MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, November 30, 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 ATTENDANCE	Michael Cornelius, Tracy Corr, Maja Harris, Chris Hove, Jeanelle Lust, Dennis Scheer, Lynn Sunderman, Sändra Washington, and Ken Weber present; David Cary, Steve Henrichsen, Paul Barnes, Tom Cajka, Rachel Jones, Andrew Thierolf, George Wesselhoft, Geri Rorabaugh and Amy Huffman 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 welcomed newest Planning Commissioner, Sändra Washington.

Hove requested a motion approving minutes, as revised, for the regular meeting held November 9, 2016. Motion for approval made by Cornelius, seconded by Harris and carried 8-1: Cornelius, Corr, Harris, Lust, Scheer, Washington, Weber, and Hove voting 'yes'; Sunderman abstaining.

Hove requested a motion approving minutes for the special hearing held November 16, 2016. Motion for approval made by Cornelius, seconded by Weber and carried 8-1: Cornelius, Harris, Lust, Scheer, Sunderman, Washington, Weber, and Hove voting 'yes'; Corr abstaining.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **November 30, 2016**

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

The Consent Agenda consisted of the following items: **TEXT AMENDMENT NO. 16014, CHANGE OF ZONE NO. 05054E, CHANGE OF ZONE NO. 16036, PRELIMINARY PLAT NO. 16009;** and **USE PERMIT NO. 26A.**

CHANGE OF ZONE NO. 16036 was removed from the Consent Agenda to have separate Public Hearing due to a letter received in opposition.

PRELIMINARY PLAT NO. 16009 was removed from the Consent Agenda at the request of the Applicant, who asked for a deferral to the December 14, 2016 Planning Commission hearing.

There were no ex parte communications disclosed.

Corr moved Approval of the remaining **Consent Agenda**; seconded by Lust and carried 9-0: Cornelius, Corr, Harris, Lust, Scheer, Sunderman, Washington, Weber, and Hove voting 'yes'. This is a recommendation to the City Council on all items.

Chair Hove called for Requests for Deferral.

Commissioner Scheer declared a Conflict of Interest for Preliminary Plat No. 16006. He recused himself from the vote on both deferral items, to be voted on with a single motion.

PRELIMINARY PLAT NO. 16006
TO CREATE AND INDUSTRIAL PARK CONSISTING OF 9 LOTS
GENERALLY LOCATED AT SOUTH 25TH STREET AND SALTILLO ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: **November 30, 2016**

Members present: Cornelius, Corr, Harris, Hove, Lust, Sunderman, Washington, and Weber present; Scheer declared a Conflict of Interest.

There were no ex parte communications disclosed on this item.

Lust moved to defer **Preliminary Plat No. 16006** for two weeks to the regular Planning Commission meeting of December 14, 2016; seconded by Corr and carried 8-0: Cornelius, Corr, Harris, Lust, Sunderman, Washington, Weber, and Hove voting 'yes'; Scheer declared a Conflict of Interest.

There was no public testimony on this item.

TEXT AMENDMENT NO. 16019
TO ADD ASSEMBLY FACILITIES AS A CONDITIONAL USE IN THE H-4 DISTRICT.
PUBLIC HEARING BEFORE PLANNING COMMISSION: **November 30, 2016**

Members present: Cornelius, Corr, Harris, Hove, Lust, Sunderman, Washington, and Weber present; Scheer declared a Conflict of Interest.

There were no ex parte communications disclosed on this item.

Lust moved to defer **Text Amendment No. 16019** for two weeks to the regular Planning Commission meeting of December 14, 2016; seconded by Corr and carried 8-0: Cornelius, Corr, Harris, Lust, Sunderman, Washington, Weber, and Hove voting 'yes'; Scheer declared a Conflict of Interest.

There was no public testimony on this item.

CHANGE OF ZONE NO. 16036 - WILDERNESS HILLS CUP
REPLACING USE PERMIT NO. 154 TO ALLOW UP TO 162 DWELLING UNITS AND 379,000 SQUARE FEET OF COMMERCIAL FLOOR AREA
GENERALLY LOCATED AT THE SE CORNER OF 27TH ST. AND YANKEE HILL RD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: November 30, 2016

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

There were no ex parte communications disclosed on this item.

Staff Presentation: **Rachel Jones of the Planning Department** stated this application is for the southeast corner of Wilderness Hills Commercial Center. This change would convert the existing use permit to a PUD to allow for apartment units. There are changes to square footages in the center, but the main change, and the portion we received a comment on, is regarding the apartments at the southeast corner.

Currently, the site is allowed a mix of commercial, office and hotel. Proposed today is the construction of three apartment buildings with a total of 166 units. The location is surrounded by commercial to the west and north, apartments to the east, and single-family homes to the south. There would be required landscaping screening of 50% from 6-15 feet in height on the south side, which is a standard screening amount. Screening was waived on all other sides since there are not single-family homes.

Corr asked the location of the existing apartments. Jones said they are directly to the east. Corr asked if those are the ones referenced in the opposition letter and how many buildings there would be. Jones said the current proposed plan includes three buildings and then 4,000 square feet adjacent to the roundabout.

Corr asked for clarification about whether only medical offices would be allowed. Jones said Lot 24 would be open to any B-2 uses.

Corr wondered about the traffic trips. She thought it mentioned in an email from Mr. West that there would be 1,077 daily trips. Jones said the applicant can speak to that.

Proponents:

1. Brett West, Director of Real Estate Development at Assurity, came forward representing Wilderness Hills, LLC which includes Speedway, Assurity, and Lincoln Federal. We work with Commercial Investment Properties who are a local apartment developer with lots of experience. This project area has been in place for 10 years and, in that time, there has been no interest in the office uses. As we look at the long-term success of the area and ability to reactivate the street, increase walkability, and getting people to

shop, we felt apartments would be a good use. In addition to those, we will continue investment to the retail. The three proposed apartment buildings remain largely within the planned area, which now includes a 2- to 3-story hotel or commercial site. We are making every attempt to stay within the design guidelines already in place and we hope this project will really activate this corner. Brad Marshall of Olsson Associates gave us feedback on traffic amounts based on what was previously approved. The hotel could have created up to 3,000 trips. Our proposal significantly reduces that number to about 1,000 trips. There will be a total of 225 bedrooms in the166 units, including studio and 1-and 2-bedroom units. Lincoln still has a strong need for these types of units.

Corr asked for confirmation that the trips generated by the proposed use is around 1,500 fewer daily trips. West confirmed, adding that the previous proposal included a lot of retail on the first floor.

Lust asked if the parking will be underground. West said there will be some surface and garages, but most will be underground.

