MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, October 31, 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, Christy Eichorn, Brandon Garrett, 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 October 17, 2012. Motion for approval made by Francis and seconded by Lust failed 3-0 with three abstentions. The motion was tabled until Chris Hove arrived later in the meeting, at which time the initial motion for approval made by Francis and seconded by Lust was voted upon again. Motion was deemed to have carried 4-0, the vote being a majority of those Commissioners present at the meeting (Cornelius, Francis, Hove and Lust voting 'yes'; Gaylor Baird, Sunderman and Weber abstaining; Butcher absent).

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **October 31, 2012**

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

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 12032, SPECIAL PERMIT NO. 12033 and STREET AND ALLEY VACATION NO. 12008.**

Ex Parte Communications: None

Item No. 1.2, Special Permit No. 12033, was removed from the Consent Agenda and scheduled for separate public hearing due to a letter received in opposition.

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

Note: This is final action on Special Permit No. 12032, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days.

There were no requests for deferral.

SPECIAL PERMIT NO. 12033
FOR AN EARLY LEARNING CHILDHOOD
CARE FACILITY ON PROPERTY GENERALLY
LOCATED AT SOUTH 48TH STREET AND
APPLE HILL LANE (3134 S. 48TH STREET).
PUBLIC HEARING BEFORE PLANNING COMMISSION: October 31, 2012

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

Staff recommendation: Conditional approval.

There were no ex parte communications disclosed.

This application was removed from the Consent Agenda due to a letter received in opposition.

Staff presentation: **Brian Will of Planning staff** explained that this is a request for a special permit for an early childhood care facility. He then reviewed the zoning history on this site. The larger property extending to the east was approved for a retirement facility. At that time, the subject property was subdivided as its own separate lot. Then a special permit was approved for a 19-unit elderly care facility, which has not developed. Subsequently, in 2007, a community unit plan was approved for up to 10 dwelling units for the lot. The property at issue today is the west half of what is the larger Lot 2. If this special permit is approved, the intent is to do a final plat subdividing the larger Lot 2 into two lots with the day care facility on the eastern portion. It creates a unique circumstance in that then we have a lot without actual frontage to 48th Street. That frontage will be granted, however, through the platting process. Public access is via Apple Hill Lane. Technically, staff acknowledges that it does not front onto an artieral street, but it is real close. Therefore, staff is recommending approval of that waiver.

Will also noted that there are several minor conditions of approval relating to revisions to the site plan and staff is recommending conditional approval.

Francis inquired whether it has been the same applicant who has owned the property throughout the history. Will stated that it has been the same owner throughout.

Proponents

1. Lindsey Kubicek, 700 Blue Sage Boulevard, appeared as the applicant for the special permit. She is not the owner of the property. She believes the concern raised in the letter in opposition is that the noise would be higher than they would want it to be with the day care center. Kubicek stated that she is more than willing to address the issue by possibly relocating the play area. The fence was going to be the play area on the south side of the building, which is the only residential area. She would consider moving the play area to the north and perhaps that would help with the noise concern.

Francis inquired about the number of children. Kubicek stated that the maximum would be 99. It will depend on whether they have to adjust the building. There will be 12-15 staff during the highest shift, depending on what age groups they decide to have. The higher the age groups, the less employees. The children would be outdoors more in the summer, in 20-minute intervals. It would depend on the age. Preschool and school age children might be outdoors 40 minutes per day. They also have indoor play facilities so that the children are not outdoors as much in the winter or during inclement weather. The most children outside at any one time would be 30.

Opposition

1. Annette Tweton and Randy Tweton, 4832 High Street, testified in opposition and as authors of the letter in opposition. Their property abuts the lot in question. Ms. Tweton believes that there would be a lot of noise with 30 children out at one time, so she is still opposed. Mr. Tweton stated that there are lot of elderly people in the neighborhood and it is now a quiet neighborhood. He is also concerned about the assisted living – he does not know that the parking would be sufficient all of the time. Apple Hill is a narrow entrance and fire trucks have to back out as it is. They are concerned about traffic flow for dropping off and picking up children. According to the zoning, this facility should have an entrance on an arterial street.

Staff questions

Francis inquired about the plans for the traffic flow in and out of this facility. Will indicated that the proposed site plan allows traffic to come in and park “here” and circulate through and then back out. He does not see that what is being proposed hinders or inhibits traffic. It would not interfere with emergency vehicles. You can pull into the parking lot and exit back out in a forward motion.

