

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, January 7, 2015, 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: Cathy Beecham, Tracy Corr, Dennis Scheer, Michael Cornelius, Chris Hove, Maja V. Harris, Jeanelle Lust, Lynn Sunderman and Ken Weber; David Cary, Steve Henrichsen, Christy Eichorn, Paul Barnes, Stacey Groshong-Hageman, Brandon Garrett, Brian Will, Jean Preister and Amy Huffman of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission meeting

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

Lust requested a motion approving the minutes for the regular meeting held December 10, 2014. Hove moved approval, seconded by Cornelius and carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Hove, Weber and Lust voting 'yes'.

The Clerk then read Resolution No. PC-01429 into the record in honor and memory of Marvin S. Krout, Director of Planning, from 2002 to 2014. Motion to adopt Resolution No. PC-01429 made by Cornelius, seconded by Beecham and carried unanimously.

Lust then presented a memorial plaque to the family of Marvin Krout on behalf of the Planning Commission, and Leirion Gaylor-Baird presented a City of Lincoln medallion to Bunny Krout on behalf of the Mayor and City Council. Bunny Krout said that Lincoln and planning were Marvin's "passion".

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

January 7, 2015

Members present: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Scheer, Hove and Lust.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 1999B; USE PERMIT NO. 13011A; and STREET & ALLEY VACATION NO. 14013.**

All three items were removed from the Consent Agenda and had separate public hearing due to a revised staff recommendation.

**SPECIAL PERMIT NO. 1999B,
AN AMENDMENT TO THE WILDERNESS HILLS
COMMUNITY UNIT PLAN, TO MODIFY THE
SIGN REQUIREMENTS, ON PROPERTY
GENERALLY LOCATED AT
SOUTH 33RD STREET AND WILDERNESS HILLS ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 7, 2015

Members present: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Scheer, Hove and Lust.

Staff recommendation: Conditional approval, as revised.

This application was removed from the Consent Agenda for further discussion.

There were no ex parte communications disclosed.

Staff presentation: **Christy Eichorn of Planning staff** explained that this item was pulled from the Consent Agenda because there was an item being requested in the application letter that was overlooked.

Eichorn then discussed the history of the sign in question. The plans for the sign were submitted with the building permit. Because of the processes that happen, the sign got built and did not meet the requirements of the ordinance. The changes were going to be very significant and expensive because in order to comply, the sign needed to be shorter by 1.5 feet and smaller by about 3 feet. The only way to change or waive the requirements is to take the application all the way through to Planning Commission and City Council for approval. Eichorn submitted that the impact of this sign in this area is not significant in terms of an increase in size or an increase in height. Normally, a sign like this would be allowed at 32 sq. ft. in sign area and 6 feet in height. This particular sign is 32 sq. ft., but because of a logo on the columns it exceeds the area of the sign by 3 feet. The height would be 6 feet, but because of the way it was constructed it exceeds the height by 1.5 feet. The approval of this application will allow the sign as constructed to remain.

Proponents

1. **Fred Hoppe**, 1600 Stoney Hill Road, attorney, appeared on behalf of the owner of the Aventine apartment complex. He displayed a picture of completed sign. Because the columns are already built, they built the berm at the bottom of the base to limit the sign to 7.5 feet. The scale of the apartment complex is huge and he believes this sign fits in that scale, even if it is oversized.

There was no testimony in opposition.

Corr inquired of staff whether the applicant knew the correct process for a sign permit. Eichorn suggested that it was just an oversight. Corr wondered whether something needs to be done to modify the process for the acquisition of a sign permit. Eichorn suggested that this is the first time she has had to take a sign through the process for this sort of miscalculation.

If the medallions had been graphical motifs rather than logos, Cornelius wondered whether they would be considered part of the sign. Eichorn stated that "it is likely." If it is the logo for the apartment complex and that is the logo going on the sign, then it is clear that it is a sign. If it were an exhibit that had nothing to do with the name or character of the development, the staff probably would have said that it was not part of the sign. It is just easier to make sure they have the square footage to do what they need to do.

ACTION BY PLANNING COMMISSION:

January 7, 2015

Hove moved to approve the staff recommendation of conditional approval, as revised, seconded by Weber.

Corr expressed appreciation to the applicant. This is unfortunate, but she appreciated seeing the pictures showing the scale and how the sign does not appear to be out of place with respect to the large apartment building.

Motion for conditional approval, as revised, carried 9-0: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Scheer, Hove and Lust voting 'yes'. This is a recommendation to the City Council.

**USE PERMIT NO. 13011A, AN AMENDMENT TO
THE RUSSWOOD PARK USE PERMIT TO INCREASE
THE FLOOR AREA, EXCEED THE MAXIMUM HEIGHT,
AND TO MODIFY THE PARKING REQUIREMENTS
and
STREET & ALLEY VACATION NO. 14013
TO VACATE A PORTION OF RUSSWOOD PARKWAY,
ALL GENERALLY LOCATED AT
NORTH 84TH STREET AND O STREET.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 7, 2015

Members present: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Scheer, Hove and Lust.

Staff recommendation: Conditional approval of the use permit amendment, as revised, and a finding of conformance with the Comprehensive Plan on the street vacation request.

These applications were removed from the Consent Agenda for further discussion.

There were no ex parte communications disclosed.

Staff presentation: **Paul Barnes of Planning staff** explained that the use permit amendment is to increase the allowable floor area located at North 84th and O Streets. Earlier this year, a use permit was approved for a pad site of 17,700 sq. ft. at the intersection for the Aldi's grocery store and that building has been constructed and is completed. Today's request is to allow additional floor area for commercial uses, i.e., a bank and office building, and another pad site north of Aldi's for potentially a restaurant or other commercial use.