Opponents:

1. Gary Morgan, 8910 S. 30th Street, stated he was notified of this eight days ago. He and his neighbors are generally concerned about the quantity of apartments that are in the area. The proposal drawing showed an apartment concept even farther to the east of this area; he wonders where they will stop. When he moved into the area, nothing was around. He requested that the item at least be delayed until he has time to meet with others in his neighborhood organization.

Lust asked what specific issues Mr. Morgan has with the apartments. Morgan said he needs more time to address this concept specifically, but is generally opposed to seeing that many apartments. There appears to be no real buffer to help, especially since any landscaping will be small for many years.

Staff Questions:

Harris asked if this item is Final Action. Jones said no. Harris asked when the item will have Public Hearing at City Council to make sure the neighborhood will have an idea of how long they have to organize. Jones said the meeting will be the evening of December 19, 2016.

Applicant Rebuttal:

West added that he did meet with HOA leadership and believes they advertised that he will attend their next meeting on December 6, 2016. We have discussed ways we might help with buffering and the medians. He requested that the item move forward today, knowing that the neighborhood will have the chance to address City Council.

Hove asked what the buffer will be. Jones stated it was previously shown as a 20-foot setback. West added that there is a median as well. That median is the homeowners' responsibility, but we have looked into a proposal to help get trees planted there. He is confident they can work something out.

CHANGE OF ZONE NO. 16036
ACTION BY PLANNING COMMISSION: **November 30, 2016**

Lust moved Conditional Approval; seconded by Cornelius.

Cornelius said he appreciates the testimony offered today. There is sufficient time between now and City Council to organize additional neighborhood testimony. Otherwise, he thinks this looks like a positive for the area and is in favor of it.

Hove agreed with Cornelius. This will help the area and make good use of the space.

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

COMPREHENSIVE PLAN CONFORMANCE NO. 16011
TO CREATE THE "1222 P STREET MIXED-USE REDEVELOPMENT PROJECT"
GENERALLY LOCATED AT 1222 P STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: **November 30, 2016**

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

There were no ex parte communications disclosed on this item.

Staff Presentation: **Dallas McGee of the Urban Development Department** stated this is an amendment to the Lincoln Center Redevelopment Plan to allow for a project area to be created to allow for redevelopment and use of TIF funds. It has now been acquired by Brick & Mortar Investments, LLC, who plan to develop a mixed-use project, adding three floors with commercial on the 1st floor and four floors of residential use above.

Proponents:

1. Tom Huston, 233 S. 13th Street, Suite 1900, came froward on behalf of the developer. This is a huge opportunity for redevelopment in an area where the City has invested a great deal of time and money. The proposal is on the north side of P Street and includes the adjacent alley. The building is better known as the former home of Swanson Russell, which moved next door and expanded. The project entails the retention of the front part of the building, including preservation of the historic facade, with demolition at the back to the alley. The upper four floors will be for 29 dwelling units, including studio and 1-bedroom apartments. First floor retail would be available to activate this space.

This project conforms with the plan of development embodied in the Comprehensive Plan and the Master Downtown Plan. The Comp Plan encourages a strong downtown, increasing choices for residential life, mixed-use development, and reaching the goal of 3,000 new dwelling units. The project also enhances the retail corridor and helps to sustain pedestrian activity and vertical development. $4 million will be invested by the developer with $470,000 in TIF funds, primarily to be used for demolition and site preparation. Should the application move forward, we would like to proceed with construction as soon as weather allows in the spring of 2017, with the building ready to rent in 2018.

Corr asked for clarification about retaining the front part of the building. Huston said the historic facade and a portion of the front of the building will be maintained for retail. There were many comments about the plan from the Urban Design Committee and their suggestions have been reflected in the plans. This will go back to them in December for review and additional input.

Corr asked how tall the building directly to the east is and if the new building would be taller. Huston said that building is Cadillac Flats and it is a 3-story building so “yes”, the proposed project would be taller.

Corr asked if there is a garden level incorporated into the design. Huston said one challenge of this building was the split-level entry. This will allow removal of that. The building was constructed for residential use in the 1880s and probably converted in 1920.

COMPREHENSIVE PLAN AMENDMENT NO. 16011
ACTION BY PLANNING COMMISSION: **November 30, 2016**

Harris moved Conformance with the Comprehensive Plan, seconded by Lust.

Harris commented that there doesn’t appear to be anything in this project that does not conform. It is a great example of mixed-use, infill and it is great to see further investment on P Street; that was the whole point of the public/private effort in investment. She appreciates the effort to maintain the facade.

Scheer added that he appreciates that Urban Design Committee will continue to review the progress of the project.

Corr agreed that this does fit. She has aesthetic concerns and about maintaining the historical component, but those concerns could be addressed by choice in materials.

Hove said that he will support this project and finds it to be a good use and an upgrade to the building.

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

TEXT AMENDMENT NO. 16013
AMENDING CHAPTER 27.63 OF THE LINCOLN MUNICIPAL CODE
RELATING TO REQUIREMENTS FOR OFF-SALE ALCOHOL SALES
PUBLIC HEARING BEFORE PLANNING COMMISSION: **November 30, 2016**

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

Corr disclosed she attended a Mayor's Neighborhood Roundtable discussion where this item was presented.

Staff Presentation: **Brian Will of the Planning Department** stated that in order to sell alcohol, an establishment requires a license from the State. They also require a special permit if located where alcohol sales are not normally allowed. This amendment would only affect off-sale. The amendment seeks to modify the required separation from the license holder to places like parks, schools, churches, and day cares. The separation requirements have been on the books since 1994. Though the codes related to alcohol sales have modified many times, the separation requirement is one thing that has remained constant.

As we reviewed this application, we asked what its impact would be by overlaying various buffers in existing areas. Currently, there are 1,524 building within the 100-foot zone, and 651 in the 50-foot zone, all of which would potentially become eligible.

Another aspect of this amendment would bring over some of the criteria for zones B-2 and B-5 to other commercial zones. B-4, located only downtown, does not require any special permits. The rules are different for B-2 and B-5 because they are newer, suburban-commercial districts. They are also use permit districts, so requiring a special permit would become redundant. In addition to this, these developments have far more regular boundaries than more internal centers – they have immense buffers and significant landscaping, and they are built along arterial streets with all of the buildings oriented inwards. There is also individual site-plan review. These factors all differentiate B-2 and B-5 from other commercial zones. Modifying the special permit in the other zones is inappropriate.

Staff is recommending denial. The amendment is not in support of the Comprehensive Plan, nor does it further any goal. If approved, it will only serve to allow alcohol where it is currently not allowed and where some would argue, in areas where it was intended to be prohibited.

