

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, July 18, 2007, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Jon Carlson, Gene Carroll, Michael Cornelius, Gerry Krieser, Roger Larson, Mary Strand, Lynn Sunderman and Tommy Taylor (Dick Esseks absent). Marvin Krout, Ray Hill, Steve Henrichsen, Mike DeKalb, Brian Will, Tom Cajka, 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 20, 2007. Motion for approval made by Taylor, seconded by Carroll and carried 7-0: Carlson, Carroll, Cornelius, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand abstaining; Esseks absent.

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

July 18, 2007

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

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 07015, SPECIAL PERMIT NO. 1629G, SPECIAL PERMIT NO. 07021, SPECIAL PERMIT NO. 07023, COUNTY SPECIAL PERMIT NO. 07024 and WAIVER NO. 07005.**

Ex Parte Communications: None.

**Item No. 1.1, Comprehensive Plan Conformance No. 07015,** was removed from the Consent Agenda at the request of the Urban Development Dept. and scheduled for separate public hearing.

**Item No. 1.4, Special Permit No. 07023,** was withdrawn by the applicant.

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

**Note:** This is final action on Special Permit No. 1629G, Special Permit No. 07021 and Waiver No. 07005, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**REQUESTS FOR DEFERRAL:**

**SPECIAL PERMIT NO. 07022**  
**FOR EXPANSION OF A NONSTANDARD**  
**DWELLING, ON PROPERTY GENERALLY**  
**LOCATED AT SOUTH 4<sup>TH</sup> AND C STREETS.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

July 18, 2007

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

The Clerk announced that the applicant has requested a two-week deferral.

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

There was no public testimony.

**CHANGE OF ZONE NO. 06082**  
**FROM AGR AGRICULTURAL RESIDENTIAL**  
**TO R-3 RESIDENTIAL**  
**and**  
**PRELIMINARY PLAT NO. 06011,**  
**WOODLAND VIEW 1<sup>ST</sup> ADDITION,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S.W. 40<sup>TH</sup> STREET AND WEST A STREET.**  
**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

July 18, 2007

Members present: Cornelius, Larson, Sunderman, Taylor, Krieser, Strand, Carroll and Carlson; Esseks 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 August 15, 2007, seconded by Strand and carried 8-0: Cornelius, Larson, Sunderman, Taylor, Krieser,

Strand, Carroll and Carlson voting 'yes'; Esseks absent.

There was no public testimony.

**COMPREHENSIVE PLAN CONFORMANCE NO. 07014**  
**DECLARATION OF SURPLUS PROPERTY**  
**GENERALLY LOCATED AT SOUTH 70<sup>TH</sup> STREET AND A STREET.**  
**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

July 18, 2007

Members present: Cornelius, Larson, Sunderman, Taylor, Krieser, Strand, Carroll and Carlson; Esseks 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 August 15, 2007, seconded by Strand and carried 8-0: Cornelius, Larson, Sunderman, Taylor, Krieser, Strand, Carroll and Carlson voting 'yes'; Esseks absent.

There was no public testimony.

**COMPREHENSIVE PLAN CONFORMANCE NO. 07015**  
**TO REVIEW A PROPOSED AMENDMENT TO THE**  
**"LINCOLN CENTER REDEVELOPMENT PLAN"**  
**AS TO CONFORMANCE WITH THE COMPREHENSIVE PLAN.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

July 18, 2007

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

Staff presentation: **Hallie Salem of Urban Development** submitted revised maps expanding the boundaries of the Sawmill Project Area to include additional right-of-way along 8<sup>th</sup> Street, along S Street and out on 9<sup>th</sup> Street to allow modifications to existing utilities or relocation of utilities, as needed, when the project is redeveloped. TIF funds will be used to relocate those utilities. The additional right-of-way is not private property.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

July 18, 2007

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

**COMPREHENSIVE PLAN NO. 07016**  
**TO REVIEW A PROPOSED AMENDMENT TO THE**  
**"ANTELOPE VALLEY REDEVELOPMENT PLAN"**  
**AS TO CONFORMANCE WITH THE COMPREHENSIVE PLAN.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

July 18, 2007

Members present: Cornelius, Larson, Sunderman, Taylor, Krieser, Strand, and Carlson; Carroll declared a conflict of interest; Esseks absent.

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

Ex Parte Communications: None.

Staff presentation: **Wynn Hjermstad of Urban Development** explained that the Public Works side of Antelope Valley is winding down with the channel to be done in two years. As a result of that, Hjermstad advised that we will start to see a lot of the land now currently in the floodplain come out of the floodplain. Today's request is four amendments for consideration for consistency with the Comprehensive Plan:

1. Project C: The "O" Street Redevelopment Project, located between 25<sup>th</sup> and 26<sup>th</sup> Street on the north side of "O", which is a new mixed use office/retail development. Currently, that site has three houses which are being used for commercial purposes. The Commission has received two letters in opposition to removing the old houses. These houses are in very poor condition with the foundations failing, etc. Urban Development is proposing to remove those three houses and build a new mixed use/office/retail building.
2. Project D: Adaptive Reuse of Existing Building into Mixed-Use Office/Retail at 2124 Y Street, which is right in the heart of the Research and Development Corridor. This is the first private development to come forward and will be the pioneer of the new R&D corridor.
3. Project E: Housing Redevelopment Project in North Bottoms (1546 N. 14<sup>th</sup> Street). The "triplets" are nearing completion on 14<sup>th</sup> Street. This project is located right around the corner. It is an existing substandard house to be replaced with up to two new housing units, designed to fit in with the character of the existing neighborhood. Hjermstad advised that the owners are considering rehabbing that house rather than removing it and Urban Development will be amending this application to "rehab or replace" the

house as opposed to “remove”. The project is located on four lots. The existing house is located on two lots. The other two lots are vacant.

