MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, June 7, 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, Michael Cornelius, Dick Esseks, Gerry Krieser, Roger Larson, Mary Strand, Lynn Sunderman and Tommy Taylor; Marvin Krout, Ray Hill, Brian Will, Mike DeKalb, Tom Cajka, Greg Czaplewski, Joe Rexwinkle, 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 Public Listening Forum held May 17, 2006, on the Long Range Transportation Plan. Motion for approval made by Strand, seconded by Carroll and carried 9-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman, Strand and Taylor voting 'yes'.

Carlson then called for a motion approving the minutes for the regular meeting held May 24, 2006. Motion for approval made by Strand, seconded by Carroll and carried 9-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman, Strand and Taylor voting 'yes'.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: June 7, 2006

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

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 06037; SPECIAL PERMIT NO. 06033; ANNEXATION NO. 06010; and PRELIMINARY PLAT NO. 06007, GALE ADDITION.**

Ex Parte Communications: None.

Item No. 1.3a, Annexation No. 06010, and Item No. 1.3b, Preliminary Plat No. 06007, were removed from the Consent Agenda and scheduled for separate public hearing.

Carroll moved to approve the remaining Consent Agenda, seconded by Strand and carried 9-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand, Sunderman and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 06033, 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.

REQUESTS FOR DEFERRAL:

CHANGE OF ZONE NO. 06036
FROM COUNTY I INDUSTRIAL DISTRICT
TO CITY I-1 INDUSTRIAL DISTRICT AND
H-2 HIGHWAY BUSINESS DISTRICT,
ON PROPERTY GENERALLY LOCATED
AT N. 134TH STREET AND "O" STREET. June 7, 2006

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

Staff recommendation: Deferral until June 21, 2006.

Ex Parte Communications: None.

Carroll moved to defer with continued public hearing and action scheduled for June 21, 2006, seconded by Taylor and carried 9-0: Strand, Taylor, Larson, Carroll, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'.

Greg Czaplewski of Planning staff explained that the memorandum included in today's agenda stated that this application would be readvertised for change from I to H-2; however, it will be readvertised for I-1 instead of H-2.

COMPREHENSIVE PLAN CONFORMANCE NO. 06006
TO REVIEW PROPOSED DECLARATION OF
SURPLUS PROPERTY
and
CHANGE OF ZONE NO. 06034
FROM P PUBLIC USE TO R-6 RESIDENTIAL,
ON PROPERTY GENERALLY LOCATED AT
THE NE CORNER OF S. 27TH STREET AND OLD CHENEY ROAD. June 7, 2006

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

Staff recommendation: Approval.

Ex Parte Communications: None.

The Clerk announced that there has been a request to defer until June 21, 2006, for purposes of readvertising the change of zone application.

Carroll moved to defer, with continued public hearing and action on June 21, 2006, seconded by Strand and carried 9-0: Strand, Taylor, Larson, Carroll, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'.

PLANNING COMMISSION REVIEW EDITION
OF THE DRAFT SIX-YEAR CAPITAL IMPROVEMENTS
PROGRAM FOR FY2006/2007- 2011/2012.
ACTION BY PLANNING COMMISSION: June 7, 2006

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

Ex Parte Communications: None.

Additional information submitted for the record: The Clerk submitted one communication from the Lincoln Neighborhood Alliance requesting that the funding for sidewalk maintenance and repair be increased (attached hereto, marked Exhibit AA and incorporated herein by this reference); and 17 communications concerning the Southwest Wastewater Facility (attached hereto, marked Exhibits J through Z and incorporated herein by this reference).

Strand moved to approve the staff recommendation, seconded by Sunderman.

Strand moved to amend to find that Projects 12-24 (Antelope Valley projects) listed under Public Works, Street and Highways, are not in conformance with the Plan, seconded by Sunderman.

Strand believes that Antelope Valley is an extremely important project for the city as it will greatly help traffic, and more importantly, it will help UNL, so she is not finding fault with Antelope Valley. Her concern is that the CIP takes an extremely broad reading of the new construction funds from wheel tax. Tearing up old streets and resurfacing and creating new streets is a fairly broad interpretation and perhaps too much has been put towards one project and not enough towards the others, so she does not believe it is in conformance with the Plan. The wheel tax funds were to be set aside for new construction in new areas so she does not believe the Antelope Valley projects conform.

Larson was concerned about the effect this might have on Antelope Valley. Strand agreed that it will be necessary to find the funding to do Antelope Valley, but she does not think it should be at the expense of all other projects where we had a wheel tax increased for new construction projects. How do you define new construction? Larson is concerned that taking the funds out of the Antelope Valley projects will hold up some state and federal funding and hold up the Antelope Valley projects. Strand suggested that we need to go ahead with the Antelope Valley projects, but perhaps other projects need to bump out of the way. The CIP is not meeting the needs of the new construction areas.

Esseks believes that spending public money on Antelope Valley is in conformance because the Plan calls for this project to be developed to fruition. The issue is whether the city has identified the right sources. That is a separate issue. The overall purpose of the expenditure is in conformance. The more technical issue of where you get the funding is at stake.

