MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, July 26, 2000, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Jon Carlson, Steve Duvall, Patte Newman, Tommy Taylor, Greg Schwinn and Cecil Steward (Russ Bayer, Linda Hunter and Gerry Krieser absent); Kathleen Sellman, Mike DeKalb, Ray Hill, Ed Zimmer, Rick Houck, Jennifer Dam, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Vice-Chair, Greg Schwinn, called the meeting to order and requested a motion approving the minutes for the meeting held July 12, 2000. Motion to approve made by Carlson, seconded by Newman and carried 5-0: Carlson, Duvall, Newman, Schwinn and Steward voting 'yes'; Bayer, Hunter, Krieser and Taylor absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: July 26, 2000

Members present: Carlson, Duvall, Newman, Taylor, Schwinn and Steward; Bayer, Hunter and Krieser absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3270; CHANGE OF ZONE NO. 3273; USE PERMIT NO. 100A; SPECIAL PERMIT NO. 1553A; SPECIAL PERMIT 1858;SPECIAL PERMIT NO. 1859; FINAL PLAT NO. 99039, BLACK FOREST ESTATES ADDITION; FINAL PLAT NO. 00002, HIMARK ESTATES 3RD ADDITION; FINAL PLAT NO. 00013, IRONGATE ESTATES ADDITION; COMPREHENSIVE PLAN CONFORMANCE NO. 00006; AND MISCELLANEOUS NO. 00006.**

Item No. 1.9, Comprehensive Plan Conformance No. 00006, and Item No. 1.10, Miscellaneous No. 00006, were removed from the Consent Agenda and scheduled for separate public hearing.

Steward moved to approve the remaining Consent Agenda, seconded by Newman and carried 5-0: Carlson, Duvall, Newman, Schwinn and Steward voting 'yes'; Taylor abstaining; Bayer, Hunter and Krieser absent.

Note: This is final action on Special Permit No. 1858, Special Permit No. 1859, Black Forest Estates Addition Final Plat No. 99039, Himark Estates 3rd Addition Final Plat No. 00002, and Irongate Estates Addition Final Plat No. 00013, unless appealed to the City Council by filing a notice of appeal with the City Clerk within 14 days of the action by the Planning Commission.

COMPREHENSIVE PLAN CONFORMANCE NO. 00006
TO DECLARE PROPERTY GENERALLY LOCATED
IN THE AREA OF N.W. FAIRWAY STREET AND
WEST HARVEST DRIVE AS SURPLUS.
PUBLIC HEARING BEFORE PLANNING COMMISSION: July 26, 2000

Members present: Steward, Carlson, Newman, Taylor, Duvall and Schwinn; Hunter, Bayer and Krieser absent.

Planning staff recommendation: A finding of conformance with the Comprehensive Plan and conditional approval.

This application was removed from the Consent Agenda and had separate public hearing at the request of Wayne Hart.

Proponents

1. Jennifer Dam of Planning staff explained that this refers to a strip of ground of varying width and dimension. This property was outside of the City Limits and part of the SID when the Highlands was developed. When the Highlands SID went bankrupt, the city obtained ownership. The proposal is to declare the thin strip in varying widths as surplus property and then those pieces would be sold to the abutting property owners. If there are any teeth remaining that the abutting property owners do not want to purchase, a maintenance agreement would be provided so that the property owners can maintain it. Covenants are being prepared to specify what could or could not be placed in these small strips of park ground. The terrain varies. The Parks Department believed that these small parcels created a liability problem for the city and affected a small portion and not the overall park in general. The park needs in the area are still met after the declaration of this property as surplus.

Steward inquired whether there is an average depth of the strip. Dam explained that it varies from 4' to 10'.

2. Peter Katt appeared on behalf of the unincorporated group of homeowners adjoining the property. The strip varies in width from 10' up to 60'-70' in some locations. The line was set in the field by both the homeowners and the Parks and Recreation Department staff walking the line. This is intended to: 1) keep all existing encroachments within the new line; and 2) establish a line that is easy for Parks to maintain. The larger areas are along the area known as The Canyon in the Highland Park which are behind residential lots and the Parks Department does not want to maintain these areas.

Katt believes this is a good solution for the homeowners and for the City Parks and Recreation Department.

3. Kent Seacrest appeared in support on behalf of **Southview, Inc. and Ridge Development Company,** the owners of a parcel behind some of the lots that people believe is part of the park. He requested a two week deferral in order to have the opportunity to meet with the abutting neighbors and Parks Department to talk about how we can take his clients' parcel and put it into the park and maybe trade something else out.

Katt explained that this area was originally known on the preliminary plat as a cul-de-sac and went deeper into the park. When they actually did the grades and sewering they could not get the cul-de-sac lots to work and this parcel is the remaining portion as a result of that. Katt agreed to the two-week deferral. It might be beneficial to the city and neighborhood to have this issue resolved; they have tried to get it resolved; the adjoining lot owners would like to have this issue resolved; and it is worthwhile to try to get the agreement reached because it is consistent with the overall objective.

