REVISED

MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, May 27, 2015, 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:	Jeanelle Lust, Dennis Scheer, Lynn Sunderman, Michael Cornelius, Maja Harris, Tracy Corr, Cathy Beecham, and Chris Hove, (Ken Weber absent); David Cary, Steve Henrichsen, Brian Will, Christy Eichorn, Tom Cajka, Geri Rorabaugh and Amy Huffman of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission meeting

Chair Jeanelle Lust called the meeting to order at 1:00 p.m. and acknowledged the posting of the Open Meetings Act in the back of the room.

Lust requested a motion approving the minutes for the regular meeting held May 13, 2015. Harris moved approval, seconded by Cornelius and carried 5-0: Lust, Cornelius, Scheer, Harris, and Sunderman voting 'yes'; Beecham, Corr, and Hove abstained; Weber absent.

Lust requested a motion approving the minutes for the special hearing on the Transportation Improvement Program held May 13, 2015. Harris moved approval, seconded by Cornelius and carried 7-0: Lust, Beecham, Hove, Cornelius, Scheer, Harris, and Sunderman voting 'yes'; Corr abstained; Weber absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **May 27, 2015**

Members present: Lust, Scheer, Harris, Sunderman, Corr, Hove, Beecham, ~~Weber~~ and Cornelius; ~~Corr, Hove and Beecham~~ Weber absent.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 15005 and MISCELLANEOUS PERMIT NO. 15001.**

There were no ex parte communications disclosed.

Cornelius moved approval of the Consent Agenda (Item Nos. 1.1 and 1.2, seconded by Hove and carried 8-0: Lust, Hove, Beecham, Harris, Sunderman, Scheer, Corr, and Cornelius; Weber absent.

PUBLIC HEARING AND ADMINISTRATIVE ACTION:

CHANGE OF ZONE 13004B, AMENDMENT TO ORDINANCE NO. 19870, RELATING TO THE INSTALLATION OF THE CUBE, SPONSORSHIP AND ADVERTISING .
PUBLIC HEARING BEFORE THE PLANNING COMMISSION: May 27, 2015

Members present: Lust, Hove, Beecham, Scheer, Cornelius, Corr, Harris, Sunderman; Weber absent.

Staff Recommendation: Conditional Approval.

There were no ex parte communications disclosed on this item.

Staff presentation: **Christy Eichorn of the Planning staff** provided an overview of this application. Eichorn explained that with the development of the West Haymarket and the Railyard in 2013, The Cube was installed as part of the Railyard Special Sign District to be used to display public art as well as provide limited advertising. The Cube was a new concept with specific regulations through the Special Sign District. This application amends the original Special Sign District to better fit the needs of the developer's as well as the public. The changes will allow some sponsorship signs on the existing Railyard Center Signs as well as providing a sponsorship sign on The Cube. In addition, it would amend the advertising component by providing for more flexibility. Currently, each advertiser is only allowed 30 seconds but this will allow for longer advertisements to fit the needs of the event that is occurring at any given time. Eichorn identified that the staff report references the addition of an additional sign; however she clarified that rather advertising would be permitted on the two existing center signs.

Staff Questions

In response to a question of Commissioner Cornelius regarding the public benefit, Eichorn stated that the developer could better address this.

Harris asked if it is only possible to petition for a Special Sign District within the redevelopment plan. Eichorn explained that there are certain criteria that must be met in order to apply for a special sign district, which may be identified in the staff report.

Corr questioned how often the sponsorship would change. Eichorn stated that this could be better addressed by the developer.

Proponents:

Tessa Warner, representing Railyard Entertainment and the Railyard developers, 601 R Street, Lincoln, NE 68508, explained that a big part of the Railyard endeavor includes implementing The Cube and the public art displays on The Cube. Warner noted that they hope to use half of the sponsorship fees and reinvest it promoting more art and providing art program that includes student art, local art, national art, and international art, to create a vibrant atmosphere for the public's enjoyment. They have tried very hard to be a community space, hosting several fund raisers.

Beecham asked if The Cube was open 24 hours a day. Warner explained that The Cube is operated 10:00 a.m. to midnight in consideration of the residential and hotel across the street. She noted that digital media is up and coming and the pricing has not bee established for this type of media at this time. However, as the industry grows, they want to continue to grow the ability to raise revenues for this type of art.

Corr asked how often it is anticipated that the sponsorship will change. Warner stated that they to hope to get someone who is a great partner to the arts and the Railyard, and, therefore, it would not change very frequently – possibly only change every five to ten years.

Opponents: None.

Staff Questions

Harris referenced the placement of text "The Cube" of the on Page 1, Lines 8-11 of the draft ordinance. Harris suggested that the text be amended on Line 9 to make it easier to understand: ". . . . large video screen/digital display referred to as The Cube, with the projection screen . . . ." Eichorn indicated that she has no objection to that change but would need to visit with the Law Department.

Corr asked if there was a previous application in 2014 which was withdrawn. Eichorn explained that it was similar to this application but the discussion in terms of the changes to be made and the detail that would have been included as part of the redevelopment agreement, which is separate from the special sign district, were not been worked out. It took almost a year to get back to where it is today.

ACTION BY PLANNING COMMISSION: May 27, 2015

Sunderman moved to recommend conditional approval; seconded by Scheer.

