MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, March 23, 2011, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Leirion Gaylor Baird, Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Jeanelle Lust, Jim Partington, Lynn Sunderman and Tommy Taylor; Marvin Krout, Steve Henrichsen, Tom Cajka, Christy Eichorn, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Chair Lynn Sunderman called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Sunderman then requested a motion approving the minutes for the regular meeting held March 9, 2011. Motion for approval made by Larson, seconded by Francis and carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **March 23, 2011**

Members present: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 11003, COMPREHENSIVE PLAN CONFORMANCE NO. 11004 and STREET AND ALLEY VACATION NO. 11002.**

Ex Parte Communications: None

Item No. 1.3, Street and Alley Vacation No. 11002, was removed from the Consent Agenda and scheduled for separate public hearing for further information from staff.

Taylor moved approval of the remaining Consent Agenda, seconded by Francis and carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 11004
DECLARATION OF SURPLUS PROPERTY
GENERALLY LOCATED AT NORTH 8TH STREET AND U STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: March 23, 2011

Members present: Esseks, Lust, Taylor, Cornelius, Gaylor Baird, Francis, Partington, Larson and Sunderman.

Ex Parte Communications: None.

This application was removed from the Consent Agenda by Planning staff to provide further information.

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

Staff presentation: **Tom Cajka of Planning staff** explained that this application was removed from the Consent Agenda to revise Analysis #4 in the staff report as follows:

4. The property in Exhibit "B" is located within the 100 year floodplain. ~~The City will retain a floodplain conservation easement over this property~~

The property is already being used as part of a parking lot. The portion being requested to declare as surplus is vacated right-of-way owned by the city. The city is negotiating with the owner to do a land swap for some other property. This portion is in the 100-year floodplain, but the city does not believe this small area requires a conservation easement at this time, and while the city is still in negotiations with the land owner for a land swap, it is desired that the conservation easement not be made a condition of approval.

Rick Peo, City Law Department, advised that the land swap is required for a three-party agreement between the JPA for West Haymarket, the City and the property owner in order to construct the 10th and Salt Creek Roadway project. Due to the timing of construction activities in April, the city needs to get right of entry to work on these properties even before the land exchange can be accomplished. The requirement for a conservation easement needs to be deleted at this time because it will affect the land value of the property for the exchange. It is an existing use and will probably still remain a parking lot in the near or long term future.

From the point of view of trying to minimize the impact on the public health/public interests resulting from a flood, Esseks inquired whether this area is otherwise protected, such as by the city's plan for detention areas and otherwise trying to limit the damage that might occur downstream from a flood. In other words, is the public interest covered without the conservation easement? Peo explained that this area is part of the roadway improvements that have been designed to fit into this area. No one sought to impose this requirement previously. Esseks inquired whether it is fair to say that the plans for the arena and this area have a flood control component designed to minimize the negative affects downstream? Peo believes so, but he does not have the expertise or knowledge at this point to address that issue.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: March 23, 2011

Lust moved to find the proposal in conformance with the Comprehensive Plan, with amendment to Analysis #4 as requested, seconded by Francis, and carried 9-0: Esseks, Lust, Taylor, Cornelius, Gaylor Baird, Francis, Partington, Larson and Sunderman voting 'yes'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 11006
FROM R-2 RESIDENTIAL DISTRICT TO
B-3 COMMERCIAL DISTRICT,
ON PROPERTY GENERALLY LOCATED
AT THE NORTHEAST CORNER OF
CHAUTAUQUA AVENUE AND A STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: March 23, 2011

Members present: Esseks, Lust, Taylor, Cornelius, Gaylor Baird, Francis, Partington, Larson and Sunderman.

Ex Parte Communications: None.

Staff recommendation: Approval, subject to a conditional zoning agreement.

Staff presentation: **Christy Eichorn of Planning staff** gave a history of the site. This is a request to change the zoning on two lots on the corner of A Street and Chautauqua Avenue, located just west of existing B-3 zoning. Back in 2007, there was a request to zone a lot located approximately right in the center of this block to B-3, and at that time the existing pharmacy on the east side of S. 33rd Street was thinking of moving to this location in a stand-alone building. At that time, we went through the process of rezoning with a zoning agreement which listed uses that they did not believe would be appropriate that would normally be allowed in B-3. That application was approved and that zoning has been there since 2007. It is Eichorn's understanding that the applicant for that change of zone has chosen not to move to the site and the applicant on today's agenda is seeking to do something at this time.

To facilitate this development, Eichorn explained that the applicant needs to rezone the two westernmost properties on half of the block from R-2 to B-3. Similar to what was done in 2007, as a condition of rezoning, the staff has requested a zoning agreement that will be signed and approved by the City Council. The zoning agreement would include all of the restrictions and limitations included in the previous agreement, such as alcohol sales, drive thru restaurants and the electronic changeable copy sign normally allowed in B-3.

The applicant has met with the Woods Park and 40th and A Neighborhood Associations, and the Planning Department has received letters in support from both of those associations.

Larson asked about the existing use of the property. Eichorn stated that there is a duplex on the easternmost lot and a residential house on the corner, both of which will be removed.

Esseks referred to Analysis #2 in the staff report which states that the current property owners of the two R-2 zoned lots have agreed to sell their property to the applicant. Esseks sought assurance that there is no doubt about the property owners' willingness to accept this new zoning. Eichorn confirmed, advising that the two property owners have signed an application for change of zone.