4. Project F: Streetscape Project in the North Bottoms Neighborhood. This project originated from the Focus Area Plan adopted by the neighborhood association. The neighbors would like to see a streetscape project on 10th Street at the bottom of the viaduct, extending to about Military Road. This came out of the Focus Area Plan, but it is within the Antelope Valley area. It would potentially enable the use of TIF to finance the project, if there is some private redevelopment that comes along that could generate TIF. The neighborhood has some exciting plans to do some private fund-raising.

Cornelius referred to Project C. Given that “O” Street already has a fair amount of commercial development and less attractive, less significant architectural buildings, what is driving the location of Project C to these houses? Could they not be rehabbed? Hjerstad advised that this was a project initiated by the owner of two of those houses. In terms of rehabbing the houses, it would be the owner’s decision, but she understands that the houses are in really rough shape and she does not believe that the economics work to rehab those buildings. The zoning stays the same. This amends the houses into the plan to allow the city to have some control over the property. The owners can do whatever they wish right now. The fact that the city would be involved gives the City some further control of the property, meaning influence over design. However, the owner could do whatever they chose to do today.

Taylor inquired whether there are any incentive possibilities for the owner if he wanted to keep the houses and rehab them. Hjerstad stated that there are no funds through Urban Development. There is potentially some facade money for the exterior, but the foundations of the homes are the problem. Even if this amendment is approved and there is a Redevelopment Agreement with the use of TIF, that money won’t be used for the buildings. TIF funds can only be used for infrastructure items such as paving the alley, utilities, landscaping, etc. As part of Antelope Valley further down the road, Urban Development wants to do a streetscape project on “O” Street that would tie in with this project.

#### Support

**1. Jim Springer**, 1323 Mohawk Street, testified in support of Project E at 1546 North 14<sup>th</sup> Street.

There was no testimony in opposition.

#### Staff questions

Strand confirmed with staff that it is acceptable to amend to “rehab or replace” in Project E. Marvin Krout, Director of Planning, indicated this to be acceptable.

**ACTION BY PLANNING COMMISSION:**

July 18, 2007

Strand moved a finding of conformance, with amendment to Project E to “rehab or replace” as opposed to “remove” a substandard house, seconded by Taylor and carried 7-0: Cornelius, Larson, Sunderman, Taylor, Krieser, Strand and Carlson voting ‘yes’; Carroll declared a conflict of interest; Esseks absent. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 07037**  
**AMENDMENT TO TITLE 27 OF THE**  
**LINCOLN MUNICIPAL CODE RELATED TO**  
**“SOCIAL HALLS”.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

July 18, 2007

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

Staff recommendation: Approval of staff recommended language, as revised on July 16, 2007.

Ex Parte Communications: None.

Staff presentation: **Brandon Garrett of Planning staff** presented the staff’s recommendation. He stated that the staff agrees that there is a need to define social halls in the zoning ordinance because we do not currently have such a definition. Under the existing ordinance, a social hall would currently be considered a place of assembly in the B-5 district. The staff also agrees to add this proposed use as a conditional use in the H and B districts, with the exception of B-4 and H-1. The staff does not believe it is necessary to add a special permit to allow social halls that do not meet the conditions of the conditional uses as proposed by the applicant, and the staff does not believe that a new parking provision is necessary for social halls based on the fact that there is an appropriate parking requirement in existence for similar uses, such as the place of public assembly or other similar uses, i.e. one stall per 50 sq. ft. of seating area plus parking for affiliated uses.

Carlson inquired as to what type of activities carried on today would be considered social hall activities. Garrett suggested that, as proposed, it would include wedding receptions, other special dances or events, company parties or gatherings, etc. These activities would be allowed today in B-4. B-5 includes a permitted use for places of public assembly, and Building & Safety would interpret that to be a social hall. The I districts also allow them now.

Carlson inquired about restaurants with a banquet hall. Garrett did discuss the difference between social hall and restaurant with the Building & Safety Department. It comes down to how the state defines the functioning of a restaurant having to do with how people are served, i.e. sitting down, eating with utensils, with certain staff dedicated to preparing food. Once you are identified as a restaurant, it triggers other things in the building permit process, and the Health Department will look at things differently. There would be somewhat different rules between a social hall and a restaurant.

Garrett clarified that restaurants can keep their banquet facilities in use as they exist today. This is based on the state's definition of a restaurant.

### Proponents

**1. Mark Hunzeker**, the applicant for this text amendment, suggested that there is an anomaly of interpretation of our zoning ordinance such that we cannot do a number of things unless we call it a "restaurant or a bar", or something like that, and interpret it in such a way as to be permitted in B-5, B-4 and I-1, but not in any of the other commercial districts. Rather than argue with Building & Safety over an interpretation, Hunzeker is proposing this text amendment to define the social hall as a use and to include it in those districts.

Hunzeker submitted a sampling of some of the ads in the yellow pages of the phone book that advertise banquet rooms, etc, e.g. Villager, zoned H-2; Misty's, zoned B-3; Folsom Children's Zoo, zoned P; Yankee Hill Country Club, zoned R-3; Country Pines, zoned AG; A&E, Inc., zoned B-1; Bistro Ballroom, zoned H-3; HiMark Country Club, zoned R-3; the Ferguson Center, zoned R-7; the Wick Alumni Center, zoned P; Valentino's, zoned B-1; Welfare Society Hall, zoned B-3; and Yankee Hill Country Club, zoned R-3, and so on. These uses as we have defined them for this purpose are buildings or premises used for social, educational or civic gatherings, including but not limited to charitable fund-raisers, weddings, educational meetings, neighborhood meetings or similar events. He is confident that those uses are going on daily in Lincoln within restaurants, country clubs, apartment and/or subdivision clubhouses, historic buildings, and office buildings. Rather than argue in terms of interpretation, this text amendment makes it specifically permitted. He has no objection to the staff's recommended language.