Lust wondered if the difference in buffer zones has been studied to determine how it protects neighborhoods. She asked what the rationale was for picking those particular distances. Will said there was an effort to maintain some reasonable separation between alcohol uses and neighborhoods. The distance was a compromise, from what he can tell. The separation not only provides a buffer, it also has the effect of limiting the proliferation and concentration in some areas. There were older areas that were of concern at the time this was passed.

Lust noted one of the proposed amendments was to not only to go down to a 50-foot separation, but also if there was a street right-of-way between the alcohol sales and residential, that distance would be sufficient. She asked if Staff has a position on that. Will said he will let the applicant present the amendments. Staff just received those recently and have not had the chance to review them in detail, so there is no position. Lust asked the typical distance of street right-of-way. Will said it is typically 60 feet, but in older areas, it can be less. There are many unusual circumstances out there.

Harris said that up until 2004, staff had some discretion to waive or lessen the separation if there were mitigating circumstances. She asked if Will knew staff's position at the time of making that change. Will said that staff supported the change. The problem with working on a case-by-case basis is that some applicants were complaining that they were being treated differently. It would then be difficult to come up with a basis for denial. Consistency was difficult under the circumstances where the element of subjectivity had potential to make decisions questionable.

Proponents:

1. Mark Hunzeker, 1248 O Street, Suite 600, came forward representing Walgreens. He stated the issue here is the difference between the B-2 and B-5 Districts relative to the objective criteria of distance for licensed premises versus public interests. Why is it fine to have a 50-foot distance in those districts and nowhere else? If that distance is intended to create a meaningful buffer, then it should apply to all districts. This proposal does not change regulations for bars, which have a greater impact. A distinction is made between zoning districts. For example, Piedmont has a restaurant that serves alcohol. They had enough area to apply for a PUD and to be exempted from that rule, despite being closer to residential areas. There are several other examples of restaurants around town where businesses can and do have alcohol sales even though they are within 50 feet of homes.

There is nothing magic about the 50-foot separation versus the 100-foot separation. The 14th and Superior Walgreens location could not sell when zoned B-1. Now that they are zoned B-2, they can, even though they are within 100 feet of a park on both sides. The reason we request this change is the 48th and O Street location. The store is about 65 feet from the nearest residence. That residence is also 10 feet above the Walgreens' lot. This location does not have enough acreage to zone for a PUD. The result is absurd. If it is distance that is the concern, then that distance should be measured from the point of highest activity at the front doors, where it would serve as a more protective measure. The real reason these restrictions were set up was anti-competitive and served to restrict the number of C-stores.

Lust asked why the amendment did not ask to measure to the front door instead of reducing the boundary. Hunzeker replied that is exactly what he tried to do, but it was necessary to change to 50 feet in order for there to be a minimum. There is no minimum requirement in B-2 and B-5. The distance of the sideyard is presumed to be 50 feet, so that is a minimum we could have in lieu of having no minimum.

Sunderman asked for confirmation that the distance was measured to the building. Hunzeker said yes.

Lust asked if the distance was measured to the front door instead of to the building, if the location in question would be in compliance. Hunzeker said yes, by more than enough. It is more than 50 feet to the property line and more than 100 feet to the front door.

2. Brandè Payne, Open Harvest, 1618 South Street, came forward as Chair of the Open Harvest Board, on behalf of the Board, staff, member-owners, and patrons, including over 300 individuals who signed a letter of support for these changes. We propose that if there is a public street right-of-way, the buffer distance shall be that of the public street. We would rather approach the City for a waiver, but that is no longer possible. The Comprehensive Plan favors supporting core and existing businesses. Allowing small businesses to continue is crucial. It is no secret that we are struggling with all of the new competition in town. We need to be a one-stop location. We are in a great neighborhood and the only grocery store for the neighborhood on South Street. The Comprehensive Plan also emphasizes local food, going so for as to specifically mention Co-op groceries. We are the only one in the state. We would like to carry alcohol from local producers. She added that if the distance were measured to the front door instead of to the building, they would also meet the regulations.

Harris wondered why Open Harvest did not ask to bring back the discretion of Planning so the option of a waiver might be available. Payne replied this seemed like a good time to jump into the process. There was a lot of support for taking away the waiver option, so we thought this might be an easier sell than reopening that Pandora's Box.

Corr asked how long ago they expanded. Payne said in 2009.

3. Marcus Powers, Zipline Brewing Co, 2100 Magnum Cir., came forward to present situations he has encountered through his business, even though these changes would not directly affect Zipline. We are allowed to have up to five locations in the state and recently opened a 2nd location here in Lincoln. In the process of looking for a location, we were shut out of many small commercial locations. Larger commercial areas are not always what a business like ours is looking for. We want to be within walking distance of a neighborhood. There is a new urbanist movement to revive older commercial areas. Many similar places have been grandfathered in. The lines seem somewhat arbitrary, with Open Harvest as a perfect example. As a local manufacturer, we have an interest in participating at a local level. Any additional business in Lincoln is good for our business and good for the community.

Opponents:

1. Russell Irwin, 3274 Merrill Street, came forward representing the Clinton Neighborhood Association in opposition to the proposed changes.

2. John Jorgensen, 6130 Francis Street, came forward as Vice President of the University Place Community Organization, representing neighbors, board members, and business owners, in opposition. These changes are unnecessary, add nothing meaningful to neighborhoods and could increase undesirable activity.

3. Pat Anderson-Sifuentez, NeighborWorks, 1500 S. 11th Street, stated there is a long list of why the 100-foot separation is needed in older neighborhoods, which already have few protections. There are already many gas stations and alcohol sales. It creates disorder in a walkable neighborhood. There is a correlation between licensed establishments and quality of life calls received by the police department. This is not only about the one Walgreens location, but is about the 650 other locations where there are already sales with little protection.

4. Russell Miller, 341 S. 52nd Street, came forward as an interested citizen in opposition. It is hard to remember what happened 20 years ago that instigated the changes to the regulations, but he was here in Lincoln. There was a situation with consumption of alcohol in a parking lot at 48th and Randolph Street and neighbors were understandably upset. It was a long and bitter battle with hard feelings. He also suggested that off-sale only be sold warm to discourage open containers in cars.

5. Richard Bagby, 389 S. 47th Street, came forward as President of the Witherbee Association. He is just three blocks south of the Walgreens' location. The area he lives in is well-served, with six or seven off-sale sites currently. The increased density of alcohol sales might bring more problems.

6. Shawn Ryba, NeighborWorks, 4411 N. Park Boulevard, stated that he enjoys shopping at Walgreens, is a member of Open Harvest, and enjoys Zipline, but he cannot agree with their stance. NeighborWorks has invested an immense amount of time, money, and effort to stabilize neighborhoods that would be impacted by this change. It would be counterproductive to the emphasis on home ownership, rehabilitation of structures, and building neighborhood leadership that we have worked so hard for. We work with the dysfunction caused by alcohol outlets. 100 feet is 100 feet. There is no research showing that a higher density of alcohol sales has a positive impact or benefit to the community; it does not exist. Consider the larger impact. There are very few tools in place to protect neighborhoods.