Weber inquired about the height of the fence on the south. Will stated that it will be a 6' tall solid fence surrounding the play area. There will also be a 10' yard separating the fence and the rear lot line, and they are showing trees being planted in that area.

Gaylor Baird inquired whether staff believes that the landscaping and fence will provide adequate mitigation of the noise. Will suggested that it actually exceeds the standard. The applicant is suggesting the possibility of moving the facility forward and relocating the parking to the rear behind the building. However, staff believes there is adequate separation and screening as proposed. He believes it could also be rearranged and still meet the design standards.

ACTION BY PLANNING COMMISSION: October 31, 2012

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

Lust understands the neighbors' concerns about the noise level. Because the Tweton's letter presented such a high decibel level of concern from children screaming, i.e. 110, she did some research of some sound regulations and found that in actual studies of playgrounds with up to 100 children outside, the level is between 60-75 decibels, and with 25 children outside, the sound is around 50 decibels. According to Housing and Urban Development, 75 decibels requires some landscaping like the fence and 50 does not require any mitigation at all. If this request is approved, it does not approve anything that could damage someone's hearing. She believes this is a good use of the property; it fits the community's needs for quality day care, which is hard to find; it is an infill development, which we all support under the Comprehensive Plan; and she believes it is actually a good use of a space that has not been able to be developed up to this time.

Francis stated that she will not support the motion with this site plan. She has experience with a 6' privacy fence between her home and children and she knows the volume of noise coming out of their yard. She is concerned about 30 children out in the playground with this layout. If the playground is relocated away from the townhomes, then she would be more supportive.

Gaylor Baird pointed out that there is an approved special permit for 10 dwelling units on this lot, which have not been built. You could argue that this is a less intensive use and more aesthetically pleasing use for the neighbors on High Street to have in their back yard. The applicant can still modify the site plan if the parties want to come together and work that out.

Sunderman stated that he will support the motion. He believes the landscaping and the fence in the rear of the yard is at least similar, if not better, than most of the day care facilities the Planning Commission has approved in the past.

Motion for conditional approval carried 5-1: Lust, Gaylor Baird, Sunderman, Weber and Cornelius voting 'yes; Francis voting 'no'; Hove and Butcher absent. This is final action unless appealed to the City Council within 14 days.

COMPREHENSIVE PLAN CONFORMANCE NO. 12012
TO REVIEW THE PROPOSED DECLARATION OF
SURPLUS PROPERTY GENERALLY LOCATED
WEST OF SOUTH 21ST STREET AND BETWEEN
O STREET AND M STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: October 31, 2012

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

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

There were no ex parte communications disclosed.

Staff presentation: **Brandon Garrett of Planning staff** explained that this is a request by Parks and Urban Development. The purpose of declaring this property as surplus is for a potential sale in the future. This is the first step in that process. The main reason for the declaration of surplus is the former Rock Island trail is no longer a needed link due to the Billy Wolff Trail being parallel. This property could be used for redevelopment in the future.

Garrett further explain Analysis #7 in the staff report:

> Prior to the sale of Area B, study and consideration should be given to the need to retain some of the right of way along N Street for an on-street or off-street bike facility that would make an east/west connection from the Jamaica North Trail through Downtown to the north/south Billy Wolff trail in Antelope Valley. This bikeway is shown in the 2012 Downtown Master Plan update, and the design for this connection should be initiated later this year.

Area B is the larger parcel on the north side of N Street. It is recommended that prior to the sale of Area B, the staff should study and consider whether there is a need to retain any additional right-of-way for any possible future bicycle connection from the Billy Wolff Trail to a possible future M Street bikeway.

Gaylor Baird confirmed that staff believes there will be enough right-of-way as it is today. Garrett stated that in talking with people as part of the intial study, it appears they will not need any additional right-of-way but we wanted to include this statement to put people on notice should the additional right-of-way be determined necessary. The Antelope Valley trail runs just parallel to this property about 1.5 blocks to the east, so we

no longer need the Rock Island trail. The right-of-way would be along the north side of N Street for Area B. If we were to need any additional right-of-way for any reason to make that connection to the trail (i.e. perhaps an on-street bike facility may cause a shift of street curbs or right-of-way), we want to be sure to consider that before selling the property. There are utility easements that may be in the area that should also be retained.