With respect to parking, Hunzeker pointed out that Building & Safety wants to define this as a place of public assembly as if it were Pershing Auditorium or Devaney Center or a

church, with parking based on the largest assembly hall plus the ancillary uses. Hunzeker suggested that for a social hall, the number of people, the eating arrangements and the likely parking demand is much more attune to a restaurant or a bar than to an auditorium like Pershing or Devaney. Hunzeker proposed to amend the parking requirement from one space per 80 sq. ft. (as he requested in the original application) to one space per 100 sq. ft., which is what is required of all restaurants and bars across this community. The main concern is that we might have one of these facilities go into an area where there is not adequate parking. Since this is kind of a new use, they will need to have on-site parking at the rate of one space per 100 sq. ft., and that will be the same as if you were bringing in a brand new restaurant or bar into one of those areas. Hunzeker believes the 1/100 is a much more fair and equitable parking ratio to impose on this use than is the 1/50, plus whatever else is available in the same building.

Carlson noted that Hunzeker's original application was to create a special permit and staff has revised it to a conditional use permit. Hunzeker acknowledged that staff did suggest the conditional use and he agrees. There is provision in the ordinance where the City Council can grant an adjustment to the parking requirements if there is a change in use. He believes that the 1/100 is an appropriate ratio for this type of use. In addition, most of these uses will be evening events.

There was no testimony in opposition.

#### Staff response

Garrett clarified that the 1/80 as originally proposed by the applicant was for "net space" (just the social hall area itself and not the entirety of the building, including hallways and food prep areas, restrooms, etc.). With the restaurants, the parking requirement is "gross area", including the entire restaurant.

Garrett provided a handout relating to the parking requirements and definitions explaining the social hall and restaurant uses. Some of the locations referred to by Mr. Hunzeker would be on golf courses or as part of a golf course, and the definition for recreational facilities includes golf courses and country clubs. If you have a golf course, you are allowed to have these club functions. He then shared the definition of club, pointing out that social halls and clubs are not too different in function. But when you look at the definition for club, it contains a restriction that you cannot carry it on as a business. A social hall would be operating for profit and as the primary use of the location.

Carroll noted that there is no requirement for off-street parking for social halls. All parking must be on-site. Garrett agreed, advising that that goes with any use in the zoning code. The parking has to be provided on-site.

Carroll noted that the staff is recommending one space per 50 sq. ft. of seating, with parking for affiliated uses determined by the underlying district. Garrett suggested that one



of the major differences between restaurant and social hall is that a restaurant has tables and chairs taking up space. Whereas in a social hall, you can serve food for a portion of the time but often-times the tables and chairs would come down and the room can fill up with many more people, which would require more parking. The 1/50 would be just for the social hall area. The affiliated uses would be the remainder of whatever square footage, such as kitchen area, food preparation area, restrooms, etc.

Carroll clarified that the one space per 80 sq. ft. was the applicant's initial proposal, and he is now requesting to amend that to one space per 100 sq. ft. The staff is proposing one space per 50 sq. ft.

Carlson wondered about the process for someone that creates a space that starts to get repeat violations with it being a conditional use, with no ability to pull the permit for violations.

#### Response by the Applicant

Hunzeker corrected his motion to amend, agreeing that the original proposal was a "net" square footage computation. He is requesting one space per 100 sq. ft. gross, like a restaurant.

Hunzeker does not know how you compare this to a club. He does not know that anyone can point to an establishment that has a club special permit. This kind of establishment is much more closely related to a restaurant in terms of function than anything else in the code. There will be tables and chairs just like any restaurant banquet room. You may create room for a dance floor, but that is the same as it is for any golf course clubhouse or any large restaurant that holds itself out to catering to upwards of 300 people. As it relates to a golf course, it is pretty clear that the golf courses are not required to park those food service uses at a rate of 1/50 sq. ft. They are at 1/100 sq. ft. Hunzeker suggested that it is fair to treat the social hall the same as a restaurant and it is unfair to impose parking requirements which are very, very hard to meet in these older commercial districts. If we want to encourage investment and reinvestment in the older commercial areas, there needs to be a little bit of slack. If engaging in food service, the social hall will be subject to Health Department regulations. Hunzeker also pointed out that there is no regulation anywhere that says when a restaurant has to be open on any particular days of the week.

Hunzeker also clarified that he agrees with the staff to strike the section making the social hall a permitted special use.

Carlson confirmed then that, "you meet the parking requirement or you are not in business, or you could go to the City Council for the parking under a change of use."

With regard to the 1/100 for parking, Hunzeker explained that he was attempting to reach a compromise by originally requesting 1/80, but the more he researched it he became convinced that this use is more like a restaurant than anything else.

**ACTION BY PLANNING COMMISSION:**

July 18, 2007

Carroll moved approval of the staff language, as revised, with the amendment requested by the applicant for one parking space per 100 sq. ft. gross, the same as a restaurant, seconded by Larson.

Carroll agrees with the applicant that social halls are more like a restaurant than a church, auditorium, theater or grandstand, so he thinks it is more than fair to say one space per 100 sq. ft., the same as a restaurant.

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

**USE PERMIT NO. 106B**  
**TO ADJUST THE FRONT YARD**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S. 67<sup>TH</sup> STREET AND PIONEERS BLVD.**  
**RECONSIDERATION AND PUBLIC HEARING**  
**BEFORE PLANNING COMMISSION:**

July 18, 2007

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

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Additional information for the record: Brian Will of Planning staff submitted a letter in opposition from Richard and Nadine Hain. The record also consists of a letter in opposition from Terry Adair.

Staff presentation: **Brian Will of Planning staff** explained that this use permit amendment came before the Planning Commission in June, located at approximately 65<sup>th</sup> and Pioneers Blvd. At that hearing, one of the conditions of approval required the applicant to dedicate approximately 7 feet of additional right-of-way along Pioneers Blvd. The applicant objected, and, as an alternative, suggested bringing back an amendment to reduce the front yard setback along Pioneers Blvd. with the dedication of the right-of-way. That reduction of the front yard setback is what is before the Commission today. This adjustment reduces the front yard setback from 20' to 13' for the entire frontage along Pioneers Blvd. Staff is recommending approval of this adjustment.

