MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, May 25, 2016, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN	Cathy Beecham, Michael Cornelius, Tracy Corr, Maja V. Harris, Chris Hove, Jeanelle Lust, Dennis Scheer, and Ken Weber (Lynn Sunderman absent); David Cary, Steve Henrichsen, Paul Barnes, Michael Brienzo, Tom Cajka, Rachel Jones, Brian Will, and Geri Rorabaugh of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission meeting

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

Hove requested a motion approving the revised minutes for the regular meeting held May 11, 2016. Motion for approval made by Weber, seconded by Lust and carried 8-0: Beecham, Cornelius, Corr, Harris, Lust, Scheer, Weber and Hove voting 'yes'; Sunderman absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **May 25, 2016**

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

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 11022B, SPECIAL PERMIT NO. 16001, SPECIAL PERMIT NO. 16004, SPECIAL PERMIT NO. 16020 and SPECIAL PERMIT NO. 16024.**

There were no ex parte communications disclosed.

Item 1.2, Special Permit No. 16001; Item 1.3, Special Permit No. 16004; and **Item 1.5, Special Permit No. 16024**, were removed from the Consent Agenda and had separate public hearing.

Harris moved approval of the remaining Consent Agenda, seconded by Beecham and carried 8-0: Beecham, Cornelius, Corr, Harris, Lust, Scheer, Weber and Hove voting 'yes'; Sunderman absent.

Note: This is final action on **SPECIAL PERMIT NO. 11022B,** and **SPECIAL PERMIT NO. 16020**, unless appealed to the County Board or City Council by filing a letter of appeal with the County or City Clerk within 14 days.

Chair Hove called for any **Requests for Deferral**.

Rorabaugh called one request by the applicant for deferral to the June 22, 2016 meeting.

SPECIAL PERMIT NO. 16009
FOR CONSTRUCTION OF A CARPORT,
ON PROPERTY GENERALLY LOCATED AT 1801 KINGS HIGHWAY.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 25, 2016

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

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

There was no public testimony on this item.

Beecham moved deferral of **SPECIAL PERMIT NO. 16009**, seconded by Cornelius and carried 8-0: Beecham, Cornelius, Corr, Harris, Lust, Scheer, Weber and Hove voting 'yes'; Sunderman absent.

SPECIAL PERMIT NO. 16001
TO ALLOW AN AG CUP ON PROPERTY GENERALLY LOCATED AT
SOUTH 68TH STREET AND SALTILLO ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 25, 2016

Staff recommendation: Approval.

AND

SPECIAL PERMIT NO. 16004
TO ALLOW SOIL EXCAVATION ON PROPERTY GENERALLY LOCATED AT SOUTH 68TH STREET AND SALTILLO ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: **May 25, 2016**

Staff recommendation: Conditional Approval.

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

There were no ex parte communications disclosed.

Staff presentation: **Tom Cajka of the Planning Department** came forward to state the CUP is approximately 154 acres and intends to cluster 11 lots on this site. The rest of the area is shown in concept only to depict how it might develop once the City services are available. The area is currently served by the rural water district. A community sanitary system is proposed to serve the initial lots. The streets will be built to City standards with 6-inch concrete and rollover curbs. The South Beltway is proposed to run to the south. The NRD does not object to this proposal.

The other application is for excavation and soil mining on the south side of the same property. The soil mining permit is for 3 years, and they propose a roughly 59-acre area of excavation. Access of will be taken from S. 68th Street.

Lust asked if access for the housing will be off of Saltillo. Cajka said yes. There could be other points once the area develops further. Lust asked if there will be access from the South Beltway. Cajka said no.

Beecham asked Cajka to discuss dust emissions and how they will be controlled. Cajka said that within the City's 3-Mile jurisdiction, there are dust limitations. It is reasonable to assume that if there are complaints, water trucks will be in place. Beecham asked if action is taken on a complaint-driven basis. Cajka said yes.

Proponents:

1. Mike Eckert, Civil Design Group, came forward to state his clients bought this property in 2006 and now was a good time to move forward with development. There is a demand for soil mining in the south part of Lincoln since most pits are north of I-80. We worked with Staff to get this as small as possible and have gone through great effort to show how the 11 lots will be built so that when the City comes in, it will be easy to infill and build around.

The water system will have to be retrofitted in someday, but there will be one connection to sewer in place. The roads will be built to City standards and will follow the Access Management Policy. An additional future connection is shown but it will be a long ways off. We have spoken to neighbors and addressed all staff comments.

Corr noticed the letter from the NRD only mentions 9 lots, yet 11 are requested. Eckert said that is because two lots were previously approved.

Lust asked if the South Beltway will be in place prior to this development. Eckert said no because they hope to commence construction this year.

Beecham asked for more information on traffic. Eckert said the new units will produce roughly 100 trips a day, which is benign. We are aware of safety issues on Saltillo Road and the struggle to improve the situation. Our access point is a quarter mile, which is the best location for sight distance. The soil mining will exclusively utilize access from 68th Street so truck traffic will be intentionally separated from residential. Beecham asked if trucks will use Saltillo. Eckert said they have to. Gana is the company and they already have trucks in the area so they are familiar with it. Only 20 acres can be open at a given time. The operation is also sporadic based on demand. The excavation will address some grading issues with the future beltway. The developer will be building most of the lots so keeping dust in control is a priority. A major company like Gana understands what they need to do to be good neighbors.

Opposition:

1. Dennis Tegtmeier, 140 N. 8th Street, came forward as representative of the Malone Revocable Trust. The Malone family has been farming across the street from this location for 50 years. We are concerned about having agriculture directly across the street from residential development and how that will impact the ability to farm. There are also concerns about traffic and safety. The family is aware that this is progress and the beltway is coming, but they are in opposition if this impacts the use of their land in any way.

Harris noted that this is not an action to rezone the area or change the land use. Tegtmeier replied that is the case now, but he wonders how the urbanization will ultimately affect the farm in the future.

Hove reiterated that the zone and use are not changing.

2. Mark Tvrdy, 7141 A Street, came forward to state that as a real estate agent for Woods Brothers, he is about to list the property at 6727 Saltillor Road, which is right outside of this area. One question asked of property owners when selling is whether they aware of any changes that could impact the property. The property owner is in a nursing home and was unaware of this change. He is concerned about how this will affect his property value.

Lust asked to see the location of the property. Tvrdy said it is directly adjacent, in the northeast corner. He simply would like time to respond to the changes. Lust asked if the concerns were related to sewer and septic or the dirt work. Tvrdy replied that he was unsure of how the changes will impact the value of the property.

Beecham asked if access to that property is also off Saltillo. Tvrdy said yes.

Corr asked if it was a single-family home. Tvrdy said it is a ranch home with garages and out buildings.

Staff Questions:

Harris asked Cajka to address the fact that the zone is not changing. Cajka said the special permit is for one side of the road and it cannot impose any restriction on land on the other side, especially to farming. The current zoning remains. This development will remain a relatively isolated area for the foreseeable future, maybe up to 20 years. For now, it will just be the 11 lots.

Lust asked how the Right-to-Farm bill protects the surrounding area. Cajka said it is his understanding that if one moves into an area where there are farm operations, they cannot sue for noise or offensive odors or anything related to the farms.

Beecham asked about the community water. Cajka said the engineer could better address that.

Applicant Rebuttal:

Eckert said the special permit to develop at this density is allowed by right today. This area is in Tier 3 for future development in the Comprehensive Plan so that means there would be several miles of sewer and other infrastructure that would have to be developed in a sequential pattern before this moves up in priority. In other words, it is safe to assume this area can be farmed for many years. Mr. Tvrdy's client should have received a letter from both Planning Department and us. That property is about a quarter mile away and there is additional green space and buffer. The community sewer will be located in the opposite, southwest corner.

SPECIAL PERMIT NO. 16001
ACTION BY PLANNING COMMISSION: **May 25, 2016**

Lust moved approval, seconded by Beecham.

Hove said he will support this motion. He appreciates the testimony, but the fact is, this is allowed and the farm operation can continue as usual.

Motion carried, 8-0: Beecham, Cornelius, Corr, Harris, Lust, Scheer, Weber and Hove voting 'yes'; Sunderman absent.

This is a recommendation to the City Council.

SPECIAL PERMIT NO. 16004
ACTION BY PLANNING COMMISSION: **May 25, 2016**

Hove stated it makes sense to have soil excavation in this location and it can be used elsewhere. He will support the motion.

Beecham moved approval, seconded by Weber; motion carried, 8-0: Beecham, Cornelius, Corr, Harris, Lust, Scheer, Weber and Hove voting 'yes'; Sunderman absent.

This is a recommendation to the City Council.

SPECIAL PERMIT NO. 16024
TO ALLOW THE SALE OF ALCOHOL FOR ON AND OFF SALE
ON PROPERTY GENERALLY LOCATED AT 2717 SOUTH 8TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: **May 25, 2016**

Staff recommendation: Approval.

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

There were no ex parte communications disclosed.

Staff presentation: Brian Will of the Planning Department came forward to state this is located in a commercial industrial center in I-1 zoning. The property is populated by two large, multi-tenant buildings. This site is within the southern building. The permit will allow for on- and off-sale for a craft beer brewery that includes a taproom that occupies about 20% of the facility. It meets all of the requirements. The only condition is to make sure there is enough parking.

Beecham asked if food will be served or if there will be outdoor seating. Will said that at this point, there is no request for outdoor seating. He does not believe there will be food.

Lust asked about the other tenants. Will said much of the area is occupied by the State of Nebraska Department of Environmental Quality, Lincoln Crossfit, Starstruck Dance Academy, and White Castle Roofing are among the other tenants.

Beecham is familiar with the area. She asked for confirmation that there is no direct access to Van Dorn. Drivers can come from Hill Street off of South 9th Street or off of Van Dorn to S. 6th Street. She noted the driveway entrance on South 6th Street. Will confirmed that is correct. She added that there is no need to drive through the surrounding neighborhoods to access this area.