Strand does not believe we are in conformance with the new construction wheel tax funding. Antelope Valley is important and needs to be continued to be funded, but we need to fund the new construction areas with the wheel tax money so set aside.

Carroll agreed that Antelope Valley is in the Plan and in compliance. The question is with the definition of “new construction” under the wheel tax issue, and he believes that is a decision for someone else to make. He believes that the projects that are in this CIP are in conformance with the Plan. Maybe we need to debate the new construction definition at another time.

Cornelius agreed with Carroll.

Sunderman commented that whether we like Antelope Valley or not, we need to realize that it is taking a lot of the city’s funds, pulling from other worthwhile projects and slowing down other items that need to be done. Antelope Valley could be delaying or preventing quality expansion for new streets, roads, sidewalks, etc.

Larson stated that he will vote against the motion because he believes that the commitment to Antelope Valley has been made over and over and over again. It is in process. Even though he agrees it is taking funds from other worthy projects, he believes that we are past the place where we can "un-commit" for these projects and we need to move ahead.

Strand re-emphasized that she is not against Antelope Valley. There is a list of 34 projects with nothing for new areas outside of the Beltways and Antelope Valley. There is nothing for new construction. It is a great oversight in how we are distributing the funding that is available.

Carlson noted that the point has been well made, but it is important that people realize that budgets are tight and that priorities are being set. In terms of support for the amendment, he views that his obligation is to look to the Plan -- Antelope Valley is in the Plan, the maps are in the Plan and the projects are in the Plan, so he cannot say that it is not in conformance with the Plan.

Motion to amend to find Projects 12-24 under Public Works, Streets and Highway, not in conformance with the Plan failed 3-6: Strand, Krieser and Sunderman voting 'yes'; Taylor, Larson, Carroll, Esseks, Cornelius and Carlson voting 'no'.

Cornelius made a motion to amend to find Project #10 under Public Works, Streets and Highways, Sidewalks Maintenance and Repair, not in conformance with the Plan, seconded by Esseks.

Cornelius pointed out that the CIP removes 3/4 of the funding for sidewalk maintenance and repair and he believes that does not comply with the pedestrian section of the Plan. The Plan clearly states that pedestrian is a major mode of transportation to be supported and he believes cutting the budget this drastically fails to do that, even with the understanding that this is a tough budget problem.

Esseks commented that the quality of neighborhoods is defined by many indicators, one very obvious indicator being the condition of the sidewalks. If they are crumbling, or differing in elevation, it may contribute to the perception that the neighborhood is in process of degradation, which is very serious with regard to property values and precedence for the city. We do not want to force people to find housing opportunity elsewhere. We need to do every possible to retain the viability of existing neighborhoods, and maintaining good, safe sidewalks is an important step.

Strand agreed; however, the project is in the Comprehensive Plan. We may not like the dollars allocated, but if it's in the budget, then she will vote the way the majority voted on the last issue (Antelope Valley projects).

Carlson referred to page F89 of the Comprehensive Plan, "Pedestrians":

> ...to preserve and enhance the quality of life for Lincoln, consistent maintenance of the existing pedestrian system and additional facilities are needed.

Thus, the Comprehensive Plan does say that we need consistent maintenance of the existing system. Carlson then referred to page 23 of the public hearing minutes (May 24, 2006):

> (Question to Director Fredrickson): Based on the amount budgeted in the CIP, how are we going to accomplish the Comprehensive Plan goal to have a safe, extensive and thorough sidewalk system, particularly in older neighborhoods?
>
> (Answer): ”There is not enough money to do it”.

Carlson agreed that it is a decision of the City Council, but this discussion shines a little light on the issue and illustrates the point -- let’s don’t pretend that kind of money is going to accomplish what is in the Plan. To have the recommendation that it is in conformance is not the right way to go. They need to make the hard decisions.

Carroll agreed. As far as consistent maintenance, yes, the dollars are inadequate, but there needs to be some push forward to increase the maintenance of the sidewalk system because it is important to the pedestrians and the city. It is not in conformance because it is not a consistent dollar amount to take care of the problem.

Larson believes that it is the job of the Planning Commission to recommend the Comprehensive Plan and most of these items are budget considerations, which are not the job of the Planning Commission. He believes that the Planning Commission should make a recommendation as to what needs to be done and let the City Council decide on the priorities. We need to recommend what we want.

Carlson clarified that the motion to amend is making a recommendation that the dollar amount is inadequate.

Esseks would like to consider both the purpose for the expenditure and the relative quantities. Sometimes the proposed relative quantity can be such a token nature that the purpose cannot be realized. The $250,000 is a token amount, which means that one of the objectives of the Comprehensive Plan is not being realized and the Planning Commission should draw attention to that.

