

## MEETING RECORD

*Advanced public notice of the Planning Commission meeting was posted on the County-City bulletin board and the Planning Department's website. In addition, a public notice was emailed to the Lincoln Journal Star for publication on Tuesday, June 03, 2025.*

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME, AND PLACE OF MEETING:** Wednesday, June 11, 2025, 1:00 p.m., Hearing Room 112, on the first floor of the County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, Nebraska.

**MEMBERS AND OTHERS IN ATTENDANCE:** Dick Campbell, Maribel Cruz, Brett Ebert, Cristy Joy, Rich Rodenburg and Ben Callahan, David Cary, Steve Henrichsen, Ayden Johnson, Clara McCully, Jacob Schlange, Laura Tinnerstet, and George Wesselhoft of the Planning Department, media, and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Hearing

Chair Ryman Yost called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

Chair Ryman Yost requested a motion approving the minutes for the regular meeting held May 14, 2025.

Motion for approval of the minutes made by Campbell, seconded Joy.

Campbell Minutes approved 5 -0: Campbell, Cruz, Ebert, Joy, Rodenburg, and Ryman Yost voting "yes"; Cruz abstained; Ball, Eddins, and Feit absent.

Chair Ryman Yost asked the Clerk to call for the Consent Agenda Items.

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

**June 11, 2025**

Members present: Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost. Ball, Eddins and Feit absent.

**The Consent Agenda consisted of the following items: Comprehensive Plan Conformance 25003, Comprehensive Plan Conformance 25004, Text Amendment 25008, Text**

**Amendment 25007, Special Permit 552D, Special Permit 08046A, Special Permit 25014, and Special Permit 25017.**

There were no ex parte communications disclosed.

There were no ex parte communications disclosed relating to site visit.

Campbell made a motion for approval of the Consent Agenda, seconded by Joy.

Consent Agenda approved 6-0: Ball, Campbell, Cruz Feit, Joy, and Rodenburg, voting “yes”; Ball, Eddins and Feit absent.

**Note:** This is **Final Action** on the following items: **Special Permit 552D, Special Permit 08046A, Special Permit 25014, Special Permit 1123D, and Special Permit 1423M unless** appealed by filing a Notice of Appeal with the **City Council** or the **County Board within 14 days**.

**TEXT AMENDMENT 25006. TO AMEND THE LINCOLN MUNICIPAL CODE, SECTION 27.02 DEFINITIONS, SECTION 27.06 USE GROUPS, SECTION 27.62 CONDITIONAL USES, AND SECTION 27.63 SPECIAL PERMITS TO DEFINE AND INCLUDE BATTERY ENERGY STORAGE SYSTEMS AS A LAND USE WITH SPECIFIC CONDITIONS.**

**PUBLIC HEARING:**

**June 11, 2025**

Members present: Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost; Ball, Eddins and Feit absent.

Staff Recommendation: Approval

**There were no ex parte communications disclosed.**

**There were no ex parte communications disclosed relating to site visits.**

**Staff Presentation:**

**George Wesselhoft, Planning Department, 555 S. 10th Street, Lincoln, NE,** presented a proposed text amendment to the Lincoln Municipal Code that would add a new use type—Battery Energy Storage System (BESS)—under the Utilities Use Group. Wesselhoft explained that the amendment, submitted by the applicant, sought to allow BESS as a conditional use in AG (Agricultural), P (Public), H (Business), and I (Industrial) zoning districts, with specific conditions such as a maximum site size of 25 acres, location within one-half mile of an electrical substation, a height limit of 20 feet, and submission of both decommissioning and emergency response plans. Wesselhoft noted that the amendment also proposed a new definition for BESS consistent with model ordinances in the energy industry. Wesselhoft clarified that BESS represents a relatively new land use, emerging from recent trends in energy infrastructure and grid modernization, and typically involves several container-like units distributed across a site depending on energy storage needs. Under the current Lincoln zoning, BESS would fall under the “All Other Uses” category and be limited to industrial zones (I-1, I-2, I-3). Wesselhoft then summarized the staff’s review of the proposed language, noting several concerns. Staff recommended that BESS be permitted in AG districts only through a special permit to ensure

public notice and input, citing the unanticipated impact such facilities may have in rural settings.

It was advised removing the P district, which is reserved for public/government uses and not suited for private facilities. Wesselhoft stated that staff did not support certain conditions proposed by the applicant, such as the decommissioning plan and 20-foot height limit, as these were either unnecessary or already addressed elsewhere in existing code. Requirements related to site proximity to substations, acreage limits, and references to standard building codes were similarly viewed as redundant. The only condition staff endorsed was the inclusion of an emergency response plan, with support from Lincoln Fire and Rescue. Wesselhoft described an alternate version of the text amendment developed collaboratively by Planning, Building and Safety, Health, and Fire officials. This version would allow BESS as a special permit use in AG zones and as a conditional use in H-3, H-4, and industrial districts, removing unnecessary conditions while maintaining safety protocols. Under the alternate version, BESS facilities would need to be associated with substations or renewable energy systems and provide both emergency action plans and safety data sheets for Health Department review. He emphasized that the special permit process would give the Planning Commission flexibility to adjust height, setback, and screening requirements based on site context. Wesselhoft concluded the presentation by reaffirming staff's support for the alternate language over the applicant's original proposal and offered to answer any questions from the commission.

#### **Staff Questions:**

Campbell commended staff for coordinating input from multiple City departments and bringing the proposal forward. Campbell noted that battery energy storage systems represent an emerging issue that will continue to expand in the future and appreciated the proactive approach taken in preparing for this evolving land use.

Wesselhoft noted that while battery energy storage systems (BESS) are currently allowed under the City's zoning regulations as "all other uses" within the Utilities Use Group, they are not permitted under the Lancaster County zoning regulations. Wesselhoft stated it would be appropriate to pursue a future amendment to the County's zoning code following adoption of this proposed text amendment.

#### **Applicant Testimony:**

**David Levy, Barid Holm, 1700 Farman Street #1500, Omaha, NE 68102**, appeared on behalf of the applicant along with **Justin Adams of Eolian Energy, based in Burlingame, CA**. Levy began by expressing appreciation to the Planning Department for their collaborative efforts throughout the process. Levy acknowledged that while the applicant's proposal and the staff's alternate text amendment differ in some areas, particularly regarding whether BESS should be a conditional use or require a special permit in the AG district, the proposals are not entirely incompatible. Levy stated that the applicant would provide a presentation with background information on the industry and technology before addressing the zoning specifics and requested approximately 10 to 12 minutes to do so.

Chair Ryman Yost stated that it was fine, but to try and keep it to 10 minutes.

**Justin Adams, Eolian Energy, at 988 Howard Avenue, Suite 200, Burlingame, CA 94010,** provided an overview of the company and its expertise in battery energy storage systems (BESS). Adams explained that Eolian operates nationally with a focus on renewable energy infrastructure and currently has several battery storage projects underway, in addition to four operational facilities primarily located in Texas and California. These standalone BESS installations typically consist of containerized battery units housed in gravel yards, with all electrical connections located underground to maintain a low-profile design—no structures exceeding 10 feet in height. Adams highlighted the operational success of these systems over the past four to five years, particularly in their role supporting grid reliability during periods of high demand, such as heat waves in Texas. As an example of scale, he referenced a 250-megawatt system capable of supplying power to approximately 35,000 homes, while noting that project sizes are adaptable based on local needs. Adams explained that battery storage improves grid efficiency by absorbing energy during periods of low demand and discharging it when demand peaks, helping to avoid overbuilding generation capacity. According to Adams, these systems are especially useful during late afternoon and early evening hours, when residents typically return home and energy usage spikes. Adams stated that most systems are designed for approximately four hours of storage capacity but can also respond to grid conditions in real time, discharging energy in durations ranging from seconds to several hours. Adams also introduced the concept of energy “arbitrage,” where batteries charge when energy is abundant and less expensive and discharge when supply is limited or more costly. He emphasized the modular, containerized design of the systems, which allows for flexible site configurations and typically includes fencing and landscaping to minimize visual impact. Finally, Adams noted that BESS facilities do not require municipal water or sewer service, as they connect to existing utility water sources, thereby reducing their impact on local infrastructure.

Chair Ryman Yost clarified that while the battery energy storage system can connect to a water supply if available, the system does not require water to operate.

Adams responded that the system is designed to operate without a water connection and confirmed that no water is required for its installation or operation.

Adams provided additional information regarding the safety, regulatory compliance, and economic value of battery energy storage systems (BESS). He addressed common concerns and media coverage, stating that despite exponential growth in the deployment of BESS over the past decade, there have only been 20 reported incidents nationwide. He emphasized that the industry is subject to stringent safety standards, including UL 9540A, which requires batteries to undergo rigorous testing to ensure that any thermal event is contained within a single cell and does not propagate further.

Adams also referenced NFPA 855, the national fire code standard governing the design, installation, and emergency coordination for battery systems. He noted that installations must

be designed to protect both the grid and the surrounding community. Investigations into past incidents have shown no risk to public health, neighboring properties, or the broader community.

Regarding economic impacts, Adams acknowledged that operational job creation is minimal, with approximately four local permanent positions per facility, though there are temporary construction jobs during installation. He presented findings from a socioeconomic study of a 200-megawatt facility under development in Washington County, highlighting that BESS projects require no municipal services, occupy relatively small footprints, and generate substantial tax revenue. In that example, the facility was projected to generate approximately \$8.5 million in tax revenue over its 20-year lifespan, with minimal ongoing public service demand, resulting in nearly 100% net benefit to the local jurisdiction.

Adams concluded this portion of the presentation by noting that David Levy would continue the discussion regarding the specifics of the proposed text amendment.

Levy continued the applicant's presentation by expressing appreciation for the thoughtful dialogue with Planning Department staff in preparation for the hearing. He explained the rationale behind the applicant's proposed conditions for battery energy storage systems (BESS) in the zoning code.

Levy stated that the intent was to strike a balance between ensuring public health, safety, and welfare and minimizing unnecessary procedural burden. The applicant proposed including specific requirements, such as decommissioning plans and emergency response protocols—directly in the zoning ordinance as conditions applicable to all projects. By doing so, the applicant believed these protections could be assured without requiring additional case-by-case review through the special permit process.