Beecham stated that she served on the Historic Preservation Commission before the West Haymarket was developed and they had a number of meetings on design standards, special sign districts, etc. She believes that the developers are really in sync with wanting to have something that celebrates the historic district without impacting it too much, which is one of the reasons that The Cube faces away from the historic part of the Haymarket. She believes that these changes are still in line with the original intent. They are not lengthening the amount of time that the advertising takes place but this does provide for some flexibility. She intends to support the motion.

Motion carried 8-0; Lust, Hove, Beecham, Scheer, Harris, Cornelius, Corr, and Sunderman; Weber absent.

SPECIAL PERMIT NO. 15027, DEVELOPMENT OF THE HONU HOME, A RESIDENTIAL HEALTHCARE FACILITY, AT 4920 CALVERT STREET.
PUBLIC HEARING BEFORE THE PLANNING COMMISSION: May 27, 2015

Members present: Lust, Hove, Scheer, Beecham, Cornelius, Corr, Harris, Sunderman; Weber absent.

Staff Recommendation: Conditional Approval.

There were no ex parte communications disclosed on these two items. However, Beecham noted that she left a message for a member of Union College Neighborhood Association confirming the date/time of today's hearing.

Staff presentation: **Christy Eichorn of the Planning staff** explained that this special permit is for a residential healthcare facility, noting that these types of facilities cover a broad and diverse group of uses. In this care, this facility is a mix of a residential healthcare facility as well as a convalescent home. This special permit would allow up to five residents in a single dwelling unit who could stay on the premises for up to 90 days to receive peer counseling. There are no registered healthcare providers on site. The counseling occurs through peer advisory groups and consultation – the applicant will explain this further. The Keya House located in the Indian Hills neighborhood is a similar project that was previously approved. There is a letter in the staff report from the president of the Indian Hills Neighborhood Association stating that they have not had any problems and felt that the facility was an asset to their neighborhood. The Comprehensive Plan includes finding places for special needs housing such as this in

order to help individuals better contribute to the community by being part of the community. The location of the Honu Home is in close proximity to bus routes and a commercial area, and there is a parking lot in the rear, which allows for some flexibility for vehicular and pedestrian traffic. Eichorn stated that once the applicant explains why they chose this location, if there are still questions, she will address them.

Proponents:

Alan Green, Executive Director of the Mental Health Association of Nebraska, came forward and indicated that it has been six years since the Keya House was before the Planning Commission. Their target was that project was to have it in a neighborhood setting and conducive to community living and access to community services. In the past six years, the Keya House has had close to 500 distinct guests for an estimated 4,000 day stays. They have not experienced any issues such as vandalism, violence, etc. Green noted that Sgt. John Walsh with the Lincoln Police Department is present today if there are any concerns about public safety issues. Green explained that this is not a permanent housing facility. They provide respite and transitional services primarily to individuals that are rotating out of the correctional system so that they can become self-sufficient members of the community. The program is tied to their supported employment program, which is the driving factor in the whole process. Their goal is to help individuals gain the skills that they need in order to become self-sufficient and a productive member of the community. Green also noted that the population that is served are people who have behavioral health issues. There was a concern received by the Planning Department that referenced developmental disabilities; Green noted that this is not their target population. He noted that peer support is a proven and evidence based practice where highly trained people with lived experience with behavioral health issues and the system around these issues provide support, guidance and education and community navigation to individuals coming from like situations. This enables a unique connection/bond which helps the individuals see that there are possibilities and that there is a life after a diagnosis or incarceration. The project will be structured to allow an individual to apply for up to three 30-day stays, with a review process, with the potential to stay up to 90 days total. This is different from Keya House, as it only allows for a 5-day stay. Green indicated that they see the need for a little more intensity and hands-on support through the supported employment program. They also have a support program that works in collaboration with the Lincoln Police Department and Lancaster County Sheriff's Department REAL Program, where they provide outreach and receive referrals from officers to provide services to individuals identified needing some help. There will 24-hour staffing at the Honu Home as well as outreach staff who work throughout the community to provide support, in addition to employment specialists with targeted goals of helping individuals find the jobs that they want and help them keep their jobs. The supported employment model that they follow is the evidence-based practice that is recognized by the federal government. Their existing program, the HOPE Program, has been extremely successful in the years that it has been in operation. In fiscal year 2013-14, program participants earned over

$409,000 in wages – monies raised in Lincoln, spent in Lincoln, used for housing, used to get off benefits, etc.

Hove asked if there are rules in terms of where they can locate these types of facilities? Green explained that the Keya House set the bar. It was the first of such program anywhere in the midwest. Now there are about 15 similar programs in the country but their program is only one that has been accredited by Clark International. Green explained that it is so new to the community that they are still finding their path. The Planning Department was instrumental in helping them with the location of the Keya House. The staff have been helpful in terms of guiding them through the system. They want to enhance the community and not cause detriment.

Scheer requested clarification on the three 30-day stays. If an individual commits to a 30-day period, are they there for the 30 days or can they leave. Green explained that it is a stay up to 30 days or up to 90 days. At the Keya House, individuals can stay up to five days. Some individuals may come in for an afternoon, stay one day or the full five days. It is not a locked facility in terms of the individuals. These individuals can come and go – they have jobs and possibly going through formal treatment, etc.

