MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, June 11, 2003, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Jon Carlson, Steve Duvall, Gerry Krieser, Roger Larson, Greg Schwinn, Cecil Steward, Mary Bills-Strand and Tommy Taylor; Marvin Krout, Ray Hill, Steve Henrichsen, Mike DeKalb, Brian Will, Tom Cajka, Becky Horner, Greg Czaplewski, Duncan Ross, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Chair Greg Schwinn called the meeting to order and requested a motion approving the minutes for the special meeting held May 21, 2003. Carlson requested an amendment to the second paragraph on page 44:

> **Capital Improvements Program: Public Works & Utilities - Wastewater:**
>
> .....Carlson believes it is appropriate to study. His concern is that we were explicit about just putting the land use designation on the map and he would be hesitant to make a push one way or the other for specific infrastructure improvements. .....

Motion for approval, as amended, made by Steward, seconded by Carlson and carried 7-0: Carlson, Duvall, Krieser, Larson, Schwinn, Steward and Taylor voting 'yes'; Bills-Strand abstaining.

Schwinn requested a motion approving the minutes for the regular meeting held May 28, 2003. Motion for approval made by Taylor, seconded by Bills-Strand and carried 6-0: Carlson, Duvall, Larson, Steward, Bills-Strand and Taylor voting 'yes; Krieser and Schwinn abstaining.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: June 11, 2003

Members present: Carlson, Duvall, Krieser, Larson, Schwinn, Steward, Bills-Strand and Taylor.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 228J; SPECIAL PERMIT NO. 2018; and PRELIMINARY PLAT NO. 02021, EDM INDUSTRIAL CENTER.**

Larson moved to approve the Consent Agenda, seconded by Taylor and carried 8-0: Carlson, Duvall, Krieser, Larson, Schwinn, Steward, Bills-Strand and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 2018, 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.

CHANGE OF ZONE NO. 3406
FROM R-2 RESIDENTIAL DISTRICT
TO O-3 OFFICE PARK FINAL P.U.D.,
ON PROPERTY GENERALLY LOCATED
AT 80TH & "O" STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION: June 11, 2003

Members present: Larson, Steward, Carlson, Bills-Strand, Duvall, Krieser, Taylor and Schwinn.

Staff recommendation: Conditional approval.

Ex Parte Communications: Bills-Strand and Schwinn reported that they had received a telephone call from the applicant's attorney advising of the petition in opposition.

Proponents

1. Mark Hunzeker appeared on behalf of **Jerry Joyce** and circulated photographs of the area. In 1997, the applicant came forward with an application to rezone the eastern portion of this property to build the first of two existing office buildings. At that time, there was substantial opposition to the rezoning, in part because of severe drainage problems that existed along the south lot line of this property and in the rear yards of properties abutting the office building site. After the zoning and use permit were approved, the developer Joyce entered into an agreement with the owners of the property to the east and was able to drain the parking lot runoff into a storm sewer system and out to "O" Street in a way that

has cured the drainage problems that existed prior to the construction of these office buildings.

Hunzeker further stated that landscaping, retaining walls and drainage facilities have been installed on this property to solve a problem that was not a problem on this property so much as it was on adjoining properties. Hunzeker discussed other projects done by this applicant.

Hunzeker explained that the reason for this application is because of a rather unique situation with a tenant. Heritage Insurance, which has grown very quickly, has occupancy needs which basically involve more employees per 1,000 sq. ft. than most businesses that occupy this type of office space. They have increased the amount of space that they need in the building and, therefore, the parking demand for that use may infringe on the ability to lease the remainder of the building to quality tenants. Mr. Joyce sought out advice from the Planning Department and had several meetings with the staff on how to do this. He needed to expand the parking lot. He knew that he was hemmed in with residential uses on all sides. And the solution that is being proposed is one which involves the acquisition of two single family homes which abut this site, and the construction of parking in the rear portion of those two lots. Those two lots are relatively large compared to the other lots in the area, and the proposal is to construct parking in the rear yards of those homes, and then resubdividing the property, leaving those two homes with sufficient lot area to meet the duplex standard for the R-2 district or the minimum lot size for the R-3 district. In other words, the density is not something that is a huge increase. We are simply reducing the lot size to what would be allowable under a R-3, or if the two buildings were joined somehow creating a duplex. The screening will be in the same fashion, with the same fence and same materials. The developer has a contract to purchase both of the single family homes and he will rehab the homes to the extent necessary. Upon completion of this project, the homes will be remodeled to put them in first class condition with the desire to sell them to owner-occupants.

Hunzeker explained that the objective is to maintain the streetscape on Cherrywood--to not change anything as far as the appearance along the street, with the possible exception that as you walk along the sidewalk or drive by you may be able to see the fence screening the parking lot because it will be closer than it is today.

Hunzeker advised that the property owners abutting the site are not objecting to this project. They have agreed to be participants in selecting all of the landscape materials that will be utilized on their side of the fence to screen the parking.

Hunzeker understands the concerns raised by the petition in opposition. With regard to the property value issue, Hunzeker believes that the project thus far has enhanced the values of the properties abutting this office building. It was vacant, there was a single family house on the site, and the use put to this property is probably the best use that could have been expected. It would have been very simple and very convenient for someone to propose

fast food or other convenience type retail on these two lots. Hunzeker also believes the values have been enhanced with respect to drainage. There was a low spot in the southwest corner of the site that ponded water in a rain. This problem has been solved. He agreed that one shade tree will be lost, but this developer does a good job of re-landscaping and screening and he believes the result will be better landscaping.

As far as the precedent for future rezoning, Hunzeker does not believe this does set a precedent. The PUD limits the likelihood that there will be any future changes.

Hunzeker believes that the runoff concerns have been addressed. He also noted that an entrance on East Cherrywood has never been anticipated and agreed that it would be harmful to this neighborhood. As far as quality of life, Hunzeker does not believe there will be any change by this development.

Larson inquired about the entrances onto the parking lot from the service road. Hunzeker observed that there are two in the middle and one at the east end. They are not expecting to put another entrance onto “O” Street.

Carlson inquired whether the lease with the insurance company is such that this is anticipated to be a long term need. Hunzeker indicated that this is not something they would do for a short term situation. This is expensive parking.

Steward referred to the grading and drainage plan, noting that the Commissioners cannot determine any of the contour information with the materials they have been given. Are we vulnerable to having to deal with similar problems at the west end of this new space? Hunzeker stated that they anticipate capturing all the surface water from these parking stalls and taking it back into the same storm sewer system. One reason for the configuration shown is that there is a grade change from east to west, and there will be a retaining wall that drops the grade of this parking basically down to the grade of the rear yards, so that in one respect it will be less of an impact than if it were sitting up four to five feet.

Opposition

1. Mary Eckhout, 8200 Beechwood Drive, appeared on behalf of some of the neighbors in opposition. She lives directly behind the first building and she agrees that the landscaping is lovely and has been maintained properly. However, the traffic in this neighborhood has increased substantially since the office buildings have been constructed. There are excessive speeds on Beechwood Drive. The neighbors are concerned about what door this might open for the future. She is in support of growth and she is thrilled that the insurance company is thriving, but maybe they need a larger commercial area rather than bringing the traffic into this residential area. The traffic is the biggest issue.

Schwinn inquired about the circulation of the traffic from the parking into the neighborhood.

Eckhout stated that it is on a maintenance road off of "O" Street. They come through Knickers and come right down Beechwood Drive. If they want to go west onto "O" Street, the traffic tunnels down Beechwood Drive which takes them to a set of lights that is way down by 74th & "O" Streets.

