MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, January 4, 2006, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Jon Carlson, Gene Carroll, Dick Esseks, Gerry Krieser, Roger Larson, Melinda Pearson, Mary Strand, Lynn Sunderman and Tommy Taylor; Marvin Krout, Ray Hill, Tom Cajka, Mike DeKalb, Brian Will, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held December 21, 2005. Motion for approval made by Carroll, seconded by Strand and carried 6-0: Carlson, Carroll, Esseks, Larson, Strand and Sunderman voting 'yes'; Krieser and Pearson abstaining; Taylor absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: January 4, 2006

Members present: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Strand and Sunderman; Taylor absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 05083 and SPECIAL PERMIT NO. 1114D.**

Ex Parte Communications: None.

Strand moved to approve the Consent Agenda, seconded by Carroll and carried 8-0: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Strand and Sunderman voting 'yes'; Taylor absent.

Note: This is final action on Special Permit No. 1114D, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

COUNTY CHANGE OF ZONE NO. 05079
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL
and
COUNTY PRELIMINARY PLAT NO. 05017
RED CEDAR RIDGE,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 82ND STREET AND ROCA ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: January 4, 2006

Members present: Krieser, Carroll, Esseks, Larson, Sunderman, Strand, Taylor, Pearson and Carlson.

Staff recommendation: Denial.

Ex Parte Communications: None.

Additional information submitted for the record: 1) E-mail from Dick Esseks providing information from Lancaster County Rural Water District and questioning the provision of advanced life support by the rural fire districts; 2) memo from Mike DeKalb of Planning staff in response to Esseks' concerns and questions as follows:

1. Scoring: Though we no longer do scoring on Change of Zone applications, as requested by the County Board, this parcel was "scored" on the 2004 application. That score was a + 41 where a score of 300 was recommended for approval of a change of zone not in conformance with the Comprehensive Plan.

2. Rural Water: Lancaster Rural Water District #1 is a state approved community water system. We assume water quality meets State health standards. Water pressure has no standard here. Rural Water Districts are designed to provide minimum water flows for domestic and stock use. There is no fire protection water service and they often do not match an urban system for volume and pressure. The District has approved the request for 24 lots based on their capabilities.

3. Fire District Service: There are 17 Rural Fire Districts that serve Lancaster County. Of those, only Southwest Rural Fire provides Advanced Life Support (ALS). Eight Districts -- Hallam, Crete, Eagle/Alvo, Raymond, Waverly, Greenwood, Ceresco and Valparaiso – provide Basic Life Support (BLS). I understand the Hickman Fire Department has recently been recertified for their EMT's. According to Emergency Management Director, Doug Ahlberg, the average response time for a rural fire district is about 15 minutes. According to the Hickman Fire Chief, Leon TenHulzen, the Hickman station had about 115 calls last year. Medical responses make up about 90% of those calls. The majority of those calls were to rural acreage areas, followed by responses to traffic accidents. We are working with Emergency Management/911 to see if we can produce a GIS map of the 911 calls assigned to Hickman, by address.

and 3) two letters in opposition with concerns about sediment during construction, traffic, effect on wildlife, and increased pressure on water quality and quantity.

Proponents

1. Lyle Loth of ESP appeared on behalf of **Alan Baade,** the owner of this project. This project came forward in the spring of 2004 when the Planning Commission voted 5-3 to recommend denial, and the County Board agreed. One of the main issues raised during the public hearings at that time was the density, which showed 35 lots on 120 acres, with virtually no open space. The project being submitted today has been reduced to 24 lots, ranging in size from three to six acres, with more than 27 acres to preserve trees, waterways and to provide some buffering from the waterways.

Loth advised that the developer did host an informational meeting on September 19th, with invitations to 114 landowners. Attendance was minimal. There were two other developers at the meeting, one prospective lot buyer and two neighbors, who brought forth some concerns. Based on that meeting and those concerns, the testimony from last year's hearings and communications received, Loth suggested that there appear to be four issues:

1. The density has been reduced from 35 to 24 to address that concern.

2. The Rural Water District can provide adequate water without detriment to any of the surrounding neighbors; and there will be covenants prepared which would dictate use of drought tolerant grasses which would minimize lawn watering.

