

****REVISED** MEETING RECORD**

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, June 10, 2015, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jeanelle Lust, Dennis Scheer, Lynn Sunderman, Michael Cornelius, Maja Harris, Tracy Corr, Ken Weber, and Chris Hove, (Cathy Beecham absent); David Cary, Steve Henrichsen, Brian Will, Christy Eichorn, Tom Cajka, Brandon Garrett, Geri Rorabaugh and Amy Huffman of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission meeting

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

Lust requested a motion approving the minutes for the regular meeting held May 27, 2015, as revised. Cornelius moved approval, seconded by Scheer and carried 7-0: Lust, Cornelius, Scheer, Harris, Sunderman, Corr and Hove voting 'yes'; Weber abstained; Beecham absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

June 10, 2015

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

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 15023, SPECIAL PERMIT 15031, SPECIAL PERMIT NO. 15032, WAIVER NO. 15010, WAIVER NO. 15011 AS AMENDED, WAIVER NO. 15012.**

There were no ex parte communications disclosed.

Hove moved for the approval of the Consent Agenda (Item Nos. 1.1 through 1.6, seconded by Corr and carried 8-0: Lust, Hove, Weber, Harris, Sunderman, Scheer, Corr, and Cornelius; Beecham absent.

Note: This is final action on Special Permit No. 15023, Special Permit No. 15031, Wavier No. 15010, Waiver No. 15011 as amended, and Waiver No. 15012, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days.

REQUESTS FOR DEFERRAL:

There were two separate Requests for Deferral by the respective applicants (See below):

- 1) Request of Matt Langston for a 2-week deferral on Agenda Items 4.6a and 4.6b:

**CHANGE OF ZONE NO. 15015, AG AGRICULTURE TO
R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY
LOCATED AT 5000 SOUTH 84TH STREET,**

AND

**SPECIAL PERMIT NO. 15028, A REQUEST FOR A
COMMUNITY UNIT PLAN FOR A 34-LOT SUBDIVISION,
WITH WAIVERS TO SETBACKS, LOT WIDTH, LOT AREA,
AND PRIVATE ROADWAY DESIGN STANDARDS ON
PROPERTY GENERALLY LOCATED AT
5000 SOUTH 84TH STREET.**

June 10, 2015

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

There was no one present to provide testimony; therefore, no public hearing was held on these two applications.

Hove moved to defer the public hearing on these two applications; seconded by Cornelius. Motion carried 8-0: Lust, Scheer, Hove, Weber, Corr, Harris, Sunderman and Cornelius voting 'yes'; Beecham absent.

- 2) Request of Kent Seacrest representing Dial Real Estate Consultants, Inc., for a 2-week deferral on Agenda Items 4.7a and 4.7b:

CHANGE OF ZONE NO. 15014, R-1 RESIDENTIAL TO R-2 RESIDENTIAL ON PROPERTY GENERALLY LOCATED AT SOUTHWEST OF THE INTERSECTION OF OLD CHENEY ROAD AND NORMAN ROAD

AND

SPECIAL PERMIT NO. 15035, TO ALLOW THE CONSTRUCTION OF A RESIDENTIAL HEALTHCARE FACILITY AND ALLOW WAIVERS TO ADJUST THE HEIGHT REQUIREMENTS, AND ELIMINATE BLOCK LENGTH AND PEDESTRIAN EASEMENT REQUIREMENTS, ON PROPERTY GENERALLY LOCATED ON THE WEST PORTION OF THE KNOLLS COUNTRY CLUB, NORMAN ROAD AND OLD CHENEY ROAD.

June 10, 2015

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

There was no one present to provide testimony; therefore, no public hearing was held on these two applications.

Scheer moved to defer the public hearing on these two applications; seconded by Hove. Motion carried 8-0: Lust, Scheer, Hove, Weber, Corr, Harris, Sunderman and Cornelius voting 'yes'; Beecham absent.

PUBLIC HEARING AND ADMINISTRATIVE ACTION:

COMPREHENSIVE PLAN AMENDMENT NO. 15001, TO AMEND THE LINCOLN COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE DESIGNATION FROM "RESIDENTIAL-URBAN DENSITY" TO "COMMERCIAL", ON PROPERTY GENERALLY LOCATED IN THE YANKEE HILL ROAD AND SOUTH 40TH STREET AREA, AND TO MODIFY THE LOCATION OF THE FUTURE BIKE TRAIL;

AND

ANNEXATION NO. 15005, TO ANNEX APPROXIMATELY 86 ACRES, INCLUDING ADJACENT RIGHTS-OF-WAY, GENERALLY LOCATED AT SOUTH 40TH STREET AND YANKEE HILL ROAD;

AND

CHANGE OF ZONE NO. 15016, WILDERNESS CREEK PLANNED UNIT DEVELOPMENT, FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 PUD, INCLUDING AREAS DESIGNATED FOR H-4 COMMERCIAL, R-3 RESIDENTIAL, AND R-5 RESIDENTIAL DEVELOPMENT, ON PROPERTY GENERALLY LOCATED AT SOUTH 40TH AND YANKEE HILL STREETS.
PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

June 10, 2015

Members present: Lust, Hove, Scheer, Weber, Cornelius, Corr, Harris; Sunderman declared a conflict of interest and excused himself from the hearing; Beecham absent.

There were no ex parte communications disclosed on these items.

Staff presentation: **Christy Eichorn of the Planning staff** provided an overview of these three applications. Eichorn explained that there are three associated applications, including a comprehensive plan amendment, an annexation and a change of zone, which is a planned unit development overlay.

