

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, June 20, 2007, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gene Carroll, Michael Cornelius, Dick Esseks, Gerry Krieser, Roger Larson, Lynn Sunderman and Tommy Taylor (Mary Strand absent); Marvin Krout, Ray Hill, Steve Henrichsen, Mike DeKalb, Brian Will, Christy Eichorn, Brandon Garrett, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held June 6, 2007. Motion for approval made by Taylor, seconded by Carroll and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

June 20, 2007

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor (Strand absent).

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 07014, CHANGE OF ZONE NO. 07035, CHANGE OF ZONE NO. 07033, COMBINED SPECIAL PERMIT/USE PERMIT NO. 19A, COUNTY SPECIAL PERMIT NO. 143A, SPECIAL PERMIT NO. 07016, SPECIAL PERMIT NO. 07017, SPECIAL PERMIT NO. 07018 and SPECIAL PERMIT NO. 07020.**

Ex Parte Communications: None.

Item No. 1.1, Comprehensive Plan Conformance No. 07014; Item No. 1.3b, Combined Special Permit/Use Permit No. 19A; and Item No. 1.6, Special Permit No. 07017, were removed from the Consent Agenda and scheduled for separate public hearing.

Taylor moved to approve the remaining Consent Agenda, seconded by Carroll and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

Note: This is final action on Special Permit No. 07016, Special Permit No. 07018 and Special Permit No. 07020, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 day of the action by the Planning Commission.

CHANGE OF ZONE NO. 06082
FROM AG AGRICULTURAL DISTRICT
TO AGR AGRICULTURAL RESIDENTIAL DISTRICT
and
PRELIMINARY PLAT NO. 06011,
WOODLAND VIEW 1ST ADDITION,
ON PROPERTY GENERALLY LOCATED
AT S.W. 40TH STREET AND WEST A STREET.
REQUEST FOR DEFERRAL:

June 20, 2007

Members present: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson; Strand absent.

The Clerk announced that the applicant has requested an additional four-week deferral.

Carroll moved to defer, with continued public hearing and action scheduled for July 18, 2007, seconded by Cornelius and carried 8-0: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson voting 'yes'; Strand absent.

There was no public testimony.

CHANGE OF ZONE NO. 07018,
GLYNOAKS PLAZA PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED AT
S. 84TH STREET AND GLYNOAKS DRIVE.
REQUEST FOR DEFERRAL:

June 20, 2007

Members present: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson; Strand absent.

The Clerk announced that the applicant has requested an additional four-week deferral.

Carroll moved to defer, with continued public hearing and action scheduled for July 18, 2007, seconded by Cornelius and carried 8-0: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson voting 'yes'; Strand absent.

There was no public testimony.

CHANGE OF ZONE NO. 07027
FROM R-4 RESIDENTIAL TO B-2 COMMERCIAL
and
STREET & ALLEY VACATION NO. 07003,
ON PROPERTY GENERALLY LOCATED
AT S. 9TH AND 10TH STREETS, SOUTH OF SOUTH STREET.
REQUEST FOR DEFERRAL:

June 20, 2007

Members present: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson; Strand absent.

The Clerk announced that the applicant has requested an additional four-week deferral.

Carroll moved to defer, with continued public hearing and action scheduled for July 18, 2007, seconded by Cornelius and carried 8-0: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson voting 'yes'; Strand absent.

There was no public testimony.

COUNTY SPECIAL PERMIT NO. 07009,
KADAVY ESTATES COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT N. 56TH STREET AND BRANCHED OAK ROAD.
REQUEST FOR DEFERRAL:

June 20, 2007

Members present: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson; Strand absent.

The Clerk announced that the applicant has requested an additional six-week deferral.

Carroll moved to defer, with continued public hearing and action scheduled for August 1, 2007, seconded by Cornelius and carried 8-0: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson voting 'yes'; Strand absent.

There was no public testimony.

COMPREHENSIVE PLAN CONFORMANCE NO. 07014,
TO REVIEW THE PROPOSED DECLARATION OF SURPLUS
PROPERTY GENERALLY LOCATED AT
SOUTH 70TH STREET AND A STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 20, 2007

Members present: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson; Strand absent.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Ex Parte Communications: None.

This application was removed from the Consent Agenda at the request of the Planning staff.

Steve Henrichsen of Planning staff indicated that some issues have come up that need to be resolved before Planning Commission action. Henrichsen requested a four-week deferral until July 18, 2007.

Taylor moved to defer, with continued public hearing and action scheduled for July 18, 2007, seconded by Cornelius and carried 8-0: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson voting 'yes'; Strand absent.

**COMBINED SPECIAL PERMIT/USE PERMIT 19A,
AN AMENDMENT TO ADJUST THE REQUIRED SETBACKS
FOR PARKING AT LINCOLN SURGICAL CENTER,
LOCATED AT 1710 S. 70TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

June 20, 2007

Members present: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson; Strand absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda due to a letter received in opposition.

Addition information for the record: Brian Will of Planning staff submitted a letter in opposition from the property owner at 7240 S. Hampton Road.

Staff presentation: **Brian Will of Planning staff** explained that this is a request to amend the existing use permit for Lincoln Surgical Center northeast of the intersection of 70th Street and Lincolnshire. This area is unique when compared to the typical office development and use permit site in that it actually has two separate lots. Recently, an amendment to this use permit was approved administratively that reconfigured the parking layout to include both an addition to the office building as well as an underground parking garage, resulting in a reconfiguration of the surface parking lot. This is a request for one specific adjustment to the setbacks, i.e. both side yards for the hospital site, because the ordinance prohibits parking in the side yard. The original use permit adjusted the side yard to 5 feet. This adjustment requested today would allow parking to go to the side yard.

Will explained that the text amendment (Change of Zone No. 07033) just approved on today's Consent Agenda, would allow this parking on an adjacent lot. The City Council will need to approve that text amendment prior to allowing this amendment to the use permit.

Carlson confirmed that the parking lot configuration will not change. This just makes it legal as it sits. Will explained that if this amendment is not approved, the 5' side yard would have to be maintained. If this amendment is approved, parking will be allowed to go up to and cross over the setback.

Esseks inquired whether an exception is justified in this case. Will suggested that part of the rationale for approving the previous administrative amendment was that it would provide additional parking on this site (63 additional parking spaces). There has been the need for more parking at this location. The amendment before the Commission today makes this development consistent with the way other office parks have developed in the

city, i.e. parking within that use permit area really doesn't respect any lot lines. This does serve a purpose in that it allows additional parking to be provided in a manner that is consistent with other office parks throughout the city.