Terry Genrich of Parks & Recreation clarified that the Parks Department is making this application. As far as right-of-way through this corridor, the Antelope Valley trail is replacing this as the connection for those that are trying to get into the Downtown area. The trail basically stops at O Street now. Genrich believes that the protected bikeway will be on the south side of N Street.

Gaylor Baird wanted some assurances from Urban Development about that piece. There was no staff available from Urban Development. Garrett explained that Urban Development does not have any intention to sell that right away. There is a large cleared parcel just to the east that will be a new LES substation, and the thought is that during that construction, this property would be used for staging and equipment and they would not plan to sell it immediately. The purpose of this appliocation is that it is land that the city owns which the city does not plan to own long term and there is a desire to declare it as surplus so that it can be marketed at the time when it is appropriate. These applications were combined by the Planning Department.

Gaylor Baird stated that she really would like to hear from Urban Development before voting on this surplus. **Marvin Krout, Director of Planning,** suggested that because the Parks Department owns the land today, Urban Development is really just going to be their broker in this case and be responsible for administering the sale of the land in the future. Parks has an interest in trying to protect the right-of-way for what is shown as bikeway according to the Downtown Master Plan, and also a green landscaped corridor to connect Antelope Creek through the Downtown area.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: October 31, 2012

Lust moved to approve a finding of conformance with the Comprehensive Plan, seconded by Francis.

Gaylor Baird pointed out that the intention is to make sure we protect the space for the protected bikeway, which was a huge focus of the multi-modal transportation discussion during the 2040 Comprehensive Plan process. This particular bikeway is recognized as important in linking Antelope Valley to the West Haymarket, so she is glad to see that that consideration is mentioned in #7 of the Analysis in the staff report. She was hoping to have Urban Development reassure that there would be sincere and forthright efforts

to make sure that that bikeway remains protected because it is an essential part of the Downtown Master Plan. This street was chosen for this bikeway. There will be landscaping and pedestrian improvements, but she wants to make sure that as we move forward that we don't miss something from our Downtown Master Plan in the process. She will support the motion in good faith.

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

ANNEXATION NO. 12004,
CHANGE OF ZONE NO. 12027,
FROM AGR AGRICULTURE RESIDENTIAL TO
R-3 RESIDENTIAL,
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.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: October 12, 2012

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

Staff recommendation: Approval of the annexation and change of zone, and conditional approval of the amendment to the CUP.

There were no ex parte communications disclosed.

Staff presentation: **Brian Will of Planning staff** explained that these three applications represent an amendment to the existing CUP adding a 4.6-acre parcel located northwest of Amber Hill Road and South 84th Street. The proposed site plan shows up to 24 units. The Future Land Use map shows this area as future urban residential with the commercial across the street. Will reviewed the proposed site plan which shows South 83rd Street connecting from Renatta Drive to Amber Hill Road and then internally the development of 31 lots being served by what is currently an unnamed private road.

Will pointed out that there is a waiver to design standards requested for the radius of the cul-de-sac. In reducing that radius, Public Works is supportive provided there is no parking on the cul-de-sac.

Will also pointed out that the Health Department noted the proximity of the property to the existing high pressure gas line. The separation from that gas line to the rear of the

proposed structures is 200'. Based upon their calculations, the Health Department is recommending a separation of 220'. The Planning staff is still supportive of the application with the 200' separation because the applicant has revised the site plan to the extent possible to maintain the 200' separation. The applicant is providing as much separation as they can and staff is recommending approval, subject to conditions.

Francis inquired whether the 2030 Future Land Use map showed the same designation. Will believes the amendment was actually to the 2030 Plan and brought forward in the 2040 Plan.

Lust inquired about notification to property owners about the proximity of the gas line. Will acknowledged that there is no regulatory notification. He suggested that there are signs or markers along the gas line location and they are typically in an undeveloped area. There is no requirement that there be some written notice or as part of the deed or covenants. It will be shown on the site plan and any approved plans for the CUP, which will be recorded and part of the public record.

