MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, September 5, 2012, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Leirion Gaylor Baird, Greg Butcher, Michael Cornelius, Wendy Francis, Chris Hove, Jeanelle Lust, Lynn Sunderman and Ken Weber; Marvin Krout, Steve Henrichsen, Ed Zimmer, Brian Will, Sara Hartzell, Stacey Groshong Hageman, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Chair Michael Cornelius called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Cornelius requested a motion approving the minutes for the regular meeting held July 25, 2012, which was held over from the last meeting. Motion for approval made by Francis, seconded by Hove and carried 5-0: Cornelius, Francis, Hove, Sunderman and Weber voting 'yes'; Gaylor Baird, Butcher and Lust abstaining. Although absent from the July 25th meeting, Sunderman stated that he read the minutes and would vote in favor in order for the motion to pass).

Cornelius then requested a motion approving the minutes for the regular meeting held August 22, 2012. Motion for approval made by Hove, seconded by Lust and carried 6-0: Gaylor Baird, Butcher, Cornelius, Hove, Lust and Sunderman voting 'yes'; Francis and Weber abstaining.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **September 5, 2012**

Members present: Gaylor Baird, Butcher, Cornelius, Francis, Hove, Lust, Sunderman and Weber.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 12010A.**

Ex Parte Communications: None

Item No. 1.1, Special Permit No. 12010A, was removed from the Consent Agenda and scheduled for separate public hearing.

ANNEXATION NO. 12004
and
CHANGE OF ZONE NO. 12027
FROM AGR AGRICULTURAL RESIDENTIAL DISTRICT
TO R-3 RESIDENTIAL DISTRICT,
ON PROPERTY GENERALLY LOCATED
AT S. 84TH STREET AND AMBER HILL RD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 5, 2012

Members present: Gaylor Baird, Butcher, Cornelius, Francis, Hove, Lust, Sunderman and Weber.

Staff recommendation: Approval, subject to submittal of a preliminary plat or community unit plan.

There were no ex parte communications disclosed.

The Clerk announced that the applicant has requested a deferral of the public hearing until October 3, 2012.

Francis moved deferral, with continued public hearing and action scheduled for October 3, 2012, seconded by Lust and carried 8-0: Gaylor Baird, Butcher, Cornelius, Francis, Hove, Lust, Sunderman and Weber voting 'yes'.

There was no public testimony.

SPECIAL PERMIT NO. 12010A
AN AMENDMENT TO THE
CECH ADDITION COMMUNITY UNIT PLAN
TO ALLOW A PORCH IN THE REAR YARD SETBACK
ON PROPERTY LOCATED AT 4010 CLIFFORD DRIVE.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 5, 2012

Members present: Hove, Sunderman, Lust, Weber, Butcher, Baylor Baird, Francis and Cornelius.

Staff recommendation: Conditional Approval

There were no ex parte communications disclosed.

Staff presentation: **Brian Will of Planning staff** explained that this is an amendment to the Cech Addition Community Unit Plan which was recently approved by the Planning Commission. The original community unit plan created three lots. This is a request to further adjust the rear setback from 14 feet to 10 feet to allow for a small deck on the back of the house located on Lot 2. The proposed deck (landing) is 4 feet by 7 feet, and is intended to serve only as a landing to access the at-grade concrete patio in the rear yard. Originally the setback was adjusted down to 14'. This is a request to further adjust that setback from 14' to 10'.

The ordinance does allow decks/patios to project into the required rear yard provided they don't extend more than 3' or 3' below the grade of the rear yard. This happens to be 4'. This finished grade elevation was unanticipated by the builder. In regard to the letter in opposition, Will clarified that this adjustment is just for the rear landing from the stairs down to the patio.