Barnes also pointed out that the application includes a waiver or modification to allow an increase in the allowable height for the office building located towards O Street to increase the building height up to 65 feet. This center is surrounded by rights-of-way and does not impact residential neighborhoods, and with frontage on a major arterial, the staff supports the increase in height.

The applicant is also requesting a waiver of the parking requirements, which is why this item was removed from the consent agenda. The applicant requested that all uses within the center have a parking requirement of 1 parking space per 315 sq. ft. During that discussion, the entire use permit center was to have a joint parking agreement. We now have new information that Aldi's on Lot 1 is currently not part of that joint parking agreement. Therefore, the revisions to the staff recommendation recognize that fact; however, staff is still supportive of the parking reduction as long as there is a joint parking agreement on the other two lots. They can still meet the parking requirements at 1 per 315 sq. ft.

Barnes then discussed the street vacation for a portion of Russwood Parkway. The vacation is being requested in the northwest portion of the center, and the applicant will dedicate additional right-of-way towards the south and west portion of the center. The reason for vacating and dedicating is that Russwood Parkway was not built in the center of the right-of-way. Thus, it shifted the sidewalks and other elements onto and off of private property. The vacating and dedicating will clean up the line of where Russwood Parkway was constructed and put all of the streetscape elements in the public right-of-way.

Proponents

1. Barry Lockard, President of Cornhusker Bank, expressed appreciation for this opportunity. He provided a history of Cornhusker Bank, which came to Lincoln in 1960 from Davey, Nebraska. From that time until now, the bank has continued to grow and has been able to double the size of its growth and continue to invest and help businesses and residents in Lincoln. This opportunity at 84th and O Streets will allow Cornhusker Bank to continue to be viable in a significant way. This is not just about brick and mortar – it's really

about investing in our community and establishing opportunities to continue to grow. That is why we are calling it a “center”. This building will allow us to create efficiencies and relationships. It sets up Cornhusker Bank to be successful for 30-35 years, while providing an opportunity to share the building with the community.

Lockard also acknowledged that this is a significant entryway into the City. There will be a community room on the back end of the building to share with customers and nonprofits and provide educational opportunities. As a community bank, Cornhusker Bank wants to be able to share this building with the community.

2. Kent Seacrest also appeared on behalf of the applicant. He stated that a neighborhood meeting was held on December 11th. They invited 12 neighbors, and presented to one person, and there was no controversy. The applicant has subsequently received communication from Kohl’s asking several good questions and the applicant was able to give them several good answers and Kohl’s is in support.

Seacrest expressed appreciation to Planning staff, especially Paul Barnes and Steve Henrichsen, who worked hard to get the conditions put together, as well as Bob Simmering of Public Works and Terry Kathe of Building & Safety. The applicant is in agreement with the new condition #2.13 and is ready to proceed.

There was no testimony in opposition.

USE PERMIT NO. 13011A

ACTION BY PLANNING COMMISSION:

January 7, 2015

Hove moved to approve the staff recommendation of conditional approval, as revised, seconded by Cornelius.

Corr stated that she will support this project. Part of her consideration was another office building that is across the street and down another block, so the height was not that big of an issue to her. She believes that will complement both sides of the street. This is an exciting area for improvement. She appreciates that the applicant had a neighborhood meeting.

Motion for conditional approval, as revised, carried 9-0: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Scheer, Hove and Lust voting ‘yes’. This is a recommendation to the City Council.

STREET & ALLEY VACATION NO. 14013

ACTION BY PLANNING COMMISSION:

January 7, 2015

Beecham moved to approve a finding of conformance with the Comprehensive Plan, seconded by Cornelius.

Lust commented that this part of the application obviously makes a lot of sense given the way the roadway was built.

Motion carried 9-0: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Scheer, Hove and Lust voting 'yes'. This is a recommendation to the City Council.

**COMPREHENSIVE PLAN CONFORMANCE NO. 14025,
AMENDMENT TO THE LINCOLN CENTER REDEVELOPMENT
PLAN CREATING THE "SWANSON RUSSELL REDEVELOPMENT
AREA", GENERALLY LOCATED AT 1202 P STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 7, 2015

Members present: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Hove and Lust (Scheer declared a conflict of interest).

Staff recommendation: A finding of conformance with the 2040 Comprehensive Plan.

There were no ex parte communications disclosed.

Staff presentation: **David Landis, Director of Urban Development**, presented this proposal to alter the existing downtown plan to describe a project, which is a necessary legal requirement should we arrive at a redevelopment agreement for construction behind the existing Swanson Russell building. The existing parking lot is grandfathered, although it does not meet today's buffering standards. Swanson Russell has been approached about moving a section of their business to Omaha but they want very much to expand in Lincoln, if possible. However, building in the downtown area is expensive.

This proposal has been reviewed by the Urban Design Committee. It is a request for the project area to be delineated for the purpose of construction of a building which will cover the substandard parking lot, make a home for about 30 plus employees and add a very handsome connectivity in the downtown area. This proposal is in conformance with the Downtown Master Plan as well as the Comprehensive Plan, i.e. to preserve and enhance Downtown as a major office and employment center. Looking at what is in place there now, Landis believes that this will be a handsome addition to Downtown Lincoln.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

January 7, 2015

Beecham moved to approve a finding of conformance with the Comprehensive Plan, seconded by Hove.

Beecham expressed appreciation to staff for including the minutes of the Urban Design Committee in the staff report. Our citizen boards play a very critical role and many of us do take the time to read those minutes.

Corr expressed her appreciation to Swanson Russell for staying in Lincoln.

Motion carried 8-0: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Hove and Lust voting 'yes'; Commissioner Scheer declared a conflict of interest. This is a recommendation to the City Council.