The comprehensive plan amendment changes this area to reflect it as commercial along Yankee Hill Road and residential south of the commercial zoning. One of the reasons this change is being requested is due to a pipeline in Yankee Hill Road that runs from approximately S.W. 8th Street to 84th Street and then goes north. Due to the pipeline, they have had to rethink some of the land use provisions as they were originally reflected in the comp plan. Another change of the amendment is to more accurately reflect the location of a proposed bike path that will be built in the near future, aligning it more with the streets. It is currently shown in the plan in areas where there are home already built and lots have been platted.

The project runs from South 33rd Street to South 40th Street, south of Yankee Hill Road. This area was preliminary platted in 2006 and shows single and attached single-family lots. In 2006, they weren't thinking as much about the impacts of the pipeline. With this project, there is a 221-foot pipeline planning area that runs along Yankee Hill on the south side as well as the north side. This development provides an opportunity to remove some of the proposed dwelling units from the pipeline planning area and moves them further south as attached single-family, town homes or single-family developments on smaller lots than what had originally been proposed with the Wilderness Hills

preliminary plat. The new design shows 220,000 sq. ft. of commercial from 33rd Street to 40th Street, 300 apartment units and 110 single or attached single-family units south of the commercial area. This area is currently outside of the city limits, so they have applied for an annexation. It is adjacent to the city limits and it can be served by sewer and water.

Proponents:

1. Michael Rierden, representing Lincoln Federal Bank Corp. Inc, the owner of the property involved in these applications came forward and stated that Brad Marshall from Olsson Associates is also present to address technical questions of the project.

Rierden explained that in 2006, they were proposing single-family, town homes and apartments in this particular area. In the past few months, they were told of the pipeline issue and the ramifications that it could have. It was then decided to come up with another proposal as a good compromise. They are in agreement with all the conditions set forth in all three of the applications. Rierden thanked the Planning Department, in particular Christy Eichorn, for working on this project with them. They are asking for two waivers, which have been agreed upon by the Planning Department.

Questions of the Applicant:

Corr asked if the developer met with the Wilderness Hills Homeowners Association. Rierden indicated that they met with the Board of the Wilderness Hills Homeowners Association, which had questions but there was general support for the development.

Harris asked about the two waivers. Brad Marshall, Olsson Associates, reported that one of the waivers was for block length, adding pedestrian easements to the bike trail, and the second waiver is for a double frontage for a portion of the development as shown on the site plan.

Corr asked for clarification on the double frontage lot. Marshall explained that this relates to the town home section on the south side of 37th Street at Crescent Street, which consists of four to five lots that will have a public street on the north and the south sides.

Opponents: None.

Staff Questions:

Corr referenced Item 5 on Page 58 of the staff report relating to the waiver of easements and some text that seems to be conflicting. Eichorn explained that the block length requirement is not being waived and the pedestrian easements that are required every 1,000 feet are still required as part of this plan, requiring them to have pedestrian sidewalks.

Corr asked for clarification about the reference to the grade separated crossing of the bike trail going over Yankee Hill Road. Brandon Garrett of the Planning Department explained that a grade-separated crossing is where the trail is crossing the roadway at a different grade – either over or under the roadway. In this case, it will likely go under the roadway similar that at 27th & Capitol Parkway but much smaller.

Corr asked if the white “x’s” used on the site plan represent what is being removed in terms of the bike trail and the black line represents the new location. Garrett explained that the existing comprehensive plan shows the bike trail represented by the white “x’s” and noted that this is a clean-up item. The black line shows the proposed re-location of the bike trail.

Hove asked if the pipeline issue only relates to residential uses. Eichorn indicated that it relates to more vulnerable uses, i.e. dwelling units, daycare facilities, K-12 schools, but not commercial uses.

Corr asked if staff was present at the meeting with the homeowners association. Eichorn stated that she was not present – it was a small meeting and staff was not invited.

ACTION BY PLANNING COMMISSION:

June 10, 2015

**COMPREHENSIVE PLAN AMENDMENT NO. 15001,
TO AMEND THE LINCOLN COMPREHENSIVE PLAN BY
CHANGING THE FUTURE LAND USE DESIGNATION
FROM “RESIDENTIAL-URBAN DENSITY” TO “COMMERCIAL”,
ON PROPERTY GENERALLY LOCATED IN THE YANKEE
HILL ROAD AND SOUTH 40TH STREET AREA, AND TO MODIFY
THE LOCATION OF THE FUTURE BIKE TRAIL.**

Staff Recommendation: Approval

Hove moved to recommend approval of the comprehensive plan amendment; seconded by Scheer.

Corr thanked the developer for reaching out to the neighbors and making sure that the communication happened. She believes that this looks like a decent project, and she appreciates how it eases back from commercial to apartments followed by town homes, and then to single-family – noting that this is nice transition.

Motion carried 7-0; Lust, Hove, Weber, Scheer, Harris, Cornelius, and Corr;
Sunderman declared a conflict of interest; Beecham absent.

ACTION BY PLANNING COMMISSION:

June 10, 2015

ANNEXATION NO. 15005, TO ANNEX APPROXIMATELY 86 ACRES, INCLUDING ADJACENT RIGHTS-OF-WAY, GENERALLY LOCATED AT SOUTH 40TH STREET AND YANKEE HILL ROAD.

Staff Recommendation: Conditional Approval

Hove moved to recommend conditional approval of the annexation; seconded by Scheer.