4. Wayne Hart, 5536 N.W. Fairway Drive, testified at this time. He is not opposed but he has some questions. He attended the meetings and is in support. He has 20' behind his property that would be declared surplus that is reasonably level, but it has no particular value to him unless he can use it. There is an electrical easement extending 5' beyond his property and a rear yard setback extending 5' from the back of the new lot line, which only gives him 10' of buildable space. He had a storage structure in mind, but he cannot do that with 10'. His concern is that if he would not be able to get a waiver of the setback of the rear yard, then he's not interested in purchasing the surplus property. He does not mind maintaining it, but if it is available for purchase, it would have to be of some value to him. Is there any way the Commission can make some predetermination about this issue? He does not want to commit to purchase the surplus property until he has some assurance that it is usable.

Dam explained that the covenants would prohibit any structures from being constructed in the park area. It has nothing to do with the setback. On the portion that is Mr. Hart's lot at this time, he can build an accessory structure within the rear yard setback under certain restrictions of the zoning ordinance. The electrical easements will be required to be maintained and you cannot build on top of the easement. He will not be able to build in the surplus area being added.

Steward noted that the staff is anticipating some teeth/gaps. Dam concurred. Originally, Parks & Recreation said they would not support this declaration of surplus unless 100% of the property owners would agree to purchase the land. They then modified that position and stated they would support it if there was a maintenance agreement with the property owners that did not purchase but would agree to maintain. Steward commented then that the property owner could continue to maintain and live just as they have or get help in the maintenance from a larger association.

With regard to the Hart property, Dam explained that the easement in place has nothing to do with whether the surplus land is added. LES would have to move that easement if that is requested and they may not be able to. This would have to be addressed with LES.

Steward suggested that Mr. Hart's issue is not something the Commission should deal with at this point. It is a staff and technical utilities concern between Hart and the Association.

There was no testimony in opposition.

Steward moved to defer for two weeks, seconded by Duvall and carried 6-0: Steward, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'; Hunter, Bayer and Krieser absent.

MISCELLANEOUS NO. 00006
TO ADOPT THE PROPOSED
"CITY OF LINCOLN DESIGN STANDARDS".
PUBLIC HEARING BEFORE PLANNING COMMISSION: July 26, 2000

Members present: Steward, Carlson, Newman, Taylor, Duvall and Schwinn; Hunter, Bayer and Krieser absent.

Planning staff recommendation: Approval.

This item was removed from the Consent Agenda and had separate public hearing at the request of Rick Krueger.

Proponents

1. Rick Houck of the Planning staff pointed out that the words "or variance" in the second line of paragraph A on the first page should not be crossed out.

2. Rick Peo, City Law Department, gave some history on this proposal. A few years ago, the city began the process of rewriting the zoning code and subdivision ordinance and was working with the design standards as well. Public Works wanted to revise and update the design standards to conform with new engineering principles. The changes to the design standards were technical in nature and the intent was to incorporate them into the Code.

The rewrite of the zoning code ran into some opposition and concerns and was slowly abandoned; however, there is still merit to coming forward with the new design standards for land subdivision.

Public Works hired the consulting firm of Richard Chase to prepare the subdivision ordinance revisions for design standards; the proposed design standards were processed through various engineering firms and then recommended to the Planning Commission.

The other concept was that we now have three sets of design standards: Zoning, subdivision and driveway, which are periodically adopted and amended, but it is hard to track any particular design standard for past history. This proposal incorporates all of the design standards into a single document, numbering the text in such a manner so that amendments can be processed similar to the zoning code.

With respect to the proposed consolidated design standards before the Commission today, Peo explained that the zoning design standards have not been changed–they are the same except for those that relate to engineering type principles like driveways. The Executive Summary sets forth the changes being proposed.

A question did come up on the street lighting design standards as to elimination of ~~park~~ part lighting. This was a typographical error and should be "~~park~~ part night lighting" (page 87 of the agenda). **(**Corrected 8/09/00**)**

Opposition

1. Rick Krueger, President of Krueger Development, submitted typewritten comments. He stated that he is not so much opposed but has four areas of concern in regard to the Executive Summary:

> --Page 084 **Water Main Design Standards #5 (top of the page)**. Increase the water main size in industrial areas from 8" to 12". He would like to know what the standard is for pressure at the hydrants that allows for adequate fire protection. He is unaware of any of the hydrants in his subdivisions that are on an 8" line that have inadequate pressure. Also, what happens with a private water system? Will it also need to be 12"? What size of industrial development will require this new standard? Will this apply only to I zoned land or to all commercial zonings? Is this an attempt to have the private sector pay for more of the water system than is really required for adequate protection?

--Page 087 **Street Lighting Design Standards.** Krueger observed that many people would appreciate a lesser amount of street lighting rather than an increase in the urban glow. He noted that one of the biggest concerns expressed by the Porter Ridge neighbors when he was working on the DuTeau site was the fear that this use would light up the night sky. That issue was resolved by DuTeau agreeing to turn down their lights shortly after they leave for the evening.

--Page 088 **Driveway Design Standards.** What are the revisions to the vehicle stacking requirements for drive-in type facilities? Are they increasing the amount of stacking or reducing it?

In addition, Krueger wanted to know when these new standards will take effect. What happens to the projects that are currently being processed?

2. Mark Hunzeker testified that he has talked to at least two engineers, one of whom knew absolutely nothing about this and one of whom had attended one meeting. This is a pretty substantial document, and is not in legislative format to indicate where the changes are being made. He would appreciate more time to review. Two weeks would be the minimum, one month would be better. In the street design standards there are a number of things that appear to change the minimum curve radii which tend to elongate curves, making them much easier to travel at faster rates of speed. This is an area where we have had conflicts in the past and residential streets have been designed in a way to slow traffic down. A few things like that need to have some further review and discussion.

