MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, October 21, 2009, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Leirion Gaylor Baird, Michael Cornelius, Dick Esseks, Wendy Francis, Jeanelle Lust, Jim Partington and Lynn Sunderman (Roger Larson and Tommy Taylor absent); Steve Henrichsen, Tom Cajka, Mike Brienzo, Mike DeKalb, Teresa McKinstry and Michele Abendroth of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Chair Lynn Sunderman called the meeting to order and requested a motion approving the minutes for the regular meeting held October 7, 2009. Motion for approval made by Cornelius, seconded by Esseks and carried 6-0: Gaylor Baird, Cornelius, Esseks, Lust, Partington and Sunderman voting 'yes'; Francis abstained; Larson and Taylor absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **October 21, 2009**

Members present: Gaylor Baird, Cornelius, Esseks, Francis, Lust, Partington and Sunderman; Larson and Taylor absent.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 07015A.**

Ex Parte Communications: None

Item No. 1.1, Special Permit No. 07015A, was removed from the Consent Agenda and scheduled for separate public hearing at the request of staff.

COUNTY COMPREHENSIVE PLAN CONFORMANCE NO. 09011
PROPOSED LANCASTER COUNTY ROAD
AND BRIDGE CONSTRUCTION PROGRAM,
FISCAL YEAR 2010 AND 2011-2015.
PUBLIC HEARING BEFORE PLANNING COMMISSION: October 21, 2009

Members present: Gaylor Baird, Cornelius, Esseks, Francis, Lust, Partington and Sunderman; Larson and Taylor absent.

Ex Parte Communications: None.

Staff recommendation: A finding of General Conformance with the Comprehensive Plan.

Staff presentation: **Mike Brienzo of Planning staff** explained that each year, staff reviews the County Road and Bridge Program. The first year will advance for funding. The additional five years are for future programming. With the exception of projects on standby, some projects may advance subject to funding. All the projects fit within the program itself. The majority of projects have been in previous years. There are four or five new projects appearing for safety reasons.

There was no testimony in support or opposition.

ACTION BY PLANNING COMMISSION: October 21, 2009

Partington moved a finding of conformance with the Comprehensive Plan, seconded by Francis and carried 7-0: Gaylor Baird, Cornelius, Esseks, Francis, Lust, Partington and Sunderman voting 'yes; Larson and Taylor absent. This is a recommendation to the Lancaster County Board of Commissioners.

SPECIAL PERMIT NO. 07015A
AN AMENDMENT TO THE TAMARIN RIDGE
PLANNED SERVICE COMMERCIAL,
ON PROPERTY GENERALLY LOCATED
AT S. 27TH STREET AND TAMARIN RIDGE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: October 21, 2009

Members present: Gaylor Baird, Cornelius, Esseks, Francis, Lust and Partington; Sunderman declared a conflict of interest; Larson and Taylor absent.

Ex Parte Communications: None.

This application was removed from the Consent Agenda at the request of staff.

Staff recommendation: Conditional Approval.

Staff presentation: **Steve Henrichsen of Planning staff** stated that this is for the Sid Dillon car dealership. The applicant is requesting to change the existing 22,000 square feet of office space to allow 22,000 square feet for an auto dealership. Planned Service Commercial is very specific. Uses are specified or the plan must be amended. In general, this item would have remained on the Consent Agenda, but there are a few minor details that have been worked out with the applicant clarifying Conditions No. 1.2, 1.3 and 1.4. The applicant has agreed to the changes.

1.2 Show ~~one~~ a 20 foot rear yard setback to the north and ~~one~~ a 20 foot side yard to the west. Revise the building envelope accordingly.

1.3 ~~Increase setback from building envelope to existing north-south driveway to provide for adequate sight distance.~~ Add a note that if cars will exit the building to the west, then a minimum 10 foot setback will be provided between the building and any sidewalk or driveway, or other alteration to the building to provide adequate viewing distance as approved by the Planning Department.

1.4 Show a pedestrian walkway ~~along the north south drive~~ from the north to the south property line in the western half of the site.

Proponents

1. Peter Katt, appeared on behalf of the applicant. He is representing Sid Dillon Auto Group which is the prospective purchaser. There has been an upheaval in the auto industry causing the car manufacturer to separate dealerships. This has driven a need for an additional location. This location is the dealership's first choice. They agree with all the staff conditions. There is not an abundance of detail at this point. All the elements of the design are not yet known. He thinks they have reached a reasonable compromise with staff that gives them the flexibility on where the building will be located.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: October 21, 2009

Lust moved conditional approval as revised by staff, seconded by Esseks. Motion carried 6-0: Gaylor Baird, Cornelius, Esseks, Francis, Lust and Partington voting 'yes; Sunderman declared a conflict of interest; Larson and Taylor absent. This is final action, unless appealed to the City Council.