Proponents

1. Robert Findley, Findley & Associates Architects, testified on behalf of the applicant. The basic objective of this amendment is to increase the parking without constructing a big parking structure in front of the buildings. The underground parking will not alter the looks or the flow of the development. It will get employees off the lot and off the neighboring street. The grades of the project will not change. This is a precast parking lot construction. The neighborhood will not see a parking structure. They will see a slight berm up to the parking lot corner where the entrance and exit exists. This will be well landscaped.

Opposition

1. Philip Rihanek, 7070 Lincolnshire, directly east of the site, testified in opposition. He agreed that it will get more people off of the neighborhood streets, but it will also increase the traffic through that area. Morley Elementary is across the street and there are a number of children walking in the neighborhood to get to that school and they do walk through this parking lot. If there is no division of the parking lots, there will be free traffic flow over the whole area and potential danger to the children walking to school. He believes that some of the 130 parking stalls will be decreased by the landscaping. There is one-hour rotation at the clinic and 10-15 minute rotation at the bank. The parking problem may be resolved but the traffic problem will be increased, more difficult to control and more dangerous.

Taylor inquired whether Mr. Rihanek is seeing increase of employees at this location and increased number of vehicles. Rihanek believes there will be more traffic flow coming out to Lincolnshire because of the parking garage, another addition, and the fact that the parking lot for the bank will be attached to the hospital parking lot. Every employee that leaves and enters the complex will use the same entrance and exit, which will be a residential street as opposed to a main street. Visibility could cause a problem. There is also a bus drop-off site at this location.

2. Dick Boyd, 1811 Sussex Place, testified in opposition. How will the vehicles exit and enter from 70th Street and Lincolnshire?

3. Jean Stading, 1821 Sussex Place, testified in opposition. There was a meeting with the developers with over 40 neighbors in attendance. The neighbors urged that the ingress and egress should be off of 70th Street instead of Lincolnshire. This will be putting 250 extra cars going through North and South Hampton Roads to get out to South Street to get back to 70th. This is a lot of cars coming in and out of a neighborhood on a daily basis. It will interfere with the neighborhood.

She also commented that another neighbor is concerned about the water that comes out into the streets from this building.

Stading suggested that this application be delayed for further discussion.

Staff response

Carroll asked the staff to talk about the employees entering the parking structure off of the side street, i.e. Lincolnshire. Will showed the four access points on the map. There are sidewalks along the extent of 70th Street and along Lincolnshire. One advantage of this plan is that it does eliminate an existing driveway off of Lincolnshire. There is no traffic signal "at this intersection". One of the comments we hear is that some of the people leaving the facility and not being able to make a left turn, weed their way back through the neighborhood.

Esseks believes that a property can become overburdened – too many people and too many vehicles. When is it appropriate to say "no more" or that they can have additional parking only if there is a traffic light? Relative to the amount of the site that can be occupied, Will advised that this development is well under the 35% cap. This site is not fully built-out according to the ordinance.

Esseks wondered whether the drainage facilities are adequate.

Esseks is also concerned about the possible danger to children walking to school. How do we deal with this issue? Will pointed out the crosswalk and crossing signal on 70th Street. Lincolnshire and 70th does not have a traffic signal. The sidewalks are on both sides of Lincolnshire and there will be one less driveway for the children to cross. Will understands that children do cut through the hospital parking lot, but the sidewalks do exist.

Relative to the employee entrance off of Lincolnshire, Carroll inquired whether there was any consideration for requiring the employees to go out 70th to the main entrance. Was the parking structure based on topography of the land? Will believes that where the entrance is shown works better for getting the entrance at grade.

Rick Peo of the City Law Department cautioned the Commission to focus upon this specific request to adjust the setbacks. The parking lot and the underground parking garage have previously been approved. This request is for a minor setback reduction around the O-3 office property. This is not a major change. The primary purpose of the text change on the Consent Agenda is to reflect current reality in the city. Presently, according to the code, parking is required to be on the same lot as the use. Over a period of time, in use permit districts, we have allowed pad sites and outlots for the parking, which technically does not comply with the zoning code. The text amendment on today's Consent Agenda brings us up to speed. This amendment to the combined special permit/use permit brings this same project to the same standard and rights that everyone else is operating

under today.

With regard to the drainage concerns, Dennis Bartels of Public Works advised that the application reviewed by Public Works did not show drainage for the whole site. He believes the drainage concerns probably relate to the existing development along Lincolnshire as it goes east. In his estimation, building this parking garage does not change the drainage situation. It may not help the current drainage situation, but he does not believe it will change the current situation.

Esseks wondered whether a traffic light could be installed at Lincolnshire & 70th Street if the citizens in this area thought there was a strong need for it. Bartels acknowledged that this has come up in the past and the last time it was studied it did not meet the warrants for a signal. It is not a good location for a signal. 30,000 to 40,000 cars per day puts 70th at capacity and Lincolnshire is not the ideal location for a signal. It is a bad location for the traffic pattern that has been established for that school. If you put a traffic signal there, it will encourage parents to not use the established route. An unwarranted traffic signal will increase delays.

Response by the Applicant

Findley advised that the location of the employee entrance off of Lincolnshire is a curbcut that they have had for 13 years. The grade at that location also enables access to the underground garage with the least amount of the building coming up above the grade. Not all of these people leave through Lincolnshire. This lot is contiguous with the Hampton lots.

With regard to drainage, Findley advised that the developer did meet with all of the city departments before submitting this application. The water flow does not change. He believes it will improve the flow by taking some of the water back up towards 70th Street.

Taylor inquired whether the change to increase the parking was done with anticipation of increasing the number of employees, or just to accommodate the existing employees. Findley suggested that this is just a really busy place and it will do nothing but get busier in terms of patients. Any business that does well has to grow. The parking garage would be built, regardless, because it is helping the neighbors and it is helping the elderly patients. He believes it is a plus for everyone. They did attempt to do some separation of bank traffic, hospital traffic and employee traffic so that they won't all be running into each other. They have closed one of the 30' curbcuts on Lincolnshire.

ACTION BY PLANNING COMMISSION:

June 20, 2007

Carroll moved to approve the staff recommendation of conditional approval, seconded by Taylor.

Taylor is interested in encouraging growth and business. Creating traffic signals does not necessarily solve the problem, but sometimes creates a problem. It looks as if they have done a good job in terms of planning. There is not an increase in the flow of water. He hopes this proves to be good for the neighborhood.