3. Kent Seacrest appeared on behalf of **Ridge Development Company.** He agreed with Mr. Hunzeker's comments. There are certain standards that would impact many developments and take some creativity away that they have enjoyed in the past. Removing potential landscape areas in the cul-de-sacs is a serious issue that needs further discussion.

Steward agreed that the section on street lighting is a concern, which apparently is LES recommended and controlled. What would be the appropriate procedure to get some direct interaction on this section with LES? Peo stated that LES indicated they would be willing to have someone come down and speak if there is some controversy; however, the new manager is on vacation so he could not attend today.

Steward asked Peo's response to the request for a continuance. Peo suggested that this legislation be continued to the September 6th meeting of the Planning Commission to provide an extra length of time to review the materials. The subdivision design standards were prepared by the consultant so there is not a legislative format available. It will take some work to put this together.

Carlson asked Peo to explain the new waiver procedure. Peo stated that the new waiver procedure is designed to be streamlined in that a request for a waiver is made with the

director responsible for that particular design standard. The request would go to that director, with written report and finding; then it gets forwarded to the City Clerk for scheduling on city Council agenda; it would then come up as a report at a City Council meeting and the City Council can either approve the report of the director if they agree with the director's findings, or they could pull it and have a separate public hearing at another time if they disagree with the director's report and findings. The report would come forward somewhat like a consent agenda item and unless someone wants it heard separately, it is adopted. This waiver procedure is applicable to all the design standards as proposed. Presently, they are filed and heard by Planning Commission, with a recommendation to the City Council. This would bypass the Planning Commission hearing process. Carlson confirmed that the City Council hearing does not provide notification to property owners. Peo concurred. However, most of the design standards are more technical in nature and more of a director type decision.

Rick Houck of Planning staff observed that this waiver process only applies to design standards. It does not apply to the minimum improvements required by the subdivision ordinance. Those would still be heard by Planning Commission and City Council through the normal process.

With regard to the street lighting design standards, Steward would like to have LES be thinking about these concerns: 1) what is the balance between adequate lighting for safety and conservation of energy and economic charges? It appears there is a significant increase in economic charges to the developer and therefore to the property owners in this change. He would like to have someone justify why all of a sudden this becomes a requirement that we have not had in the past. We have a responsibility for the balance between safety and the conservation of energy and this does not appear to be a conservation approach. Steward also believes that the issues raised by Mr. Krueger are valid from the standpoint of less sky brightness from artificial illumination. That again is a balance–what is best for the city?

Schwinn concurred. He wants more information. Many times we have public testimony about too much light and now we are proposing standards to add more light to the streetscape.

Newman has concerns about the centerline radii for streets.

Duvall moved to defer with continued public hearing and administrative action scheduled for September 6, 2000, seconded by Newman and carried 6-0: Steward, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'; Hunter, Bayer and Krieser absent.

CHANGE OF ZONE NO. 3238
FROM AGR AGRICULTURAL RESIDENTIAL TO R-3
and
CHANGE OF ZONE NO. 3239
FROM R-1 RESIDENTIAL TO R-3 RESIDENTIAL
and
PRELIMINARY PLAT NO. 00001, HAWKSWOOD ESTATES,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 70TH STREET AND OLD CHENEY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: July 26, 2000

Members present: Steward, Carlson, Newman, Taylor, Duvall and Schwinn; Hunter, Bayer and Krieser absent.

Planning staff recommendation: Approval of the changes of zone and conditional approval of the preliminary plat.

Ray Hill of Planning Staff submitted a correction to page 109, Item #4, of the staff report. The word “interior” should be stricken. This should apply to all streets including abutting 70th Street and Old Cheney Road.

Proponents

1. Kent Seacrest appeared on behalf of 7 different property owners. This is a very unique piece of real estate bound by 70th, Old Cheney Road and Hwy 2. It is a very, very wooded area. It is an old acreage development and the city has grown and engulfed this area. These are very large 5+ acre tracts and the owners came to him about a year ago in an effort to protect this neighborhood. Their vision is to attempt, through protective covenants, to not become urbanized but break the property up into smaller lots at an average of 1 acre, with city water and city sewer. It would be more dense than today but it would not wipe out the tree masses.

There are two roads that the staff wants this development to plan and create. Seacrest needs additional time to work with the property owners to come to a common position with regard to the staff conditions of approval.

There was no testimony in opposition.

Duvall moved to defer with continued public hearing and administrative action scheduled for September 6, 2000, seconded by Newman and carried 6-0: Steward, Carlson, Newman, Taylor, Duvall and Schwinn voting ‘yes’; Hunter, Bayer and Krieser absent.

SPECIAL PERMIT NO. 1629B
FOR TWO GROUND SIGNS ON
PROPERTY GENERALLY LOCATED
AT SOUTH 27TH STREET AND PORTER RIDGE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: July 26, 2000

Members present: Steward, Carlson, Newman, Taylor, Duvall and Schwinn; Hunter, Bayer and Krieser absent.

Planning staff recommendation: Conditional approval.