**COMPREHENSIVE PLAN CONFORMANCE NO. 14026,
AMENDMENT TO THE ANTELOPE VALLEY REDEVELOPMENT PLAN
AMENDING THE PREVIOUSLY ADOPTED "18TH & P MULTIFAMILY
REDEVELOPMENT PROJECT" LOCATED ON THE BLOCKS
BOUNDED BY 17TH STREET, ANTELOPE VALLEY PARKWAY,
O STREET AND Q STREET.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 7, 2015

Members present: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Sheer, Hove and Lust.

Staff recommendation: A finding of conformance with the 2040 Comprehensive Plan.

There were no ex parte communications disclosed.

Staff presentation: **David Landis, Director of the Urban Development Department,** appeared as the applicant, explaining that this relates to the existing Aspen Project which this Commission has seen and which has been approved by the City Council with the existing boundaries. This application amends the boundaries of the redevelopment project to include city right-of-way and no private property. After the initial boundaries were drafted and approved, it became clear that the N Street bike path had a hole in its financing, such that we could not do the design commissioned and sought to do. This was a concern of the developer. By including the rights-of-way, Urban Development would use a portion of TIF funds if it would allow the developer to cross the finish line with the protected bikeway on N Street. The bike path leads to recreational use of the Antelope Valley trails; to the Haymarket; to the Jamaica trail; and we hope that our customers park their car and walk to campus or ride their bike to campus, which is why there is a considerable amount of bike parking in the developer's design.

Landis went on to explain that in the redevelopment agreement already approved by the City Council, the developer will promote the use of bicycles and provide places where tenants can lock and store bicycles. The developer is asking the city to construct the N

Street bike path and use available TIF bond proceeds to support any portion of its revenues to construct the bike path. Landis submitted that this piece allows us to “cross the finish line.” It is good for the city as well as the developer.

Support

1. **Tom Huston**, 233 S. 13th, Suite 1900, appeared on behalf of **Aspen Heights**, the developer of the project at Antelope Valley and P Street, in support. His client envisions that the project will contain 182 dwelling units for 630 people, many of whom will be walking and riding bikes in Downtown Lincoln, and supports this addition to help support that N Street bike path.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

January 7, 2015

Hove moved to approve a finding of conformance with the Comprehensive Plan, seconded by Cornelius.

Cornelius commented that supporting the N Street bike path seems like an excellent use of TIF funds. It helps him to support further what was already a great project.

Lust expressed that she is very happy to see the development community and Urban Design Committee come forward to solve a financing issue for something that is a great development for the city and a win-win for everyone.

Motion carried 9-0: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Scheer, Hove and Lust voting ‘yes’. This is a recommendation to the City Council.

TEXT AMENDMENT NO. 14021
AMENDING SECTION 27.72.080 OF THE
LINCOLN MUNICIPAL CODE RELATING TO
EXCEPTIONS TO FRONT YARD REQUIREMENTS
IN THE O-1 OFFICE DISTRICT AND THE
B-3 COMMERCIAL DISTRICT.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 7, 2015

Members present: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Sheer, Hove and Lust.

Staff recommendation: Approval

Corr disclosed that she attended the Mayor’s Neighborhood Roundtable meeting on November 10, 2014, where this text amendment was discussed.

Staff presentation: **Christy Eichorn of Planning staff** referred to an application on today's agenda to which this text amendment would apply (Change of Zone No. 14029). Both of the applications are by the same applicant but they are different because the text amendment will affect future developments – not just the development being proposed today.

Eichorn explained that approval of this application will provide a mechanism to allow us to improve development in commercial areas that do not have a lot of depth in the commercial area, such as areas like University Place, i.e. 150' or less of commercial zoning along arterial streets, making it difficult to develop those sites with residential zoning adjacent. Over the last few years, we have talked about a mechanism that can be utilized to meet that burden.

Eichorn further explained that today, when you have a commercial development on the same block face as residential, that commercial development is required to have the same front yard setback as the adjacent residential. This regulation has caused problems in the past. To maximize redevelopment, this text amendment creates the 2:1 step-back method. This has been used in our zoning code for increases in height. The applicant did work with staff to develop the proposed language.

Eichorn also noted that this was one part of reFORM which was discussed in order to help facilitate redevelopment.

Proponents

1. Derek Zimmerman, Baylor Evnen, 1248 O Street, Suite 600, appeared as the applicant. He acknowledged that he worked with city staff on this amendment. This is something that has been looked at previously. There are already a number of mechanisms for setback reductions in other zoning districts or with PUD's or CUP's. The problem is that they require more acres than this development.

There was no testimony in opposition.

Eichorn reapproached to clarify that this text amendment applies only in the B-3 and O-1 zoning districts because both of those districts today, by right, would have zero front yard setbacks if they weren't on the same block face. The applicant had only requested the B-3 and staff believes that the O-1 would also benefit from this change.

ACTION BY PLANNING COMMISSION:

January 7, 2015

Scheer moved approval, seconded by Harris.

Cornelius expressed that he is troubled because when the Commission was working on the reFORM initiative and the revisions to the Comprehensive Plan, there was general

consensus that these items needed to be brought forward as a package. There were balancing acts that went on between making it easier to redevelop in the city and also protect neighborhoods. This is a component of all of that which we reviewed in the reFORM initiative. Cornelius is concerned about “chipping away” at what was intended to be a balanced package. He has reservations about this.

Corr commented that she did have the same reservations based on bringing reFORM together as a package. This is piece-mealing it and she is worried about the effects it might have on the rest of the reFORM package.

Beecham agreed that “balanced” is the key word. Only bringing one piece of the equation together does not feel balanced. It can set a precedent where we might have ramifications down the road that we are not seeing right now. Personally, she would like more time to think about it.