7. Bob Reeves, 3236 Dudley Street, stated he agrees with the opposition already stated and wished to add to the record that the Clinton neighborhood board voted in opposition to this item.

Staff Questions:

Washington said that she lives in an older neighborhood. She is curious about why Open Harvest could not sell, when there is a bar located in the same mall. Will said the bar pre-dates the adoption of the ordinance. Those that existed before 1994 get to continue to exist. That right follows the property, not the owner. Will added that there are

inconsistencies. Restaurants were mentioned. There is a special permit to allow an exception for restaurants selling alcohol to be closer than 100 feet. A collective decision was made that the primary activity is eating; alcohol sales are secondary.

Corr asked if the bar near Open Harvest has off-sale. Will said he does not know but it would not make a difference whether it is on- or off-sale since they pre-existed the ordinance. Corr clarified that today's issue only relates to off-sale. Will agreed.

Washington said this brings up the issue that a place like Open Harvest would not provide any additional danger to the neighborhood. New neighborhoods do have more buffers. She is hesitant to increase the number of licenses in neighborhoods.

Lust asked if other cities have a similar ordinance basing a buffer zone on distance. Will said he is not aware of any others in Nebraska but there probably are some. Lust wondered if there was any Planning "best practice" that he is aware of. Will said nationwide, certainly there are other ways, such as by concentration or use. These discussions were had in 1994 and these are the standards that were adopted. He suggested that they have become the community standard.

Harris asked Will if he was willing to speculate any scenario where Planning would support of granting an exception to the regulations, such as in a case like Open Harvest or Zipline. Will said that when that waiver provision was part of the special permit, the City Council could adjust it, based on the recommendation of the Planning Director. It set up multiple problems such as perceived fairness and equity in granting licenses. It is not just uncomfortable for staff, but also for those applying.

Harris asked Will if he would like to speculate whether the 50 foot separation or the waiver process would be more beneficial. Will said Staff has made a recommendation for denial based on our review. The position where we were considering individual waivers proved to be unworkable because there was no way to be judicious all across the City. We stand by what we have laid out.

Sunderman said he was on Planning Commission back then and remembers the constant fight with every application that came through. Waivers to mitigate concerns simply did not work. He is curious about the comments regarding the 100 feet being measured to the front door. Will said that standard applies to B-2 and B-5 where the rational was that those commercial "centers" are very different for other commercial districts in neighborhoods. He suggested that the past amendment was probably not brought forward by staff, but probably by an outside party.

Sunderman went on to say that he finds it hard to believe that alcohol sales at a Walgreens could hurt anything with the separation they have. Will said he has met with dozens of people over the years, many of whom have been turned away because they did not meet requirements. These standards have been in place. If different standards are needed, that is not for him to decide today. Given what we have in place, it is applied equally across the City and there is no shortage of locations that qualify for the special permit.

Scheer still wondered about the potential for a waiver process. He understands the point about keeping things equitable, but it seems like there are a few instances where it would be beneficial to have the waiver, for very special cases only, so that the greater good is still achieved. Will said that is a decision for Planning Commissioners. You can visualize that there may be some way of crafting some system of pre-qualification.

David Cary, Director of Planning, came forward to state that there might be different options in the future. What we have today is this one particular item that we need to act on. Some of the suggestions made and questions raised require more thought, maybe with a full review similar to what was done in 1994. Scheer agreed.

Applicant Rebuttal:

Hunzeker stated that using the excuse of inconsistency related to special permits is not valid; this body exercises discretion every time it meets. There are locations, as mentioned before, where there is nothing in place preventing them from becoming a bar with off-sale and outdoor serving areas. The 48th and O Street Walgreens location was the reason this was initiated. It is 65 feet from the building to the property line of the neighbor, and there is the 10-foot change in elevation. In that circumstance, what goal of the 100-foot setback is not being met? It is easy to have the standards in place because they are a default answer. As was mentioned by Mr. Ryba, 100 feet is 100 feet. Either you meet that or you don't. The problem is that there is no thought as to whether or not it is appropriate.

TEXT AMENDMENT NO. 16013
ACTION BY PLANNING COMMISSION: **November 30, 2016**

Lust moved Denial, seconded by Cornelius.

Lust said this is tough for her because she thinks that there are nonsensical results because of the way the ordinance is written. For this particular item at this particular time, the policy is generally working the way we want it to and it is a protection for neighborhoods. She would support the Director of Planning's suggestion that there be further study because there should be some ability for waivers with standards. She does not want to go back to where waivers cause more problems and are in themselves, arbitrary. But for example, if you are a grocery store, and you meet certain other conditions, you are eligible to apply. She will not support this item at this time.

Cornelius stated that he agrees. The current ordinance is generally effective and has the results for neighborhoods that we would like to see, but in some cases, contradictory results arise and are undesirable. Addressing that issue with a sweeping change would not be appropriate and he would also like to see it reviewed. There are qualitative differences between a grocery store that wants to sell local products and the type of store that is a half block away selling the 36-packs of light beer. He suspects there are people who are in opposition to the text amendment today who would support Open Harvest being allowed to sell alcohol.

Harris said she agrees with the comments. She added that she appreciates Commissioner Sunderman's input and his experience will be missed. We do not want to close the door on an establishment that brings value to the neighborhood and the community. She will vote to deny this today but hopes the conversation will continue.

Scheer said he will also support the denial, but wants to point out another issue brought up by this site, which is the vertical distance. The ordinance only addresses horizontal distance but there could be times where a difference in topography matters and we may want to apply this in a smarter way.

Sunderman agreed with much of what has been said, but will not support the motion. There have been unintended consequences and what we have on the books today does not necessarily address needs. He likes the idea of the 100-foot buffer to the front door.

Weber echoed the thoughts of Sunderman but also feels this is too big of a change.

Corr said she is sympathetic, but a change that incorporates the entire City is not appropriate at this time. There are notable differences between a restaurant, off-sale establishments, and bars.

Washington said she will vote to deny, but believes there does need to be a bigger conversation because there are many small exceptions that could be made.

Hove stated he will support the denial. Hopefully we are moving towards additional study in order to make more comprehensive changes to standards.

Motion for denial carried 8-1: Cornelius, Corr, Harris, Lust, Scheer, Washington, Weber, and Hove voting 'yes'; Sunderman dissenting. This is a recommendation to the City Council.