Proponents

1. Mark Hunzeker appeared on behalf of **DuTeau Chevrolet - Subaru** to present this request to modify the signage approved with the special permit that permitted construction of the DuTeau - Subaru building being constructed at 27th & Porter Ridge Road. The original approval provided for a pole sign at the corner of 27th & Porter Ridge (100 sq. ft. maximum allowable area, 35' in height). This proposed amendment is to add an additional sign in the form of a 43 sq. ft. ground sign at the intersection of the drive off of South 27th Street to the site and South 27th Street for the Subaru franchise, and to eliminate the pole sign and replace it with a 10' high ground sign approximately 75 sq. ft. in area. This effectively reduces the tallest of the signs from 35' to 10'; the smaller of the two will be 5.5' tall. Splitting into two signs increases the total signage to about 118 sq. ft., an 18 sq. ft. increase in the total signage permitted, but reduction of the height from 35' to 10'. The applicant believes that this represents a reasonable compromise.

Hunzeker went on to point out that there were a number of opportunities for simply adding a sign. DuTeau could have gone to the Motor Vehicle Licensing Board for a separate license for Subaru's franchise which would have permitted a second 100 sq. ft. ground sign, but they felt that this proposal results in a pair of signs which are low profile, very tastefully designed and in keeping with the commitment to minimize the impact on adjacent residential areas.

Hunzeker believes that the neighbor who has been most vocal about this project agrees with this proposal.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 26, 2000

Duvall moved to approve the Planning staff recommendation of conditional approval, seconded by Carlson.

Steward gave this applicant the good signage award. Anytime we can reduce a pole sign and create yard signs, we are better off. He expressed appreciation to the applicant.

Motion for conditional approval carried 6-0: Steward, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'; Hunter, Bayer and Krieser absent.

CHANGE OF ZONE NO. 3256
TO AMEND THE LINCOLN MUNICIPAL CODE
REGARDING USES PERMITTED IN THE
AIRPORT ENVIRONS (NOISE) DISTRICTS.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: July 26, 2000

Members present: Steward, Carlson, Newman, Taylor, Duvall and Schwinn; Hunter, Bayer and Krieser absent.

Ray Hill of Planning staff was available to answer questions.

There was no testimony in support.

Opposition

1. Mary Wickenkamp, who represents two property owners in the area of S.W. 27th Street and West "A", Commercial Contractors Heavy Equipment, Inc. and Judith Trackwell, testified in opposition. This change details some specific language changes in the Airport Environs district, changing it to the "Airport Noise" District, which her clients are concerned about. It talks about the Ldn lines and preservation of the existing ldn lines. The original Airport Noise Control and Land Use Compatibility Study (ANCLUCS), begun in 1979 and completed in 1980, imposed certain noise districts (ldn lines) in varying gradations. She informed the Commission that she has recently filed litigation in federal court regarding this whole zoning situation.

Her concern with the Airport Environs District is that when the ANCLUC study was done, she seriously questioned whether it was a valid study. The Airport Authority is the only place where it can be found. She has reviewed it extensively and suggested that the Planning Commission do the same. She suggests that the scientific methods used to determine the ldn areas are not valid in the year 2000. The study itself was only projected to extend to the year 2000. Looking back at the study, the projections for the amount of air traffic from the Lincoln Airport for the year 2000 are way off. The full force of that study has in fact expired. Her clients' concerns are that there has been a major scaling down of noise volume from jet engines. The standards were totally reworked and in the 20 years since the study was first promulgated, noise standards have changed dramatically. Everything is quieter and much more compatible. In addition, the construction of the bypass has changed the noise configuration dramatically. The traffic noise from the bypass area is the major source of noise as is the Burlington Northern Santa Fe. The

noise from jet engines is minimal. Her point is that the ANCLUC study is in this year completely invalid and completely irrelevant as are the ldn districts. Wickenkamp urged that this study should be seriously considered before doing anything with regard to changing the language of the text. The whole configuration has changed–we have traffic noise and noise from the railroad that generates significant decibel levels. The traffic contemplated in the ANCLUCS study from the Lincoln airport has simply never materialized. She also believes there is a draft of a study being done by the Lincoln Airport Authority with current calculations as to the exact number of flights and this should be compared to the original Anclux study.

Schwinn commented that this application just looks at a text change and it sounds like Wickenkamp thinks it should be more in-depth, more should be studied and that the Airport Authority should be involved. Wickenkamp concurred. Her client's position is that before tampering with the language of the text, we need to step back and take a comprehensive look at the whole situation as it is in serious need of reconsideration and study. The language has no impact on their lawsuit, but to the extent it adds to the complexity of the problem, the community would be better served by taking a step back.

2. Mark Hunzeker testified in opposition. While he does not disagree that there is a need to reevaluate the entire study, it is way beyond the scope of this text amendment. This amendment is for the purpose of clarifying uses available in districts 1 or 2. His concern is section 27.58.060(b)(1), found on page 5 of the text amendment. This paragraph provides that if you have a piece of property which is split by noise districts 1 and 2, in order to be able to build a residential structure on that parcel, the portion of it which is outside of zone 2 must meet all the minimum lot requirements, including but not limited to lot area and required yards of the underlying district for that use. An entire lot must be outside the boundary of zone 2. Hunzeker suggested that those boundary lines were never that precise. To the extent you may be able now with mapping technology to precisely draw those lines, that does not mean that is where those exact ldn lines occur.