Lust stated that she will support the application, while having the same reservations. She believes reFORM is a very important package “as a package”. That said, she always hates for “perfection to be the enemy of the good.” In looking at this, we have to weigh whether this particular text amendment makes sense, in general, because that’s what is before us. ReFORM is not before us. There is a definite project that appears to be of benefit to the city in a place that is hard to redevelop. In this context, the applicant should have the ability to move a project forward and have that be reviewed upon its merits, and this text amendment has been one of the elements of reFORM that has always made sense. Even though she would rather see reFORM move forward, she is still going to support this application.

Sunderman pointed out that the Commission was working on reFORM last summer and fall, and it got delayed to maybe later this year, but there is no definite date. We cannot just sit back and wait for something that may happen in the future before we move along with city business.

Corr recalled that reFORM was supposed to go forward in December, but because of some “push-backs” we decided to delay it. Had we moved forward, this may not be an issue now.

Beecham acknowledged that everyone has a good point. If she has concerns, this is the mechanism to voice her concern.

Motion for approval carried 6-3: Weber, Sunderman, Harris, Scheer, Hove and Lust voting ‘yes’; Corr, Cornelius and Beecham voting ‘no’. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 14029
FROM O-2 SUBURBAN OFFICE DISTRICT
TO B-3 COMMERCIAL DISTRICT,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 48TH STREET AND PIONEERS BOULEVARD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 7, 2015

Members present: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Sheer, Hove and Lust.

Staff recommendation: Approval

Corr disclosed that she attended the neighborhood meeting on December 22, 2014.

Staff presentation: **Christy Eichorn of Planning staff** presented the proposal for change of zone from O-2 to B-3 at the northeast corner of South 48th Street and Pioneers Blvd., stating that it is important to keep in mind that this is a request for change of zone, not a special permit or use permit. The Comprehensive Plan, in general, says that we should not encroach into residential neighborhoods but we also need to encourage and enhance redevelopment in our community. We can help facilitate that redevelopment by utilizing a zoning agreement with certain conditions on uses and require a site plan that would be followed with the change of zone. It works very similar to having a special permit on a property.

The building in which LaMars and Colby Ridge are located is currently zoned B-3. To the east is an old dental office and a house (to be removed). The applicant is requesting that the corner be rezoned to B-3, with one large B-3 and residential to the east.

The staff has worked with the applicant on conditions that would be appropriate for this particular site in order to allow for its redevelopment, even though it moves closer to the residential area and eliminates the existing O-2 buffer. The list of conditions that would be included in the ordinance and the zoning agreement include adding street trees – four on Pioneers and one on South 48th Street; additional landscaping and buffer between the residential and commercial (normally B-3 requires a 5' side yard and we are asking for 10' side yard between the eastern property line and the building). The additional side yard setback would allow screening and landscaping along that property line, whether vegetation or a fence. Parking lot screening is required and would have to meet current design standards. After speaking with Health, it would be best not to have cabinet shops with refinishing nor motorized vehicle wash or repair and service facilities on the area being rezoned. Those are uses that tend to be nuisance uses and can often cause problems when located adjacent to a residential district.

One access on Pioneers Boulevard and the existing access point on the alley on South 48th have been eliminated, and the applicant has agreed to provide some transparency along

Pioneers Boulevard, with at least 50% transparency for the separate building and a 30% transparency on another building. The agreement would state that the elevations will comply with what is shown on the exhibit.

With regard to combining the access points, Corr noted that the staff report mentions that a barrier will be installed to prevent left hand turns if there is a significant number of crashes taking a left. Who pays for the barriers, if necessary? Eichorn believes it would be the City because it could be way into the future. The intent is to make it clear that it is not a guaranteed access point in the future.

Corr asked for the difference between a woodworking shop and a cabinet shop. Eichorn explained that it is the chemicals used in refinishing the wood. She has talked with the applicant and they are aware that the cabinet shop would not be able to do any finishing of that product.

Beecham confirmed that the alley is not paved at this time. Eichorn concurred. The applicant will probably have to pave it when they come in for building permit, but she did not know for sure.

Beecham then asked whether you can drive between the two buildings, or is there a walkway? Eichorn stated that there is a patio and walkway between the buildings and not a driveway.

With regard to consideration for the future, Beecham inquired whether this design with today's current requirements would allow a drive-through. Eichorn indicated that it would be very difficult because of the limited access points and challenging in order to keep the parking stalls required because they just barely meet the parking requirements now.

Beecham inquired as to the height difference allowed between the office zoning and B-3 zoning. Eichorn did not know, but would find out. Beecham also asked for the difference between B-3 and residential zoning. (*Editorial comment: This question was answered later in the hearing*).

Beecham inquired about the uses allowed in B-3 that are not allowed in the office zoning. Eichorn suggested that O-2 is really only an office district; B-3 would allow personal services, retail, service stations, gas stations, auto sales, etc.

Beecham then inquired about businesses that are allowed in residential areas. Eichorn explained that any business/commercial uses would require a special permit, unless it is a home-based business. Restaurants are also not allowed in residential.

Harris inquired whether the 4' sidewalk eliminates any trees. Eichorn advised that the applicant will be required to show whether they can provide the necessary street trees on a revised landscape plan.

Beecham commented that this is such a strange intersection for pedestrians. Did Public Works have any recommendations on ways to make this a safer crossing? Eichorn explained that a study was done in this area back in 2007-08 which talked about a potential round-about in the future in this area. Public Works has been exploring multiple options on how to improve this intersection. However, there are not currently any funds budgeted for any improvements.