Lust stated that annexation is definitely appropriate in this instance, as people living in this area probably think it is already part of the city.

Motion carried 7-0; Lust, Hove, Weber, Scheer, Harris, Cornelius, and Corr;
Sunderman declared a conflict of interest; Beecham absent.

ACTION BY PLANNING COMMISSION:

June 10, 2015

CHANGE OF ZONE NO. 15016, WILDERNESS CREEK PLANNED UNIT DEVELOPMENT, FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 PUD, INCLUDING AREAS DESIGNATED FOR H-4 COMMERCIAL, R-3 RESIDENTIAL, AND R-5 RESIDENTIAL DEVELOPMENT, ON PROPERTY GENERALLY LOCATED AT SOUTH 40TH AND YANKEE HILL STREETS.

Staff Recommendation: Conditional Approval

Hove moved to recommend conditional approval of the change of zone; seconded by Scheer.

Lust noted that she believes this is a good project.

Motion carried 7-0; Lust, Hove, Weber, Scheer, Harris, Cornelius, and Corr;
Sunderman declared a conflict of interest; Beecham absent.

**COMPREHENSIVE PLAN CONFORMANCE NO. 15006, TO
REVIEW AS TO CONFORMANCE WITH THE 2040 LINCOLN
COMPREHENSIVE PLAN , A PROPOSED APPLICATION
TO DECLARE PROPERTY AS SURPLUS, GENERALLY
LOCATED AT 801 SOUTH 27TH STREET.**

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

June 10, 2015

Staff Recommendation: Conformance with the Comprehensive Plan

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

There were no ex parte communications disclosed on these items.

Staff presentation: **David Landis, Director of Urban Development Department,**
explained that this property is a small, unbuildable strip of land which was formerly a
parking lot. This land is adjacent to property that was occupied by a former sandwich
shop, which has been taken down by the property owner. The adjacent property owner
proposes to replace this with a one- or three-story building with rear parking, which will
face toward the street, if the property is sold. Urban Development staff will write up an
appraisal in hopes of selling the property and placing it on the tax rolls.

Questions of Staff:

Corr asked that since the new structure faces 27th Street, if there be a blank wall on
Randolph Street. Landis indicated that he has not seen the design. He knows that
Planning staff have reviewed the design standards with the proposed purchaser, who
plans to follow the rules. Landis is not sure if there is a transparency standard in this
area similar to that of the downtown area.

Harris asked why the City Council denied the previous request. Landis stated that a
head shop was interested in purchasing the property and there was a negative reaction
from the community.

Corr asked if a meeting was held with the neighborhood. Landis stated that there was a
meeting held in Antelope Park.

Proponents:

1. **Jeff Barclay, 7510 Glynoaks Drive, Lincoln, NE 68516**, indicated that he is the adjacent landowner, and they definitely want to be aware of the rules and find a way to put up a nice structure.

Opponents: None.

ACTION BY PLANNING COMMISSION:

June 10, 2015

Corr moved to approve a finding conformance with the comprehensive plan; seconded by Hove.

Corr reported that she frequently drives by this property, as it is not too far from where she lives. This is a good opportunity to address the “blighted conditions” and is happy to see that this is naturally taking place. She looks forward to seeing something there that will be back on the tax rolls and adding some value to the intercity.

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

ANNEXATION NO. 15004, TO ANNEX APPROXIMATELY 21 ACRES, MORE OR LESS, INCLUDING ADJACENT RIGHTS-OF-WAY, OF PROPERTY GENERALLY LOCATED AT 4949 YANKEE HILL ROAD, BETWEEN SOUTH 48TH AND SOUTH 52ND STREETS.

AND

CHANGE OF ZONE NO. 15013, EASTMONT AT YANKEE HILL PLANNED UNIT DEVELOPMENT, FOR A CHANGE FROM AG AGRICULTURE TO R-3 RESIDENTIAL PUD, ON PROPERTY GENERALLY LOCATED AT S. 52ND STREET AND YANKEE HILL ROAD; FOR A PLANNED UNIT DEVELOPMENT DESIGNATION, AND FOR APPROVAL OF A DEVELOPMENT PLAN WHICH PROPOSES MODIFICATIONS TO THE ZONING ORDINANCE AND LAND SUBDIVISION ORDINANCE TO ALLOW A RESIDENTIAL HEALTHCARE FACILITY AND ASSOCIATES USES, OFFICE USES AND RESIDENTIAL USES PER THE R-3 ZONING DISTRICT.

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

June 10, 2015

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

There were no ex parte communications disclosed on these items.