CHANGE OF ZONE NO. 09025
FROM R-5 RESIDENTIAL DISTRICT
TO H-4 GENERAL COMMERCIAL DISTRICT
and
SPECIAL PERMIT NO. 09022
WILDERNESS PLACE PLANNED SERVICE COMMERCIAL,
ON PROPERTY GENERALLY LOCATED
AT S. 33RD STREET AND YANKEE HILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: October 21, 2009

Members present: Gaylor Baird, Cornelius, Esseks, Francis, Lust and Partington; Sunderman declared a conflict of interest; Larson and Taylor absent.

Ex Parte Communications: None.

Staff recommendation: Approval of the change of zone and Conditional Approval of the special permit.

Staff presentation: **Steve Henrichsen of Planning staff** stated that this is south of Yankee Hill and east of 27th St. East of the site is the future 33rd St. This is currently shown as residential. R-5 zoning still appears to the south of this site. To the west of this site is a Kohl's. There is B-2 to the west. B-2 does not allow car dealerships. There is also H-4 across the street. H-4 is a commercial district in a lot of suburban areas. The Planned Service Commercial would allow a 50,000 square foot auto dealership or some other use. There aren't a lot of details at this point. There aren't any particular issues. A building envelope is shown. The details can be shown later. The service bays and those types of things should be more towards the west or in the middle of the site. The applicant is going to offer an amendment to Condition No. 2.1, to which the staff is agreeable. This center has design standards that were included in the original approval. The north facade might not conform to design standards overall, but the other three sides will conform.

Esseks questioned R-5 to the south. There is single family and two-family to the east. He is concerned whether the uses will be compatible. A concern was raised last year about lighting. He questioned lighting standards in terms of car dealerships. Henrichsen replied that the lighting standards were updated recently. He believes the new standards address light trespass and the other concerns that have been raised in the past. There are no houses today east of 33rd St. The dealership will be there first. People will buy knowing what is to the west.

Esseks wondered if the dealership will be required to put in some kind of buffer. Henrichsen replied that there would be nothing in addition to the normal landscape design standards.

Francis inquired what could be built other than a car dealership if this is changed to H-4. Henrichsen replied that it could be retail and office space. He believes that would be the most likely. It could also be fast food or a bank, or in theory, there could be self storage or a contractor yard, but that would seem less likely given the high visibility of this spot.

Gaylor Baird wondered if there are any tradeoffs being made with this location. Henrichsen replied that traffic was considered. The applicant addressed those concerns and has shown that traffic would be compatible. Dealerships do not have a lot of trips.

Gaylor Baird questioned if there is typically more of a buffer between H-4 and R-5. Henrichsen replied "not really". R-5 is usually more apartments and R-5 is usually understood to be closer to a commercial area.

Proponents

1. Michael Rierden submitted a proposed amendment to condition 2.1:

> 2.1 Add the following note to the site plan "This special permit will comply with the design standards of Use Permit 154C Wilderness Hills Commercial Center for major tenants and will be reviewed and approved for compliance by the Planning director prior to building permit approval. However, the north/front facade shall not be required to comply with the requirement that at least 35% of the facade shall be masonry or stone veneer as the primary building material. Said north/front facade shall be similar in design to the front facade as shown on Exhibit "A" which is attached hereto".

Rierden stated that all the new lighting standards will be complied with. He also represents the property to the north. They feel this proposed use will be compatible with them.

2. Mike Anderson stated that when they acquired Meginnis Ford last October, part of the agreement was the dealership would need to be relocated. The only place that they believed would work was in this particular area. Their full intention is to build a car dealership.

Lust questioned if the current location of Meginnis Ford will be abandoned. Anderson replied that yes, the 66th and "Q" St. location will be closed.

Esseks stated that type of decision might have serious implications for the area of 66th and "Q" St. He inquired why the franchise agreements have changed. Anderson replied that all the manufacturers require you to keep the facilities updated and improved. Dealerships used to be located on "O" St. Ford believes it is in their best interest to move to south Lincoln where a lot of other dealerships are located. Anderson believes it would increase volume if they could relocate.