In addition, Hunzeker observed that the study is 20 years old and the maps upon which we now regulate airport noise and uses in those districts were based primarily upon mappings of sound levels that were taken when F-4's were flying at the airport. The map used to regulate essentially represents the extremities of the civil and military aircraft that existed at that time. It is not fair to someone with a lot that is split by those two districts to be told that, even though the area they want to build a house upon is outside district 2, they don't quite have a full lot outside district 2 and they can't use it for residential purposes. Hunzeker suggested that this paragraph {27.58.060(b)(1)} be deleted and that the balance be forwarded to the Council for approval. He is not sure this situation will ever even come up. The building would be in district 1 and the balance could be in district 2. The two pieces together could then meet the minimum lot requirements, etc.

Steward inquired about an appeals process given the fact that we have fluctuating technology and imprecision in the drawing of the lines on the map. Hunzeker advised that one can go to the Board of Zoning Appeals to get those lot area and setback requirements

reduced, but in most circumstances that is kind of a big burden to place where you otherwise have a piece of property which is outside of the map area. Steward believes the language appears because of the imprecision and the fact that there needs to be a controlling circumstance in a split situation. Hunzeker suggests that the lines are mapped pretty accurately. The point is that the age of the study and the imprecision of the nature of the study would indicate that if you are clearly outside the district 2 boundaries with a portion of the property you want to build a house upon, that should be enough.

Schwinn asked staff why this text amendment is being proposed. Rick Peo of the City Law Department advised that this concept initially arose because there were concerns as to what the runway protection zone is and there were comments of people thinking it was a crash zone. This text amendment refers to nothing other than noise. The existing language appeared confusing, i.e. to say a use is allowed in district 1, outside of district 2, whether or not those uses were permitted in district 2. After discussions with the Lincoln Airport Authority, the staff tried to pinpoint what is allowed in each district. Residential uses are more restrictive in noise district 2, being for caretakers, etc. This is simply a housekeeping ordinance to simplify the language of the existing code. The purpose of the new section is how to treat people that have split lots. Under the existing language, the split lot was bound by the regulations of the more restrictive district, that being district 2. We tried to come up with a provision for the split lot so that you could build within the regulations of the underlying district.

Peo recognizes the disputes about validity of the original study. But this is just a housekeeping ordinance. There are other options that could be considered in relation to the study. This is just to clarify the uses and make it simpler to follow.

Schwinn inquired whether there is a chance that this whole area would be redrawn. Peo stated that this would involve an investigation with the Lincoln Airport Authority as to the validity of the noise levels and the traffic patterns.

Steward noted the Comprehensive Plan language: “Because the characteristics of the new aviation technology is not known, the city should not reduce the current airport environs and noise zones but rather should preserve the maximum buffers for future development alternatives”. Steward believes this puts us in the position of having a policy that provides guidance, but does not put us in the position of every year having to re-evaluate the technology and the changes. Can we enhance this in any way to provide for that flexibility of change in technology and flexibility of appeal process for an aggrieved property owner? Peo agrees that it might be necessary to start evaluating this. Issues will be raised if the study is not accurate and the contour lines are not accurate. Generally, the regulation of noise level in an airport is permissible, maybe not necessarily by contour lines but establishment of some boundaries under some type of criteria for protection of people from the impact of noise. This is recognized as a valid purpose of zoning – to protect impact of noise on people. There are means to accomplish this, but it will take some changes to the zoning code or Comprehensive Plan to provide alternatives.

As far as the appeals process, Peo does not believe the Board of Zoning Appeals variance is a functional or practical solution. It is a policy decision as to whether you need to have an equivalent lot upon which to build, even though it is split by the district.

3. Kent Seacrest appeared on behalf of **B&J Partnership,** the owner of property in noise zone 2. He complimented the Airport Authority and staff because he thinks these changes help people in zone 2. However, his client shares the concerns of Ms. Wickenkamp. 20 years is a long time to rely on this study. He is suspicious that if we could get the study updated, the zones would change and the contour would change. Seacrest suggested that the Planning Commission and City Council ask the Lincoln Airport Authority to update that study.

Duvall commented that technology wise, 20 years has transformed jet noise. We're not in the same ballpark.

Seacrest believes that this is more than a city issue and more than an Airport Authority issue. You just can't waive this stuff easily because there is federal jurisdiction here. The federal government relies on the study and does not like waivers. We are talking about taking people's property rights.

Carlson asked whether Seacrest is recommending advancement of this text in addition to asking for a new study. Seacrest believes the text should go forward because the restrictions on zone 2 were ridiculous; and yes, ask for a new study.

Wickenkamp reappeared. With regard to the three runway areas, there are two shorter ones with a runway protection zone of 5,200 feet. The runway protection zone on the longer runway is 11,470 feet. There is no justification for this. The FAA no longer even has a copy of this original Anclux study and they never required it for the City of Lincoln. Lincoln was exempted from the original legislation.

Wickenkamp suggests that what the Commission is doing today would be superfluous because what is truly needed is a thoughtful look at the whole scheme because it is irrelevant and not valid today. The FAA is not concerned about it and this study never was on file with the FAA and has never been required. She does not believe the Lincoln Airport Authority was ever required to do this study. Wickenkamp is not sure there was any genuine legal requirement for the study. She is not aware that there is any legal requirement for an update as well.

