MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, January 9, 2013, 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, Tracy Corr, Wendy Francis, Chris Hove, Jeanelle Lust, Dennis Scheer, Lynn Sunderman and Ken Weber; Michael Cornelius absent; Marvin Krout, Steve Henrichsen, Brian Will, Christy Eichorn, Tom Cajka, Paul Barnes, Ed Zimmer, David Pesnichak, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Vice-Chair Wendy Francis called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Francis welcomed and introduced the two new Planning Commission members, Tracy Corr and Dennis Scheer, who have been appointed to fulfill the unexpired terms of Dick Esseks and Greg Butcher.

Francis requested a motion approving the minutes of the regular meeting held December 12, 2012, as amended on page 16 at the request of Commissioner Weber. Motion for approval, as amended, made by Lust, seconded by Hove and carried 5-0: Gaylor Baird, Francis, Hove, Lust and Weber voting 'yes'; Corr, Scheer and Sunderman abstaining; Cornelius absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **January 9, 2013**

Members present: Gaylor Baird, Corr, Francis, Hove, Lust, Scheer, Sunderman and Weber; Cornelius absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 10014A, CHANGE OF ZONE NO. 12033, MISCELLANEOUS NO. 12018, SPECIAL PERMIT NO. 12038, SPECIAL PERMIT NO. 12039, STREET AND ALLEY VACATION NO. 12009 and STREET AND ALLEY VACATION NO. 12010.**

There were no ex parte communications disclosed.

Item No. 1.1, Change of Zone No. 10014A, and Item No. 1.3, Special Permit No. 12038, were removed from the Consent Agenda and scheduled for separate public hearing.

Lust moved approval of the remaining Consent Agenda, seconded by Weber and carried 8-0: Gaylor Baird, Corr, Francis, Hove, Lust, Scheer, Sunderman and Weber voting 'yes'; Cornelius absent.

Note: This is final action on Special Permit No. 12309, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days.

COUNTY CHANGE OF ZONE NO. 12038
FROM AG AGRICULTURAL DISTRICT TO
AGR AGRICULTURAL RESIDENTIAL DISTRICT,
ON PROPERTY GENERALLY LOCATED
AT NW 126TH STREET AND W. BLUFF ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: January 9, 2013

Members present: Sunderman, Lust, Weber, Hove, Corr, Gaylor Baird, Scheer and Francis; Cornelius absent.

The Clerk announced that the applicant has submitted a written request for two-week deferral.

Hove moved to defer, with continued public hearing and action scheduled for Wednesday, January 23, 2013, seconded by Gaylor Baird and carried 8-0: Sunderman, Lust, Weber, Hove, Corr, Gaylor Baird, Scheer and Francis voting 'yes'; Cornelius absent.

There was no public testimony.

CHANGE OF ZONE NO. 10014A,
AN AMENDMENT TO THE NORTHWOODS
PLAZA PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED
AT NORTH 84TH STREET AND HOLDREGE STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: January 9, 2013

Members present: Sunderman, Lust, Weber, Hove, Corr, Gaylor Baird, Scheer and Francis; Cornelius absent.

There were no ex parte communications disclosed.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda due to three letters received in opposition.

Staff presentation: **Tom Cajka of Planning staff** explained that this is an application to amend an existing PUD, the only change being to increase the residential density from 80 units to 150 units by combining three lots into one. Lots 7, 8 and 10 will be combined into one large lot for a proposed apartment complex with some changes to the parking area. Nothing in the existing 50' outlot along the southern line that was previously established will be changed. The outlot is to be used as a buffer between the apartment/commercial area and the single-family residential to the south. The aerial map shows a line of existing mature trees along both the south and the west boundaries that would be next to the proposed apartment complex.

Cajka acknowledged that three letters in opposition have been submitted from neighbors in the corner of the site.

The only other change proposed is to move the pad site for commercial or hotel but the commercial square footage and the hotel space do not change.