Carlson pointed out that the goal is in the Plan, but the dollar amount is not. Larson thinks that the purpose of the Comprehensive Plan is to set the goals and it is not a budgetary document. The Planning Commission should recommend a plan that is what we want the community to be, and then it is up to the City Council to find the money, and we need to find the money as the city.

Cornelius clarified that the purpose of his motion was not necessarily to count dollars and cents, but to point out that merely having a line item in the CIP isn't sufficient to guarantee compliance with the Plan. The first paragraph in the *"Pedestrian"* section sets a goal. Does this line item achieve that goal? His motion is to suggest that it does not.

Sunderman agreed with the motion. Sidewalks are important, roads are important, infrastructure is important – it is the basic foundation of a city and we are not recognizing the fact that it takes ongoing maintenance, building and growth to keep the city moving on a steady pace. We are slowly falling behind on these projects and on this maintenance.

Strand pointed out that the city is over 200 million dollars behind in street projects right now. We have a 40-year sidewalk plan. She is not sure "not in conformance with the Plan" is going to fix the budget. It is going to take more than that.

Larson does not believe it is the Planning Commission's job to fix the budget.

Motion to amend to find Project #10 under Public Works, Streets and Highways, Sidewalk Maintenance and Repair, not in conformance with the plan, carried 6-3: Larson, Carroll, Esseks, Cornelius, Sunderman and Carlson voting 'yes'; Strand, Taylor and Krieser voting 'no'.

Main motion, as amended, carried 9-0: Strand, Taylor, Larson, Carroll, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'.

DRAFT FY 2007-2009 AND 2010-2012
TRANSPORTATION IMPROVEMENT PLAN.
ACTION BY PLANNING COMMISSION*:* June 7, 2006

Carroll moved approval of the staff recommendation, which is a finding of general conformance with the Comprehensive Plan, seconded by Strand and carried 9-0: Strand, Taylor, Larson, Carroll, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'.

ANNEXATION NO. 06010
and
PRELIMINARY PLAT NO. 06007,
GALE ADDITION,
ON PROPERTY GENERALLY LOCATED
AT N. 9TH STREET AND MORTON STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: June 7, 2006

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

Staff recommendation: Approval of the annexation and conditional approval of the preliminary plat.

Ex Parte Communications: None.

These applications were removed from the Consent Agenda and had separate public hearing at the request of the applicant.

Staff presentation: Tom Cajka of Planning staff presented the proposed subdivision consisting of 22 lots generally located at 14th & Morton Streets. It is immediately adjacent and west of the Pinecrest subdivision which is building houses now. The proposed plat consists of 18 single-family lots and 4 attached single-family lots. All of the utilities are available to this subdivision. Morton Street is paved with curb and gutter up to this subdivision and adjacent to it is a gravel rural county road that will be required to be brought to city urban standards. The applicant has requested no waivers on this development. There are two lots (Lots 12 and 13) that abut I-80. Because this is a preliminary plat and not a CUP, the city cannot require the developer to install any type of noise barrier such as berms or sound walls. The only subdivision requirement is that there be screening on the rear of the lots next to the interstate.

Strand wondered whether the Health Department could regulate it if there were violations of the noise ordinance. Cajka suggested that the Health Department would only regulate noise caused from the development. Strand then referred to the Health Department comments, which state that the Health Department advises that the Nebraska Department of Roads I-80 Upgrade Draft Environmental Assessment be consulted relative to the predicted noise contours and possible noise abatement strategies to address interstate noise. Cajka responded, stating that the Health Department can make a recommendation, but it cannot be a requirement of this subdivision.

Carroll inquired whether Lots 12 and 13, which are next to the Interstate, will be walkouts. Dennis Bartels of Public Works advised that there is not enough information to judge how that grading relates to the paving of the interstate. The lots appear to be dropping. Both lots look to be lower than the interstate right-of-way line.

Proponents

1. Matt Langston of ESP appeared on behalf of the applicant and stated that the applicant accepts all conditions of approval, with exception of Condition #1.1.15 and Condition #1.1.16. He requested that Condition #1.1.15 be deleted and that Condition #1.1.16 be modified accordingly. Condition #1.1.15 requires that the detention cell be shown on an outlot. Langston showed on the map where the detention cell is located in the back of two of the attached residential lots. These lots will be retained by the developer as rental properties. There will be a fence around the detention cell. They wish to locate the detention cell in this manner in order to not lose one lot and make the most out of the development. There are no requirements that the detention cell must be on its own outlot.

Carroll inquired about a homeowners association. Langston advised that there will be a homeowners association and the covenants will provide that the homeowners association will be responsible for the maintenance of the detention cell. The detention cell will abut Morton Street, so he does not believe the maintenance will be a problem. The homeowners association will not own the property on which the detention cell is located, but will be required to maintain the detention cell.

Strand does not understand how a homeowners association can be required to maintain a detention cell on someone else's property, should those lots be sold in the future. Langston again stated that it will be set forth in the covenants that if the lots are ever sold, the homeowners will own the land but the detention cell must be kept in a working and pre-sale state. The detention cell will be located on an easement.