Staff questions

Steward indicated that he certainly sees the logic in the advice for this PUD; however, in response to the neighbors' concerns, what assurances, if any, can be placed on this application that those two residences will not only remain structurally, but remain in ownership condition? Ray Hill of Planning staff indicated that it would be the same assurance we have with any other change of zone. What is approved today is what is approved. If they want to make a change, it would have to come back to the Planning Commission. That is the reason we discussed the PUD. The only way the staff would consider recommending approval was if they would preserve the single family homes and the neighborhood. The #1 priority was preservation of those two homes and the streetscape along Cherrywood. Any change to that would be required to come back to the Planning Commission.

In response to questions by Carlson about the layout of the zoning, Hill advised that part of the parking lot is left R-2, which has to do with some of the requirements in the code. It required a lot of maneuvering and calculating in order to keep enough R-2 zoning to meet the minimum lot area requirements of the R-2 district. Part of the parking lot is O-3 and part is R-2. The houses are in R-2 zoning but are covered in the PUD overlay district. Bills-Strand pointed out that it is not easy to get across 84th to head north and then east. She suggested a traffic light. Randy Hoskins, City Traffic Engineer, suggested that this is probably not a good location for a traffic signal because of how close it is to 84th Street. Public Works can take a look at it to see if the warrants for a traffic signal are met at that location; however, whether he would recommend installing one there is questionable because of the required signal spacing in order to keep traffic moving efficiently.

Response by the Applicant

Hunzeker sympathized with the traffic concern. He did point out, however, that it is not only these buildings that have changed. There has been a significant intensification of the uses that were already there, e.g. the office interiors and design renovation of the Mademoiselle Health Spa; the convenience store on the corner. He doesn't think it's just this project and he thinks it is unfair to put that issue on this particular project.

With regard to the single family homes, the developer has authorized him to say that he will rehab those houses and they will be sold. Hunzeker believes they will be priced such that it would not be economical to be purchase them for rental houses.

Hunzeker also clarified that the people involved in the landscaping decisions are the next-

door property owners on either side of the expanded parking lot--not the two single family homes that will be rehabbed.

Hunzeker also suggested that the PUD is a relatively strong assurance that there will not be additional doors opened by this application. They cannot do any more parking and no more nonresidential use than is shown on this plan without rezoning another portion of the residential lots, which means another waiver of the minimum lot size. It would be a rare circumstance to make any changes to this plan.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: June 11, 2003

Bills-Strand moved to approve the staff recommendation of conditional approval, seconded by Larson.

Bills-Strand commented that this developer has proven to be a good neighbor. As long as he has support from the abutting property owners and if the city looks at the traffic issues, she thinks this will be good for the neighborhood.

Duvall would like to see Public Works address the traffic concerns.

Larson also commented that the developer's record indicates that he will do things in a quality way and he will support it.

Schwinn believes that the mass of those buildings has actually helped the property values because buyers are concerned about traffic noise and these buildings are blocking the noise from "O" Street. He promised the neighborhood that the next time he comes north on 84th Street and sees stacking at the left turn lane, he won't cut into Beechwood and sneak around.

Motion for conditional approval carried 8-0: Larson, Steward, Carlson, Bills-Strand, Duvall, Krieser, Taylor and Schwinn voting 'yes'.

SPECIAL PERMIT NO. 2021
FOR AN EARLY CHILDHOOD CARE CENTER
ON PROPERTY GENERALLY LOCATED
AT SOUTH 56TH STREET AND WALTZ ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: June 11, 2003

Members present: Larson, Steward, Carlson, Bills-Strand, Duvall, Krieser, Taylor and Schwinn.

Staff recommendation: Deferral

Ex Parte Communications: None

Greg Czaplewski of Planning staff submitted proposed amendments to the conditions of approval submitted by the applicant.

Proponents

1. Brian Carstens appeared on behalf of **Truax Homes.** This is a special permit for an early childhood care facility in R-2 zoning in a building currently under construction. The use permit and special permit were approved a couple of years ago. The applicant did have a neighborhood meeting and the neighbors expressed concern about the playground being adjacent to the building to the south with noise in their back yards. In response, the applicant has moved the playground to the front with a 6' sidewalk around the turnaround. The playground will be fenced with a 6' vinyl fence and is located out of the floodplain.

Carstens noted that the floodplain was a concern and that the box culvert will have 1' of water over it during the 100 year event. In the event of a 100-year flood, the neighbor to the west has agreed to allow access through a gate in the fence.

The special permit is for 100 children, with a request to waive the requirement for lot frontage on an arterial street, which is a typical waiver in a center of this size.

Carstens requested to amend the conditions of approval, moving some of the Site Specifics to requirements prior to building permit. This will allow the application to move forward to City Council sooner and they do desire to have the center open for the fall school season. Carstens believes that staff is in agreement with the amendments, except the request to delete Condition #3.2 which requires completion of the improvements to the Beal Slough channel before receiving building permits. There are some cost sharing negotiations occurring in the next couple of weeks between Lyle Loth, Public Works and the NRD on the Beal Slough improvements. Carstens believes the negotiations and these improvements will take months and he requested that Condition #3.2 be deleted.

Carlson inquired whether there is any pedestrian access to the west towards the

neighborhood. Carstens responded, stating that the building is built into the hill, but you will be able to go around the building and up, with a gate in the fence that separates the day care from the neighbors. There is no way to walk the kids down to the day care. The traffic will be on 56th and Old Cheney Road.

Steward is concerned about the emergency access. It seems a little loose to just have a gate in a neighbor's fence and a general agreement. Carstens pointed out that the conditions of approval require the submittal of an emergency evacuation plan and it will require an easement that is recorded with the Register of Deeds. Steward was then satisfied.

There was no testimony in opposition.

Staff questions

Steward asked staff to respond to the proposed amendments to the conditions of approval. Czaplewski advised that the staff would not oppose the request to move the certain conditions from Site Specific to before receiving building permits. Typically, in the past, it has been the policy of previous City Councils to have those things worked out before the application is heard by the City Council. However, in this case there will be other departmental review and the staff is willing to make that change.

However, the staff is opposed to the deletion of Condition #3.2 concerning the Beal Slough improvements because that was a requirement of a previous permit. The staff believes that the work should be done before additional permits are granted for this property. The emergency evacuation plan was a concern raised by Building & Safety. The reason the staff had initially recommended deferral was to give the applicant time to work on that plan. Carstens has now described the evacuation plan and as long as it is satisfactory to Building & Safety and Fire, staff would be willing to move that condition, also.

Steward inquired of Public Works regarding the Beal Slough improvements--is it possible that this can all be negotiated and agreed upon? Dennis Bartels of Public Works indicated that he would be willing to move that condition to be a requirement before occupancy as opposed to prior to building permit. The original special permit required this work to be done by the developer and there was no mention until the last few days about the cost sharing. As long as it gets done, he is willing to move the condition to prior to occupancy, but he wants it clear that he is not recommending a waiver of that condition. It should not be deleted.

Response by the Applicant

Carstens indicated that he would be agreeable to moving the Beal Slough condition to a requirement prior to occupancy.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: June 11, 2003

Carlson moved to approve the staff recommendation of conditional approval, with the amendments as requested by the applicant, except that Condition #3.2 be moved to "before occupancy" as opposed to being deleted, seconded by Bills-Strand and carried 8-0: Larson, Steward, Carlson, Bills-Strand, Duvall, Krieser, Taylor and Schwinn voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 03020
TO DESIGNATE A "COMMUNITY" SIZED COMMERCIAL CENTER
AT APPROXIMATELY SO. 40TH STREET, BETWEEN
ROKEBY ROAD AND YANKEE HILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: June 11, 2003

Members present: Larson, Steward, Carlson, Bills-Strand, Duvall, Krieser, Taylor and Schwinn.

Staff recommendation: Approval.

Ex Parte Communications: Bills-Strand reported that she had received a telephone call from Mark Hunzeker and they discussed the application.