Staff presentation: **Christy Eichorn of the Planning Department** provided an overview of the project. This is a two part project – an annexation and a change of zone with a planned unit development (PUD) overlay. This project is located along Yankee Hill Road between the future South 48th and the existing South 52nd Street, which consists of approximately 20 acres. Fifteen of the 20 will be utilized in phase 1 development for a residential healthcare facility with the remaining 5 acres being built out in phase 2 – consisting of some O-3 office uses as well as residential uses and potential residential healthcare uses. Eichorn explained that the pipeline runs along Yankee Hill Road; thus, there is a 221-foot pipeline planning area, which limits the kind of uses that can be located within the 221 feet – including dwelling units, daycares and K-12 schools. In order to not have commercial go from 27th to 84th Street, they have to look at creative ideas for both promoting residential and not allowing residential within the area of the pipeline planning area. The applicant has come up with a creative and unique design in order to pull the building back and put the dwelling units closer to the residential – the acreages located to the south – and to put the commercial and common areas up closer to Yankee Hill and within the pipeline planning area. One of the waivers included in this application includes an increase in height, going from 35 feet to 50 feet. Staff supports this waiver because the building is angled; therefore, only a very small portion of the building that would 50-feet high is within 40 feet of the acreages to the south. Eichorn noted that there is also request for O-3 signage for the residential healthcare facility lots as well as the proposed O-3 use lots in the northeast corner of the site, which staff supports. These are both located along Yankee Hill Road, which is an arterial. There is not O-3 signage in the area to the south, where future residential uses are proposed. Staff has requested a more detailed landscape plan from the applicant, which the applicant has agreed to provide. This would provide for screening along the south property line, meeting the multi-family screening standards for the buildings that exceed the height that is allowed in the zoning district. The parking standard for these types of structures is one stall for every four residential units and two stalls for every three employees on the largest shift, which has been met by the applicant. Underground parking would be provided underneath the independent living facility, which helps to provide green space between the residential to the south of this development. This proposal would allow up to 300 individuals to reside in the residential healthcare facility and would approve some O-3 uses and residential uses along South 52nd Street. They would need to meet all subdivision requirements other than the two waivers that have been requested

Questions of Staff:

Lust referred to the motion to amend from the applicant, and noted that everything is in agreement except the "and 3" portion (See below)

- 2.2 Revise Note #1 to show Area 1, 2, 3 and 4 permits Residential Healthcare Facility, Area 1, 3 and 4 permits Residential Healthcare Facility or R-3 Residential Uses and Area 2 and 3 permits O-3 Office Park District office uses excluding early childhood care facilities, dwellings or K-12 Schools.
- 2.7 Revise note #18 to limit on-sale of alcohol only as an accessory to the residential healthcare facility and only in Areas 1 and 2.
- 2.11 Revise the site plan to conform to the Wilderness Heights Preliminary Plat or amend the Wilderness Heights preliminary plat to match this site plan.

Lust questioned why staff is not supportive this. Eichorn explained that in the comprehensive plan this area is shown for urban-residential development and it is the department's belief that residential healthcare facilities fit well within the urban-residential land use. The O-3 is an office land use which is more commercial in nature and is often used as a transition. To put a transition between two residential land uses on the east side of South 52nd Street and the residential land use being approved with the residential healthcare facility, doesn't seem to be a good transition. The O-3 zoning area also does not have specific site plan approved with it, so all O-3 uses would be permitted along 52nd Street, which is a broad category of uses that could be allowed. Eichorn explained that it would be best to transition from a residential healthcare facility to single or two-family residential or another part of the residential healthcare facility, to the acreages located on the east side of So. 52nd Street. Eichorn used the site map to identify the designated areas of the project. She noted that staff agrees with all the conditions of the motion to amend except for the first one, which relates to Area 3. Staff recommends that it be used for urban-residential uses such as single or two-family uses or expansion of the residential healthcare facility. This would ensure a smooth transition to the east. In the future, the applicant could come back and indicate that they would like to rezone this area within the PUD to something more specific with a site plan that shows the layout, screening and landscaping, parking, etc. for consideration. Because of the lack of a site plan or specifics in this area, staff does not feel comfortable recommending approval for all the uses that could be done in the O-3 on this particular lot. Eichorn noted that the O-3 area to the north is located in the pipeline planning area, which does not allow for residential dwelling units in that area, so it makes sense to allow O-3 uses.

Corr asked if O-3 uses would be allowed in Area 2 and Area 3 with the proposed amendment. Eichorn stated that the applicant would like to include Area 3 for O-3 uses. The staff report conditions of approval indicate that O-3 land uses would only apply to Area 2. The motion to amend, as proposed by the applicant, would include Areas 2 and 3.

Corr asked if the original application that came forward only included the northeast (Area 2) to be approved as O-3? Eichorn indicated that as the conditions of approval in the staff report as written today, this is correct.

Scheer asked if the entire area of Area 2 is located in the pipeline planning area? Eichorn indicated that it is.

Corr asked Eichorn to identify where the entrances and exits are located on the site plan – one on 52nd Street and one on 48th Street. Eichorn identified these entrances, stating that one of the conditions of the staff report is for the 48th Street access to line up with the access to the preliminary plat to the west. Eichorn noted that there is an additional access point located on 52nd Street.

Corr referenced the two retention ponds – she is only able to identify the one in the northwest corner and asked where the second pond is located. Eichorn deferred to the applicant to address this question.

Hove asked if the residential units are located far enough away from the pipeline planning area to where it is not an issue. Eichorn stated that this is correct and noted that the concern of the Health Department is really only the 221 feet. All the beds associated with the healthcare facility and dwelling units are located south of the pipeline planning area. She noted that commercial and office uses, and recreational uses such as swimming pools and clubhouses are common uses for this area.

Lust stated that Area 4 is residential and staff wants Area 3 to stay residential, as opposed to O-3, and Area 2 can be office. She asked for clarification on having office use as a transition between residential areas? Eichorn stated that they use office as a transition area but for this area and the use of this facility, which is adjacent to the west, there are residential units. It doesn't make sense to go from a higher density residential to put office uses in the middle when there is lower density residential uses on the east side of South 52nd Street. The Planning Department doesn't believe this is appropriate at this location because there is no specific site plan showing that it would be a good transition. Staff is just saying no until a specific site can be considered.