Gaylor Baird asked how the Planning staff wrestled with the Health Department recommendation, i.e. at what point was the Planning Department uncomfortable with the separation? Will stated that it is reaching a point where we have a comfort level. The original plan did not provide as much separation. Staff worked with the applicant to modify the site plan to the extent possible, while providing the same number of units. Staff believes that 200' gets pretty close to the ultimate goal. It is not a hard and fast standard, but a calculation that provides a goal. The language is more "to the extent possible", and staff believes the 200' meets the intent of the language.

Proponents

1. Mike Eckert of Civil Design Group appeared on behalf of **Fox Hollow LLC,** the owner of the property that is a part of this amendment. He expressed appreciation to the Commission for allowing the previous deferrals, which gave the developer an opportunity to go back to the drawing board to look at some things differently on the site plan and potential changes in 84th Street; however, they ended up back exactly where they were before the deferrals.

Eckert stated that this piece of property was purchased by the owners of the apartment complex that is being built to the north of Renatta Drive. Fox Hollow, LLC, purchased the property with the intent of putting in a street to extend down to Amber Hill Road. This was shown in general concept in the approved CUP in 2006. This street will be constructed between 84th and 80th and will comply with block length. The applicant began this process with this 5-acre parcel in order to put in the road to a full access intersection. Then staff wanted more detail. At one point, the neighbors were shown three 25-plexes. The plan now is to develop "duplex-style" – some two-plexes, some four-plexes; two-story maximum height. The duplexes will front on 83rd Street and some

on the private roadway. The detention has been modified such that in the future, there will be a detention cell which will be green space and lower than the existing grade of Amber Hill Road.

Eckert also observed that they worked with the neighbor to leave an outlot to preserve some trees. They also met with neighbors to the south about extra trees on their properties when the road is constructed.

Eckert submitted proposed amendments to the conditions of approval to which he believes staff is in agreement:

1.2 Submit grading, drainage, and utility plans, including plans for improvements in Amber Hill Road to the satisfaction of Public Works and Utilities. The following improvements will be phased as follows:

1.2.1 Sidewalks and street trees on the west side of 83rd Street will be installed upon development of the land to the west. This property will be platted as an outlot for future development and deeded to the owner to the west.

1.2.2 Urban curb and gutter segment on the south side of Amber Hill Road will be the responsibility of any future redevelopment of the land to the south.

1.2.3 Urban curb and gutter segment and associated grading on north side of Amber Hill Road will occur once buildable lots are platted on this development.

1.2.4 The water main in Amber Hill Road will not be constructed as part of this project, but the owner agrees to not object to a special assessment district for this improvement if it is proposed in the future.

1.2.5 That the water main in the private roadway not be extended to the future water main in Amber Hill Road.

Eckert advised that this property is being brought in as a R-3 CUP. The density on a typical R-3 CUP is 6.96 units per acre, or, in this case, 32 lots on 4.6 acres. This proposal promotes one less unit than what is allowed in the standard R-3. It will be owned by the owners of the apartment complex, but the density is equivalent to R-3 CUP residential density. They want to get the road built and will come back at some point and do a final plat.

Lust inquired how soon the developer anticipates building the 32 units. Eckert stated that the developer is going through a phasing in the apartment complex – one phase next year and the next in 2014. It would be after that that they would anticipate building this area. This also provides some diversity of units. The road will be built as soon as possible. It will be a fully conforming paved road done by standard executive order.

Gaylor Baird asked Eckert to explain why the Commission should disregard the recommendation of the Health Department with regard to the gas line. Eckert suggested that it is a recommendation based on a formula that in his understanding is not widely accepted across the country as far as a standard that we have to deal with. It was only three months ago that the developer realized the proximity of the gas line. The developer did revisit the site plan and layout and did do some things differently and made the effort. They even considered putting the roadway in that setback area, but the sewering was then going to be problematic. Eckert believes this development has come a long way in this regard, now generally providing a 200' separation, while Health wants 220'. Eckert reiterated that there is nothing in the subdivision regulations or standards that require this setback. There is no easement for it. There is nothing of record on the property.

Weber referred to Renatta Drive and asked whether the developer ever discussed bringing Renatta Drive out and making an intersection on 84th Street. Eckert explained that part of the delay was to meet with the city to discuss a potential roundabout there, which would require relocating some streets. Public Works determined that it was not the optimum place due to several factors, and Public Works is waiting to make decisions on roundabouts in relation to the Access Management policy that was just passed. They wanted to look at the intersection on Amber Hill for a roundabout, which at least provides a safer u-turn movement. From a design perspective it did not work well on Renatta. The streets need to be loaded equally from all four sides. Weber wondered about a stop light, doing away with 83rd Street and moving the whole development to the west to give more space to the gas line. Eckert observed that for over 10 years before the Access Management standards were passed, signals have been focused on the 1/4 mile. This was closer to 1/8 mile.