Corr noted that there are rules about who is in an area first. If a daycare or church wanted to come into the area, they would do so with the knowledge that this craft brewery was a tenant first. Will said that is correct and would not be unusual. We evaluate the appropriateness of a use at the time it is going in. Tenants come and go. Anyone coming in after the fact knows the situation.

Beecham said she has concern about noise if there were to be an outdoor courtyard area. She wondered if a change like that would come through Planning Commission. Will said Staff asked the applicant to consider that now. The area is zoned I-1, but these users are not intensive. Still, there could be some nuisance. For now, there is no outdoor component. This would need to be amended to be expanded. It is questionable, based on circumstances, whether or not it would have to come back through. Beecham wondered if it would require notification of the neighbors. Will said that if it were a large project, it would come back before this body. We would not notify in a case where a small outdoor area were added and it was approved administratively. We evaluate based on what is proposed. If we thought any change would impact the neighbors, it would likely go through the entire process again, so neighbors would be notified.

Proponents:

1. Kolby Wood, 2627 Van Dorn Street, came forward as applicant. We seek this permit to accommodate a 1,000 square foot tap room and view this as a necessary part of a craft brewery, especially in the beginning stages. We need the community to stop in and provide feedback. We have made sure we are fully in compliance and want to be an exemplary neighbor. There is a dock space in back, but we plan to use it as an area where our grain can be off loaded. There is no plan for an outdoor sound system or seating.

Cornelius asked if there will be food. Wood said no; it was decided that would be too much to take on in the beginning. He added that the hours of operation are very limited, from 4:00 p.m. to 10:00 p.m. on Monday through Thursday, and 4:00 p.m. to midnight on Friday and Saturday. That will allow people to stop in after work or pick up a growler.

Opposition:

1. Don Frank, 510 Hill Street, stated he is concerned about the portable classrooms and temporary Lincoln Public Schools facilities nearby; he wonders if alcohol will be too near the schools. There is also a reputable gymnastics school in the area. He worries about increased traffic, impact to nearby residential areas, and litter. He has observed suspicious activity in the area.

Lust asked what his nearby property is used for. He stated it is mainly used for agriculture.

Staff Questions:

Harris asked about the required distance between establishments that sell alcohol and schools. Will said Staff is well aware that LPS will use some of the surrounding buildings. This brewery meets all separation requirements.

Corr asked, if schools were among the things that require the 100-foot separation distance, would this tenant still meet that requirement. Will stated yes, they are well over the 100-foot distance.

Applicant Rebuttal:

Wood said they are aware of the schools and concerns with underage drinking. We do not believe this will be an issue due the opposite hours of operation and the nature of the business. All of the entrances and signage are opposite of the school locations. He listed his extensive experience in the restaurant and service industry. He has overseen 256 employees with 100 percent compliance. Staff training is important and they take the responsibility of a liquor license very seriously.

SPECIAL PERMIT NO. 16024
ACTION BY PLANNING COMMISSION: May 25, 2016

Beecham moved approval, seconded by Cornelius.

Beecham stated she will support this application and believes this is a good site for this type of business. It is away from the neighborhood and access will be taken off of Van Dorn. It is highly unlikely that visitors of this establishment will walk around the area and contribute to litter. If outdoor seating comes up, neighbors should be notified because sound could potentially bounce and become a nuisance.

Cornelius said this is not a night spot or a bar, but a craft brewery with a taproom. He may have looked harder if the location and business model were off, but this is appropriate and he will support the motion.

Hove said this business makes sense in this location and the issues mentioned were pre-existing. He will also support the motion.

Motion carried, 8-0: Beecham, Cornelius, Corr, Harris, Lust, Scheer, Weber and Hove voting 'yes'; Sunderman absent.

This is a recommendation to the City Council.

COMPREHENSIVE PLAN AMENDMENT NO. 16002
TO CHANGE THE FUTURE LAND USE DESIGNATION
FROM AGRICULTURAL TO RESIDENTIAL-LOW DENSITY
ON PROPERTY GENERALLY LOCATED AT SOUTH 82ND STREET AND ROCA ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 25, 2016

Staff recommendation: Approval.

and

CHANGE OF ZONE NO. 16011
FROM AG TO AGR FOR DEVELOPMENT OF A 32-LOT SUBDIVISION
ON PROPERTY GENERALLY LOCATED AT SOUTH 82ND STREET AND ROCA ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 25, 2016

Staff recommendation: Approval.

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

There were no ex parte communications disclosed.

Staff presentation: Tom Cajka of the Planning Department came forward to state this site is approximately 118 acres. It is served by the rural water district; any future sewage will be individual septic tanks. Roca Road is a paved County road. South 82nd Street is paved south of Roca Road, but not north. There is additional acreage development to the southwest and west. In assessing whether there was a need for more acreages in the area, a study of the subarea was conducted. There were 17 final-platted, vacant lots and an additional 57 that have been preliminarily platted. This area shows a need for more acreages and there is a

market demand for this type of property. The Comprehensive Plan encourages clustering these types of homes in areas with appropriate infrastructure, conditions, and availability of emergency services in areas not designated as being prime farm ground.

Proponents:

1. Matt Langston, Olsson Associates, came forward to state that today they submit the preliminary plat. They met with neighbors to hear concerns and the primary issue was regarding drainage. This area will require minimal grading. Due to design standards, more drainage cannot be added in an area where it already exists.

Corr asked how many neighbors attended the meeting and if staff was present. Langston said 180 invites were sent out and 12 people attended; staff was not present. The only other concern was the trip count, but that has been alleviated somewhat by the paving of South 82nd Street.

Corr wondered about the previous attempts to change the zone and if issues have been resolved. Langston believes they have been resolved. The location of the drive was changed for better site distance and so lights won't shine into homes. 82nd Street is paved. There is a redundant water main that has helped with the water pressure in the area. It used to be spot zoned, but now the Mueller Addition is filling in directly to the south. This is a good time to proceed.

Corr asked if they heard back from the one owner who objected. Langston said they did, and there were no new concerns.

Opposition:

1. Larry Eigbrett, 15701 S. 82nd Street, stated he understands progress must be made. He is against this current proposal because of the density; it will have an impact on many in that tight of an area. There may not be that big of an increase in the drainage, but all of it goes through his property. He worries about starting yards and added fertilizers.

Hove asked if Mr. Eigbrett lives down the slope from this? Eigbrett said his is the acreage directly to the south. There is a ridge, but much of the area still drains to his property. Hove asked if he attended the neighborhood meeting. Eigbrett replied that both he and his wife attended.

2. Ross Scott, 8900 Roca Road, stated he understands all hurdles have been crossed and the applicant has done a good job. He is concerned about erosion and water quality of a nearby lake. He is also concerned about traffic. Roca Road is very narrow with no shoulder and there is a lot of traffic at the intersection with S. 68th Street, where it is hard to get out.

Most of the homeowners will have more than one car and will head north to Saltillo, another dangerous intersection. Many of his concerns regarding engineering matters will be taken up with Olsson Associates.

Applicant Rebuttal:

Langston said he understands the concern with being downstream from this area, but the development will not adversely impact that lot. There are water quality standards in place and they are responsible for any erosion that occurs. This project will potentially improve water quality downstream since the grass lawns will give off less erosion.

Scheer asked Langston to address traffic concerns. Langston said the County Engineer has no problems with this. 82nd Street was intended to be paved, but the trip counts did not support that. This development could allow for it to be prioritized higher and take pressure off of Roca Road.

Weber asked if they anticipated any increased water flow in the grass area owned by the neighbor. Langston said no. That ravine also has mature trees so nothing should change much.

COMPREHENSIVE PLAN AMENDMENT NO. 16002
ACTION BY PLANNING COMMISSION: **May 25, 2016**

Lust moved approval, seconded by Beecham.

Cornelius said this property has been before this body many times. It appears that the issues that caused previous applications to fail have been addressed. The various bodies that administer services had no objections.

Scheer stated this is a logical extension to what is already happening just a half mile to west.

Hove stated he intends to support this since the major issues have been addressed.

Motion carried, 8-0; Beecham, Cornelius, Corr, Harris, Lust, Scheer, Weber and Hove voting ‘yes’; Sunderman absent.

This is a recommendation to the County Board.

CHANGE OF ZONE NO. 16011
ACTION BY PLANNING COMMISSION: **May 25, 2016**

Beecham moved approval, seconded by Harris. Motion carried, 8-0: Beecham, Cornelius, Corr, Harris, Lust, Weber, Scheer and Hove voting 'yes'; Sunderman absent.

This is a recommendation to the County Board.

SPECIAL PERMIT NO. 15064
TO ALLOW AVALON EVENT PARADISE TO BE USED FOR SPECIAL EVENTS ON PROPERTY GENERALLY LOCATED AT 12788 WEST ROCA ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: **May 25, 2016**

Staff recommendation: Conditional Approval.

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

There were no ex parte communications disclosed.

Staff presentation: **Tom Cajka of the Planning Department** came forward to state that this is for an expanded home occupation to allow large gatherings. The application previously came before this body on November 18, 2016. It was placed on pending to give Staff more time to gather information. After several deferrals, it was placed on indefinite pending. The property is two miles west of Crete and just outside their zoning jurisdiction. Directly to the east, is an acreage subdivision with 22 houses. Roca Road, also known as Highway 33, is a 2-lane paved road. The spaces used for events include an island where many wedding ceremonies are held, a boathouse, an area for large, outdoor tent receptions, and a grass parking area just to the north of Roca Road. The boathouse is approximately 450 feet from the property line to the east and the tent area is around 540 feet.

The applicant has requested waivers. One is in regards to the parking area. Since it is grass, it does not get muddy so they ask to waive the gravel requirement. The second is to allow the outside area to exceed the allowed 15,000 square feet. The areas of use amount to 30,000 square feet. The third is to allow more than two employees who are not family members residing in the home to work at the site. There has been extensive discussion about this and the County Attorney can address questions.

Since 2009, there have only been three requests for expanded home occupation. One was for counter construction that required two additional employees. Another had an area of the yard set aside for rental storage space. The third was for a doctor or chiropractor.