Lust wondered if the building design labeled Exhibit "A" is a requirement of Ford. Anderson replied that this is a current design required by Ford. That is the reason a change to the design standards was requested.

There was no testimony in opposition.

Staff questions

Gaylor Baird asked if staff has seen the condition requested by the applicant. Henrichsen had asked the applicant to request further information from Ford. Don Linscott, who is in charge of the design standards for the rest of the center, has no objections to this design. He feels it will fit in well with the rest of the center. Ford feels strongly about this design. The other three sides of this building will comply with the standards along with screening and landscaping. Staff felt given the particular circumstances, the exception was appropriate.

CHANGE OF ZONE NO. 09025
ACTION BY PLANNING COMMISSION: October 21, 2009

Francis moved approval, seconded by Esseks and carried 6-0: Gaylor Baird, Cornelius, Esseks, Francis, Lust and Partington voting 'yes; Sunderman declared a conflict of interest; Larson and Taylor absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 09022
ACTION BY PLANNING COMMISSION: October 21, 2009

Francis moved to approve the staff recommendation of conditional approval, with the amendment to Condition #2.1 as requested by applicant, seconded by Esseks and carried 6-0: Gaylor Baird, Cornelius, Esseks, Francis, Lust and Partington voting 'yes; Sunderman declared a conflict of interest; Larson and Taylor absent. This is final action, unless appealed to the City Council.

WAIVER NO. 09008
TO WAIVE STREET TREES, SIDEWALKS,
STREET LIGHTS AND STREET PAVING,
ON PROPERTY GENERALLY LOCATED
AT SW. 9TH STREET AND ROKEBY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: October 21, 2009

Members present: Gaylor Baird, Cornelius, Esseks, Francis, Lust, Partington and Sunderman; Larson and Taylor absent.

Ex Parte Communications: None.

Staff recommendation: Approval.

Staff presentation: **Mike DeKalb of Planning staff** stated that this is in association with a subdivision that would create some lots. It is rural in character. This is in the three mile area surrounding Lincoln. The regulations generally are not required for lots outside the city limits if all lots are one acre or more in size. Two of the lots are under one acre.

Esseks asked if there is a rule of thumb as to what number of lots must meet the standard. DeKalb replied that the standards talk about one acre lots. Esseks noted that two out of three lots are under one acre. DeKalb stated that this is one large lot today. It is being split. A prior subdivision created an outlot. One piece has been zoned residential so it could be split in the future. There is an existing gravel road. Three houses are existing with the potential for two more. Given the character of the area, staff felt it appropriate to approve the waiver for street trees, street lights, street paving and sidewalks.

Esseks believes there are practical reasons to waive these standards. He believes one lot meets the standards and two do not. He doesn't know if this is setting a bad precedent or not.

Lust questioned how far away this is from Hwy. 77. DeKalb believes around two miles. Paving of Rokeby Rd. ends just to the east of this. SW 12th is paved from Denton Rd. south.

Proponents

1. Dan Kubr, Vantage Pointe Homes, stated that they acquired this property over the years. Due to economics, they looked at best use. There are some unique zoning issues that have happened with this property. The county maintains the existing street lighting. There is right of way in the area. They would like to create a couple of lots to create more of a neighborhood feel.

2. Frank Sobotka, 9105 S. 1st St., who owns property adjoining the Kubr property, testified with concern about 2nd St. This issue came up about 20 years ago. He wants to make sure that 2nd St. remains because he has about 21 acres. It is around seven lots that could be developed. They are opposed to having 2nd St. closed because they foresee having the seven lots eventually developed. He has been told that he would have to pay for improvements to 2nd St. if he wants to develop his portion.

The Sobotka property is to the north and east of the applicant. 2nd St. is 80 feet wide. 2nd St. would be his access to those lots.

There was no testimony in opposition.

Staff questions

Gaylor Baird noted that 2nd St. is hard to see on the map. DeKalb pointed out that 2nd St. is immediately to the east of the applicant's property. Nothing in regard to this proposal would affect 2nd St. or the neighbor's access.

Response by the Applicant

Kubr has talked to Mr. Sobotka and will keep him informed of what happens. He has no intention of having the road closed.

ACTION BY PLANNING COMMISSION: October 21, 2009

Francis moved approval, seconded by Cornelius.

Sunderman believes this seems like an appropriate decision.

Motion for approval carried 7-0: Gaylor Baird, Cornelius, Esseks, Francis, Lust, Partington and Sunderman voting 'yes; Larson and Taylor absent. This is final action, unless appealed to the City Council.