Proponents

1. Derek Zimmerman appeared on behalf of the property owners and developers. He displayed the site plan and the proposed uses. He also showed a photograph of the building which houses LaMars and Colby Ridge as it exists today, which is over 50 years old. To the east is an existing dental office, which is currently not being used. He also displayed a photograph of the existing residence which has been purchased by his client. The interior condition is not good and not usable in its current form and remodeling is something that would not be economically worthwhile.

Zimmerman advised that the existing tenants will stay. They will be located in the old building while the new building is constructed. The strip center will include an insurance-based office use. The other spaces are open at this time. The parking for this site is challenging and Zimmerman does not believe there would be a feasible way to have a drive-through with the stacking requirements, and he assured that a drive-through is not in the developer's current plan. The alley will be paved and used as a drive access to the cabinet shop. This development will be a significant improvement over what is there today. Zimmerman agreed with the conditions pertaining to the uses and the zoning agreement.

As part of the change of zone, Zimmerman stated that the developer has worked with city to make sure the transition from the commercial to the residential is a seamless and positive one.

With regard to the landscaping, Zimmerman pointed out that B-3 requires 5 feet; however, the applicant is in agreement with 10 feet of landscaping and trees; there will be a walkway from the parking area; the developer has agreed to the transparency and an elevation substantially similar along the south side facing Pioneers Boulevard. They are making changes to provide space that is open to the north (patio space that is covered) rather than a space that faces Pioneers Boulevard. It would be possible to have some open space facing Pioneers but that is a lot less attractive than the patio area up to the north further away from the street.

Zimmerman acknowledged that the access points have been approved by Public Works. The access on Pioneers Boulevard is being eliminated.

There was no testimony in opposition.

Eichorn reapproached to answer Beecham's previous questions about maximum height. The O-2 district actually has a lower height limit than the residential, i.e., O-2 is 28 feet (or 25 feet, depending on the pitch of the roof because it is a transitional zoning district). Most residential is 35 feet maximum height, and in B-3 you can go up to 45 feet, but the lot adjacent to the residential cannot exceed 35 feet in height. The cabinet shop cannot go higher than 35 feet because it is considered adjacent to residential.

Response by the Applicant

Zimmerman clarified that the buildings are all planned to be single-story.

ACTION BY PLANNING COMMISSION:

January 7, 2015

Weber moved to approve the staff recommendation of approval, subject to a zoning agreement, as revised, seconded by Hove.

Although he had reservations about the previous text amendment, Cornelius stated that given this body chose to recommend approval of the text amendment, he sees no reason to oppose this application.

Beecham observed that this is in an old neighborhood that is in transition. She likes what the applicant has done with the design. It is a tricky intersection. It is right adjacent to residential. She likes that this design is not super tall; and it appears that they are doing a good job adding the extra buffer to try to create a buffer for the neighbors.

Scheer indicated that he will support this change of zone because he thinks that the change of zone will create opportunity for this corner, which is a great thing for this neighborhood, especially on a corner that has been the same for 50 years. He does have a few reservations, but since we are creating the opportunity, he wants to make sure we don't miss the opportunity. This is a great urban design element for Lincoln on a very important corner. He would like the developer to think about how to make this corner more contextual with College View – to create points for pedestrian access, entry and use around the side as well as within the site. He loves the goal with patios, etc., but to make this as contextual as possible on this corner in College View is a very important thing to follow up since we are creating opportunity with the change of zone.

Corr commented that she has struggled with this a lot. This is not her favorite layout and not appealing to her. She understands this is a challenging site but feels like we are trying to put too much in there (a square peg in a round hole). However, she stated that she will support this based on a couple of things. She appreciates the neighborhood outreach with two neighborhood meetings, and it improves the access for this corner. She is, however, concerned that this sets a precedent to tear down viable buildings to expand commercial.

She doesn't think the house looks that bad. The O-2 buffer is really important. With that being said, she appreciates the work that has been done and she will support the change of zone.

Lust stated that she will also support this change of zone. She is in favor when we are able to have a zoning agreement to get things like street trees, landscaping, transparency in design, etc. She believes it is a good development for a problematic corner.

Motion carried 9-0: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Scheer, Hove and Lust voting 'yes'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 14033
FROM R-4 RESIDENTIAL DISTRICT AND
O-2 SUBURBAN OFFICE DISTRICT
TO B-3 COMMERCIAL DISTRICT,
and
SPECIAL PERMIT NO. 14054
FOR THE EXPANSION OF A NONCONFORMING USE
FOR THE SALE OF ALCOHOL FOR CONSUMPTION
OFF THE PREMISES,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 48TH STREET AND MEREDETH STREET:

January 7, 2015

Members present: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Sheer, Hove and Lust.

Staff recommendation: Approval of the change of zone and conditional approval of the special permit.

Staff presentation: **Brian Will of Planning staff** presented the proposal for the area at 48th and Meredith, about one block northwest of 48th & Pioneers Boulevard. This application pertains to the south half of Block 39. Lots 11 and 12 are the existing Casey's convenience store. The lot to the west is zoned O-2. There had been an older 2-story building with an office use until recently; the three westernmost lots (7, 8 and 9) consist of single-family dwellings and a duplex. The special permit is for the expansion of a nonconforming use. The change of zone will provide consistent B-3 zoning across the entire south half of the block.

Will went on to explain the rationale for the staff recommendation of approval. The circumstances for every change of zone are unique. He discussed the zoning pattern in the area, which is kind of irregular going down South 48th Street. Part of the logic for approving this change of zone is that the zoning district boundary line runs through the middle of the block creating split zoning through the block. The staff is suggesting that the split zoning is not an ideal circumstance. Ideally, the zoning district boundaries run down

the street or through the alleys, which is the case to the north. In fact, staff is suggesting that it makes sense that all of the area eventually become B-3.

