MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, March28, 2018, 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	Tom Beckius, Tracy Corr, Tracy Edgerton, Deane Finnegan, Maja V. Harris, Chris Hove, Cristy Joy, and Sändra Washington; Dennis Scheer absent. David Cary, Steve Henrichsen, Tom Cajka, Rachel Jones, Dessie Redmond, George Wesselhoft, Brian Will, Geri Rorabaugh, and Amy Huffman of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission meeting

Vice Chair Corr called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

Corr requested a motion approving the minutes for the regular meeting held March 28, 2018. Motion for approval made by Finnegan, seconded by Hove and carried, 7-0: Beckius, Edgerton, Finnegan, Hove, Joy, Washington, and Corr voting 'yes'; Harris abstaining; Scheer absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **March 28, 2018**

Members present: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, and Washington; Scheer absent.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 18007** and **SPECIAL PERMIT NO. 18009.**

There were no ex parte communications disclosed.

Washington moved approval of the Consent Agenda, seconded by Edgerton, and carried, 8-0: Beckius, Edgerton, Finnegan, Harris, Hove, Joy, Washington, and Corr voting 'yes'; Scheer absent.

Note: This is a recommendation to City Council on **COMPREHENSIVE PLAN CONFORMANCE NO. 18007**. This is FINAL ACTION on **SPECIAL PERMIT NO. 18009** unless an appeal is filed in the Office of the City Clerk within 14 days.

COMPREHENSIVE PLAN AMENDMENT 18001, TO REVISE THE FUTURE LAND USE MAP ON APPROXIMATELY 52 ACRES ON PROPERTY GENERALLY LOCATED BETWEEN ALVO ROAD AND HUMPHREY AVENUE ON CENTURION DRIVE: **March 28, 2018**

Members present: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, and Washington; Scheer absent.

Staff recommendation: Approval.

AND

CHANGE OF ZONE NO. 18005, FROM B-2 (PLANNED NEIGHBORHOOD BUSINESS DISTRICT) TO R-3 (RESIDENTIAL DISTRICT) TO REVISE THE FUTURE LAND USE MAP ON APPROXIMATELY 52 ACRES ON PROPERTY GENERALLY LOCATED AT ALVO ROAD AND HUMPHREY AVENUE ON CENTURION DRIVE: **March 28, 2018**

Members present: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, and Washington; Scheer absent.

Staff recommendation: Approval.

AND

SPECIAL PERMIT NO. 04004B, TO EXPAND STONE BRIDGE CREEK CUP BY APPROXIMATELY 36 ACRES FOR 121 NEW DWELLING UNITS, ON PROPERTY GENERALLY LOCATED AT CENTURION DRIVE AND HUMPHREY AVENUE: **March 28, 2018**

Members present: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, and Washington; Scheer absent.

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

Staff Presentation: **Rachel Jones of the Planning Department** stated this site is located west of N. 27th Street and I-80. The first component is the change to the Future Land Use designation. The area currently zoned for commercial will show residential, while the commercial area will move farther north. There is I-Industrial Zoning adjacent to the site. The City would normally avoid creating new residential within 300 feet of Industrial Zoning but, in this case, the use permit on the industrial area restricts storage of hazardous materials within 300 feet of houses. Therefore, this proposed change does not create any significant new restrictions on the existing industrial area. The new layout shows a new north/south street named Serpentine Drive. The layout in the southern portion matches what is already approved in the area with the two cul-de-sacs. One hundred twenty-one (121) new single family detached and attached units are included. Public Works is requiring some traffic calming measures on Humphrey because it is a wide, straight street where higher speeds are reached. Along with the developer, they have settled on adding a median and curb bump outs to narrow the street at the future trail crossing and drainage way to the west. Also recommended is a traffic circle at Serpentine and Humphrey.

Washington and Finnegan asked if the circle would be located where Serpentine and Palladian intersect Humphrey. Jones said that is correct. There is also a future trail that runs north and south. Edgerton asked if the trail is off of the map provided in the packet. Jones said yes.