Proponents

1. Mark Hunzeker appeared on behalf of **John Sampson** and **Dave McEwen.** This is a proposal to designate a community center at the southeast corner of the intersection of 40th and Rokeby Road. The staff is recommending mapping it at the half-way point roughly between Saltillo Road and Rokeby Road, to which the applicants do not object. They agree that this is an appropriate location. The staff has indicated a willingness to be flexible about exactly where the center will be located after more detailed planning.

Schwinn noted that this ties into the nice layout that Jim Hille showed during the Annual Review public hearing. Hunzeker stated that this request is in response to moving that community center from one side to the other. We think there is going to be a sufficient population in this area in the long term for a center there. There is a substantial amount of land controlled by his clients and possibly one other property owner who wants to begin to plan for the "medium" term future.

Steward inquired whether there is any potential that it could move any closer toward 27th Street. Hunzeker stated that he would be very surprised if it did move closer to 27th Street just because of the transportation corridor. 40th Street will be a major transportation corridor that will have some capacity. A center of the size of a community center needs to

have good roadway capacity to serve it. To the extent that it would move over to 27th, it would be moving closer to what is already a fairly substantial concentration of retail uses. He is not sure that would be a direction they would want to go.

There was no testimony in opposition.

Staff questions

Steward observed that in general terms, between the two maps in the original Comprehensive Plan proposal and the recommended amendment, it seems that we have a better distribution geographically of different size and types of centers than we had originally. His only concern is the potential proximity between this community center and the area marked "light industrial". Are we asking for any difficulty by that proximity designation? Steve Henrichsen of Planning staff observed that the Comprehensive Plan suggests that the center would be generally somewhere within ½ mile of where it is generally shown on this map. It could move closer to the South Beltway interchange, but he views the light industrial location as being something in the I-3 Employment Center district that does offer some retail and office use. The staff is viewing this as a separate center, somewhere within this area and not necessarily associated with the South Beltway. Steward observed then that the staff is envisioning more compatibility rather than less. Henrichsen stated that the staff is viewing this as a community center that might be more oriented toward the surrounding area, where the light industrial might have some retail uses oriented to the Beltway as well as I-3 for something like small size manufacturing firms, etc.

Carlson noted that during the Annual Review, the Planning Commission recommended approval to move one of the commercial centers to 27th (it is actually a car lot). What is the staff's sense of overall square footage? Henrichsen stated that Comprehensive Plan Amendments 03014 and 03015 were not reviewed in terms of increasing the amount of overall square footage. With respect to this Amendment 03020, it was reviewed in terms of neighborhood centers already being anticipated out in this area that may have been 250,000 sq. ft. The size of the community center has not been determined. If it does increase the overall square footage, the transportation impact should be addressed. South 40th Street in this location is quite a bit below its design capacity for a four-lane street. Carlson inquired how far it is to the east before encountering another "dot". Henrichsen stated that everything east of 48th is acreages. There is some urban residential east of 70th, but by that time you get close to 84th and Hwy 2, which is viewed as the larger regional center serving that area.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: June 11, 2003

Steward moved approval, seconded by Bills-Strand and carried 8-0: Larson, Steward, Carlson, Bills-Strand, Duvall, Krieser, Taylor and Schwinn voting 'yes'.

SPECIAL PERMIT NO. 2010

PINE LAKE HEIGHTS SOUTH 8TH ADDITION COMMUNITY UNIT PLAN
ON PROPERTY GENERALLY LOCATED
AT SOUTH 30TH STREET AND YANKEE HILL ROAD.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: June 11, 2003

Members present: Larson, Steward, Carlson, Bills-Strand, Duvall, Krieser, Taylor and Schwinn.

Staff recommendation: Conditional Approval.

Ex Parte Communications: None

Brian Will of Planning staff submitted a letter from the applicant's attorney requesting a two-week deferral to allow time to discuss some issues that have been raised by the staff. Bills-Strand moved for two-week deferral, with continued public hearing and administrative action scheduled for June 25, 2003, seconded by Steward and carried 8-0: Larson, Steward, Carlson, Bills-Strand, Duvall, Krieser, Taylor and Schwinn voting 'yes'.

SPECIAL PERMIT NO. 2014
NORTHVIEW VILLAS COMMUNITY UNIT PLAN
ON PROPERTY GENERALLY LOCATED
AT NO. 24TH AND DODGE STREETS.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: June 11, 2003

Members present: Larson, Steward, Carlson, Bills-Strand, Duvall, Krieser, Taylor and Schwinn.

Staff recommendation: Conditional Approval.

Ex Parte Communications: None

Becky Horner of Planning staff submitted additional information for the record, including some correspondence between one of the neighbors and the Planning Department in

reference to how many duplex units could be developed on the property, and a proposed amendment to the conditions of approval submitted by the applicant, requesting to delete Condition #1.1.7, which requires sidewalks on both sides of all internal driveways.

Proponents

1. Brian Carstens appeared on behalf of the applicant, **Regal Building System.** This site was originally approved for 128 retirement dwelling units and 60 domiciliary beds in a large L-shaped building. After market studies, it was found that the previously approved project

would not be feasible. The new proposal is for 9-unit condominium buildings of two-story structure. The upper level is a ranch style home and the back level is a walkout basement with units on the bottom and the upper units looking over the top. This is a straight community unit plan with no subdividing. There will be private water, private sewer and private driveways. Carstens pointed out that the CUP does not require sidewalks on both sides of all driveways. They are providing some internal pedestrian circulation to the bike trail on 24th Street and one sidewalk on each side of the major roads/driveway as they come in. If the developer is required to put the sidewalks on both sides, it would interfere with the driveways and is not required by the design standards.

Carstens acknowledged that the neighbors had traffic concerns. What was previously approved would have a total a.m. peak hour of 20 trips and a p.m. peak hour of 23 trips. The new proposal has 31 a.m. peak hour trips and 38 p.m. peak hour trips.

2. Marty Fortney, the applicant/developer, appeared to answer any questions.

Opposition

1. Sheila Damon testified in opposition on behalf of the **Regalton** homeowners, which is the neighborhood most directly affected. There are far too many nonresident owners buying property in this area for investment. The pamphlets that were distributed by Woods Bros. Realty specifically stated that there would be an assisted living complex and day care facility on this property and not apartment complexes, and she purchased her home based on that premise. The parking in the neighborhood is totally inadequate. There is no legal parking on Dodge Street. This is becoming more and more frustrating to all those involved and residents are receiving parking violations. The traffic is very problematic when Campbell school is in session. There is also a safety issue with the creek area. It is dangerous for children. She believes her land should be rendered safe. Something needs to be done about the bike trail that leads to and ends at the creek. The area is also frequented by skunks. The trees removed from this creek area served as a buffer zone to the industrial area and the noise from the traffic on 27th Street. She believes that it is the developer's responsibility and the city's responsibility to replace something where the trees once stood. When she purchased her home, there was a buffer zone and now there is none. The weeds are a nuisance in the undeveloped common areas and empty lots. Renters are having parties and violating the city noise ordinance, and creating parking problems. The main issues of the opposition include: 1) selling of property in the area under the assumption of the assisted living and day care facility, and then going against his advertised word; 2) traffic congestion; 3) inadequate parking; 4) safety issue of the creek area; 5) loss of buffer zone; and 6) the weed control problem. A petition in opposition has been submitted with 22 signatures of homeowners only–no renters. This is a high percentage of the resident homeowners against this proposal.

2. CL Garrison, homeowner in **Regalton**, testified in opposition. She alleged that there is a huge distrust for Marty Fortney and Regal Building System. She encouraged the

Commission to delay the activity on this special permit. There have been ample studies on traffic and parking that show this will not be a safe environment for their children and families. She disagrees with the allegation of "affordable housing". She believes it will actually be for low income families. The builder refuses to build a floor plan that is adequate to hers and her property values will decrease. A rezoning of the property to R-2 will provide single family dwellings to increase the value of the homes in Regalton. The rezoning would cut down on the parking issues and the traffic to provide a safe environment for the neighbors. As of Friday, there was a police report issued for parking on the sidewalk in this neighborhood. She has a stack of police reports issued to the renters in a particular townhome since they moved in in November of last year.