Will advised that the applicant did have a neighborhood meeting and one of the notions suggested at that meeting was how the owners feel about changing the zoning of the residential lots to B-3. There was no opposition. In fact, there was some support and one of those property owners has joined in this application. Will believes there is good rationale to rezone these lots.

Relative to the special permit for expansion of a nonconforming use, Will believes that the site plan preserves the character of the area; however, the staff first recommended to the applicant to flip the site plan to be something more reflective in keeping with the historic character and zoning pattern in College View. Obviously, that is not the plan that is going forward; however, the staff is still supportive of redevelopment of this area. The site plan represents an improvement of the store that is there and would benefit from redevelopment and rehabilitation. Will noted that there is a driveway very close to the intersection of Meredith and 48th Street that will be removed. The driveway adjacent to the alley will also be removed. There will be street trees along both 48th and Meredith. There is a screen along the western edge between this development and the adjacent residence. Staff submits that the benefits outweigh any disadvantages.

Beecham asked for the neighborhood's response at the neighborhood meeting. Will stated that he did not get a comment back from the association specifically, so he assumes they have no objection. In fact, there are property owners in the area that have become part of this application.

Beecham wondered why only Lot 7 joined this application if all of the property owners were okay with this. Will clarified his statement, stating that of the properties being rezoned, they are either part of this application or have not objected. The properties to the south are not being rezoned to B-3. Staff would recommend that happen, but the property owners were not ready to do that at this time, although they have not submitted any opposition.

Beecham pointed out that this is a very large chunk of residences. She does not understand why this makes sense. A lot of these older neighborhoods have a business along the front with a lot of housing behind. Will stated that he was attempting to explain that there are principles to be applied, but you cannot do that the same way in every circumstance. As we look at this one specifically, one of the goals of the Comprehensive Plan is to encourage these older districts to redevelop. We hear that constantly. You have to weigh those goals against each other. In this case, it is not without precedent that we don't have commercial zoning a block deep. Will believes this is part of the College View commercial district.

Beecham pointed out that we also hear that it is difficult to revitalize a neighborhood that is struggling when we put a large business district in the middle of a neighborhood. This

one troubles her – we are being asked to change the zoning on an entire block of properties that are currently being used as residences. They are bounded on the other sides by a residential district. So far the unique circumstances are only because it would look nicer if we moved it to the street. She needs more. She would rather the applicant and the staff sit down with the neighborhood association and plan a redevelopment plan if we're going to do the entire block. If they are all being used as residences, why are we changing them to B-3 other than a cleaner zoning district line? Will pointed out that there is commercial zoning right against residential zoning. It is not that it is running down a street – it's right next door. In the long term, what is the future for the residential properties adjacent to the commercial zoned lots? Beecham suggested that maybe the future is to live close to a business district. She does not think it is good planning to put commercial next to this residential. This establishes a precedent – changing a whole block to commercial simply because the edge along the street is business. It appears to her that we are really wanting to change this to business so that we can have alcohol sales. She needs to understand why the alcohol sales are so critical to this change of zone.

Will explained that the special permit is nonconforming relative to not meeting the separation for alcohol sales. The use already exists. This would allow them to demolish and redevelop the site with the store on the western edge and still continue to have alcohol sales. The dwelling on the westernmost lot will remain.

Harris inquired how this relates to any kind of future and big picture for walkability services in the neighborhood. Does this tie into those desirable factors that we talk about? Will stated that staff believes it could do better. The staff had suggested that the applicant flip the layout to bring the store closer to the street. There is a lot of pedestrian traffic in this area and having the front of that business visible and accessible to pedestrians would be in keeping with the historical development pattern.

Harris then inquired, from a zoning perspective, taking the layout out of the equation, does the zoning tie into services, walkability, and growing the neighborhood? Will suggested that there are some competing issues, but the staff report is saying that overall, the benefit outweighs any disadvantages.

Lust asked whether there is any improvement for walkability with the layout proposed by the applicant. Will would not say improvement per se. There will be sidewalks adjacent to both 48th Street and Meredith Street; there will be a sidewalk connection to the store; the alley is going to be paved; and the building is closer to the residential.

Proponents

1. Mark Hunzeker appeared on behalf of **Casey's General Stores**, the applicant. Casey's is in the process of expanding the existing convenience store at the corner of 48th Street and Meredith Street. It currently exists on two lots and the driveway into the site from Meredith Street is barely around the corner and past the sidewalk along 48th Street.

Hunzeker submitted that moving those driveways to the west will help with congestion, both with vehicular traffic as well as keeping traffic from backing up across the sidewalk along 48th Street. There is not enough parking and not enough pumps to meet the demand at that site today.

Hunzeker advised that three people showed up at the neighborhood meeting, one of whom was the neighbor immediately to the west of the existing store; one owns property on the south side of Meredith Street; and one owns property on the north side of the alley. One of those property owners is hoping the alley will be paved, and Hunzeker acknowledged that the alley will indeed be paved with this application. The neighbor on the south side was generally interested in what was going to happen in this vicinity – this owner chose not to join the application, but there is at least one and maybe two on the south side of Meredith Street which are owned by the owners of a commercial property on 48th Street. So we think, probably for the purpose of providing access, it will only be a matter of time before we see an application to rezone some of that property. This application will improve the alley from 47th Street to 48th Street. The store will be expanded to a modern new design which is a much more attractive building and design. It will be larger, but it will still not meet the 100' setback for alcohol sales. That is the reason for the special permit to expand the nonconforming use. The owner to the west said he was willing to include his property if it would facilitate this project because he was in favor of the project. The access, circulation, parking and the need for more pumps and products was something he was in favor of.

