MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, October 3, 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, Michael Cornelius, Wendy Francis, Chris Hove, Jeanelle Lust, Lynn Sunderman and Ken Weber (Greg Butcher absent); Marvin Krout, Steve Henrichsen, Brian Will, Tom Cajka, Sara Hartzell, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Chair Michael Cornelius called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Cornelius requested a motion approving the minutes for the regular meeting held September 19, 2012. Motion for approval made by Francis, seconded by Hove and carried 5-0: Gaylor Baird, Cornelius, Francis, Hove and Weber voting 'yes'; Lust abstained; Sunderman absent at time of vote; Butcher absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **October 3, 2012**

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

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 12013 and STREET AND ALLEY VACATION NO. 12007.**

There were no ex parte communications disclosed.

Francis moved approval of the Consent Agenda, seconded by Lust and carried 6-0: Gaylor Baird, Cornelius, Francis, Hove, Lust and Weber voting 'yes'; Sunderman absent at time of vote; Butcher absent.

Note: This is final action on Comprehensive Plan Conformance No. 12013 as to conformity with the Comprehensive Plan.

ANNEXATION NO. 12004;
CHANGE OF ZONE NO. 12027
FROM AGR AGRICULTURAL RESIDENTIAL DISTRICT
TO R-3 RESIDENTIAL DISTRICT;
and
SPECIAL PERMIT NO. 06001B,
AN AMENDMENT TO THE GRAND TERRACE
COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 84TH STREET AND AMBER HILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION October 3, 2012

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

Staff recommendation: Approval of the annexation and change of zone; conditional approval of the amendment to the special permit.

There were no ex parte communications disclosed.

Mike Eckert of Civil Design Group appeared on behalf of **Fox Hollow LLC,** the owner of the lot in question, and requested a two-week deferral due to some discussions that the applicant continues to have with staff related to the conditions of approval in the community unit plan.

Lust moved to defer, with continued public hearing and action scheduled for October 17, 2012, seconded by Francis and carried 7-0: Hove, Sunderman, Gaylor Baird, Francis, Lust, Weber and Cornelius voting 'yes'; Butcher absent.

There was no other public testimony.

MISCELLANEOUS NO. 12008,
TO REVIEW THE PROPOSED BLIGHTED AND SUBSTANDARD
DETERMINATION FOR THE 1ST AND CORNHUSKER HIGHWAY
REDEVELOPMENT AREA AS TO CONFORMANCE WITH
THE COMPREHENSIVE PLAN.
PUBLIC HEARING BEFORE PLANNING COMMISSION: October 3, 2012

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

Staff recommendation: A finding of reasonable presence of blighted and substandard conditions.

There were no ex parte communications disclosed.

Staff presentation: **David Landis of Urban Development,** presented the findings of the study done by Hannah-Keelan at the request of the developer who ultimately wishes to obtain control of this area and consider it for redevelopment. This is a step to find that this is an area that meets the statutory definition of blighted and substandard under the Community Redevelopment Act. The area consists of 78 acres, about 275 structures, 273 of which are mobile homes, the average age of which is about 32 years, and a number are 40 years or older. Mobile homes do not have the same life as constructed homes. It means that there is a percentage of dilapidation in an area of over 50% of the structures. This is an area with very few sidewalks and access points to streets. The internal infrastructure to sewer and water is 40 years old and privately owned. In reviewing the four substandard tests, it has been found that all four are present in either substantial or significant amounts and of the 12 blighted factors, 10 of them are present.

Landis shared that he received a call from Richard McGinnis related to the presence of diverse ownership. Landis explained that redevelopment is hard to do if there are lots of parcels of land. So one of the factors to redevelopment is whether or not land is broken up into a lot of tracts. In this case, there are only two property owners so that is not considered diverse ownership, but there are 273 mobile homes, which is personal property, not real property. The study says there is a diversity of ownership because of all of the mobile home owners, but McGinnis' argument is that inside the statute, ownership refers to land. It is true that whether or not they are to be considered owners, there is a significant disincentive to the redevelopment process when arrangements need to be made for 273 various tenants, and because of that, developers are likely to go some other place to develop. Landis indicated that he is happy to subtract the diversity of ownership from the list because it still meets the other statutory standards.

Landis advised that in the event the area is declared blighted and substandard by the City Council, he will be back before the Planning Commission at a future date with a redevelopment plan and a redevelopment agreement for the City Council to consider.

As part of the redevelopment process, Lust inquired whether we anticipate a benefit to the 273 mobile home owners. Landis stated that if this was a city project in which the city had a stake, the city does have standards that apply in the public sector which are determined by federal and state law to help with tenant relocation and the city would make payments to the tenants that are dislocated. However, Landis does not believe those rules apply in the private sector. When a tenant is at the end of a tenancy, the landlord has the right to give notice and Landis did not know of a rule that requires a landlord to compensate the tenant.

Lust wondered whether the blight designation really benefits any of these people living in this condition or is it just a matter of property right that allows development to go forward and we are not looking towards the public interest of the people living there? Landis

confirmed that for the area to develop, those tenants will be dispossessed. On the other hand, there are newer mobile home parks in Lincoln and their infrastructure is perhaps better designed. Perhaps the tenants could make arrangements to go to another mobile home park. He does not disparage either tenants or landlords, but it is not the case that the tenants are guaranteed or promised an improvement in their lot in life when their tenancy comes to an end. The property owner/landlord has the right to change the tenancy.

