment will allow us to do that. Is there opportunity for retail success along this street? In the last two years, 25 businesses have opened up in the retail area along this primary corridor. Out of the 25 businesses that opened up, only seven of them are replacing a similar business that was there before, i.e. restaurants. 18 of them are not replacing pre-existing retail but are moving into new areas of opportunity.

Support

1. Terry Uland, President of the Downtown Lincoln Association, testified in support. The DLA board voted unanimously in support on April 25th. This amendment fits the Downtown Master Plan and the separate retail strategy that was put in place in 2007. The DLA is very enthusiastic that this could help move the retail and further that corridor.

2. Todd Ogden, Marketing Director for Downtown Lincoln Association, also testified in support. This fits in with the efforts to make everything more pedestrian and retail friendly. We want to enhance that area.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: May 2, 2012

Lust moved a finding of conformance with the Comprehensive Plan, seconded by Gaylor Baird.

Francis believes this is a great opportunity to keep building retail in the City of Lincoln.

Gaylor Baird explained that the Planning Commission did have a separate briefing on this proposal which might explain the minimal amount of question and answer. She suggested that some of the proposed design principles potentially allow for saving city resources during the winter, such as the low maintenance corners. It also cuts down on the number of curbs that become damaged that require city funds to repair. This is providing identity for the City and improves some of the landscaping, which is all consistent with the Downtown Master Plan. These are exciting changes.

Motion for finding of conformance carried 7-0: Esseks, Hove, Lust, Sunderman, Butcher, Gaylor Baird and Francis voting 'yes'; Cornelius and Weber absent.
This is a recommendation to the City Council.

COMPREHENSIVE PLAN CONFORMANCE NO. 12004,
PROPOSED STREET NAMES AND LOCATION OF STREETS
IN THE WEST HAYMARKET REDEVELOPMENT AREA.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 2, 2012

Members present: Esseks, Hove, Lust, Sunderman, Butcher, Gaylor Baird and Francis; Cornelius and Weber absent.

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

There were no ex parte communications disclosed.

Staff presentation: **Tom Cajka of Planning staff** explained that this application is to determine if the proposed street locations and street names in the West Haymarket are in conformance with the Comprehensive Plan. He displayed a map showing where the new street locations will be, including Pinnacle Arena Drive, Canopy Street, and the connections of P, Q, R, N and 10th Street. There is one connection that has not yet been named but has been shown as a future street.

This application does not dedicate any right-of-way – it's just basically to accept the proposed locations. The right-of-way will be dedicated with future final plats. All of the engineering and design work has been done for these locations.

Esseks suggested that much or most or all of this area is in the 100-year floodplain, and asked staff to review the steps taken to minimize the hazards to the public by having so much roadway in the floodplain. Cajka was not involved with the design work of these roadways, but he would have to assume that when they were going through all the construction and the design work, the floodplain issues were taken into consideration.

Francis wondered whether Antelope Valley removed any of that property from the floodplain and the answer by staff was "no".

Rick Peo, City Law Department, approached to explain that this is part of an overall larger project that includes the West Haymarket Joint Public Agency (JPA) and the city. The JPA is the entity that will construct all of the improvements and those improvements will not be conveyed to the City until completed. As part of the overall project there was a lot of review of the floodplain issues. He believes that most of the floodplain is to the west of this area. There are conservation easements that will be granted on the property acquired from Union Pacific to maintain flood storage and flood capacities in those areas.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: May 2, 2012

Lust moved a finding of conformance with the Comprehensive Plan, seconded by Hove and carried 7-0: Esseks, Hove, Lust, Sunderman, Butcher, Gaylor Baird and Francis voting 'yes'; Cornelius and Weber absent.

SPECIAL PERMIT NO. 12017
FOR EXPANSION OF A NONCONFORMING USE
ON PROPERTY LOCATED AT
S. COTNER BLVD. AND ALDRICH ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 2, 2012

Members present: Esseks, Hove, Sunderman, Butcher, Gaylor Baird and Francis; Lust declared a conflict of interest; Cornelius and Weber absent.

Staff recommendation: Conditional approval.

There were no ex parte communications disclosed.

Staff presentation: **Rashi Jain of Planning staff** explained that this is an application by Four Star Drug in Piedmont Shopping Center on the corner of Cotner Boulevard and C Street. Four Star Drug is doing some internal remodeling and desires to add a pharmacy drive-thru on the east side of the property to become more competitive as a local business. The ordinance does not usually allow a drive-thru in the setback but this is a nonconforming use with loading docks in the front yard setback. They can add the drive-thru on the east side, with entry on Cotner one-way and exit on Holdrege. The conditions of approval require some additional landscaping and a sidewalk connection to C Street.

Proponents

1. James Plucknett, 7630 Cross Creek Circle, owner and president of Four Star Drug, 1265 South Cotner in Piedmont Shops, stating that Four Star Drug has been at this location since 1967, representing a 45-year relationship in that center with the Piedmont neighborhood and surrounding area. Four Star Drug has been an anchor tenant.

A lot has changed since 1967, and one of those things is the public's desire or need for a drive-thru pharmacy. Four Star Drug has listened to its customers and tries to serve their needs. They are getting more and more requests for a drive-thru. Plucknett pointed out that most new pharmacies have a drive-thru. There is a need at this location as far as customers and the industry. He expressed appreciation for looking at a way to do this without impacting the neighborhood in a negative way. They want to stay convenient to the customers they have served for 45 years. By remodeling the inside and adding the drive-thru, Four Star Drug can act as the catalyst toward a rebirth of the Piedmont Shopping Center.

Plucknett also advised that some extensive landscaping will be added. There will be no loud speakers. It is a minimal intrusion.

Butcher inquired about the traffic flow. Plucknett advised that the street that bounds the east side – Aldrich between S. Cotner to C Street – is very a lightly traveled street. The drive-thru lane does not currently exist. There is a parking lane, so they would be adding the drive-thru lane to the east side of the shopping center which would empty onto what is now a freight alley and then Aldrich Street. The neighbor on the other side of Aldrich Street has a hedge and has no concerns.

Butcher wondered whether there was any consideration or concern for foot traffic coming out that sidewalk and stepping in front of the drive-thru traffic. Plucknett indicated that very few people use that sidewalk. They have pull-up parking and the alley is in the back. The drive-thru would not be fast-paced. He does not see that as being an issue.

It was confirmed that there is a sidewalk from Aldrich that comes up to the east end of the shopping center. That sidewalk will remain for folks coming down the west side of Aldrich.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: May 2, 2012

Hove moved to approve the staff recommendation of conditional approval, seconded by Gaylor Baird.

Francis believes this is a nice addition to Four Star Drug and a nice way to accommodate customers.

Motion carried 6-0: Esseks, Hove, Sunderman, Butcher, Gaylor Baird and Francis voting 'yes'; Lust declared a conflict of interest; Cornelius and Weber absent. This is final action, unless appealed to the City Council within 14 days.

There being no further business, the meeting was adjourned at 1:45 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on May 16, 2012.

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