Concerns have been expressed about traffic. Cajka advised that the staff researched the traffic counts in the ITE manual for trip generation, which is the standard that traffic planners and engineers use to look at trip generation. Based on that manual, the 150 apartment units would generate 1,008 trips per weekday and 958 trips on Saturday. In comparison, 79,000 square feet of general office (with no medical) would generate 870 trips per weekday and 187 on Saturday. If there was medical office, the trip generation would increase. A 79,000 square feet shopping center would generate 3,392 trips per weekday and 3,947 trips on the Saturday. Chances are that the 79,000 square feet would not be all office nor all shopping center, but a combination. Therefore, it is the Planning staff's conclusion that the apartments would generate about the same amount of traffic as 79,000 square feet of commercial, or possibly less. 79,000 square feet of commercial is what the apartments would replace. If all 150 units were built, the development would lose 79,000 square feet of previously approved commercial space.

Gaylor Baird noted that the letters from the neighbors about traffic congestion also express concern about traffic safety. Have there been any problems in this area with traffic accidents? Cajka was not aware of any and deferred to Public Works. Dennis Bartels of Public Works was in the audience and he indicated that he also did not have any information on the issue of traffic accidents.

Proponents

1. Brad Marshall of Olsson Associates, 1111 Lincoln Mall, stated that he submitted this application for the changes to the PUD on behalf of the developer. He concurs with the trip generation information provided by staff and suggested that under the current plan, the apartment complex would result in a reduction in trips or about the same.

Marshall indicated that the intent is for the pond to stay in the existing location. He has worked with Ben Higgins from Watershed Management to research and to make sure that everything is adequate. It is not a typical detention cell. This area has been master planned with the area to the north and west.

Hove inquired about access and whether it will only be to the north and west. Marshall stated that Northwoods Drive, the access out to Holdrege with the roundabout, will be one of the primary access points as well as on the east side on 84th Street. Those will be utilized for this development.

Gaylor Baird inquired about the plans for landscaping and mitigation efforts for the southern portion of the property that abuts the concerned residents to the south. Marshall stated that there is a 50' buffer adjacent to the south property line with established trees that will remain. There is a considerable amount – roughly 15' – of grade change down to the property that is being discussed for the apartments. There are and have been evergreens and landscaping established along the hotel lot into the entrance. It is the intent that those trees will be transplanted elsewhere on site with this approval.

Marshall also advised that the developer had a meeting with some representatives of the development to the west and discussed the plans and how the elevations of the buildings would affect their homes. He believes most of their questions and concerns were addressed.

Gaylor Baird inquired whether the developer has agreed to plant additional trees. Marshall stated that the previous agreement made with regard to planting additional trees will be honored.

Francis requested to see a rendering showing the elevation of the proposed apartments. **Dave Johnson of Studio 951,** 800 P Street, who has been working with the apartment builder on some layouts and concepts, showed a site plan showing a 27-plex, two 35-plexes and a 45-plex along the east side, which fronts Northwoods Drive to the east, which will be the high side. There will be between 12 and 16 attached garages on each three-story building. Johnson showed a cross-section to the neighbors to the west and south. The distance from the midpoint of the roof to grade is 35'6". The height limit allowed under the PUD is 45'. The apartment buildings will have roof

pitches, overhangs and similar material to the rest of the commercial buildings that have already been established.

Johnson stated that they did have a discussion with the neighbors to the west on Monday about the visual impact. There is approximately 210' from the back of the houses to the face of the apartments, which is also interrupted by a drainageway which is full of trees. The developer is proposing some additional trees on the west side of the proposed building on Northwoods Drive.

For the neighbors to the south, Johnson pointed out that with the existing approved PUD, there were some agreements to provide additional landscape buffer along the green space, which will be honored. They will relocate the trees that will be taken over by the parking lot. Johnson did not have a rendering showing the elevations to the south where there are some single story business buildings. It was pointed out that the neighbors to the south only have a 50' setback where the ones to the west have 150'. Johnson pointed out that under the currently approved PUD, the buildings on the south can be built.