Sunderman inquired about the distance from the curb of the parking lot to the road with this adjustment. Will could not give a number as far as from the back of curb to the parking, but from the property line back to the parking there will have to be 13' of open green space. At a minimum, there will be a 13' separation. Dennis Bartels of Public Works suggested that with the existing 66' of right-of-way or 33' on the north side, and with this being in a tapered section of Pioneers Blvd., it varies from about 7' to 10' right now from the back of curb to the existing property line. With this adjustment, it will add another 7' that would be dedicated, e.g. from 17' to about 14'.

### Proponents

**1. Mark Hunzeker** appeared on behalf of the applicant, **Talent+**. There will be an 80' right-of-way section in this portion of Pioneers Blvd., assuming the lanes are 12' lanes. That would put the property line at about 16' from the back of the curb, and an additional 13' of setback before the front bumper of a car would overhang the curb of the parking lot, which would be back probably another 2'. Therefore, there will be about 30' from back of curb to the parking lot, at least in the narrow section of Pioneers Blvd.

In addition, Hunzeker pointed out for the record, that the original drawings submitted erroneously showed a 20' setback along the west property line. It should have been 15' because that is the side yard setback. This does not require a waiver because that is the side yard setback in the O-3 District. It was an oversight in the initial drawing.

Carroll confirmed with Hunzeker that the setback along the street will all be landscaped and screened in accordance with the City's design standards, and Hunzeker agreed.

There was no testimony in opposition.

### Response by Staff

Will confirmed that the applicant did submit a revised site plan showing the correct side yard setback and staff is in agreement.

### **ACTION BY PLANNING COMMISSION:**

July 18, 2007

Carroll moved to approve the staff recommendation of conditional approval, as set forth in the revised staff report dated June 25, 2007, seconded by Strand and carried 8-0: Cornelius, Larson, Sunderman, Taylor, Krieser, Strand, Carroll and Carlson voting 'yes'; Esseks absent. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 07018,**  
**GLYNOAKS PLAZA PLANNED UNIT DEVELOPMENT,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S. 84<sup>TH</sup> STREET AND Glynoaks DRIVE.**  
**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

July 18, 2007

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

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Additional information for the record: **Brian Will of Planning staff** submitted comments from Ben Higgins, Public Works & Utilities, dated July 14, 2007. There had been a previous review included in the packet. Subsequently, the applicant submitted additional information and these comments are now part of the record on the additional information. The conditions of approval anticipated the additional comments, so there is no need to change the conditions of approval.

Staff presentation: **Brian Will of Planning staff** presented this proposal for change of zone to R-3 PUD, specifically requesting a change of zone to allow up to 78 dwelling units in the residential area and 258,000 sq. ft. of floor area in a commercial area allowing commercial, office and residential uses.

Will advised that the Land Use Plan designates this area as neighborhood commercial surrounded by urban density residential. Public sewer and water are available to serve the site. The streets internal to the development are combination of public and private. The extension of Glynoaks Drive to 84<sup>th</sup> Street would be a public street. The other streets shown on the site plan would be private streets.

As a PUD, staff considers the innovative design and being such, this proposal does require several adjustments to both the zoning and subdivision ordinance. These waivers are listed on page 161 of the agenda and staff is supportive of the waivers being requested and is encouraging this type of development.

Will believes that the applicant will be requesting the deletion of the requirement to remove the south access point onto South 84<sup>th</sup> Street.

Proponents

**1. Gill Peace, BVH Architects**, 440 No 8<sup>th</sup> Street, testified in support on behalf of the applicant, Hampton Enterprises, and described the design principles. There are four components to this proposal:

1) The commercial area will be a mixed-use urban village concept that is very pedestrian friendly. There will be on-street parking to slow traffic and to create an atmosphere where individual retail establishments are conducive to a neighborhood center, which is the main focus of this project.

2) To the north of the commercial area is a large transmission line for overhead power and that is a no-build area and serves as a natural transition from the commercial to the medium density housing – townhouses and row houses. The residential area has alleys that wrap around the back side of all of the residences, which allows a neighborhood friendly street to pass in front of all of the houses with a sidewalk adjacent to the front of all the residences.

3) There is a green strip along the west edge of the property which is currently in the floodplain and is intended to be left natural as a green space linear park. Along the west edge is a city bike trail adjacent to Antelope Creek. As part of the pedestrian friendly orientation the project invites people to use the bike path to enter the site at two locations. There is intensive landscaping currently in place and additional landscaping is planned for the green linear park along the creek. There are also two existing ponds along the linear green space.

4) Continued use of the existing shop that Hampton currently has on the site. It is currently used as a tree farm with a construction shop located at the south end. It is heavily screened from 84<sup>th</sup> Street. The site plan shows the future elimination of that shop at a time when it could be relocated to another area. The project will be phased with an office use sometime in the future for a 20,000 sq. ft. footprint with potentially three floors, allowing up to 60,000 sq. ft. of dedicated office use at the south end of the project. The proposed Lindberg Drive would connect to 84<sup>th</sup> at the south end.

**2. Dan Rosenthal, REGA Engineering Group**, also testified in support on behalf of the applicant. He submitted proposed amendments to the conditions of approval:

1. add the following text: “This approval permits 78 residential units in the residential area but does not restrict the number of residential units in commercial area, and permits 258,000 square feet of commercial floor area....”.

3.1.19 add the following text: “and permitted are coffee shop or bank drive-through’s that are located only at the parking lots north or south of Glynoaks Drive.”