Cornelius reiterated that although a great deal of the discussion was about the existence or approval of the underground parking facility, that was not the issue of this application at all, but simply changing the setbacks for the internal side yards. The underground facility was approved administratively in March.

Motion for conditional approval carried 8-0: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson voting 'yes'; Strand absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 07017,
FOR THE EXPANSION OF A NONCONFORMING USE
FOR THE PURPOSES OF SELLING ALCOHOLIC BEVERAGES
FOR CONSUMPTION ON THE PREMISES,
ON PROPERTY GENERALLY LOCATED AT
NORTH 48TH STREET AND DUDLEY STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 20, 2007

Members present: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson; Strand absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This applicant was removed from the Consent Agenda due to a letter received in opposition.

Staff presentation: **Brandon Garrett of Planning staff** indicated that he did receive a letter and phone call in opposition from Connie Sykes, who owns the property at 4639 Holdrege, at the corner of 47th & Holdrege. The application is for Madsens Bowling Alley.

This application for expansion of nonconforming use is to expand the licensed premises onto Madsens' existing deck of approximately 288 sq. ft. He did a measurement to the Sykes property from the deck and it is approximately 345' straight line distance. There are two apartment buildings to the west zoned H-2 which are approximately 200' straight line distance from the proposed expansion of the nonconforming use. It is approximately an 80' straight line distance from the deck to the park to the north.

Proponents

1. **Tom Madsen**, the applicant, explained that this is an addition to their existing liquor license. This is currently an outdoor smoking deck and he wants to allow food and beer on the deck.

Opposition

1. **Jim Zalewski**, 134 S. 13th Street, appeared on behalf of **Connie Sykes**. His client owns property at 4639 Holdrege, which is 3/4 block somewhere north of the area. She is opposed because 1) tenants have complained about noise/public urination/parking issues in the area of the bowling alley, and allowing more people outside to drink is going to lead to more noise and other issues; 2) individuals who cannot get in to use the restroom facility can walk off the deck toward the park area, which has already been a problem.

Zalewski submitted that the noise will increase. There is no limit on how many people can be on this deck. Because the deck has a single type railing, there is no control of ingress and egress for people “hopping over that deck”. The parking lot is to the east of that deck and it will be easy for under-age drinkers to access the alcohol. This is a dangerous precedent for other bars that may adjoin a residential neighborhood.

In addition, Zalewski’s client is opposed because of property resale issues.

Zalewski suggested that at a minimum, the applicant should be required to extend the privacy fence around the deck. And, because of the noise issue, there needs to be some type of awning or structure over the deck.

Staff response

Garrett was unsure as to the requirements that the Health Department or Building & Safety would have pertaining to the outdoor seating area. The Health Department did have some recommendations to the applicant to mitigate against some of those concerns of the opposition. If the question was posed to the Planning Department on a new application for a new outdoor seating area on this particular site, the staff would probably recommend that the outdoor seating area be located on the street side facing North 48th Street, where the existing outdoor dining area for Madsens is located. The code does not require any fencing or screening, but such conditions could be added by the Planning Commission.

Carroll observed that the deck is built and wondered whether the applicant would have to go back to Building & Safety. Garrett suggested that if there were any structural improvements required, it would need to be reviewed by Building & Safety.

Cornelius inquired as to the size of the deck. Garrett advised that it is about 288 sq. ft. (9 x 32), and less than two feet tall.

Carroll wondered about requirements concerning lighting and/or sound. Garrett does not believe there are any such requirements for this application.

Esseks would like the opportunity to review the Health Department comments which were not attached to the staff report.

Response by the Applicant

Madsen stated that his clientele is not the kind of people that cause problems. As far as putting anything around that structure, he would be required to put sprinkler heads throughout his 17,000 sq. ft. building, which he does not want to do. Therefore, he applied for the café permit with two tables and eight chairs. The permit states how many people can be on the deck. The deck is 3' up on a solid base, 9' out and 32' long. The traffic on 48th Street is going to be louder than this deck. He has to get another permit if he wants music on the deck, but he has no plans for that at this time.

Cornelius observed that there are somewhat severe penalties if there is handing of beer over that rail. Madsen stated that he will have excellent security because he could lose his liquor license if that happened.

Madsen believes that he could comfortably seat 20 people on the deck if he added chairs, 22 at the most. If standing, there could be 25, and that's crowded. The deck faces 48th Street and it is over 100' from the city park.

Esseks confirmed that the only access is through the building. Madsen pointed out that City law requires an exit in case of a fire, but he has a cord on it and the gate is locked.

Esseks inquired whether the applicant would be willing to put up some type of screening. Madsen believes that if the deck is considered a beer garden with a roof, it requires sprinkler heads on the garden and throughout the business. He does not want to go to the expense of installing sprinkler heads throughout the building.

Carroll wondered whether the applicant would consider adding a fence around the structure so that we have safeguards of people not handing beer over or leaving the deck and to mitigate any sound. Madsen indicated he could install a fence but he does not want to have a roof because it would be considered enclosed.

ACTION BY PLANNING COMMISSION:

June 20, 2007

Larson moved to approve the staff recommendation of conditional approval, seconded by Taylor. Carroll requested to add a friendly amendment to require an 8' fence from the ground up around the perimeter of the deck. Larson, the maker of the motion, and Taylor, who seconded the motion, agreed.

Esseks likes the idea of a fence, but he wonders whether it will be enough of a buffer. Carroll suggested that an 8' fence will equate to 5' if the deck is 3' from the ground.

Garrett approached the Commission to offer the Health Department comments which he did not have available previously:

The Lincoln-Lancaster County Health Department requires approved outdoor smoking areas to provide at least 20% net open space relative to the total square footage of the ceiling and all walls (excluding square feet of walls above 8 feet tall). This open space must be permanent and non-closable. The use of any building material in this open space must be subtracted from the available open space. The applicant must also provide detailed floor plan and elevations of the smoking area clearly depicting the provided open space with accompanying calculations to confirm the percentage of provided net open space.

Garrett observed that these comments are more relative to the open air requirements of the smoking area if it were to be enclosed.

Motion for conditional approval, with amendment to require an 8' fence around the perimeter of the deck, carried 8-0: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson voting 'yes'; Strand absent. This is final action, unless appealed to the City Council within 14 days.

COMPREHENSIVE PLAN CONFORMANCE NO. 07013,
DECLARATION OF SURPLUS PROPERTY;
CHANGE OF ZONE NO. 07034,
FROM P PUBLIC USE TO O-3 OFFICE PARK;
and
USE PERMIT NO. 106B,
AN AMENDMENT TO ADD AN ADDITIONAL OFFICE
BUILDING, WITH AN ADJUSTMENT TO REQUIRED PARKING,
ON PROPERTY GENERALLY LOCATED
AT S. 67TH STREET AND PIONEERS BOULEVARD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 20, 2007

Members present: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson; Strand absent.

