MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, August 13, 2008, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Leirion Gaylor Baird, Gene Carroll, Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Jim Partington, Lynn Sunderman and Tommy Taylor; Marvin Krout, Ray Hill, Mike DeKalb, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Chair Gene Carroll called the meeting to order and requested a motion approving the minutes for the regular meeting held July 30, 2008. Motion for approval made by Francis, seconded by Sunderman and carried 9-0: Gaylor Baird, Carroll, Cornelius, Esseks, Francis, Larson, Partington, Sunderman and Taylor voting 'yes'.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: August 13, 2008

Members present: Gaylor Baird, Carroll, Cornelius, Esseks, Francis, Larson, Partington, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 08019, COMPREHENSIVE PLAN CONFORMANCE NO. 08020, COMPREHENSIVE PLAN CONFORMANCE NO. 08021 and STREET AND ALLEY VACATION NO. 08005.**

Ex Parte Communications: None

Francis disclosed a meeting with NeighborWorks staff on Item No. 1.3, Comprehensive Plan Conformance No. 08021, when she reviewed some townhome plans for this parcel.

Larson moved to approve the Consent Agenda, seconded by Sunderman and carried 9-0: Gaylor Baird, Carroll, Cornelius, Esseks, Francis, Larson, Partington, Sunderman and Taylor voting 'yes'.

COUNTY CHANGE OF ZONE NO. 08038
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL,
ON PROPERTY GENERALLY LOCATED
NORTH OF THE INTERCHANGE OF
S. 162ND STREET AND HIGHWAY 2.
PUBLIC HEARING BEFORE PLANNING COMMISSION: August 13, 2008

Members present: Esseks, Sunderman, Partington, Gaylor Baird, Larson, Taylor, Cornelius, Francis and Carroll.

Ex Parte Communications: None.

The Clerk announced that the applicant has requested a deferral until November 5, 2008.

Cornelius moved to defer, with continued public hearing and action scheduled for November 5, 2008, seconded by Taylor and carried 9-0: Esseks, Sunderman, Partington, Gaylor Baird, Larson, Taylor, Cornelius, Francis and Carroll voting 'yes'.

There was no public testimony.

MISCELLANEOUS NO. 08009.
AMENDMENT TO THE CITY OF LINCOLN DESIGN STANDARDS
and
CHANGE OF ZONE NO. 08039,
AMENDMENT TO TITLE 27 OF THE LINCOLN MUNICIPAL CODE,
ADOPTING DESIGNS STANDARDS FOR OUTDOOR LIGHTING.
PUBLIC HEARING BEFORE PLANNING COMMISSION: August 13, 2008

Members present: Esseks, Sunderman, Partington, Gaylor Baird, Larson, Taylor, Cornelius, Francis and Carroll.

Ex Parte Communications: None.

Staff recommendation: Approval.

Additional information for the record: **Mike DeKalb of Planning staff** submitted a letter in support from the Lincoln Neighborhood Alliance.

Staff presentation: **Mike DeKalb of Planning staff** explained that this is a change of zone and miscellaneous application to change the design standards relative to lighting in the City. This effort started with the Near South Neighborhood Association application back in 2004 and there is language in the Comprehensive Plan suggesting that the lighting standards be updated. Olsson & Associates was hired as the consultant to do the lighting

study. There have been a number of variations of proposed language and meetings have been held with the Mayor's Neighborhood Roundtable, NeighborWorks, and representatives of the Lincoln Independent Business Association. DeKalb believes this proposal represents general agreement between the interested parties.

Marvin Krout, Director of Planning, also explained that this proposal has been in the works for three years in response to the Near South neighborhood concern about the lighting standards, at which time the city did a "band-aid fix" to deal with their issue of light trespass from the canopies in vehicle storage areas and auto sales. This proposal went through a very deliberate process after the lighting study was completed, wherein it was found that the regulations "needed to have major surgery", the ordinance being vague and not understandable. The lighting standards were scattered in different sections of the design standards.

Krout explained further that glare is the focus of this proposal, but there has been an attempt to be conscious about issues of cost. It is also believed that there are some elements included that will end up with some cost and energy savings. The city compromised on the kind of lighting for downward lighting from full cut-off to cut-off lighting where there is more variety and provides better coverage with fewer restrictions. Some of the existing regulations that have been burdensome or more costly have been eliminated.

In addition, Krout advised that the city has received as many or more complaints about the city's lighting as opposed to private lighting, including the LES decorative fixtures in some of the revitalization projects because of the glare from the fixture types that were chosen and the security lighting that LES will lease to people on private property and place on existing poles. LES has agreed to meet the standard in the future for private development with their security lights and decorative lights.