[Break: 3:00 P.M. **Meeting resumed at 3:05 P.M.]**

CHANGE OF ZONE NO. 16023
FROM AG TO H-3 ON APPROXIMATELY 2.62 ACRES
GENERALLY LOCATED AT 6625 NW 48TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: **November 30, 2016**

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

There were no ex parte communications disclosed on this item.

Staff Presentation:

Tom Cajka of the Planning Department stated this site is surrounded by H-3 zoning to the east and north and AG zoning to the west and south. One portion of this change of zone includes a small area that was overlooked in the previous change of zone. The other part is to add a 2-acre piece to the H-3 area. The area is bounded by a minimum flood corridor on the west. There is an existing drive and a house being used as an office for the mini-storage located on the site. The change of zone would bring the house into compliance. This area is outside the City and has no City services. The applicant informed us there is intent to expand the mini-storage use to include the new area.

As part of this request, staff requested a conditional zoning agreement to address issues related to future development and access to the area. The owner indicated the possibility of dividing up the large parcel into three lots. Each would be over 10 acres so they would not require a final plat. Because of that, there would be no opportunity to review requirements for street network or access.

We are asking for a 66-foot common access easement along the south at the existing drive. Another request is a 30-foot public access easement through an existing drive at the southeast corner. These are required so that in the future, if the lots are broken up and sold to separate owners, the lot in the center would have access. Another request is that one of the two access points on NW 48th Street go away in the future because they do not meet Access Management Policy standards for point onto an arterial. One would be eliminated if the Public Works Director determined a high rate of accidents at an access, or if the inner lots are developed.

Corr asked how long before the lots are divided. Cajka said since they are broken into lots larger than 10 acres, they are not required to go through the platting process.

Proponents:

1. Mark Hunzeker, 1248 O Street, Suite 600, came forward on behalf of the property owner. The Staff Report represents regulatory overreach. It is 200 feet from a drainage area to the existing H-3 zoning. The applicant is giving up 80 feet for a flood corridor easement. There is no potential use for that property other than commercial. There is zero possibility for residential. The change of zone is hinging on access. There are the two existing drives off of NW 48th Street. The purpose of the change is to expand the storage business. There is no plan to subdivide the rest of the property, which actually extends way south of the change of zone boundary. There is an unrestricted access to Highway 34. Of the two existing points on 48th, Public Works has not told us which would be removed. They have no plan for NW 48th Street and the area will not get City services until 2040 or after. Yet staff is asking us to write a “blank check” to give up an access to the property, which we do not want to give. We may be willing to at some point in the future. He rejects the idea that a signed contract is needed before this item goes to City Council and this item should be approved without conditions.

There was no public testimony on this item.

Staff Questions:

Hove asked for a response to concerns raised by the applicant.

Cajka said the condition to have a signed agreement before the City Council hearing was added at a time when we thought we had an agreement. We have no objection to striking that. When this application first came in, we had to establish the boundary of the H-3 area and assess what made sense in terms of how far west to go. The drainage area made a good boundary. A minimum flood corridor would be shown on a final plat but, in this case, there would be no plat. The report does not say that Public Works can ask for one of the easements to be removed at any time. It says that it would be removed due to frequency of accidents or to accommodate development. If the inner lots never develop, then the two drives will remain.

Sunderman asked if the conditions of approval were removed, would they just be approving the change of zone. Lust also wondered about the zoning agreement. Cajka said that his point is that the agreement does not have to be signed before going to Council.

Washington asked if the owner has indicated any intention to subdivide the property. Cajka said yes, they showed future Lots 1-3.

Applicant Rebuttal:

Hunzeker said there are no current plans to create lots and no plans to subdivide. The applicant is aware that to develop, he would have to create access and frontage for any new lots. The need for the requested easements is not called for. As far as the amendment, it is only in the plan because we were asked to show it and to use it to measure the edge of the zoning. By the time this property gets subdivided far into the future, the standards might be different. There is no water or sewer service so when it says future, it means by many years.

Lust asked if the only object to the public easement access and not as much to the common easement access for Lots 2 and 3. Hunzeker agreed that there would need to be access provided, but he disagrees that it needs to be 66 feet wide and that it must be where it is shown today. We do not know the future configuration of potential lots.

CHANGE OF ZONE NO. 16023
ACTION BY PLANNING COMMISSION: **November 30, 2016**
Lust moved Conditional Approval with the modification to Condition 5 regarding the need to have a signed agreement prior to scheduling at City Council, by striking “it must be signed”, seconded by Cornelius.

Hove agreed that this sounds like a communication problem. Hopefully they can work out the best solution.

Corr clarified that it is Condition No. 1, not No. 5, that needs to be modified. Lust agreed that it is Condition No. 1 under "Conditions of Approval", Cornelius confirmed that was the motion he seconded.

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

COUNTY SPECIAL PERMIT NO. 16049
FOR A COUNTY AG CUP OF 85.13 ACRES, 5 SINGLE-FAMILY ACREAGE LOTS CONTAINING A MINIMUM OF 3 ACRES, WITH WAIVER TO BLOCK-LENGTH GENERALLY LOCATED AT NW 12TH STREET AND W. MILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: November 30, 2016

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

There were no ex parte communications disclosed on this item.

Staff Presentation:

Tom Cajka of the Planning Department stated he just received a letter from the property owner located south of the application area in support of the special permit. A letter in opposition was received at an earlier date from the neighbors to the east. They requested that the lots be moved farther away from their property. West Mill Road is a County gravel road. Each lot would be over three acres with their own septic and private wells. The area is not considered prime farmland.

The site plan has changed since it was last before this body. This is in response to the letter in opposition. The proposed location of the lots is now farther north, away from W. Mill Road. Lot 1 on the site plan is the existing house so there are really only four new lots. The requested waiver is typical in AG zoning. Groundwater information was submitted. The Health Department gathered information from 22 wells and concluded that there is sufficient water for the lots.

Proponents:

1. Lyle Loth, REGA Engineering, stated the project originally submitted showed the new lots clear to the south. After conversations with neighbors, the lots moved farther north. He noted that this amounts to a significant increase in the amount of road being built. An additional culvert will be added at the north end. This means more expense, but the applicant is happy with that and willing to meet the neighbors' request. Health Department has signed off on the water situation. The information came from Department of Natural Resources. Domestic uses such as these are minimal; the vineyard to the north most likely uses quite a bit more. We agree with the conditions of Staff.

Harris asked if they have been in contact with the Wolfe family regarding the changes. Loth said they asked for the lots to be moved even farther north and for some to be north of the existing house. That is a low-lying area. The applicant thinks a pond might be developed there. Harris asked if that made the distance greater from the neighbors. Loth said if new lots were north of the existing house, they would actually be closer to the neighbor who asked that they be moved.