Rick Peo does not believe this ordinance is superfluous. It should go forward to clarify the intent for people wanting to do those uses today. While the FAA may or may not require airports to conduct a study to obtain funding, noise is still an element of consideration that the FAA recognizes and they recognize that certain uses are incompatible around the

airports based on noise levels. Noise control is a matter of local concern passed on to the City–not the FAA. How we go forward after today still needs to be analyzed. This ordinance simplifies the existing procedures and makes it more understandable and should go forward.

Carlson asked for the staff's rationale for the need for the entire lot size outside the more intense noise district. Ray Hill explained that this is based on the fact that the buildable area of the lot includes the full lot area plus the setbacks. Staff believes it should be a complete lot, including yards outside of that noise zone. You can use the rest of it for accessory uses. That would be the same as additional open space. It is just a policy decision. If the Commission wants to allow the house to built to the line, that's fine.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 26, 2000

Steward moved approval of staff recommendation, seconded by Newman.

Steward believes the Commission is caught by determinations that are made totally outside the city purview, but the fact is that the noise ordinance and noise issues are in the public interest for people in the city of Lincoln and public safety around airports is a concern, even though we are not calling these "crash zones". It seems we are being presented with a text which is clean-up. It does not worsen the circumstance. At the same time, Steward suggested that the Commission consider a motion for request for further study by the appropriate authorities.

Carlson stated that he is supportive of the text as it exists, without the amendment requested by Hunzeker.

Motion for approval carried 6-0: Steward, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'; Hunter, Bayer and Krieser absent.

CHANGE OF ZONE NO. 3267
FROM H-2 HIGHWAY BUSINESS AND
R-4 RESIDENTIAL TO O-2 SUBURBAN OFFICE
ON PROPERTY GENERALLY LOCATED
SOUTH OF "O" STREET BETWEEN 44TH AND
45TH STREETS.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION July 26, 2000

Members present: Steward, Carlson, Newman, Taylor, Duvall and Schwinn; Hunter, Bayer and Krieser absent.

Planning staff recommendation: Approval.

Proponents

1. Allan LaDuke, manager for the owner of the property, **Gardens Complex, LLC,** testified. There are currently two zoning districts on the property: H-2 where the buildings are located and R-4 where the parking is located. The duplex is not being rezoned and will stay R-4. The purpose for this change is for an office building. They now have a mix of retail and office. The 20,000 sq. ft. office building is not retail and that is the primary asset. The smaller building to the left of the office building is a 40-year old gas station currently occupied by Auto Sounds retail center, which will be relocating and vacating the property.

The purpose of this request is that it is not an H-2 use and they do not want to be H-2. The O-2 will lower the parking density from 1 per 200 to 1 per 300. This change will result in removal of the retail building and replacing it with a two-story office addition to the existing building, putting the buildings contiguous and dressing up the corner. The parking right up against "O" Street is not permitted in O-2. The corner will be landscaped. The accesses to "O" Street will be eliminated. Accesses will be to the south. The duplex will remain. This is actually a downzone.

There was no testimony in opposition.

Taylor inquired why the zoning is H-2. Ray Hill of Planning staff explained that most of the frontages along "O" Street were zoned H-2 because "O" Street is considered a highway business district. This particular site and some others along "O" Street have been rezoned to O-2. This is not the only place the O-2 has been allowed.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 26, 2000

Newman moved approval, seconded by Duvall and carried 6-0: Steward, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'; Hunter, Bayer and Krieser absent.

COUNTY CHANGE OF ZONE NO. 201
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL
and
COUNTY PRELIMINARY PLAT NO. 00018
ROCA RIDGE
ON PROPERTY GENERALLY LOCATED
AT THE SOUTHEAST CORNER OF
SOUTH 68TH STREET AND ROCA ROAD.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: July 26, 2000

Members present: Steward, Carlson, Newman, Taylor, Duvall and Schwinn; Hunter, Bayer and Krieser absent.

Mike DeKalb of the Planning staff submitted an email message from Gregory and Jamille Leiker, owners of property to the west with a drainage way going through their property to a dam which backs up to the property line. They are concerned that if this development removes the dam on the property it could cause an increase in flow and backup on their property. They are opposed to the proposed development if no further studies are done to determine what the runoff affects might be.

Proponents

1. DaNay Kalkowski appeared on behalf of the applicant, **South 68th Street, L.L.C.,** the principals of which are Ridge Development, Southview, Inc. and Dr. and Susan Hohensee. The applications include a change of zone from AG to AGR and a preliminary plat. The entire development consists of 34 three-to-four-acre lots. The south 235' of the property is located within the one-mile jurisdiction of Hickman, affecting the three southernmost lots on the plat. The plan can exclude the three southernmost lots if the proposal is not approved by Hickman, but the property owners wanted to propose an integrated development for the entire site.

Kalkowski further stated that the owners believe the highest and best use is for acreage development, and this proposed development is consistent and compatible with the surrounding land uses. The land to the west is zoned AGR; Leisure Lake Estates is located to the south; to the east is also an AGR development approved in 1991. There are two major arterials abutting on the north and west. So. 68th Street and Roca Road are paved. There are plans to improve So. 68th from Saltillo south through the Roca intersection in 2002-2003. The rural water district has determined that it has sufficient capacity and pressure to service all lots in this development without adversely affecting existing uses. The developer has signed an agreement with the Rural Water District to provide service.