This current application stretches the envelope of what is allowed and has a bigger impact in terms of traffic. The definition “home occupancy” is fairly open ended and includes the language “...such as, but not limited to...” so there is lots of interpretation as to what can be allowed.

Harris asked the distance from the island to the property lines on the east. Cajka estimated that it may be between 350 and 400 feet.

Proponents:

1. Mark Hunzeker, Baylor Evnen Law Firm, came forward representing the applicants. They live on the premises and have had larger events for around a year. They have reduced the number this year by about half and decided they did not want to be as busy because it was simply more work than they were interested in. They want to share their beautiful property with others. This year, they scheduled three small weddings in June, none in July and August, and two large tent weddings for the fall. There is demand for this type of event space.

In the last 30 days, we met with Staff and found the conditions generally acceptable. Today, we have proposed amendments to conditions, most of which Staff is in agreement with. These amendments consolidate requirements and restate how we calculate what constitutes more than two employees. We could argue about the definition of employee, in this case. Staff has allowed for 80 hours for people not working on premises including anyone involved in setup. The amendments would also increase the maximum number up to 250 people for 2 events per month, which Staff has also agreed is acceptable. The only area of disagreement is the hours allowed for outside music. We ask that on Friday and Saturday, it be allowed until 10:30 p.m. instead of 10:00 p.m. The only reason this is being done by amendment is to avoid the confusion of presenting yet another revised Staff Report. The applicants were not aware they were in violation and are trying to bring themselves into compliance.

2. Viann Martin, 2315 Winding Ridge Road, stated that on May 14th, there was a wedding on the property. We spoke with the bride in advance and asked that the sound level be kept down. The DJ ended at the appropriate time. On the day of the event, at the last minute, a young man showed up with fireworks. They had received the approval from the City of Lincoln and Crete. Right or wrong, we allowed them to go ahead, hoping that the neighbors would understand. She feels badly about it, but was unable to call neighbors to let them know. They have attempted to set up a rapport with the neighbors, but many were upset. We agreed to put the application on hold until we could speak with their neighborhood association. They requested to meet at a hall in Crete, which cost $200, even though we had offered our boathouse at no cost. We agreed and met there. The neighbors seemed combative from the start and not much would be heard from our side. We have held two larger events this year. Nothing will be left to chance in the future.

Corr wondered about the discrepancy in dates between letters. Martin clarified the events were in May.

Lust said she understands needing time to meet with neighbors, but she questioned why they deferred from November until now, the middle of wedding season. Hunzeker replied that the most recent deferral was his fault because he needed time to prepare and understand all aspects of this case, and to meet with staff.

Lust said her concern is that it came to the attention of the applicants last year that they were out of compliance, and now they have scheduled weddings. Hunzeker said he understands and they are trying to come up with something acceptable with staff to regulate this type of facility.

Corr asked Mr. Hunzeker when he was hired by the applicant. He stated it was around March or April. Martin added that they contacted his office in December. Hunzeker said there was initial contact, but no formal engagement until spring.

Lust asked what additional outreach was made with the neighbors, other than the one meeting. Martin said they have tried to explain themselves but were met with some snide remarks.

Lust asked for clarification about the amendments. Hunzeker said the only change to the 2 large events per month would be from 200 to 250 people. The only part not agreed to was to allow music to go until 10:30 p.m. on Friday and Saturday. The conditions would all be the same as what Staff agreed to in terms of how we count employees, number of hours, and people not living on the property.

Beecham asked if there is another change regarding amplified music. Hunzeker said it is allowed but has to stop by 10:00 p.m.

Lust asked if Hunzeker is stating that there will not be amplified music. Hunzeker said no. Condition No. 4 is stricken and included as part of No. 3 to allow outdoor music. His request relates to the 10:00 p.m. ending time.

Lust asked Hunzeker if he would call this a “conference center”. She understands that the language includes the statement “...not limited to...” but this specific use is not included in the list of things allowed as an example of an expanded home occupation. Hunzeker agreed that it is not listed, but it is not uncommon for this type of facility to be located on property where people live and there are several examples around the County.

Lust asked what the neighbors face, enforcement wise. The applicant agreed to no fireworks except on the 3rd and 4th of July, but what if there is another stubborn bride who insists. She wondered if neighbors would have to call the Sheriff. Martin said they will not let it happen again. Hunzeker said it will be a condition of the contract from now on. This most recent event was a mistake and it was a poor decision to allow it to move forward. Lust asked what the remedy is for the neighbors. Hunzeker said it is the same as with any other zoning violation in the County and is based on complaints. There is no zoning police and there could be multiple home occupations that are not in compliance.

Lust asked if this business can still operate if this is not allowed. Hunzeker said there are other potential uses that could approximate some of these events. These are an infrequent enough occurrence and a minimal disruption. There is lots of space between homes and nice screening.

Harris questioned the language on the amendment regarding number of persons allowed. Hunzeker said that language was copied and pasted from an email from Staff. He agreed that clarifying the language would be fine.

Harris asked about the number of events per month and the months of operation. Hunzeker said events will be held from April through October. Harris asked if under the amendment, the hours would no longer be tracked and would just be counted as two events. Hunzeker said all of the hours at an event, how many people and how much time would be tracked, including florist, photographer, tent set up. All of those together must be less than 80 hours in one week. The reason for the exception is that everyone was in agreement that if there is a large wedding, it would add up to that amount quickly. So that is why the number is limited. Martin added that the smaller events with just an island ceremony do not require any extra employees.

Corr said it is confusing that amplification is allowed up to a certain time, when the allowed two larger events are only allowed on Fridays and Saturdays. Hunzeker said the reason is that it might be possible to have events during the week, so that would be restricted to 10:00 pm. Corr added that the language about the number of people needs to be amended for clarity. Hunzeker said there is no objection to that.

Corr wanted more information about the fireworks. She asked if an onsite manager approved the couple to have fireworks on May 14th. Martin said it was a mutual decision. Corr asked where Martin was at that time because her concern is that her staff does not know the rules or that they are in violation. Martin said that has already been taken care of.

Lust asked what type of events could still go on if Planning Commission did not approve the Staff recommendations about the employees. In other words, what type of events could go on without independent contractors. Hunzeker said he does not know. The limitation is something

they would comply with. He does not believe people who deliver food are employees. Lust said the ordinance does not say “employees”, it says “employed”. Hunzeker replied that Staff has never interpreted the language that way and there are plenty of reasons that interpretation would not hold up well. We decided to limit the number of people who do not live there to 80 hours in a given week.

Lust said that interpreting the regulation that way and having an unlimited number of employees on the property defeats the intent of the regulation. Hunzeker said that there is some possibility of that. But for this kind of use, it is impossible to expect that each one of those people is an employee. Some are only on the property 10 minutes for delivery or setup. This is a way of using the special permit conditions to limit the numbers. Keep in mind that the number of events is limited.

Lust noted that it was said that anyone could get a listing of hours and people working. She wondered about that process since you could not simply ask the business to provide that information. Hunzeker said that is correct, just like you could not ask any other business to show you records. The list could be acquired by filing a complaint that says they are going over the allowed 80 hours. Then the County can ask for the list.

Corr wondered where that complaint would be made. Hunzeker said it would most likely go to Planning or Building and Safety, since they are the enforcer.

Beecham asked Martin if they live on the property. Martin replied that her in-laws live there. Beecham asked if they help to run the business. Martin said they do, to the extent of making sure people are happy. Beecham went on to say that she is concerned because under the expanded home occupation, the business should be an accessory to the property and run by those who occupy the home. Martin said they do assist.

Beecham asked about the management. Martin said they hired a manager.

Beecham asked for more information about the noise and if Martin has done a recording. Martin said she was out there and the sound was not audible when she was there.

Beecham said she is concerned about compliance. The applicant has said they will not allow it again. They have asked to be allowed to have amplified music. She is confused about it because we understood last fall that this was not currently operating under compliance. She asked Martin if she was concerned about booking more weddings when she knew they did not have the permit to allow that. Martin said that they felt things would be approved, based on conversations with Planning. They mentioned to the people providing music that sound should not exceed 80 decibels and thought everything could be worked out. Beecham asked if Martin knew what the decibels were. Martin said no.

Opposition:

1. Steve Schmidt, 15770 Lakeside Estates Drive, came forward on behalf of himself and several who were unable to attend to ask the Commission to deny this permit based on many factors. There is significant opposition from many neighbors surrounding the Martin property. This business is beyond what was envisioned for an expanded home occupation. He suggested that the parents who live on the site do not have much to do with the business. They have been knowingly operating, going on a second year, while out of compliance. The neighbors did not complain initially because we all thought they were family events, not a business. We have heard them try to explain away the fireworks and the music, but if they are not responsible for it, then who is? The Martins told this body the fireworks would cease and they just allowed them two weeks ago. We also object to the last minute changes being made. We are very concerned about the traffic and noise.

Harris noted that Planning recommended no amplified music and fireworks limited to the 3rd and 4th of July. She asked what remains in Planning's recommendation that is disagreeable. Schmidt said we disagree with it being allowed in any case because this is not the type of business that belongs there. The fact that waivers are needed illustrates this. No amplification or fireworks is better.

Beecham asked if he could hear voices. Schmidt said he can only hear music and see and hear fireworks.

2. Peter Dowben, 12251 Bobwhite Trail, came forward to state he is entirely in opposition to this permit. There is no liability insurance and the homeowners are not protected enough in the case of a grassfire. Crete could not respond in time to prevent damage. There is no process for enforcement in any timely way and little recourse for the neighbors. He is extremely anxious because he does not know whether his peace will be disturbed every weekend. He believes the owners should have to post a significant bond should there be disturbance to the neighbors' way of life so there is some compensation without having to go through immense effort. The County Sheriff cannot enforce everything, and that is not the best way. People do not want to stop a wedding. This is a cascade of problems for people who are largely innocent. Who else can enforce the rules if not the owners.

3. Pam Wakeman, 15751 Bobwhite Trail, stated she is the closest neighbor, just across the lake. There have been many changes to the staff report and the neighbors were not consulted. She feels her three letters were not addressed. She did not see all of the documents available online. It seems like Mr. Hunzeker is speaking for the staff.