Beecham asked about the screening process to ensure that individuals are non violent, particularly since this location is in close proximity to a school. Are there registered sex offenders who may be staying there? Green explained that sex offenders are not their target population. They are working with the Lincoln Police Department and the Lancaster County Sheriff and also with the Department of Corrections. A lot of the screening is done by their social workers. They have done training with Corrections so they are aware of the scope of their program and know what it isn't. They know the target population. Their programs are voluntary so it requires the individuals to have ownership. The organization believes that the individuals have 100 percent responsibility for their own recovery but they will provide support to help them get there. During the review process, they make sure that what is provided on an individual basis is beneficial to the individual and the program and to the neighborhood. All guests are made aware of the rules and expectations of the participants are and what they will receive from the organization. They must be respectful and honor the other guests, mindful of neighborhoods, practice good citizenship, etc. They are also required to cook and clean up after themselves. Their program targets individuals who are coming out of incarceration for a non-violent offense. The program is also open to individuals who have been incarcerated up to 18 months post release.

Beecham requested clarification on the staffing. Green stated that there is staff on site 24 hours a day in addition to the peer counseling – two staff are scheduled for the day shifts and one staff person on the overnight shift. They also have an extensive cadre of trained volunteers that also fill in, resulting in low guest-to-staff ratios.

Beecham asked about the number of police calls at the Keya House in the past six months. Green stated that Sgt. Walsh can speak about that. The problems that they have had are pretty common – a couple medical situations, individuals who were not aware of their rules and showed up on the property, etc. Green noted that it is not a drop-in facility. It is the responsibility of the individual to call in and make a reservation. There have been no assaults or violent crimes. Green stated that they welcome guests but they do need to know ahead time.

Lust stated that there was some concern about increased traffic in the neighborhood and asked if the guests in the program are allowed to have visitors. Green stated that at Keya they allow visitors during a set time; however, they cannot have over night guests.

Beecham asked if there is a contact person in the event a neighbor is concerned about loitering, etc. Green indicated that is the case and he would want that information.

Harris stated that it looks like they received a warm endorsement from the Indian Hills Neighborhood Association. She asked if there are any major differences between Keya and the Honu Home. Green stated that the only difference in terms of how it is operated is the length of stay up to 90 days; 99 percent of their rules will be the same as the Keya House.

Lust asked if there is a zero tolerance policy for alcohol, drugs and violence. Green stated that they have a zero tolerance policy.

Sgt. John Walsh of the Lincoln Police Department came forth and indicated that he ran the numbers on the calls for the address of the Keya House at 2817 South 14th Street. He noted that the first call for service they had was on September 22, 2011. He grouped the calls in categories and noted that since that time, they have received 24 calls for service - 1 cancelled before they got there; 8 were phone call related where something may have occurred off site but got reported when they got to the Keya House or someone making disturbing calls to them. The remainder of the 15 calls included - 3 calls regarding things that had walked off - a bike from the front porch, a computer; 5 medical related calls and 7 were for disturbances - 6 of which involved the same two peoples who had been told to leave and kept returning.

Amy Jackson, Prison Number was 97642, came forth and indicated that she has a very lengthy criminal record. The Keya House and peer support not only saved her life but it changed her life. She is working on her third year methamphetamine free. She works full time and she has made a serious decision to stop committing crime. She has a

passion to help others. Keya House gave her hope, support and resources she needed to make this life change. She is not sure where she would be today had she not had that support. They also assisted her with getting her own home for the first time in eight years. She believes that peer support and Honu Home is a much needed place that provides guidance and direction for others to make better decisions and become better citizens.

Mike Dicken, 721 Sunset Blvd., Lincoln, Nebraska, came forward in support of the Honu Home and the peer support concept. He has been incarcerated in the past. Having someone available to walk with you and navigate through a system such as working with a parole officer, getting an ID card, etc. and to help you get a job is very important. He is a peer and he works with the Lincoln Police Department now with the REAL Program. The individuals in this program have to want to make a life change to better themselves. This decreases their chance of going to back to prison. As a member of the community, he believes that we all have a responsibility to individuals who are struggling. Approving the application for the Honu Home is a step in the right direction.

James Garvie, 2921 South 12th Street, supports this application. He is a recovering alcoholic and addict with mental health issues who struggled for 35 years trying to find sobriety. He has been in Corrections, treatment centers, detox, Crisis Center, etc. Once he found Keya House and peer support, he started taking charge of his own recovery. They have a different approach – they asked him what he wanted to do instead of telling him what he needs to do. With the support of peers that have like-lived experiences, he found hope. He started volunteering a Keya House as part of his recovery which turned into a full-time job. He has been sober for three and half years and has been employed with the Mental Health Assn of Nebraska (MHA) for three years. He is grateful to MHA and his peers for helping him save his own life.

Luke Bonkiewicz, 1660 Sioux Street, is a property owner who lives very close to the Keya House. Since they have been there, they have been nothing short of exemplary neighbors. The property is clean. They do see the police out there occasionally but there are reasons for why there are there which is not necessarily related to how business is being conducted. He initially felt some concern about this house being located in his neighborhood. He encouraged neighbors in close proximity to the Honu Home to go to the Mental Health Association's website to see what they are doing. They have been helping people for years. They have been given many grants valued over hundreds of thousands of dollars. You don't get this kind of money without having a well run organization. Bonkiewicz indicated that he did some research about mentally ill individuals who live in neighborhoods. There was study in 2000 that indicated that individuals who live with mental health illnesses do better in stable neighborhoods. If we really care about these people and our community, we need to fully integrate these

individuals into our neighborhoods because it reduces the chance of them acting violently as compared to when they live in socially disorganized neighborhoods. He believes that they have earned their chance. He hopes that the Planning Commission and southeast Lincoln will give them a chance.