3. Carol Brown, 2201 Elba Circle, testified in opposition on behalf of the **Landon's Neighborhood Association**. There are 41 townhomes that have been built and occupied now. Out of those 41, ten are rentals. That shows a trend. There is one now being built with a "For Rent" sign in the yard. She showed photographs depicting the problems with safety and traffic on Superior Street in the school zone. She showed photographs attesting to the traffic and parking problems in the neighborhood (Dodge Street, 24th Street, 21st Street, Superior Street).

Brown then showed the plan that has been approved and to which the neighborhood had agreed. They thought they had an agreement. The new plan will cause more traffic problems. There are 122 townhomes yet to be built in this vicinity. More density will only bring more traffic. 122 townhomes equals 244 cars. 61 multi-family units equals 122 cars. Approximately 1,000 students will be going to North Star next year and they will use Superior Street to commute from the west. This will cause further turning movement problems onto Superior.

Brown also believes that these apartments will be investment properties–not affordable housing. Regalton already has more than its share of rental properties. There have been late night partying and parking problems. The Vietnamese families have more family members and thus more cars, and there are 10 Vietnamese home owners in the area. What is to be done about the Health Department concern about having this development too close to an industrial zone? The Health Department is recommending a 300' buffer zone. What happens if there is a fire with only one entrance/exit? Is there enough room for medical/fire vehicles? On-street parking will be a problem for apartments just like it is for the townhomes, and parking will be done illegally. This neighborhood is the cut-through for 27th or Superior Street traffic when there are accidents and during football traffic.

Brown urged that approving this permit will diminish the quality of life in this neighborhood and the investments the property owners have in their homes.

Brown advised that the neighbors took up a collection and have submitted a change of zone request from R-4 to R-2.

Response by the Applicant

Carstens addressed the parking concerns. Most of the units have two-stall attached garages and there is room to park two cars in the driveway. He believes that most of the traffic and safety issues are related to the school location. This development will use 24th Street and/or Old Dairy Road. Local streets accessing to arterial streets is a problem everywhere in the city. He believes the neighbors are treating renters as second class citizens.

Carstens clarified that the previously approved permit was for 128 units of retirement dwellings and 68 domiciliary beds. This proposal consists of 61 multi-family units.

Carstens confirmed that the units will be condominium regime.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: June 11, 2003

Carlson moved to close public hearing and recommend denial, seconded by Taylor.

Carlson commented that the number of units before and number of units under R-3 (which was the zoning a few years ago) looks to be approximately 30 units. This proposal is substantially more, even if they went with a duplex scheme of 40-50 units. His concern is that we had a situation a few years ago where the neighbors and the developer worked together and came to an agreement on an appropriate use, and because of that we had an upzone for that specific use. If that specific use changes, he believes we have an obligation to go back to the neighbors. Their support for the earlier upzone was based on that particular use. If this use has issues, we as a public body have an obligation to make sure the use is an appropriate use. He is not anti-density, but if you are going to show increased density, then you have the obligation to show how that is going to be beneficial instead of creating additional pressures. To him the primary issue is the a zone change based on an earlier agreement. That agreement is not going to happen, so there needs to be additional discussion or the zoning needs to go back to the way it was before.

Bills-Strand agreed. When you build and market it to accommodate what the neighborhood agreed upon, you need to go back to the neighborhood and work it out.

Motion to deny carried 5-3: Larson, Carlson, Bills-Strand, Krieser and Taylor voting ‘yes’; Steward, Duvall and Schwinn voting ‘no’.

PRELIMINARY PLAT NO. 03002
PIONEER BUSINESS PARK ADDITION
ON PROPERTY GENERALLY LOCATED
AT SO. 6TH STREET AND CALVERT STREET.
CONT’D PUBLIC HEARING BEFORE PLANNING COMMISSION: June 11, 2003

Members present: Larson, Steward, Carlson, Bills-Strand, Duvall, Krieser, Taylor and Schwinn.

Staff recommendation: Conditional Approval.

Ex Parte Communications: None

Proponents

1. Mark Hunzeker appeared on behalf of the developer and submitted proposed amendments to the conditions of approval. This property is west of Hwy 2, north of Pioneers Blvd. and south of Calvert Street, just west of the old Sutherlands property which has been redeveloped and resubdivided.

There were a couple of different alternatives examined as the owners were deciding how to develop. The property is currently zoned industrial and one of the alternatives would have been to avoid some of the subdivision ordinance standards by taking access on the interior and providing a cul-de-sac rather than going on up to Calvert, etc., all of which would have met the design standards and avoided some of the concerns with the block length. The city has requested the extension to Calvert to provide accessibility and that was added to this project.

Hunzeker pointed out that they could have also easily carved off 10-12-15 acres at the south end of the property and taken access directly to Pioneers Blvd. to serve a single lot, which they also chose not to do because the city did not want an access to Pioneers Blvd.

Hunzeker requested to delete Condition #1.1.1, which requires that a street be extended from So. 6th to the east boundary of this plat. Hunzeker demonstrated how that would require a street to be extended into a parcel owned by the State of Nebraska. The way South 8th is aligned, extending a street would make for a very awkward and odd-shaped lot, and even if extended out to another location, it would still be a lot that would be of marginal utility in terms of dimension and shape. There is no telling when or if the State of Nebraska may give up this parcel for private use and, frankly, the need to go from So. 6th east in this vicinity is very hard to describe. Hunzeker suggested that the standards that limit block length are for the purpose of providing ease of access and circulation in residential areas. He believes that in this case Condition #1.1.1 should be deleted because of the many alternatives they would have to not build this street and to accommodate the other more desirable features of having circulation up to Calvert.

Hunzeker also requested to delete Condition #1.1.3 because it is a requirement to include sidewalk along the north side of Pioneers Blvd. abutting this tract. Hunzeker suggested adding “sidewalk” to Condition #1.1.21. The developer would not object to any future valid and legal assessments for repaving, curb and gutter and sidewalk. This could then be done by district rather than putting a sidewalk in that leads from nowhere to nowhere.

Hunzeker does not believe that the county's plans for improving a bridge over the creek to the west includes pedestrian access across the bridge.

Hunzeker then requested to delete the first sentence from Condition #1.1.4, or if the waiver of stormwater detention is not granted, delete "sidewalk for Pioneers Boulevard and block length" so that that condition refers only to stormwater detention.

Hunzeker requested to delete Condition #1.1.5, which requires a conservation easement. They do not want to permanently impair a piece of property's use in the event that things do change. This requires a note to be added that states that a conservation easement be placed over the entire area located within the floodway. Hunzeker acknowledged that the floodway is completely off limits for development; however, the county is about to do some improvements to the bridge and we presume that when they improve the bridge, they will likely be taking into account the 100-year storm and improving the flow of water under that bridge. To the extent that someday when those improvements are made and that floodway is re-studied and it reduces the size of the floodway, it may be possible that some of this property could be usable. This developer is requesting that they not be required to permanently take this out of any possible use by granting a conservation easement. It cannot be used under current regulations anyway. If the floodway changes, it might be possible to get some use out of the property.

Hunzeker also pointed out that the detention issue was not created by this development.