3.1.22 Delete

With regard to the requirement to delete the Lindberg access at 84<sup>th</sup> Street, Rosenthal advised that the traffic study shows that there will not be any adverse effects to 84<sup>th</sup> Street traffic with this access. There will be a deceleration lane off 84<sup>th</sup> Street into the site. The applicant believes that this access will enhance the traffic flow and will help alleviate any concerns of traffic congestion.

Rosenthal advised that the applicant has been working with Watershed Management to resolve any issues or concerns about the drainage.

**3. Bob Caldwell, Hampton Enterprises**, also testified in support. The first hurdle was the traffic study to make sure there were no detrimental effects either to Glynoaks or to 84<sup>th</sup> Street, and the traffic study did not identify any. Secondly, apart from regulatory requirements, the applicant believes that a 60,000 sq. ft. user on the bottom part of that site is typically corporate offices. For a corporate office to have upwards of 200-300 employees leaving at peak hours and moving back up to the pedestrian friendly Glynoaks Drive does not make marketability sense. Would you want those people coming back and traveling directly through the neighborhood center, like downtown, Havelock or University Place? All of the applicant's experts take the position that the Lindberg access to 84<sup>th</sup> Street enhances Glynoaks with no detrimental impact on 84<sup>th</sup> Street. They just will not find a 60,000 sq. ft. user that will want their building at the end of a dead-end.

Larson confirmed with the applicant that the garages for the residences will all be on the alley side.

Carlson noted that the applicant is proposing a deceleration lane prior to the right-in right-out. Will you be dedicating right-of-way to create that? Caldwell stated "yes". The applicant wants the least amount of impact on both of those intersections.

### Opposition

**1. Dennis Bartels of Public Works** testified in opposition to deleting Condition #3.1.22. Public Works asked the applicant to provide justification for this access or remove it, and the applicant never provided justification for it. Public Works wrote reports on this project and never did receive any justification. In the Comprehensive Plan, 84<sup>th</sup> Street is the only principal arterial that is four-laned across town, and the only principal arterial in the Comprehensive Plan street map. The design standards that were adopted by the Planning Commission and City Council provide that on arterial streets, the ideal street spacing is ½ mile. Along this area, there is roughly 1/4 mile spacing on nearly all of 84<sup>th</sup> Street. Every driveway is a potential safety problem. The more points of conflict you add on the road, there is an increment of safety and capacity that you take away. The cumulative effect of adding driveways on arterials deteriorates the capacity. 84<sup>th</sup> Street serves as the east

bypass for Lincoln so we want to preserve the capacity to move traffic across town. More access points along 84<sup>th</sup> Street continues to degrade 84<sup>th</sup> Street. The traffic study showed the peak hour turning movement from that driveway to be 58 cars. That is less than the number making left turns out of that intersection.

In addition, Bartels advised that this project would justify a signal, and from a safety aspect, it is better to put the access at a signalized intersection rather than an uncontrolled intersection.

Bartels indicated that Augusta Drive is approximately the ½-mile point between Pioneers Boulevard and Old Cheney Road. There is one more full access intersection south of there. He believes there are three median openings between Pioneers Boulevard and Old Cheney Road.

Strand believes that there are four or five access between Augusta and Pioneers. Bartels stated that there is one access into Pioneer Greens and one into the redevelopment of an acreage type subdivision. There are at least two driveways into the single family acreage type residences that exist. The first one north of Augusta is a private roadway because there was no other access. Then there is Mandarin and further north there is one into Pioneer Greens. There are five driveways between Augusta Drive and Pioneers on the east side. The two driveways into the acreages will eventually be removed because there are stub streets both north and south.

Strand asked staff to respond to the other two amendments proposed by the applicant. Will indicated that he has talked with the applicant and he believes the intent is the same in Condition #1.

With regard to 3.1.19, Will stated that the language is sort of vague and suggested that if the Planning Commission were leaning this way, these uses potentially could be permitted, but only after review and approval by an administrative amendment by the Planning Director. Because we have a specific prohibition in the notes on some uses, we probably want some language like this to leave that door open to come in and ask for an administrative amendment.

Carroll pointed out that since this is mixed-used, the development will have residential above commercial. Will indicated that to be the reason he did not think the amendment to Condition #3.1.19 was necessary. He believes it is covered but he also does not have a problem with the proposed amendment.

Carlson asked whether the traffic is a positive or negative impact. Bartels acknowledged that there is no detrimental effect to Glynoaks in eliminating the driveway as recommended by staff. In his opinion, there would be an incremental benefit to 84<sup>th</sup> Street in eliminating the driveway. The applicant has not offered anything for justification.

If they find a user for the 60,000 sq. ft. building, Strand wondered whether it would be a positive impact to have a separate driveway in and out versus finding a tenant for 60,000 sq. ft. Bartels responded that he is not in marketing.

Response by the Applicant

Caldwell clarified that the applicant did submit two letters from their traffic engineer in an attempt to prove a negative impact without the southern access to 84<sup>th</sup> Street. It is the applicant's position that it would be a beneficial positive impact for Glynoaks Drive with the right-in right-out at the south end of the development. The traffic study did not show any detrimental impact by the fact that there would be a deceleration lane, with no median break and right-in right-out. There are no facts to show that it creates a detrimental impact. The traffic study didn't show any of those things. There does not appear to be any great public policy reason that shows it would be detrimental to 84<sup>th</sup> Street. We see entrances and exits all the way up the other side of 84<sup>th</sup> Street. Here we would have a deceleration lane which those do not.

The second issue is the marketability. There is not a 40,000 to 60,000 sq. ft. user that is going to accept being on a dead-end street where the employees have to travel through a pedestrian business district to get back out onto 84<sup>th</sup> Street. Their employees should not be driving through a pedestrian friendly new urban village. The traffic study and engineering has shown that it does not pose a detrimental impact, but rather a positive impact for Glynoaks.

Larson wondered about a merge lane on the right-out in addition to the deceleration lane. Caldwell stated that not to be a recommendation from the staff but the developer would agree to do that.