Gaylor Baird asked Eichorn to explain how the staff feels bout this transition from commercial use to residential use on this site. Eichorn stated that the staff and the applicant did discuss the appropriate uses for the site and R-T zoning in addition to the B-3. In addition to the previous zoning agreement conditions, the applicant has agreed to some of the design standards provided in the R-T zoning district so the structure itself would be a transition from the residential in character to more commercial. The applicant volunteered to do this because that was a concern raised at the neighborhood meeting. In addition, Eichorn suggested that this credit union has relatively low traffic counts. They are open from 8:00 a.m. to 5:00 p.m., Monday through Friday, so the impact on the surrounding neighborhood would be different than some of the other uses allowed under B-3 zoning. The staff believes the zoning agreement conditions provide a good transition.

Proponents

1. Peter Katt appeared along with **Nathanial Buss of Olsson Associates** on behalf of the applicant, acknowledging that this is a change of zone for two lots to allow the MembersOwn Credit Union to move from its current location on N Street. MembersOwn has been a long term credit union in the city dating back to its roots with the Lincoln Telephone Company, and has recently been expanding and merged with a credit union in Gage County. As a part of their plans and continued growth, they wanted a new location and began a long search. Their members are primarily in the downtown area. They were particularly interested in Antelope Valley, but, unfortunately, the land costs in Antelope Valley were not justifiable. They then began working with city staff and the DSC to find more affordable locations. This location, even though not perfectly situated, accomplishes most of the credit union's objectives to be near their members and allows them to continue to invest in the community and the neighborhoods. They want to stay in this area – this is more expensive than the fringe area, but they are willing to make that investment.

Katt then showed the site plan and a rendering of the proposed building. The building will sit in the middle of the half block. Katt reiterated that there were presentations made to both neighborhood associations, and, subject to the restrictions in the zoning agreement, both associations are in support of this change of zone.

Katt believes this proposal complies with some of the strategies in the Comprehensive Plan, such as providing opportunity for redevelopment growth in the existing core of the city. This is an example of a project of which the city and community should be proud. The terms of the zoning agreement have not made it easy, and the community is fortunate to have a corporate citizen willing to accept a fairly extreme list of conditions on its investment in the community and still make it work. Katt reminded the Commission that this is the type of project that we want in our community. Continued efforts need to be encouraged and it needs to be easier for these types of projects to come forward and be successful.

In regard to membership, Katt stated that all credit unions have membership requirements. This is a community charter credit union for both Gage and Lancaster County, so the membership is fairly open.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: March 23, 2011

Francis moved approval, subject to the conditional zoning agreement, seconded by Gaylor Baird.

Francis commented that this appears to be a nice building and a nice plan for the use of this property, which has been needing something more aesthetically pleasing for a long time.

Larson agreed. This has been sort of a "sick" corner for quite some time.

Gaylor Baird commented that the explanation about the transition from commercial to residential is compelling, and it is nice to hear that the applicant was volunteering to do some things to appease the neighbors' concerns.

Sunderman believes this is another example of a neighborhood that has been in need of some help on that corner and thanked the applicant and developer for their willingness to invest in the core of the city.

Motion for approval, subject conditional zoning agreement, carried 9-0: Esseks, Lust, Taylor, Cornelius, Gaylor Baird, Francis, Partington, Larson and Sunderman voting ‘yes’. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 11007,
TEXT AMENDMENT TO TITLE 27 OF THE
LINCOLN MUNICIPAL CODE TO REQUIRE A
PERSON REQUESTING A ZONING ACTION
CONFIRMATION LETTER TO PAY AN APPROPRIATE FEE THEREFOR.
PUBLIC HEARING BEFORE PLANNING COMMISSION: March 23, 2011

Members present: Esseks, Lust, Taylor, Cornelius, Gaylor Baird, Francis, Partington, Larson and Sunderman.

Ex Parte Communications: None.

Staff recommendation: Approval

Staff presentation: **Steve Henrichsen of Planning staff** advised that for some time the city has been receiving requests from the private sector needing some form of letter confirming the zoning on a subject property in order to obtain financing or a grant, etc.

In the past, this has been the responsibility of the Building & Safety Department; however, due to staffing cutbacks several years ago, they discontinued the service. Without this service, the private sector has been needing to hire a private attorney to get confirmation of this zoning information. Staff believes that this is a service that the Planning Department can provide.

The Planning Department drafted a letter, in consultation with Building & Safety and the City Attorney, which confirms licenses for apartment complexes. The Department has been providing this service on a trial basis, and it appears that the letter has met the expectations of all the lenders and the applicants have been pleased. This proposal and form letter was sent to the development community at large and the Department has received very positive responses about providing this service.

Lust shared with the other Commissioners, an e-mail exchange she had with Henrichsen. She stated that her questions and concerns have been satisfied.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: March 23, 2011

Larson moved approval, seconded by Francis.

Lust stated that the exchange she had with Henrichsen was a concern about potential exposure if the city gives wrong advice in the letter. She acknowledged that there is a disclaimer in the letter, which usually works. Her general concern is that she wants to make sure the sample letter is projecting what we are thinking we are allowed to do and that it matches what the ordinance says. She would be more comfortable if the sample letter matches the ordinance language, i.e. zoning "action" confirmation letters. As this ordinance is implemented, she wants it to be clear that what we are confirming is that there has been zoning action in the past on this property and that it is appropriate.

Sunderman suggested that Lust is asking for continuity between the letter and the ordinance, which does not require an amendment and staff can deal with it. Lust agreed.

Motion for approval carried 9-0: Esseks, Lust, Taylor, Cornelius, Gaylor Baird, Francis, Partington, Larson and Sunderman voting 'yes'. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 1:35 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on April 6, 2011.

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