Levy emphasized that the proposed approach of listing BESS as a conditional use in the AG (Agricultural) district, rather than a special permit use, was intended to streamline the process for both applicants and the city, including the Planning Commission. Levy noted that the applicant was not opposed to the additional standard conditions proposed by Planning staff and suggested that a potential path forward could include combining both sets of conditions. He reiterated the applicant's request that BESS be listed as a conditional use in the AG district and began to elaborate on the distinctions between conditional use and special permit frameworks.

Chair Ryman Yost acknowledged that the language of the proposed text amendment is the central issue for the Commission's consideration and stated that the applicant should go ahead and take some time to walk through the details.

Levy expressed appreciation for the additional time and provided clarification on one of the proposed standard conditions included in their application—that battery energy storage systems must be located within one-half mile of a substation. He explained that the systems are designed to function as part of the electric grid and are unlikely to be located anywhere other than adjacent to substations, which may also be near power plants. Levy noted that for

property owners in the AG (Agricultural) district, the presence of an existing utility-scale substation already signals the presence of significant electrical infrastructure. Therefore, adding a battery system component, in the applicant's view, does not fundamentally alter the land use or character of the area. Levy emphasized that such systems, while not visually striking, are quiet, low-profile, and can be effectively screened. From a land use perspective, he argued, a standalone battery energy storage facility is functionally like the substation itself. Levy reiterated their request for the use to be permitted conditionally in the AG district rather than by special permit and noted that their proposed conditions were intended to strike a balance between development flexibility and public interest. Levy concluded by offering to answer any questions.

### **APPLICANT QUESTIONS:**

Rodenburg asked for clarification regarding the decommissioning of battery energy storage systems. He noted that decommissioning had been mentioned as not being an issue but inquired about the expected lifespan of the batteries.

Adams responded that the typical lifespan of battery energy storage systems is approximately 20 years. During that period, the system would remain interconnected with the utility and would be contractually required to deliver the agreed-upon megawatts for the life of the project. He explained that individual battery cells would be maintained and replaced as they degraded to ensure the system continued operating at its designated capacity, such as maintaining 200 megawatts, rather than requiring full-scale replacement.

Rodenburg inquired what happens after the 20-year lifespan of the battery system. Adams responded that the system would maintain the same megawatt capacity throughout its lifespan through the replacement of individual battery cells as needed. After 20 years, the system could either be decommissioned or repowered with the next generation of technology.

Rodenburg asked if the applicant would still own the site after 20 years. Adams confirmed that they typically own the site and would continue to do so beyond the initial 20-year period. Adams stated that the company would be responsible for either decommissioning or repowering the facility at that time, depending on future circumstances and technology.

Rodenburg followed up with concerns regarding the lithium battery fires that had occurred in Palisades involving electric cars, which required extensive and costly remediation, including bulldozing and immersion in a salt bath. He asked what procedures the applicant follows to safely manage and dispose of batteries in the rare event of a fire at one of their facilities.

Adams explained that mobile batteries, such as those in electric cars, are handled differently because they are in public environments, requiring rapid cleanup to ensure public safety. In contrast, their battery storage facilities are secured behind fences and situated on gravel or concrete pads, reducing public exposure. If an incident were to occur, there is a procedure to safely release any remaining power from the battery system. The site would then be thoroughly cleaned, with debris and materials collected and sent off-site for proper disposal. Additionally,

environmental testing would be conducted to confirm that no contaminants had been released into the environment.

Levy added that the batteries used in these energy storage systems differ significantly from those found in electric vehicles. Unlike the lightweight nickel-based batteries in cars, which must be portable, these stationary batteries are made with iron, making them heavier and inherently less combustible and less prone to fire, even with all the existing safety measures. He emphasized that comparing these batteries to those in electric cars is not quite appropriate from a fire risk perspective. Levy also noted that any standalone battery storage system requires approval from the Nebraska Power Review Board through a public, judicial-type process. This serves as an additional safeguard beyond the local planning process for projects such as the one under discussion.

Rodenburg asked whether the county would also need to weigh in on the proposal and if that process is currently underway.

Levy clarified that they are not currently working on a county process. He explained that this proposal differs from the solar farm discussed previously, which included an associated battery system and was permitted as part of that project. The current discussion involves a standalone battery. If a standalone battery were proposed within the county's zoning jurisdiction, a separate text amendment process would be required at the county level.

Rodenburg expressed his appreciation and thanked the applicants.

Campbell inquired about the appropriate firefighting methods in the event of a fire, specifically asking what chemicals would be needed and noting that water likely could not be used.

Adams clarified that water can be used in the event of a fire, primarily as a cooling mechanism for adjacent containers rather than directly on the battery cells themselves. Campbell noted that a fire or emergency response plan would be in place, including coordination with fire services from the moment an alarm is triggered. The lithium iron phosphate batteries used are not highly flammable and are housed in steel-walled containers designed to prevent the spread of heat or fire.

Levy added that in prior projects involving battery storage associated with wind or solar farms, the State Fire Marshal's Office has not expressed concern regarding fire hazards. Their primary requests have been to ensure 24-hour contact information is available and that access to the site (e.g., gate locations) is communicated. He noted that the State Fire Marshal conducts final inspections in rural areas, while local authorities typically handle this in Lincoln and Lancaster County.

Ebert asked if the applicants' only concern with the City's proposed text was the difference between a special permit and a conditional use in the agricultural district, or if there were other parts of their language they still wanted considered.

Levy stated that the fundamental difference between their proposal and the City's is whether the use is classified as a conditional use or a special permit. He noted that in pursuing a conditional use, they added more constraints on themselves than the City's proposal, and they have no objection to combining all conditions if desired.

Ebert asked for clarification, confirming that they have no concerns with removing the P zoning district from the proposal.

Levy explained that the P zoning district was included in their proposal as a courtesy to entities who are or could be typically exempt from local zoning but may choose to participate in the process. He acknowledged the exemption but deferred to the Planning Department on the matter.

Cruz asked whether the responsibility for disposal and hauling would involve keeping the materials within Nebraska in a designated area or if disposal would occur elsewhere.

Adams responded that disposal would likely occur outside Nebraska. Before the operation, an agreement with the manufacturer would be in place to ensure proper handling. Typically, the materials are recycled and reused, but if destroyed, they would be disposed of according to state and federal waste regulations, which govern how the materials are managed and disposed.

**Proponents:**

No one approached in support.

**Neutral:**

No one approached in a neutral capacity.

**Opposition:**

No one approached in an opposition capacity.

**Staff Questions:**

Campbell asked Wesselhoft to explain the difference in the current proposal—whether it only allows a P zoning designation, and if an amendment would be needed to allow a C designation.

Wesselhoft responded that, setting aside conditions, the alternative proposal would remove or exclude the P district as the applicant proposes. The alternative would only include the H3 and H4 districts, while the applicant's proposal also includes H2. Both proposals cover the same districts except for AG, where the alternative proposes a special permit, and the applicant proposes a conditional use.

Campbell asked for clarification on whether the proposal before the commission reflects the applicant's request or the Planning Department's recommendation.



Wesselhoft explained that two formal ordinance drafts were prepared by the city attorney and sent to the Planning Commission: one reflecting the applicant's proposal, and the other the alternative proposal. The recommendation from the Planning Department is for the alternative proposal. Both versions are currently under consideration.

Campbell asked for clarification about whether the proposal would exclude the conditional use designation.

Wesselhoft explained that one key difference is that the alternative proposal does not allow a conditional use ("C") in the AG district, only a special permit. He noted that the definition of "best" is the same in both versions. He also stated that the number of conditions proposed by the applicant is considered unnecessary in the alternative proposal, which includes a limited number of mostly safety-related conditions. Regarding safety, the Building and Safety Department reviewed the proposal and indicated that building and fire codes would be addressed on a case-by-case basis, and this aspect is reflected in the alternative proposal.

Campbell asked if there is any objection from the Planning Department to allowing a conditional use ("C") designation rather than a permitted use ("P") for the A district.

Wesselhoft responded that while landowners in rural areas might expect some level of gravel areas with buildings, the potential scale of a battery energy storage system (BESS) could cover multiple acres, up to 15 or 20 acres, with dozens of structures. Without knowing its purpose, it might resemble a small storage or container development, which is a relatively new land use and may not be something landowners anticipate or expect.

Campbell asked if this would require a hearing and noted that this is included in the alternative proposal. Wesselhoft confirmed that yes, the alternative proposal does require a public hearing.

Joy asked how the proposal compares to how battery energy storage systems are handled in states with private electrical utilities, noting that Nebraska is unique as a public power state. She referenced reading a related article in March 2024 while researching large storage facilities.

Wesselhoft asked for clarification, inquiring whether Joy was referring specifically to how the electrical industry handles battery energy storage systems in private utility states.

Joy confirmed that she was referring to the electrical industry and asked whether storage units typically accompany substations in private utility states, or if their placement is primarily due to the emerging nature of battery technology.

Wesselhoft explained that from a zoning perspective, entities like LES would be exempt, but a public power entity could still have a Battery Energy Storage System (BESS). As the applicant mentioned, BESS units can be incidental to a solar project, meaning the use may be found associated with public facilities rather than as standalone developments. He emphasized that this is a relatively new land use emerging nationwide, prompting jurisdictions to update their ordinances accordingly.

Joy noted that from a land use standpoint, it appeared the proposed regulations would allow a battery energy storage system to be located within a half mile of any substation, regardless of whether it is associated with another project.

Wesselhoft confirmed that the applicant's proposal includes a qualifier requiring proximity to a substation, whereas the alternative proposal does not include that requirement. He noted that while such facilities may naturally gravitate toward substations, the alternative proposal does not make that proximity mandatory.

Ebert asked for clarification that the conditions tied to a special permit in the AG district, under the alternative proposal, are not necessarily the same as the applicant's proposed conditions intended to make the use more comfortable as a conditional use. She noted that the alternative proposal focuses more on items like increased setbacks, enhanced or different screening, and inclusion of a public process, rather than on elements like decommissioning or height requirements.

Wesselhoft confirmed that the applicant's proposed conditions were viewed as unnecessary, while the alternative proposal includes conditions primarily focused on health and safety. These include an emergency action plan reviewed by Lincoln Fire & Rescue and the provision of safety data sheets for the battery chiller system for the Health Department.