Opponents: None.

Staff Questions

Corr asked if the parking requirements change since the use of the property is changing. Eichorn stated that they will need to provide some additional parking, which will be done in the rear yard. There is an alley to the east of the property. Prior to occupancy, they will need to provide this parking and access to the parking.

Eichorn also explained that this is a special permit. Once a special permit is granted, they can be revoked. If the applicant or successors do not meet the standards or this becomes a problem, it could be looked at by the City Council for revocation.

Beecham stated that she appreciates that the applicant met with the neighborhood association, as this may be why there is no concerns today. She asked if anyone had talked to the principal at the school since it is in such close proximity. Eichorn indicated that the Planning Department staff did not talk with anyone at the school.

Applicant Rebuttal: None.

ACTION BY PLANNING COMMISSION: May 27, 2015

Beecham moved to recommend conditional approval; seconded by Scheer.

Beecham stated that she lived a neighborhood that had a lot of group homes, some of which had a great number of police calls, she finds itreally refreshing to be reviewing an application that is really well run and works so well, and the fact that Keya House has worked really hard to be a good neighbor by providing more information rather than less in terms of participating with the neighborhood association. She firmly believes that the more communication we have, the better we get. She intends to support the motion.

Lust stated that she supports motion also, and she expressed her appreciation for the people that came forward to share their stories; that really means a lot to the commission when people are willing to do that.

Motion carried 8-0; Lust, Hove, Beecham, Scheer, Harris, Cornelius, Corr, and Sunderman; Weber absent.

MISCELLANEOUS PERMIT NO. 15002, REVIEW OF PROPOSED DETERMINATION THAT THE VA CAMPUS REDEVELOPMENT AREA IS BLIGHTED AND SUBSTANDARD, ON PROPERTY GENERALLY LOCATED AT 600 SOUTH 70TH STREET, INCLUDING ADJACENT RIGHTS-OF-WAY.
PUBLIC HEARING BEFORE THE PLANNING COMMISSION: May 27, 2015

Members present: Lust, Hove, Scheer, Beecham, Cornelius, Corr, Harris, Sunderman; Weber absent.

Staff Recommendation: A finding of Substandard and Blighted Conditions.

Proponents:

David Landis, City Urban Development Director, the applicant, explained that they are examining VA Campus to see if the blighted and substandard conditions as outlined in the state law are present to the extent that this property can be declared consistent with the statutory definition. In the event that the city council approves this process, tax increment financing (TIF) would be available as a tool, which would enable an developer to make a project that has unique aspects that can be costly, such as site acquisition costs, demolition costs, available for redevelopment. Ultimately, we want to get rid of deteriorated buildings and replace them with density and new buildings that meet appropriate standards. Hanna:Keelan reviewed the VA Campus and found several of the substandard area factors and the blight factors present. Using a site map, Landis referred to the area of consideration, including 20 buildings - 13 of which are dilapidated. Several photos were viewed showing the condition of the buildings. He noted that there are several rotted and broken windows, deteriorated roofs, rotted wood and brick work in several of the structures. Landis noted that 65 percent of the campus roads are private and they are bad shape. In summary, the roads and the buildings are in poor condition. In addition, the pipes are 85 years old and made of materials that would not be allowed today. These pipes support the firefighting system of the campus. These are classic blight and substandard conditions.

Staff Questions

Lust asked if all this property is publicly owned? Landis stated that all the property is publicly owned. The land is owned by the federal government with a mix of both city and private streets throughout the campus.

Lust clarified that the request is to declare blight on a public asset. Landis stated absolutely and explained if you were to do an inventory of some of the state resources

when he was with the state legislature, they were found to be blighted and substandard, i.e. the Norfolk Regional Center. Landis indicated that many public entities in this state do not keep up on maintenance and the buildings fall in disrepair. There are plenty of publicly owned buildings that are in deteriorating and substandard conditions.

Lust asked if the intent is to sell this property if a developer can get a redevelopment plan? Landis stated that it would be very expensive to bring the buildings back to good condition. It would be likely that someone would demolish and rebuild, which will include expenses related to the removal of asbestos. It is not uncommon for the federal government to close them and then rent the land. The market won't easily fill into this process because of the costliness of this project, thus assistance of some kind for a developer would be necessary to make the financing work to make it useable.

Lust asked if the city is proposing to use TIF to bail out the failure of the federal government to maintain this property. Landis stated that this is now part of the record and a true statement.

Hove asked if it is the intent of the city to put this property back on the tax rolls? Landis explained that this is not city property so it won't be up to us to do that but he asking the Planning Commission and the City Council to give the department a tool to use that would allow a developer to do that. Landis noted that there is an interested developer and they are working under tight time lines, as there is an obligation to be able to prove that construction in October 2015 for the federal government's provision of VASH housing, which is for veterans who are homeless or very close to being homeless, to move them into appropriate housing conditions. The developer is a holder of some of these vouchers to provide the housing and then they can use that to support homeless veterans. In order to do this, this property needs to be made available via a lease from the federal government for 99 years but taxes would be paid on the land because it is not a governmental function and not tax deductible. The developer is also interested in providing medical facilities, offices and possibly the creation of a new VA clinic, which is to occur in this area, at this location. The developer would love it to be at this location, but that is the decision of the federal government decision that needs to be made.