MISCELLANEOUS NO. 09009
AMENDING SECTIONS 26.31.010 AND 26.23.140
OF THE LINCOLN MUNICIPAL CODE
PUBLIC HEARING BEFORE PLANNING COMMISSION: October 21, 2009

Members present: Gaylor Baird, Cornelius, Esseks, Francis, Lust, Partington and Sunderman; Larson and Taylor absent.

Ex Parte Communications: None.

Staff recommendation: Approval.

Staff presentation: **Tom Cajka of Planning staff** stated that this application is for two unrelated amendments to the land subdivision ordinance.

One change is for a waiver to extend time to install improvements administratively. Currently, in most cases, you have two years to install improvements after the final plat is improved, with the exception of sidewalks and street trees, which is four years. Staff has found that most subdivisions have reached the end of the time line and due to the current economic situation, the lots have still not sold and they do not want to install the improvements. Planning has talked with Public Works and staff feels that the extension of two years would be appropriate. The developer would be required to submit a new bond. This would account for any rise in prices and keep the developer up to date in city records.

In March of 2008, a text amendment was approved by City Council that allows lots in a planned unit development without frontage on a public street. A lot of these developments have outlots surrounding them. The subdivision ordinance requires that all lots front a public street.

Cornelius noted that there is already a waiver process today. He questioned how staff characterizes the likelihood that if a developer fails to meet the deadline, that we are not opening the door to unlimited extensions. Cakja responded that it is possible. There is no limit to the number of extensions that can be requested.

Cornelius wondered if there is language to enforce a developed lot to force them to install the improvements. Cakja replied that an applicant has four years after the plat is approved. When you build a house, Building and Safety requires the sidewalk be built before the occupancy permit is issued. There is no such requirement for the street trees. If the developer doesn't make improvements, there is the option of the bond being released to the city and the city installing the improvements.

Esseks questioned who can appeal an application and who is considered aggrieved. Cajka believes an abutting property owner would be considered aggrieved.

Proponents

1. Mark Palmer, Olsson Associates, testified in support and stated that he agrees with the proposed ordinance. He believes it will deal with the matter of extending escrows. He believes there could be a better way to deal with sidewalk escrows. Releasing a lot of escrows and making this process easier would seem to be the end goal. Street trees and sidewalks are the big issues that seem to drag on for years after everything is built. He thinks there is a good mechanism for street trees, working with the landscaping companies to obtain the escrow dollars. The issue is regarding sidewalks. The builders are the ultimate people responsible for the sidewalk. You don't want to build a sidewalk early. There are maintenance issues. They can get destroyed during construction. He believes there is a better way to deal with sidewalk issues and would like to see this looked at in more detail.

Lust would like to hear his proposal. Palmer stated that at the moment, the bond is 25 percent of the sidewalk installation cost. You have to construct at least 75 percent of the sidewalks before some funds can be released. There are issues with getting the money released. There are straggling sidewalks or some sidewalks with cracks. The sidewalk might be three years old and the developer or builder is required to fix the walk. They can't build it ahead of time or it would get destroyed. He could foresee instead of posting a bond now, you wait the four years, then the city requires the bond at that time. This would address the issue of a slow moving subdivision and this would address the issues of the

developer selling off lots to a builder. The builder could then post the bond for the lots that he owns. The city could always use a special assessment district. It seems to him that there could be an easier way. It would free up credit for developers.

Cornelius questioned if Palmer has shared any of these thoughts with Planning staff. Palmer stated that he has informally talked over ideas for many years. He has bounced these ideas off clients and banks.

There was no testimony in opposition.

Staff questions

Sunderman wondered if it is possible for the escrow amount to be changed depending on how many sidewalks have or have not been installed. Cajka believes that there is a possibility for the escrows to be redone. Staff would be willing to meet with the development community to discuss these issues.

Cornelius noted that Planning Commission heard testimony about other ideas. He wondered if this should be deferred. Cajka believes that the issues discussed by Mr. Palmer would be a different text amendment. This application is a step forward, but there are other issues to be discussed.

ACTION BY PLANNING COMMISSION: October 21, 2009

Cornelius moved approval, seconded by Francis.

Cornelius stated that it looks to him that this is tying up loose ends.

Sunderman believes this helps to simplify the code.

Motion for approval carried 7-0: Gaylor Baird, Cornelius, Esseks, Francis, Lust, Partington and Sunderman voting 'yes; Larson and Taylor absent. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 2:10 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on November 4, 2009.

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