This proposal is consistent with the County 1994 Comprehensive Plan showing this property and the surrounding area as low density residential, and has been shown as such

since at least 1977. A small portion falls within the jurisdiction of Hickman and in order to keep that area within this development, they will need approval from the City of Hickman.

This application was delayed for the developer to have the opportunity to meet with the Hickman Planning Commission and the Mayor. Kalkowski stated that she has done both. Mayor Heckman did not have a list of concerns, but one primary concern–he does not believe this development is consistent with the policy Hickman adopted in 1994, which provides that all new residential growth should occur within the city. She did not receive a lot of feedback from the Hickman Planning Commission. Their action was delayed in order to address some concerns of their engineer.

Kalkowski explained that Hickman is taking the position that this proposal is not consistent with the County Comprehensive Plan, which identifies areas, including this area, as appropriate for low density residential development. The property has been shown as low density residential since at least 1977; it was purchased by the Hohensee's in the 1980's when it was entirely in the County's jurisdiction and shown as low density residential. Hickman has not submitted anything–a subarea plan or amendment–that would be requesting the County to change their Comprehensive Plan to be consistent with Hickman's policy. There has been no opportunity or any public hearing for making a change to the County's current designation.

Kalkowski submitted proposed revisions to the conditions of approval, including Conditions #2.3 and #3.2.6 which deal with providing a second means of access out to So. 68th Street. The plat provides one access out to South 68th, the existing Leisure Lane. Kalkowski contends that with this low density residential use, a second access is not needed. The neighbors in this area are concerned about traffic on So. 68th Street, so the applicant believes that reducing the access is beneficial from a safety standpoint.

Kalkowski believes that the County's designation of low density residential shows the highest and best use. It is compatible with the surrounding AGR zoning.

Newman asked the applicant to address the concerns of the Leikers. Kalkowski pointed out that condition #1.3.6 deals with the dam, requiring that the developer provide additional information on how that lot could be buildable. She anticipates that this condition would cover their concerns for additional information. The drainage and grading plan should also address the drainage coming off the site.

Steward asked whether the applicant accepts the implication of Condition #1.3.6 that if it is not buildable, the dam and drainageway will need to be an outlot. Kalkowski accepts that it is nonbuildable unless they satisfy the County Engineer that what change they are making to the existing elements would be satisfactory.

Carlson inquired as to the objection to taking Roca Ridge Court and having it access South 68th Street. Kalkowski stated that the primary objection is just with this number of lots they

do not believe a second access point is necessary out to So. 68th Street. This is consistent with some of the concerns heard from the neighbors about the intersections at So. 68th Street. The intent is to limit the traffic and it is better to have one access from a safety standpoint. The applicant would be required to do some shifting if they were required to provide the second access.

Opposition

1. Dennis Heckman, Mayor of the City Of Hickman, testified in opposition, quoting the goals from the City-County Land Use Plan: "Concentrate new growth in the Lincoln urban area and in the villages throughout Lancaster County; protect existing rural areas from urban sprawl through planned development." Mayor Heckman considers this proposal to be a planned development. Another goal of the Comprehensive Plan is to incorporate or reflect the adopted plans of the towns and villages in Lancaster County as subarea plans. It is the Mayor's understanding that Hickman did not get their "Horizon Plan" filed in time to become a subarea plan in the Comprehensive Plan.

Mayor Heckman pointed out that in the county, there are a lot of acreages that are in areas that are not designated as being low density residential. There are low density developments all over the county. He believes it is arbitrary that this area is shown on the map to someday be zoned as such. This area continues to radiate outwards. Across the road, the 140 acres that is AGR has not been developed. This is a leap-frog. In 1991, Leisure Lake Estates was approved. There is a lot that has happened in the last nine years. In 1995, the Hickman Comprehensive Plan sought to buffer all acreages surrounding the community. Going down the road, ½ mile north, there is a sign that says "protected area wellfield district", and then we propose to put in 34 individual sewers. He does not understand this.

The Mayor advised that Hickman is going to USDA for a $700,000 loan to put in a one-quarter mile directional sewer main that will open up 700 acres contiguous to Hickman for development. The Ironhorse development in Ashland is contiguous to Ashland and part of the community. They would love to have something like this next to Hickman and provide good water and a sewer system. He perceives that in the next several years, these types of developments will be on the outs. He does not believe they will be viewed as good planning.

Hickman has a 40-acre minimum requirement within one-mile of the city. There are also socio-economic factors. Hickman will get no tax revenue from the proposed development as a community. He requested that the Commission search a little bit to see the long range from the Comprehensive Plan point of view. He knows the property owners have rights to develop, but it should not be rubber stamped. Concentrating new growth in the Lincoln urban area and the villages is paramount. There has not been a lot of support locally for this development. There are a ton of acreage developments in southern Lancaster County.

Response by the Applicant

Kalkowski stated that she understands some of the concerns of Hickman. While the 1994 Comprehensive Plan does talk about concentrating growth in urban areas, it also recognizes that there are areas in the County that are appropriate for low density residential development. This is one that has been designated as being appropriate. There is infrastructure surrounding this site. It is at the intersection of two major paved roads. The development to the south is already developed; the area most close to the City of Hickman is already developed as 3 to 4-acre lots. It is a good idea for Hickman to plan in their surrounding area, but if they are planning outside their 1-mile jurisdiction they need to do it with the County. The County shows this area as being appropriate for acreage development.