If the use were allowed by special permit in the AG district, as proposed in the alternative text, the Planning Commission would have the ability to impose additional conditions such as increased setbacks or landscaping. Wesselhoft also noted a provision in the alternative proposal stating that the Planning Commission may impose any other conditions deemed appropriate and necessary to protect public health, safety, and welfare.

Rodenburg asked for clarification on the process, specifically whether adopting the alternative proposal would require denying the applicant's proposal first, and then considering and voting on the alternative proposal separately. Wesselhoft stated that he thinks he will let the Law Department weigh in on that.

**Tim Sieh, City Attorney, 555 S. 10<sup>th</sup> Street, Lincoln, NE** explained that there is no denial process today since the board is making a recommendation as part of a legislative process. The zoning text change will ultimately be decided by the City Council. The Planning Commission's recommendation could be a simple motion to recommend that the council adopt the alternative proposal, the applicant's proposal, or a combination of both that includes a conditional permit with all proposed conditions. Since no motion is on the table yet, there is flexibility on what the recommendation could be.

Campbell asked if, regarding the motion on Text Amendment 25506, the current language does not specify or address whether it should go one way or the other, correct?

Sieh responded that he wasn't sure he understood Commissioner Campbell's question.

Campbell explained that his question was whether the Planning Department needs to go back and develop a consolidated version combining the verbiage from both proposals.

Sieh clarified that there are several options available to the commission. They could defer action and ask the Planning Department to return with a consolidated proposal combining elements from both the applicant's and the Planning Department's versions. Alternatively, the commission could make a motion to recommend either the applicant's proposal in full or the Planning Department's alternative proposal. Sieh emphasized that this is a legislative recommendation to the City Council and not a denial or approval process.

Campbell stated that basically, the key difference lies in whether the use in the AG district is classified as a conditional use (C) or a permitted use (P). The other conditions proposed by the applicant may not all be necessary, according to the planning department's perspective.

Sieh stated that the Planning Department's alternative proposal does not include many of the conditions found in the applicant's proposal. The biggest distinction between the two is the presence of those conditions. Additionally, under the applicant's proposal, all uses would be conditional uses, whereas under the alternative proposal, uses in the AG-zoned areas would be special permitted uses, which means they are approved administratively, while all other areas would remain conditional uses.

Joy asked a procedural question, seeking clarification on whether the Planning Department has the authority to reclassify a conditional use as a special permit use.

Wesselhoft responded that if the use is explicitly stated as conditional in the regulations, then the Planning Department cannot reclassify it as a special permit use.

Chair Ryman Yost asked if there were any additional questions for staff, and none were raised.

**Steve Henrichsen, Planning Department, 555 South 10th Street, Lincoln, NE,** came forward and explained, using a map example, why staff recommends a special permit instead of a conditional use. He pointed out that if a battery energy storage facility were proposed on a property within half a mile of the LES substation, such as near 112th Street and Holdrege, residents in the adjacent acreage subdivision (zoned AGR) might not expect a large 25-acre facility nearby.

Because these residents anticipate agricultural uses, not such a large energy facility, staff feels it's better to require a public hearing via the special permit process for transparency and community input. While the facility might not generate much traffic or noise, other impacts could vary case by case, so a public hearing helps address concerns.

Henrichsen clarified the practical difference: with a conditional use, the applicant gets a building permit after meeting conditions; with a special permit, there is an additional public process, including notification to neighbors before approval.

Chair Ryman Yost asked if anyone had questions for Henrichsen or Wesselhoft, and there were none.

**Applicant Rebuttal:**

Levy came forward and stated that if the commission chooses to proceed with the alternative proposal, he agrees with the city that the additional standard conditions they proposed are unnecessary. This is because the alternative proposal requires a public hearing as part of the special permit request, during which the commission can impose conditions. Levy explained that their initial proposal included conditions to compensate for the lack of a public process. He also said that if the special permit process is used, they would still cooperate with the Planning Department on things like planting trees. Levy emphasized that while they believe their conditional use proposal strikes a balance between public process, neighbor protection, and industry/tax base interests, if the commission prefers the alternative proposal, they should adopt it as is, since the additional conditions are then redundant and will be handled during the special permit review.

Adams emphasized that the technology they use is highly regulated, with strict safety and performance standards they must follow. He noted that their systems are connected to the utility grid, which itself enforces very high operational and safety standards. Adams wanted to reiterate that there are many rigorous checks involved before these battery storage units are installed and activated. Overall, he stressed that the technology is advanced and designed with a strong focus on safety.

Ebert asked whether making the battery energy storage facility a special permit use in the AG (agricultural) zoning district would make it too difficult or prohibitive to install such a facility in that zone.

Levy responded that he can't say definitively that requiring a special permit in the AG zone makes it prohibitive. He emphasized that they intended to find a balance between the approval process and necessary safeguards, but if a special permit is required, they would go through that process and see how it unfolds.

**TEXT AMENDMENT 25006**

**ACTION BY PLANNING COMMISSION:**

**June 11, 2025**

Campbell moved to close the public hearing; seconded by Joy. Motion carried 6-0: Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost voting "yes"; Ball, Eddins and Feit absent.

Campbell moved to approve Text Amendment 25006; seconded by Joy.

Campbell stated that in the A areas, there's potential for people who want to live out in the wide-open space. Because of that, we may need to add conditions on a case-by-case basis as these projects come forward in the AG district, to address how they might be mitigated concerning adjoining properties and so on. I'd rather have the flexibility to add conditions as we

move forward with anything in the AG district, so that we can protect other properties in the area as needed.

Ebert agreed and added that she appreciated the applicant's effort to incorporate conditions aimed at increasing comfort with allowing BESS as a conditional use in the AG district. However, she noted that those conditions did not fully align with the Planning Department's concerns. While she did not wish to impose unnecessary procedural requirements, she remained unconvinced that the applicant's proposed conditions sufficiently addressed the department's issues for that use.

Joy stated she will support the motion but suggested that the conditional use designation be reevaluated after observing a few installations and gauging community responses. She noted that in areas long used as open space, residents can be surprised when a facility is proposed nearby. Allowing BESS as a conditional use in the AG district provides flexibility to diversify land use beyond traditional farming, but she emphasized the importance of monitoring future projects. Commissioner Joy recommended that, as these facilities are built and feedback is received, the Commission, City Council, or County Board revisit the conditional use designation and any associated requirements to determine if adjustments are needed.

Campbell noted his sole concern to Commissioner Joy: if BESS is adopted as a conditional use in the AG district, the Commission would lose the ability to impose additional screening or similar site-specific requirements. He emphasized that designating it as a special permit use would preserve the opportunity to add such conditions on a case-by-case basis as situations arise.

Chair Ryman Yost observed that approving BESS as a special permit now preserves the Commission's ability to impose site-specific conditions, with the option to reevaluate and potentially adopt a conditional-use framework (and its attendant conditions) after gaining experience and public feedback, perhaps in two years. Citing Henrichsen's example as evidence of the need for a public hearing, she confirmed her support for the special permit motion.

Campbell agreed, stating that Ryman's Yost point was valid.

Joy added that it is crucial to retain the opportunity for public input, noting that keeping battery energy storage systems as a special permit use allows the Commission to hear community concerns, particularly in a state with conservative land-use attitudes, and provides flexibility as new projects and feedback emerge.

Rodenburg agreed, stating that the example of a potential problem warrants a special permit rather than a conditional use at this time, and indicated he would be in favor of the motion.

Chair Ryman Yost asked if there was additional discussion on the motion; none was offered.

Motion to approve TX25006 carried 6-0: Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost voting "yes"; Ball, Eddins and Feit absent.

**CHANGE OF ZONE 25011, FROM O-2 (SUBURBAN OFFICE DISTRICT) TO O-3 (OFFICE PARK DISTRICT). GENERALLY LOCATED AT S. 39<sup>th</sup> STREET AND NORMAL BLVD**

**AND**

**USE PERMIT 55A, AMENDING USE PERMIT 55 WITH ASSOCIATED WAIVERS, ON PROPERTY GENERALLY LOCATED AT S. 39TH STREET.**

**PUBLIC HEARING:**

**June 11, 2025**

Members present: Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost. Ball, Eddins and feit absent.

Staff Recommendation: Approval for Change of Zone 25011  
Conditional Approval for Use Permit 55A

**There were no ex parte communications disclosed.**

**There were no ex parte communications disclosed relating to site visits.**

**Staff Presentation-**

**Ayden Johnson, Planning Department, 555 S. 10<sup>th</sup> Street, Lincoln, NE,** came forward and stated that the request involved a proposed rezoning from O-2 to O-3 and an amendment to Use Permit No. 55 for the site located at 3855 South 39th Street. He explained that the request was intended to improve flexibility for office use across three small parcels near South 39th Street and Normal Boulevard. Commissioner Campbell asked for clarification, specifically whether the request involved any conditional use ("C") designation, which could potentially open the site up to additional or more intensive uses beyond what was already permitted. Johnson confirmed that the request did not involve any conditional use zoning; rather, the intent was to transition to the O-3 designation—already in place on adjacent parcels to the north and east—and to bring the lots into the existing use permit without changing the types of uses allowed. Johnson noted that O-3 zoning requires a use permit regardless, and this amendment was designed to provide consistency across the site, particularly in how setbacks and parking requirements were addressed. No new uses beyond those currently permitted were being proposed, and the amendment served primarily to facilitate redevelopment of the site in line with its office-focused intent.

**Staff Questions**

Campbell noted that the third lot in the rear is already zoned O-3 and clarified that the proposed zoning change under discussion applies only to the first two lots.

Johnson confirmed that the proposed zoning change applies to the two front lots and the outlot at the rear, which extends into the drainage channel.

Ryman Yost thanked Johnson for his presentation and offered a brief closing remark of appreciation.

**Applicant-**

**Joe Renteria Jr, 2231 S 39<sup>th</sup> Street, Lincoln, NE,** came forward and stated there was nothing further to add beyond what Johnson presented. Renteria noted the property is situated on a dead-end street and reiterated that the primary purpose of the rezoning request is to achieve consistency with surrounding zoning, specifically the existing O-3 district on the adjacent lot and the B-1 business district located directly across the street.

**Proponents:**

No one approached in support.

**Neutral:**

No one approached in a neutral capacity.