Edgerton asked for more information about the waiver to pedestrian access. Jones said that is for Blocks 3 and 4. Staff supports the waiver due to the nature of the street alignment. On Block 3, access to the open space is requested. There is also an area shown for a neighborhood park to the southeast.

Washington asked if a walkway is planned between Lots 24 and 25. Jones said there is a pedestrian easement between Lots 17-18 of Block 3. The other is a drainage easement.

Edgerton asked what impact being a primary entryway corridor has on development in this area. Jones said the entryway corridor goals are part of the Comprehensive Plan and mainly relate to aesthetics. The secondary entryway corridors are more internal. There are no specific regulations in place, but generally we try to keep the corridors in mind when planning screening of industrial and storage uses.

Proponents:

1. Brad Marshall, Olsson Associates, 601 W. P Street, came forward on behalf of Stone Bridge Creek, LLC. Lincoln Federal took ownership of this land around the time of the recession. Lots are now selling and inventory is down. The main piece of this project is south of Humphrey. It had previously been approved under a CUP known as Stone Bridge Villas. The applicant is now adjusting for a different market so the area is now included under a larger CUP area. Single-family units have been added. There is also a strong market for townhomes, so single-family attached units were added along Serpentine and the stub streets, Casper and Tiger Iron Circle. We have worked with Public Works to come up with ways to slow traffic on Humphrey, since it will be a main street. The amendment to the Comprehensive Plan will move the residential use to the south and put the commercial towards the existing industrial area. The owner of that industrial area has some concerns so we have been working with him to address concerns about truck traffic in the area. As part of that, no changes are being made to Alvo east of Centurion, so that traffic circle will have no effect on truck traffic. There was a drainage easement that will be modified to be an outlot.

Washington asked about comments in the agency review by LES regarding utility easements. Marshall said that will now be an outlot so the plan will be modified. The plan does not include dramatic changes and was sent to LES who has reviewed and given their blessing. Washington asked about the comments from Parks Department about slow drainage. Marshall replied that was at the end of Tiger Circle. The trail will be along the western edge so some modifications are being made to avoid impact. We are working with Planning to come up with landscaping so visibility to the trail is obstructed.

Washington wondered about the 10-acre parcel moving from commercial to residential and why no rezoning was requested for the other half. Marshall said there is a part being changed to residential. During a pre-application meeting, the thought was that if the area were to remain, it would be a pocket of residential. With the setback requirement to the industrial area, there could be a pocket for residential. The plan pushes the commercial area towards the arterial to

keep it away from residential and a buffer residential area would be good in the future.

Harris asked for more information about the street narrowing and other traffic calming measures. She initially thought speedbumps were planned. Marshall clarified that curb bump-outs would be used to narrow the intersection so pedestrians have a shorter distance to cross.

Neutral Testimony:

1. **David Strom, 7304 N. 19th Street**, stated he is supportive of moving the commercial area farther away and has no objection to the proposed density. He has concerns about existing grading issues. There is a descending grade and anything from the street above flows down so his property collects much of the runoff. It appears that the grading in this proposal will be pulled back to create split levels. His backyard is already saturated so he worries that with the addition of concrete and changes in the grade, his land will never have a chance to dry out. Duplexes were built during the recession and there are several rental properties in the neighborhood. The landlords appear to have no inclination to improve the properties. Most of these units are rented to college students. To add more duplexes or rental units would upset the balance in the neighborhood. Two landlords have even been sued for not seeding their yards. The preference is to see more owner-occupied housing.

2. **Matt Dageforde, 7120 Steamboat Drive**, came forward as president of the Stone Bridge Creek association. He is not opposed to the density and would encourage single-family homes. His main concern is also with the number of rental properties. He has written hundreds of violation notices to different properties. He presented several images of on-street parking and vehicles parked illegally around traffic circles. The landlords over-rent to students, some with 4-5 unrelated persons living in each unit. If you consider additional parking created by guests, there is nowhere to park. People even park in the grass on one of the empty lots. One elderly resident was given the impression that the area would be a 60+ neighborhood; she is now surrounded by college kids.