Carlson asked staff to speak to the conflict between the map and the stated goals of the Comprehensive Plan. DeKalb does not believe there is a conflict. Yes, we do have goals that talk about growth in incorporated areas, but we also have a complete section that talks about setting aside areas for acreages. This property is shown in the Comprehensive Plan as low density residential. It is unfortunate that the Planning Department has not had the benefit of Hickman's Comprehensive Plan. They had intended to send it for incorporation into the Comprehensive Plan. The Planning Department did not have a copy until after the staff report for this project was done. He believes this development is compatible with the surrounding area.

DeKalb advised that there are about 1700 vacant lots in Lancaster County, with probably 2/3 of those south of Saltillo Road. On the east side of Hickman towards the lake there are in excess of 100 vacant lots. There are existing parcels on the south side of Roca Road. This proposal pretty much ties up the AGR shown in the Plan in this area. The western side is already zoned and undeveloped; this side is shown for acreage development.

Carlson asked staff to give their rationale for second access. From a planning perspective, DeKalb explained that there is a county subdivision standard of 1320' of block length for cross-streets. We may or may not get the opportunity to get the access at a later time. This is 3,300' in length between existing Leisure Lane and Roca Road on the north. He had no justification not to require this second access. The County Engineer raised no question as to safety. It would be appropriately located with regard to sight distance. The staff is recommending that the additional access be provided now as required by the standards.

As far as the amendments proposed by the applicant, staff disagrees with the proposed amendment to #2.3 and #3.2.6, which relate to the waiver of the block length.

Public hearing was closed.

COUNTY CHANGE OF ZONE NO. 201
ADMINISTRATIVE ACTION BY PLANNING COMMISSION July 26, 2000

Duvall moved approval, seconded by Taylor.

Steward will oppose the motion for approval. He thanked Mayor Heckman for coming to testify. It is appropriate that he has reminded the Commission of the language in our Comprehensive Plan. We have very good language in the Plan but we don't always find ourselves in a position to execute and live to the letter of the language. It will come as no surprise to anyone that Steward would oppose this proposal because he has resisted conversion from AG to AGR for the most part in the county, believing that we do not have a clear delineation of the appropriate environments and conditions for acreages. We are about to develop our new Comprehensive Plan and Steward encourages Hickman and every other community and the Planning Commission to do everything possible to coordinate this effort. It is only through coordination that we will be able to have the best environment that we can have that is most satisfying to the Comprehensive Plan strategy. On the surface, Steward believes this is a reasonable development, but because of the location and the circumstance of which it continues to exacerbate the low density development in what otherwise removes the opportunity for higher density concentration, he thinks it would be poor judgment to approve.

Newman agreed with Steward. We would be remiss if we did not honor the wishes of our smaller communities in the county.

Carlson agreed that Hickman's position is a strong weighing point. He understands that Hickman's position is only legally appropriate for the bottom three lots, but there is a larger issue beyond just where the line is drawn. There will be impacts on both sides of that line.

Schwinn suggested they could go R-2 and put 360 houses in there and add to the tax base of Hickman. He would like to see the developer and the City of Hickman try to work something out.

Motion for approval failed 3-3: Schwinn, Duvall and Taylor voting 'yes'; Steward, Newman and Carlson voting 'no'; Hunter, Bayer and Krieser absent.

Steward moved to deny, seconded by Newman and failed 3-3: Steward, Newman and Carlson voting 'yes'; Schwinn, Duvall and Taylor voting 'no'; Hunter, Bayer and Krieser absent.

This item is held over for administrative action on August 9, 2000. Public hearing has been closed.

COUNTY PRELIMINARY PLAT NO. 00018
ADMINISTRATIVE ACTION BY PLANNING COMMISSION July 26, 2000

Newman moved to deny, seconded by Steward and failed 3-3: Newman, Steward and Carlson voting 'yes'; Schwinn, Duvall and Taylor voting 'no'; Hunter, Bayer and Krieser absent.

This item is held over for administrative action on August 9, 2000. Public hearing has been closed.

There was discussion about whether the public hearing should be reopened; however, no one made a motion.

SPECIAL PERMIT NO. 1846
FOR A PERSONAL WIRELESS FACILITY
ON PROPERTY GENERALLY LOCATED
AT NORTH 9TH STREET AND W STREET.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: July 26, 2000

Members present: Steward, Carlson, Newman, Taylor, Duvall and Schwinn; Hunter, Bayer and Krieser absent.

Jennifer Dam of Planning staff submitted a request from the applicant for another two-week deferral as they are working with the University of Nebraska for an alternative site.

Dam also submitted a copy of an email received from Allen Burbach requesting an explanation of criteria used by the Planning Commission in approving or denying the proposal. Dam stated that she responded to Burbach's email and outlined the criteria and attached a copy of the staff report which addresses the criteria. If the Planning Commission votes to deny the request, the Commission must identify the difference of opinion on those criteria and provide its denial in writing as required by federal law.

Steward moved to defer, with continued public hearing and administrative action scheduled for August 9, 2000, seconded by Taylor and carried 6-0: Steward, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'; Hunter, Bayer and Krieser absent.

There being no further business, the meeting was adjourned at 3:35 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on August 9, 2000.