**ACTION BY PLANNING COMMISSION:**

July 18, 2007

Strand moved to approve the staff recommendation of conditional approval, with the amendments requested by the applicant, with the addition of "by administrative amendment" to Condition #3.1.19, seconded by Larson.

Strand pointed out that there are not a lot of accesses along 84<sup>th</sup> Street on the west side between Pioneers Boulevard and Old Cheney Road, and in the marketability side of things, having that driveway in and out would attract a good user for a building that we could not otherwise attract.

Carroll agreed. If you put a user there with 200-300 jobs, you want access to the south and not drag them through the mixed use at the northern part of the site. This project is well designed and he thinks it would be a great addition to Lincoln. The access to the south is important to the site.



Larson agreed. If they had to go up to Glynoaks to exit, they would be turning both right and left and he does not believe this would be good for that intersection.

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

**CHANGE OF ZONE NO. 07027**  
**FROM R-4 RESIDENTIAL TO B-3 COMMERCIAL,**  
**and**  
**STREET & ALLEY VACATION NO. 07003**  
**ON PROPERTY GENERALLY LOCATED AT THE**  
**SOUTHEAST CORNER OF S. 9<sup>TH</sup> STREET AND SOUTH STREET.**  
**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

July 18, 2007

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

Staff recommendation: Approval, subject to a zoning agreement.

Ex Parte Communications: None.

Additional information for the record: Christy Eichorn of Planning staff submitted a letter in opposition to the alley vacation with concerns about buses that use the alley. She knows that the neighbors do use the alley so there would need to be an easement so that there could be access to the alley.

Staff presentation: **Christy Eichorn of Planning staff** provided background information and reviewed the site plan. This is a proposed street and alley vacation and change of zone to B-3. The staff does not believe it is in conformance with the Comprehensive Plan because it encroaches into an existing residential area and the character of the development as proposed does not meet the guidelines for pedestrian orientation or buffering of adjacent residential areas to the south, which are both requirements of the Comprehensive Plan and the South Street Redevelopment Plan. However, the Comprehensive Plan also suggests that we should encourage renovation and reuse of existing commercial centers and that infill should be compatible with the character of the area and pedestrian-oriented. Eichorn further pointed out that the B-3 district provides for local commercial uses in a redeveloping neighborhood generally located in an established retail center of those neighborhoods.

Eichorn indicated that staff would support an expansion of the B-3 zoning but only if the applicant agrees to a zoning agreement which prohibits certain of the permitted uses in the B-3 district and which includes some development restrictions as proposed in the staff report which are reflective of the South Street design principles, as follows:

1. In consideration for the City re-zoning the Property to B-3 Commercial District the Developer agrees that the development of the Property shall be subject to the following restrictions:
  - a. The property shall be developed in accordance with the South Street Redevelopment Plan Commercial Design Principles.
  - b. Access limited to one driveway to each abutting street.
  - c. Provide safe and attractive sidewalks, including clear, convenient connections to building entrances.
  - d. Buildings shall be located a maximum of 10 feet from the lot line along South Street with windows and entrances fronting on South Street.
  - e. Parking shall be located along the side or rear of buildings.
  - f. A 20 foot side yard set back shall be required between the Residential District to the south and the B-3 Property.
2. As further consideration for granting the B-3 zoning on the Property, Developer agrees that the following permitted uses in the B-3 commercial zoning district between 9<sup>th</sup> and 10<sup>th</sup> Street approximately 170 feet south of South Street are prohibited:
  - a. Service Stations and self-serve, coin-operated car washes
  - b. Automobile and vehicle repair, sales., dealerships or lots.
  - c. Drive thru service facilities.
  - d. Tire stores and tire sales including vulcanizing:
  - e. No sale of alcoholic beverages for consumption off the premises. Sale of alcoholic beverages for consumption on the premises shall be in conjunction with the sale and service of food and gross receipts from the sale of alcoholic beverages shall be 50 percent or less of gross receipts from all business activity conducted on the premises.
  - f. Sign Restrictions
    1. Changeable copy or message center type signs.
    2. Freestanding signs shall be limited to ground signs.

- g. Lighting Restriction
  - 1. All exterior lighting shall utilize full cutoff fixtures and be mounted level in the horizontal and vertical axis.

Eichorn noted that the applicant has today submitted a revised site plan. The staff report and her presentation today are based on the site plan submitted previously. Staff thought the development could be arranged better to make it more pedestrian friendly by moving the sidewalk back. The staff also recommended to the applicant to move the buildings closer to South Street and relocate the parking back toward the residential area to buffer the residential from the commercial.

Carroll inquired as to the difference between the original site plan and the one submitted today. Eichorn believes it is similar to the very first site plan submitted back in May.

Larson inquired whether the two buildings shown on the site plan are existing buildings. Eichorn explained that they are not existing buildings. Right now there is the old King's building and an old auto muffler shop. Both of those buildings would be demolished as well as the houses along 9<sup>th</sup> Street.

#### Proponents

**1. Mike Rierden** appeared on behalf of the applicant and submitted proposed amendments to the terms of the recommended zoning agreement, as follows:

### **RECITALS**

#### **I.**

Developer has petitioned the City for a change of zone (No.07027) from R-4 to B-3 upon the following described property generally located between 9<sup>th</sup> and 10<sup>th</sup> Street south of the east west alley, south of South Street . The property is legally described as:

Lot 7,8,9,33 and 34, Block 2, South Park Addition; North/South Alley adjacent to said lots 7,8,33 and 34; and the South Half of the East/West Alley adjacent to said Lots 7 and 34; all located in Section 25, Township 10 North, Range 6 East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska.

#### **II.**

Developer has also petitioned the City for vacation of the East/West Alley and also petitioned the City for a partial vacation of the North/South Alley, both of which are located upon the Property.