Hove said that is not the case. The Staff Report was prepared before negotiations took place.

Wakeman commended Staff and Commissioners for giving items their attention.

Hove asked for more details about her experience recently. Wakeman said she was out of town on May 14th when there were fireworks. She was shocked to learn that the business was still operating without a permit. That seems negligent and even arrogant.

Hove asked if she would be more supportive if the noise issues were addressed. She said that is the biggest problem. It was also a problem to not know what was going on on the property. She did not buy her property in 2015 to live next to a business.

Beecham asked if she could hear voices. Wakeman said she can, though she would not qualify that as loud. It is the receptions that become a disturbance.

Corr asked for clarification about her location. Wakeman is directly across from the boathouse.

4. Dave Mohr, 12355 Bobwhite Trail, stated he sent in a video showing fireworks. He is in bed by 9:00 from Monday to Thursday. Last November, he was led to believe that the son-in-law would be the manager. If he was still the manager, he certainly knew about the issue with the fireworks from attending the last public hearing. That shows poor decision making by the business. It is scary that the people renting the space appear to be entrusted with their own supervision. He has felt left out of the process.

5. Michael Scholz, 15855 Bobwhite Trail, stated he is the second closest neighbor across the lake. Due to stress of work, he wants to spend his weekends relaxing; that is why he chose to live in the country. He presented a short video to illustrate the noise and asked that viewers imagine trying to relax or sleep through the noise. He has attempted to be a contact person for both sides. Ms. Martin has his phone number and they have a calling tree, so why were they not notified of the last minute decision to allow fireworks? They are running a business and the do not live there. No one can understand the noise unless they are there. With regard to the neighborhood meeting, the neighbors wanted to meet in a neutral place, not on the Martin's property.

Beecham asked if he can hear voices from his property. Scholz said he can but they are not disturbing. He called the deputy on May 14th , so there is a record of that. He does not want to be the type of neighbor who pursues that course of action, but we will take this to higher levels and hope that it stops here.

Harris wondered if, from their perspective, could there be a benefit to issuing the permit because that would impose restrictions on what is allowed. Scholz said only if small, early weddings were the only thing permitted. Harris asked how many events could be tolerated since it says there would be no limited to events with fewer than 100 people. Scholz said he is not comfortable with no limit. If events were over by 6:00 p.m., he could be fine with that. The small wedding held on May 21st did not cause problems.

Cornelius asked if he has served as a spokesperson for the neighborhood with the Martins. Scholz said yes. Cornelius asked if he has spoken with his County Board official. Scholz said he has not, but others have. They have even investigated the possibility of State vs. local action.

Staff Questions:

Hove asked where staff stands on the amendments proposed by Mr. Hunzeker today. Cajka said Staff agrees with all, but feels music should cease by 10:00 p.m., even on Friday and Saturday. The first, original Staff Report dated October 28, 2015, had no conditions about music or time limits, only on number of people and events.

Corr disagreed, saying that the Staff Report she was viewing from that date did have those conditions. Cajka said the dates could be confusing. After several revisions and talking with Staff, we came up with conditions. We met with the attorney later. It is not unusual for amendments to be proposed at the time of a Planning Commission hearing. Even though the County has no noise regulations, the 10:00 p.m. ending time was based off City's noise ordinance. Cajka went on to say that they did not want to enter into a big discussion about defining what an employee is at this meeting, so the focus was on the intent of the use. We agreed that if there were 2 employees, that would amount to 80 hours, so we agreed there could be a larger number, as long as the hours still remained within that limit. Staff was fine with the increase in the number of people allowed on a limited basis.

Beecham asked what precipitated the change with outdoor music. Cajka said that was also based on what the City allows.

Beecham asked if Staff was concerned that any action taken today would be complied with given that it was out of compliance last fall, yet the owner appear to have continued to run the business. Cajka said that was not discussed. Conditions are a normal part of many permits.

Corr said there was no directive given to the Martins that they had to cease operations, but they were aware of it based on the public hearing.

Weber asked if in the Analysis, No. 3, it said no amplified music should be allowed. Cajka said yes.

Beecham wondered why they are not in objection to the proposed amendments that would allow it. Cajka said they were looking for compromise.

Lust noted that in a previous hearing, extremely restrictive noise standards were set for wind energy operations based on the fact that the peace and quiet is so highly valued by residents of rural areas. Cajka said Health Department and Building and Safety were consulted and it was agreed that it would be extremely difficult to send anyone out to take a noise reading during an event in a timely manner.

Hove asked if the City noise restriction changes on Friday and Saturday. Cajka said he does not know.

Hove asked where Staff stands on No. 3, regarding amplified music. He wonders if it is the case that it seems reasonable to allow it up to 10:00 p.m.. Cajka said yes.

Chris Schroeder of the Health Department came forward to state that the City noise restriction does not change on different days.

Beecham asked if there was any noise restriction in the County. Schroeder said there is not. There are only standards for the City and the 3-mile jurisdiction.

Scheer said he wanted more information on enforcement and compliance. He understands that it is complaint driven, but wonders the process and if there is a process to revoke a special permit. Cajka said there is. It would go before County Board based on documentation that the conditions have been violated on numerous occasions.

Beecham wondered how that would be documented. Cornelius added that video recording do not accurately depict the noise levels. Cajka said there are no noise limitations in the County.

Weber asked if there were fireworks confirmed, would that be enough for the permit to be revoked. Cajka said that is up to County Board.

Scheer asked if a condition could be added that would required that the operator notify the Sheriff or the neighbors for every event scheduled. If neighbors knew events were scheduled, that would at least provide a framework for them. Cajka said Planning Commission could add that condition. A sheriff would not be responsible for enforcing zoning code violations. Scheer said he is trying to find a way to deal with compliance issues and how to get the right people to take action when necessary.

Beecham said that is tough on a Friday night to get Staff out to a site, and it is hard to do it justice with a recording.

Corr said that the information provided would have to be verifiable.

Lust said that it is her understanding that a disturbance of the peace charge has to be upon a person. That seems impossible in this case. Cornelius added there also has to be a person making the complaint. Cajka said those rules are beyond the jurisdiction of the Planning Department.

Lust asked which of the examples of expanded home occupation this use most closely resembles. Cajka said he is not sure it resembles any of them, but maybe conference center would be the closest.

Cornelius said that he is concerned that the interested parties, the applicant and staff, and everyone is saying that they did not want to have the conversation about defining what an employee is. His recollection is that there should be two persons employed in the carrying out of the business. There was a long briefing regarding this and to characterize the size of the business. This use seems outside of that scope. It wasn't about hours. It was about number of persons. Beecham agreed.

Weber asked if there were concerns about what appears to be stretching the definition of occupied owners. Cajka said he believes the code says that an owner of the business has to live on the property. Since the owner is an LLC and the parents are part of that, this qualifies.

Beecham asked about the language that says the owners who reside on the property must operate the business. Cajka said that is open to interpretation.

Scheer wondered about unintended consequences. If the permit were not approved, there are things that the owners can do on the property that do not require the permit. So the permit can often help to place limitations on the activities deemed reasonable. He asked what can happen if this is not limited under the umbrella of the special permit. Cajka said that under home occupation, they would be allowed to run a bed and breakfast, and have small weddings and receptions indoors. They can use accessory areas. It is his understanding that there is no rule about having fireworks in the County, so that would be a possibility for anyone, any day of the year. Once a space becomes commercial, then fireworks have to be approved by the Fire Marshall. Scheer asked if that would also be true of amplified music. Cajka said yes, an owner could have a stereo outdoors anytime. A neighbor could say they are disturbing the peace.

Beecham asked if buses could run on the property without the permit. Cajka said yes.

Harris noted that most of the complaints have revolved around loud music and fireworks. She asked if those would still be allowed if this permit did not move forward. Cajka said that is correct. The only limitations would be on size and employees.

Lust said she was under the impression there were limits to what can be done outdoors. One request was to expand outdoor uses. Cornelius noted that is for the expanded home occupation.

Dave Derbin, County Attorney, stated the home occupation is to be an indoor use. Some incidental outdoor use would be allowed.

Beecham asked if they could continue to have events with outdoor music if the special permit were denied. Derbin said yes, there is no limit on events under 100 people.

Harris asked if every event could have fireworks and amplified music. Derbin said that would be unusual but we would not be able to stop that.

Corr asked for clarification about the requirement for screening before events can be held. Cajka said a plan was required, but it does not have to be installed prior. Corr noted that under 1.1, it says all development shall substantially comply. Cajka said the landscape plan is part of the special permit. Corr noted that it was not clear to her, so it may not be to the owner. Cajka said it could be added that the landscaping must be installed prior to a certain date. Derbin said they are required to substantially comply, so they must have much of the screening in place, but not necessarily100 percent of it. Cajka added that they already have a number of trees, though he is unsure if it meets the 60 percent. Corr asked who evaluates that. Cajka said he does. Corr reiterated that it needs to be very clear about what they can or cannot do before they have another event.

Lust wondered about the language regarding occupancy of the property. Derbin said the business should be carried out by a member of the family residing in the residence.

Corr noted there was a comment about requiring liability insurance. Derbin said that is a requirement on all sorts of contracts with the County so it would not be completely unusual. However, those are normally to insure the County. We would not manage any kind of escrow account for other uses. Corr said small businesses are required to carry insurance. Derbin said the County might ask a service provider to have a certain amount of insurance. In this case, the County would not have any liability for permitting.

Harris wondered what the basis was for allowing the increase in number of guests. Cajka said there was no source for choosing that number. Harris asked why there was a change in mind. Cajka said 50 more attendees did not seem like that substantial an increase with the other conditions in place.

Corr wondered about the ramifications of what kind of precedent this will set. Derbin said this is a special permit for a property with special conditions. This is an interpretation. We do want to have the conversation about the definition of employee.

Corr said she does not want something coming in that does not fit the statute. Derbin said this is not a reinterpretation. This is recognition that this opportunity could exist within the resolution, as written, so a waiver could be issued as necessary.