Support

1. Scott Jansen, the practice administrator for **Complete Children's Health** located at 8201 Northwoods Drive, testified at this time, stating that Complete Children's Health is generally in favor of the area being developed; however, they do have a concern about traffic access in and out of the apartments as they are being proposed. The access off of 84th Street which comes into that development is a T intersection. As the traffic increases, Northwoods Drive becomes pretty congested where there is a restaurant and shopping area with a blind turn and it is treacherous during the winter months. This large of a project without adequate access from 84th Street in and out is a concern. It is already a limited intersection. He is fearful that the apartment complex will force more traffic in and out of the access to Holdrege Street which is close to the Complete Children's Health facility. This could cause problems for their patients. The practice is open 7 days a week with patient traffic all seven days. He reiterated that the practice is generally in favor but would like to see some additional modification to how traffic comes in and out of the project.

Hove inquired whether the 84th access will remain a T intersection. Jansen understands that it will remain a T but he did not know for sure. Johnson advised that at this time, it is proposed to remain a T intersection. When the developer did some modifications in 2006-2007, they discussed adding a roundabout at that location in lieu of the T or making it a two-way intersection, but the neighbors to the south were quite vocally against that so the developer chose not to pursue it. However, Johnson believes the developer would look at that favorably.

Opposition

1. Dave Kirby of McCashland Kirby Insurance, 8231 Northwoods Drive, Suite A, testified in opposition. He showed the location of their insurance building on the map. He suggested that the pond is more than just a detention pond – it is how they irrigate all of the green space in all of that area including the area around Runza. There is a well at what was Campbells, now Legends. That well pumps water up into the storm drain, runs down the hill into that pond, and then they have a pump that pumps water out of that pond and it is the irrigation system for not only the grass but all of the plants and landscaping around the whole area at 84th & Holdrege.

Kirby stated that he was testifying on behalf of himself as a building owner. 8231 Northwoods Drive is a condominium split in half. Independent Insurance Agents of Nebraska owns the other half. No one has met with the building owners about this development, and he has major concerns.

Kirby pointed out that there is a roundabout entering into that area off of Holdrege Street. They already see near misses in that roundabout on a daily basis. Two weeks ago after the snow storm there was a semi-truck that tried to go up that hill and had to back down. They just don't need the excess traffic in that little roundabout.

With regard to the traffic counts, Kirby suggested that currently, there are about 50 cars per day going around the roundabout and to the south. A lot of their parking spaces will be taken away with this development. As far as apartments versus small business, he suggested that there would be 1,008 trips per weekday versus a 79,000 square feet shopping center at 870 trips per weekday. The owners of the businesses envisioned more office buildings and more small retail, but certainly not 150 apartment units with people that have more than one car. This could put an estimated 225 or 300 vehicles in that little area. He also guarantees that there will be pop-up campers and travel trailers sitting in that parking lot.

Kirby encouraged the Commissioners to go take a look at the roundabout. He does not believe that many cars going in and out of there is going to work.

Kirby also spoke on behalf of Kent Dodson, a dentist who owns the building immediately to the northeast. There will be a lot of traffic going back and forth through what is their existing parking lot with this development. He understands that some of the apartments have already been approved. These business owners agreed to the existing PUD but he does not believe they agreed to 150 apartment units. The three-story apartment building will be very obtrusive to the business buildings.

Weber inquired about the opposition's concerns with the pond. Kirby expressed concern about children playing near that pond with the additional apartment units. "We as an association have some liability." They just recently put up "no trespassing" signs

and their neighbors were upset because the children used to fish or play around that pond. If you bring in 150 apartments with children, it is a disaster waiting to happen.

Corr inquired whether Mr. Kirby would rather have office buildings than the apartments. He responded, "absolutely, no question about it."

2. Phil Harr testified in opposition on behalf of the **Independent Insurance Agents of Nebraska,** which offices in the same building as Kirby McCashland Insurance at 8231 Northwoods Drive, #B. This business advocates for independent agent members in the state of Nebraska, representing 250-300 insurance agencies. As a part of that, training is done in their offices so there is some periodic traffic with people needing parking spaces. He believes that the loss of parking spaces would be manageable, but it is a concern. Harr stated that he is empathetic that the land owner wants to have some use of that land, but there are concerns about safety. The streets are not publicly maintained, but are maintained by the association. Northwoods Drive has no parking on either side. The roundabout is not anything like the roundabout at 14th and Superior. It is one narrow lane with a walk path on the inside and around the outside. People do miss it a lot and there is a tree in the middle of it. It is not made for any kind of large volume traffic. His primary concern is the traffic flow and the access points. It just seems like too big of a project and too many people for these streets and accesses.