Opponents:

1. **Gary Kuck** came forward as the owner of the nearby industrial property. The surrounding areas have been sitting mostly empty since he purchased his property in 2005. His main concern is access to his industrial property. On average, 10-20 semi-trucks per day take access by coming up Alvo Road, down Centurion, and left onto Humphrey. He wants assurance that the access will not be impaired by this development. With the round-a-bout on 14th, there is no other access for these large trucks.

Edgerton asked if the testimony provided by the representative for the applicant eases his mind. Kuck said it sounds like the proposal does address his concerns, but he has not seen details. Corr noted that it will help to have the traffic circle offset from Centurion.

Staff Questions:

Beckius asked about the area that will remain B-2, noting that this change is creating a hodgepodge of spot zoning in a fairly small area. Jones agreed that the area has a mix of uses.

With the wide collector streets here, it was anticipated they would serve a wide variety of uses. The change of zone only covers a certain portion, but staff found it fit with the broader, overall patter of the area.

Beckius noted that Humphrey ends at Mr. Kuck's property. He wondered where Humphrey will eventually go. Jones said it currently ends part of the way to the north. Conceptually, it will continue north to connect with Alvo in the future.

Harris asked what avenues there are for neighbors to resolve their concerns to their satisfaction once these items leave Planning Commission. Jones said they can reach out to Public Works, the applicant, and they are welcome to speak at City Council, as well.

Harris asked if there were any concerns about traffic levels with residential use, for example, the presence of semi-trucks in neighborhoods with kids. Jones suggested the applicant might better address this question, but as the plan shows, lots back to Centurion. Humphrey is a very wide street and that will not change.

Hove asked if parking will be prohibited in any areas. Jones said Public Works can address that. Edgerton wondered if homes along Centurion might face the other direction, towards the back of the lot. Jones said Humphrey and Centurion are wider than typical local residential streets since they were designed to support commercial and industrial uses. That is the reality of what exists today.

Washington asked if, with the double frontage lots, there is any prohibition to access onto Centurion. She wondered in particular how that might intersect with the truck traffic. Jones said that because they are local streets, the Access Management Policy would not prevent people from parking in driveways located towards Centurion, though it is possible to put a restriction in place. Washington recalled a situation where truck traffic was present through a neighborhood and it caused concerns. She does not want to recreate a similar situation. Jones said the restriction could be added as a condition. This was always going to have a mix of uses with the pre-existing industrial use. In that sense, it is not a departure from what was already in place for the area.

Edgerton noted this is not the final plat for the area. Jones said that is correct, but if the CUP acts as the preliminary plat, this is the time to add restrictions since the CUP will dictate how the land is subdivided.

Corr asked if the parking around the traffic circles is acceptable. **Robert Simmering, Public Works Department**, said that is not legal parking. Corr asked who that should be reported to. Simmering said they could report that so the cars would be ticketed. Corr asked about limiting parking along Centurion. Simmering said generally, there would be no problem with that, but it is up to the owner whether they want to argue for or against that. The grading issues need to be addressed by Watershed Management.

Harris asked if changing this land use might create the situation mentioned earlier, with truck traffic along a residential street. Simmering said in many cases concerns arise after people move into areas. This situation is different because this is the direct way out from the industrial

area and it is on a wider road. The other case referred to was a narrow road with driveways up and down. Harris asked what the ideal situation would be. Simmering responded that extending Humphrey up to Alvo would be ideal and will likely happen someday. As it is, this is adequate access to the site.

Finnegan commented that she went out to the site though she did not see trucks, she did see a lot of parked cars and it seemed chaotic.

Corr inquired whether no parking signs would be appropriate at that intersection. Simmering said it would not be done preemptively, but considered once it was determined to be a problem.

Joy asked for more information about the parking for guests. Jones said a provision was recently added that requires applicants to show minimum guest parking when there are narrow lots of less than 35 feet. These lots are not that narrow so the requirement did not kick in. Joy asked what type of single family is allowed in R-3. Jones said single family and single family attached units are permitted by right.

Washington asked what codes manage rental to college student and how many unrelated adults can occupy a rental unit. Jones said the Code outlines that no more than three unrelated individuals can live together. Washington asked how that would be regulated. Jones said Planning staff does not get into issues of owners/renters, only the appropriateness of the land use for the zoning. Washington said it is up to land owners to make a complaint if there is an issue. Jones agreed it would be enforced on a complaint basis.