Opponents:

1. Bob Hackbarth, 2022 W. Mill Road, stated they are the neighbors to the west. He was confused about which site plan would be the final. He appreciates the applicant's willingness to hear concerns. The revisions address many of them. Our main concern is over water. There were 22 wells evaluated in the area. Our property is the closest and our well was not included in the data. During the last drought, many people nearby had to re-drill wells or lower pumps at substantial cost. His other main concern is the 50-foot setbacks applying only to the residential structures. Large accessory buildings are necessary in this area and he does not want to see them go up close to property lines. He suggested a minimum distance of at least 100 feet. The area is mostly farms and 20-plus acre properties so this is a change. He is not completely opposed to this, but the needs of people on 3-acre lots live differently.

Applicant Rebuttal:

Washington asked what the applicant thinks of the suggestion about the accessory buildings. Loth said they would not agree with that. With things like placement of wells and septic systems, it could create a situation where owners don't have access to the full property.

COUNTY SPECIAL PERMIT NO. 16049
ACTION BY PLANNING COMMISSION: **November 30, 2016**

Lust moved Conditional Approval, seconded by Corr.

Hove said he appreciates the comments made and hopes concerns can be worked out with the owner.

Motion for Conditional Approval carried 9-0: Cornelius, Corr, Harris, Lust, Scheer, Sunderman, Washington, Weber, and Hove voting 'yes'. This is final action unless appealed to County Board within 14 days.

COMPREHENSIVE PLAN AMENDMENT NO. 16001
TO AMEND CHAPTER 5 TO REMOVE THE REFERENCE TO THE THEATER POLICY.
ACTION BY THE PLANNING COMMISSION: **November 30, 2016**

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

There were no ex parte communications disclosed.

Harris moved Denial, seconded by Corr.

Harris said she will reiterate her comments. She looks at denial from a risk versus reward rationale. In this case, we know there is potential risk to downtown businesses if a big movie complex went into a neighborhood and had lots of parking; it would arguably take away visitors from downtown. If there were some actual projects proposed that would act as a catalyst for another part of town, that would be different and it would be possible that it would bring enough reward. Since there is no project, she agrees with Planning that this decision does not need to be made at this time. The policy is protective and serves a purpose, though it does limit consumer choice to some extent. For now, she sees risk without reward.

Lust stated she still supports denial. This policy has worked. There has been additional development downtown and the theater serves as an anchor. It has also been a catalyst for development outside of the Haymarket and into the rest of downtown. She does not see a reason to change the policy that works without a project.

Weber stated he will not support the denial. There may have been a time when it was needed, but now enough time has passed. He is not comfortable with a policy that essentially protects one entity. We need to let the marketplace play it out. Removing it will not affect that much at this point since downtown is mostly built out.

Sunderman said he will also not support the denial. He hears that there is no new proposal, but how can there be under these circumstances. Owners won't invest money into something unknown. The market study is a component of it. The sunset period of 2022 could address any adverse affects that multi-screen theaters could cause.

Cornelius stated he was absent at the last regular meeting, but he has reviewed all of the materials. He agrees with Commissioner Harris. It is a chicken and egg problem. We want to remove a policy that has created positive outcomes based on principle. We do not have examples for positive outcomes if the policy is removed and there is no proposal offering something positive to be weighed. It is easy to leave downtown areas to atrophy. We have been successful as a community in keeping ours vital.

Corr said she will support the denial because she feels downtown needs the protection a bit longer and it is important to keep this in place.

Scheer said he will not change his vote and will support the denial.

Hove stated he has been thinking this for the past several weeks and has prepared some remarks based on the information that was provided. He is glad we now have all Planning Commission members here to vote on this important item. He supports removing the Lincoln Theater Policy with a 5-year sunset which gives Marcus Theatres time to react to the eventual removal of the policy. Back in 2004, the Lincoln Theater Policy was helpful in convincing Douglas Theatre to make a significant investment in the 14-screen Grand Theatre in downtown Lincoln. But the fact is, prior to the Grand, there were 5 successful theaters operating in downtown Lincoln --Douglas 3, Lincoln 3, Plaza 4, Cinema Twin and Starship 9, a second-run theater, totaling 21 screens. Downtown Lincoln has had a very successful theater business for many years and, given the fact that the University continues to grow and house more students, and downtown housing continues to increase at a rapid rate with all the new apartments and condominium projects, it is hard to imagine that a downtown theater will not continue to be successful.

Marcus Theatres has owned all the first run theaters in Lincoln since 2008. They have done a good job maintaining and upgrading the theaters for those eight years. But the fact is, in that time, Lincoln has grown by about 23,000 people. This increase in population should justify and support another 6-screen theater. Think about Kearney, Fremont or Hastings, Nebraska, which all have a population around 23,000 and all easily support more than 6 screens in their city. Marcus has not added any new screens to Lincoln while the population of Lincoln has grown by over 23,000 people. Consider North Lincoln – north of R Street. He estimates that there are over 100,000 people in that area of the city, yet there are no first-run movie theaters. The Grand and East Park are at the edge of this area but North Lincoln is not being served. The fact is, it is not financially feasible for another movie company to open a 6-screen movie theater in North Lincoln. The only company that can do this is Marcus theaters, yet they have not done so, so those movie patrons must travel farther to see a movie.

In his opinion, the Lincoln Theater Policy is a protective policy that prevents open competition. According to our speaker from Marcus Theatres several weeks ago, he knows of no other community in the country that has a theater policy like this. That is probably because the policy is anti-competitive. Since there is no one asking to build a movie theater at this time, this is the best time to set a sunset in the policy so that the investment that Marcus has made can be recovered. Waiting until another movie theater company contests this policy will force the city to either eliminate the policy, thus forcing Marcus to immediately change and forfeit some of their investment, or to not change the policy ever which means that as Lincoln continues to grow, many more areas will be under-served.

Lust asked for clarification about which portion was being denied, since there is another portion of the Theater Policy recommending approval.

Paul Barnes of the Planning Department came forward to clarify that the Comprehensive Plan Amendment was called first and is a separate motion from the proposed Text Amendment changes.

Motion for Denial carried, 5-3: Cornelius, Corr, Harris, Lust, and Scheer voting 'yes'; Hove, Sunderman, and Weber dissenting; Washington abstaining. This is a recommendation to the City Council.

TEXT AMENDMENT NO. 16006
TO ALLOW THEATERS AS A PERMITTED USE IN THE B-5 DISTRICT AND TO ALLOW SMALLER THEATERS AS A SPECIAL PERMITTED USE IN B-2 AND B-3 DISTRICTS.
ACTION BY THE PLANNING COMMISSION: **November 30, 2016**

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

There were no ex parte communications disclosed.

Harris asked for clarification on the motion.