Staff recommendation: A finding of conformance with the Comprehensive Plan on the declaration of surplus property; approval of the change of zone; and conditional approval of the amendment to the use permit.

Ex Parte Communications: None.

Additional information for the record: Brian Will of Planning staff submitted a letter in opposition from Gloria Wohlers, 5301 S. 67th Street, which is south of Pioneers south of this location.

Staff presentation: **Brian Will of Planning staff** advised that these three applications relate to one proposal. The declaration of surplus property is a 1.3 acre parcel. The change of zone is from P Public Use to O-3 Office Park, which is consistent with the zoning of the adjacent property to the east. The amendment to the existing use permit is for the Talent+ office complex.

The declaration of surplus property comes from the Director of Parks & Recreation. Back in 2001, the triangular piece of property was declared surplus and subsequently sold to Talent+. It was incorporated into the Talent+ site with approximately 44,000 square feet of office on that site.

The use permit amendment today brings in the remaining 1.3-acre parcel and incorporates it with the use permit and would allow an additional 60,000 square feet of office floor area on the site. Associated with this amendment to the use permit is a request to adjust the parking from 200 spaces to 147 spaces for the additional 60,000 square feet of office. The original use permit had parking adjustments approved based on the nature of the business and operating characteristics because Talent+ does not have the similar parking demand of typical office uses. That adjustment appears to have been warranted and staff is recommending approval of the parking adjustment being requested today.

Will noted that Condition #3.7 on the use permit amendment requires that a lighting plan be approved by the Hyde Executive Board. Will believes that the applicant will be requesting an amendment to that condition, to which staff agrees.

In summary, Will stated that the staff is recommending a finding of conformance with the Comprehensive Plan for the declaration of surplus property, recommending approval of the change of zone from P to O-3, and approval of the use permit amendment with adjustment to the parking, subject to conditions of approval.

Carlson confirmed that there is currently no park use on the proposed surplus area. Will concurred that it is not a functional part of the park. There is a fairway adjacent to it, but other than that, it is just open space with no functional facilities.

Proponents

1. Lynn Johnson, Director of Parks & Recreation, observed that the land proposed to be surplus is isolated from the golf course and does not have public access; therefore, it is not a property that could have future recreational use. The Parks & Recreation Advisory Board also looked at the land's value as open space, finding that this area of the

city is pretty well blessed with open space so they did not believe that the transfer of this portion of the land would have a significant impact on the open space resources in the area.

Johnson advised that the Parks & Recreation Advisory Board held a public hearing on this proposal on May 3, 2007. The board had a split vote that day – 3 abstentions, 3 in favor and 3 in opposition. They are an advisory body, so this information is being provided to the Planning Commission. The Parks & Recreation Advisory Board did not come to a decision on a formal recommendation.

Esseks assumes that if the property is surplus, it can be sold to the company located adjacent. When the property is sold, what is the flow of the proceeds? Johnson advised that the City Charter provides that the proceeds go into the advance land acquisition fund and earmarked for the source that they came from, i.e. park land. Therefore, the funds would be earmarked for future park acquisition. It will require a fair market value appraisal and Parks will have to find land with that fair market value for the exchange. When the initial area was sold to Talent+, the City was able to purchase the equivalent of about 43 acres with the proceeds from that 2.3 acres.

Carlson noted that the Parks & Recreation Advisory Board had comments about the current lighting and Hyde Observatory. Johnson advised that the Hyde Observatory is owned by the City but is operated by a private board. The Advisory Board suggested that Hyde Observatory have opportunity to review and comment on the lighting plans. Their primary interest is in the night lighting. They were primarily concerned about after dark lighting on the outside of the building. The intent was to provide an opportunity for the Hyde Observatory Board to see what was happening but not have approval authority of the lighting plans.

2. Sandy Maxwell, Director and Associate of Talent+, testified on behalf of Talent+. Talent+ is interested in the growth and progress of its associates and clients in Lincoln. Since moving into the current building, Talent+ has approximately doubled the number of associates to 135, and has leveraged most of the space in the existing building. The current building site has a great deal of green space. To maintain this, Talent+ would like to purchase the last parcel of city park land adjacent to the campus (approximately 57,375 sq. ft.). The purchase of this land would allow a lower profile building on the campus and allow for further company growth. Without this additional green space, the second building will still be built but it will be taller and provide less of a campus feel. She pointed out that the park land would be converted to private land, adding income to tax rolls, and allows Talent+ to grow, which will ultimately add more people and more jobs, and provide considerable funds for purchase of additional park land for Lincoln neighborhoods. The only potential buyer for this land is Talent+ because there is no other access to the parcel. This will provide opportunity for the City to acquire many other acres of park land. The land Talent+ is interested in purchasing is not cared for and not in the same shape as the surrounding land being cared for by Talent +. It is not a priority because it is not used.

There is no money available to purchase additional park land.

Talent+ made a deliberate decision to pursue a corporate headquarters in Lincoln. They had offers to move to several different cities, with tax incentives to do so.

3. Mark Hunzeker testified on behalf of **Talent+**. "This is really good news for Lincoln." Talent+ has been very successful since 2001, when the original sale of park land took place. There were some initial concerns relative to both that sale and the rezoning and use permit. Talent+ did an exceptional job of working with the neighbors in providing a site plan and facility which was satisfactory, with virtually no opposition at that time. Talent+ has kept its promises.

This application represents the early stages of preparation for further growth and continued commitment to a Lincoln headquarters. Today's proposal provides for a maximum 60,000 sq. ft. facility. A reduction in parking is being requested. The current facility is adding parking right now because of commitment to an internship program for University students. These parking spaces were waived in the previous approval, but, even with the additional parking for the interns, the parking is still way below the ratio of the O-3 district. The proposed reduction represents a parking ratio that is equivalent to what will be on this site as it exists today. This does not go back to the ratio originally approved, but is the ratio relative to the building that is there today including the spaces to accommodate the internship program.

Hunzeker requested an amendment to Condition #3.2 as follows:

Dedicate to the City of Lincoln an easement for street, sidewalk and/or public utility use of the south seven (7) feet of the Property along the Pioneers Boulevard frontage where the current Right-of-Way is 33 feet from the centerline. Such easement shall be in a form acceptable to the Department of Public Works and Utilities.