Carlson inquired about the elevation of the development with the interstate. Langston stated that the right-of-way is significantly above the interstate, but then from the right-of-way down into the lots to the southeast it does slope down and the right-of-way creates a natural berm. They have not planned an additional berm because this parcel has five to six dozen pine trees that are 20-30 feet tall. He is guessing that Lots 12 and 13 will have split-level homes. He does not believe they could be walkouts.

There was no testimony in opposition.

Dennis Bartels of Public Works addressed the detention cell condition. Public Works is concerned about the maintenance as well as the safety. There appear to be retaining walls on three sides that are six to seven feet below the area of the lot, taking out the back 25+ feet of those lots, making it potentially unsafe unless it is fenced through the 25' back yard surrounding the detention pond. He believes they are losing the rear 26 feet, but there is nothing in the standards that say it can't happen that way. Public Works is concerned about the retaining walls forming the storage rather than gradual slopes into the

pond. Theoretically, they could step into 7-8 feet of water in the pond right outside the back door. Public Works would have less concern if the detention cell were located on an outlot with a fence.

Esseks suggested that if what the developer is requesting is within the law, then maybe the law should be improved.

Carroll confirmed that Lot 1 still becomes a buildable lot with the detention pond. Cajka agreed. From a planning standpoint, one section of the subdivision ordinance talks about creating “desirable lots”. Planning does not believe these are “desirable lots” when almost half of the lot is in the easement for a detention cell that is in the rear of the lot.

Cajka stated that staff is also concerned about the maintenance issue in the covenants. The Planning Department gets calls all the time about enforcement of covenants, but the City does not enforce covenants. It is a private issue. In the long run, Cajka could see potential problems with final platting in the future if the lots are sold. Therefore, the preferred solution is to put the detention cell on a separate outlot with the homeowners association maintaining and possibly owning the outlot.

Esseks confirmed that if the staff recommendation is approved, the developer loses one lot. Cajka concurred. They would probably lose one lot, but not two.

Response by the Applicant

Langston suggested that if they do put the detention cell on an outlot, the concerns about the retaining wall and possible depth of the cell would be about the same because the area is pretty equivalent if they turned it and put it on its own lot. They will install a fence around the detention cell.

Esseks wondered whether this ultimately creates a nonconforming lot because that lot would be sold minus the back half. Langston stated that if the lot is sold, it would be sold as an entire lot, including the detention cell. The detention cell will not be its own lot.

Larson does not understand how they could sell a lot that has a detention pool that has a covenant that the homeowners association is maintaining it. Langston stated that it would be a structure and the homeowners association would be required to clear any debris, etc. to maintain the quality of the integrity of the retaining wall.

Strand could agree if those homeowners who have the detention cell are liable for the maintenance, but she cannot agree to make someone else liable for it where they have to have that land to be buildable lots. How are you going to have someone own it but someone else responsible for taking care of it? Langston reiterated that the detention cell would be a structure that belongs to the association, the same as a transmission tower belonging to LES that may be in someone’s yard.

ANNEXATION NO. 06010
ACTION BY PLANNING COMMISSION: June 7, 2006

Strand moved approval, seconded by Larson and carried 9-0: Strand, Taylor, Larson, Carroll, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'. This is a recommendation to the City Council.

PRELIMINARY PLAT NO. 06007
ACTION BY PLANNING COMMISSION: June 7, 2006

Strand moved to approve the staff recommendation of conditional approval, seconded by Carroll and carried 9-0: Strand, Taylor, Larson, Carroll, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

COUNTY CHANGE OF ZONE NO. 06030
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL
and
COUNTY PRELIMINARY PLAT NO. 06006,
PONDEROCA CROSSING,
ON PROPERTY GENERALLY LOCATED
AT THE NW CORNER OF S. 38TH STREET AND MARTELL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: June 7, 2006

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

Staff recommendation: Denial.

Ex Parte Communications: None.

Staff presentation: Mike DeKalb of Planning staff explained that this proposal is a change of zone and preliminary plat on 32 acres to create 7 lots. This is an unusual application. The change of zone includes the railroad right-of-way. There is County road right-of-way on the east and south. The north half of the property is in Roca's jurisdiction; the south half is in Lancaster County's jurisdiction. The railroad bisects the parcel. Both of the railroad rights-of-way are vacated, but it is on record that one of them could be reopened for coal use.

The basis for the recommendation of denial is that the property is shown as AG in the Lincoln-Lancaster County Comprehensive Plan and that part in Roca's jurisdiction is shown as AG in Roca's Comprehensive Plan. At the time of writing the staff report, the Roca Planning Commission had recommended approval. There is no recommendation yet from the Roca Village Board.

Larson sought clarification about the railroad right-of-way. DeKalb explained that the one east/west is abandoned Missouri Pacific. They are trying to keep it as public record that that railroad could be reopened for coal service to power stations. The other is a former Union Pacific railroad.