Barnes came forward to state that the proposal is two pieces, one to add smaller theaters to the B-2 and B-3 districts, and also to remove the conditions for theaters in B-2, which would remove the maximum number of six screens. Staff supports theaters in B-2 and B-3.

Harris moved Conditional Approval, seconded by Washington.

Washington asked for further clarification. Barnes said this would add B-2 and B-3 Districts, but essentially keep B-5 the same, so all of those conditions would remain.

Lust asked if the motion was for the Staff Recommended conditions. Harris said yes and Washington confirmed her second.

Motion carried 7-2: Cornelius, Corr, Harris, Lust, Scheer, Sunderman, and Washington voting 'yes'; Hove and Weber dissenting. This is a recommendation to the City Council.

COMPREHENSIVE PLAN AMENDMENT NO. 16004
TO REVISE THE FUTURE LAND USE MAP DESIGNATIONS TO "COMMERCIAL" GENERALLY LOCATED AT SOUTH 14TH STREET AND PINE LAKE ROAD.
ACTION BY THE PLANNING COMMISSION: **November 30, 2016**

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

Sunderman disclosed that he has had general conversations, but did not encourage the conversation and advised individuals to contact the Planning Department.

All Commissioners noted their ex parte communications were the same as disclosed at the last regular Planning Commission hearing on November 9, 2016.

Corr moved Approval, seconded by Scheer.

Lust had questions about the traffic study. She noted that on the Memo, there was a comparison of generated scenarios and it was found the Costco would have fewer than other concepts. Of particular interest was the comparison with a different, big box store with smaller commercial around it.

Lonnie Burklund, Public Works and Utilities, stated in that concept, it was a somewhat smaller store, but the trips for that concept were around 20% higher daily and roughly the same during peak hour conditions.

Hove asked if any light has been suggested at 16th Street. Burkland said no, we are in agreement with the applicant's traffic engineer that there should be a 3/4 at 16th Street and a signal at Hazel Scott. That one is shown to be warranted.

Sunderman asked if it was a right-in and -out and a left-in and asked for clarification about Hazel Scott. Burklund said that leaving the site, you can only go right onto Hazel Scott. The intent was to eliminate left turns out into the neighborhood. Hove asked if Sunderman meant the intersection at Pine Lake. Sunderman said he meant the exit at the site.

Harris noted that in Memo #3, there were quite a few changes including striking "similar to" and replacing it with "compatible with". She recalled that Planning initially did not like that because it was too open to interpretation. Jones said that is correct, but as part of the effort to come to a better agreement, we determined we could live with that, given that they agreed to our design standards. Harris asked if that meant building materials or colors and how much it increases the range of what can be used. Jones said it discusses materials and colors. The range is a separate sum. There are requirements about the percentage of brick or stone to be used. It is fairly subjective.

Hove asked if there are other buildings with similar design standards in this neighborhood, such as the metal with no windows seen on these buildings. Jones said there are other centers in Lincoln that have design standards unique to their centers. Most regulate facade materials and some require brick or stone.

Scheer asked for a comparison to the standards requested with those of Shopko. Jones said she cannot answer that. The way it is evaluated is by an architect who would submit a letter certifying that the requirements have been met. That would take place at the time of building permit approval. There are others who review whether they agree or not. It does open the door for more disparate designs than "similar to" does.

Harris asked why Staff agreed with the change. Jones said Staff wanted to make an effort to meet in the middle since the applicant agreed to meet the brick and stone elements. We felt this was a smaller piece that could be eliminated.

Steve Henrichsen of the Planning Department came forward to state that the concern of the applicant was the language “similar” versus “compatible”. Their concern was that it had to be the same kind and color of stone used. The more subjective terms accurately conveys that we are not looking for identical buildings from one to the next. “Compatible” is still a valuable term.

Corr asked if it would be appropriate to ask that it not be a metal building. Henrichsen said the language does not mean compatible with other buildings in the area, only with those in this development. Sunderman stated that everything in the center should fit together, but it does not necessarily match the other side of the street, for example.

Harris asked why Staff was no longer concerned about the term being too broad. Henrichsen said the applicant had requested to reduce the amount of brick and stone. They agreed to drop that request so as a result, we felt saying “compatible” was a fine compromise.

Hove asked about improvements to the trail crossings. Jones said there were not changes. Hove asked for confirmation that they are staying. Jones said yes.

Scheer asked about the compromise regarding the landscape screen and if it was related to the additional screening worked out with the property on the north. Jones said that was one aspect. They submitted the information about the berming, which is significant, and we felt that could be better accounted for in the screening numbers.

Hove asked if peak trips were 1,470 per hour. Burklund confirmed that to be true. Hove asked if that included to and from trips, or one way. Burklund said it includes both. It is the total number of ins and outs. It is about 24 in and out per minute. Sunderman said that amounts to 12 in and 12 out. Burklund agreed that was the case.

Corr asked if the number provided was trips per hour. Burklund said there is a daily a.m. and p.m. peak, and an assumed Saturday peak, in worst-case conditions. Corr said, in other words, the busiest hours.

Lust said she would change her vote. She initially supported the application, but her analysis at the time was that this was not a commercial pad site, it is agricultural. While it has been for sale, the people in the area would not have known that this would be developed this way. She is sympathetic to the neighborhood. She was told the strip mall would generate more trips. But when she looked at the trip generation Memo, the assumption that there could be another big box store there was built into the comparison, so now she does not feel as confident in the idea that there are worse options, so she will no longer support.

Scheer said he will continue to support. It is difficult as a Planning Commissioner to vote against the Comp Plan amendment. It is inevitable that the land use is going to change. The same goes for the change of zone, especially with the B-2 zoning across the street. He does struggle with the use permit. We have a number of tools to use and the department tries to maximize use of those tools. He is comfortable with the screening. The architecture could be better, but we don't have a tool to say approval depends on that. He appreciates the additional memos and the testimony. They have all been helpful.

Weber said he will keep his comments short. He appreciates the concerns about traffic, pedestrians, safety, screening and design. It appears the applicant has worked with staff to compromise. They exceeded the screening. That leaves traffic and he has to rely on the experts. They have assured us that this increase can be handled. He will vote in support.

Sunderman appreciated the caring and thought surrounding standards. His big concern was traffic and it bleeding onto Hazel Scott. He is comfortable with the solution and with the project. The trip number sounds high, but they always do.