**Opposition:**

No one approached in an opposition capacity.

**Staff Questions:**

No questions from the Commissioners.

**Applicant Rebuttal:**

No applicant rebuttal

**CHANGE OF ZONE 25011 AND USE PERMIT 55A**

**ACTION BY PLANNING COMMISSION:**

**June 11, 2025**

Campbell moved to close the public hearing; seconded by Joy. Motion carried 6-0: Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost voting "yes"; Ball, Eddins and Feit absent.

Campbell moved to approve Change of Zone 25011; seconded by Joy. Motion carried 6-0: Ball, Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost, voting "yes"; Ball, Eddins and Feit absent.

Campbell moved to approve Use Permit 55A; seconded by Joy. Motion carried 6-0: Ball, Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost, voting "yes"; Ball, Eddins and Feit absent.

**SPECIAL PERMIT 1123D, AMENDING THE EXISTING SPECIAL PERMIT, ALLOWING A TEMPORARY SHELTER FOR THE HOMELESS TO INCREASE THE SPECIAL PERMIT AREA FOR 69,000 SQUARE FOOT ADDITION ON PROPERTY GENERALLY LOCATED AT 100 AND 154 P STREET.**

**PUBLIC HEARING:**

**June 11, 2025**

Members present: Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost. Ball, Eddins and Feit absent.

Staff Recommendation: Conditional Approval

**There were no ex parte communications disclosed.**

**There were no ex parte communications disclosed relating to site visits.**

### **Staff Presentation-**

**Benjamin Callahan, Planning Department, 555 S. 10<sup>th</sup> Street, Lincoln, NE**, came forward and stated that the proposal is for an amendment to the existing special permit currently serving People's City Mission, located at 110 Q Street, between North 1st and North 2nd Streets, north of O Street. The amendment proposes expanding the special permit boundary to the south, encompassing the full city block between Q and P Streets. The special permit, which allows for temporary housing for the homeless, was originally approved in 1985 and has been amended several times. This current amendment includes the addition of approximately 2.16 acres to the permit boundary.

Callahan explained that the site expansion includes a proposed 69,000 square foot Women and Children's Shelter on the eastern side of the expanded area, with parking located to the west and access provided off 1st Street. The entire site is zoned I-1, one of two zoning districts—alongside B-4—that allows temporary housing for the homeless by special permit. He noted that surrounding land uses include multi-tenant warehouse development and a recycling yard to the west.

The amendment also includes a grading plan, as the site lies within the floodplain. The applicant has coordinated with the Watershed Department to determine permissible fill and to comply with existing conservation easements, particularly to the north of the current site, where no further expansion is proposed due to flood storage restrictions. Although the special permit boundary will now cross over Q Street, Q Street itself will remain a public street.

Callahan stated that staff recommends conditional approval, noting that the proposal supports the goals of the Lincoln-Lancaster County Comprehensive Plan, particularly those related to complete neighborhoods and providing accessible and safe housing. He concluded his presentation and offered to answer any questions from the Commission.

### **Staff Questions:**

Campbell asked whether the area on the 2nd Street side of the proposed site was a right-of-way or easement area that was not included in the boundary expansion out to 2nd Street.

Callahan responded that the boundary would technically extend over the block; however, both 2<sup>nd</sup> Street and Q Street would remain public streets and are not included in the special permit boundary expansion.

Callahan responded that the boundary would technically extend over the block; however, both 2nd Street and Q Street would remain public streets and are not included in the special permit boundary expansion.



Joy commented that it was interesting when looking at the GIS and acknowledged that it was a good question.

Chair Ryman Yost inquired if any further questions remained. Hearing none, the discussion concluded.

**Applicant:**

**Tim Gergen, Clark and Enersen, 1010 Lincoln Mall, Suite 200, Lincoln, NE,** representing the applicant, came forward to present on the proposed expansion of the People City Mission project. Gergen acknowledged that Callahan had already provided a detailed overview of the project and site context. Gergen emphasized the unique conditions of the site, which is bordered by designated floodplains, necessitating close and ongoing coordination with watershed management to ensure compliance with floodplain storage requirements and the preservation of existing conservation easements. He noted that while current easements north of the existing facility will remain intact, new easements will be established to support development on the proposed expansion block. Addressing the site plan, Gergen identified two primary conditions of concern. The first involved a proposed mid-block pedestrian crossing along Q Street, intended to directly connect the existing and new buildings and enhance accessibility across the campus. He noted that Lincoln Transportation and Utilities (LTU) opposed the mid-block crossing by their standard policy but asked the Planning Commission to consider its approval, citing its practical and intuitive benefit to site users. The second issue is related to loading dock access, which is limited to a single point at the signalized intersection of First and O Streets. Gergen explained that delivery trucks must enter from First Street, back into the dock, and exit via the same route—an arrangement he described as critical to the operational needs of the mission, particularly for receiving food deliveries. He requested the removal of the condition requiring further coordination with LTU on this matter, emphasizing that the proposed access plan is the only viable solution for the site. Gergen stated that the applicant team accepted all thirteen of the proposed site-specific conditions except Condition 1.4, which addresses the pedestrian crossing and loading dock concerns. Gergen concluded his remarks by deferring to Chadwick for further information on the building design and asked the Planning Commission to consider the requested modifications.

**Jeff Chadwick, Clark and Enerson, 1010 Lincoln Mall, Suite 200, Lincoln, NE,** followed Gergen's presentation with additional details on the building design for the People City Mission expansion. Chadwick explained that the new structure was designed to complement the existing facility while improving functionality, accessibility, and service capacity. Chadwick described the internal layout, which includes expanded space for dining, sleeping, and support services, all tailored to meet the growing needs of the population served by the mission. He emphasized that the design reflects trauma-informed principles, with features such as natural lighting, private and semi-private sleeping areas, and clearly defined circulation paths to reduce stress and confusion for residents. The exterior materials and architectural elements were selected to be consistent with the surrounding area and existing buildings, while still signaling the facility's public-serving mission. Chadwick noted that the building has been sited carefully within the developable area outside the conservation easement boundaries, and that care was

taken to minimize floodplain impacts. He concluded by reaffirming the team's commitment to creating a space that is both welcoming and durable, capable of serving vulnerable populations with dignity and safety.

**Pastor Tom Barber, People City Mission at 110 Q Street**, shared the historical background and urgent need driving the proposed expansion project. Barber explained that People City Mission, founded in 1907, is one of the oldest homeless shelters in the United States and the first established in Nebraska. Created during a time when Lincoln was home to the nation's third-largest train yard—a factor that drew many transient individuals—it's mission has continued to evolve to meet the needs of the community. Barber, who has served at the mission for 21 years, described how the current facility, now 45 years old, was built to house 250 people but has recently served more than 430. He highlighted the resulting overcrowded and unsafe conditions, including instances where women and babies have had to sleep on mats on the floor due to a lack of space. He emphasized that the current shelter is no longer adequate and warned that without expansion, Lincoln will face increasingly serious challenges related to homelessness. The proposed project includes the construction of a new shelter for women and children, while repurposing the existing building to serve as a men's shelter with capacity for up to 300 individuals. Additionally, a portion of the facility will serve as a low-barrier shelter with law enforcement support provided by Lancaster County. Barber concluded by stressing that this expansion is essential for the future of Lincoln and welcomed any questions from the commission.

Rodenburg asked for clarification, noting his understanding that the men staying at the shelter are required to leave the facility during the day.

Barber clarified that men staying at People City Mission are not required to leave during the day. The shelter operates various programs, and its approach depends on everyone's situation. Upon intake, they ask two key questions: why the person is there and how they can help the person transition into permanent housing. If an individual is willing to work on their issues, they may stay for several months and remain at the shelter 24/7. Many of the men have jobs. Those not interested in addressing their challenges are limited to a 30-day stay.

Barber emphasized the complexity of homelessness, noting that a recent study found that 40% of those served by the Mission are employed, 30% deal with substance abuse issues, another 30% are capable of securing housing independently, and 15–20% experience mental health challenges that require more specialized care. The shelter also provides transitional housing and programs for women and children, with many eventually securing their housing.

While certain areas may be closed temporarily for cleaning, residents are allowed to return afterward. Barber also confirmed that the Mission works in collaboration with organizations such as CenterPoint, Friendship Home, and others to connect individuals with the appropriate resources. Barber noted that approximately 80% of Lincoln's homeless population is served by People City Mission, and that last year alone, they provided around 240,000 meals.

Barber concluded by pointing out a significant disparity in shelter capacity: while cities like Omaha have one shelter bed for every 240 people, Lincoln has only one for every 983. Compared

to at least 20 other cities studied, Lincoln appears to have the lowest emergency shelter capacity, underscoring the urgent need for expansion.

Rodenburg acknowledged that the information helped clarify things and then asked a follow-up question. He mentioned that the police department had recently begun working with Centerpointe and other institutions focused on assisting individuals with mental health and addiction issues. Rodenburg inquired whether People City Mission is part of that cooperative effort.

Barber explained that People City Mission actively collaborates with various community organizations to address the needs of their guests. When individuals arrive at the mission, staff work to identify their specific challenges and connect them with appropriate local resources. He mentioned that this is a two-way relationship—for example, they refer individuals experiencing domestic violence to Friendship Home when space is available, and in turn, Friendship Home refers people back to the Mission when needed. Barber emphasized that these partnerships happen at an operational level with many different groups.

Barber noted that while several organizations serve the homeless population in Lincoln, approximately 80% of those experiencing homelessness are housed at People's City Mission. Last year, the mission provided around 240,000 meals, illustrating the extent of their support. Pastor Tom also shared a striking comparison, stating that Omaha—home to four shelters, each larger than People City Mission—offers a shelter bed for every 240 people. In contrast, Lincoln has only one bed for every 983 people. After researching at least eight other cities across the U.S., the Mission found that most offer at least double the shelter space of Lincoln. Pastor Tom concluded by underscoring the urgent need for more emergency shelter capacity in the city and thanked the commissioners for listening.

Joy expressed her appreciation to Pastor Tom Barber, noting that throughout his work in the community, his voice has consistently conveyed a message of hope. She thanked him and shared that she felt it was important to acknowledge that during the meeting.

Barber warmly thanked Commissioner Joy for her kind words.

Chair Ryman Yost asked if there were any additional questions for the engineers or others involved in the presentation.