The applicant does not want to dedicate the right-of-way as being requested by staff. The applicant would prefer to dedicate an easement in order to utilize the additional 7' rather than setting back an additional 7' along Pioneers Boulevard so that they can park within 20 feet of the property line.

Hunzeker also submitted a proposed amendment to Condition #3.7 regarding the lighting plan:

A lighting plan which complies with city design standards. Applicant shall provide a copy of its proposed lighting plan to the Hyde Executive Board for its review, comment and suggestions.

Hunzeker believes that the staff and Hyde Observatory have agreed to this amendment.

Hunzeker submitted that this is a good low impact use of this site that will provide money for the Parks Department to invest in other park assets. This is really great for Lincoln because we have a company the quality of Talent+ that is growing here and staying here. They recently set up new offices in Singapore and could very easily and more conveniently locate somewhere other than Lincoln. This is a great opportunity for Lincoln.

Larson inquired as to the anticipated employment. Hunzeker advised that they now have 135 employees in a building in excess of 43,000 sq. ft. Only half of those employees are in Lincoln at any given time. That is a very high floor ratio per employee. Talent+ expects to continue to grow at a pace that would enable them to double the number of employees over a period of time.

Carroll inquired whether the purpose of the proposed amendment to Condition #3.2 is just to allow the parking closer to Pioneers. Wouldn't it be easier to waive the parking setback and leave the right-of-way there? Hunzeker agreed that it could be done either way, but he had not received a response from staff one way or the other. They could possibly go back through this process again and request a front yard waiver on the use permit, but it works either way. Talent+ is willing to put any amount of restriction on the use or what can be done in that easement area, i.e. restricted to planting grass, etc. Talent+ is not interested in obstructing the city's use of that 7' but they do want to be able to utilize everything that they are purchasing.

Carlson observed that with the vast majority of clientele being located outside of the City, it would make sense that they would not need a big visual presence in terms of advertising. In terms of the lighting, Carlson is concerned about the condition to "comply with city design standards". He believes that this specific situation may require some discussion. He is interested in some specific lighting requirements to make sure the Hyde Observatory can function. Hunzeker pointed out that from the time that the Talent+ building was open, there has been no contact from Hyde to Talent+ to request any modification of lighting or hours, etc. Talent+ is willing to submit the lighting plans and listen to their comments, and Hunzeker believes there is some middle ground as to how often and what hours of the day the building is lit up. However, Hunzeker suggested that we do have the design standards for a reason and Talent+ is willing to comply with them. Frankly, Hyde was placed in Holmes Park a long, long time ago when everything around it was agricultural. It may be time to consider the possibility of putting that observatory out at Jensen Park, e.g. Hunzeker knows that his client is willing to discuss and work with the Observatory, but he does not feel comfortable suggesting any set standard because he does not know what the Observatory wants. It is safe to assume that Talent+ will want to have some amount of lighting on the building, but how that is done, whether up-lighting or down-lighting, etc., how long they are lit and how bright, Hunzeker does not know at this point.

4. Wendy Birdsall testified in support on behalf of the **Lincoln Chamber of Commerce**. This is a tremendous economic development project for the City of Lincoln. Talent+ is high quality with high impact jobs. 80 to 90 percent of the jobs that are created in a community

happen at the growth of existing business. Talent+ does not have to be in Lincoln. They choose to be here and the Chamber and LPED strongly support their ability to grow in our community.

5. Bruce Bohrer also testified in support on behalf of the **Chamber of Commerce**, adding that this issue was taken up by the Chamber Board and they voted unanimously to support this proposal. It is very important. It is much more than just the 100 jobs -- there is a multiplier effect. What if we lost jobs? Talent+ is a gold-plated company that other communities would love to have. We don't want to lose them. This city needs to be open for business.

Opposition

1. Dave Fitzgibbon, 4240 S. 59th Street Court, testified in opposition and submitted a petition in opposition signed by 14 residents of South 59th Street Court and members of the Interlochen Estates Homeowners Association. The petition states:

We strongly oppose the sale of any portion of Holmes Golf Course to commercial interests. We further oppose any rezoning action that would allow further commercial development adjacent to the golf course.

Fitzgibbon urged that removing a parcel of park land from the table for our kids and their kids to have as an option for park use in an area in the middle of the city is poor planning.

Fitzgibbon also pointed out that a community survey done by Parks & Recreation in the year 2000 found that Holmes Lake Park ranked second after Pioneers Park as being the most favorite park facility in the community; and that Holmes Golf Course was ranked second after Pioneers Golf Course as the favorite golf course facility. Changes to Holmes Park or the perimeter of the park should not be taken lightly.

Fitzgibbon believes that rezoning this would create a precedent that would allow business interests to continue to chip away at the park land. He wants the precedent to stop.

Fitzgibbon has no problem with Talent+ and he agrees that they are a good neighbor. He and his neighbors are delighted to have additional jobs; however, regardless of whether Talent+ obtains this park land, Talent+ will continue on with their plans to build another building. That is the neighbors' preference – without the sale of the park land.

If this proposal is approved, Fitzgibbon requested that it be conditioned to require Talent+ to work with the neighborhood associations on an appropriate berm and landscape screening plan.

Esseks inquired whether the neighbors have a berm or other landscaping plan example in mind. Fitzgibbon then showed a photo of what the neighborhood sees of the existing

Talent+ building. It is a large building of modern architecture. The neighbors would like to see some mature trees and landscaping that would minimize the stark impact of the white buildings in the tree line. He also pointed out that Talent+ paid LES to install a "power tower" to improve their view; however, the neighborhoods were not consulted about the change to the skyline and their neighborhood. Fitzgibbon suggested that Talent+ work with the neighborhood when they wish to make changes to the view from the park and the surrounding area.

Carlson asked Fitzgibbon whether lighting is an issue. Fitzgibbon commented that the building is lit up until about 10:00 p.m. He is less concerned about lighting, although with an additional building it might be nice to have some varying levels of lighting in the evening.

2. Nadine Hain, 4151 Ridgeview Drive, testified in opposition. Holmes Park is a recreational park and highly used. It is not a business or industrial park. No land should be available to be sold. Talent+ knew there was not enough land but did not want to go where they would have enough space to expand, such as Lincoln Benefit Life. They have now set a precedent to allow other businesses to come and say they need to buy park land because they don't have enough room. Park land is not for sale. People do not want to go down Pioneers Boulevard because of what Talent+ has done to a nice area. This will further deteriorate the area. Talent+ does not care about the citizens paying taxes or lowering valuations of the places around them by putting the building right next to neighboring houses. For the right price, maybe they could buy the whole neighborhood rather than just one or two houses.