Harris said she will not change her vote and will be in support. She struggled due to the many conflicting interests. Commissioners have a duty to take those into account. Some are aligned - the buyer and seller agree, the community as a whole wants Costco and the jobs and benefits; however, this is not something that fits neatly into the Comp Plan, which is why this amendment is needed. Then the question is whether this use is so incompatible with surrounding uses that we deny it or do we try to bring it into compliance with the neighborhood. Some of the conditions have been strict, but they are an attempt to solve the incompatibility issues. The most important issue is the safety of kids that attend the schools. She must rely on the information provided by Staff. They are saying this can be managed. There may be congestion at times, but that does not pose a threat to kids in the area. Her vote is only as good as the information provided to her. She feels comfortable sending this on to City Council. Another factor was the LPS has not opposed this. Hove noted that they were neutral. Harris agreed. That factors in because if they saw this as a hazard, she assumes they would object.

Washington said she has read all letters and watched all of the testimony. She was surprised that the area was still zoned AG, so that change comes as no surprise. This is a desirable business for those who shop in bulk. Her main concern was safety. She feels good that the peak hours for business do not coincide with peak hours for the schools. She is also concerned that the neighborhood has not changed its feelings even with the assurances of Public works about traffic flow. They had no idea that a Costco would be there and they should not have to suffer. She is impressed with the amount of screening and the fact that the applicant has now agreed with the conditions of Staff. She now depends on Staff and the applicant to make sure things are done so we do not shake our heads in disapproval.

Cornelius said he cannot imagine not support the Comp Plan amendment or the change of zone, so the questions are surrounding this specific development. If you take into consideration the City, as a whole, he agrees this is a desirable business for the City. Wherever they choose to locate, there could be opposition and traffic will be an issue. The friction here is largely with the neighborhood to the east. In this area we see other major retail and arterial streets to handle traffic. There have been efforts from Staff to see that the applicant develops in a way that makes sense with the surrounding area in terms of architecture and traffic. He is inclined to support.

Corr said she refers to her comments from the last regular Planning Commission meeting. She will not change her vote.

Hove stated he is glad all members are here to vote. He supports Costco, but does not support Costco at 14th & Pine Lake as it is very short sighted and the unintended consequences of approving this will be dramatic. Costco says their location decision is based on space, access and location. Access to this location is poor compared to other locations.

Pine Lake is a busy minor arterial and there is not enough space to build a commercial center of this magnitude. The only reason to select this sight is location with proximity to high end consumers; however most of the neighbors are not supportive and have said so in their communications with the Planning Department. He has counted many letters and email in opposition to this, with most living close to this location. The traffic along Pine Lake is already busy and this development would only add to that congestion. Costco should not be so concerned about being close to population density as much as about easy access and more space. A Costco customer coming from Central or East Lincoln would have a far quicker and easier trip to get to Hwy 77 and West Denton Road or 40th & Yankee Hill Road than to get to 14th & Pine Lake. The city spent $4 million on infrastructure for a large super center to locate at Hwy 77 and West Denton Road, so I believe the ground is ready to go.

Costco is a regional attraction and will bring customers from throughout the city and region. Pine Lake road is a minor arterial that cannot and should not support regional traffic. 99% of Lincoln is located east or north of this proposed location. Most traffic will use Pine Lake to exit as 14th Street is very congested and the 14th & Old Cheney intersection is very troublesome and deaths have occurred. It is likely that traffic counts are inaccurate as people from Lincoln will really only be using Pine Lake east and 14th Street north.

He believes we are desperately trying to accommodate Costco by making many unnecessary compromises in traffic, design standards and landscaping in order to shoehorn this project into an area that cannot support the traffic and has consistently shown higher design standards. The notion that ingress/egress traffic counts on the south side of Pine Lake are greater than the traffic counts that Costco and the rest of this development would generate are erroneous. Placing one stop light at 20th Street will not support Costco. It will only be a matter of time before traffic counts dictate that a light would be required at 16th Street. He travels quite often to Super Saver at 27th & Pine Lake.

Often, when exiting north onto Pine Lake heading west, since there is no stoplight, he has to wait several minutes to get on to Pine Lake. It is not beyond thinking that an unintended consequence of this would be that another traffic light will have to be installed on Pine Lake between Shopko and Super Saver. That would make seven stop lights from 14th to 27th. Of the eight intersections that the traffic study studied, one graded C, two graded D and one graded F. Four of the eight intersections are already stressed. Traffic exiting out of Costco onto Hazel Scott Road will simply have to make a quick U-turn in order to run through the neighborhood and avoid the congestion being created on Pine Lake.

Costco was asking to eliminate advanced trail crossing signs along the driveways approaching Pine Lake Road. Those trail crossing signs are for the safety and security of children crossing while traffic enters and exits Costco. It is outrageous that Costco would be asking to remove safety features from this development.

The applicant consistently called this building a warehouse and is asking for significant accommodations to standards in building material and landscaping. All of the buildings around the SouthPointe have followed specific design standards for brick and landscaping. If Costco wants to locate in this area near SouthPointe, shouldn't they have to abide by the same set of design standards that those businesses had to follow? If they want to fit in this neighborhood then they should have to follow the same set of rules. Otherwise, they would be welcome at many other locations in Lincoln that do not have these standards.

The bottom line is this is a large company from out of town that is throwing its weight around to get what they want. He can imagine a Saturday afternoon where Lincoln Southwest has several sporting events as well as a theatre program, Scott Middle school is holding a music program and their routine YMCA basketball or volleyball activities, and Costco has bumper to bumper traffic in between, jamming the entire road. The unintended consequences of this development will be enormous. He hopes that the experts here today are ready to shoulder the responsibility of this decision as it will be closely watched. What he really hopes for is for Costco to find a different location in Lincoln for their store.

Motion carried 8-1: Cornelius, Corr, Harris, Lust, Scheer, Sunderman, Washington, and Weber voting 'yes'; Hove dissenting. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 16030
FOR VARIOUS CHANGES OF ZONE
GENERALLY LOCATED AT SOUTH 14TH STREET AND PINE LAKE ROAD.
ACTION BY THE PLANNING COMMISSION: **November 30, 2016**

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

Sunderman moved Conditional Approval, seconded by Weber and carried 8-1: Cornelius Corr, Harris, Lust, Scheer, Sunderman, Washington, and Weber voting 'yes'; Hove dissenting. This is a recommendation to the City Council.

USE PERMIT NO. 16009
TO ALLOW UP TO 177,000 SQUARE FEET OF NEW COMMERCIAL FLOOR AREA GENERALLY LOCATED AT SOUTH 14TH STREET AND PINE LAKE ROAD.
ACTION BY THE PLANNING COMMISSION: **November 30, 2016**

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

Cornelius moved Conditional Approval including the revised staff recommendations identified in Memo #3, seconded by Corr and carried 7-2: Cornelius, Corr, Weber, Harris, Lust, Scheer, Sunderman, and Washington voting 'yes'; Hove and Lust dissenting. This is final action unless appealed to the City Clerk within 14 days.

There being no further business to come before the Commission, the meeting was adjourned at 4:40 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, December 14, 2016.

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