Proponents:

1. Carol Ernst, Executive Director of Eastmont Towers, the applicant, came forward. Ernst indicated that their current facility is located at 63rd and O Streets. They filed for their articles of incorporation 50 years. They are an independent, non-profit continuing care retirement community. Being a stand-alone, non-profit company is not easy but they are proud that they have been able to do this and be a part of Lincoln for so long. Healthcare is huge to them and they offer a life-care product that is unique in this area. They love the O Street location but they are landlocked. After several years of strategic planning, the board of directors and the administration came up with a plan to develop a second campus on the proposed site. This campus will be similar to what they currently have today. This will enable them to reach out to south Lincoln and beyond, which they have not been able to do in the past. It will also allow them to have walking paths and amenities that they currently do not have the ability to do at the O Street campus. The O Street campus consists of three 6-story buildings and one 3-story building with very limited green space. They are excited about being able to do this project. They offer independent living, assisted living, field rehab nursing, long-term care, hospice and palliative care. This plan would allow for the development of 102 independent living apartments, 48 assisted living apartments - approximately 16 of which would be memory care, and 24 nursing units for long-term care and rehab. They want the ability to be able to expand in the future. The five acres are wide open and they might want to expand that campus with some flexibility to meet the growing needs of the consumer in the future.

2. Kent Seacrest, Attorney representing Christian Retirement Homes, Inc., came forward and noted that the John Walters, President of the organization, and Brad Marshall of Olsson Associates, are also present to address questions. Seacrest explained that this development includes an annexation of 20 acres and is consistent with the comprehensive plan. The Planning Department is supportive of the waivers. A neighborhood meeting was held and was well attended with some good ideas provided. The applicant followed up with a written communication to address some of the questions that were asked, i.e. in terms of what it means now that the city limits against them and related questions as to water and sewer. Seacrest referred to the motion to amend in which everyone is in agreement with everything except the zoning for Area 3. Referring to the site plan, Seacrest identified the 221-foot pipeline planning area, stating that the gas line requirement is not on the books. It is a strong recommendation of the health department, and the planning department is following that recommendation. The applicant does not want to put their guests in danger so they were creative and put all the housing units outside of the pipeline planning area and put the administrative and office uses in that area. They are not able to use the remainder of the 221-foot area, which creates a hardship and they are one of the first guinea pigs discovering that this is a new standard without it being on the books. The applicant hopes to continue to grow this facility but in the event the market becomes saturated, they believe that office uses that deal with senior-type activities could be appropriate here and are requesting

to allow parcel 3 to be included as O-3 zoning. For purposes of traditional buffering, Seacrest believes it is appropriate to have office zoning between the 3- and 4-story buildings being proposed. The Planning Department and the Planning Commission is in a tough situation trying to figure out the gas line. When you lose a third of the site, that is a lot of real estate to try to figure out what to do with. Seacrest provided a handout showing examples of the other commercial zones along Yankee Hill Road that are affected by this gas line. If they are granted the office use in Area 3, the depth of the y would of the office would be 467 feet from Yankee Hill Road. Seacrest noted that a couple meetings ago, the applicant was granted a 550-feet of depth of commercial activity to help them compensate for the gas line easement, noting that some even have more depth. If the Planning Commission doesn't support the proposed amendment, they will only be given 221 feet. This presents a hardship to a non-profit. They are trying to be upfront in terms of what the uses would be, which is more fair to the neighbors. Seacrest thanked staff for their time in this project, noting that Christy attended the neighborhood meeting, which was very helpful in terms of answering questions about the process. As for the retention pond, Seacrest noted that the main retention area is the pond that was noted but there is another retention pond to the south to catch the water in the sub basin going the opposite direction.

Questions of the Applicant:

Scheer asked for clarification in terms of access to Area 2 from the street and if access could be provided using the 221-feet to this area. Seacrest explained that they were seeking access onto Yankee Hill but Public Works was not in favor of that. When 52nd Street is developed, they will paving it. Referencing the site plan, they will be putting in a looped road network so people can circulate around the campus

Corr asked if the access point could be extended with an "Y" to get to Area 2. Seacrest indicated that this is true but it would be a long way back to 48th Street. The internal access road will be a 2-way private road but it is not intended to be a street.

Weber asked how many stories the structures would be. Ernst stated that the independent living facility is 3-stories above underground parking – the underground parking is mostly walkout level with three stories above that. The assisted and skilled care facilities are 2- story buildings. The front includes a large health and wellness area. There is also a community and administrative structure, which will be two stories as well.

Corr asked about the normal census for this type of business. Ernst stated that at the O Street location, they are currently running between 240 and 250 across the campus. They also have a 6-bed hospice facility on Pioneers. The census levels can vary from community to community. Independent living has had strong census across Lincoln and assisted living has had extremely strong census. Most of the time, there are waiting lists for assisted living. For long-term care, they often have a waiting list. Rehab is a

little less because there are some newer facilities. They conducted a marketing analysis to look at the demographics and the growth of the aging population and they also conducted a financial feasibility analysis. They feel strong that the growth and demographics support this. Ernst noted that the neighborhood was engaged and long, where attendees asked lots of questions. Eastmont received support for the neighborhood.

Brad Marshall, Olsson Associates, addressed the question of accessibility to Area 3. Using the site plan, he noted that 52nd Street will be signalized someday and they will need to meet standards for storage lanes, left turn lanes, etc.. He noted that this may not be the ideal situation for access to Area 3 if it were residential.

Opponents: None.