Joy asked a quick question regarding the dock area, noting the various challenges of the site, including its location in the floodplain and the access issues related to Q Street. She acknowledged that the dock seemed like a natural use for that space but raised a concern about the concept of it functioning on a public street. Joy suggested that more consideration and possibly a staff inquiry would be needed and invited the applicant to add any further thoughts on the matter.

Chadwick explained that Q Street is indeed a public street, but it's in a unique part of Lincoln where it doesn't serve through traffic—it mainly provides access to the People City Mission. He noted that Q Street has unusual 90-degree (perpendicular) on-street parking, which is rare for

a public street. Ideally, they would like to have Q Street vacated (closed to public traffic), but they need cooperation from neighboring landowners on both sides to do so, and that cooperation is not currently available. Chadwick also mentioned that public utilities run through Q Street, so it serves some necessary functions. Overall, even though it's technically public, Q Street acts more like a private drive serving primarily the mission and immediate area.

Joy stated that the road located on the west side of the property, north of Q Street, appears on online maps as part of the property. However, it was clarified that this road is a public street and not included within the property boundaries.

Chadwick clarified that all the public streets north of Q Street have been vacated.

Joy responded that she just wanted to confirm that and thanked Chadwick.

Ryman Yost said that this will likely be a conversation with staff, as human nature will lead people to walk across the street. Chadwick confirmed that it is correct.

Ryman Yost emphasized that finding ways to keep people safe while this happens would be important.

Rodenburg asked if the proposed crosswalk on Q Street would include traffic signals. Chadwick explained that the crosswalk would not have traffic signals; it would be marked with signs or striping instead.

Joy commented that the crosswalk would be marked with paint.

Chadwick confirmed that the crosswalk would be marked with paint and signage or striping, but would not include any flashing beacons

Rodenburg asked if there would be no stop sign, and Chadwick confirmed that there would be no stop sign.

Ryman Yost questioned whether there would be no traffic calming device, and Chadwick agreed that there would not be one.

Gergen stated that they expect limited traffic between the two sites since the men's shelter is located on the north side and the women's and children's shelter is on the south. While there may be occasional visits, such as men coming over to play basketball, for the most part, the two facilities operate as separate entities.

Ryman Yost noted that the picture of the dining room showed many men present. Ryman Yost reflected that initially, seeing men in the dining room photo led her to think fathers could interact with their children there. However, she then realized that the other facilities are women-only, which raised questions about how families are treated versus just mothers and children. She noted again that the cafeteria photo showed many men present.

Chadwick added that he appreciates the attention to those details in the renderings, noting that while architecture is important, it's really about the people who will be using the space.

Joy and Ryman Yost commented simultaneously that they do notice those kinds of details.

Ryman Yost asked if there were any additional questions from the commission.

**Proponents-**

No one approached in support.

**Neutral-**

No one approached in a neutral capacity.

**Opposition-**

No one approached in an opposition capacity.

**Staff Questions-**

Ryman Yost stated she would go ahead and ask the question, noting that the applicant is requesting the removal of item 1.4. She suggested it might be helpful to have someone from LTU speak about the concern related to the crosswalk.

Callahan noted that no one from LTU was present but provided background on why the condition was added: LTU would continue working with the applicant after this hearing to identify a suitable crosswalk location. He mentioned that although Q Street isn't the busiest in Lincoln, it remains open to the public. LTU's concerns included the mid-block crossing—whether striping or signage would make it safe—and the loading dock placement. He explained that currently the loading dock would extend into the public right-of-way, which isn't normally allowed, and that trucks backing in could conflict with pedestrian movement and the crossing location. LTU also questioned whether trucks pulling out might interfere with the nearby First and Q intersection, as First and Q are paved and improved, while Second Street isn't improved, potentially diverting more traffic to First Street.

Joy asked for clarification on whether there is a parking requirement for the project.

Callahan explained that there is no longer a parking requirement, as the original requirement was removed when the zoning changed to I-1. He added that if the Planning Commission is considering striking the condition, the Planning Department may recommend a two-week deferral to allow the applicant and LTU time to work out an alternative concept.

Ryman Yost noted that this item represents final action by the Planning Commission, unlike the previous application, which was only a recommendation to the City Council. She then asked if there were any additional questions or discussion for Mr. Callahan.

Joy raised a question about the slope of the land from the building toward the Q Street access, noting that there appear to be some challenges with the grading. She wasn't sure if others had discussed it and suggested it might be a question better directed to the applicant or Callahan if you want to talk on that.

Callahan said he wasn't sure but noted that Watershed Management would be present to address grading questions. He mentioned that the grading plan shows the land sloping to the west.

Henrichsen came forward and explained that it would have been helpful to know about any objections to the condition in advance, so LTU staff—experts on the matter—could attend and explain why the angled truck backup across the right-of-way is problematic. He recommended that if the condition is to be struck, the Commission should defer the decision for two weeks to allow LTU staff to be present and provide their input. Henrichsen noted that the condition involves complex issues, including a pedestrian crossing intersecting with an angled truck backup across a public right-of-way. Rather than attempting to redesign on the spot, it would be better to have LTU staff explain the concerns and possible options at a future meeting.

Ryman Yost stated that if the Commission is considering striking the condition, Henrichsen agreed and emphasized the importance of deferring the decision to allow LTU staff to provide their expertise.

Ryman Yost contrasted striking the condition with approving the staff recommendation to keep it, noting that further conversation would still take place. Henrichsen agreed, adding that there would be extensive discussion about the best approach and alternative solutions.

#### **Applicant Rebuttal:**

Gergen returned to the podium and expressed some frustration regarding the limited time available to review staff comments and conditions due to the city's Project Docs system being temporarily offline. He explained that this technical issue restricted the applicant team's ability to fully digest the conditions ahead of the hearing, particularly those related to Watershed Management, which involved complex technical discussions. Gergen reiterated that the truck dock and mid-block pedestrian crossing on Q Street are critical elements of the project. While acknowledging that Q Street is a public right-of-way, he emphasized that it functions differently than most public streets, with relatively low traffic activity. Gergen clarified that the proposed truck dock would not extend into the public right-of-way when in use but would remain entirely within the project site. Gergen noted that it is not uncommon in Lincoln for trucks to back into docks located in public rights-of-way, especially at city, state, and county facilities in the downtown area. He explained that Q Street was selected for dock access specifically because it is less active than 1<sup>st</sup> Street, and 2<sup>nd</sup> Street—being an unimproved gravel road—is not viable for deliveries during inclement weather. Because reliable truck access is essential for ongoing operations, particularly for food deliveries to the mission's homeless kitchen, Gergen requested that the Planning Commission closely evaluate the relevant condition. While the team was open to a two-week deferral to allow additional coordination with Lincoln Transportation and Utilities (LTU), he stressed that the current proposal reflects what is truly necessary for the project to function effectively.

**SPECIAL PERMIT 1123D****ACTION BY PLANNING COMMISSION:****June 11, 2025**

Campbell moved to close the public hearing; seconded by Joy. Motion carried 6-0: Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost "yes"; Ball, Eddins and Feit absent.

Campbell moved to defer Special Permit 1123D for two weeks to the Planning Commission Hearing on June 25, 2025; seconded by Joy.

Campbell stated that although he agrees with Gergen, he believes it would be best to delay the matter for two weeks to allow time for further discussions between the parties involved and to work toward a potential solution.

Ryman Yost acknowledged that since the public hearing had been closed, the Commission would need to vote to reopen it to allow a delay and continued discussion with staff and the applicant. They amended their original motion to extend the public hearing for two weeks, with a second by Joy, recognizing the need to formally reopen the hearing before moving forward with the deferral. The speaker apologized for any confusion while trying to follow the proper procedure.

Tim Sieh, Assistant City Attorney, came forward and suggested that the Commission could make a motion to delay the matter and reopen the public hearing at the next meeting. He emphasized the importance of making it clear in the motion that this is the intended action, so everyone on the Commission understands. If that clarity is maintained, the procedure would be acceptable.

Motion to continue public hearing and defer public hearing for two weeks carried 6-0: Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost voting "yes". Ball, Eddins and Feit absent.

**SPECIAL PERMIT 1423M, AN AMENDMENT TO THE EXISTING SPECIAL PERMIT FOR HIMARK ESTATES COMMUNITY UNIT PLAN (CUP) TO ADD 9 LOTS, ON PROPERTY GENERALLY LOCATED AT SOUTH 89TH AND HIMARK LANE.****PUBLIC HEARING:****June 11, 2025**

Members present: Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost. Ball, Eddins and Feit absent.

Staff Recommendation: Conditional Approval

**There were no ex parte communications disclosed.**

**There were no ex parte communications disclosed relating to site visits.**

### **Staff Presentation:**

**Jacob Schlange Planning Department, 555 S. 10th Street, Lincoln, NE,** presented an application to amend the Himark Estates Community Unit Plan (CUP) to allow for the creation of nine additional residential lots. Schlange explained that the new lots would be developed by converting portions of the existing golf course into two outlots—four located along Himark Lane and five along South 89th Street. The lots are intended for single-family residential use and conform to R3 zoning standards, with no waivers requested as part of the application. Schlange clarified that the CUP amendment does not regulate or guarantee the future configuration or operation of the golf course itself. While a revised site plan was submitted showing minor adjustments to the golf course layout, it also includes three optional amenity holes proposed for neighborhood use; however, he noted that these are not required elements of the CUP. Schlange reported that a neighborhood meeting was held on April 29 at the Newmark Pro Shop before the application's submission. At that time, only property owners within 200 feet of the eastern five lots received notification, while residents near the four western lots were not notified until receiving formal legal notice from the Planning Department ahead of this hearing. He also stated that a revised grading and drainage plan has been recommended as a condition of approval, subject to review by LTU Watershed Management. Schlange concluded his remarks by offering to answer any questions from the Commission.