In a more broad scope, Hunzeker suggested that it is important to understand that every site is unique – but one of the important things about neighborhood preservation and revitalization has to do with preserving housing stock, of course, but the desire of people to live in a neighborhood has a lot to do with the ability to access neighborhood services and goods in a way that you could if you were living somewhere else. In many of these areas, you have commercial development patterns which are just very, very restrictive with respect to modern requirements for commercial development. You need more land to do that, and in some places like this, it is necessary to expand the depth of the commercial district in order to accommodate it. If we do not get approval of this proposal, then this store sits there in a really inadequate, antiquated and relatively poor condition. It is clearly a substandard store for Casey's, which may mean they simply find another place to go to do business in this part of the community or it continues to be a substandard store, which is unfair to the people who live in that area. The same is true in areas where we have small drug stores or grocery stores, e.g. the building and parking at Russ's IGA. Those kinds of incremental changes need to be able to be accommodated to maintain viability for the neighborhood. He believes this is one of those applications. Most of the residential on the south side is not owner-occupied and it is in the hands of people who are likely to want to have some other use for their property at some point in the future. He does not believe this is going to be of any harm to the neighborhood. In fact, Hunzeker believes it will do a great deal of good for the neighborhood.

Lust asked Hunzeker why they refused to reorient the site as suggested by staff. Hunzeker acknowledged that it was discussed and from Casey's perspective, it is simply not in the model that they prefer. It makes circulation of trucks more difficult and penetrates deeper into the residential area with large transport trucks to service the pumps put back further into the residential area. The people at the neighborhood meeting did not want the orientation flipped because it puts the canopy, lights, traffic, and noise further back into the neighborhood and they do not want that. The gentleman to the west wants the building there to shield the lights and prevent the activity and noise from being next to his property.

Lust inquired about the future of the other properties. Hunzeker stated that the duplex and house are not in very good condition, both of which are under contract to sell to Casey's to maintain the existing building while the new building is being constructed.

Corr inquired whether notices were sent to the neighbors for the neighborhood meeting. Hunzeker stated yes, and that he got the list of owners from the Planning Department. The neighborhood meetings were held about a week or so before Thanksgiving. Corr stated that she is active in this neighborhood association because she owns property over there. She knows that Casey's has been a good neighbor, but her problem is that the neighborhood association was not contacted and she has a huge problem with that. We can't simply say that because we don't hear from someone that they are not opposed. Hunzeker suggested that perhaps the neighborhood association was not on the list of property owners that he received from the Planning Department.

Beecham suggested that the best way to get businesses to be successful is to work with the people in the area to figure out what they want. She asked Hunzeker whether he has checked to see if this neighborhood has a redevelopment plan and whether he has talked to the neighborhood about their vision and what they are looking for. Hunzeker stated that he has not had a separate meeting with the neighborhood association. They just met with the property owners that would receive notice of the change of zone.

Beecham inquired whether "singles" are sold at this Casey's store. She agreed that Casey's is a good neighbor in the city and she thought they agreed not to sell singles when the store is located close to neighborhoods. Hunzeker does not believe this question has been asked previously, but if they agreed in the past, they might agree to it here. He did not know.

There was no testimony in opposition

Staff questions

Lust asked staff about the notification. Will stated that the Planning Department list on any zoning action consists of those property owners within 200' of the boundary of the zoning area and any neighborhood association for which the Department has a contact as part of the database. A neighborhood meeting was held by the applicant; the list generated by

the Planning Department was given to the applicant; and the Planning Department sends notice of the Planning Commission meeting to the property owners. Will acknowledged that perhaps the list given to the applicant did not include the neighborhood association contacts. Corr wants this resolved because it keeps falling through the cracks. Corr does not believe the neighborhood association was contacted.

Beecham discussed the encroachment of businesses into older neighborhoods, which is a concern to her. This application changes residential to business with that business taking up five city lots, which would then be across from several houses. Are there other businesses in this area that take up such a sizable footprint? Is this sized appropriately? She understands that the applicant can be more successful if they expand, but sometimes a smaller store makes the most sense in some neighborhoods. We are changing a whole lot of zoning – five lots is pretty sizable considering there are houses backing up to it and houses across the street from it.

Steve Henrichsen of Planning staff offered that there was a former grocery store on the southwest corner of 48th Street and Pioneers Boulevard that is now a multi-tenant building taking up the entire block. In terms of the zoning pattern, Henrichsen offered that there have been discussions with this neighborhood previously and the staff has heard that the neighbors on the south side of Meredith Street are also interested at some point in commercial development. The staff shares the concern about a bad zoning pattern, but staff does not view this as a precedent when the dividing line of 47th Street is the dividing line between commercial and residential. On Meredith Street, half of the block face is commercial and the other half of the block face is residential. Looking ahead into the future, the staff foresees that probably this entire block on both sides of Meredith would be commercial zoning, but the people on the south side did not want to be a part of this particular commercial zoning action at this time.

Beecham stated that she is not opposed to this concept, but she has big concerns. The idea of this clean zoning pattern makes her nervous because in older neighborhoods we don't always have clean zoning patterns. She believes it is a mistake to knock down those five houses to make it look cleaner. That is not the right approach. Some don't mind being next to a business because they like the small houses and street trees to walk by. A big change like this doesn't just impact the people owning the houses. It has a reverberating impact for the entire neighborhood. If we are talking about changing a big chunk like this, then it is important enough that they have not come forward. We need to work together and look at what this could be – not “you didn't pay attention so you missed out”. We need to invite them to the table. Neighbors like businesses – they want good businesses. The concern they have is when things happen without being in the loop. In the older neighborhoods it is important to work on that partnership rather than the blame game. We need to find a way to work together for the future.