Esseks inquired as to what jurisdiction would service this development if Roca approves it. DeKalb indicated that it would be serviced by Lancaster County. Esseks noted then that the town of Roca would bear no fiscal responsibility. DeKalb concurred, except for their county property taxes.

Carlson inquired whether the Village Board has this scheduled. DeKalb was not aware.
Proponents

1. Mike Eckert of Civil Design Group made the presentation on behalf of the applicant and suggested that this is a unique application, but not unusual. The parcel is rather unique in that he does not recall one that is bisected by two different railways and an abandoned spur that links those two railroad lines, and abutted by the two streets. Thus, he believes it was a corner parcel at one point (short 40), and then complicated by the fact that it is split with Roca jurisdiction.

Eckert stated that the jurisdiction line is split about 50/50. The staff report mentions that it is not prime ag land, not native prairie and not in the floodplain, and this proposal preserves virtually all of the existing tree masses.

Eckert advised that the Roca Planning Commission heard this application on May 23, 2006, and they recommended unanimous approval, 8-0. The Roca Planning Commission discussed how this was unique and they felt like this was an area that would be applicable for acreage development. The Roca regulations have changed from 5-acre lot minimum to 3-acre lot minimum. Therefore, this application complies with those standards.

One of the biggest features Roca commented on positively was the ability for the now owner to clean up the property. Over time, this property has had a myriad of junk vehicles, trucks and trailer houses on the property. The Roca Planning Commission was glad to see the note on the site plan that the plat would prevent any junk cars from being stored on the property. They felt like this was their opportunity to gain some control of the existing property that they did not have under the AG zoning.

Eckert believes that ultimately, the question today is two-fold: 1) what is the highest and best use of this land, and Eckert suggested that the highest and best use is acreages from a control perspective for Roca and the county, as well as from an economic perspective; and 2) the final issue is the somewhat unique qualifier whereby the County policy has been to defer the decision to the community that is most impacted. If Roca annexed, they would

have total jurisdiction of this site. It is somewhat of a remnant parcel that he believes is appropriate to tie in with the intentions of Roca. This application is scheduled on the Roca Village Board meeting on June 19th.

Given the Roca jurisdiction, Esseks asked Eckert how many lots could be developed north of the abandoned railroad, noting that there are two shown (10.4 acres). Eckert believes that with the design standards on lot depth ratios, etc., they could not feasibly get another lot in there.

As a guiding principle, Carroll wondered whether the applicant would be opposed to a deferral until the Roca Village Board has acted. Eckert stated that he would not disagree, if that is the preference of the Commission. However, since the Roca Planning Commission has voted in favor, he would prefer to move forward. Carroll stated that he is interested in knowing the decision of the Roca Village Board.

2. Monte Froehlich of US Property testified in support. He develops and manages commercial and residential property. He is the owner of this property and he views this proposal as an opportunity to clean up a property that has just collected antiques or junk type things over the last decade or two. He would like to come in with a nice development and clean up the area. He believes it will improve the value of the existing adjacent property as well as create an opportunity for some increased revenue for the Village of Roca and the County.

Esseks inquired whether there is any evidence that the County will pave either of these roads. Froehlich does not believe it is anticipated any time in the near future.

Opposition

1. Terry Lowe, 3015 Martell Road, third 25-acre parcel, testified in opposition; however, he welcomes the attempt to clean up the property. He stated that he would like to be in support, and he would be in support if the proposal were for a single owner-occupied parcel. The Benes have 32 acres, he has 25 acres, the Mirandas have 20 acres, and the one next to that is 20 acres. They have very strict covenants, including underground electric and telephone, to preserve the area as a single family large acreage family environment. This is troubled property. It does not sustain water. Lowe and the other property owners tapped into the rural water district. With regard to access to these seven lots, the first four or five would have rural water that would be brought across the road; there is no road access to the back half. They would come off 38th and build a road over the trail and water would have to be brought in from the back side. Unless they are going to get an easement, they will have to build a road across the back lot to get to the two lots. The staff report also outlines the tree stand that could be problematic and may have to be taken out to bring in the electrical.

Lowe would have loved to have seen this be a single family home. This proposal appears to be land speculation. They are busting it up to regain the value. These are 3-acre lots. With the lay of the land, those two lots in the front are going to have to have lagoons pretty close to the road. He also pointed out that the floodplain crosses and touches 38th and Martell Road. They are constantly having to bring gravel out because it goes out of its banks. There are a lot of problems with this property. The railroad line has always been in reserve. These houses would be 150 feet away from railroad tracks.

Lowe then explained that the covenants on his property limit animals to no more than three horses and also limit the amount of livestock to 4-H types of things, and no swine. What will the covenants be on this property? How big are the houses going to be?

Carroll asked whether Lowe attended the Roca Planning Commission meeting and Lower stated that he did not.

Response by the Applicant

Eckert clarified that the developer did send out a mailing to all adjacent neighbors prior to making this application, informing them of the intentions with this parcel. They did not receive any responses or calls.

With regard to water, they do have everything in place with the rural water district to provide water to the seven lots. There is an easement for the water line to service the two lots on the north side of the railroad track.