### **Applicant-**

**Tim Gergen, Clark and Enerson, 1010 Lincoln Mall, Suite 200, Lincoln, NE,** appeared on behalf of the applicant and began by acknowledging the thoroughness of Schlange's staff presentation. He confirmed that a neighborhood meeting had been held with a solid turnout; however, he noted that the Pioneer Greens Neighborhood Association—particularly residents of the nearby townhomes—had not been included in the original notification due to an address list error. Gergen addressed concerns voiced by neighbors regarding potential changes to a specific golf hole near their properties and clarified that there are no plans to realign that hole. He emphasized that the applicant has reviewed and agrees with all of the city's proposed conditions, which primarily involve minor amendments to the Community Unit Plan (CUP) and submission of a grading and drainage plan. He explained that a detailed grading report was not initially submitted because the overall drainage patterns of the site would remain largely unchanged. Gergen also responded to a concern raised during the neighborhood meeting regarding the layout of the cart paths. A revised site map now illustrates proposed cart path adjustments in black, and he confirmed that the existing stormwater detention area would continue to serve its intended function. He added that any golf holes affected by the proposed development would be relocated within the boundaries of the current course, and that some of the former greens would be preserved as "amenity holes"—a practice already in use elsewhere within the Highmark community. Gergen emphasized that the application is consistent with the City's comprehensive plan, particularly its support for infill development. The proposed nine residential lots would utilize existing streets and infrastructure, such as water, sewer, and power, avoiding the need for additional public investment in new streets or utilities. He pointed out that the CUP currently allows for up to 585 units, yet only 408 have been constructed, leaving significant capacity for additional residential development. Gergen concluded by affirming the applicant's intent to maintain



the neighborhood's character while also addressing the economic realities of operating a private golf course without public subsidy. He then introduced Dan Sultus, representing the Newark ownership group, to provide further insight into the rationale behind the application.

**Dan Sultus, 4944 South 89th Street, Lincoln, NE,** spoke on behalf of the ownership group and addressed the ongoing operation of the private golf course. He acknowledged that maintaining a 36-hole private course presents challenges but affirmed that it remains both manageable and sustainable. Sultus emphasized that the proposal is not intended to harm or diminish the quality of the course but is instead aimed at improving it to ensure it continues to serve as a place where families can gather and spend meaningful time together. He underscored the ownership group's commitment to community stewardship, highlighting recent charitable events hosted at the course. Earlier in the week, the facility held a fundraiser for Batten Disease (BDRS), utilizing 18 holes and raising \$16,000. Additionally, the previous Friday, the course hosted Tabitha's Meals on Wheels for an event that used all 36 holes, with final fundraising totals still being calculated. Sultus concluded by reaffirming the group's dedication to serving families and local organizations and maintaining the golf course as a valued and active community partner.

#### **Staff Questions:**

Commissioner Rodenburg noted that the Commission had received several letters from the public expressing concerns about the proposed golf cart paths. Specifically, members of the public were hoping that the paths would be paved, include fencing, and be lined with trees to provide both visual and physical buffering. Rodenburg asked the applicant whether any consideration had been given to those requests.

Gergen responded that they were not aware of those specific requests and had not seen any letters referencing them. While they recalled some discussion during the neighborhood meeting about paving the cart paths, they did not recall any conversation regarding adding a tree line or fencing.

Rodenburg acknowledged that additional public feedback is likely to be received and then asked whether the Watershed condition had been approved.

Gergen responded that they have not yet received approval from Watershed. They indicated that a revised grading and drainage plan will be submitted to address the condition.

Rodenburg stated that some of the concerns they are likely to hear again include water already approaching nearby houses. There is concern that removing the fifth hole and adding more rooftops and concrete could exacerbate existing drainage problems.

Gergen responded to Rodenburg's comment by acknowledging the concerns and reiterated that they plan to submit a revised grading and drainage plan. This updated plan is intended to address issues related to runoff and ensure that the additional development will not worsen existing drainage conditions.

Campbell asked whether the applicant had modeled what the change in impervious surface would be with the addition of the nine new lots and how that might impact stormwater runoff in the area.

Gergen stated that their drainage plan will direct all front yard runoff toward the street, while the backyards will be graded to direct water toward an existing detention cell. Some portions of the backyard runoff may also be directed slightly in another direction, but the primary drainage strategy will be toward the detention area.

Campbell asked, based on the letters received, where the homes are located that are experiencing water issues near their back porches or similar areas.

Gergen responded that they had not seen the letters referencing water issues near residents' back porches.

Campbell stated that the map should remain visible during public testimony, as they would like to see where the affected homes are located.

The commissioners conferred among themselves, suggesting that the affected homes are likely on the west side; specifically, the townhouses that back onto the commons. They identified that the area in question corresponds with hole number five, which was referenced in the public comments regarding drainage concerns.

The applicant stated that the areas being referenced are not part of the current submittal. If drainage issues are already occurring there today, they are existing conditions unrelated to the proposed development of the nine lots. Any necessary improvements would pertain to the golf course itself and not be a result of the new lots.

Chair Ryman Yost asked if there were any additional questions from the Commission.

Joy asked if there had been any discussion about traffic in the area, noting that traffic volume and speed were additional concerns.

Gergen responded that while there will be a slight increase in traffic due to the nine additional lots, it will still be a residential street with large lots (75 to 90 feet wide). They noted that this increase is less than what would occur if townhomes were developed instead, which could generate 18 to 20 lots. The existing single-loaded street is already built, and adding development on the other side would not significantly increase traffic beyond typical neighborhood levels. The street, being 27 feet wide, is capable of easily handling traffic from the nine new lots.

Rodenburg stated that while the wide street can easily handle the traffic from nine lots, the concern raised was less about traffic volume and more about the speed at which people are driving on those roads. There were requests for traffic calming measures to address this issue.

Gergen responded that traffic calming measures, such as speed bumps or speed tables, fall under the jurisdiction of the Local Transportation Unit (LTU). They noted that these measures are highly regulated due to maintenance concerns and the need to properly prepare drivers for changes in the roadway. The applicant also expressed that traffic calming might not be necessary on this residential street because it experiences low traffic volume, is not a cut-through route, and lacks nearby schools or businesses, making it more of a typical suburban neighborhood street.

Campbell asked how the cart paths are currently constructed.

Gergen stated that on the 36-hole course, approximately 25% of the cart paths are paved with asphalt, while the remaining 75% consist of either unpaved paths or paths made of crushed concrete or gravel.

Campbell asked if, given the drainage or water issues in the area, it would make sense to pave the cart paths with asphalt to avoid the need for constant repairs.

Sultus confirmed that paving the cart paths with asphalt would make sense to reduce ongoing maintenance and repairs.

**Proponents:**

No one approached in support.

**Neutral:**

**John Jensen, 8851 Himark Lane, Lincoln, Nebraska,** came forward and spoke both as a resident and as President of the HiMark Lane Homeowners Association, representing 34 homes located to the north and northeast of the proposed nine residential lots. While he did not express outright opposition or full support for the development, he acknowledged the longstanding cooperation with the golf course, noting that a well-maintained course adds aesthetic and property value to the neighborhood. Jensen's primary concern, however, centered on traffic safety—specifically speeding within the neighborhood. He explained that the HiMark Lane area has only three access points and is entirely residential, with the golf course at its center. During golf events, traffic volume increases significantly, creating potential hazards. He pointed out certain stretches of road, including near his own home, where vehicles tend to accelerate. Jensen recounted efforts by the homeowners' association to address the issue, including a traffic study conducted in October 2024. That study revealed approximately 500 cars traveling through the area daily, with the 85th percentile speed measured at 32 miles per hour in a posted 25-mph zone. Some vehicles were recorded at speeds exceeding 42 mph. He shared that the association had requested the installation of stop signs, crosswalks, and other traffic control measures, but these requests had either been denied or left unresolved. Jensen emphasized the lack of signage and warnings near golf cart paths and public crossings as a key contributor to the safety concerns. He urged the Planning Commission to consider adding a condition requiring the developer to collaborate with the neighborhood on implementing traffic calming or safety improvements. Jensen concluded by reiterating the

seriousness of the speeding problem and thanking the Commission for the opportunity to present his concerns.

Chair Ryman Yost acknowledged receipt of the traffic study.

**Opposition:**

**Troy Burg, 330 S. 10th Street, Suite 300, Lincoln, NE,** came forward to speak in opposition to the proposed golf course amendment. He stated that he was representing several adjacent property owners, though not the homeowner's association itself. Burg expressed that the application, in its current form, was not ready for final approval and that additional time was needed to allow meaningful collaboration between the applicant and nearby residents, particularly concerning unresolved watershed issues. He emphasized that past experiences with broken commitments during earlier phases of development had led to worsened drainage problems for surrounding properties. Burg also raised significant concerns regarding notification, explaining that only 7 of the 48 townhome owners—approximately 15%—had received information about the informal April 29 Neighborhood Meeting. He characterized this as a potentially deliberate exclusion, given the level of public opposition to the proposal. While acknowledging that the Planning Department issued proper notice on May 30, he noted that many homeowners either received the notice late or not at all, which limited their opportunity to respond or participate. Burg referenced a letter submitted by the homeowner's association, in which several members indicated they were unaware of the application until receiving the Planning Commission notice. He argued that the limited window—just six business days from notice to hearing—was inadequate compared to the 30-day response period typically afforded in legal proceedings, and that a deferral was necessary to ensure fair participation. Burg concluded by stating that failure to continue the matter would be prejudicial to affected homeowners, who were simply requesting more time to work with the applicant toward a mutually acceptable resolution.

**Jerry Genrich, 4855 Glen Eagle Court, Lincoln, NE,** came forward and introduced himself as the former president of the homeowners' association, addressed the Commission to express concerns related to water drainage and watershed impacts from the proposed development adjacent to the golf course. (Genrich provided Exhibit 1). He explained that runoff flows behind his home in a consistent direction dictated by the natural watershed, due to the area's elevated topography. Genrich noted that water from rooftops and surrounding properties drains toward residential lots, compounding existing drainage issues. He recommended the installation of berms planted with trees and vegetation to help slow and redirect water flow and urged the Commission to consider such measures as part of the development plan. He clarified, in response to earlier comments by Rodenburg, that the water problems are not related to any railing structures. Genrich further described how water runoff from golf course greens and tees drains directly onto private yards, often resulting in standing water and contributing to mosquito problems. He expressed interest in collaborating with the city's watershed management department to identify and implement mitigation strategies and requested that residents be included in that process.