Applicant Rebuttal:

Marshall noted that an area was previously set aside with B-2 for commercial uses. When we transitioned the use to residential, one area where the developer could have saved was to not include Serpentine in the plan; it would have saved construction of one street to take access off of Centurion. Lincoln Federal did not think that was the right thing to do and the intent of the new street is to have houses directed toward Serpentine. A condition to relinquish access from Centurion would be acceptable. With the size of lots and density, it could be a nice buffer to what could be commercial of multi-family in the future. Other lots are larger to match the lots to the west. Our approach to the development should not impact Mr. Kuck's property; that was intentional. To clarify, the traffic circle proposed at Serpentine will have roll-over capacity to account for a truck accidentally going the wrong way. To address the grading, it appears development stopped at a certain point, impacting the drainage. We are confident that with what is proposed, drainage will improve. This area is under new ownership from the developer before and Lincoln Federal hopes to do a better job. The purchase agreements and neighborhood covenants will include language to indicate that these units are to be owner occupied.

Hove asked if the smaller lots can be duplexes. Marshall said they can be attached single family units. The size of the lots is such that there are no special requirements for parking. Corr asked if that was their intention at this time. Marshall said some flexibility is built in to accommodate market conditions. These particular lots are better set up for attached housing and that will be a good transition to what will transpire to the east.

Hove asked for clarification that they are willing to accept restrictions on parking and the direction of the driveways. Marshall said they are willing to give up driveway access to Centurion. Parking must be left up to the City.

Joy asked for more information about owner occupancy in the area. Marshall replied that is up to the developer. They have added that language to the purchase agreement, though it's true that is not always followed by the buyer. Enforcing the number of people per household can be challenging. Corr said since it is also in the covenants, those rules should be followed. Marshall agreed that it does give the neighborhood the authority to take action.

COMPREHENSIVE PLAN AMENDMENT NO. 18001
ACTION BY PLANNING COMMISSION: **March 28, 2018**

Beckius moved for Approval, seconded by Washington.

Beckius said he will speak to all three related items. These proposed changes make a lot of sense. He likes that the B-2 is closer to Alvo. It is important to him that Public Works has evaluated this and said the street is able to handle the traffic. It is also important to consider the finished development and that in the future, there will be connection to Alvo and the use of 14th Street will drop dramatically at that time. There could be some short term suffering, but the long term project will be a success.

Harris said she also plans to support all three applications. The change to the Comprehensive Plan matches the development as it is actually occurring. Although we have seen issues with industrial areas close to residential, this situation is better than most due to the foresight in creating a barrier between any chemical storage and houses. She is also assured by Public Works who are not concerned about safety; there is adequate space and traffic movement. The conditions surrounding the properties will also be known by anyone moving in to the area. She also has confidence that the applicant and the owner of the industrial area will be able to come to agreement.

Finnegan stated she is willing to support all of the applications and thanked the applicants and Mr. Kuck for working with each other.

Hove said he will support the project. He finds that there is mutual agreement among the parties and appreciates that the industrial use was already there and residential areas must be willing to work with that. The developer came up with a good plan to avoid impact to the industrial uses.

Joy expressed her appreciation for the cooperation by all parties and believes that the efforts to address residential concerns will also produce benefits.

Beckius added that Commissioners work on the assumption that people will be using property appropriately and he encourages neighbors to have cars ticketed if they are parked illegally. That is part of the agreement being made that streets will be used appropriately.

Washington said she likes how the residential and commercial uses are separated and are respectful of the existing industrial. She also appreciates seeing the developer and neighbors working together.

Corr encouraged neighbors who see problems with parking and over renting to contact appropriate parties. She believes if people are ticketed a couple of times, that could go a long way to improve the situation.

Motion carried, 8-0: Beckius, Edgerton, Finnegan, Harris, Hove, Joy, Washington, and Corr voting 'yes'; Scheer absent.