2. Rick Onnen, of Engineering Design Consultants, discussed the detention issues. Right now, what is shown as Lot 10 of Block 2 exists as a detention cell constructed for the Sutherland Park 1st Addition. At the time that property was platted, there was discussion about the need for detention being close to Beal Slough and Salt Creek. That cell was constructed because there was property downstream that was developable. We are coming back now as a property owner downstream and requesting to abandon that cell. We are proposing to convert that to a lot and pipe the water directly down to discharge it into Beal Slough. Because there is a time factor that goes into how this water flows is the reason to eliminate this detention cell. The main peak flow that would be coming down Beal Slough will be a few hours away from the peak of this local property. If we can take the surface runoff from this parcel and get it into the creek quickly, we can lessen the peak as it comes downstream.

The second issue is the detention for the property now being platted. The same reasoning applies for not wanting detention on this property. We are close to the channel and we would rather have that water in the creek and downstream. Onnen thought that Public Works was in favor, but there was a problem with how we dealt with the flows and how they move over land. We have tried to address those issues and there is a difference of opinion with Public Works. Onnen believes that they can effectively move that water out without having any major impact, particularly on the property and any buildings because the buildings will be elevated above the floodplain. In a large storm event, these streets would

be inundated anyway, and a large local event may create some pooling at the intersections that would drain off.

Onnen further clarified that a detention cell is not shown for this development. The cell that exists is what is now shown as Lot 10. The pipes are sized for a 10-year event and would probably take something considerably more than that. The swale takes it to the railroad property which is the existing flow pattern. Right now the discharge from that detention cell is in the northwest corner of the outlot. There is a tree-lined ditch that angles across the property. This is floodplain area so it is kind of "table-top flat" so it is hard to tell which way the water is flowing. The developer is proposing to pipe the water down along the eastern property line and back to the channel. Most of the water coming from the east will be diverted away from the railroad right-of-way. The 10-year system is intended to move the water to the south.

Opposition

1. Tim Knott, spoke on his own behalf in opposition, although he is a member of the Friends of Wilderness Park. His comments are of a general nature. He believes the data sheet provided mentions that the Floodplain Task Force is working to develop new standards for the city and he thinks this is a good opportunity to point out that it is a bad idea to be developing in the floodplains. 260,000 cubic yards of dirt will be placed in the floodplain, which reduces the flood absorbing capacity and is counter to Wilderness Park being created to prevent excess runoff and prevent 100-year floods. He acknowledged that the property is zoned industrial and that the owner has the right to develop, but he believes there needs to be a much better floodplain management system and regulations to deal with development in the floodplain.

2. Mary Roseberry-Brown, 1423 F Street, President of **Friends of Wilderness Park,** testified in opposition. She explained the concerns and asked for deferral of this proposal. The property is very close to the park. The southern portion of the park drains into Beal Slough just before it enters the park. The southern 28 acres of this property are recommended for inclusion into Wilderness Park in the Wilderness Park Subarea Plan, which is part of the current Comprehensive Plan. Stormwater draining off the developed property may contribute to serious stream bank erosion for Beal Slough. She showed photos of debris that washed from Beal Slough into the park. Anything else adding to that velocity will cause more erosion. The applicant has not demonstrated that post-development flows from the 48-inch sewer will meet the city standards. She urged the Commission to require evidence of safe velocities from the pipe for the two, ten and 50-year storm frequencies before final plat approval is granted. She also urged that the land rights for bank stabilization of Beal Slough be given to an appropriate agency such as the NRD, and that this be on file with the Register of Deeds prior to final platting. She urged that detention be required. This detention pond was built to drain water off of the

neighboring Sutherland Park Addition. There is no developable property downstream–it is the park. She also urged that the conservation easement as proposed by staff be required and that the easement specifically state that the floodway be maintained in its natural state similar to the adjacent Wilderness Park, prohibit current tree removal except for what is necessary for storm sewer construction, and that pavement be prohibited. The Friends of Wilderness Park would also suggest that the floodplain property adjoining or very near to a public park be considered for public purchase or a conservation easement. They should not be filled in and developed.

Staff questions

Carlson asked staff to discuss Condition #1.1.21. Tom Cajka of Planning staff advised that the subdivision ordinance requires the developer to improve the streets abutting the plat. In this case, they want to wait and do it as an assessment district. Carlson does not have a problem with the timing issue, but he wonders whether waiting relieves the developer of their financial obligation to contribute. Dennis Bartels of Public Works stated that Pioneers Blvd. is an arterial street at this point and there is debate about an interchange at the West Bypass and Pioneers Blvd. Eventually, rather than by assessment district, he would envision Pioneers Blvd. being paved as an arterial type street. He assumes the developer will pay impact fees as they develop this property. Ray Hill of Planning staff added that, as long as the impact fee ordinance is kept intact, the developer would be required to pay impact fees and Pioneers Blvd. would be improved.

Upon further discussion, with regard to the sidewalk issue, Ray Hill advised that the City Council has the authority to order in sidewalks, so if it became a situation where it was felt there was a need, the City Council could order the sidewalk constructed and it would be assessed to the abutting property owners.

Carlson then discussed the conservation easement. Tom Cajka indicated that after further discussion, the staff would probably agree with the applicant to delete the conservation easement because they cannot build in the floodway anyway. He does not believe the city has the basis to ask for that conservation easement based upon the requirements of the subdivision ordinance.

In further discussion about the conservation easement, Rick Peo, City Law Department, stated that some of the conditions might be beneficial but they are beyond the scope and authority of the Planning Commission and the regulations on preliminary plat approval. If the proposal meets the subdivision ordinance standards, then it is the obligation of the Planning Commission to approve the preliminary plat. It is not like a use permit or special permit that can be addressed by conditions. He does not believe the easement could be required.

But, Steward wanted to know how this response meshes with the fact that the city has a study of best practices that may lead to other regulations. Peo agreed that if that happens,

future development might have a different standard than the development occurring today or yesterday. That's the nature of progress. But, we cannot hold this developer hostage hoping for or wondering about the future standards. We have to evaluate it on the regulations in place today.

Steward inquired whether this property being adjacent to an area of high public interest and high public use, makes it any different than a property that would be a mile away if there is suspected impact. Peo opined that this property would have to be treated the same as the property one mile away. If there is a need for protection, the public must come forward and purchase easements or acquire ownership of the land to accomplish that protection. The city cannot impose that particular burden on a particular property owner.

Carlson asked staff to respond to the fill and detention issue. Ben Higgins of Public Works stated that their main concern is Lot 10 where the detention area is now. Public Works is uncomfortable because somewhere you have to have a 100-year flow path. You might have low and high points but he is uncomfortable with that. He believes it can be resolved but we're just not there yet. Water is going to be sitting somewhere. There is detention at Lot 10 now and he believes it is more to take care of the over-land flow path. Dennis Bartels added that the detention pond being discussed was built as a requirement of the Sutherland Park subdivision and it was not sized to handle the runoff from this new development other than the fact that they are adding the outlot where the detention cell was located to this plat. Public Works is not asking for detention meeting the 100-year detention as a requirement, but we were debating whether or not to eliminate the detention in Sutherland Business Park. There is also a design standard requirement that the 100-year flood path stays in the rights-of-way. We are asking EDC to provide the location of that 100-year flood path to make sure that it does not flood private property. If that part can be satisfied, Bartels believes that Public Works would be willing to waive the detention pond that was built with the Sutherland Park plat.

Carlson assumes that water is going to move from east to west across this property. Bartels agreed that to be the general direction. Once they put in all this fill, the concern is that it does not move across there.

Carlson inquired how this detention cell would detain water coming from the east. What would we do with the water moving across this plat heading towards Beal Slough and Salt Creek? Bartels stated that the proposal on this plat is to fill this detention cell and extend that storm sewer on west and south until it can discharge into Beal Slough. Carlson then wanted to know where the water that will fall on the lots of this plat will be detained and where it will go. Bartels explained that, as submitted, there is no formal detention of that water. The majority, if not all of it, tends to flow south and west to the railroad ditch between Calvert and Pioneers, and most of it flows south along this railroad ditch or in a storm sewer system that they propose to Beal Slough which flows under Pioneers Blvd.

southwest of this plat. Public Works could not see a lot of value in the traditional detention but there is value to make sure the velocities are not increased to increase the erosion potential. Bartels believes that can be done in the design of the storm sewer system that will be needed to develop this plat to eliminate potential erosion.