Applicant Rebuttal:

Hunzeker said that this use had gone on for some time. He presented several videos to illustrate that the noise levels do not cause that much, if any disturbance. Issues with this use did not come up until a bride applied for a special designated liquor license. Up until that point, no one seemed to know about this and there was no complaint. That seems like an indication that the noise issues were not as big of a disturbance. We do acknowledge one event with excessive noise and fireworks. Hunzeker suggested one more amendment to No. 3 that included adding the word “amplification” in the first line for Monday through Thursday, and to strike the 10:30 ending time on Friday and Saturday. Without the permit, music would be allowed, so the permit would eliminate that for all events Monday through Thursday after 10:00. There is a much greater degree of control by issuing the special permits. It amounts to a further reduction in the number of events that might cause a disturbance.

Hove asked why Hunzeker brought this additional change forward. Hunzeker said he did so after listening to the discussion today. There is greater control with the permit.

Lust asked if it is necessary to hold the larger, 250 person events. Hunzeker said they would not be here if they did not think so. One hundred people is a fairly small wedding and there are not many that are up to 250. For those who want to invest in that, one or two a month during the season does not see unreasonable. This is a part-time occupation and the applicants are not interested in doing much more than that.

SPECIAL PERMIT NO. 15064
ACTION BY PLANNING COMMISSION: **May 25, 2016**

Lust moved denial, seconded by seconded by Cornelius.

Lust stated she is struggling with whether this item should be denied or have conditions added to it. The reason she chose denial is that this particular place does not appear to qualify for an expanded home occupation. The applicants may not even qualify for home occupation because it is questionable as to whether the people running the business reside on the property. She is upset that they continued to book events, knowing that they were out of compliance. Even if many conditions were added, it is unclear that the applicants could be trusted to comply. She also does not support the number of employees. That was intended to help a smaller business. With the wind energy ordinance, the County clearly voted in a way that suggested that the peace and quiet of rural residential areas was a priority. The neighborhood was preexisting and we must respect that.

Cornelius said that he largely agrees with the statements of Lust. He does not feel that it is his job to be punitive or to issue enforcement. His decision is not based on the fireworks, the continuing operation of the business or the question of compliance, but from the fact that this does not fit the definition of an expanded home occupation, if only because there is the glaring question of what it means to be employed in an activity that is carried out on a property. There is a loophole quality to the difference between independent contractors versus being on the payroll of the owners that he is uncomfortable with. He also feels that the larger question of what it means to be an event center needs deeper examination. Things like, the uses and number of employees allowed should be examined. Overall, this is a bad fit for expanded home occupation.

Harris said she will not support the denial in the hopes that instead, compromises could be worked out that would be closer to the original recommendation of the Planning Department, potentially incorporating some new language. She would be more supportive of not allowing amplified music. It seems like fireworks and music are the main areas of opposition. The special permit, for all of its flaws, give us the opportunity to place rules and regulations on the situation. That does not mean she supports every aspect of the permit.

Weber said he would have voted in favor of the original staff report which provided added protection. His biggest concern is the amplified music and the fireworks. Living in the country himself, he understands that people move there for a reason. It is important to look at who was there first. He agrees with Cornelius about the problematic language.

Scheer stated he agrees with Harris that we should try to work through the permit with proper conditions. He also agrees that the definition of this use is a stretch, but not enough to be completely beyond the scope of it. He will vote against the denial.

Beecham does not feel she can vote for a permit because the applicant may do what they want. She needs to vote for what is appropriate. She does not believe the ones who run the business live on the property and that does not fit the definition. She would like to see further review of this.

Corr said she goes back to the definition of expanded home occupancy and this does not fit. The family does not occupy the residence, the business detracts from the peace of the neighbors, and the issues with employee classification make her nervous. It is a slippery slope with allowing more employees.

Cornelius added that he was also torn over the question of being able to regulate the operation for the neighbors. Enforcement is a concern and is complaint based. It is difficult to produce evidence. Both sides showed videos that supported their own claims.

There may not be enough restrictions on this business to satisfy this neighborhood. The special permit process and waivers are not intended to restrict. He is uncomfortable that it would reduce what is allowed under home occupation.

Hove stated he will support the motion. He is also torn, but the fact is, the people who were there first do not want the noise. He is afraid the whole expanded home occupation issue would set a precedent. When he looks at the intent, this use does not fit.

Corr added that this goes on to County Board.

Motion for DENIAL carried, 6-2; Beecham, Cornelius, Corr, Lust, Weber and Hove voting 'yes'; Harris and Scheer dissenting; Sunderman absent.

This is a recommendation to the County Board.

SPECIAL PERMIT NO. 16021
EXPANDED HOME OCCUPATION TO ALLOW A VENUE FOR LARGE GATHERINGS ON PROPERTY GENERALLY LOCATED AT 12400 WEST DENTON ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: May 25, 2016

Staff recommendation: Conditional Approval.

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

Lust disclosed that one of the neighbors contacted her law office about representation but did not call back and we do not represent them.

Staff presentation: Tom Cajka of the Planning Department came forward to state this application is for an expanded home occupation on a 22-acre site. There are other acreages to the east and southwest. There is a gravel lot and a grassy area for overflow parking. Events are held about 155 feet from the property line in a building known as "the barn". There is a concrete patio near that and an additional grassy area where ceremonies are held outdoors. That area is 83 feet to the nearest property. The nearest house is 700 feet from the outdoor area. The Smith's house is on the site. The waivers include waiving the requirement for the overflow parking area to be gravel, a waiver to exceed the 15,000-foot area allowed for outside area use, a waiver of the condition that all outside areas be at least 200 feet from the property line, and the a waiver regarding the employees. The conditions are similar to those just heard in the Avalon application.

Harris asked why the waiver for the 200-foot distance was acceptable to Planning, but not the screening. Cajka replied that since this is closer, that screening should be required on the east boundary as a buffer to the activity. We do not support the waiver to the screening.

Proponents:

1. Mark Hunzeker, Baylor Evnen Law Firm, came forward representing the applicants, **Tyler and Melissa Smith, 12400 W. Denton Road**. The Smiths have lived on the property a short time and have held two events. This was brought to the attention of Staff when the wedding parties applied for a special designated liquor license. Since the time they found out about it, the applicants have been in compliance. They have taken additional steps to bring themselves into compliance and have met with and addressed the concerns of the fire inspectors, Health Department and Planning. They built a large lagoon and obtained a certification from the public water system. They worked with Building and Safety to bring down the occupancy of the barn and agreed to bolt down the tables. They moved trees to meet screening requirements. The Smiths were unfortunately caught in a regulation they were unaware of.

Again, Staff agreed to most of the proposed amendments after meetings with Planning, Building and Safety, and Law to discuss what this kind of facility should be. All of the events should take place inside the barn with some outdoor ceremonies. We have not attempted to modify conditions for outdoor music or amplification. We did ask for an increased number in attendees since significant funds were spent to upgrade the sewer and water. The larger events could go up to 275 instead of 250. The blackout dates would be between November 30th through February, blacking out three months. It is clear the potential for disturbing the neighbors is far less than the last application and he hopes the applications will be considered separately.

Harris noted that Staff recommended a maximum of 200 guests but the amendment asks for 275. Hunzeker said they will to agree to 250. He has asked for more due to the fact that these events are primarily indoors.

Lust asked for clarification regarding what events were held indoors versus outdoors. Hunzeker said ceremonies are outdoors, but anything involving amplification is indoors.

Lust asked Smith if they live on the property where the business is run. Melissa Smith said yes.

Beecham asked if they would consider blacking out Thanksgiving Day. Hunzeker said that would be fine.

Lust asked Hunzeker to address the complaints. Hunzeker said in the country, many people have security lights that burn 24 hours. There used to be LED lights on the barn, but those have been disconnected. There are other lights around doorways and the yard, but those are not the ones in question. The noise level is very low. He showed a video to illustrate that even near the barn the sound is quite low.

Lust asked who is responsible during events where alcohol is served. She wondered if it was up to servers. Hunzeker said some weddings have a host bar. Some couples provide the alcohol. Some have a caterer. Alcohol cannot be sold without a special designated license.

Lust said many complaints were about people hanging out outside of the barn in the lot and disturbing the peace. She wondered how that can be controlled. Hunzeker said everyone is encouraged to use the shuttle which cuts down on parking and increases safety.

Weber asked if the alcohol stays within the building. Melissa Smith said it is also allowed on the patio. She checks the bathrooms and the party. Her house is on the property and her kids are in bed by 8:30.

Beecham asked to see the patio in relation to the barn. Melissa Smith said it is adjacent. The barn doors are often left open. There were people in the lot at the first event, but she has since posted signs saying no alcohol allowed.

Corr asked the true occupancy of the barn now. Melissa Smith said that once the tables are mounted, it will be roughly 290.

Corr noted that outdoor events should end by 11:00, but she wondered whether the barn is considered indoor or outdoor. Hunzeker said he guesses that is a carryover from the last application. There is no problem with setting an earlier time for the outdoor events. Only the receptions occur in the barn.

Hove asked if the reception can run later. Hunzeker said they are over by 11:00.

Beecham wondered if there was spillover from the indoors to the outdoors. Tyler Smith said people go outside occasionally to smoke and have a drink. Melissa Smith added that sometimes people eat outdoors. There is no problem with making sure there are no speakers outside.

Beecham asked if the barn doors could be kept closed. Melissa Smith said there is no air conditioning so it is nice to use the doors.

Corr asked about fireworks. Tyler Smith said one guest at one wedding lit off a firework, but it was not a show.

Corr asked if they met with the neighborhood. Melissa Smith said they were invited to an open house and a few came. Corr asked if that was this year. Smith said yes.

Corr asked if it was their intent to run this business when they bought the property. Tyler Smith said it was a possibility but not a sure thing. Melissa said the home was purchased in their names and then switched to an LLC when they decided to go ahead with the business.