**III.**

This change of zone from R-4 Residential to B-3 Commercial District and the aforementioned alley vacations will allow the Property to be used for a range of commercial and retail uses which would not be compatible with the adjacent residential properties.

**IV.**

The Developer has represented to the City that in consideration of the City re-zoning the Property to B-3 Commercial District and the vacation of the alleys, the Developer will enter into an agreement with the City subjecting the Property to restrictions on uses, lighting and conformance with the South Street Redevelopment Plan in order to provide a compatible development with the adjacent residential neighborhood.

**V.**

The City desires an Agreement, to be assured that the Developer will develop the Property in a manner compatible with the adjacent residential neighborhood should the Property be re-zoned to B-3 Commercial District and the alleys be partially/completely vacated.

**VI.**

If the developer enters into a redevelopment agreement with the City for the Property, the redevelopment agreement will void and supercede this zoning agreement.

NOW THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. The City hereby agrees to grant Developer's petition to change the zoning map from R-4 Residential to B-3 Commercial District on the Property and to vacate the East/West Alley and partially vacate the North/West Alley as set forth above.
2. In consideration for the City re-zoning the Property to B-3 Commercial District, the Developer agrees that the development of the Property shall be subject to the following restrictions:
  - a. The property shall be developed in accordance with the following South Street Redevelopment Plan Commercial design principles:
    - 1) Provide parking to serve the South Street business corridor.

- 2) Improve parking availability in conjunction with the redevelopment of the Property.
    - 3) Provide well landscaped parking lots along the sidewalk edge.
    - 4) Entrances shall be visible and convenient to the sidewalks.
  - b. Access limited to one driveway to South Street ~~each abutting street.~~
  - c. Provide safe and attractive sidewalks, including clear, convenient connections to building entrances.
  - d. Buildings shall be located as shown on the attached plan identified as Exhibit "A" and incorporated herein. The parties agree that the sizes of parking stalls and minor changes to the layout may be made at the time building permits are applied for. ~~a maximum of 10 feet from the lot line along South Street with windows and entrances fronting on South Street.~~
  - e. Most parking shall be located along the side or rear of buildings.
  - f. A 20 foot side yard set back shall be required between the Residential District to the south and the B-3 Property.
3. As further consideration for granting the B-3 zoning on the Property, Developer agrees that the following permitted uses in the B-3 commercial zoning district between 9<sup>th</sup> and 10<sup>th</sup> Street approximately 170 feet south of South Street are prohibited:
- a. Service Stations and self-serve, coin-operated car washes
  - b. Automobile and vehicle repair, sales, dealerships or lots but does not prohibit automobile parts stores such as Advanced Auto.
  - c. ~~Drive thru service facilities.~~
  - d. Tire stores and tire sales including vulcanizing.

- ed. No sale of alcoholic beverages for consumption off the premises. Sale of alcoholic beverages for consumption on the premises shall be in conjunction with the sale and service of food and gross receipts from the sale of alcoholic beverages shall be 50 percent or less of gross receipts from all business activity conducted on the premises.
- fe. Sign Restrictions:

  - 1. Changeable copy or message center type signs.
  - 2. Freestanding signs shall be limited to ground signs.
- gf. Lighting Restrictions:

  - 1. All exterior lighting shall utilize full cutoff fixtures and be mounted level in the horizontal and vertical axis.

Rierden also submitted Exhibit “A”, a revised site plan. The South Street design principles state:

Locating the buildings at or close to the front property line, with windows and entrances toward the sidewalk is desirable; when that cannot be achieved, parking lots should be well-landscaped along the sidewalk edge and entrances should be visible and convenient to the sidewalks.

Rierden stated that the developer is proposing a lot of landscaping along the property line as well as to the south to act as a buffer to the existing residential uses.

Rierden confirmed that the buildings would be demolished and that the site would be redeveloped in accordance with the rendering in the exhibit, providing some outside dining. The Advance Auto Parts building would be on the corner of South and 10<sup>th</sup> Street.

Rierden referred to the curbcuts that currently exist on South Street. Staff is recommending that the applicant give up vehicular access to South Street. Rierden agreed that the applicant will give up three of those accesses.

The property is now an eyesore and this developer is anxious to proceed. Rierden believes that the applicant and the staff will come to an agreement prior to the zoning agreement being scheduled on the City Council agenda.

**2. John Layman**, who was employed by the owner of the property on South Street between 9<sup>th</sup> and 10<sup>th</sup> to do a feasibility consultant study, testified on behalf of the applicant. He conducted a three-year study of the land parcel in question. The current owner began assembling this land 10 years ago. The blocks on the north side of South Street are only

200' deep and there is no way to adequately handle parking and pedestrian traffic with a 60' depth building and provide the number of adequate parking spaces, which is greater in the market than the city standards. When in an existing neighborhood, you are at a 100% density, so when you do the feasibility study you know the household numbers and the income levels and can generate the retail activity that can serve the neighborhood. This is a very viable area for a certain type of retail activity, and you won't find that activity in all areas because it is generated by the type of housing and the income levels.

When the study addressed the industrial area, the blighted study was referring to the area west of 8<sup>th</sup> Street. The blighted study and Redevelopment Plan suggest that most of this area become retail. There is sufficient B-2 zoning on the south side, which means the B-3 on the north side is only 100' deep and just would not work for retail in today's market. This block is down to one ownership. The current plan shows "fair" condition for this site. Of the eight houses on 9<sup>th</sup> Street, three are not able to be occupied. There are also asbestos problems in the homes. For a party to come in to build buildings, the cost goes up dramatically in older areas.

It would not be acceptable to close all entries off South Street because the traffic would have to recirculate within the development. There are seven driveways plus two alleys, and the developer has agreed to reduce to three ingresses/egresses. According to today's retailing standards, the parking would be in front of the building. The staff is asking for the parking in the rear, but he has not seen that in Lincoln in the last five years and as an appraiser he would not be following professional standards if he did not justify the economics of that type of proposal.