Lust has some sympathy for the opposition in that this is the third request for special circumstances on this particular property. Is that unusual in your experience? Will explained that the first request was the original special permit for the CUP. The second request was to waive the sidewalk. The staff and Planning Commission did not support that request. This is now an amendment to that special permit. Ideally, this adjustment would have been considered with the original special permit had the applicant or builder anticipated it. It is not hugely unusual, and the staff would have recommended approval of the adjustment in the original CUP application, given the site is unique – it's a small lot and the lack of depth in the rear yard makes this adjustment necessary.

Gaylor Baird inquired whether the staff ever assigns additional conditions of approval in situations like this that would help mitigate the concerns, such as those in the letter in opposition, i.e. the sight lines and privacy. There are certainly ways to address those concerns. Have you had any discussions with the applicant about those? Will stated that the most immediate concern was the property owner to the south. He does not believe the letter in opposition is from the property owner to the south. She did not provide an address. Part of the logic here was that the house immediately adjacent to the south is oriented east/west. In a lot of ways, this functions as a side yard. The typical distance between the homes would be 10'. We have more than that now. Staff did not believe that this required any conditions to mitigate any impact – that this was a typical, customary normal appurtenance off of the rear of the home.

Proponents

1. Mike Eckert appeared on behalf of **Brian Russell with Russell Remodeling** who is building a house on this property. Elaborating on what Will has said, Eckert explained that when the builder drew up the plans for this house, he looked at the grade of the property and anticipated the finished floor elevation based on the curb and the sidewalk/street in front of the property, with a little drop off at the back. At that point he anticipated having to

have 3 steps with a 21" drop from the back patio door down to the grade of the back yard. When he applied for building permit (this is something new), Building & Safety said we now want you to have 2' of rise from the back of the curb of the cul-de-sac to the finished floor elevation of the first floor of the house. The builder agreed to bring the finished floor up 2' from the back of the curb. Eckert and other developers are also seeing on multi-family projects. There was a 10-year storm event back in April, where some projects that were relatively new had some issues and some buildings got flooded. What we have here is something that was in the code that was never enforced by Building & Safety, and now they are doing that. As a result, when the builder thought he was going to have 21" drop he could do three steps. Three steps out of a house does not require a foundation footing. Adding two more feet adds three more steps. Now he has to have six steps and Building & Safety is requiring a foundation footing.

Eckert showed a survey of the property. The intent is to bring the landing area out the minimum 3'6", being close to 4' with railings, etc. He can only come out four feet. Then he wants to run it the width of the sliding glass doors, which is 6', plus an extra foot and then six steps down to the slab-on-grade patio in the back yard. There is no reasonable way that any furniture or anything could be put out there, but he has to put a stoop underneath that 3'6" x 7' area.

When the original CUP was approved, the front yard setback was adjusted so that the building could be moved as close to the street as possible. This is an infill lot, encouraged by and in compliance with the 2040 Comprehensive Plan. Now we have a young homebuilder trying to follow multiple directions, and when it went from Planning to Building & Safety, he was required to adjust the finished floor, which is the reason for this application.

With regard to the neighbor in question, Eckert pointed out that over to the west/left, the air conditioner is connected to the house and extends out about 3'. He believes this is a minimal encroachment. The only reason we are here today is because Building & Safety required the builder to raise the elevation, requiring six steps instead of three.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: September 5, 2012

Francis moved to approve the staff recommendation of conditional approval, seconded by Hove.

Francis indicated that she can appreciate the person who wrote the letter in opposition being concerned about invasion of privacy, but she does not view this as anything more than an access out of a house.

Lust believes it is reasonable.

Motion for conditional approval carried 8-0: Gaylor Baird, Butcher, Cornelius, Francis, Hove, Lust, Sunderman and Weber voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

COUNTY CHANGE OF ZONE NO. 12025,
TEXT AMENDMENT TO THE LANCASTER COUNTY ZONING RESOLUTION
and
COUNTY MISCELLANEOUS NO. 12010,
TEXT AMENDMENT TO THE LANCASTER COUNTY LAND SUBDIVISION RESOLUTION.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 5, 2012

Members present: Hove, Sunderman, Lust, Weber, Butcher, Baylor Baird, Francis and Cornelius.