Beecham asked if there is a guarantee that this area will still be used for veterans or is there a chance that it may not be used for veteran services. Landis indicated that the Veterans Administration did an RFP which requested proposals if they were to decide to part with the property. In response to the RFP, a local developer, working with the Seniors Foundation, made a proposal that includes medical facilities that would not be exclusively used by veterans and the use of the VA housing vouchers. The developer won the RFP, which can only be done for a limited period of time. There is not any other known proposals if the winning RFP is not carried out. This will be limbo and then it will be up to the federal government to figure out what the next phase will be. Landis indicated that it took four years to get to this point in this process. It is unclear how long the time line might be extended.

Beecham asked if the RFP is specific as to the future of the existing buildings other than coming in and tearing them down. Landis stated that they would probably have the authority to tear them down under the RFP. He noted that there are historical buildings on the property and indicated that they can be very costly to rehab. He referred to "doctors' row" – a series of three or four buildings on one side that have a rich historical significance but they also have significant problems. Landis indicated that he does not know the outcome for those structures. The Urban Development Department has asked the developer to be sympathetic to the historical aspect of the development. They will be as sensitive as they can afford to be. Once there is a redevelopment plan amendment, it will be presented to the Planning Commission for consideration. Ed Zimmer has been involved in the meetings with the developer. They will be obligated to go through the historical process because of these structures, including a review of the State Historical Preservation Officers.

Scheer asked if in the process of developing the redevelopment agreement, Urban Development and the Planning Department will have influence during the process with the developer to make the community's wishes known about the disposition or preservation as part of the negotiations. Landis stated that this is a true statement; however, it could be that what we want the developer to do is more expensive than what the developer is willing to do. In the past, we have done a good job in terms of ensuring what can be done, will be done in terms of historic preservation.

Beecham asked if the buildings are land marked or on the registry. Landis indicated that they are not. He believes that several of the structure would qualify but they are not.

Harris asked if the Planning Commission could attach a recommendation to be sympathetic to the historic nature of the buildings as possible. David Cary, Acting Director of the Planning Department, explained that the action would stand on its own. In addition, the Planning Commission's statement will be included as part of the record.

Corr asked how the TIF would be affected since this property is currently tax exempt. Landis explained that this could not be done today because there is no tax base. With TIF, you take the new taxes that are currently not being collected and the new valuation that is dedicated to the function of creating the project for up to 15 years. There will be a big bump in the valuation and the taxes on that valuation will make this work. They will need money for pipes and infrastructure. Landis explained that TIF works the same whether it is taxed or untaxed. It involves the growth of the existing valuation and the new valuation of the development project and allocated for the infrastructure.

Sunderman asked if all the taxes on the redevelopment project will go toward TIF since there are currently no taxes being paid on this property. Landis indicated that all the taxes will go toward TIF. However, it is possible to have an agreement in which the amount of change – the new pipes or building of the roads – wouldn't take 15 years and

could be paid off in 10 years. The money would go toward that purpose and then stop. There are projects that have used less than 15 years because they accomplished what was agreed to for the use of TIF in less time.

Rick Peo, Assistant City Attorney, provided clarification and stated that just because the property is tax exempt, doesn't mean that it has no value. The County Assessor has a duty to assign property value to property whether it is exempt or non-exempt. The TIF is based on the increase of assessed valuation based on the development. The VA Campus would have some land value. When this goes to private use, there will be a portion that will go to the city's coffers. The taxes on the base value is distributed to all taxing entities. The increment goes to the city to fund TIF. Landis clarified that there is $0 dollars but that doesn't mean there is zero valuation.

Corr asked if some of the TIF is going to go toward private use rather than public to generate the tax dollars. Landis explained that there will be roads and pipes in this area but there could be energy efficiencies, etc. that would be considered a public benefit. The money has to be spent for either a public structure or a public benefit. Energy efficiency is considered a public benefit because it is extended resources.

Corr asked if this is going to remain public land and, if so, how will TIF work. Peo explained that under state statutes, public land becomes taxable if it is used for private purpose. The City of Lincoln pays taxes on property that it owns because it is leased for a private use. A similar situation would occur if the VA leases the property for private purposes, then the private use would become taxable. The proposal today is to implement the first step of a possibility of having a redevelopment agreement come forth or having any activity take place. There are no guarantees that TIF would be used. Landis stated that in this case, for 99 years, the developer may be using it for non-public purposes, then making it taxable.

Corr asked for clarification, stating that VA has a couple of options with the property – tear down everything and build something new, sell off portions of the land that is there and maintain the existing buildings and put in a new facility. The Planning Commission is only considering the blight study today and not any redevelopment agreement. Landis stated that what is before the commission today involves the blight study for this property. This is a necessary pre-condition to allow them to use a tool. If a redevelopment agreement is developed at the end of the negotiation process, and redevelopment plan amendment would come before the to the Planning Commission and then go to the City Council for consideration. In addition, a redevelopment agreement would be prepared for consideration by the City Council. Landis indicated that the fate of this land is not in our control. It is not our land and the VA has decided on this process.