With regard to access to the lots, the developer has been proactive in addressing that issue with the Lower Platte South NRD (an e-mail from Dan Schulz is contained in the staff report indicating that the subcommittee decided to defer approval of the access until the development is approved by the governing bodies). Today, there is a license agreement with the NRD to get to that lot. The easement will be an extension of that, and restricted for two residential lots. The ability to get water and access to those two lots by the future owners has been addressed, and they will be back in front of the NRD after the development has been approved.

Eckert reiterated that these are all going to be single family homes. Yes, the size is smaller. As far as the lagoons, the developer will be required to comply with all state and county Health Department standards requiring minimum of 3-acres. They will provide multiple places for septic systems as well as lagoons. If they end up with lagoons, there should be no problem since the other property owners have lagoons.

Eckert also pointed out that, as mapped today, floodplain does not touch this property. The low lying area in the corner is shown as an undevelopable outlot so there will not be

a residence on that property. The abandoned railroad right-of-way would then serve as a dam for the lot to the west. Staff obviously did not bring up that issue because the mapped floodplain does not exist on that land.

There will be covenants on the outbuildings. The owner is now going through interviews with home builders and his intention is to have one single home builder do the construction, but he has not yet established the covenants.

Strand moved to defer, with continued public hearing and action on June 21, 2006, seconded by Carroll.

Esseks indicated that he would not be in attendance on June 21st, and stated that he is not happy with the idea that Roca can impose upon Lancaster County this many lots and not service them, particularly since we are dealing with gravel roads. Hickman Fire and Rescue will have to service these residences without advance life support. He is happy to see clustering, but he does not like the idea of a small community like Roca telling the County it has to service this many new lots.

Motion to defer, with continued public hearing and action on June 21, 2006, carried 9-0: Strand, Taylor, Larson, Carroll, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'.

CHANGE OF ZONE NO. 06033
FROM AG AGRICULTURAL TO R-3 RESIDENTIAL
and
PRELIMINARY PLAT NO. 06004,
WILDERNESS HILLS 1ST ADDITION,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 27TH STREET AND ROKEBY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: June 7, 2006

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

Staff recommendation: Approval of the change of zone and conditional approval of the preliminary plat.

Ex Parte Communications: None.

Staff presentation: **Joe Rexwinkle** of Planning staff made the presentation of this change of zone and preliminary plat. The change of zone is for the southwest portion of the area of the preliminary plat. The plat itself consists of about 428 acres. The change of zone is from AG to R-3, and the remainder of the plat would be annexed into the city and rezoned at a later date.

The staff is supporting the requested waivers, except the depth-to-width ratio for Lots 35-36, Block 44, Lot 2, Block 47 and Lots 13-18 and 42-43, Block 49. The staff believes that those lots can be redrawn relatively easily to meet the requirements of the subdivision ordinance. He believes that the applicant will be withdrawing these waiver requests.

Rexwinkle stated that both the change of zone and preliminary plat conform with the goals and objectives of the Comprehensive Plan.

Proponents

1. Brandon Garrett of EDC, appeared on behalf of the applicant, **Lincoln Federal Bancorp**. This plat is a 428-acre site with roughly over 1800 residential units proposed. The land will remain zoned AG, except for the 64-acre portion which will be in the first phase which will change to R-3. Included with this development is an 80-acre conservation easement for flood control, green space and preservation of the wetlands. The site includes a mixture of housing types, a well-connected street network, a system of bike trails, a public school and a public park.

Garrett withdrew the waiver requests to which the staff has recommended denial, and agreed with the conditions of approval. The withdrawal of the waivers to which staff recommended denial negates the need for Condition #2.1 because the applicant will comply with Condition #1.11.

Carlson inquired about the school site. Garrett explained that LPS has indicated that they would like it to be an elementary school. Carlson then inquired about the traffic motions and drop-off and pick-up locations. Garrett suggested that it will be a decision of LPS, but there is a boulevard system with Wilderness Hills Boulevard, which continues through to South 40th and all the way to South 27th. Th drop-off point would be along the east side of the school site, which he believes LPS has indicated would provide good circulation. There are pedestrian easements on the west side of the school site. There is an access point through the block “at this point to this street” for pedestrian access (pointing to the map). Carlson is hopeful that this will be taken into consideration as this phases forward.

There was no testimony in opposition.

Staff questions

Rexwinkle clarified that the staff did meet with LPS about the school site and circulation. LPS has indicated that they would likely design it to have a drop-off site coming in off the boulevard, and that is one of the reasons the staff has requested the mid-block access point be eliminated so that there is no interference. Staff has also requested that White Pine Drive and Forest Avenue connect straight through to provide better vehicular circulation and more direct pedestrian route. We would rather the children use the sidewalk along the street and cross.

There was no further testimony by the applicant.

CHANGE OF ZONE NO. 06033
ACTION BY PLANNING COMMISSION: June 7, 2006

Carroll moved approval, seconded by Sunderman and carried 9-0: Strand, Taylor, Larson, Carroll, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'. This is a recommendation to the City Council.