Staff recommendation: Approval

There were no ex parte communications disclosed.

Staff presentation: **Sara Hartzell of Planning staff** presented the text changes to the Lancaster County Zoning Resolution and Land Subdivision Resolution. Currently, the text in both of these resolutions contains language describing the amount of the application filing fee for different zoning and subdivision applications, which is identical to what the city's zoning and subdivision text used to show.

In 2008, the city removed the reference to the fees in the zoning and subdivision ordinances to expedite the process needed to change the fee schedule. By doing the same in the county regulations, the resolution adopting the fee schedule can now go directly to the County Board rather than coming through the Planning Commission process. Another reason this change was made in the city regulations and is being proposed in the county regulations is that the Planning Commission's role is to focus more on land use issues and public facilities, rather than budgetary issues in general.

The proposed new fee schedule attached to the staff report will be presented to the County Board as a separate resolution and is nearly identical to the city fee changes that were adopted by the City Council in August, 2012. This is also an attempt to simplify the ways that the fees are calculated.

There was no testimony in opposition.

COUNTY CHANGE OF ZONE NO. 12025
ACTION BY PLANNING COMMISSION: September 5, 2012

Lust moved approval, seconded by Francis.

Cornelius commented that this is pretty straight forward and he agrees that it makes sense to streamline the county regulations in similar ways as the city regulations are structured.

Motion for approval carried 8-0: Hove, Sunderman, Lust, Weber, Butcher, Gaylor Baird, Francis and Cornelius voting 'yes'. This is a recommendation to the Lancaster County Board.

COUNTY MISCELLANEOUS NO. 12010
ACTION BY PLANNING COMMISSION: September 5, 2012

Lust moved approval, seconded by Francis and carried 8-0: Hove, Sunderman, Lust, Weber, Butcher, Gaylor Baird, Francis and Cornelius voting 'yes'. This is a recommendation to the Lancaster County Board.

CHANGE OF ZONE NO. 12026
FROM R-6 RESIDENTIAL DISTRICT TO
R-6 RESIDENTIAL DISTRICT HISTORIC LANDMARK
and
SPECIAL PERMIT NO. 12030,
FOR HISTORIC PRESERVATION,
ON PROPERTY LOCATED AT 2530 AND 2548 Q STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 5, 2012

Members present: Hove, Sunderman, Lust, Weber, Butcher, Baylor Baird, Francis and Cornelius.

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

There were no ex parte communications disclosed.

Staff presentation:

1. Ed Zimmer of Planning Department presented the proposal for designation of the Dr. O.C. Reynolds House as a historic landmark. This is a 1905 house built of full concrete block at 26th & Q Streets on the north side. It was advertised at the time as "new building material". It is very substantial in its design and construction; rather ornate in finish with alternating pattern of narrow and wide blocks; bay windows on the west side; contrasting material of the molded block – this block was usually used for the foundation of a building

rather than the entire house; the house still retains some of its nice woodwork on the exterior and interior. This application includes three lots with 150' of frontage on Q Street because it appears reasonable for the views of the house to have all three lots included in the landmark. There are presently two garages to the rear, the smaller of which will be removed and the larger garage will be used as a classroom.

Zimmer advised that the Historic Preservation Commission has reviewed this application and recommends approval, with the standards and preservation guidelines which are typical of landmarks.

Lust wondered whether the small garage has any historical significance. Zimmer stated that it is the older of the garages. It is a nice piece but in providing appropriate parking for the new use, something has to go. They considered parking in the side yard but that had much more impact on the residential character of the neighborhood and it really seems a better choice to provide the parking off the alley. This house was built for Dr. Reynolds who was chief of staff at St. Elizabeth Hospital. At that time, St. Elizabeth was the only general hospital in Lincoln.