Questions of Staff:

Harris referenced a previous statement that staff might be supportive of O-3 for Area 3 in the future with the submittal of a specific site plan. She asked if there is a possibility for allowing the use on the condition that the site plan be satisfactory to the Planning Director. Eichorn stated that this could be an added condition. She stated that generally, the O-3 district is a use permit district. The O-3 zoning is not allowed unless there is a use permit approved, which requires a site plan that lays out the specifics of the site. Staff may be supportive of O-3 in the future when considering how the rest of the site has developed and how the residential to the south may develop.

Lust stated that if using the use permit process, if the property is rezoned to O-3 now, they would need to come before Planning Commission to get site plan approval. Eichorn stated that this would not necessarily be required, as it would be developed administratively as long as they adhere to the land uses that are part of the approval process of the planned unit development. Once the land use is already approved, it is a little more challenging to say no because there are no design standards for the O-3 zoning district.

Corr asked Eichorn to identify the setbacks at the rear of the property along the south lot line. Eichorn used the site plan to explain the setbacks. She indicated that there will be a 30-foot setback but with the R-3 zoning, they would normally be required a 20-foot setback. The setbacks shown on the site plan exceed the setback requirements.

Corr if the setbacks are increased because of the increased height requirements. Eichorn stated that due to the constraints of the pipeline planning area, they were not requiring a 50-foot setback from the property line because they are being "scrunched" with the residential units south of the 221 feet. The applicant has agreed to provide

screening to meet the multi-family standard in the 30-foot setback. Another condition is that the building orientations generally stay the same – there won't be a lot of windows overlooking the property to the south with balconies, etc., which can be considered a nuisance to adjacent property owners.

Corr asked if the setback for the property close to the south boundary is also 30 feet. Eichorn explained that this is a building envelope that also comes down to 30 feet, noting that this area is for proposed future expansion.

Corr asked how much enters into the staff determination the fact that there are acreages to the south and, therefore, the house is not up against the lot line. Eichorn stated that this would provide for more setback. The staff's major consideration has to do more with the orientation of the building and the screening that would be provided. Although these are acreages to the south now, they may not be in the future.

~~Corr~~ **Harris** asked if the main reason staff is not in favor of it is due to design standards for Area 3. Eichorn stated that there is no site plan. The fact that there would be commercial and office use in the middle of the residential use and healthcare facility use doesn't make sense without a specific site plan that shows how the site would develop and work well with the adjacent properties.

Applicant's Rebuttal:

Seacrest stated that Eichorn is right. Whatever they put on the phase 2 area, they have to come back for an administrative amendment for site review. If they don't agree with the Planning Director's decision, it would likely go up to Planning Commission and/or the City Council for final decision making. If the Planning Commission wants to be careful and require that the site plan be presented to the Planning Commission, that is better than getting nothing out of this deal; which would be a secondary choice.

ACTION BY PLANNING COMMISSION:

June 10, 2015

**ANNEXATION NO. 15004, TO ANNEX APPROXIMATELY
21 ACRES, MORE OR LESS, INCLUDING ADJACENT
RIGHTS-OF-WAY, OF PROPERTY GENERALLY LOCATED
AT 4949 YANKEE HILL ROAD, BETWEEN SOUTH 48TH
AND SOUTH 52ND STREETS.**

Staff recommendation: Conditional Approval

Corr moved to recommend conditional approval of this application; seconded by Hove.

Corr stated she believes that the annexation looks good. She realizes that there are some issues with the sewer pipeline but they will be worked out. She has no hesitations about the annexation.

Lust agreed with Corr's comments. It was noted that the motion to amend applies to the change of zone and not to the annexation; thus, there is no reason to not move forward with supporting the annexation at this time.

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

**CHANGE OF ZONE NO. 15013, EASTMONT AT YANKEE HILL
PLANNED UNIT DEVELOPMENT, FOR A CHANGE FROM AG
AGRICULTURE TO R-3 RESIDENTIAL PUD, ON PROPERTY
GENERALLY LOCATED AT S. 52ND STREET AND YANKEE HILL ROAD;
FOR A PLANNED UNIT DEVELOPMENT DESIGNATION, AND
FOR APPROVAL OF A DEVELOPMENT PLAN WHICH PROPOSES
MODIFICATIONS TO THE ZONING ORDINANCE AND LAND
SUBDIVISION ORDINANCE TO ALLOW A RESIDENTIAL HEALTHCARE
FACILITY AND ASSOCIATES USES, OFFICE USES AND RESIDENTIAL
USES PER THE R-3 ZONING DISTRICT.**

Staff Recommendation: Conditional Approval

Corr offered an amendment to this application to require that the use permit for the areas of future development come back before the Planning Commission rather than being allowed to be approved administratively.

In response to a question of Lust clarifying the motion, Corr explained that she wants the application to come back before Planning Commission when the applicant has a site plan for Area 3.

Lust explained that Area 3 only comes into play as an O-3 zoning district if the applicant's motion to amend is approved. Corr referred to the staff report where it only requires an administrative amendment. She wants this to come back to the Planning Commission. Lust asked Corr if Area 3 stays residential, if she still wants more than administrative approval. Following discussion, Corr rescinded her proposed amendment.

Corr moved to recommend conditional approval of this application, as stated in the original staff report; seconded by Hove.