3. The issue of increased traffic on S. 68th Street has been an issue for quite some time. It has been improved from Saltillo Road south to an area south of Roca Road. The remaining portion of S. 68th Street and the overpass across the railroad south of Hickman is being planned for improvement in 2010. Those two projects were essentially separate projects but the County is trying to put them together and build at the same time. Prior to closing S. 68th the county plans to pave S. 82nd from Roca Road south to Panama Road. This paved road then would be used as a detour when 68th Street is closed for improvement. Loth was not sure about the timing for paving of S. 82nd but it was indicated by the County that it is being pushed ahead so he anticipates sometime in the year 2006-2007.

   Loth pointed out that the traffic from this project does not enter 68th Street directly. Traffic from this project would first enter on the paved road at Roca Road and then proceed down to the intersection at 68th Street, which has been improved, widened and is protected with a flashing traffic signal.

With regard to the commercial development that has taken place at 84th and Hwy 2, Loth would expect that a considerable amount of traffic from this subdivision would use 82nd to access that commercial development.

4. As far as the environmental issues with Wagon Train Watershed, Loth noted that there has been some concern about silt and sediment from this project. The applicant has been in contact with the NRD and they have acknowledged that development will occur in this watershed. One of their goals is to minimize the impact of these developments. This development will need to apply for a NDES permit, accompanied by a stormwater pollution prevention plan to be approved by the NRD and DEQ. This plan will pay particular attention to erosion control measures during construction.

Loth pointed out that early in 2003, the Planning Commission approved a similar project called The Preserve at Cross Creek, which is immediately west of 68th Street about 1/4 mile north of Roca Road. He reviewed both staff reports and believes they are very similar in nature. Neither project conformed with the Comprehensive Plan nor the Comprehensive Plan for Hickman. The Preserve at Cross Creek had significant floodplain issues. Both are served by rural water and individual septic systems, and neither is prime farm land. The Preserve at Cross Creek had 15 lots with an average density of 5 acres per lot. Red Cedar Ridge also has an average density of 5 acres per lot. The staff recommended denial of The Preserve at Cross Creek, but it was approved by the County Board. Loth believes this project should also be approved in the interest of fairness and consistency.
Esseks expressed concern about the soils. How confident can we be that these parcels can sustain septic systems over time? Loth stated that he is not at all confident. It is unlikely – these are Wymore soils which in some cases seem to percolate okay but in other cases the soils do not allow that, in which case a lagoon system would be required for this subdivision. All of these lots have to be minimum of three acres. All of these lots do contain at least that area and would have separate individual lagoons or septic systems.

Loth believes that The Preserve at Cross Creek is pretty much developed, but he did not know whether they had used septic systems or lagoons. It was a very nice project that was very well done and it was very sensitive to erosion and sediment.

Esseks inquired as to how the seller of these acreages deals with the issue that emergency medical services are limited in terms of response rate. He does not believe that basic life support is enough. Loth acknowledged that he has not personally ever marketed the lots, but in his opinion, that is one of the issues that an individual moving out into the country needs to consider for themselves. Clearly, fire protection and medical service are not as quick or as good as they are in the city, but that is one of the issues that the individual purchasers have to weigh in their own minds.

2. Alan Baade, the applicant and owner, advised that he started on this project in 2000

and the hurdles keep getting higher and higher. There have been several other projects approved in this area and he does not believe he is doing anything out of the ordinary from what has already been approved. The roads are going to be improved shortly because Hickman and Firth are in a growth stage. As far as schools, Norris is building another middle school for population growth in the area.

Pearson inquired whether the applicant would agree to a condition to prohibit landscape irrigation. Baade believes it might be possible to use their own well. He has approval from the Rural Water District for the house usage. Baade indicated that he is trying to make the covenants similar to what already exist in the area. He does not know whether The Preserve at Cross Creek has such a covenant.

Opposition

1. Larry Eigbrett, 15701 S. 82nd, Roca, testified in opposition. His acreage is bounded by the area of this proposal. His issues in opposition are the same as he had a year ago. Nothing has changed. The density is still too much. He believes that many septic systems and that much additional usage on the water system is going to be a problem. The access to this property will be north of Roca where S. 82nd is not planned to be paved. He does not believe that road can support the traffic from 24 more houses.