Steward suggested that behind that assumption is the known condition that the property owner intends to fill and raise the building pads on most, if not all of the site. Higgins noted that the intention is to fill the entire site. Therefore, Steward believes that increased velocities are apparent. Higgins believes that it might increase velocities by impervious surface, but filling it up does not necessarily increase velocity. Even if you detain the water, Bartels stated that it still has to go down the creek. If you are just concerned about the peak flow on Salt Creek, detention on this small of an acreage has very little, if any, effect on peak flow on Salt Creek this far downstream.

Carlson's concern is the request to delete stormwater detention. Higgins objects to that waiver. Public Works is concerned about the 100-year over-land flow path. He believes there needs to be a way for it to get out. Bartels would agree to delete the detention requirement if the developer can satisfy the concerns on the 100-year flow path. Public Works is willing to delete the detention requirement for the main part of this new plat. That is not part of the issue. The issue is the detention cell in the Sutherland Park.

Response by the Applicant

Hunzeker responded, stating that the southwest corner of the site is an area that is being acquired by the County (or at least an easement) to do bank stabilization and other work in preparation for work on a bridge. The timing is pretty good because that is also where our storm sewer will be releasing into Beal Slough. Hunzeker suggested that a combination of relatively flat storm sewer grade and the bank stabilization will control the erosion problem.

Hunzeker pointed out that Condition #1.1.2 requires the developer to submit a revised grading and drainage plan "to satisfaction of Public Works", and the developer does not object to this condition. If the Commission recommends the proposed amendments, and eliminates the detention requirement, the developer is still required to submit a revised grading and drainage plan.

With respect to the sidewalk and repaving on Pioneers, Hunzeker does not object to Condition #1.1.21 simply because of the phrase "valid and legal assessment". He agrees on the assessment issue, but with respect to the sidewalk, he believes they have the right to order construction of sidewalks, except if it becomes part of the impact fee facilities. Hunzeker believes the staff would prefer to delete "repaving and curb and gutter" and insert "sidewalk".

With respect to the bigger issues raised by the Friends of Wilderness Park, Hunzeker

understands the concern; however, you have to think about some of these things in the context of at least 50 years of history in Lincoln. The earliest Comprehensive Plan adopted in 1951 or 1953, has always shown industrial development abutting the creeks and tributaries of Salt Creek. We've changed the way we think about some of these things but we cannot ignore the 50 years of history or more of encouraging or requiring investment in these areas as industrially zoned and proposed for industrial land use. Yes, there is some fill being placed here and there is a minor impact on the floodplain, but to the extent that floodplains are designed, designated and delineated to be filled, viz-a-viz the floodway, we're really not having much of an impact here. This developer is not required to do any of this. With the industrial zoning, he could have asked for a curbcut and gone in and built as many or more buildings as this plat shows lots, with only building permits and fill permits. This developer is not trying to avoid requirements but to do the best they can with what they have.

Hunzeker acknowledged that a good deal of this area is in the floodplain. Some of the northern part is out. Much of the Sutherland Park Addition was in the floodplain.

Larson inquired whether raising the level with the fill will have an impact on Sutherland Park. Hunzeker does not believe that it will. They would have been required to have their lowest flood level 1' above the flood elevation. He does not believe it will raise the floodplain. If completely filled, it would raise the base flood elevation there by 1'. That is why we have the 1' above the base flood elevation requirement in both state and local regulations.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: June 11, 2003

Bills-Strand moved to approve the staff recommendation of conditional approval, with amendments deleting Conditions #1.1.1 and #1.1.3; changing #1.1.4 to eliminate the first sentence; deleting #1.1.5; and eliminating "repaving and curb and gutter" and adding "sidewalk" in Condition #1.1.21, seconded by Duvall.

Carlson believes this is a situation that needs to be changed. We have a historical condition that has to be respected but we're realizing that there are better practices and better plans that need to be implemented. The Mayor's Floodplain Task Force just completed their work and he is perceiving their recommendations to be beneficial, but the Planning Commission role is to measure as to conformity with the existing ordinance and Comprehensive Plan. It is frustrating to see better practices out there and not be able to conform to those. He would like to see a model ordinance brought forward as soon as possible.

Steward's concerns are the floodplain, the floodway and all of the issues concerning flood control. Even if this property were not adjacent to the Wilderness Park, he would still believe what is proposed is not in the best interest of the city.

Motion for conditional approval, with amendments, carried 5-3: Larson, Carlson, Bills-Strand, Duvall and Schwinn voting 'yes'; Steward, Krieser and Taylor voting 'no'.

*** Break *** (Bills-Strand and Taylor left during the break)

CHANGE OF ZONE NO. 3407
FROM R-2 RESIDENTIAL TO R-3 RESIDENTIAL
and
SPECIAL PERMIT NO. 2017,
MAPLE VILLAGE COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT CHERRYWOOD DRIVE AND SYCAMORE DRIVE.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: June 11, 2003

Members present: Larson, Steward, Carlson, Duvall, Krieser and Schwinn; Bills-Strand and Taylor absent.

Staff recommendation: Deferral

Ex Parte Communications: None

Brian Will of Planning staff submitted proposed amendments to the conditions of approval on the special permit being requested by the applicant.

Proponents

1. Brian Carstens appeared on behalf of **Mike Moser** and **John Morehouse,** the developers. Aquila had operated a propane storage facility at this site which is no longer necessary. The proposal is for **35** dwelling units, with private roadways for circulation, public sewer and public water. They are requesting the waiver to allow the 24' private roadway. Mike Moser owns the complex next door but they do not want to encumber that property again. They will provide sidewalks on the west side. Parks had wanted a connection across the property to the south, but that is not public property. The trees were saved by changing to single family.

Carstens requested to delete Condition #1.1.2 which requires the extension of Maplewood Court into the private apartment complex driveway. They do not want to cross the detention cell and it would bring too much traffic from the apartment complex into this site.

Carstens also requested to delete Condition #1.1.3 They have done many, many duplex projects with 25' roadway. As a compromise, the developer would offer to prohibit parking on the north side of Maple Village Drive, the east side of South 77th and the north side of

Maplewood Court.

Carstens also requested to delete Condition #1.1.4 which requires sidewalks on both sides of Maple Village Drive. It would be impossible to shift the roadway over due to utility poles and a garden shed on the property next door. There will be a sidewalk on the west side.

Carstens requested to delete Condition #1.1.6 which requires the extension of a sidewalk to the bike trail from South 77th Court. This would require crossing private property.

Carstens also requested to delete the sidewalk connection from Condition #1.1.7.

Steward inquired whether the developer has explored other possibilities for the trail connection. Carstens advised that that property runs the whole length of this property. That property owner is not interested in an easement or connection on their property.

Carlson was concerned about future ideas to put something that backs up to the trail. Carstens stated there to be just one single family lot and it would not have enough frontage for another dwelling unit.

There was no testimony in opposition.

Staff questions

Schwinn inquired whether the staff is still recommending deferral. Brian Will stated that the staff would revise their recommendation to approval, with conditions. The deferral was based upon concerns over the driveway, the alignment of the roadway and the sidewalks.

The staff is opposed to deleting Condition #1.1.2. The staff believes it is feasible and in everyone's interest to make that connection for traffic and pedestrian circulation.

Staff does not object to the deletion of Condition #1.1.6 since the abutting lot along the boundary is separate private ownership.

Staff agrees with the proposed amendment to Condition #1.1.7, which deletes the sidewalk connection with the outdoor recreation plan.