Staff questions

Gaylor Baird sought confirmation that the existing approved PUD allows apartment buildings in the southern location. Cajka responded, stating that the PUD is currently approved for 80 apartment units on Lot 7. The original PUD approval allowed a mixture of residential and commercial, which was not allowed in the underlying zoning district. At the time of the PUD approval, the staff did not require the developer to submit any kind of layout of the apartments. Lot 7 does have the 50' buffer that is heavily screened with mature trees today. The existing trees would meet the design standard for screening between commercial and residential on an apartment complex. The proposal today is for apartments, but Cajka pointed out that in the approved PUD, this lot is also approved for the option of 120 elderly housing units or a 120-unit health care facility, or the other residential type of uses that are allowed. The developer is still wanting to keep those options.

Gaylor Baird clarified then, that if this application is not approved, they can have 120 elderly housing units, 120 units for health care or 80 apartment units along that southern border as high as three stories. Cajka concurred, adding that the developer received a height waiver in the original PUD to increase the height to 55', with the caveat that if they go above 50' they have to set the building back accordingly. The eave height was not to be more than 40'.

Lust confirmed that in order to increase from 80 to 150 apartment dwelling units, they are giving up 79,000 square feet of commercial space, and it is staff's position that this use actually will generate less traffic than the approved commercial. Cajka concurred.

Sunderman asked staff to address the comments about the quality of the road system and whether it can handle this type of use. The question before us today does not change the streets and road system that is already there. Based on the trip generations researched, Cajka stated that the only thing that would be less than 150 apartments would be a total of 79,000 square feet of office use, which would be 138 trips per day less.

Scheer suggested that the Commission should be considering full buildout. Are we talking to a large degree with this traffic conflict about existing internal or the proposed internal traffic system, and are there deficiencies there that need to get worked out by the developer? It is not the staff's responsibility to design but it seems to be a critical issue. Whatever gets approved, we have to assume it could get built out. Cajka stated that all of the streets are private, except for the piece off of 84th Street. If they wanted to take out the roundabout and have wider lanes, he does not believe staff would object. When the development was originally approved as a use permit, the street layout and traffic were reviewed, and based on the traffic projections, the staff does not believe that the apartments are generating any more traffic than what could have been at full buildout without the apartments.

Corr expressed concern about the three-story buildings and whether they could be four-story buidlings. Cajka does not believe the 50' height would allow four-story buildings, but they are currently approved for 50' which would allow three-story. Corr wanted clarification of the difference between what can be built now and what can be built if this application is approved. Cajka stated that they can currently build 80 units on Lot 7 and Lot 8. Steve Henrichsen of Planning staff approached to clarify that the note on the plan referring to 26,000 square feet two-story buildings applies to the commercial use. The residential use will be on Lot 8, where they currently have an option that could have been up to 50' in height. Above 50' in height increases the setback.

If there is a three-story apartment building, Francis wondered how the mature trees on the south can be considered enough buffering. Cajka pointed out that the design standards require that the screen be a 50% screen from 6 to 15 feet above the ground. They are currently in that range and would meet the design standards. But, Francis believes there is a 15' grade difference between those houses and that buildable lot. Cajka observed that Lot 7 looks to be a little lower than the houses. Francis objects to someone on their deck on Rainy River Road looking into the balcony of some of the apartments.

Response by the Applicant

Marshall clarified that today, the applicant is proposing to increase the apartments due to the lot that is designated as the hotel lot. The hotel is approved for 86 units today. In essence, since the residential apartment buildings are approved on Lot 8 which borders the west, we are really not asking for any amendment to those uses as approved today.