Hain also wanted the Commission to know that there was a lot of opposition previously but Talent+ would not take the neighbors' suggestions into consideration. She is not against creating jobs, but they need to be created where there is enough space.

3. Terry Adair, 4200 Ridgeview Drive (three houses to the east of the Talent+ facility), testified in opposition. He is opposed to selling park land for this expansion. Talent+ should never have been allowed to put this building in this area, let alone allow for expansion. They have land to the south where there are two existing homes which would be more than adequate for this expansion without buying park land. They have not worked with the neighbors. Everyone in his neighborhood was opposed to the original building of the business at this location.

4. Jean Sheffield, 4206 Ridgeview Drive, also testified in opposition and agreed with the previous opposition. She opposes the sale of park land.

Staff response

Carroll asked staff to respond to the two proposed amendments by the applicant. Will indicated that Condition #3.7 relative to the lighting plan is acceptable to staff. Carroll noted that some of the complaints have to do with the brightness. Have the standards changed

since the original approval? Will indicated that the applicable standards are the same. There has been some testing done on the lights and they were found to comply with the applicable design standards.

Carlson wondered about the process historically when we have wanted to create a standard specific to a special permit or use permit. Will acknowledged that there have been a few instances where the circumstance has dictated that some additional standard be applied, but typically, those related more to the hours when the lights were on. When it comes to lighting standards, we have found in the last year or two that it is a science in an of itself and it can get terribly specific.

Carlson wondered what kind of condition would be appropriate to create an opportunity to find out the applicant's needs. Marvin Krout, Director of Planning, stated that there were some changes to the lighting standards that were adopted about a year ago that might have applicability to new buildings since that time. We have something called a spillover light (trespass light) standard – we can't have a measurement of more than ½ foot candle on adjacent residential property. The standard was broadened to say that that ½ foot candle would apply to any commercial lighting if adjacent to abutting residential property. We then realized that there were terms out of date in the standards, so we embarked upon an overall update of the lighting standards, the idea being to identify some of these trouble spots to avoid having special conditions for individual use permits. The standards from that study have not yet been adopted.

Carlson does not want to pick a standard that may or may not work, but wonders what type of condition could be written. As this moves forward to City Council, what kind of condition could we use to give direction to create a lighting plan that would work for all parties? Krout indicated that he has heard comments about the general sky glow and how bright the building walls are at night from the flood lights. The staff is looking at draft standards that would deal with both of those issues; however, he does not believe the existing building would be out of compliance with the standards that are being considered. Krout believes the question becomes: who is the judge of those standards? He hates to put any one person as responsible for making that decision. He has heard that there were no complaints registered with Talent+ about the lighting and that we could rely on good faith efforts between Talent+ and the Hyde Observatory.

Dennis Bartels of Public Works responded to the amendment proposed to Condition #3.2 about dedication of an easement as opposed to right-of-way. Public Works would prefer to have right-of-way as opposed to an easement. Where easements have been accepted in the past in several other locations, there has been a conflict with property owners. The right-of-way provides better interpretation of a property line than an easement. Public Works has no objection to the front yard setback because this is already a substandard right-of-way. The City Council has already ordered sidewalks to be constructed through the Talent+ property, and Public Works believes it is desirable to have the sidewalks in the public right-of-way. Easements have been problematic in the past.

Carroll asked whether staff would object to a waiver of the parking setback. Will believes it would be a viable alternative, but that adjustment was not advertised and could not be granted today. The waiver would have to be advertised and come back before the Planning Commission.

Response by the Applicant

Hunzeker pointed out that Interlochen Estates is to the west of Holmes Park and is not even visible on the aerial photograph in the staff report. The easternmost point of Interlochen Estates is over 1900 feet from the westernmost point of the parcel to be declared surplus and is over ½ mile from the existing building. To suggest that Talent+ might somehow berm their property in a way that has meaningful impact on the visual perspective of a building ½ mile away is a little bit removed from reality. Those trees in the photograph are much closer than any of the Talent+ property. The purchase of the park land will allow Talent+ to build a one-story building instead of a three-story building. A three-story building would have more of an impact than anything in the way of screening or berming.

As far as working with the neighbors, Hunzeker believes that Talent+ has made great efforts and has seriously and thoroughly screened the easternmost portion of the property from the Ridgeview homes. To the extent there is new activity that will take place on this site, it will be hundreds of feet from the property line of any of the property in the Ridgeview area.

Hunzeker also advised that one of the reasons that Talent+ did not purchase this 1.3 acres back in 2001 is that it was being considered at that time as a potential fire station location and the City did not want to sell it for that reason. It was not because the City wanted to retain it for recreational purposes. This property is not part of the golf course and not part of any recreational program or any other use at Holmes Park.

Hunzeker also explained that the land to the south with the two homes was left in that condition and those houses were restored and remodeled because that was a promise that was made to the Planning Department and to those neighbors to maintain that residential look and characteristics along Pioneers Boulevard and not tear those houses down.

With respect to the power pole, Hunzeker pointed out that what was in place on this site was one of the old-fashioned trellis type towers – it was huge and it cut a big profile there. The reason Talent+ spent money to take it down to put up the green monopoles was to improve the view.

Carroll asked Hunzeker to respond to the waiver as opposed to the right-of-way easement. Hunzeker would rather come back for the waiver than dedicate the right-of-way. He did comment, however, that he is “dazzled” when the City is concerned about enforcing its rights. The City has the same enforcement rights for right-of-way as it does for easements.

COMPREHENSIVE PLAN CONFORMANCE NO. 07013

ACTION BY PLANNING COMMISSION:

June 20, 2007

Taylor moved a finding of conformance with the Comprehensive Plan, seconded by Esseks.

Esseks commented that land that looks to be useful for recreational purposes may some years into the future be found to be not so valuable for the public, so it makes sense to give the flexibility to sell this parcel in order to be able to purchase better land for park land. The issue of chipping away in this area of town is bothersome except that it looks like there is a limit as to what more they can do. This cannot be used effectively for recreational purposes so we have to give it serious consideration and purchase better land elsewhere. It is hard for the adjacent property owners to see a change in their immediate neighborhood and the best we can do is to get good landscape buffers.

Larson does not believe this piece of land adds anything to Holmes Park. It adds nothing to the golf course. He does not see any reason why this should not be sold to Talent+ to facilitate their growth. They are a fine company. If we were to seek a kind of company that fulfills our municipal goals of adding new jobs, you couldn't ask for a better company.