CHANGE OF ZONE NO. 18005
ACTION BY PLANNING COMMISSION: **March 28, 2018**

Harris moved for approval, seconded by Hove and carried, 8-0: Beckius, Edgerton, Finnegan, Harris, Hove, Joy, Washington, and Corr voting 'yes'; Scheer absent.

SPECIAL PERMIT NO. 04004B
ACTION BY PLANNING COMMISSION: **March 28, 2018**

Corr moved for conditional approval, as amended to relinquish driveway access to Centurion until Humphrey is connected to Alvo Road, seconded by Hove.

Washington expressed appreciation for making sure the amendment would be in writing.

Beckius said he will not support the motion with the amendment. Harris asked why that was the case. Beckius responded that he feels Public Works made their case that they feel confident that the street is adequately designed to handle the traffic load so he does not share the same level of concerns as some of his fellow Commissioners.

Harris said she will also vote no to the motion with the amendment because she feels it is late in the process and it cannot be thoroughly discussed with input from Staff. She would prefer to see the recommendation passed on to City Council. She does generally support the special permit, as-is.

Finnegan said she will also vote no because she trusts that the people involved will continue to work out any issues. She is otherwise in favor of the special permit.

Hove said he will support the motion with the amendment because the applicant offered it.

Corr explained she proposed the amendment because of Mr. Kuck's concerns and because the applicant stated they are willing to accept the change.

Motion for the amendment to the Conditional Approval approved, 5-3: Edgerton, Hove, Joy, Washington, and Corr voting 'yes'; Beckius, Finnegan, and Harris voting 'no'; Scheer absent.

Motion for Conditional Approval of the Special Permit, as amended, made by Hove, seconded by Joy and carried, 8-0: Beckius, Edgerton, Finnegan, Harris, Hove, Joy, Washington, and Corr voting 'yes'; Scheer absent.

PRELIMINARY PLAT NO. 18001, TO ADD TWO COMMERCIAL LOTS, ON PROPERTY GENERALLY LOCATED AT 10200 SOUTH 158TH STREET: **March28, 2018**

Members present: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, and Washington; Scheer absent.

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed on this item.

Rorabaugh announced that, although absent, Commissioner Scheer declared a conflict of interest on this item.

Staff Presentation: **Tom Cajka of the Planning Department** stated that this is the preliminary plat for three commercial lots located at Highway 2 and Highway 43, known as Bennet Corner. This are is just outside of Bennet's 1-mile zoning jurisdiction. There is an existing Casey's General Store on the corner lot. The other two are large lots. Currently there is a drive off of the highway that accesses Casey's. That will be converted to a public street and will turn south to access a dead-end to the property to the east. If they develop in the future, they could extend the temporary cul-de-sac. The applicant has asked for two waivers. One is to the sidewalks, which Planning supports. These are large lots with no residential units nearby, so the waiver is appropriate. The second waiver is to block length. The County Subdivision Ordinance states no block shall be longer than 1,320 feet between cross streets. Staff felt it was equitable to locate that future street half on this developer's lot, and half on the other future lot. We do not ask for the road to be built at this time; it is simply the dedication of the 30 feet of right or way. The applicant is asked to post a bond for half the cost of the road for when the adjacent property develops. The bond is requested because there is no other mechanism to make sure this applicant's side of the road gets built.

Beckius asked what is shown for proposed Lot 3. Cajka clarified that the site plan in the original staff report was changed and Commissioners should have received the new plan, along with several amended conditions as part of the Memorandum dated March 13, 2018.

Hove asked how long it will be before the road is developed, practically speaking. Cajka said normally, it might be a long time, but often when development starts in one area, it speeds up the process for adjacent land. It is hard to say.

Washington noted that in the staff analysis, the County had two alternatives for managing the proposed north/south road -- one was to split the road between two lots, and the other was to place the road entirely on this developer's property. Cajka said a condition was that if this lot develops into three or more lots, then the road would move to a more central location. Washington said that if that became the case, they would not need the bond. Cajka agreed.

Beckius said that County Engineer originally asked for a traffic study. Cajka said that after reviewing information from the State Department of Transportation, the County Engineer deleted that condition. The concern at the time was whether there would be enough traffic to warrant a turn lane off the highway. The State is not currently concerned about that, but they would have the right to go back and require it if additional traffic warrants it.