Don Linscott of Greenleaf Properties approached to help clarify. He is working with the apartment developer that would purchase this property. One of the things they worked on about four years ago was to try to improve the traffic situation but they were met with opposition from the homeowners and Public Works because it would be going from a private roadway to public roadway with stop lights and stop signs at that intersection. He believes it would improve the transportation for the whole area if that was to happen. He proposed to work on with the apartment developer.

Linscott then clarified that this application basically decreases the number of hotel rooms and substitutes those with apartments. It is a substitution that we are trying to accomplish. Traffic is certainly something that is a major concern that was previously not successful but perhaps they could work on that.

Hove inquired whether the apartment developer will be part of the homeowners association or the association that pays for maintenance of roads, etc. Linscott believes that the apartments will be a part of the association but he does not believe that the current owner of the property has met with the association to work out snow removal on the apartment ground, etc. Some of those discussions will have to be held with the association prior to the time of closing.

ACTION BY PLANNING COMMISSION: January 9, 2013

Lust moved to approve the staff recommendation of conditional approval, seconded by Sunderman.

Sunderman believes the proposed use is a good fit for this area. The concerns about three-story apartment buildings are the same concern, whether under this application or under the original approved PUD that is in place. Those apartment buildings could definitely have gone along the property line to the west and south. Traffic concerns are not going to be any worse. Traffic counts will probably be the same. He believes that the blind corners and people turning the wrong way could both be handled by taking care of some of the vegetation that is around there and perhaps some signage.

Francis lives at 81st and East Avon Drive and she is in that area about every day. She is concerned about allowing up to 150 apartments. She believes the 80 could be doable. The three-story buildings would be detrimental to the area, and the traffic is already quite challenging with just the offices that are there. She will vote to deny.

Motion for conditional approval carried 6-2: Sunderman, Lust, Weber, Hove, Gaylor Baird and Scheer voting 'yes'; Francis and Corr voting 'no'; Cornelius absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 12038
FOR ON- AND OFF-SALE ALCOHOL
ON PROPERTY GENERALLY LOCATED
AT 836 NORTH 70TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: January 9, 2013

Members present: Sunderman, Lust, Weber, Hove, Corr, Gaylor Baird, Scheer and Francis; Cornelius absent.

There were no ex parte communications disclosed.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda due to three anonymous letters received in opposition.

Staff presentation: **Brian Will of Planning staff** stated that the licensed premises will be the separate free-standing building on the southwest corner located in Meadowlane Shopping Center northeast of North 70th Street and Vine Street. This is a request for both on- and off-sale, which is a little different than the typical applications seen by the Planning Commission. The reason that the on- and off-sale permits are combined today is because the ordinance is specific about having a special permit for each.

Will acknowledged that three letters in opposition were received; however, they are anonymous – we do not know where the individuals live or what their special interest may be.

This application was on the Consent Agenda because both special permits meet all requirements for both on-sale and off-sale with no significant issues. The site is at 70th & Vine in a free-standing building occupying approximately 2,000 sq. ft. at the end of that building. It is staff's understanding that it is to be a bar. Anywhere in this entire building that the sale would be located would meet all of the parking, separation requirements, etc. Thus, the staff recommendation adds a condition that should the licensed premises want to reopen in another portion of the multi-tenant building, that that could be done by administrative amendment so long as it meets all the requirements.

Lust inquired whether it is unusual to have an application for both on- and off-sale. Will stated that we do not see very many of them because of the nature that most bars don't have both on-sale and off-sale, but there have been a few.

Corr inquired whether the neighborhood association was contacted during this process. Will indicated that the neighborhood association would have been notified by the Planning Department, and the Planning Department has received no comment.

Francis inquired about the frequency of anonymous letters. Will does not believe that there are very many. Francis takes the position that if the author is not willing to sign their name, it seems like it muddies the water. How do we know the three letters are not from the same party? She suggested that perhaps the letters should not even ben considered if not signed. Will indicated that the staff shares that same opinion.

Marvin Krout, Director of Planning, approached and advised that he did talk with the Chief Assistant City Attorney about anonymous correspondence. This is a case where the original anonymous letter was sent to the City Council and published as part of their public record. He asked the City Attorney's office to look at this issue in general, but in the meantime and until we have a different determination, it was Krout's suggestion to err on the side of being transparent and give the Planning Commission all the information received.