Lust stated that the only item that was not approved by the planning staff on the applicant's motion to amend are the words "and 3" in Condition 2.2. She doesn't see a reason why the Planning Commission wouldn't put forth those motions to amend. Lust stated that in terms of Area 3, this is a very hard decision as there are two things with this application that are very frustrating.. First, the pipeline planning area that has not been before a public hearing process but has basically become a condition of approval in this area. She supports what can happen in these pipeline areas, as reviewed in a previous briefing, and that there should be restrictions for building in these area. She understands from a development perspective when there is no notice that this is what is happening and it has become a recommendation from the health department how people in this situation should be allowed additional accommodations for the development. The second area of frustration relates to when it is best to zone an specific area. Mr. Seacrest presented a very valid point that if the Planning Commission doesn't initially zone it as O-3, this is not fair to the neighbors in the area, when they come back at a later date and want a change of zone of O-3. Raising the question, does it make more sense to have the notice ahead of time, even though they might be giving up some site-specific planning oversight. On the other hand, they don't have design standards, so they could be approving something in the dark. Lust stated that as a whole, she is more in favor of giving notice to people ahead of time and approving the change of zone to O-3 because of the constraints in this particular area and how an office district could even be developed in Area 2 if Area 3 is not added. In addition, while this is a residential healthcare facility, it is in the nature of a major type of commercial building and it seems that O-3 in this situation makes sense as a buffer. Even though we are calling this residential, it is still going to be a big building footprint. Lust believes that O-3 makes sense as a buffer between that and the residential acreages on both sides, especially since Area 4 is going to stay residential.

Scheer stated that he agrees with Commissioner Lust's comments. He is not going to vote for the motion as moved. He loves this project and believes that it will be difficult to plan Area 2 without the O-3 change of zone to Area 3. He plans to vote against the motion in hopes that they can bring the O-3 zoning to Area 3 back in.

Weber agreed with the comments of Commissioners Lust and Scheer. He believes that the entranceway road is more of a buffer than just a fence line.

Corr expressed concern because O-3 can be used as a buffer between residential and commercial but it is more like spot zoning between two residential areas. She understands that it is easier to do O-3 now so people have the predictability in the future but she has qualms about making the change now without being able to see. She questioned whether an RT would be appropriate.

Harris agreed with the comments of Commissioner Lust and Scheer, in particular the comment regarding the need to have design standards, as it would make it a lot easier to know address this matter. She plans to support the O-3 zoning of Area 3 if this motion fails.

Sunderman stated that he believes that the pipeline is going to force them to really look at how they are doing traditional zoning and take into account the pipeline area, which is not a regulation and is not on the books, yet we are going forward like it is. O-3 is a buffer between commercial and residential; therefore, it can sit next to residential on both sides in his mind. As Commissioner Scheer stated, the one lot itself will be difficult to develop without having two lots and they will have a better development if they have the two lots to work with. It makes sense to let everyone know ahead of time that it is O-3.

Weber stated that Area 2 is putting O-3 in between two residential to start with.

The vote on the main motion failed 8-0; Lust, Hove, Weber, Scheer, Harris, Cornelius, Corr, and Sunderman; Beecham absent.

Lust moved to recommend the conditional approval of this application as amended by accepting the following proposed changes to the staff report as submitted by the applicant; seconded by Cornelius:

- 2.2 Revise Note #1 to show Area 1, 2, 3 and 4 permits Residential Healthcare Facility, Area 1, 3 and 4 permits ~~Residential Healthcare Facility~~ or R-3 Residential Uses and Area 2 and 3 permits O-3 Office Park District office uses excluding early childhood care facilities, dwellings or K-12 Schools.
- 2.7 Revise note #18 to limit on-sale of alcohol only as an accessory to the residential healthcare facility and only in Areas 1 and 2.
- 2.11 Revise the site plan to conform to the Wilderness Heights Preliminary Plat or amend the Wilderness Heights preliminary plat to match this site plan.

Corr stated that in a perfect world that Eastmont will expand and they will have way more demand that they need and they won't have to worry about this going to O-3. Corr stated that she is okay with the height limitations because of the increased setback and also because it is next to acreages that are even farther back. Even though those acreages could change to residential in the future – town homes or whatever that are closer, they will know that before they build those, which is extremely important.

Weber stated that he would like to have more specific regulations on the pipeline. It is really a hard thing to deal with.

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

**TEXT AMENDMENT NO. 15004, AMENDING TITLE 27
OF THE LINCOLN MUNICIPAL CODE TO ALLOW HEALTHCARE
FACILITY, RESIDENTIAL AS A SPECIAL PERMIT USE IN THE AG
ZONING DISTRICT AND TO ALLOW MEMBERS OF RELIGIOUS
ORDERS IN ON A LOT OF FIVE OR MORE ACRES.**

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

June 10, 2015

Staff Recommendation: Approval

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

There were no ex parte communications disclosed on these items.

Staff presentation: **Steve Henrichsen of the Planning Department** provided an overview of the application for this text amendment. The applicant is Design Associates, who submitted it on behalf of Marsha Stork, owner of Emerald Care Facility. This amendment is necessary for the special permit for a residential healthcare facility in AG zoning that is just outside of the city limits at 5500 South Coddington. This facility has been in existence for ten years. It came to light recently that they obtained a building permit as a group home but had really been operating as a residential healthcare facility. This was brought to the attention of the Planning Department and this amendment is the result of needing to do something to legalize the site or the site use would need to stop. The applicant submitted the application to change the text. During the review, staff identified some reformatting that was necessary, resulting in a several sections of text being adjusted, including members of a religious order, which has nothing to do with this particular applicant. Henrichsen explained that currently a residential healthcare facility is not allowed in AG Agricultural zoning. This would not be a permitted use but would require a site plan review via special permit. It was noted that there are healthcare providers that like to be in a more rural setting. Secondly, Emerald Care would currently be required to have a 20-acre lot. Their lot is only seven acres, so this amendment will allow this type of special permitted use on a lot as small as five acres. Staff agrees that there are certain uses that could be on smaller properties. They already allow greenhouses on lots as small as two acres. In terms of the text, it is currently addressed in two separate sections in the code so staff is removing the reference in the Height and Lot section to avoid confusion.