Opposition:

1. Sean Fintel, 12401 W. Denton Road, came forward and requested additional time for testimony. He was granted an extra five minutes. He lives on the other side of the road with his wife. They moved there in 2014. He sited various rules and regulations regarding expanded home occupancy and the importance of not detracting from the peace and enjoyment of surrounding neighbors. Those rules should be respected. He is very concerned if a random person lit off fireworks. How can that be controlled in the future? There is a concern with alcohol being served in excess. There have been five events and we have had issues with all of them. The traffic creates dust. It is not their desire to have to call deputies, but he is aware of situations where they have been called. Lights have shined into their home and cake was littered in their driveway. The business is not in character with the surroundings and they did not talk to neighbors. According to the Planner, residential should still be the main use of the property. There was an email that advised that the Smith cease operation. We worry that will be ignored. There is inadequate screening on other sides of the property. There are concerns for the safety of farm animals. They have witnessed intoxicated people and public urination. It is worse than living next to a bar, because at least at a bar, activity is monitored. A huge concern is wildfires. He has witnessed people putting out cigarettes in the grass lot. The notification letters do not appear to have gone out on time.

Lust asked if there were any conditions that could be added to the special permit that would make this acceptable. Fintel said there is too much history now. Lust asked him to pretend there were no problems yet. Fintel said he would have been open to it, but there is evidence now that the owners will not follow the rules.

Beecham asked what conditions would make it acceptable if a new owner came in and wanted to operate the same business. Fintel said that after they start a family, he does not want his children to see intoxicated people behaving indecently and creating noise.

Lust asked if more screening around the parking lot would help. Fintel said he does not think that is possible. His big concern is fire. There is no safe way for emergency people to respond.

Weber asked if it would help if the drive was moved and angled and an 8-foot privacy fence were installed. Fintel said that people could drive where there is not traffic from W. Denton. Based on past history, the rules will be broken again if things are not enforced.

Hove asked how long they have lived there. Fintel said two years.

Harris asked about screening. Fintel said that the Staff Report did not mention the property to the south, which should also be screened.

[Weber exited at 5:40 p.m.]

2. Chet Bennetts, 12121 W. Denton Road, said they reside directly to the southeast of the property in question. There is no way to enforce the conditions. He wondered what kind of recourse they have as citizens. Privacy and safety should be of concern. The owners stated they did not purchase with the intent of running the business, but their website says otherwise. It was also stated that there was no music outdoors, but what about at the ceremony? He has heard ceremonies amplified through speakers also. It was stated that no alcohol leaves the building, but then that people went out on the patio to smoke and drink. There is no way to predict the impact of noise because the sound travels differently at night and depending on many various conditions. Mr. Bennetts stated that he is a former active duty Marine and deals with hyper-vigilance. They moved to the country to create a standard of living that he and his family can live with. He has witnessed vehicles halfway down his drive, with intoxicated people. That is not acceptable. With regard to the shuttles, the combination of free alcohol and no driving responsibilities could create a more dangerous situation.

5. MariJane Hancock, 5504 SW 126th Street, stated that recently, they have noticed disturbances. Their drive is very long and it has been paved. Cars have been entering the property and driving around the circle and leave again. There are also concerns that when paving occurs, all of the traffic will go down 126th Street, which is a very narrow and hilly gravel road. People seem to think there are no rules out in the county, so unregulated drinking on County roads is very dangerous. Fire is also a concern. This is an over-extension of the expanded home occupation and should be considered a large, commercial business.

Cornelius asked how the connection was made between the event venue and the additional traffic on their property. Hancock said they have lived there many years and never had this problem until the last month, when it has happened three or four times on the weekends. They have made arrangements to install a gate.

Corr asked if they have a sign to notify outsiders that it is a private property. Hancock said they have multiple “No Hunting” and “No Trespassing” signs.

Corr asked if they have experienced any of the other impacts mentioned. Hancock said they have not.

6. Renee Wulf, 1700 Mulberry Street, came forward with **Courtney Wulf and Zach Kaup**, stated she has spoken with Don Kirchhoff, the current owner of the adjacent property at 12300 W. Denton Road. She cannot testify on his behalf, but is testifying regarding a conversation she had with him.

Beecham asked if she owned that adjacent property. Kaup clarified that Wulf is in negotiation to purchase the property.

Wulf went on to say that she visited the property on May 14th and witnessed tables outdoors on the patio, the port-a-potties, and a bride urinating outdoors. She presented images of the view of the Hillside property from the property she is considering purchasing. They plan to build a horse arena and various other facilities and are worried the property will be less valuable and that they will be unable to use the property as they want to. She feels there are more appropriate and safer places for an event venue. She worries about livestock in the area. She has delayed closing on this property until she knows what is going to happen with this permit.

7. Jody Rapp, 5333 SW 126th Street, came forward to state this is an agricultural area. Her family has been farming there since 1886. People have livestock herds. This is a quiet area. She is very concerned about alcohol and traffic. There are other facilities where this type of facility would be more appropriate and where others would not be disturbed.

8. Jack Wolfe, 1248 O Street, Suite 800, came forward on behalf of his wife, Linda, who owns ground just to the east of this development. He would call this a commercial property because with over 100 cars at events, that seems more appropriate. They have a wastewater system in place and caterers and many employees. The staff has done a good job of trying to fit this business into the home occupation. He requests that they consider that this is outside of that scope and not appropriate for approval.

Lust asked if there are any conditions that would make the business acceptable. Wolfe said that they only received the letter on Friday and have not had time to deal with it. Whether or not you could craft conditions that would make the special permit appropriate, he cannot answer. But if you try to put conditions on something that does not fit within the definition, you will struggle. They use this property as a sanctuary, but this body has heard from neighbors who live there permanently.

Staff Questions:

Harris wondered about the lack of agency notes attached to the application and the concerns expressed by the fire chief. Cajka said he spoke with him this morning and he was neither in favor of or in opposition to the application; his official stance is neutral. The chief also said response times vary from 5 to 20 minutes depending on circumstances but times are generally quicker on weekends.

Harris asked if there was an issue with the letter going out a day late. Corr added this has been a recurring issue and there needs to be a briefing on the notification process.

David Cary, Director of Planning, came forward to clarify that the post mark is not under the control of the Planning Department. The letters go out on time, but do go to Omaha for sorting before coming back to Lincoln. Hove added that the law does not say the letters need to be received by a certain date; it says they need to be sent out.

Harris asked if it would be appropriate to require that no outside event is allowed to use speakers. Cajka said Planning Commission could add that condition. Harris asked if he saw value in that. Cajka said he does not know what they use outdoor speakers for.

Lust asked if there is a way to limit the giving away of alcohol at these events or to require that the hosts can only use licensed alcohol venders. Cajka said he did not believe so because anyone could have alcohol in their own home. Beecham also wondered about it since this is a special permit. Derbin said he supposed that could be added as a condition, but there would likely be opposition from the applicant. The County Attorney could not impose that, but perhaps it could be a condition.

Corr asked if the improvements made to the wastewater system can handle the number of persons allowed at events. Cajka said he does not know. Health would have to go back and inspect and sign off on the improvements. The State Fire Marshall determines the capacity.

Corr asked if the number of guests is enforced. She is leery about the numbers. Cajka said that enforcement is on a complaint basis so it is hoped the applicants abide by the rules.

Corr wondered if the potential horse operation at the Kirchhoff property would create a situation where the Smiths could file a complaint. Derbin said the horse operation would be a new farmstead, so they could have action, but it would be private.

Applicant Rebuttal:

Hunzeker said the occupancy of the building is restricted to 200 in seating capacity because the tables are being bolted down; there is plenty of room for people inside the building, just not seats for everyone. The lagoon was professionally installed and inspected. There is a letter from Health that certifies that the water system is a Class 5 public water supply system.

Beecham asked if the installation of the lagoon means that there will no longer be port-a-potties. Hunzeker said that is correct. The facilities are indoors.

Hunzeker went on to say that they are not concerned about the anticipated horse arena on the neighboring property. The amplified sounds have come from the person performing the ceremonies and the couple. He suspects a singer could also have been amplified. The use of outdoor speakers during ceremonies is not an issue they would fight for; ceremonies can be done without amplification.

Corr asked for verification that there have been five events this year. Melissa Smith said that is correct.

Corr asked how they felt about putting up a privacy fence that would help with the litter and screening issues. Hunzeker said that with regard to the screening, there are more large trees to be moved. His client should expect to meet with a nursery to come up with a plan that complies, but it will not take a lot more since the existing trees are large.

Hunzeker addressed the issue with deputies and wedding parties having out free alcohol. Deputies were under the mistaken impression that there needed to be an special designated license (SDL), but that is not the case if the alcohol is free. Many events have a host bar and it would not be fair to treat this differently, however, we are okay with telling people they need to charge. Requiring a cash bar is not a deal breaker.

SPECIAL PERMIT NO. 16021
ACTION BY PLANNING COMMISSION: May 25, 2016

Cornelius moved denial, seconded by Beecham.

Cornelius said this application raises the same issues as the previous one. The concept does not fit with expanded home occupation. The reasons are already on the record. Based on that, he will also deny this application.

Harris wondered where a business like this does fit it.

Cornelius said that it does not and that discussion needs to take place.

Harris said she agrees that discussion should happen, but it is not fair to small business owners to have to wait until that happens. She will again vote against the denial.

Lust said this application comes closer to fitting the definition since the homeowners actually live on the property and run the business. They might still be able to do some events. She is concerned that even with conditions, it still does not fit, so she will be consistent in her vote.

Cajka came forward to clarify that only 20 percent of the property can be used for a business under home occupation, so the building exceeds that.

Beecham said she agrees this application is closer, and she is more comfortable with it since the music is indoors. She also feels that as a small business owner, it is the property owner's responsibility to find out about zoning before starting up a business in a location.

Scheer stated that as with the last application, although this stretches the definition of what is allowed, it still fits. There is something else at play and that is lack of trust between people who are interested in a rural-based lifestyle that is peaceful and the opportunity for a more urban event center operating on a rural property. That lack of trust bothers him. He would prefer to be able to find enough compromise to make this work so it is not an all or nothing situation.