Carroll commented that if Parks & Recreation believes it is surplus, then it is up to the Planning Commission to look for its highest and best use. He thinks this is a benefit to the City because it puts it back on the tax rolls. Talent+ is a good employer. It is a benefit and win-win for the City, for Talent+ and for the people of Lincoln.

Taylor expressed concern about the emotional undercurrent here from the people that are in opposition. He encouraged Talent+ to attempt to make amends to these neighbors because this is more of an emotional opposition than one that bears forth a lot of reason. The opposition is not coming forth from a framework of logic. He encouraged Talent+ to do whatever possible to think in terms of good will among the neighbors. We are still people dealing with people. He cautions against any show of arrogance. We are dealing with real people with real life issues.

Motion for finding of conformance carried 8-0: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson voting 'yes'; Strand absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 07034

ACTION BY PLANNING COMMISSION:

June 20, 2007

Taylor moved approval, seconded by Carroll and carried 8-0: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson voting 'yes'; Strand absent. This is a recommendation to the City Council.

USE PERMIT NO. 106B

ACTION BY PLANNING COMMISSION:

June 20, 2007

Taylor moved to approve the staff recommendation of conditional approval, with the amendment to Condition #3.7 requested by the applicant, seconded by Sunderman.

Esseks made a motion to amend to add Condition #3.8: "A landscaping plan that complies with City Design Standards and one that is available to neighboring residents for their comments and suggestions.", seconded by Taylor.

When the landscape changes from open space to office, Esseks believes it is a good precedent to encourage as much discussion as possible between the business and the residents on an appropriate landscaping buffer.

Carroll clarified with Esseks that this motion does not ask for increased standards but that the landscape plan be given to the neighborhoods. Esseks concurred.

Motion to amend to add Condition #3.8 carried 8-0: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson voting 'yes'; Strand absent.

Discussion on the main motion:

Cornelius believes that the amendment to Condition #3.7 which involves the Hyde Observatory will address the needs of the neighbors. No matter what the neighbors want, he believes Hyde Observatory will want more.

Carroll pointed out that since the building is to the west, the lighting for the new building is not going to cause any problem for any close residents.

Since this is an amendment to the original use permit, Carlson believes it is appropriate to consider lighting on the entire parcel. He will still appeal to the applicant to consult with those around them.

Main motion for conditional approval, with amendments, carried 8-0: Krieser, Carroll, Sunderman, Taylor, Cornelius, Esseks, Larson and Carlson voting 'yes'; Strand absent.
This is a recommendation to the City Council.

CHANGE OF ZONE NO. 07031,
TEXT AMENDMENT TO TITLE 27
TO ADD HOTELS AND ALCOHOL SALES
AS PERMITTED USES IN PLANNED SERVICE COMMERCIAL;
CHANGE OF ZONE NO. 07030
FROM R-4 RESIDENTIAL AND O-3 OFFICE
TO H-4 GENERAL COMMERCIAL;
and
SPECIAL PERMIT NO. 07015
FOR PLANNED SERVICE COMMERCIAL
ON PROPERTY GENERALLY LOCATED AT
S. 27TH STREET AND TAMARIN RIDGE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 20, 2007

Members present: Krieser, Carroll, Sunderman, Cornelius, Esseks, Larson and Carlson; Taylor and Strand absent.

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

Ex Parte Communications: None.

Staff presentation: **Christy Eichorn of Planning staff** stated that the staff has found that the special permit and change of zone are generally in conformance with the Comprehensive Plan and the Lincoln Municipal Code.

This is a change of zone from R-4 Residential and O-3 Office Park to H-4 General Commercial. The special permit for Planned Service Commercial was created to allow flexibility in arrangement of lots, blocks and buildings in exchange for restricted uses and site planning. Whatever uses are approved with this special permit are the only uses that would be allowed. Although there are a variety of uses in H-4, those would not necessarily be allowed. No use is allowed in the Planned Service Commercial special permit unless specifically approved by the special permit.

The proposed text change would allow hotels and motels and sale of alcohol in a Planned Service Commercial special permit. The text change would allow the new uses to meet the same minimum requirements as in other highway commercial and business districts. Eichorn then explained the characteristics of the surrounding area. There are other Planned Service Commercial special permits to the north, a proposed elementary school owned by LPS and the rest of the area is single family residential with proposed multi-family to the north. LifePointe health care facility is also in the area.

The developer met with the neighbors to get their questions and concerns. There were a few concerns, including increased traffic and sexual predators violating the city's 500'

residency restriction.

Eichorn indicated that the staff is recommending conditional approval based on certain mitigating measures to address the increase in traffic. She submitted a revised site plan which has been submitted by the applicant in an attempt to meet the neighbors' needs, including a right-in only in one of the locations to encourage people to come out onto 27th Street. The revised site plan also addresses the increased traffic by balancing the trip counts.

As far as sex offenders, Eichorn advised that a registered sex offender would be subject to a \$500 fine if found to be residing in the hotel or living in any apartment or house within the 500' perimeter of the school's property. LPS has entered into a private agreement with the developer to address this issue.

Proponents

1. Mike Eckert of Civil Design Group testified on behalf of the owners, **Tom Folsom and Sue and Don Brouse**. The Tamarin Ridge Community Unit Plan was approved in 2002. Sid Dillon is to the north, transitioning into more commercial towards 27th & Pine Lake. LifePointe is to the south.

The market analysis showed that there is a lack of hotel and meeting rooms in south Lincoln. The developers began working with staff in October of 2006. This is a unique lot and staff agreed to waive the height restriction. There will be a 50' high four-story building with flat roof. Staff also agreed to waive the side yard setback abutting residential provided there is additional screening.

Eckert acknowledged that there was concern at the neighborhood meeting about the sale of alcohol. This will be a sit-down restaurant. Another issue was traffic, the result being that the developer promised to create a right-in only and exit where traffic will be more inclined to go back to 27th Street as opposed to going toward the school.

The developer did work with the LPS staff who wanted some binding covenant agreements that said the land between the hotel and the school would remain R-4 and that certain uses would be restricted in the H-4 zoning.

This project will add 60 full-time positions and some part-time positions.

Esseks wanted to know the distance from the closest residential use. Eckert showed the aerial photo. The closest existing residential use to the hotel would be approximately 1,000 feet.

2. Thomas Folsom, owner and developer of the project, testified in support. The improvement of South 27th has allowed the developer to take time to find good and high

quality businesses for a multi-purpose development.