Questions of Staff:

Corr asked how staff decided on the 1 person per 5,000 square feet. Henrichsen explained that in the R-1 zoning district, it is 1 to 3,000 square feet, and they are looking at something that would have fewer persons than that per lot area. It would still be a very large area with adequate setbacks. This application may allow up to 50 to 60 persons but given the amount of setbacks and the amount of area, staff felt it could still be appropriate, even though they don't view this as going up to a large development for 300 people. By having a special permit, this is still something that can be done on a case-by-case basis.

Lust asked for clarification under the "Use Type" and why staff is proposing to eliminate the text of "greenhouses, pet cemeteries, dwellings for religious order", as identified on page 119. Henrichsen explained that this part of the text amendment deals primarily with the format. This is the table in the Height and Lot section, which lists the size of lot required. This information can be found in other sections of the zoning ordinance, which can cause confusion. It is best to maintain in one section.

Proponents:

1. Jeremy Williams of Design Associates, 1609 N Street, Lincoln, NE, came forward representing the applicant.. He stated that the application is intended to clean up the situation for Emerald Care Center.

Opponents: None.

ACTION BY PLANNING COMMISSION:

June 10, 2015

Scheer moved to recommend the approval of this text amendment; seconded by Hove.

Cornelius indicated that this is a situation where there is an existing use that is not necessarily in conformance with the zoning. He noted that this change doesn't seem particularly onerous, and they still maintain a degree of control by putting it under the special permit process. It seems like this kind of healthcare facility in a rural setting may have value both the residents and to the owners. He believes it is a worthwhile a change.

Corr stated that this will allow smaller facilities like this to develop on a smaller parcel to help preserve AG land.

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

**TEXT AMENDMENT NO. 15007, AMENDING TITLE 27
OF THE LINCOLN MUNICIPAL CODE RELATING TO THE
HOUSEHOLD LIVING USE GROUP TO ALLOW DWELLINGS
FOR CARETAKERS AS A PERMITTED USE IN THE B-1, B-2,
AND B-3 ZONING DISTRICTS.**

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

June 10, 2015

Staff Recommendation: Approval

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

There were no ex parte communications disclosed on these items.

Staff presentation: **Brian Will of the Planning Department** stated that this is a fairly minor amendment. Lori Tackett is the applicant. She owns a kennel and has found a property in town that fits in every respect except for the fact that she would like to have someone who stays on the property 24 hours a day. This amendment affects only one use and three zoning districts. The use is dwellings for caretakers, resident watchman and supervisory personnel. This use is allowed in all commercial and industrial zoning districts except the B-1, B-2, and B-3 districts. This amendment would allow it in these three districts as well. A text amendment was recently approved to allow this use in the I-3 zoning district. It was included in these three districts because they didn't anticipate that there would be these types of uses allowed in areas such as Havelock and University Place. The B-1 and B-3 districts, which exist in the older commercial areas of the city, have a prohibition against residential uses on the first floor. There is some concern that this space could be rented out as an apartment; although, if this were to occur, this would not meet the requirements of the ordinance. Will indicated that allowing residential uses on the first floor of B-1 and B-3 is not the concern that it was 20 to 30 years ago.

Due to the fire alarm sounding, Chair Lust adjourned the meeting at 2:40 p.m.

Chair Lust reconvened the meeting at 2:45 p.m.

Questions of Staff:

Corr asked if the caretaker could have a residence on the first floor. Will indicated that the dwelling unit for permanent full-time caretaker would be allowed anywhere within the building.

Lust asked if there is a definition for “caretaker” in the code. Will stated that it is not specifically defined in the code. They would apply common usage as someone who is employed by a company and their role is overseeing, care taking, maintaining, keep watch over.

Corr asked what would be needed to define “caretaker” in the code. Will stated that it would require another text amendment but he doesn’t believe it is warranted. The intent is that staff will watch this and if it seems that there is an issue and that a better definition is needed, they will bring this forward.

Cornelius stated that he doesn’t believe that they are really doing anything new but rather just extending the use to these other zones that were excluded. Will stated that the ordinance was originally adopted in 1979 – things change such as the economy, businesses, etc., and this amendment allows us to keep up with the changing environment we live in.

Proponents:

1. Lori Tackett, 1980 Ryon Street, applicant for this text amendment, came forth. She stated that they have been in business since 2003. They are going to open a new kennel and they believe it will be beneficial to have someone with the dogs overnight.

Questions of the Applicant:

Cornelius asked if the caretaker will be a permanent resident or an employee who will be sleeping overnight. Tackett indicated that this person will be a permanent resident who is also an employee.

Opponents: None.

ACTION BY PLANNING COMMISSION:

June 10, 2015

Hove moved to recommend the approval of this text amendment; seconded by Scheer.

Cornelius reiterated that this amendment is really anything new, and this would just extend a fairly well understood concept to some zones that were not included. This doesn’t seem likely to create a great deal of impact. He supports the motion.

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

FOR THE RECORD:

Commissioner Corr asked that her comments be included in the record regarding Change of Zone No. 15013 and Annexation No. 15004 - Eastmont application. See public hearing discussion for comments.

There being no further business to come before the Planning Commission, the meeting was adjourned at 2:50 p.m.

Please Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, June 24, 2015.