Beecham asked Landis to address the use of TIF and the blighting standard in the different areas of town. TIF is oftentimes used in old factory areas of town but this is

located at 70th & Street and not an older area of town. Are we indicating that there would be redevelopment in this area without the use of TIF? Landis in this case, the Planning Commission is being asked whether or not you agree with the planner who believes that this blighted and substandard. It is most common to use TIF in the oldest areas of town. Almost by definition, old buildings will be substandard because standards have changed over time. The older the area, the more likely they are to have substandard conditions present. Landis indicated that it is not that nothing would be done with the land but that the project that may be considered would occur at this location. If you want community redevelopment, you have to make it possible so that dilapidated can come down or be refurbished on a basis that can compete with a commercial, private sector, profit seeking entity to build at this location rather than the edge of the city. This is done because building at the edge of the city has significant social costs and it leaves a location of older dilapidated structures that are ignored by the market due to elevated costs.

Opponents: None.

ACTION BY PLANNING COMMISSION: May 27, 2015

Beecham moved to recommend approval; seconded by Cornelius.

Cornelius stated that what is before the commission today is a finding of fact and not about TIF or the future use of this property. It is about the condition of this property currently. We were provided a report and are being asked by statute to decide whether we agree with the report presented today showing the conditions of the property. Regardless of maintenance, an area can become substandard simply by existing over time. This is not about how we feel about the property or the area. It is about the facts. Cornelius indicated it is unlikely we would be given the report if there wasn't a reasonable presence of these factors. This seems like a mechanical thing for the commission.

Lust stated that she agrees that there is likely no doubt that this property is substandard and blighted but she finds it difficult when there is public property that is substandard and blighted, and then the city of Lincoln taxpayers have to bear the burden to some degree of helping with the redevelopment of it. We, at all levels of government, should invest in maintenance upfront and it would probably be cheaper. Cornelius stated that this is true of both public or private property. Lust stated that obviously this property is substandard and blighted and something needs to be done about it, and she is going to support the finding.

Beecham stated that she would like to see some of the buildings preserved if at all possible if a redevelopment agreement goes forward. These buildings are unique and have a lot of history and add to the area.

Harris agreed with Beecham's previous comments.

Corr stated that it is a shame that these are historical significant buildings that have been allowed to deteriorate so much. It is more shameful that this is how we thank our veterans when they come back from serving our country and they have these dilapidated conditions. Corr stated that she has had occasions to be this facility and other VA facilities and for some reason Lincoln's VA facility has been allowed to deteriorate more than the others within our state – not even within the nation – this is saddening. Now, we are expecting the city of Lincoln to help out the federal government with this. Prevention is ten times cheaper than coming in on the back side. If the federal government is listening, start ponying up for Lincoln. She agreed with Beecham's comments about the historical significance of these structures and she would hate to see them torn down. She understands the blight – she is aware that there have been several fires in this facility within the past year and, if there are problems with the existing water pipes, this needs to be addressed. She is also aware that employees have to wear their costs when they work because it is so cold. It needs fixed badly.

Motion carried 8-0; Lust, Hove, Beecham, ~~Scheer,~~ Harris, Cornelius, Corr, and Sunderman; Scheer and Weber absent.

Commissioner Scheer left the hearing at approximately 2:08 p.m.

SPECIAL PERMIT NO. 15025, TO CONSTRUCT A BROADCAST TOWER ON PROPERTY LOCATED AT 3825 WILDBRIAR LANE. PUBLIC HEARING BEFORE THE PLANNING COMMISSION: May 27, 2015

Members present: Lust, Hove, Beecham, Scheer, Cornelius, Corr, Harris, Sunderman; Weber absent.

Staff Recommendation: Conditional Approval.

There were no ex parte communications disclosed on this item.

Staff presentation: **Brian Will of the Planning staff** identified the boundary of the property – South 40th Street, Old Cheney, and Wildbriar Lane and the location of Good Shepherd Lutheran Church, which is applying for a broadcast tower, which would allow the church to operate a small radio station. This application was delayed two weeks ago to allow the applicant some additional time to meet with the neighbors to address some concerns that had been raised. They have met and a revised site plan with revised elevations were submitted and provided to the Planning Commission. The Planning Department is recommending conditional approval of this application as it was

originally submitted with the revisions that have been submitted. There are no staff conditions that need to be changed as a result of the revisions that were submitted.