Proponents

1. Theresa Dattola, 4032 Touzalin, the applicant, stated that she wants to open a small, low-key neighborhood lounge – no bands, no food, no game tables. She believes people will come in and out and have a drink or two after getting off work. This will create revenue for the city through the sales and arena tax. It will provide five part-time jobs and one full-time job. She has bartended 26 years with no violations. She has all the training mandated by the state of Nebraska and Lancaster County to be a bar owner and bar manager.

In regard to the letters in opposition, Dattola believes the previous liquor store did quite well, but moved south of town into a much bigger store. She agreed that Kelli's is very close and would be her direct competition but she has no problem with that and has spoken to the owner. Mazatlan and Sportscasters are quite different venues. There are a lot of places to purchase alcohol. This would be a convenient location for off-sale rather than making a separate stop. Children are not allowed in a bar unless accompanied by an adult.

Opposition

1. Sandra Vandewalle, 845 Northborough Lane, acknowledged that she sent the anonymous letters and that she has lived in the neighborhood for 41 years. She has seen the neighborhood change from having many retired couples to what is now young people living on Northborough Lane. There are many school age children in the neighborhood who often walk. There is a day care, a church and a handicap facility in the area. Even though they technically meet the separation requirements, there are

many young people walking on Vine Street before and after school, which is within 100' of the bar. There are a lot of young people who frequent the area and the Ben Franklin Store. There is a church across the street to the south which has a day care facility within ¼ mile, with handicap facilities and those people are seen walking in the area.

It is also Vandewalle's understanding that the entire area could be used for serving alcohol if this is permitted. There are many young teenagers that come to eat in the area at noon. It is not a good plan to have a bar in that location. She also does not understand why you would have people at a bar and allow them to also buy alcohol to take away with them.

Vandewalle observed that, in general, it appears that tobacco has a better chance of being negated more than alcohol in our city. She encourages the idea of promoting clear drinking water. Many neighbors in the area do not drink and we don't want people coming into our neighborhood for purposes of drinking at a bar.

Vandewalle only heard about this a week ago, so she does not believe it should have final action today.

Staff questions

Francis asked staff to discuss the separation measurements. Will explained that both special permits are essentially identical in that respect. The ordinance requires that the licensed premises maintain a 100' separation from residential zoning district and other residential uses. It is not true that they could have alcohol anywhere within the shopping center. It is only the subject building that would meet the requirements. It meets the required separation to the residential district across the street as well as the church and residential zoning district to the south. In fact, it well exceeds the 100' separation requirement.

There was no response by the applicant.

ACTION BY PLANNING COMMISSION: January 9, 2013

Lust moved to approve the staff recommendation of conditional approval, seconded by Sunderman.

Lust understands why people are always concerned about alcohol in their neighborhood but this is an appropriate adult forum that meets all of the required setbacks. She believes it is an appropriate use for the area.

Corr stated that she will vote in favor because it meets the setback requirements.

Francis believes this is an appropriate location and it will be nice to walk someplace to have a beer and walk home.

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

COMPREHENSIVE PLAN CONFORMANCE NO. 12022,
TO REVIEW PROPOSED DECLARATION OF SURPLUS PROPERTY
AND
CHANGE OF ZONE NO. 12039
FROM P PUBLIC USE DISTRICT TO
R-2 RESIDENTIAL DISTRICT,
ON PROPERTY GENERALLY LOCATED AT
WEST B STREET AND S. FOLSOM STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: January 9, 2013

Members present: Sunderman, Lust, Weber, Hove, Corr, Gaylor Baird, Scheer and Francis; Cornelius absent.

There were no ex parte communications disclosed.

Staff recommendation: A finding of conformance with the Comprehensive Plan on the declaration of surplus property and approval of the change of zone request.

Staff presentation:

1. Christy Eichorn of Planning staff explained the two proposals involving the Willard Community Center north of A Street and west of Folsom Street which is currently zoned P Public Use, owned by the City and managed by the City Parks and Recreation Department. There is a park with playground facilities to the south of the area to be surplused. West B Street is not currently constructed. There is a sidewalk but no paving for the street. Parks is asking to surplus the property.