2. Kurt Kechely, 7801 Roca Road, directly south of the proposal, testified on behalf of 50 households in the Roca area that are opposed to this development. They all moved into this area under the current rules of the Comprehensive Plan, which basically required the owners to purchase 20 acres or more. Why are there so many different developments reviewed that are not part of the Comprehensive Plan? They have the same issues as they had when this proposal was denied previously. The problem is infrastructure, schools, water, traffic, and nonconformance with the Comprehensive Plan. The Commission should listen to the staff and the immediate direct and indirect residents that this will impact. One of the biggest concerns is the approval of The Preserve at Cross Creek "because it abutted another development." Therefore, he suggested that the ground next to it will be seeking to be developed as well. There are a lot of people speculating development and taking farm ground out of production. If this one can leapfrog and not touch an existing development, the next proposal is going to be 200 acres at 82nd and Roca Road with the exact same scenarios. The concern is whether the schools and our roads and water systems can handle the density. He is in favor of "planned" development, but this one is too many too fast. If it is allowed to be done ad hoc everywhere else in the county, we don't know where it is going to end. The infrastructure cannot keep up. This jumps out of planned growth.

Staff questions

Mike DeKalb of Planning staff made a correction to page 6 of the staff report. Condition #3 should state that "Final Plats will be approved by the Planning Director after: .....". The County Board recently gave the Planning Director authority to approve final plats.

Strand noted that this development proposal is just outside the one-mile jurisdiction of Roca and Hickman so the build-through standards do not apply. She wondered whether Roca and Hickman are considering build-through standards. DeKalb responded, stating that the growth in the county tends to be in tiers and each of the towns has their own one-mile jurisdiction and their own rules. He does know that JEO is working with Hickman on updating their plan and they are attempting to adopt the build-through requirements in the Hickman one-mile jurisdiction. Roca is not in the process of updating their plan at this time. DeKalb concurred that the build-through standards would not apply in this case.

Carroll asked why this change of zone only scored +41 previously. What are the deficiencies? DeKalb recalled that The Preserve at Cross Creek had a much lower score because of the substantial floodplain issues. In this case, the environmental resources do not cause the score to go down. The one thing helping carry the positive score is the fact that it is on a paved road. Typically, if the area is surrounded by acreages and on a paved road, the score jumps up. In this case, the surrounding development is still in large parcels, other than the areas one-half mile off of S. 68th Street, which are zoned and shown for acreages. The staff had also proposed a sliding scale as an alternative to allow increased density for increased points, but none of the point system was adopted by County Board. Carroll suggested that the only positive for this proposal is that it touches a paved road and it does have rural water.

Esseks noted that the Comprehensive Plan shows the low density residential stopping at Roca Road. He does not see much development north of Roca Road, east of 68th Street, thus it looks as though the County hitherto has respected that demarcation so that property owners could purchase the land and assume to have the lower density of one dwelling unit per 20 acres. He is very sensitive to the need to give future owners the right signals and not to mislead them. If we cross the road here, what's to keep us from having to cross the road in the future in the sense that we have to be consistent with the property owners' rights? Is there any process here? He does not believe we should cross the road unless there is a thorough examination of the pro's and con's of doing that. DeKalb suggested that the public policy has been established by the map in the Comprehensive Plan, and that is the signal we are sending to the public by a staff recommendation of denial. There are areas for acreages to occur and other areas where they are not to occur. Part of the consideration is infrastructure – roads, schools, fire, etc. The Comprehensive Plan is updated annually and in five-year increments, at which time modifications and adjustments can be made for changing circumstances. However, requests can be made for changes of zone and comprehensive plan amendments independent of that, and the County Board can approve changes of zone that are not in conformance with the Comprehensive Plan.

In the case of The Preserve at Cross Creek, the County Board felt that 68th Street was a major highway between Lincoln and Hickman that is being improved; and they thought that the design and layout respected the environmental resources.