Proponents

Nik Sandman, 4501 Hallcliffe Road, which is located in the Briarhurst neighborhood, representing the applicant. He noted that Good Shepherd Church is located in the Briarhurst West neighborhood. Sandman serves as the chairman of the Board of Good Shepherd community radio. The church is making application for a special permit to build the radio tower. Good Shepherd Lutheran Church believes that as God's people that we love God by serving our neighbors. They have operated a preschool over 20 year and a day school for over 10 years. They are also in the planning stages to add before and after school childcare this fall. Over the last few months, they have sponsored fundraisers in support of pediatric cancer awareness network and they have welcomed organizations such as the Boy Scouts, Alcoholic Anonymous, homeowner associations, and other organizations to use their facilities without charge. The Good Shepherd community radio has been granted a license by the Federal Communications Commission (FCC) to build and operate a community radio station at 100 watts in the FM spectrum of 95.7 – Channel 239 with the name KNNA LP. The LP stands for limited or low power. They view this an another opportunity for them to serve the community. The low power LP FM radio service was created by the FCC in January 2000. LP FM stations are authorized for non-commercial education broadcasting only and operate with an effective radiated power of 100 watts or less with maximum facilities of 100 watts at 30 meters or antennae height above average terrain. The approximate service range of 100-watt LP FM station is 5.6 kilometers or 3 ½ miles radius. LP FM radios are not protected from interference that may be received from other classes of FM stations; they are required to protect other stations in their signals. Sandman indicated that a construction permit is required before a LP FM station can be constructed. The LP FM license granted to Good Shepherd is KNNA 905.7 FM. The FCC defines the service radius as 60 decibels or more, which includes a service range of 3 ½ mile radius. A full-power FM station has 46,000 watts of power in a service range of 50 miles. It was noted that there are 279,294 people within the sound and voice of KNNA but the 60 decibel population is 137,782, which is a smaller range. Referring to a site map, the church is centered in Lincoln. They want to be able to reach people. Linked with the power of the internet, we have an extremely efficient way of communicating with the Lincoln community. The FCC license limits them to a location close to their facility, therefore, they selected the church property for the location of the tower. They have been considerate of the neighborhood and met several times with the homeowner's association, beginning in September 2014. They were notified of the station, listened to their concerns and answered questions. They considered a 3-legged lattice style tower but there were concerns by the neighborhood about having an ugly radio station in the neighborhood. They looked at several other styles of towers, including large flagpoles and a laminated wood cross. They selected the monopole cross to address the concerns of the neighborhood association. This design was almost twice the cost of the

lattice-style tower. They believe they have a plan that meets city codes as well as the requirements of the Zoning Commission and Planning Department. The proposed location of the tower is a safe location and it is screened by large trees to address the neighbors' concerns. They have tried to make this project as attractive as possible. They respectfully request that the Planning Commission approve this plan without stipulations.

Questions of the Applicant

Lust asked to view the picture of the proposed cross-style tower on the projector and asked if it is a depiction of what the tower will look like when completed. Sandman that this is the project that was submitted to the Planning Commission.

Lust asked if the cross-like structure on the church is existing or would it be added? Sandman stated that the cross on top of the church is existing and has been there since the church was constructed. The cross-style tower is designed to fit in with the cross on top of the church.

Corr asked for clarification on the reference in the staff report that indicates the ability to offer the internet to some people. Sandman indicated that the internet component has been removed from the application. An internet company had expressed some interest and there were some concerns expressed about the appearance, they have elected to remove it because time is limited for them,

Opponents

1. Kathy Siefken, 5631 Coyote Circle, Lincoln, NE 68516, representing the Briarhurst Neighborhood Association. She has served on the Board of Directors for approximately 14 years and has also served as president of the board. The current president of the association is also present today. The neighborhood association met with representatives of Good Shepherd Church, including Nik Sandman. At the May meeting, they were given the dimensions and location of the tower. They did not like their Option A of the options listed on the handout. The church decided not to locate it there and submitted revisions referred to as Option B. Siefken referred to a photograph showing the view that the neighborhood is concerned about. She indicated that there will be very little camouflage from the existing trees. The neighborhood is supportive of Option B with the condition that they add some landscaping to help camouflage it and put in up to four 10- to 15-foot Blue Spruce trees and a treeline of smaller trees next to the road so it would be camouflaged. They met with Nik and he indicated that he would go to Earl May and have them put together a landscaping plan with costs. This has not been provided and the church does not plan to provide additional landscaping to the project. The neighborhood prefers that the church goes to Option C, which is locating the tower on the south side of the church and away from the neighborhood. Siefken stated that the top of the cross is 59 feet and the top of the proposed tower is at 100

feet – almost double the height. The neighborhood asked that the Planning Commission not approve the plan that is before them today. They are not opposed to a Christian radio station in the neighborhood. The church has several different options and this option is not the one the neighborhood would prefer. Siefken used a site map showing the location of the tower in Option C.

Hove asked if the neighborhood would be supportive of Option B if they were willing to provide some landscaping. Siefken indicated that they would be supportive of Option B if landscaping was provided. She noted that they are not landscapers but it was suggested that they offer a free landscaping plan as discussed on a meeting on May 18. She stated that they want to hide the base. There are existing conifers and they wanted some additional trees to help camouflage the base of the cross.

Lust asked if the neighborhood is requesting additional landscaping for Option C. Siefken indicated that they are not asking for additional landscaping with that option. Option C was put forth by the church but now they want to use this area for future parking.

Cornelius indicated that there is some existing screening and asked where the additional landscaping would be placed. Siefken indicated that the additional landscaping would go to the west.

~~Corr~~ Harris asked if the bushes that the neighborhood would like along the playground fence relate to the tower. Siefken stated that these bushes do not relate to the tower but the neighborhood asked the church to put them in. If the church wants to be a good neighbor, they would camouflage the ugly chain link fence. They have covenants in their neighborhood that do not allow advertising or trailers to be parked. Because of the covenants, they have a very nice neighborhood. The church parks a trailer on the corner and have banner hanging from the chain link fence – this is an eyesore. The neighbors would like for them camouflage this. This is not part of the tower but it was part of the conversation.

Corr asked Siefken to identify the homeowner association boundaries. Siefken explained that their boundaries include 31st Street, 40th Street, Old Cheney, and Hwy. 2. There is another neighborhood on the east side of 40th Street - that is where Mr. Sandman lives.

2. Jocelyn Baade, 3742 Wildbriar Lane, Lincoln, NE 68516, President of the Wildbriar Homeowners Association, came forward and stated that she is in opposition of the plan presented today.