PRELIMINARY PLAT NO. 06004
ACTION BY PLANNING COMMISSION: June 7, 2006

Carroll moved to approve the staff recommendation of conditional approval, seconded by Sunderman and carried 9-0: Strand, Taylor, Larson, Carroll, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'. The withdrawal of the stated waiver requests deletes Condition #2.1. This is final action, unless appealed to the City Council within 14 days.

*** Break ***

CHANGE OF ZONE NO. 06038
FROM B-2 PLANNED NEIGHBORHOOD BUSINESS
TO R-5 RESIDENTIAL
and
SPECIAL PERMIT NO. 06034,
KING RIDGE TOWNHOMES COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT N. 27TH STREET AND FOLKWAYS BOULEVARD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: June 7, 2006

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

Staff recommendation: Approval of the change of zone and conditional approval of the community unit plan.

Ex Parte Communications: None.

Staff presentation: **Greg Czaplewski of Planning staff** presented this proposal for change of zone and a community unit plan for about 54 dwelling units, located on Folkways Boulevard. North Star High School is located to the north; there is an apartment complex across Folkways to the south; and the property to the east is all industrial zoned land.

The proposed community unit plan is arranged in two-unit duplexes, with private road system. The applicant is requesting waivers to the internal yard setback requirements and

waivers of the minimum lot area and lot depth requirements, which are fairly standard with this type of community unit plan. There are setbacks around the perimeter of the project that provide 20' of open space. The individual units are each located on their own lot and the setback waivers would apply to those lots. With the perimeter setbacks there is still the appearance of a standard yard. The side yard setbacks appear to meet the zoning requirements. Building & Safety would also have side yard spacing requirements for life safety issues; therefore the side yard waiver requests are acceptable to staff. Public Works is in agreement with the request to waive the stormwater detention requirements. This property is currently part of the King Ridge use permit which extends west and north along North 27th Street. This community unit plan would take this piece of the property out of that use permit. The stormwater detention waiver was approved with the previously approved use permit.

The staff is opposed to the request to waive the sidewalk on east side of King Ridge Place and Czaplewski believes that the developer will be withdrawing that waiver request.

Strand noted that the land to the east is zoned I-3 and she inquired as to the uses which are allowed in the I-3 zoning. Czaplewski advised that I-3 is the employment center district, so there will not be typical industrial uses such as those found in I-1 but rather larger employers. It is anticipated that the use will be mostly large offices.

Esseks inquired whether the I-3 would have fairly large setbacks to provide some buffering. Czaplewski advised that the I-3 setbacks would be 50'.

Strand confirmed that the B-5 property across the street is the approved movie theater site. Czaplewski concurred.

Strand also noted that the Planning Commission and City Council previously voted to allow an access road onto N. 27th at the intersection of 27th and Folkways. She wondered when that access would be constructed. Czaplewski did not know.

Carlson asked staff to address the recreation area condition. Czaplewski explained that the Parks Department had asked that the recreation plan be more substantial and specifically requested a half basketball court and a play structure with shaded seating area, and the applicant has agreed.

Proponents

1. DaNay Kalkowski appeared on behalf of **Summit Homes**. This property was part of the King Ridge original use permit for commercial development, but Summit Homes found this piece of property and recognized that it has potential to be a nice residential piece to provide a transition between North Star High School and the apartments to the south of

Folkways. Kalkowski withdrew the request to waive the sidewalk and the applicant will show the sidewalk on both sides of the road coming in off Folkways. The applicant also agrees to add the additional recreation facilities requested by the Parks Department.

With respect to the waiver of detention, Kalkowski explained that back when the King Ridge use permit was originally done, they were close to being able to let the stormwater just flow right into the creek because of the proximity in this area, so that waiver was granted back then. This project would fall under the same requirements as the original King Ridge use permit.

Kalkowski agreed with all staff conditions of approval.

There was no testimony in opposition.

CHANGE OF ZONE NO. 06038
ACTION BY PLANNING COMMISSION: June 7, 2006

Carroll moved approval, seconded by Strand and carried 9-0: Strand, Taylor, Larson, Carroll, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 06034
ACTION BY PLANNING COMMISSION: June 7, 2006

Carroll moved to approve the staff recommendation of conditional approval, seconded by Larson and carried 9-0: Strand, Taylor, Larson, Carroll, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'. The withdrawal of the sidewalk waiver request deletes Condition #3. This is final action, unless appealed to the City Council within 14 days.

MISCELLANEOUS NO. 06009,
TO REVIEW THE PROPOSED DETERMINATION
THAT THE SOUTH STREET REDEVELOPMENT AREA IS
BLIGHTED AND SUBSTANDARD.
PUBLIC HEARING BEFORE PLANNING COMMISSION*:* June 7, 2006

Members present: Strand, Taylor, Larson, Esseks, Cornelius, Krieser, Sunderman and Carlson; Carroll declared a conflict of interest.