Francis noted that the Planning Commission received a briefing a few weeks ago and she asked staff to talk about how lower light does not necessarily mean less safety for the public. Krout stated that one of the key issues is that over-lighting a site can be negative in terms of safety because it can be blinding to someone temporarily in the dark. When using bright light sources that are not well-directed, it will create some very bright light and some very dark locations and make it easier to create some hiding spaces in the darker locations. There have been some studies that say there is not a correlation between criminal activity and the level of lighting, and once you go beyond a certain level of extra lighting, it is probably not going to have any effect. There have been studies of some schools that have shut off all lighting and found that the crime rate went down. It is really a case-by-case matter that this proposal suggests be left to the property owner generally. This legislation focuses on the glare issue.

DeKalb added that the task force had representatives from the business community, neighborhoods, Police Department, Parks Department, LES, etc. The staff went very early in this process to a luncheon meeting with LIBA where it was discussed that shielded lighting works much better.

Support

1. Coby Mach testified on behalf of **LIBA** in support. Over the last year the City of Lincoln has gone to extreme measures to meet with LIBA on this issue and he expressed appreciation to Marvin Krout. The first drafts were not very business-friendly; however, the staff incorporated LIBA's ideas and suggestions to reduce some of the costs and performance burdens contained in the original draft. The new standards will create more costs in some areas to the business owner; but, on the other hand, there are parts that will reduce costs and wasted electricity. LIBA will work within these standards and hopes the Commission will be open to suggestions should the new standards need to be amended in the future.

From the public's point of view, Esseks asked Mach to indicate the most important improvements of this change. Mach believes that it would be reducing the standard for parking lot lighting. That is something that will help a neighborhood that abuts a parking lot.

2. Steve Bowen, electrical contractor in Lincoln since 1973, testified in support. He has done a lot of design work in lighting. When this proposal began, there were some things to which he disagreed, but it has been amended enough that he can support it and believes it will definitely make life easier for designers and for owners, e.g. not being required to light the entire parking lot. There are additional expenses involved in some of the design, but he believes it will be an improvement.

3. Erik Hubl, member of **Hyde Observatory Board of Supervisors and Astronomy Club,** testified in support. He also served on the task force. For the past 20 years, he has been involved in working on lighting regulations. Hubl reviewed the history of lighting standards and suggested that the codes and regulations should be considered a "work in process". We have learned that it may not be advantageous to have uniform lighting across an entire parking lot. He agrees with this proposal to cut back on that thinking. This is a much more comprehensive proposal, pulling aspects together that were scattered throughout the regulations. The task force met for about 1.5 years. There were very active participants. Compromises were made and some disagreements were voiced. He believes this is the best attempt to help slow down stray light because unsafe glare, light trespass and sky glow are a problem.

Hubl went on to state that both the Lincoln Journal and Omaha World Herald have written editorials in support of lighting codes in the past, as well as the Wall Street Journal, indicating that excess light can also have health concerns. There is still a lack of reliable

data about light pollution. The waste is enormous, so the shields and directing the light where it needs to shine can reduce the amount of usage.

4. Cedrick Gibb, 7100 Adams, #15, one of the volunteer staff at the Hyde Observatory from 1982-1995, also testified in support.

There was no testimony in opposition.

MISCELLANEOUS NO. 08009
ACTION BY PLANNING COMMISSION: August 13, 2008

Gaylor Baird moved approval, seconded by Francis.

Carroll noted there has been a lot of time spent on this and he appreciates everyone being involved. The Planning Commission has had several meetings on this issue.

Motion for approval carried 9-0: Esseks, Sunderman, Partington, Gaylor Baird, Larson, Taylor, Cornelius, Francis and Carroll voting 'yes'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 08039
ACTION BY PLANNING COMMISSION: August 13, 2008

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

COUNTY SPECIAL PERMIT NO. 08030,
SAGEBROOK ESTATES COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT N. 176TH STREET AND HOLDREGE STREET.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: August 13, 2008

Members present: Esseks, Sunderman, Partington, Gaylor Baird, Larson, Taylor, Cornelius, Francis and Carroll.

Ex Parte Communications: None.

Staff recommendation: Conditional approval for nine lots.

Additional information for the record: **Mike DeKalb of Planning staff** submitted a letter in opposition from Dr. Gerald Ruppert, a neighboring property owner, including two letters and a drawing which Dr. Ruppert received from the applicant. Dr. Ruppert is concerned that this is excessive density and that additional wells will impact his well.

Staff presentation: **Mike DeKalb** presented the proposal for an AG cluster development on a 160-acre parcel on existing AG zoning at the intersection of Holdrege and 176th Street. The applicant proposed 10 lots but the density calculations were incorrect and only 9 lots can be allowed. The County Engineer had no issue with the two access points on Holdrege. The remaining portion of the farm will remain as farmland.