There was no testimony in opposition.

#### Staff response

Eichorn suggested that "South Street Redevelopment Plan Commercial" be removed from paragraph VI.2.a. of the applicant's proposed amendments. Otherwise, she believes the staff and applicant can reach agreement.

She also pointed out that the revised site plan provided by the applicant shows sidewalk on the applicant's property and not in the right-of-way. She would want to confirm that the sidewalk is there. One of the most important things about this particular site is how to make it more pedestrian friendly. She believes that the sidewalk needs to be a minimum of 6' from the curb line. If the developer can give the city an easement to keep that 6' sidewalk, the proposed site plan could definitely work.

Carroll expressed concern about the "blank wall" of the Advance Auto Parts building facing South Street. He wondered whether the "design principles" would address this issue. Eichorn advised that the South Street design principles would not have to be followed if they do not request any TIF money. There would be no review by the Urban Design

Committee. Any of those changes would have to be in an agreement or as a condition. Carroll would like to see a condition that the Advance Auto Parts building be acceptable by Planning staff as far as the design. Eichorn stated that the staff did encourage the developer to have windows and doors along South Street on any building, but the applicant did not believe that would work. Eichorn also advised that she has met once with the applicant since the last hearing and they did talk about a different site plan.

Eichorn agreed that she did not see the revised site plan prior to this meeting, but the staff is not interested in a delay. The only issues are how the developer feels about keeping the sidewalk on the private property and that the sidewalk would stay at least 6' from the curb line.

Response by the Applicant

Rierden agreed with the changes requested by the staff. He advised that the sidewalks are right on the curb today. The proposed sidewalks would be approximately 9.5' from the curb line.

Rierden also pointed out that the Advance Auto Parts store is on the east side of the property – the glass faces the corner so the glass and the entrance would basically be facing the intersection of South and 10<sup>th</sup> Street. The traffic on 10<sup>th</sup> is headed downtown anyway.

Rierden noted that there are four access points now on South Street. The applicant is willing to give up three of those. A retail establishment needs access off the arterial and proposes to locate it basically in the middle to serve both of the buildings. There has been discussion about a turn lane on South Street to access the property. The traffic on 10<sup>th</sup> Street and 9<sup>th</sup> Street is about 18,000 vehicular trips a day, and it goes down to 9,000 on South Street and diminishes as you go west. Therefore, he does not believe there is a need for a turn lane, but the applicant would agree to consider it.

Carroll again expressed his concern about the blank wall facing South Street. Since the building is oriented towards 10<sup>th</sup> Street, it will be a blank building with glass at one corner and he does not believe it looks like the rest of the businesses along South Street. It would look better with more windows or more design. Rierden agreed, but that would be a call of Advance Auto. He agreed that it would be nice to have a few more windows and he agreed to bring it up to Advance Auto to see if they could change their building design.



**CHANGE OF ZONE NO. 07027**

**ACTION BY PLANNING COMMISSION:**

July 18, 2007

Strand moved approval, subject to a zoning agreement, as amended by the applicant, with amendments to delete "South Street Redevelopment Plan" in paragraph VI.2.a., and making sure sidewalks are 6' back and allowing one access on South Street, seconded by Larson.

Carroll was interested in addressing the design of the Advance Auto Parts building, but he does not see any way to make it a condition of approval. He asked the applicant to make it as pleasing as possible for that site.

Cornelius commented, "we've got kind of a half-baked application and it sounds like a lot of chefs have been involved." This is in the South Street Redevelopment Area. We have heard retail consultants tell us what can be done and we have heard today how it can't possibly be done. He intends to vote no.

Carlson thinks there has been a lot of time and money invested to do the infrastructure improvements on South Street and we need to honor what those groups have come up with in terms of design principles. He thinks it needs to be a different layout.

Taylor is concerned. We need an attractive front on South Street.

Strand pointed out that the agreement does say the entrance shall be visible and convenient to the sidewalk and hopefully the developer would take the sidewalks on South Street into consideration. That section has been an eyesore for a long time and she thinks these are good improvements.

As far as the retail site, Carroll does not believe we will get the economic development there unless it is a site that is feasible to make a profit. People will not go there if they cannot access South Street. The minimum depth of the lots reduces the economic value of those businesses because they cannot do what this site can do. He understands the need to use South Street as an exit or entrance because of the economic ability of these businesses to do well. He understands the issue of not losing the entrance. He just has a problem with the looks of the building. It is difficult in an older area to redevelop unless you have a large land mass to do that, and he believes the development needs that South Street entrance to be successful.

Carlson thinks there is opportunity to change the layout and design and still have some access. We need to remember the millions of dollars that have been invested by Urban Development to create that catalyst.

Larson stated that he will vote in favor because this area has been an eyesore for a long time. This looks like a pretty good plan. The only disagreement is the north wall of the

Advance Auto Parts building and if we could get some sort of stronger commitment from the applicant about what he would ask the owner to do, we would have a better agreement.

Sunderman believes this is a unique section of the South Street Redevelopment Plan with it being on 9<sup>th</sup> and 10<sup>th</sup> with a good deal of traffic.

Motion for approval, subject to the zoning agreement, with amendments, carried 5-3: Larson, Sunderman, Taylor, Strand and Carroll voting 'yes'; Cornelius, Krieser and Carlson voting 'no'; Esseks absent. This is a recommendation to the City Council.

**STREET & ALLEY VACATION NO. 07003**

**ACTION BY PLANNING COMMISSION:**

July 18, 2007

Strand moved approval, subject to the same zoning agreement, with amendments, as approved with Change of Zone No. 07027 above, seconded by Larson and carried 5-3: Larson, Sunderman, Taylor, Strand and Carroll voting 'yes'; Cornelius, Krieser and Carlson voting 'no'; Esseks absent. This is a recommendation to the City Council.

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 1, 2007.