<u>Staff Questions</u>

Lust indicated that the Planning Commission received an email forwarded by staff from Architectural Design Associates. Lust indicated that the last sentence states “We understand there will be no landscape plan included in the presentation.” Lust asked if the staff are recommending a landscape plan. Will stated that this is a statement of the applicant. He explained that there is no additional landscaping added a condition of approval by the Planning Department.

Lust noted that there are three mature coniferous trees. Will stated that what is being shown on the plan are the existing trees that are there today. Lust asked why we are not requiring additional landscaping. Will stated that the design of this broadcast does not look like a typical broadcast tower – it is intended to look like something else. Since the applicant is making an attempt to keep within the normal appurtenance to a church, there is no a need for it - a cross belongs next to a church. A typical cell tower would include a box, equipment shelters, and some visual foundation work at ground level and, therefore, there are screening requirements, which do not typically screen the upper two-thirds of the tower. The intent is to screen the fence and equipment at ground level, which doesnot apply with this tower.

Sunderman referred to the site plan and noted that when drawing straight lines out from the location of the proposed tower, it appears that the existing trees are providing some screening with the exception of the angle to the northwest a little bit. Will indicated that the west edge is fairly well planted, as the large concentration of trees is in this area, which does provide some screening to the neighbors’ view from the north and the east.

Beecham referred to the site plan distributed by the homeowner’s association and asked if the placement of the tower was correct. Will stated that he believes it is correct, as the site plan does not show complete screening around the base. There are several existing trees that help to screen it.

<u>Applicant’s Rebuttal</u>

Lust asked Mr. Sandman if they are anticipating additional screening around the antennae tower. Mr. Sandman indicated that they want this to be an attractive facility and they are open to landscaping but he believes that this is a moving target and stated that time is of the essence. They have until August 1 to begin testing per FCC requirements and need to be on air by August 14. If they don’t meet these time lines, their license will lapse. The church has tried very hard to reach an agreement with the homeowners association. Sandman indicated that Plan A was actually approved by the Planning Department; however, the homeowners association had some concerns so they voluntarily withdrew their application in order to meet with the association and reach an agreement. They have not been able to come to a mutual agreement. They have only had two weeks to talk about this and he noted that there have been some misunderstandings. The church is seeking clean approval with the understanding that

the church wants to be good neighbors and want to have an attractive facility, and he is mystified as to why we are this point.

Beecham asked Mr. Sandman if he would be okay with adding a condition to add three Blue Spruce trees. Sandman explained that cost is an issue. He went to Earl May and they are very busy right now. The horticulturist was not available but the cost of the trees being requested could be around $4,000. This would be in addition to the cost of the transmitter, antennae and other electronic equipment, etc. and would be a burden on the church. A single, 4-foot tall Spruce tree is $300, and $600 planted. The request of adding 10- to 15-foot trees would require a tree spade, which would make it much more costly – up to $1,200 per tree. This would be a budget buster for the church and why they are reluctant to make these promises. He would need to visit with the church in terms of what they might be able to do.

Beecham noted that if you wait until the fall, they may plant the trees for no charge.

Lust asked if the homeowners association donated a tree to the church, if they would plant it. Sandman indicated that they would gratefully receive that.

Staff Questions

Harris referenced Condition No. 3 relating to the playground fence and asked if it can be required as a part of the tower application. Will indicated that we could not require that, as it is not related to this application. The church could voluntarily do it.

Beecham asked when the conditions would need to be completed and the planting of trees and if everything has to be met before they can broadcast. Will explained that plantings, required landscaping and screening, etc., they have two planting seasons to get it completed – this fall and next spring – so they could wait until next spring to get this completed.

ACTION BY PLANNING COMMISSION: May 27, 2015

Corr moved for conditional approval based upon the revised plan submitted by the applicant; seconded by Cornelius.

Corr indicated that the city has a Street Tree Voucher Program where vouchers are given to cover the costs of planting trees in the pubic right-of-way. If this was coupled with the nursery providing free planting, the church or homeowners could definitely put in some street trees to help screen the cross. It was noted that the NRD has a similar program.

Beecham stated for discussion purposes she would be willing to add a condition that a couple of 4- to 5-foot Spruce trees but she does not think it is appropriate to add anything along the fence.

Sunderman indicated that he is comfortable with the existing plan. He likes the staff explanation and that by adding more trees, it may bring more attention to the pole rather than letting it stand amongst the existing mature trees and it is in line with the cross on top of the church.

Lust agreed with Sunderman's statement. She indicated that normally she would be very sympathetic to screening but the church has invested a lot in the design of the tower and it already fits in the existing architecture of the tower and that most people will think it is just another cross at the church. While it is a tall cross, landscaping that is up to 10 feet tall, likely won't make much difference with the view. The applicant has invested a lot more expense in the type of tower that they are getting, and she intends to support the application as it is at this point.

Beecham made a motion to amend the conditions of the staff report to add two Spruce trees up to 5-feet tall. The motion to amend was seconded by Corr, and failed by a vote of 6-1.

The vote on the main motion carried 7-0; Hove, Beecham, Cornelius, Corr, ~~and~~ Sunderman,~~;~~ Lust, and Harris; Scheer and Weber absent.

There being no further business to come before the Planning Commission, the meeting was adjourned at 3:10 p.m.

Please Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, June 10, 2015.

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