If the property is surplused by the City, then the P zoning needs to be changed. R-2 Residential is being recommended because all of the zoning around the site is R-2.

2. Nicole Fleck-Tooze of the Parks & Recreation Department, explained that this is a proposal both for the surplus and change of zone for the Willard Community Center, which operates in the former school building owned by the City, built in 1906. The Willard Community Center has leased the building from the city for 30 years and provides programs for youth and adults. The City has provided support for the costs of operating the building for 30 years, but that support has been discontinued except for

immediate and necessary repairs. It is important to discontinue public resources going toward property that is a private use for private services.

Fleck-Tooze also advised that Parks & Recreation is in the process of entering into a sales agreement with Willard Community Center to transfer the building and a portion of the property to the west. The remaining portion (190 feet or 24,000 sq. ft. of the lot to the west) would also be surplused at the same time and sold in the future, either to a different party or perhaps to Willard Community Center. The P zoning extends a little further to the west than what is publicly owned. The City will retain the west 7' along South Folsom Street, which has an 80' building line district, so that would be retained in city ownership for potential future right-of-way.

Fleck-Tooze stated that the Lincoln Parks & Recreation Advisory Board recommends approval of the declaration of surplus property. These items would go forward to the City Council together with the sales agreement.

Eichorn added that under the R-2 Residential zoning, this will be a community center. So if in the future they wanted to do any expansion to the building or add a larger area for parking lot, they would be deemed to be a pre-existing use and would be required to come through the process for a special permit for Neighborhood Support Services Facility which would require amending the pre-existing use.

Opposition

1. Michael Johnson, 742 West B Street, testified in opposition because he does not understand the impact on his property. He thought this meant they were taking part of his property. There is a fence and a baseball field that the Willard Community Center or the City owns. His property is on the west side of that 50'. His legal description is 200' and they are taking 150'. Johnson does not understand how they can rezone his property and take 50'.

Johnson had not yet visited with staff about this issue. He did not have a survey done when he purchased the property but he does have a legal description.

Eichorn understands the confusion. She acknowledged that part of the property that is being rezoned is on Mr. Johnson's property. However, P Public zoning cannot exist on property that is owned by a non-public entity. You can't even have P Public Use zoning on property that is owned by a public entity and leased to a private entity. The rezoning of Mr. Johnson's property is basically part of a map clean-up. This is really a benefit to Mr. Johnson as he will be getting residential zoning on his property that is zoned P. His property is not included in the surplus designation. The boundaries of the change of zone are different than the surplus designation. There will still be about 200' between the property to the west and the Willard property that the city will still own but it will be surplus. It will be a challenge to develop the additional surplus property because B

Street is not constructed; however, that portion is not needed for public use and the city intends to hold it and possibly sell it in the future.

Francis clarified that the change of zone does not take any property away from Johnson, but just rezones it properly. Eichorn concurred.

COMPREHENSIVE PLAN CONFORMANCE NO. 12022
ACTION BY PLANNING COMMISSION: January 9, 2013

Sunderman moved a finding of conformance with the Comprehensive Plan, seconded by Weber.

Gaylor Baird commented that this seems straight forward now that we have the difference between the zoning boundary and the surplus boundary clarified. Parks is looking at trying to be more efficient and she will support both items.

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

CHANGE OF ZONE NO. 12039
ACTION BY PLANNING COMMISSION: January 9, 2013

Hove moved approval, seconded by Weber and carried 8-0: Sunderman, Lust, Weber, Hove, Corr, Gaylor Baird, Scheer and Francis voting 'yes'; Cornelius absent. This is a recommendation to the City Council.