Esseks inquired as to how long the clustering provision in AG has been in the regulations. DeKalb stated that it has been a part of the regulations since the mid-60's but only popular in the rural areas in the last 10 years. The bonus provision has existed since 1979. There is a 20% across the board bonus which actually applies to most zoning districts in the city and county.

Partington observed that the 20% bonus for less than 100 acres actually is no bonus at all for this type of development. Very few parcels zoned AG are less than 80 acres. Is there some reason why we don't "round up" on the density calculation? DeKalb indicated that there is no provision to "round up" in the county regulations. The staff has approached the County Board with that specific question and they have indicated that there will be no change to this standard. Relative to the bonus providing incentive, DeKalb suggested that the incentive is to cluster the residential acreages and save farmland. He agreed that the bonus does not provide an additional unit on 80 acres, but many times it allows an existing farm house to be remote from the rest of the acreages.

Partington disclosed that he lives in the area, and from his perspective, the applicant has done a very effective job to maximize the ag land and make attractive housing. He also observed that this is what the spirit of the Comprehensive Plan supports. Are there any options to go forward and get the 10 lots? DeKalb stated that nine units is the maximum density allowed under the current regulations. Anything more would require a text amendment or change of zone.

Proponents

1. Jonathan Felts, 1630 H Street, the applicant, presented his proposal, advising that he has approached this project with every technology available and he has looked at everything thoroughly to make it the most creative, best design and most respectful to all the neighbors around the area. He believes he has more support than opposition. He is only aware of one person in opposition. He submitted the letter he sent to the neighbors. He also set up a Web site for communication with the neighbors. He grew up working this land as a child so he has a lot of respect for the land. Development is inevitable, but if you do it the right way it will preserve the land, which is his goal. It is not the most cost-effective

to have two roads, but he believes the two access points will provide the best value, not only for the people in the community who will have use of the ponds and trees, but it also allows him to tuck all of the homes behind the hill. There will only be one house that will be able to be seen from 176th & Holdrege.

Felts acknowledged the error on the density calculations. That was the reason he had requested a postponement to try to work with the neighbors to get seven more acres to get the ten lots he was needing, which is based on his business plan and financing of the project. The land for the tenth lot would have cost him a lot of money, but it would have helped plant trees and put in nice fences. He understands he can only have nine lots.

Francis asked the applicant to explain what compromises he has made to satisfy the neighbors. Felts explained that the initial opposition was view of the homes, but he showed at the map how he has tucked the homes back behind the hill, being 15 feet below the highest point. The homes will not be visible at all from 176th Street. The public will only see one or two homes from Holdrege Street.

Esseks noted that Dr. Ruppert (in opposition) has two 20-acre parcels and the applicant did attempt to acquire some of the Ruppert property in order to get the tenth lot. They will probably be able to see one or maybe two houses. Felts stated that he met with the Rupperts first when he realized he could only get nine lots. He offered to purchase one of their lots so that he could get the density and he offered to plant more trees and screening. Dr. Ruppert was not interested in selling one of his lots to Felts, but Felts believes that he will want to sell one of his lots for someone else to build a home in the future. Felts believes that the Ruppert home will be 1500-2000 feet away this development.

Felts stated that another concern of the neighbors was traffic, and that is why he created two access roads to split up the traffic during peak hours.

In response to the concerns about water, Felts had a groundwater report done. He talked to every single neighbor with a well in the area, except the Rupperts because they do not live there. He got well samples and had them analyzed for free and tested the groundwater. There are two aquifers in the area and the water gets better in quality as well as quantity as it goes to the Ruppert property. There is no real standard for the water - all of the wells were in excess of 10 gpm. He did two test wells and the water was fairly consistent between the two tests so he did not do a third test.

Gaylor Baird advised the applicant that she appreciates seeing the buffer zone between the development and the location of the pipelines. She asked whether the applicant would consider a condition requiring him to notify potential buyers of the existence and location

of the pipelines and to provide pipeline safety information. Felts acknowledged that he would not be opposed. If the property is within the buffer zone, he has been recommended to give notification. He has already contacted the pipeline company and has already acquired ten sets of the safety information packets.

2. The property owner building a house at the southwest corner of 179th and Holdrege testified in support. She received the applicant's letter and had a personal visit from the applicant. There are six houses in her development. It will be nice to have neighbors and she is very excited about this project.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: August 13, 2008

Gaylor Baird moved approval of the staff recommendation of conditional approval, with amendment to add a condition that the applicant notify potential buyers and owners of the pipeline existence and distribute information on pipeline safety, seconded by Francis.

Francis believes this is well thought-out and she is impressed that the applicant did two test wells and with the thought that has gone into this.

Motion for conditional approval, with amendment, carried 9-0: Esseks, Sunderman, Partington, Gaylor Baird, Larson, Taylor, Cornelius, Francis and Carroll voting 'yes'. This is a recommendation to the Lancaster County Board of Commissioners.

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 August 27, 2008.

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