Esseks wondered whether there is any kind of corridor concept that could be entertained. DeKalb acknowledged that there have been different approaches toward corridors. Almost 80 square miles of low density residential has been shown that follows the major paved roads of the county, but the demand for acreage development far exceeded what was shown and the County Engineer could not afford to build the roads to sustain it. The point system and review criteria do include proximity to roads and development. If the road is of sufficient character and size that warrants double loading – that is one question. If it is just a paved county road, it probably does not rise to that level and becomes a barrier and natural break point, and that is the case here. Roca Road seemed like a natural break point. DeKalb also noted that the land on the northeast corner of S. 68th and Roca Road did have a change of zone application to AGR about 10 year ago that was denied by the County Board.

Response by the Applicant

Loth advised that the County Engineer is planning to pave 82nd Street north of Roca Road, but it will probably be in conjunction with the South Bypass which is several years down the road.

Loth does not believe The Preserve at Cross Creek was immediately adjacent to another subdivision. It was landlocked by the larger acreages.

The proposed Red Cedar Ridge is adjacent to Hickman. It is actually in a drainage basin that naturally goes down into Wagon Train Lake that will not be readily sewerable by Hickman's system. This probably would not be in any future plans for Hickman's development. The drainage is to the south and east and the gravity sewer would have to go in that direction.

COUNTY CHANGE OF ZONE NO. 05079
ACTION BY PLANNING COMMISSION: January 4, 2006

Strand moved approval, seconded by Pearson.

Strand believes people have a desire and the right to choose to live on residential acreages, knowing that they are in a different EMT system. The Norris School is very popular. It is on a paved road. It is on rural water. There are pluses and minuses.

Pearson agreed that this is a tough decision. The precedent is probably The Preserve at Cross Creek which is in the floodplain – this property is not. It is on a paved road. There are lots of issues with the right to farm, but if we decided to approve The Preserve at Cross

Creek with more problems than this one, she cannot understand the difference. Carlson recalled that the Planning Commission had recommended denial of The Preserve at Cross Creek, but it was then approved by the County Board.

Carroll's difficulty in recommending approval is that it does not comply with the Comprehensive Plan, and the density is an issue to him. At this point in time, it is just too dense for the area because it has grown so fast. It is overgrowing the area completely. The Comprehensive Plan says that we should not build acreages there, yet the County Board is approving them. Schools are having a hard time keeping up with the growth. Hickman is having a hard time. He believes the Commission should follow the Comprehensive Plan. At this point in time, they are asking for too much density.

Larson agreed with Carroll. The Comprehensive Plan has some meaning and because this is not in the Comprehensive Plan he will vote against it. If we approve this, we have an obligation to bring some roads and infrastructure out there and we do not have the money to do that.

Taylor believes the negatives out-weigh any positives. Sometimes the Commission makes exceptions to the Comprehensive Plan, but this is just too egregious. However, he appreciates the approach that the applicant has taken.

Esseks believes there is a need to look at this issue of where the boundaries of the rural residential areas should be. He would like to be able to entertain some sort of corridor concept that is not yet in the plan and perhaps the Commission needs a workshop and policy on it. He would also encourage the rural emergency service districts to get up to advanced life support. It makes a big difference to him. If we are going to encourage these rural AGR densities, we should be moving towards advanced life support services.

Carlson stated that he will vote against the motion. We do have a well-defined and thought-out strategy in the Comprehensive Plan to try to make the acreage developments available in the county with some flexibility, such as a CUP for a cluster.

Motion for approval failed 2-7: Krieser and Strand voting 'yes'; Carroll, Esseks, Larson, Sunderman, Taylor, Pearson and Carlson voting 'no'.

Carroll moved to deny, seconded by Taylor and carried 7-2: Carroll, Esseks, Larson, Sunderman, Taylor, Pearson and Carlson voting 'yes'; Krieser and Strand voting 'no'. This is a recommendation to the Lancaster County Board.

COUNTY PRELIMINARY PLAT NO. 05017

ACTION BY PLANNING COMMISSION: January 4, 2006

Carroll moved to deny, seconded by Larson and carried 8-1: Carroll, Esseks, Larson, Sunderman, Strand, Taylor, Pearson and Carlson voting 'yes'; Krieser voting 'no'. This is a recommendation to the Lancaster County Board.

There being no further business, the meeting was adjourned at 1:55 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on January 4, 2006.

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