Corr said that she agrees with Beecham. People must do their due diligence as small business owners. This application is closer to being approved, but unfortunately, the barn is much bigger than what the rules allow. She hopes that rules can be drafted so that the owners can come back and operate again.

Hove stated he will support the denial on the basis that it does not fit. There are locations where this business can be run successfully.

Motion for DENIAL carried, 5-2; Beecham, Cornelius, Corr, Lust, and Hove voting 'yes'; Harris and Scheer voting 'no'; Weber and Sunderman absent.

This is a recommendation to the County Board.

DRAFT FY2017-2020 TRANSPORTATION IMPROVEMENT PROGRAM (TIP) FOR LINCOLN METROPOLITAN PLANNING ORGANIZATION (MPO). PUBLIC HEARING BEFORE PLANNING COMMISSION: **May 25, 2016**

Staff recommendation: General Conformance with the Long Range Transportation Plan, as amended.

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

There were no ex parte communications disclosed.

Staff presentation: Michael Brienzo of the Planning Department came forward to state the TIP is brought forward every year to coordinate with State and other agency project programming. The document is fiscally constrained and the focus is Federal funding and projects of significant size that need to be coordinated. We also included locally-funded projects for coordination, where there is more flexibility. Federal funding needs to be tied down. All of the projects are identified in the Long Range Transportation Plan. There are rehabilitation projects that are not called out specifically, as well as safety and maintenance projects. This is a 4-year document. The State Department of Roads brings forward a project program every year. We coordinate with all of the agencies and any that will use Federal funds, including the NRD, and smaller communities also include projects. It is before Planning Commission for public review. We ask the Planning Commission to review for Conformity with the LRTP. The Planning Commission recommendation is forwarded onto the MPO Technical Advisory Committee, who will develop a final TIP that is forwarded to the policy oversight committee (the Officials Committee) that takes action. That will be forwarded onto and be included in the State TIP. This replaces the current TIP document and becomes effective on October 1st.

Lust asked to be walked through the West A Street project because earlier she thought it was already programmed. She wondered about the concern of neighbors. Brienzo said the neighbors would like to move more quickly through the process than it has. We are dealing with funding and the staging of the engineering and design, how it will be phased and the construction. There will be a study beginning in 2018-19, the acquisition of right-of-way in 2019-20, and then construction can begin in the 5th year.

Beecham asked if it was slated earlier in the last TIP. Brienzo said it was programmed differently. It did not have specifics on right-of-way or year of construction. For programming issues and how projects have developed, it is slated in the 5th year.

Beecham said we recently had a proposed development come through and she believes that City Council put that on hold because of the concerns with West A. She wondered if a situation like that impacts how we prioritize projects in the TIP.

Cary came forward to state that City Council approved the project and the phasing. They said the 2nd phase of construction could not happen until after the improvements to the road, and the applicant agreed to that. Beecham asked whether a development project being placed on hold due to road conditions affects the prioritization of road projects. Brienzo said there are many factors including how quickly we can actually go into construction. One of the issues along this corridor is the right-of-way. Cary added that this project is being considered a committed project, which is a status it has not had before. Beecham asked if it was committed but not funded. Cary said it is not fully funded, but there are a handful of projects that get that status. The reason is it has its funding being pulled together. This project shows up in 2019

in the currently adopted TIP, but the 2nd part is currently shown in 2025. Brienzo said the project has actually moved up in priority. Lust asked if this means it had moved up in priority. Cary said correct. This project has been shown in pieces and parts for years, especially in the CIP. That is what many people have seen and is being questioned.

Corr asked for more clarification about the rights-of-way. Brienzo said it helps the project to move faster if a year is not spent negotiating the acquisition of right-of-way. After the design is done, then you know how much right-of-way is needed and acquisition can begin.

Hove asked when the South Beltway will start. Brienzo said that is being worked on now with the State as the lead agency. The City is providing some funds. They are going through their environmental review and design. It could be ready for construction in 2020. Hove asked if there was any way to move that up. Brienzo said after the environmental review, it must be approved, right-of-way purchased, the design completed, and then construction can begin. It is on track.

Proponents:

1. Coby Mach, Lincoln Independent Business Association, came forward to say that he wishes to express both support and opposition. He commends City officials for including the South Beltway. The main objection comes from the potential proposed use of $6 million in COP bonds. Both LIBA and the Lincoln Journal Star have voiced concerns about continued use of this financial tool which is like a credit card with no limits. Most of the projects outlined in the 66-page document are appropriate and need to be done. If we find other concerns, we will bring them to your attention.

Lust asked for further explanation to the opposition of the use of COP bonds. Mach said that when bonds are used to purchase items like street lights, should the City default, those lights can be removed. In 2001, there was $1.4 million in debt from COP bonding; today we are up to $42 million. This is done without the vote of the people. Every year the City has to come up with $800,000 just to pay the interest. There is no issue with using this type of funding, but it should be reserved for times of real need and the debt should be lowered.

Lust asked if the issue was with the funding and not the projects. Mach said that is correct.

Corr asked what funding should be used. Mach said a vote of the people would be the right answer.

Opposition:

1. Mark Antonson, 1521 S.W. 30th Street, came forward to state that he is not asking anyone to move the West A project up, but merely to stand by what the TIP and CIP previously approved. The project has appeared since 2004. It does not do any good if it is always pushed back two years from actually starting. He wondered when it was first included. There were more dollars shown for the project in previous years than what the revised version is showing. He hopes this commission makes good on the promise that was made previously. He wondered what the point of these documents is if the projects are not feasible. He is aware that many of his neighbors agree with him, but many were unable to remain at the meeting this late.

Staff Questions:

Brienzo stated he cannot address what appeared on the 2004 report because he does not have it before him.

Beecham asked what happens if a project gets bumped and how the decision is made to move it forward. Brienzo said he does not know the scope of the project as outlined in 2004. There was no multi-family complex proposed at that time.

Beecham asked if the size of the area school and flooding are considered. Brienzo said Coddington was rebuilt for those reasons a number of years ago. There are also two major pieces of the project, the west segment, but also the east, which is losing its integrity. He can follow up on commitments made in 2004.

Hove asked for more information about the COP bonds. Brienzo said that is out of his purview.

DRAFT FY2017-2020 TRANSPORTATION IMPROVEMENT PROGRAM (TIP)
ACTION BY PLANNING COMMISSION:

Lust moved for a finding of General Conformance with the LRTP, seconded by Cornelius.

Cornelius stated this commission has had briefings on this topic and understands the document. The role of this body is fairly narrow, specific to finding that the contents are in conformance.

Beecham said she feels that certain areas of the City need to grow, but not at the expense of others. She would support the West A project moving up in priority.

Lust said she agrees, but the Planning Commission is being asked if this is in conformance. She believes it is.

Motion carried, 7-0; Beecham, Cornelius, Corr, Harris, Lust, Scheer, and Hove voting 'yes'; Sunderman and Weber absent.

This is a recommendation to the Metropolitan Planning Organization.

COMPREHENSIVE PLAN CONFORMANCE NO. 16004
TO REVIEW AS TO CONFORMANCE WITH THE 2040 COMPREHENSIVE PLAN
THE DRAFT SIX-YEAR CAPITAL IMPROVEMENTS PROGRAM (CIP).
PUBLIC HEARING BEFORE PLANNING COMMISSION: **May 25, 2016**

Staff recommendation: General Conformance with the Comprehensive Plan

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

Harris disclosed that she spoke with Library Director, Pat Leach, about how the library's CIP has changed specifically as it relates to the new main library and how that relates to the stand alone item of the CIP of the Pershing demolition that this body voted on some time ago.

Staff presentation: Paul Barnes, Long Range Planning Manager, came forward to state there was a briefing on this, but given that this is a public hearing, he will touch on the main points. This task to review the CIP comes from the City Charter, which says that no money can be appropriated by the City Council until each of the capital projects have been reviewed for conformance with the Comprehensive Plan. We go through the projects with each department, reviewing the policies within the Comp Plan, maps and details, any sub-area plans, and utility and infrastructure plans. Those are all used as guides in determining conformance.

We take your recommendation and any testimony to the Capital Improvement Advisory Committee, which is comprised of the Mayor and his staff, and representatives from Public Works and Planning. Those recommendations will then go to City Council as the Capital Budget to be adopted as the 2-year budget. This is a 6-year document, so years 1-2 become the budget; Years 3-6 represent intention of programs or continued planning for the future.

Though we are looking at conformance today, there are general obligation (GO) bonds that have to be approved separately by the City Council outside of the budget process and then onto a vote by the community.

The City Charter states that we gauge projects on their character and degree of conformity or nonconformity. Planning Staff has a 4-tiered system to review these projects. “In Conformance” with the Comp Plan means that a project could be listed in an exhibit or in text. “Generally Conforms” means it may not be specifically called out, but it meets the intent and overall policy. “Not Included” in the Plan means it is not included or is new, and we recognize it needs to be included. This could be accompanied by a Comp Plan Amendment. And finally, “Not in Conformance” with the Plan, which would be anything against policy. The recommendations today are either In Conformance or in General Conformance with the Comp Plan.

Barnes highlighted major projects covered in the full report for each department.

Lincoln City Libraries

There is a proposal for a new headquarters library downtown. Included with that project would be an upgrading of Anderson, Eisley, and Walt Branches. There is also a city-wide project for the RFID electronic card system. Discussion for a downtown headquarters has been in the CIP since 2006. In that year, it was shown as a $47.4 million project. Today, the costs included come mostly from a study the Library Board completed in 2012, based on a specific site, which is Pershing. That is referenced in the project, but does not obligate the project to the site. We are looking at whether or not a downtown library makes sense and if it is in conformance.

Hove asked if that project would necessitate funding through a GO bond. Barnes said that the project proposes a combination of GO bonds and private funding. The GO bond would have to go through the CIP process and be approved by the Council. Eventually, it would go out to a vote of the citizens.

Barnes said other projects funded through general revenue include the South Branch parking lot, Bethany Branch roof, and Gere Branch HVAC systems.

We received one opposition letter to the downtown library project reusing the Pershing site.