Dennis Bartels of Public Works advised that there is no way to build a private street to meet design standards with a 25' strip of ground. He was concerned about a 24' street with paving 6" from the adjoining property. Public Works could live with the 24' width with no parking.

Steward was surprised by Condition #1.1.2. Why would we mix this development with the

parking lot of an apartment complex by requiring that connection? Bartels explained that it has to do with the length of the street system and the desire to have another way in and out. Steward does not think it seems logical. Bartels agreed that it could be confusing. Carlson inquired about how to accommodate sidewalks on Maple Village Drive on the north. Bartels explained that it is not in keeping with the ownership of the lot within this application. The utility pole could be moved. But it would take a combination of the apartment complex with this complex to effect a design change that would allow the sidewalk to be built or the street widths to be met.

Will had anticipated some unanimous agreement on the motions to amend and the staff recommendation of deferral was in hopes of having consensus. If the Commission wishes to take action today, the staff would be opposed to deleting Condition #1.1.2. Will also suggested adding Condition #1.1.8 that "Lots 23-25 provide the rear yard setback for the R-3 district". Originally, the staff had understood the adjacent property to be public property. Understanding that it is a private property owner, the staff would agree to delete the sidewalk connection, but because this is a rear yard abutting another property owner, the appropriate setback should be maintained, which is 20%. They are currently showing somewhat less than a 7' rear yard setback.

Carlson asked for the staff's rationale for Condition #1.1.2. Will explained that if both properties were not owned by the same person, the staff might not be asking for this. But we do know it is the same property owner and it just makes sense to provide connectivity for pedestrian and vehicular traffic while we have the opportunity. Without it there is only one way in and one way out of this development. It was an opportunity to facilitate access to the area.

Response by the Applicant

With regard to Condition #1.1.2, Carstens advised that when these units are built and sold, the outlots will be turned over to the association and these developers will have no ownership. This proposal is for 35 units. 40 units would be allowed. In addition, they are not exceeding the maximum length of the cul-de-sac.

With regard to the rear yard setback along the trail, Carstens pointed out that the revised site plan shows 12' and it might be possible to get close to 20' on Unit 23. Unit 22 would have to be modified. They would be willing to go to 12' or 15' for the rear yard setback. Schwinn pointed out that the adjacent neighbor could build a building in their rear yard close to the property line.

Carlson inquired about pedestrian motion coming in off of Cherrywood. Carstens advised that there is a sidewalk on the west side of Cherrywood.

CHANGE OF ZONE NO. 3407
ADMINISTRATIVE ACTION BY PLANNING COMMISSION: June 11, 2003

Steward moved approval, seconded by Larson and carried 6-0: Larson, Steward, Carlson, Duvall, Krieser and Schwinn voting 'yes'; Bills-Strand and Taylor absent.

SPECIAL PERMIT NO. 2017
ADMINISTRATIVE ACTION BY PLANNING COMMISSION: June 11, 2003

Steward moved to approve, with conditions, with amendments as requested by the applicant, plus an additional Condition #1.1.8 to require the standard rear yard setbacks for Lots 23, 24 and 25, seconded by Larson.

Schwinn understands the connectivity issue with staff's recommendation and he believes the developer should seriously consider it. As an aside, two weeks ago he was in Denver and toured two of the cutting edge projects in the country today and he stopped in the University Neighborhood in Denver. They walked that neighborhood and talked to the neighbors and they were all standing in the street. There were no sidewalks anywhere in that neighborhood. He does not think the concern about the pedestrian entry and exit is all that important.

Carlson disagreed with the issue regarding pedestrian motion.

Motion for conditional approval, with amendments, carried 6-0: Larson, Steward, Carlson, Duvall, Krieser and Schwinn voting 'yes'; Bills-Strand and Taylor absent.

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Schwinn left at this point and Vice-Chair Steward chaired the remainder of the meeting.

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COMPREHENSIVE PLAN AMENDMENT NO. 03004
SOUTHEAST UPPER SALT CREEK WATERSHED MASTER PLAN.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: June 11, 2003

Members present: Larson, Steward, Carlson, Duvall and Krieser; Schwinn, Bills-Strand and Taylor absent.

Staff recommendation: Approval.

Ex Parte Communications: Duvall reported that he had a call from Mark Hunzeker to talk about the engineering issues.

Steve Henrichsen of Planning staff submitted a memorandum from Nicole Fleck-Tooze of Public Works & Utilities, offering an amendment to the Master Plan.

Proponents

1. Glenn Johnson, Lower Platte South NRD, discussed the watershed master planning process. Several years ago, the city and NRD jointly embarked on a program to develop a stormwater comprehensive master plan for the entire city and its growth areas outside the city. This more comprehensive approach was needed to replace the site specific, problem specific responses to localized flooding problems, runoff from new subdivisions, floodplain changes, channel degradation, erosion, water quality impairments and other after-the-fact retrofit projects. Watersheds are dynamic systems and what happens in one location can affect other locations in the watershed. The comprehensive planning looks at the entire watershed, what and where the known problems are; develops interactive hydraulic and hydrologic models to look at the changes in the future; looks at the future planned conditions to evaluate and predict what those impacts would be; and then identifies applicable projects or programs to either alleviate the problem that exists there now or hopefully avoid some of the problems in the future.

Johnson explained that the ultimate goal is to have one comprehensive integrated stormwater plan. They began with the Beal Slough Basin Master Plan as the pilot program, which has been completed and adopted and efforts are being made to implement those recommendations. That was followed by the Southeast Upper Salt Creek Watershed and preliminary work on Little Salt Creek. Next is Stevens Creek east of Lincoln and Cardwell Branch southwest of Lincoln. It is an opportunity to be proactive by getting into the basins on the edge of the city.

The public process involved in this particular plan went on about 2 years, with four public open houses at various stages in the study; it has gone through a number of specific meetings on site or one-on-one meetings with property owners within the watershed. The staff has tried to encourage input at each level of the study.

2. John Cambridge, HDR, explained that this watershed is on the south side of Lincoln, approximately 8.3 miles in size and it is largely undeveloped in the lower portion, being ag land, and in the upper portion it has been developed as large lot acreages, starting 35 years ago. It is projected that the only undeveloped area near 70th and Rokeby Road will develop in a like manner. The projected land use downstream of what would be 48th Street is in the Tier I development area that is likely to develop in the next 25 years. The staff has looked at that projected land use and what would happen if there were no master plan in place and found that on the main stem, the two-year storm would increase by about 45%; 10-year by 20% and 100 year by 15%. On the tributaries larger than that, the tw-year would increase between 50-70% and 30-45% for the 100 year storm. Currently, there are about 10 houses that are in or near the existing 100 year floodplain and those will be addressed in the master planning process. There are about 5,000 lineal feet of stream that are currently at risk of having some sort of channel instability. If we don't do anything, we will have another 10,000 lineal feet of channel to deal with.

Cambridge further explained that the plan as proposed would eliminate flooding to the existing houses, except for one, by preserving the existing 100 year floodplain and building detention ponds. Consideration has also been given to a compromise between the minimum corridor and the existing 100 year floodplain. Water quality improvement is a significant portion of the master plan. As areas urbanize, the water quality impacts are felt. The plan proposes 11 constructed stormwater wetlands at the bottom of each subbasin to help improve water quality. If the 11 sites were located outside the watershed, the land rights would increase. The plan also proposes 3 detention ponds, two located near 70th & Yankee Hill Road, that would address flooding for the existing houses; another site is located by So. 38th Street. Two of those would be undersized culverts with no permanent pool. The third site would have a permanent pool and additional flood storage and is not a road structure.

Cambridge advised that the estimated cost for the master plan is about 8.4 million dollars. The compromised plan with additional detention ponds with reduced floodplain preserved would be 3.7 million dollars more.