3. Mike Works, one of the developers of the hotel, testified in support. The developers knew that this would need to be an upper scale hotel, that there is a need for meeting space, and that if they were going to have that meeting space, there would be a need for a restaurant, which will be The Venue. The next step was finding the location. The developer did consider several sites. The fact is that this site works because the major intersection is really 27th & Pine Lake Road and the hotel needs to be visible. The other sites did not provide the sight lines to be seen from 27th & Pine Lake Road and the hotel needed to be close to the mall, movie theaters and other restaurants, all in walking proximity.

Works reiterated that this will be a high end hotel. It will be a Holiday Inn. It is a full service property. It will have a pool, incorporated but yet separate restaurant and 3,000 sq. ft. of meeting space. There will be 90-100 rooms.

Works does not believe there will be a concern about sexual predators with this being a high-end upscale hotel. There are several safeguards in a hotel like this – cameras at every exit and entrance; driver's license check: car make, model, and license plate; and credit card, all making it easy to track these people down. There is 24-hour desk service. If not a hotel guest, no one can get in other than through the front door.

4. Greg Vanier, The Venue, testified in support. The Venue at 70th & Pioneers was established in November of 2004. They will be able to cater to the banquet facility with capacity of about 80 people with intimate atmosphere and contemporary ambiance. The Venue is not a bar, but 80% food and 20% beverage. As far as training, The Venue takes its liquor license very seriously and they card and ID every individual.

There was no testimony in opposition.

Staff response

Cornelius inquired whether the Planned Service Commercial special permit applies to the O-3 area as well. Eichorn confirmed it to apply to both Lot 5 and Lot 6.

There was no further testimony from the applicant.

CHANGE OF ZONE NO. 07031

ACTION BY PLANNING COMMISSION:

June 20, 2007

Carroll moved approval, second by Cornelius and carried 7-0: Krieser, Carroll, Sunderman, Cornelius, Esseks, Larson and Carlson voting 'yes'; Taylor and Strand absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 07030

ACTION BY PLANNING COMMISSION:

June 20, 2007

Carroll moved approval, second by Cornelius and carried 7-0: Krieser, Carroll, Sunderman, Cornelius, Esseks, Larson and Carlson voting 'yes'; Taylor and Strand absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 07015

ACTION BY PLANNING COMMISSION:

June 20, 2007

Carroll moved to approve the Planning staff recommendation of conditional approval, seconded by Cornelius and carried 7-0: Krieser, Carroll, Sunderman, Cornelius, Esseks, Larson and Carlson voting 'yes'; Taylor and Strand absent. This is a recommendation to the City Council.

COUNTY SPECIAL PERMIT NO. 07019,
BROCK ESTATES COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT N.W. 17TH STREET AND RAYMOND ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 20, 2007

Members present: Krieser, Carroll, Sunderman, Cornelius, Esseks, Larson and Carlson; Taylor and Strand absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Staff presentation: **Mike DeKalb of Planning staff** presented this application for an AG community unit plan or typical farm cluster on a 75-acre parcel at N.W. 12th and W. Raymond Road. Raymond Road is paved. The land to the north has been purchased by the saline wetlands partnership for saline wetlands conservation. The proposed cluster should help the preservation. N.W. 12th is a dirt county road, marginally improved, and one mile over is a county gravel road.

This is a proposal for four acreage lots. One of the conditions is to adjust the size of the farmstead split to match the proposal. They are proposing a county gravel road that would

be public. The only issue is the condition of providing a connection to the east through the acreage area. The half mile is longer than 2640 feet so they will need a waiver on the east and west lot lines no matter where the road is located.

There are no known environmental issues.

The water report provided by the applicant shows adequate water quality and quantity; however, the water will have to be treated.

Proponents

1. Mike Eckert of Civil Design Group testified on behalf of the developer and discussed the issue about the connection road being required by staff. The staff is requiring this connection to prepare for future urbanization, but Eckert disagrees. This property is outside of Tier III, so urbanization is not going to be an issue. The other issue would be for connection to the adjoining 80-acre parcel. If the owners of that 80-acre parcel came forward at some point in the future with an AG community unit plan such as this, in staff's opinion it would be good to have a road connection into their property. However, Eckert pointed out that there is an existing tree mass that is very large with a drainageway, so a road would require taking out a lot of trees. If a person were to come forward on the adjacent property, they would bring another road up or the road might get closer to a section line and come up steadily to the north. There are several existing tree masses. Eckert suggested that a road connection to the east to try to prepare for something in the future at this point is rather onerous. This developer would be required grade it in even if shown as future right-of-way and that would add cost to this development. Eckert requested that Condition #3.7 be deleted.

Esseks commented that he did some rural land use research while in Chicago and the accumulation of disjointed, uncoordinated road developments was such that it blocked the expansion of cities. As a result, the cities suffered, creating a horrendous annexation war to break through this web of disconnected rural developments. Therefore, he respects the staff's recommendation for the connection. How about locating the connection to the very north end? Do they really demand that you grade it and not just show it as a right-of-way?

Eckert did think about showing it further north and that would be acceptable to the developer. If we can work something out to do something further to the north, he would also be required to ask for a waiver of the design standard to not do the grading. The developer would be happy to show it there but would not want to have to grade it.

There was no testimony in opposition.

Staff response

DeKalb agreed that showing the road further to the north is workable. The question would be whether or not the County Engineer would accept the waiver of the grading. The current policy is to do all of the roads if you do a subdivision. The other alternative would be to create an outlot shown for future road use, which avoids the issue of rocking and grading, but then the issue is the trigger to get it built.

Carroll suggested the condition could require a street connection to the east property line. DeKalb agreed.

Response by the Applicant

Eckert suggested that there would be an option to show the connection as an outlot and not grade it, but the developer would be concerned about the enforcement and who would pay for it. This developer was not planning to do a homeowner association. There is no other mechanism. The developer would accept a condition that required grading and rocking at the point when there was a subdivision abutting to the east. Without an association it is more difficult.

Esseks wondered about a bond, but DeKalb advised that the County does not do bonding.

Eckert stated that he would be happy showing the connection on the north end as an outlot without having to grade it.

ACTION BY PLANNING COMMISSION:

June 20, 2007

Carroll moved to approve the staff recommendation of conditional approval, with amendment to Condition #3.7 to show an outlot for a future street connection to the east property line, seconded by Esseks and carried 7-0: Krieser, Carroll, Sunderman, Cornelius, Esseks, Larson and Carlson voting 'yes'; Taylor and Strand absent. This is a recommendation to the Lancaster County Board.

There being no further business, the meeting was adjourned at 4:20 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on July 18, 2007.