Lust suggested that mobile homes are unique in that they are personal property owned by the person living there. While we might have a landlord, we still might have 273 personal property owners facing the need for new sites for their old and dilapidated mobile home. Is there a plan for where they are to go? Landis stated that he would have to defer to the owner to answer that question, although he believes there is a landlord/tenant act and there is also a mobile home landlord/tenant act and they are not identical because there are different situations in each.

Francis assumed that the roads within the trailer park are private and that is the reason they have not been maintained properly. In other words, they are blighted because of lack of maintenance on the owner's part. Landis suggested that we can find those conditions in lots of places, referring to the Idylwild and 35th & Holdrege redevelopment area. He agreed that the internal infrastructure is private and maintained by the owners.

Weber assumes the tenants would have to sell the mobile homes or move them off themselves. Landis agreed. Weber observed that there are probably instances where the tenants are living right at their means as it is and it will be an additional cost to the mobile home owner.

Support

1. Tom Huston appeared on behalf of **Countryside Mobile Home Parks and Lincoln Mobile Home Parks,** the owners of the property. He agrees that the property qualifies for blighted and substandard conditions. He pointed out that this site is directly adjacent to the Northwest Corridor Redevelopment Area and probably should have been included in that redevelopment area to begin with.

Huston advised that the current property owners have no current plans to change the land use. They are trying to go through a long term planning process. The owners have been in communication with the mobile home tenants. His clients want to position the property for its highest and better use at some point in the future, given its location on two principal corridors of the city, and then ultimately at the end of November, there will be a PUD and Redevelopment Plan submitted and processed but it will not have a specific project at this point in time.

Huston does believe that the tenants will qualify for relocation benefits that are required under the Relocation Act, which is a federal act. Right now, to his recollection, his clients have indicated that the mobile home park is approximately 80% full. His clients own other such facilities in and around Lincoln where the tenants will have the right to relocate their units, and he presumes that they would be paid in the event of a displacement.

Huston reiterated that there is no current plan for any displacements. It is a long term perspective of how this property can be put to a higher and better use.

Francis wondered whether it is perceived that the property owners who own other mobile home parks would be willing to move the tenants' mobile homes with little or no cost to free up the space for redevelopment. A lot of the people who live in these homes are on very limited income. Huston believes that issue will be covered by the federal regulations. Francis knows that there are some parks that will not allow mobile homes to come into their park past a certain age and she is sure some of these mobile homes are past that age. What happens to them? Huston did not have the answer. Any mobile home owner is going to have to go through their own calculation in terms of moving. The mobile home owners will have to make a decision on whether it is cost effective to move or otherwise dispose of the home.

Lust inquired as to what is included in relocation benefits. Huston suggested that would be a law opinion, but believes it may include tenant moving rights, with a statutory item of damages dependent upon the length of the lease remaining. There are several components. In some circumstances it can be upwards of $15,000 to $20,000. The benefits are paid by the owner. It is TIF eligible.

Weber inquired as to the typical length of lease. Huston stated that it starts with 12 months and automatically renews for an additional 12 months.

Of the 273 mobile homes, Hove asked whether any of them are owned by the owner of the property. Huston stated "no". The primary reason that the blight declaration is sought is because of the dated and aged infrastructure. Every property owner needs to ask themselves that question – does it make sense to reinvest or redevelop? There comes a point where they have to renovate and upgrade and ask themselves whether there is a better use that can be made of the property.

There was no testimony in opposition.

Landis suggested that one of the elements of relocation rights is the differential between what you pay at the location you are in and what you pay at an equivalent successor location. For example, if you are living in a location that costs $250/month and you can't find another that is equivalent at $250/month, but you find something at $325/month, that's

a difference of $75.00/month which could be paid for a period of up to 40 months as part of the relocation package. Landis also clarified that he would not disagree with the relocation rights cited by Mr. Huston.

ACTION BY PLANNING COMMISSION: October 3, 2012

Hove moved to approve the staff recommendation of a finding that there is a reasonable presence of substandard and blighted conditions, seconded by Francis.

Francis agrees that there are reasonable conditions here for finding substandard conditions for blight, and she is sympathetic to the owners of the mobile homes, but that is not before the Planning Commission. It is the blighted condition that is before us and she believes the owner is entitled to plan for the highest and best use of his land.

Gaylor Baird observed that there is a pretty clear set of criteria for making this decision and we're 4 for 4 in the substandard and 10 of 12 in the other, so it is pretty clear that what we are being asked to determine is true.

Lust agrees that the Commission cannot reach any other conclusion with regard to the blighted and substandard conditions. She is just very sympathetic to the idea that when we start to undertake these projects, it seems that the overall intent of this process was probably to benefit the people living in the area, and this situation concerns her in that we are following the letter of the law but perhaps not the spirit of what was intended; however, she will voted for the blighted determination.

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

There being no further business, the meeting was adjourned at 1:30 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on October 17, 2012.

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