In addition to drainage concerns, Genrich raised objections about the continued reduction of playable golf holes over time, stating that this trend has negatively impacted both neighborhood aesthetics and property values. He questioned the proposed installation of “chip-and-putt” amenity holes, pointing out a lack of clarity regarding their intended users, maintenance responsibilities, and funding mechanisms. He requested that written guidelines be provided to address those issues. Genrich also disclosed that he had filed a protest related to a recent increase in city assessments tied to his property's proximity to the golf course, expressing concern that the removal of the remaining golf hole could further decrease property values. He urged the Commission to require a vegetated berm and fence—using tree species selected by the affected homeowner to be installed between the proposed lots and existing residences and requested that the current golf cart path be preserved.

Genrich concluded by emphasizing how stormwater drainage flows from surrounding hills into the neighborhood, partially mitigated by a swale installed by a prior developer. He warned that the introduction of new residential lots could further aggravate runoff conditions, citing specific examples such as areas that remain saturated even during dry weather. One neighbor, he noted, is forced to hand-mow a perpetually wet portion of the lawn due to an inability to operate machinery on the soft ground. He thanked the Commission for their attention and reiterated his hope for collaboration with city staff to address these longstanding watershed concerns.

Campbell asked Genrich to indicate on the map displayed how water drains behind the residential properties. He requested clarification on the direction and pattern of water flow concerning the nearby homes.

In response to Campbell's request for clarification, Genrich pointed to the map and described how water runoff originates from the surrounding area, flowing around the development and draining in a specific direction behind the residential properties. He explained that during the original development of the area, concerns were raised by neighboring acreage owners to the west regarding excess runoff. To address this, a swale was constructed along the western edge of the area to divert water away from adjacent properties. Genrich indicated where the swale begins and the path it follows, emphasizing that significant volumes of water already collect in the swale, as shown in earlier photographs. He expressed concern that the addition of four new lots, along with rooftops, sidewalks, and other impervious surfaces, would worsen drainage issues and increase runoff toward the existing homes. As an example, he noted that one nearby homeowner has resorted to using sandbags to protect their patio and prevent water from entering their family room. He stressed the importance of preventing additional problems through careful planning and mitigation.

Campbell thanked Genrich for the explanation and stated it was helpful.

Genrich responded that all the water runoff flows in one direction—downhill toward there are and is mitigated at a holding pond. He noted the land is built on a hill, so there is no other natural path for the water to take. Genrich stated they are currently awaiting input from the watershed department before proceeding further with the project. He mentioned that Best Management Practices (BMPs) and berms might help address some of the issues, and they

intend to consider these measures to mitigate potential problems. He thanked the Commission for listening to their concerns and encouraged any further questions.

Rodenburg asked Mr. Genrich if he experiences water problems even when it is not raining, specifically due to watering activities on the golf course.

Genrich confirmed that water problems occur even during dry periods, attributing this to irrigation runoff from the golf course which causes standing water in residential backyards and contributes to mosquito issues.

**Jerry Elfring, 4901 Glen Eagle Court, Lincoln, NE,** came forward and introduced himself as president of Himark Estates Town Homes Inc. for the past six and a half years, addressed the Commission on behalf of the association, which comprises 48 townhomes—21 of which originally enjoyed views of the adjacent golf course. Elfring referenced an earlier presentation by Schlange, noting that he had previously shown a photo of the neighborhood sign, which reads “Golf View Town Homes” (see Exhibit 2). He explained that the value of the association’s properties, as well as their corresponding tax assessments, had significantly increased over time due to proximity to the golf course. However, he expressed concern that the continued redevelopment of the course has led to the loss of those golf views for a growing number of homeowners. Since Newark began redesigning the course in 2017 and removed the clubhouse, 18 townhomes have already lost their golf course views, with additional impacts expected under the current proposal. Elfring warned that this change could lead to property devaluation, estimating a reduction of approximately \$30,000 per affected lot, totaling an estimated \$630,000 in annual lost tax revenue for the county. He likened the experience of living adjacent to the golf course to that of residing in a resort part of the year and emphasized the unique value it provides to the community.

Elfring also reiterated concerns related to water drainage, echoing testimony shared by other residents. He requested that both he and fellow resident Jerry Genrich be included in any future planning or approval process involving the proposed development, particularly in discussions related to the construction of a berm and the implementation of best management practices (BMPs) to mitigate runoff. He also asked that the golf cart path be located on the north side of proposed Lot 5, to reduce its impact on nearby homes. While acknowledging that the association had previously requested a concrete cart path, Elfring recognized that this may not be practical under the current plan. He concluded his testimony by urging the Planning Commission to give serious consideration to the concerns raised by the association and stated clearly that the association stands in opposition to the proposal in its current form.

#### **Staff Questions:**

Commissioner Campbell asked how long it would take to receive the drainage information requested by the residents. He emphasized the importance of having this data before making further decisions regarding the proposal. Schlange responded that he would defer to the applicant, who indicated the information could be available by Monday. Campbell clarified that the information would come from the applicant, not from the city.

Schlange stated that the applicant will need to submit the drainage information, which will then be reviewed by Watershed Management.

Campbell stated that if Clark and Emerson were going to initiate a request for a water study to be reviewed by Watershed Management, it would provide him with more information to make a proper decision on the matter. He acknowledged that there were already existing drainage problems and suggested that the study might help address more than just the issues related to the new lots.

Chair Ryman Yost stated that they could talk to the applicant about the process moving forward.

Joy inquired whether there had been any discussion with LTU regarding additional signage and the various types of requests that have emerged from the related documentation. Schlange stated that he had not yet spoken with anyone from LTU. He noted that he received a letter from a citizen regarding the speed issue within the last day or two.

Chair Ryman Yost stated that some of those issues are existing concerns outside of the scope of this application.

Schlange clarified that the area shown to the north includes two lots, Outlot A and Outlot C. He explained that for notification purposes, all affected parcels are shown. Due to the unusual shape of the property, the boundary extends in a way that can be difficult to see, but to properly notify affected parties, the entire parcel is displayed to reflect the portion of the lot subject to change.

Ebert acknowledged the explanation and asked if, on that note, the developer would be able to add additional lots in that area.

Schlange responded that adding additional lots in that area would require a future amendment.

Joy stated that their focus is limited to the area shown, which, from a distance, appears like the shape of Florida.

Henrichsen from the Planning Department explained the process related to the grading and drainage plan, noting that the existing plan sheet requires amendment. He stated that if the amendment is submitted by Monday, Watershed staff would need at least one week to review and provide comments. However, given the current volume of applications, it would be challenging to have comments ready by the next Planning Commission meeting in two weeks, although not impossible. Henrichsen suggested that a four-week review period would be more appropriate to allow adjacent property owners sufficient time to review the comments and ask questions. This timeline would provide adequate time for submission, review, and public consideration before the continued public hearing. He expressed concern that a two-week delay would likely be insufficient for a thorough review.

Chair Ryman Yost stated that they will also speak to the applicant about that.

Henrichsen stated that he just wanted to provide the timeline and noted that the applicant would want to have the opportunity to review the comments as well.

Joy asked whether it would be appropriate for the commissioners to request another neighborhood meeting.

Henrichsen replied that requesting another neighborhood meeting could be suggested, but not required as a condition or recommendation.

Joy stated that there was no problem, and that was what she was wondering.

Henrichsen stated that requesting additional information, such as a grading and drainage plan, is typically part of the application submission. However, as Gergen noted, there are not many changes expected in this case, which is why a delay was considered appropriate. He added that if the Commission wants the additional information, it would be appropriate to make that a condition since it was not originally provided.

Chair Ryman Yost asked if there were any additional questions, and none were raised.

#### **Applicant Rebuttal:**

Gergen addressed the issue of traffic calming on HiMark Lane, noting that the street had been turned over to Lincoln Transportation and Utilities (LTU) and was originally constructed by the developer. He stated that the developer would have no objection to any traffic calming measures decided by LTU, emphasizing that such measures are more appropriately managed by the city and the homeowner's association, which has already initiated discussions on the topic. Gergen explained that natural "conflict points" such as crosswalks, intersections, and driveways inherently encourage slower driving, and with the addition of the proposed nine lots, more driveways would be added—thereby increasing conflict points and contributing to traffic calming along the street.

Regarding drainage, he noted the presence of a swale running along the property boundary between the townhomes and the golf course. Gergen committed that any development of the nine lots would avoid increasing runoff into this swale or would seek alternative drainage solutions. He further committed to preparing a grading and drainage plan to submit to LTU and expressed willingness to delay the approval process if necessary to allow for additional review.

Gergen also referenced a neighborhood meeting held on April 29 that had a good turnout. While no clear consensus was reached among neighbors concerning amenities—whether to preserve golf holes, maintain open space, or plant trees—Gergen emphasized the developer's commitment to accommodating neighborhood preferences, particularly regarding the



preservation of open space. However, he noted that no further input had been received since the meeting and acknowledged the challenge in achieving neighborhood consensus. He concluded by underscoring the Planning Commission's goal to promote efficient infill development in areas served by existing public infrastructure and invited questions, especially on the topic of the cart path.

Joy asked about the cart path discussion, specifically whether the cart paths are currently in place or if their locations have changed based on the site visit.

Sultus came forward and clarified that the existing cart path is composed of crushed rock, not asphalt.

Joy requested that when reviewing the drainage plans, consideration also be given to potential adjustments to the cart paths in the areas where the new lots will be located. She emphasized that it would be beneficial if the drainage and cart path changes could be coordinated. Sultus agreed to consider the adjustments as part of the review process.

Joy commented that the proposed configuration for the new lots would help address some of the earlier questions. She noted that, in her view, the only potential cross-traffic concerns would be at that location, although other commissioners may hold different opinions. Joy observed that the current plan maintains the same crossing point along the road and clarified that while two lots on the street would remain unchanged, the others would be shifted outward to accommodate four new lots.

Gergen responded to Joy, confirming that the proposed change primarily adjusts the placement of the lots. He explained that the two lots along the street would remain as they are, while the other lots would be shifted outward to create space for four additional lots.

Joy expressed her gratitude.

Chair Ryman Yost asked if there were any additional questions for the applicant and confirmed that the applicant agreed to a short delay.

Chair Ryman Yost and the applicant discussed the possibility of a short delay. Gergen indicated that a four-week delay would be acceptable. Staff had expressed concerns that a two-week delay might not provide sufficient time. The discussion also included checking for any potential scheduling conflicts due to staff vacations during the proposed delay period.