APPEAL TO ADMINISTRATIVE AMENDMENT NO. 12061
APPROVING AN ADJUSTMENT TO THE SIDE YARD SETBACK
ON PROPERTY GENERALLY LOCATED AT
WESTSHORE DRIVE AND EIGER DRIVE.
****WITHDRAWN BY THE APPLICANT PRIOR TO PUBLIC HEARING****

WAIVER NO. 12025
TO WAIVE THE REQUIREMENT FOR THE INSTALLATION
OF SIDEWALKS ON PROPERTY GENERALLY LOCATED
AT SOUTH 27TH STREET AND RIDGE DRIVE.
****WITHDRAWN BY THE APPLICANT PRIOR TO PUBLIC HEARING****

CHANGE OF ZONE NO. 12036
TO DESIGNATE THE MYRON WHEELER HOUSE
AS A LANDMARK
and
SPECIAL PERMIT NO. 12037
FOR HISTORIC PRESERVATION OF THE
MYRON WHEELER HOUSE,
ON PROPERTY LOCATED AT 1717 D STREET.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: January 9, 2013

Members present: Sunderman, Lust, Weber, Hove, Corr, Gaylor Baird, Scheer and Francis; Cornelius absent.

There were no ex parte communications disclosed.

Staff recommendation: Approval of the landmark designation and conditional approval of the special permit, as revised.

Staff recommendation: **Ed Zimmer of Planning staff** addressed the landmark designation. The property is a classic Queen Anne property and easily meets the characteristics of landmark designation. It is recommended by the Historic Preservation Commission and Planning staff for both its architectural quality and that Myron Wheeler was regarded as the "dean" of American court reporters, going from the long hand era to dictaphone.

Zimmer further explained that the landmark designation then provides the opportunity that the applicant can ask for a special permit. The circumstance is that the owner acquired the property, which he believed to be vested as a triplex; however, as he began going through the building permit process and renovation of that triplex, it was discovered that it was not vested as a triplex. The applicant has two units completed on the upper floor and is on hold with his unit on the ground floor awaiting this determination.

Zimmer also advised that William Carver, President of the Near South Neighborhood Association, who could not attend today's hearing, asked Zimmer to communicate to the Commission that the Near South Neighborhood Association has entered into a separate covenant agreement with this applicant regarding ownership and occupancy of the building. Therefore, the Near South Neighborhood Association is in support of these applications.

Proponents

1. Kevin Rhinehart, 1345 D Street, stated that he began this project a year and nine months ago when he purchased the property. He has completed renovating the

building and increased off-street parking for the individual units that existed when he purchased the building. He has replaced utility services, restored water and electricity to the building, and replaced the boiler system with updated central air. It was not until 18 months into this project that he realized he did not have the proper zoning for a triplex.

Rhinehart showed photographs of the building. He wants to be able to finish the project because of the extravagant woodwork that is in the building. The design is still very prevalent – pocket doors, woodwork, and fireplace. He has also introduced security lighting. He had hoped to be living in this building by now, but when he found out he could not have three units, he met with William Carver of the Near South Neighborhood Association and has entered into private covenants. He sent out 65 letters to every owner within a 2-block radius of the building, receiving 26 positive signatures and no responses in opposition. He is approximately ten months away from completion and would like to own this property as a triplex and historic landmark.

Rhinehart confirmed that it will be owner-occupied.

Corr applauded Rhinehart's efforts. We need more people that are willing to preserve instead of tear down, and she is impressed how he worked with the neighborhood association and sent out 65 letters.

There was no testimony in opposition.

CHANGE OF ZONE NO. 12036
ACTION BY PLANNING COMMISSION: January 9, 2013

Lust moved approval, seconded by Weber and carried 8-0: Sunderman, Lust, Weber, Hove, Corr, Gaylor Baird, Scheer and Francis voting 'yes'; Cornelius absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 12037
ACTION BY PLANNING COMMISSION: January 9, 2013

Hove moved to approve the staff recommendation of conditional approval, as revised, seconded by Lust.

Francis commented that it is great to see someone save an old house.

Gaylor Baird commented that it is nice to have the input from the Historic Preservation Commission approving this as well.

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

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ITEMS NOT APPEARING ON THE AGENDA

Marvin Krout, Director of Planning, introduced two new planners in the Planning Department: Paul Barnes, Development Review Division, and David Pesnichak, Long Range Planning Division.

There being no further business, the meeting was adjourned at 2:50 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on January 23, 2013.

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