Opposition

1. Russ Kromberg, 8201 Amber Hill Road, testified in opposition. In 2006, Grand Terrace was approved with the condition that there would ultimately be at least three other access points to this development besides Renatta Drive and South 84th Street. As of now, there are only two access points. All of this traffic flows out Amber Hill Road, and they either have to make a u-turn or they have to do a right turn to head north at 84th & Amber Hill Road. The original plan showed one exit going to the north through Portsche Heights and one to the west at around 75th Street. As of now, these accesses have not happened and there is no plan to make them happen, so we are ultimately going to have all of the traffic coming out one exit. To help ease that, the developer

wants to put 83rd Street in there, but Kromberg does not believe that is going to help the traffic. It will still come out the same area. This development needs more access points.

In a letter dated January 5, 2005, from Engineering Design Consultants to the Planning Department it read, "The developer has worked diligently with the surrounding homeowners to bring forward a development that meets the City of Lincoln's goals for residential density and is conducive to the existing homes." That original developer, Steve Champoux, did do that, including a payment of $285,000 towards paving the roads.

The annexation policy of the Comprehensive Plan states that the character of existing residential areas should be respected as much as possible. When low density acreage areas are proposed for annexation, additional steps should be taken to ease the transition as much as possible, such as public meetings, notices, etc. Kromberg does not believe putting 31 units up next to an acreage development eases the transition.

Kromberg then referred to the pile of dirt depicted in a photograph sent by Kristy Kromberg. That pile of dirt is still there; however, it has been moved to the north. He does not know how long it is going to be there. He has not had any communication with the developer on that.

Kromberg stated that he understands that this area will be developed in the near future and he is on-board with that, but he does have an issue with 83rd Street going right into his driveway. There will be 200+ cars traveling down there with lights coming into his house.

Kromberg also expressed concern about green space. The only green space will be the detention cells, which is going to be smaller than a normal cul-de-sac with no parking. If two of the units have a party, there will be people parking on Amber Hill Road, which means it should have curb and gutter and sidewalks.

Kristy Kromberg is concerned about the huge volume of traffic being diverted south onto a 3-acre lot subdivision.

Staff questions

Weber asked for confirmation about the access points for the entire CUP. Will stated that there are multiple connections in and out of the development in the overall approved plan for Grand Terrace, acknowledging that some will occur in the future. There is a connection to the north coming forward. It is true that the whole development has not yet been platted so not all of the streets have been constructed. As the development is platted and additional lots are created and homes are built, those connections will be made. There is one connection dependent upon the acreage lots to

the west being developed, but there are multiple connections planned and shown in the CUP. Will concurred that there are only two outlets at this time because there is only a portion of the development that has been platted.

Will observed that what is driving this application is building the street connection down to Amber Hill Road and South 84th Street.

Weber wondered whether there are any benchmarks for when more outlets have to be built. Will believes that is up to the developer and the market demand.

Lust inquired about what is now developed. Will stated that the apartment buildings are under construction now. Will then showed on the map what has been final platted but not yet fully built out with homes.

Gaylor Baird inquired more about whether this is an appropriate transition from the land to the east. Why does the Planning Department believe this is an appropriate transitional change of zone? Will referred to the Future Land Use map which shows the urban density designation. The area designated as low density residential is not an attempt to represent a desire but more than anything, it merely recognizes the acreages that exist. The Planning staff does not see an inherent conflict between the lower density and the acreages next door to residential. There is not an inherent incompatibility – it is residential next to residential. Given the location, Will would suggest that it is just a matter of time before this area is developed in a like manner that Grand Terrace is developing, and staff will find that to be consistent with the Comprehensive Plan. It will make better use of infrastructure as that area develops. The future is going to be urban residential for this area. The area designated as commercial was part of the rationale for making the change to urban residential.

Will agreed with the applicant's proposed amendments to the conditions of approval.

Sunderman inquired whether there are any design regulations that require a setback from the pipeline. Will stated that there is nothing in the Lincoln Municipal Code that regulates or requires some specific setback from those facilities. The Health Department calculation is a recommendation.