Corr said if the road is not along the property line, but internal to the three lots, no bond would be needed. Cajka said if the bond was not required until the third lot is platted then, while it is an outlot, no bond is required. If they come back later to amend the preliminary plat to show multiple lots, then the need for that road would go away and it would be centrally located because they would have to build streets before the final plat is approved.

Proponents:

1. **Mark Hunzeker, Baylor Evnen Law Firm, 1248 O Street** came forward on behalf of the applicant. The conditions required by Staff are acceptable except the one to block length. We have just measured the area and came up with a corrected length that does not violate the block length. Even if that were not the case, requiring the allowed block length is overkill. All four corners at this intersection are designated for commercial use. Casey's has been there a long time, and there is one industrial use farther north. That is all there is, and there is not a big demand for commercial use at this intersection. Everything to the east is shown in the Comprehensive Plan as agricultural. No one knows if it will be commercial or residential in the future. The one commercial use being targeted for the intersection today is contractor services, storage, or vehicle repair. These are all uses that require a lot of space, but can't necessarily afford larger lots elsewhere. If there were a street where Planning has proposed, then the property to the east would not be wanted for residential because the rear yards of the commercial uses would face houses from across that street. It would be better to locate a street farther east and then connect it. It is routine to waive block lengths both in the County and with commercial lots in the City.

2. **Tim Gergen, Clark Enersen Partners, 1010 Lincoln Mall**, showed several examples of larger commercial blocks where there are easements for access, but no streets to break up the blocks. An 8-acre lot is proposed at this location.

Hunzeker noted that the block-length requirement is primarily used to maintain connectivity between residential subdivisions for optimal pedestrian movement.

Harris asked for more information about the location of the road. Gergen said in the original layout, County Engineer had concerns about stacking distance from the highway. We, along with the County Engineer, agreed on the safer approach.

Harris asked for examples of block-length waivers in the County. Gergen said he is not aware of any because it is hard to find large commercial areas in the County. Hunzeker added that it is often waived for county residential areas with larger, 3-acre lots. Gergen said this is a unique situation in that the area is annexed but is away from City services. Washington asked if that meant there have been no commercial block-length waivers in the County. Hunzeker said not that he is aware of; there are not many commercially-developed intersections in the County. Gergen added that there are in residential area. Three, 3-acre lots would be at block length, so it is often waived.

Hunzeker requested various changes to the conditions proposed by Staff in the second March 13th memo. Harris asked if the applicant is requesting a waiver or contesting the requirement altogether. Hunzeker responded that they request a deletion of the two new Conditions and deletion of language regarding the 20-foot right-of-way because if it is unnecessary and does not apply, it should not be included.

There was no public testimony on this item.

Staff Questions:

Washington asked for an example of block-length waivers form commercial areas in the County. Cajka said there is very little commercial zoning in the County so he cannot provide a specific example. Much of the commercial is in unincorporated areas and even those are very small. Washington asked how waivers to block length for residential developments are different in the County. Cajka said those are done through a CUP which allows 3-acre lots. Staff also requires developers to show how roads can be extended for future development. This is not comparing apples to apples, it is a different type of development. It is commercial land that could be developed in the future. Bennet is also close so this area could eventually come under their jurisdiction. Staff also considers what might happen in terms of their needs in the future. It is the position of staff that there is no street in place, so if the proposed road moves to the east, the proposed block would exceed the block length.

Beckius asked if this meant that the concept must meet the requirement for block length due to something that may happen in the future. Cajka said he wonders how the block length is being defined by the applicant when there is no street existing today. Technically, the block length would go to the existing street. Harris asked if staff accounts for a future connection in the calculation of block length. She wondered if staff would anticipate the location of a future connection and measure from there. Cajka said that if another developer came in adjacent, we cannot then say they need to put in the north south street.

Corr noted that if the situation were reversed, it would not be reasonable to push the responsibility off to the next developer. Beckius said sometimes the first to develop gets preference. Cajka said that has not been his experience; typically the first to develop has more conditions placed on them. The ordinance reads, “no block shall be longer than 1,320 feet between cross streets”.