Ex Parte Communications: None.

Staff recommendation: A finding that there is a reasonable presence of substandard and blighted conditions in the Redevelopment Area.

Staff presentation: **Joe Rexwinkle of Planning staff** explained that this is a request for a finding that this determination for blighted and subtandard conditions of the South Street Redevelopment Area is in conformance with the Comprehensive Plan. The study area is along South Street, generally between 6th and 17th Streets. Staff finds the proposed declaration of blighted and substandard to be in conformance with the Comprehensive Plan and is in agreement with the determination of the study that there is a presence of blighted and substandard conditions in this area.

This is the standard procedure. The blight study and blight determination must be approved prior to any approval of a redevelopment plan that might come in the future for this area.

Proponents

1. Wynn Hjermstad, Community Development Manager from the Urban Development Department, gave a history of this proposal. Urban Development has been interested in doing some improvements along this portion of South Street for a long time and several of the neighborhood associations have wanted our help. About a year ago, Urban Development started working on a streetscape project between 9th and 17th along South Street, in conjunction with Public Works, coordinating some resurfacing in the area and also a water project. During the public input phase of streetscape project, Urban Development heard questions which were outside the scope of the streetscape project, i.e. additional parking, design standards, additional development, etc. After getting Mayor approval, Urban Development began working with a new group in the area called the South Street Business and Civic Organization. It was actually this new organization that paid for and commissioned the blight study. Urban Development's role has been to help manage and facilitate the process.

This organization is doing a fabulous job. There are some hard, tough issues and conflicts. To this organization's credit, the business owners have realized that in order to have a good business district, they need to have a good neighborhood, and the neighborhood understands that to have a strong viable neighborhood, they need a strong viable business district. The two have come together.

The blight study meets the requirements to be declared blighted and substandard as set forth in the state statutes.

The next step will be to do a redevelopment plan, which would come back to the Planning Commission in the future.

Esseks inquired as to the implications for the homes and businesses if the area is declared blighted. Hjermstad suggested that the blight declaration is a good thing. It allows Urban Development to do a redevelopment plan. Once the redevelopment plan is approved, we can start doing projects that generate TIF that can be used to help complete projects,

whether it be commercial redevelopment, public improvements, streetscape projects, sidewalks, etc. It is a positive thing because it generates a funding source to help with those projects.

Strand noted that 26.3% of the property is indicated to be single family residential use in this area. She also noted that Saratoga School has a high mobility rate and is underpopulated. What does declaring this blight do to make a healthier single family neighborhood to help out the school? What benefits are there to a homeowner or landlord to rehabilitate? Hjermstad suggested that it results in a good domino effect. When we start doing improvements with the public and private sector, it just starts to spread. As values increase, as confidence in the area increases, people start to take a look at their homes. This area already qualifies for a number of Urban Development programs for housing improvements. There is also a rehabilitation loan program available through Urban Development.

2. Alene Swinehart, Co-Chair of the South Street Business & Civic Organization, testified in support. They have been wanting this project to start happening for as long as she has been involved in the Irvingdale Neighborhood Association. This is a unique situation with both businesses and neighborhoods represented and active in running the organization. There are four neighborhoods: Irvingdale, South Salt Creek, Everett and Near South. At this point, three of them are very active in this process. There is a lot of enthusiasm about the future of this area and its benefits to the community as a whole. She read the purposes of the organization into the record, including: to promote a diversity of quality commercial development; to assist in the growth and development of the South Street area making it more convenient, safe, and attractive, and a better place in which to live, work, shop and visit; to promote development of commercial, civic and other improvements; encourage cooperation among businesses, merchants, shoppers, the City, the County, LPS, religious organizations, neighborhood residents and others; to improve and create additional off-street parking facilities within the South Street business area; and to plan and conduct promotions for the benefit and development of businesses, neighborhoods and other entities in the South Street area in the public interest.

The next step is this blight study.

On behalf of **Irvingdale Neighborhood Association,** Swinehart testified that the association is completely supportive of this process.

3. Anna Cox, Branch Manager for Bank of the West, located at 16th and South Street, and Treasurer of the South Street Business & Civic Organization, testified in support. She believes this is a great first step to the improvement and revitalization of the community.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: June 7, 2006

Larson moved to approve staff recommendation, seconded by Sunderman.

Larson believes that the Urban Development Department has been outstanding in our city. We've seen it Downtown, on North 27th, and on North 48th. It is really a program of beautification and renewal of our inner city.

Strand noted that we find incentives to give commercial uses some breaks, and she would love to find a way to give the homeowners some breaks to be able to have their houses, regardless of income levels, and to encourage families to move back into these areas.

Carlson concurred. This is also a first step in trying to create quality retail services in the area.

Motion approving the staff recommendation, which finds that there is a reasonable presence of substandard and blighted conditions in the South Street Redevelopment Area, carried 8-0: Strand, Taylor, Larson, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'; Carroll declaring a conflict of interest. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 3:15 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on June 21, 2006.

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