2. Stacey Hageman of Planning staff presented the proposed special permit application, which is contingent upon the approval of the landmark designation by the City Council. The applicant, NeighborWorks, is proposing to use the house as their office, an educational center and meeting space. It fits well within the area with dense residential across the street. They are proposing to use the garage in the back as a classroom space, requiring a waiver of the rear yard setback. There is a small addition to the garage that is very inconspicuous. They are also proposing a handicap ramp that would connect to the front porch.

The special permit requests that the parking requirement be reduced to 11 stalls. Currently the requirement for office use would be 16 stalls based on the square footage of the house, and the assembly space in the garage would require 18 stalls. If the property were developed as multi-family use, it would require up to 34 parking stalls. There is on-street parking available along 26th Street. The alley will be paved. The easternmost parking stall encroaches into that front yard, thereby requiring a reduction of the front yard setback.

The staff recommends conditional approval. The architectural details of the renovations and additions, the proposed signage and alterations of the landscape will be submitted for approval to the Historic Preservation Commission. The Historic Preservation Commission also reviewed this special permit and recommends approval.

Support

1. Mike Renken, NeighborWorks Lincoln, the applicant, advised that NeighborWorks has been a 501(c)3 nonprofit for 26 years with a mission to keep Lincoln safe and prosperous through neighborhood revitalization and home ownership. Malone has been

a predominant neighborhood for NeighborWorks where many rehabs have been done. The office is now located in a temporary facility at 23rd & Q. That location occurred because of the Matt Talbot facility moving out to the Carnegie Library. The subject property surfaced last summer and NeighborWorks felt this would be a great way to find a new home and do some good in a neighborhood.

NeighborWorks is excited about the opportunity to move into a home and not change it from a home to make it an office. It will be utilized as it is. Thus, it can be de-converted at any point in time and return to home ownership.

Renken advised that NeighborWorks did meet with the Hawley Area Association and there was unanimous approval. They also sent out 14 letters to the surrounding neighbors and met with them last Thursday, with just one person attending and in support.

Francis inquired whether central air would be added to the garage for its use as a classroom. Renken stated that it would. Renken added that because of Antelope Creek and TIF financing, NeighborWorks has also made a commitment to the City to use the meeting room for public meetings and to also use the parking.

2. DaNay Kalkowski, appeared on behalf of the applicant, pointing out that Condition #3 in the special permit contains an incorrect reference to Title 27. It should be §27.63.400 instead of §27.69.400.

There was no testimony in opposition.

CHANGE OF ZONE NO. 12026
ACTION BY PLANNING COMMISSION: September 5, 2012

Francis moved approval, seconded by Lust.

Francis believes this is a great use for this building and a great solution for NeighborWorks' office space.

Lust believes this is a great example of redevelopment in the neighborhood; the kind of project that we are encouraging through the Comprehensive Plan; she loves it when the Historic Preservation Commission gives the Planning Commission a report. She is thrilled with the entire project.

Gaylor Baird pointed out that it meets two of the three standards in terms of being designated as a landmark; it is associated with a historical person of significance in our community. It also meets the standard of having a distinctive architectural feature which is a clear case for landmark status. We have heard today that this allows for a really good opportunity for rehabilitation and productive reuse. The applicant has stressed the care that has been taken to maintain this home in a way that it actually could be de-converted

to use as a home, so there is special attention given to the historic nature of this building; the parking is not as intensive as it might otherwise be; and we have heard that the neighborhood association supports it and there is some public benefit to be gained by approving this. She wholeheartedly supports both the change of zone and special permit.

Motion for approval carried 8-0: Hove, Sunderman, Lust, Weber, Butcher, Gaylor Baird, Francis and Cornelius voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 12030
ACTION BY PLANNING COMMISSION: September 5, 2012

Francis made a motion to approve the staff recommendation of conditional approval, with the amendment to Condition #3 requested by the applicant, seconded by Lust, and carried 8-0: Hove, Sunderman, Lust, Weber, Butcher, Gaylor Baird, Francis and Cornelius voting 'yes'. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 1:45 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on September 19, 2012.

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