Corr asked why staff recommends denial of the waiver. Cajka said it is a matter of equity. There could be a condition that asks for the full 60-foot wide street on their property. The idea was to make it so each owner would have the same amount of cost. Block length is not just for pedestrians; it is also for vehicles. If there were no north/south street, vehicles would have to go all the way around so the road adds more connectivity between lots. At this point, it is not known what the large lot will be. It is possible that the lot could be divided up further if the market favors smaller uses.

Harris asked what measurement was used by Planning the first time. Cajka said it would have been measured the same way, where the street needs to be placed in order to meet block length. Without a street, the block moves way to the east and exceeds the limit.

Henrichsen came forward to say that the measurement exceeds 1,320 feet. The only way it can be less is if the street is placed immediately on the adjacent property. Much of this discussion is based on consideration of long term versus near term. People regularly ask City staff why the City approved acreages at the edge of the City where annexation occurs now. Because of issues that arise from this practice, staff now tries to look out for the best, long term use. This area is shown as agricultural use to the east, but that could be replaced by a higher density use as

development of the south and east beltways continues. Providing interconnectedness between lots, particularly for vehicles, is the best answer in the long term. We also do not want to put all of the responsibility on the next developer. It is not the intention to ask this developer to post the bond right away if they don't have a buyer. But the southern lot could become smaller lots in the future, for example, a fast food restaurant. Staff is looking at long term circulation in the area.

Finnegan asked, for the sake of argument, whether it is the case that we are asking the developer to pay for a "road to nowhere". Henrichsen said it will eventually connect to Luann Lane to provide a second point of access. Corr noted that the road will not have to be built until the owner does a final plat. Henrichsen said that is correct. The road was split to give flexibility in how the lots could develop.

Harris asked if the lot limit in Bennet's jurisdiction was known. Henrichsen said he does not know for sure, but 1,320 feet is a very standard unit. The method for measurement is to go all the way around and divide by two. He added that he does agree that there are not many examples of commercial development in the County.

Finnegan asked if this is charting new territory. Henrichsen that to some degree, it is.

Applicant Rebuttal:

Hunzeker said that as it exists now, there is no block. How, then, is the block-length standard applied? To say the waiver of block length is allowed under CUP rules is irrelevant because it falls under the zoning ordinance and block lengths fall under the Subdivision ordinance. This lot has street access on the north and south and has street frontage. It will have to meet front yard requirements on all three sides. If a street is also required behind, it will then have front yard on all four sides. If the lot is further subdivided, we are not opposed to building the north/south street. To be required to grade for and submit a bond for construction of a half street is expensive and could kill this entire deal. It is not fair to ask for any type of escrow for the cost of a street that may never be built. The land is more likely to develop as residential than commercial based on demand in the area. This is an attempt to cater to uses that need more land but cannot afford commercially zoned land in the City.

Corr asked if there is already an interested buyer or tenant. Hunzeker said the best prospect is for a storage in the property directly east.

Finnegan asked if this is a major sticking point. Hunzeker replied that it is the only sticking point.

Corr pointed out that if there is no tenant now, the owner does not have to put forth the bond until the plat is made. It could be a single tenant or several. Hunzeker said when the final plat is submitted, it will be bound by the conditions of the preliminary plat. This is a misapplication of the requirement and is unfair to this developer. If this were on the edge of the City and were sewerable, that would make sense, but here, it does not.

Joy asked for a summary of the measured distance, as done by the applicant. Gergen said Lot 3 is 1,308 feet. In commercial areas, the required block length is not adhered to. That was the point in showing examples located within the City. If the adjacent land were to be developed for residential, then it is easier to picture the street farther east so that back yards would face each other.

Hove asked if the developer is not supportive of getting this approved as proposed, with the conditions from staff. Hunzeker said they would like it to be approved without the block-length requirement.
Washington asked for an estimate of when a final plat might be done. Hunzeker said it could be relatively soon. The goal is to have the preliminary plat in place so that the land is marketable.