Referring to the subject property as it sits now, Sunderman sees a business on a short little lot. The likelihood of that being redeveloped or invested in is not great. The business will

stay the same or get worse. And the houses next to it are not going to be next to prime real estate. Will acknowledged that to be the practical reality that staff is trying to describe. We are just trying to acknowledge the practical difficulty of developing in today's constraints on these small strips of commercial development.

Will then offered that the Planning Department initiated a meeting with the neighbors back in 2008 about this same question and rezoning a larger area. There was no opposition at that time to what is being proposed today.

Beecham wondered whether there would be any restrictions on the kind of businesses that could be developed if this change of zone is approved. For example, could there be a car wash at this location, or a cabinet workshop? Will stated that anything allowed in the B-3 district would be allowed. There is no zoning agreement. There is a special permit. That special permit could be rescinded if they did not want to do alcohol sales. There are no restrictions in this change of zone. Beecham is still worried about the fact that this is right across the street from residences.

Response by the Applicant

Hunzeker did not know whether the list he received from the Planning Department included the neighborhood association contacts. His focal point was on making sure to notify the property owners within that area. One of the comments about the change of zone from one of the owners of property on the south side of Meredith is fairly reflective of the kinds of owners who have the property on that side of the street. He is not a developer. He is a small landlord with a piece of property there for which he has no immediate plans for other uses. His concern about including his property without an alternative use, was the taxes on his property. He chose not to be included but was not opposed to the idea of his property becoming a part of the larger and better commercial use.

Hunzeker confirmed that Casey's does not have a car wash and that there is no room for it. There are currently three sets of pumps (6 filling stations). The new site plan shows six sets of pumps (12 filling stations).

CHANGE OF ZONE NO. 14033

ACTION BY PLANNING COMMISSION:

January 7, 2015

Hove made a motion to approve, seconded by Harris.

Cornelius began his comments by reiterating the point made that changes of zone like this are almost always unique in their situation; there are other locations where a conscious decision was made in the past to locate the boundary between a business district and a residential district at the half-block line. When you look at this map, you can see that, by and large, that location is at the full block line. In this case, there is a deviation from that to the half block. When he considers applications like this, he does weigh the input from

the surrounding neighbors fairly heavily. Here we have a case where there was no clear opposition. In other cases we may find opposition. He does not feel strongly that he opposes this change of zone, and does not necessarily support commercial next to residential, but in this case it does not seem inappropriate.

Weber commented that initially, he felt like this was jutting into the neighborhood but after seeing the zoning maps, he is of the opinion that it fits in better. He does listen to opposition but apparently there is none here. Given there was no reaction from the neighbors, and that this will improve the neighborhood, he will support it. If he lived in the neighborhood, he believes he would enjoy the new store more than the old.

Hove believes this is a good redevelopment opportunity in an area that has seen some blight. He appreciates that someone is willing to invest and Casey's is a good neighbor. There is no opposition from the neighbors, so he will support it.

Scheer expressed his appreciation that the staff report outlined the previous history. The changes in College View over the past 10 years are great. Union College is going to be embarking on a master plan process. He thinks this is a continuum, creating opportunity and a very rational kind of approach.

Beecham agreed and disagreed. She agreed that this is a neighborhood that needs reinvestment. A big key to her frustration is that several years ago, we had money in our city budget so that the Urban Development Department could work with neighbors and developers to come up with redevelopment plans for these neighborhoods. Those funds were cut from the budget. If we had that service to offer today, this change of zone might be a non-issue. She is disappointed there is no money in the city budget to do this. There are houses all around this area, whether rentals or not. We are looking at a really large piece. It is five lots in a neighborhood with a lot of single lots. She agreed that Casey's is a good neighbor but she does not believe this is the right development for this location. She does not believe that every time someone wants to redevelop, we have to make it fit. We have seen time and again where someone wanted to do something and is turned down, yet down the road we have seen things come forward. This is not a good fit.

Corr believes this is a good project for this area. It improves accessibility on this corner. This Casey's has been a good neighbor to the neighborhood. She does not know why the neighborhood association was not contacted by the developer. That being said, she agrees with Beecham that it would be nice to have some kind of vision; she wishes there was some unifying vision for this street and area because there is a lot of uncertainty. However, she will support the change of zone because it fixes up some things and it will be a nice addition to the neighborhood.

Lust stated that she will also support this application. She tried to put herself in the shoes of the neighbors and finds herself asking, do I want to live in a neighborhood that has a convenience store and easy access to gas station and services I might want? And the

answer is “yes”. So, if the answer is yes, do I want the best convenience store with the easiest access? The answer is also “yes”. So I have to support the redevelopment of what is there for a business that we all agree has been a good neighbor who wants to reinvest in the neighborhood and make their facilities better for the neighborhood.

Motion for approval carried 8-1: Weber, Sunderman, Corr, Cornelius, Harris, Scheer, Hove and Lust voting ‘yes’; Beecham voting ‘no’. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 14054

ACTION BY PLANNING COMMISSION:

January 7, 2015

Corr requested permission to ask another staff question. If this special permit is not approved, could Casey’s still sell alcohol at this location? Will informed that the special permit is going to have to be approved for Casey’s to sell alcohol from the new store.

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

Lust commented that the existing Casey’s store is already allowed the nonconforming use for sale of alcohol. This special permit just allows the new and improved building to continue to sell alcohol, so she will support it.

Motion for conditional approval carried 8-1: Weber, Sunderman, Corr, Cornelius, Harris, Scheer, Hove and Lust voting ‘yes’; Beecham voting ‘no’. This is final action, unless appealed to the City Council within 14 days.

There being no further business to come before the Commission, the meeting was adjourned at 3:35 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on January 21, 2015.