Lincoln Electric System

Barnes noted that by City Ordinance, they must go through this conformance process, however, they operate under a separate budget cycle. Larger projects include the Laramie River Power Supply investment and the LES Operations Center, included in Years 1 and 2. He believes that has prior appropriation.

Parks & Recreation

There is a new project looking to address the oncoming Emerald Ash Borer situation. The Parks & Rec staff estimated that could cost upwards of $30 million for operations and recovery. It is not in the state yet, but it is more than likely on its way. They propose to fund some of this with GO bonds in Years 2 and 5, piggybacked with the Watershed funds. That would be $2 million each in those years.

The Cornhusker Highway Entryway Corridor Project is also highlighted. There was a committee that looked at the corridors and prioritized them. This was selected. There would be streetscapes and other enhancements. Beecham asked for the source of funding for that. Barnes said he is unsure if a source of funding has been identified at this time.

There is a GO bond proposed for Year 4. They have many other projects like community centers and paving that continue to need upgraded and enhanced.

Public Safety Program

This included the Lincoln Police and Fire & Rescue Departments coordinated under the Public Safety Director. We show use of GO bonds in Year 6 for two new fire stations and a new LPD maintenance garage. The current facility on J Street is significantly deteriorated and does not meet needs.

There have been four fire stations and a radio systems upgrade that have been funded with the sales tax which will end in Year 3 of the proposed CIP.

Public Works & Utilities

The first program is broadband infrastructure project which continues to expand infrastructure for public and private use.

For the Solid Waste Division operations, there is a project at the Bluff Road Landfill to expand a gas system and complete improvements for production of electrical energy. They are also looking at recycling projects including improvements to site in Years 1 and 3, and looking at new drop-off locations in Years 2 and 5.

Star Tran has a project in conjunction with Wastewater for the bio-gas renewable fueling station. They show funding in the first two years. The digesters at the Teresa Street wastewater facility are in need of replacement. They will take the bi-products and refine them into a gas that can be used in the City's fleet. They propose 17 bus replacements in

Years 2017 and 2020. And they are looking at a maintenance facility relocation. With the new types of buses, that facility had really aged. They would still maintain the current garage. There is a new project for new bus shelters, especially downtown, where there could be a Phase I.

Street Maintenance and Operations have a proposed project to enhance the brine production facility on Baldwin Avenue and are looking at improving safety at other facilities and improving responsiveness to winter events.

Streets and Highways includes intentional overlap between the TIP and the CIP. They need to coordinate depending on the funding. We are continuing the sidewalk funding at $1 million per year for maintenance and repair for all years of the program. We also continue the Pedestrian Bicycle Capital funding under the Complete Streets Committee. The Roadway and Bridge Rehab program is funded with approximately $40 million. We are showing funded projects for Yankee Hill Road, West A, Pine Lake Road, the South Beltway, and the 14th and Old Cheney intersection.

For the Wastewater division, as well as other utilities, it should be noted that they are assuming a 5% rate increase for Years 1-6, which would have to be voted on separately by the City Council as part of the budget process. Wastewater has significant needs for repair and replacement of equipment and facilities so funds are tied to that. There is also an emphasis to meet developer needs at the edges of the community. We proposed to support a couple of projects to extend trunk sewer in Steven's Creek and Southwest Village areas.

Those areas are in growth area Tier I, C of the Comp Plan. Priority C areas would typically develop at 2025 and beyond. This is unique because the areas are appropriate for the utilities because they are contiguous and they would be appropriate for development. They are also adjacent to Priority B areas. We have landowner and developer interest in these areas and are going through an update to the Comp Plan growth tier map, so this is going along those lines. No construction would be budgeted for in the first 2 years. They are programmed for the out years. The facility with Star Tran was mentioned earlier.

Water Supply and Distribution, the 5% rate increase will apply. There is also the emphasis with meeting the needs of developers, somewhat in tandem with Wastewater. They have a program of $250,000 annually identified for economic development. We received a letter in support of water main replacement, noting the significant need. That has been funded.

Watershed Management is looking at two GO bonds in Years 2 and 5. These would be to continue normal activities to help with localized flooding and stream bank erosion. Those bonds would be coupled with the Emerald Ash Borer funded mentioned earlier.

Urban Development

They would like to install some new parking meters downtown and replace some coin meters still left. They propose a new parking operations command center which would transition away from a cashier model and offer more efficiency. They are also looking at new parking garage, the location of which is yet to be determined. Finally, they propose some downtown and BID improvements.

We find all of these activities in the CIP in Full or General conformance.

Harris asked how the finding of General Conformance on the matter of the Emerald Ash Borer since it is not mentioned specifically in the Comp Plan. Barnes said the Emerald Ash Borer situation is not specifically listed, but we know that Parks and Rec is tasked with maintaining the street trees and the parks. This included addressing this issue. We are going through the Comp Plan update and we will propose to include text regarding the treatment and recovery from the Ash Borer. If it were there today, we would say it is “In Compliance”. It is in “General Conformance” because it follows the intent of the Department, despite not being mentioned.

Opposition:

1. Coby Mach, LIBA, came forward to state they would like to weigh in on the City’s investment in the brining operation. The plan to fully commit to that may be premature. Brining has only been in place two seasons. A study is being conducted to determine its effectiveness, but it is still too early to tell. The results should be examined by the public to help determine if it is appropriate. When the County was asked about using brine, they said it was not as effective. Another item of concern is the broad impact of the inclusion of the $50 million library on the Pershing site. Other proposals from private developers for use of that site have been rejected by the Beutler administration. The Pershing site is a prime locations and a good place for private development.

Staff Questions:

Beecham asked Library Director, Pat Leach, to come forward to address the concerns about the Pershing site.

Pat Leach, Director of Libraries, came forward to state that the central library project has been in the CIP since 2006. The current program includes language from the Library Board reflecting their interest in the Pershing site as a potential location. We realize there are a variety of interests in the site.

Beecham asked why the central branch is important. Leach replied that the focus of the library programs in past years has been on developing a strong branch program. The downtown location has lagged. We have conducted studies since 2003 and determined it was best to look for a new location rather than reinvest in the current Bennet Martin building. In general, we see a change in library trends away from a focus on books, and towards people. They are spaces for the community to gather and focus on literacy. Downtown is the vital core of the city and should have necessary infrastructure like the library.

Hove asked if the intention is that this topic go before the public in a vote. Leach said yes.

Lust asked Barnes to address the brine issue. Barnes said that is for Years 2 and 6.

Roger Figard, Public Works, came forward to say this is the 2nd year of the program and we are convinced it is successful. There could always be performance issues in certain parts of town, but overall there is a higher level of service for the same cost. The big issue is one of timing and improving surfaces. It takes 34 hours to produce the brine, so we need the facility to be able to react more quickly and be more effective.

Lust asked if this treatment is friendlier to roads in the long run. Figard said the mix is based on what temperature will be most effective for melt. We have not found it to be more corrosive than traditional treatments. Most of what people have been seeing is the inability to keep up with preventative maintenance as roads continue to degrade with cycles of freeze and thaw.

Hove asked if there was no connection between potholes and the brine. Figard said that is correct; there is no connection.

Harris asked about the library as it relates to the Comp Plan. If she remembers, even though there is no mention of Pershing specifically in the Comp Plan as the preferred site for the library, the Comp Plan has adopted the Downtown Master Plan which does point to Pershing. The ultimate location of where it goes should be vigorously debated, but in terms of conformance, it fits. Leach said there is mention of the Pershing site in the current Downtown Master Plan. The wording is “the framework reflects the preferred relocation of the downtown Bennet Martin Public Library to the current Pershing Auditorium site, as the Library Board recommends”. Within the Comp Plan, the language is more general.

Barnes added that the Comp Plan notes the importance of the library system and the downtown headquarters library. Given those points, that is why it is “In Conformance”, regardless of any site specifics.

Hove asked what would happen if the plan comes about and the public does not approve. Barnes said that was discussed and noted part of that in the project because there are deficiencies in the current location that need to be taken care of if that new facility is not built. Things like upgrading HVAC and updating the carpet are still noted and would go through at another time if the GO process fails.

Hove asked if the Pershing land would then be put up for sale. Barnes said there is a current IFRP still out and proposals are still being accepted and decision have not been made about that site.

Beecham asked about the 10-year facilities maintenance plan for parks. **Cary** came forward on behalf of **J.J. Yost of the Parks Department.** They have an annual funding amount for maintenance of approximately $2.8 million. Beecham said they get Keno and cell tower funds, but then there is a gap. Cary said that is correct. With those funds, they are still around $1.3 million short of meeting all of those basic needs. Beecham said we are funding them how much in the CIP. Cary said in addition to general revenue funds and the $9.8 million Quality of Life bond issue proposed by Parks in Year 3, those fill that gap. Beecham said that she is concerned that not enough is being funded for this issue. Traditionally, not much money has gone to Parks in recent years. We are just talking about maintenance and they are not being funded the way they need to be.

THE DRAFT SIX-YEAR CAPITAL IMPROVEMENTS PROGRAM (CIP)
ACTION BY PLANNING COMMISSION: **May 25, 2016**

Lust moved for a finding of Conformance with the Comprehensive Plan, seconded by Harris.

Beecham expressed that the funding for Parks is critical. This is not just a quality of life issue, but is also a way to attract and keep Millennials and a way to market our city. Since 1998, 50,000 street trees have been removed and only 15,000 have been replaced, and that is prior to any damage from the Emerald Ash Borer. It is easy to push funding off, but it will have an impact on future generations. It is not okay to remove old playground equipment form lower income areas without replacing it. 85% of our citizens live near a park or trail. It is critical for neighborhoods and for business that we find money to take care of Parks.

Hove stated he will support this. He appreciates Mr. Mach's comments and hope to see more information about the library and that it will go before citizens.

Motion carried, 7-0; Beecham, Cornelius, Corr, Harris, Lust, Scheer, and Hove voting 'yes'; Sunderman and Weber absent.

This is a recommendation to the City Council.

There being no further business to come before the Commission, the meeting was adjourned at 8:00 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, June 8, 2016.

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