Beckius asked for confirmation that the adjacent land is shown as agricultural in use in the Comprehensive Plan. Hunzeker said that is correct.

Corr said she forgot to ask Staff their position on the amendments proposed by the applicant. Cajka came forward to say that staff is against the deletion of any conditions related to the installation of a street.

PRELIMINARY PLAT NO. 18001
ACTION BY PLANNING COMMISSION: **March 28, 2018**

Hove moved for Conditional Approval, as amended by the applicant. Seconded by Finnegan.

General discussion occurred to clarify the amendments proposed by the applicant. Hunzeker said the requested amendment is to delete everything from 1.1.6 except the entire first sentence. Beckius said the request is also to strike Conditions 1.1.8 and 1.1.9 as proposed by Staff in the revised Memo dated March 13, 2018. Henrichsen came forward to clarify that the idea is to adjust the block length waiver. Staff will work with the applicant to make sure the language of the conditions accurately includes the intentions of the proposed amendments. (See attached Exhibit "A" for approved conditions).

Hove stated he accepted that as a friendly amendment to his motion; Finnegan seconded.

Hove said he will support the motion. He is supportive of waiving the block length in order to spur development in the area.

Finnegan said that she believes this is new territory. It could be unfair somewhere down the road, but Mr. Hunzeker made a good case for his position.

Washington said she will support the motion. She appreciates that staff and the applicant took the time to work through this. The applicant has agreed to add the street if they subdivide further than what is proposed today and this does not appear to be a huge sacrifice to the future by not requiring the street now.

Beckius said he will also support the motion, though he believes it is important to be conscientious about the road connections.

Harris said she is torn between the orderly growth and equitability that Planning laid out as an argument and the promise of flexibility made in the Comprehensive Plan. She commended Planning on their position, because it is the appropriate position for them to be visionary and to strive for the best, overall, bird's eye view. In this case, she will default to flexibility.

Motion carried, 8-0: Beckius, Edgerton, Finnegan, Harris, Hove, Joy, Washington, and Corr voting 'yes'; Scheer absent.

There being no further business to come before the Commission, the meeting was adjourned at 3:29 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, April 11, 2018.

Exhibit "A"
Approved amended conditions by Planning Commission, as offered by the applicant, on March 28, 2018

MEMORANDUM

TO: Lincoln-Lancaster County Planning Commission

FROM: Tom Cajka, Planning

SUBJECT: Revised Staff Memo - Preliminary Plat #18001 Bennet Corner

DATE: March 13, 2018

CC: file

Amend Condition 1.1.5 to read; "Add a boundary survey and legal description that complies with Section 7.01(O) of the Lancaster County subdivision regulations.

Amend Condition 1.1.6 to read; "~~Show on the plan 30' right-of-way along the east lot line of Lot 1, Block 2.~~ Add a note that if Lot 1, Block 2 is subdivided ~~or used by more than one business~~ into 3 or more lots the preliminary plat will be revised to provide a street connection from Derscheid Drive to Luann Lane ~~and it may delete the 30' right-of-way along the east lot line of Lot 1, Block 2.~~"

Amend Condition 1.1.7B to read; "Please provide a drainage plan including pre-construction and post-construction conditions and the effects on adjacent properties. Also submit culvert piping information needed to drain the north ditch along Derscheid Drive near the SE corner of proposed Lot 1."

~~**Add New Condition:** "An escrow will be provided at the time of final plat of Lot 1, Block 2 equal to half of the construction of the street along the east lot line.~~

~~**Add New Condition:** "Revise the grading plan and provide a street profile for the street along the east lot line of Lot 1, Block 2."~~

Delete Condition 1.1.1, 1.1.3, 1.1.4, 1.1.7 C, K and L.

Under Condition 1.1.7 add

M. Need to show and label the existing filed drive off Highway 43 onto proposed Lot 3 located approximately 300' north of Luannn Lane. Label the field drive to be removed.

N. Revise General Note 14 to read "Direct vehicular access along S. 158th Street (Nebraska Highway 43) is hereby relinquished except at Derscheid Drive.
~~O. Submit a traffic study to determine if a deceleration turn lane in needed for northbound traffic along Highway 43.~~