3. Nicole Fleck-Tooze, of Public Works & Utilities, advised that there are two components of the amendment proposed today: 1) to adopt the watershed plan as an approved subarea plan of the Comprehensive Plan; and 2) to amend the land use plan to change the designation of the area identified as 100 year floodplain to “green space” and “agricultural stream corridor” to be consistent with how other floodplain areas are shown in the Comprehensive Plan. The watershed master plan really has three parts: generally to identify the needs for stormwater and floodplain management, to identify capital projects needed to address flood control, water quality and stream stability, and to provide a database of watershed information and computer modeling to be used as analysis tools to respond to future growth within the basin.

Fleck-Tooze advised that the staff team has had some conversations with individual landowners within the watershed boundary and tried to respond to their concerns. In response to some of those discussions, she proposed adding the following text to the proposed amendment at the end of page ES4:

> <u>Concept Plan A, as reflected in the components of the Southeast Upper Salt Creek Watershed Plan, is intended to be a goal to provide guidance for future development and capital projects in the SEUSC watershed. Specific Master Plan components are identified to address the impacts of future development upon water quality, stream stability and flood hazards. As the basin develops, individual sites are expected to utilize the Master Plan as a guide and to be in general conformance with the Plan. It is anticipated that encroachments into the floodplain may occur, as evaluated on a case by case basis, if the developer meets the spirit and intent of the Master Plan. This would include offsetting impacts of the development upon flood storage and conveyance, water quality and stream stability.</u>

Fleck-Tooze believes the staff has had great success in working with the property owner between 27th and 40th, Yankee and Rokeby, in trying to develop a concept that provides flexibility for development but yet meets the spirit of the plan. There are other concerns that have been raised.

Fleck-Tooze again advised that this proposal has gone through a public process with four open houses and notices were sent to the property owners in the watershed for each meeting. The staff has also met with individual property owners. Fleck-Tooze does respect that there have been some changes in ownership and representation since the process began, and there was also a problem with the assessors records in terms of addressing. She believes that there may be a request for a lengthy delay; however, this process began two years ago and the staff would prefer only a two or four week delay to allow time for some additional meetings and evaluation. There is an approved stormwater bond issue that includes some funding for the capital components of the master plan. This is a window of opportunity to provide some flexibility prior to development.

In addition to strong emphasis on water quality, stream stability and flood hazards, Steward noted that other planning issues in watershed planning come to mind, which are sanitary sewer easement locations, public access to the natural environment and potential, or certain designated possibilities for public recreation. Does the plan at this stage cover these elements? Fleck-Tooze believes that it does. It speaks to multiple opportunities and riparian corridors being opportunities for multiple benefits and potential public access. She indicated that this approach will be followed as we move toward implementation. It makes sense to purchase the sanitary sewer easement at the same time we purchase the conservation easement. For example, there have been discussions about including some trails, park space, etc., on the Jerry Maddox property between 27th and 40th.

4. Tim Knott, appeared on behalf of himself, the **Audubon Chapter** and the **Friends of Wilderness Park.** He believes this is the kind of thing we need to be doing in the future in Lincoln to avoid problems regarding development of the floodplain. We need to plan ahead. It looks like the floodplain is respected in these smaller stormwater plans and he thinks this plan should be supported.

5. Mark Hunzeker appeared in a neutral position on behalf of **John Sampson, the Lococo property and Don Oelling,** and maybe one or two others. The Lococo property is located roughly at 38th and Saltillo Road. He thought there had been an agreement to a four-week deferral in his conversation with Steve Henrichsen of the Planning Department today. He would like a longer delay but he understands the desire to keep moving. It is important to understand that a lot of people who went to some of the public meetings did not come away with the understanding or the impression that large amounts of their land were going to be delineated or designated as open space. Nor did he. His clients have hired an engineer who will be verifying the information in the study. He believes there is reason to believe that we can at least reach some compromises that may very well bring us all back here in four weeks in agreement. He would appreciate a four week deferral and

he believes Planning staff is in agreement.

6. Sonja Heckel, 8031 Arrow Ridge Road, is a co-trustee on two family trusts that own land that she now finds is greatly affected by this study. She supports Mr. Hunzeker's request for a delay. She did attend one of the meetings held at the new South Branch Library. She thought it was an open house (come and go) and she walked in about half-way through the presentation. She is not an engineer and does not understand all the maps. After the presentation, they opened it for questions. She asked the representative from Olsson about the impact this will have on her property. He helped her find the property on the map. It is located at 27th and Rokeby Road and she was told the study would not have any impact on her land. But now, when she sees the map, it takes about one-third of her quarter section and she is very frustrated. Had she been told this at the open house, she would have been more active in the process.

7. Peter Katt appeared on behalf of **Janet Jodais,** property owner of 1/4 section on the south side of Saltillo Road on 38th Street. He believes that, in general, the property owners did not realize the significant impact this would have on their property until it was presented in this format. He believes that a delay will be beneficial.

Staff questions

Steward asked whether staff agrees with the request for a four-week deferral. Steve Henrichsen indicated that this is acceptable to the city.

Larson moved to defer, with continued public hearing and administrative action scheduled for July 9, 2003, seconded by Carlson.

Carlson appreciates the work staff has done to this point. It is really important to get out in front on these issues and he understands there are impacts, but we should be talking about it while it is cornfields and before it becomes the city.

Motion carried 5-0: Larson, Steward, Carlson, Krieser and Taylor voting 'yes'; Schwinn, Bills-Strand and Taylor absent.

COMPREHENSIVE PLAN AMENDMENT NO. 03016
TO CHANGE FROM "ENVIRONMENTAL RESOURCES"
TO "INDUSTRIAL" ON PROPERTY LOCATED BETWEEN
SALT CREEK AND ARBOR ROAD, WEST OF N. 70TH STREET.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: June 11, 2003

Members present: Larson, Steward, Carlson, Duvall and Krieser; Schwinn, Bills-Strand and Taylor absent.

Staff recommendation: Approval, as revised on June 9, 2003.

Ex Parte Communications: None.

Duncan Ross of Planning staff reviewed the revised staff recommendation. The proposal identifies mitigation to preserve wetlands and the request for industrial on the remaining portion currently designated as environmental resources. The staff recommendation includes the mitigated and preserved wetlands that have been identified; however, it also includes and maintains a 500' buffer from wetlands categorized as Saline and Category II that are on the property to the west.

Proponents

1. Peter Katt appeared on behalf of **Dwaine Rogge.** Since the Planning Commission will lose its quorum in 10 minutes, he suggested another two week deferral to allow him to give an adequate presentation. The discussion that has been ongoing since the deferral is between the environmental professionals and it is really a discussion by the SWAT team (the Saline Wetlands Action Team), and they are still trying to reach consensus about how to treat this amendment. He believes the SWAT team is scheduled to meet tomorrow.

Steward commented that this is an important issue that should have participation from more than just five Commissioners.

Larson moved to defer two weeks, with continued public hearing and administrative action scheduled for June 25, 2003, seconded by Duvall and carried 5-0: Larson, Steward, Carlson, Duvall and Krieser voting 'yes'; Bills-Strand, Taylor and Schwinn absent.

2. Julie Godberson appeared on behalf of the **Nebraska Game and Parks Commission,** and expressed appreciation for the deferral. The Game and Parks Commission supports the SWAT team in terms of their determinations. Ted LaGrange, the wetlands scientist at Game and Parks is one of the chairs on that committee. He was not able to be out on the Rogge property and is not able to be here today. As a representative of an environmental agency that is concerned for the saline wetlands, she stated that Game and Parks does not support an amendment of any kind that would allow industrial buildings to be put on that area. Game and Parks would recommend that the area remain Category II and that the buffer remain as is.

Steward stated that it will enrich the Commission's deliberations if all of the expert testimony is before the Commission at the same time.

There being no further business, the meeting was adjourned at 4:55 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on June 25, 2003.

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