Francis assumes that there are currently other subdivisions that are closer than 200' to a gas line. Will concurred. A classic example is one mile north in Vintage Heights.

Cornelius wondered where the discussion stands about imposing some sort of requirement or regulations with regard to proximity to the pipelines. Will believes that there was a report from the Joint City-County Planning Commission and the Board of Health suggesting some guidelines. The calculation of the Health Department is taken into consideration – it is not treated as a hard and fast standard – but to the extent we can achieve that goal, that is what we intend to do.

Lust remembers some briefings where the Health Department was going to advise the Commission of some guidelines. The process Will previously discussed occurred longer ago. There was some discussion a few years ago where the issue was revisited and there was discussion about formulating some standards, but that has not been done.

Response by the Applicant

Eckert addressed the concerns of the opposition by talking about the connection points. His firm has been directed by the developer to begin the next phase of development of 30 lots; however, only 6 are currently under purchase agreement. Sewer and water will be brought in from Highway 2 in the next phase. The next phase after the water and sewer will require a connection for those on the western part. We've got 80th Street and 83rd Street, but we must not overlook that eventually people can get to 70th Street. Not all of the traffic will be going up to 84th Street. Part of the reason the developer was asked to pay $285,000 for the roads was that Portsche Lane and Amber Hill Road were paved to an 8" asphalt standard rather than 6" anticipating that urban residential use. There has been some foresight in how that would be handled and traffic can go both directions. The two connetions meet the typical fire, safety, and access standards.

Eckert purported that this development does comply with the Comprehensive Plan in that it provides some green space with the detention cells, as well as an attempt to stay away from the pipeline as far as possible, even though not a required standard. At one point the distance was 120' and they have been able to bring that to 200'. "When there is not a design standard, you do what you can", and Eckert believes they have done so.

Eckert further observed that this application follows the CUP by putting in the road and it follows the Comprehensive Plan by putting in urban residential. The developer has worked some of the design issues out with staff and it is adjacent to a major areterial.

Lust inquired about the Portsche access which the Krombergs are concerned has not occurred. Eckert explained that it was modified. The note on the 2006 site plan said to either take access to Portsche Lane or provide some other access to Portsche Lane. So when that amendment to the CUP was done, it was determined that the access would go "here" (pointing to the map). That property owner of that 5-acre parcel was the applicant on the CUP and has shown that as a future right-of-way. That is where the sewer and water will come through for the next phase and that road connection will not be made. That connection would be determined by that landowner at the time he decides to subdivide his property.

ANNEXATION NO. 12004
ACTION BY PLANNING COMMISSION: October 31, 2012

Francis moved approval, seconded by Hove.

In looking at the Future Land Use map, Cornelius believes this is a reasonable use of the property in the context of the surrounding properties. It is intended to be urban residential and is actually forming a transition between commercial to the east and north and the acreages that are currently existing. The acreages as shown on the Future Land Use map reflect not necessarily the future intended use but the existing use. As the planning process looked at this area, it was determined that urban residential made a good transition between that existing acreage land use and the proposed future commercial. For that reason alone, this is a reasonable plan for this area.

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

CHANGE OF ZONE NO. 12027
ACTION BY PLANNING COMMISSION: October 31, 2012

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

SPECIAL PERMIT NO. 06001B
ACTION BY PLANNING COMMISSION: October 31, 2012

Lust moved to approve the staff recommendation of conditional approval, with the amendments proposed by the applicant, provided that Condition #1.2.5 reads, "That the water main in the private roadway will not be extended to the future water main in Amber Hill Road.", seconded by Francis.

Cornelius indicated that his comments on the annexation apply to this application as well. Of particular concern was the proximity of the high pressure natural gas pipeline to the east. What he has concluded as a result of this discussion is that it might be worth the effort to revisit that discussion to see if we can come up with some kind of standards to apply in these situations. The Health Department recommendation is not a standard but is generated based on formulas. Cornelius makes his livelihood off of basing things on formulas so puts a lot of stock in them, but he will support this application because of the good faith effort made on the part of the developer to locate the residential units as far from the pipeline as possible.

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

There being no further business, the meeting was adjourned at 2:30 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on November 14, 2012.

Q:\PC\MINUTES\2012\pcm103112.wpd