Rodenburg asked if another meeting could be held with the affected homeowner associations during those four weeks. He encouraged the applicant to use that time to gather a consensus from the neighborhoods on their preferences, such as whether they would rather see a pitch-and-putt feature or additional trees. He asked if the applicant would be willing to host such a meeting.

Gergen responded that if the homeowner associations are organized, they can simply send their input directly, and the development team can proceed from there.

Sultus said they can offer space in the clubhouse for them to meet, acknowledging that the group might prefer to meet without their presence, which might be better.

Chair Ryman Yost thanked them for reviewing the comprehensive plan and trying to find ways to help implement it.

Henrichsen clarified that the item is being deferred for four weeks. He stated that the public hearing will remain open during this time to allow for the submission of new information, particularly any updates resulting from the grading plan.

**SPECIAL PERMIT 1423M**

**ACTION BY PLANNING COMMISSION:**

**June 11, 2025**

Campbell moved to defer the public hearing and keep it open for 4 weeks; seconded by Joy. Motion carried 6-0: Campbell, Ebert, Joy, Rodenburg and Ryman Yost, voting “yes”. Ball, Eddins and Feit absent

Campbell explained the rationale for the motion. He expressed concern about existing water issues in the area and noted the potential for the upcoming water study to address both current and future drainage problems. Referring to elevation data presented by staff, he pointed out a significant grade difference—approximately 10 feet—between higher elevations to the south (around 74 feet) and lower elevations to the north (around 62–64 feet). He suggested exploring creative grading solutions to redirect water southward, away from existing homes to the north. Campbell also recommended considering grading adjustments to the swale in order to protect the patios of existing homes from runoff. Additionally, he proposed that the developer consider using asphalt for the planned paths rather than gravel, to reduce erosion risk from water flowing across the area.

Finally, Campbell encouraged the residential associations to collaborate; either directly or through the Planning Department and the developer—to review forthcoming information and collectively propose improvements that could benefit all stakeholders.

**CHANGE OF ZONE 24020, FROM AG (AGRICULTURAL DISTRICT) TO H-3 (HIGHWAY COMMERCIAL) ON PROPERTY GENERALLY LOCATED AT 91ST STREET AND NEBRASKA PARKWAY.**

**PUBLIC HEARING:**

**June 11, 2025**

Members present: Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost. Ball, Eddins and Feit absent.

**Staff Recommendation:** Denial

**There were no ex parte communications disclosed.**

**There were no ex parte communications disclosed relating to site visits.**

### **Staff Presentation:**

**Steve Henrichsen, Planning Department, 555 S. 10<sup>th</sup> Street, Lincoln, NE**, came forward and stated that he was filling in for Steve Dush, who was ill. Henrichsen explained that the application involved a proposed rezoning from AG (Agricultural) to H3 (Highway Commercial) and provided extensive historical and contextual background regarding the property, which is located south of Nebraska Parkway and east of 91st Street. He stated that the Planning Department is recommending denial of the application, primarily because the City's Comprehensive Plan emphasizes that urban development—including commercial, residential, and industrial—should occur within city limits to support municipal tax bases and equitable infrastructure contributions.

Henrichsen highlighted that while the applicant has made considerable efforts to bring the property into the city, including working with the Planning Department and the Cheney Sanitary Improvement District (SID) to be released for annexation, those efforts have not yet been successful. The Cheney SID board voted 3-1 not to release the property, despite a proposed compensation amount. He outlined the complications involved with annexation, including the lack of a structured release mechanism from the SID (unlike agreements with the Rural Water District), and emphasized the SID's concern over loss of tax base and its continued viability.

Henrichsen described the surrounding zoning and land uses, which include B5 commercial centers to the north and H3/I1 zoning to the south and acknowledged that while the property is not designated for commercial use in the Comprehensive Plan, the surrounding context suggests it is unlikely to develop as residential in the long term. He also detailed related developments, prior change of zone approvals outside the city limits, infrastructure considerations, and the status of a proposed street and alley vacation related to the site. Despite acknowledging the property's potential future suitability for commercial use, he reaffirmed staff's recommendation for denial unless annexation is achieved. He concluded by offering to answer questions from the Commission.

### **Staff Questions:**

Ebert asked for clarification regarding whether the property at 8230 had been released by the Cheney Sanitary Improvement District (SID).

Henrichsen responded that the property at 8230 has not been released by the Cheney SID and remains outside of the city limits. He explained that although the City Council approved a change of zone to H3 for that property, it has not yet been developed. He noted that several inquiries have been made by potential users who prefer access to city services—particularly city water—because the rural water district does not support uses that require sprinkler systems, such as hotels. For certain lower-water-use operations, like contractor yards, the property could be utilized without city services. Henrichsen clarified that the only nearby property that has been released by the SID is located on the north side of Nebraska Parkway, west of 98th Street.

Rodenburg stated that, reading between the lines, if the Cheney SID were to release the property, the City could annex it, and Mr. Rentschler could proceed with the application with the Planning Department's approval.

Henrichsen stated that the Planning Department would recommend approval at that point, because the property would have been released by the Cheney SID and could then be annexed by the City.

Campbell asked whether the north side of Nebraska Parkway is annexed into the city up to 91st Street or just to 98th Street.

Henrichsen explained that the north side of Nebraska Parkway is annexed to 98th Street. This includes all the residential lots west of 98th Street as well as a small area zoned H3, which was the only part released from the Cheney SID. The rest of the Rentschler's property was never part of the Cheney SID. He noted that the Rentschler's property appears as two assessor parcels—one parcel is inside the Cheney SID and the other is outside. Therefore, part of their property could be annexed and rezoned now, but not the entire property.

Campbell replied, asking if the piece to the southeast—the stub with the roundabout—was also included.

Henrichsen explained that the property to the east is divided between areas inside and outside the Cheney SID. Part of the property is within the Cheney SID, while another portion, specifically the city of Lincoln's remnant land is outside the SID. He noted that the city-owned property within the SID is just a corner of the larger SID.

Campbell asked about the area near 91st Street, referring to the property where the Rentschler's have attempted to vacate the roundabout.

Henrichsen stated the roundabout was vacated partly within the SID and partly outside the initial boundaries of the SID. Campbell stated, reiterating Commissioner Rodenburg's earlier question, that the issue essentially comes down to whether the Cheney SID will release the properties in question.

Henrichsen confirmed that the key issue is indeed whether the Cheney SID will release the properties. He noted that during the Cheney SID board meeting, multiple property owners within the SID spoke in opposition to commercial development, with some present at the current hearing. These residents recommended that the SID board members not release the property, citing concerns that doing so would lead to a rezoning for commercial use. Henrichsen added that there were also legitimate concerns regarding the financial impact on the Cheney SID. While the broader question of whether the entire SID could be annexed into the City of Lincoln is not currently before the commission, it was discussed. He concluded by saying that concerns about future commercial zoning likely influenced the SID board's decision.

Joy asked how many of the actual properties in the Cheney SID could be served by the City of Lincoln from a water and gravity sewer standpoint.

Henrichsen responded that they believe at least a dozen properties, primarily north of 91<sup>st</sup> Street, could be served by gravity sewer. Brian Kramer from LTU Wastewater conducted a preliminary review and indicated that acreages on the west side and the northern end of Cheney could likely be served in this way. Henrichsen noted these are also the properties most suitable for potential redevelopment or commercial use. He added that if the street to the south, on land owned by Chance Hanshaw, is extended, it could provide alternative access for future commercial development east of the site, allowing traffic to avoid 91<sup>st</sup> Street and instead connect to Yankee Hill Road.

Chair Ryman Yost asked if there were any additional questions at that point in the discussion.

Henrichsen thanked the commission and transitioned to displaying the hearing exhibits submitted by the applicant, noting that the materials had been provided earlier in the day as a PDF. ( See Exhibit 3)

Joy asked whether, if all conditions aligned, it would make sense to proceed with only half of the property or treat the separate parcels individually.

Henrichsen stated that whether to proceed with half or all the property is a question for the applicant. He noted it could be challenging to develop only part commercially, as the building could be located on the north end inside city limits with water and sewer service, while the parking lot would be outside city limits to the south. This arrangement would not be preferred by Lincoln Fire and Rescue or Lincoln Police due to the split jurisdiction. Therefore, there are some downsides to developing only part of the property.

**Applicant:**

Ann Post, representing Bill and Kathleen Rentschler, supported the zoning change request, explaining that the Rentschlers have owned the property for over 30 years and are now facing life changes that make maintaining their large residential acreage difficult. They are seeking a viable alternative use for the land. The surrounding area is largely commercial and industrial, including several properties outside city limits, and the transportation infrastructure—arterial roads, bus routes, and bike trails—is already in place, making the property well-suited for commercial development.

Post acknowledged the city's typical policy that annexation should precede urban zoning, but argued that this situation is an exception due to several factors. Utilities such as water and sewer cannot currently be provided outside city limits; however, there is capacity in the Cheney SID sewer system, and water service would come with future annexation. The existing infrastructure is adequate to serve commercial uses. She also addressed concerns about avoiding city taxes and fees, emphasizing that the Rentschlers have actively pursued annexation, including requesting detachment from the Cheney SID and proposing a detachment fee equal to ten years of SID assessments to help cover costs. Despite these efforts, the Cheney SID board denied detachment twice, mainly due to concerns about system capacity and spreading costs among users.

Post described the extensive cooperation with city and county entities, including efforts to accommodate a bike path, though those negotiations were unsuccessful. She noted that the neighborhood is evolving toward commercial uses, and this zoning request reflects that change. Additionally, she clarified that other properties detached from the Cheney SID had different legal rights to demand detachment, which do not apply in this case. In conclusion, Anne argued that, despite the city's general policy, this property is ideally suited for commercial zoning outside city limits given the unique circumstances, surrounding commercial uses, and existing infrastructure, and she asked for the commission's support.

Rodenburg asked if any specific numbers were discussed regarding the buyout from the SID, noting that one of the board members was uncertain and thought the buyout might be higher. He also inquired whether the buyout amount was still open for negotiation.

Post stated that the applicant had proposed a financial contribution related to detachment, estimating an amount around \$33,600 based on ten years of fees, which was reflected in the materials provided. She noted that during a prior meeting, a fee of \$10,000 per acre was suggested by others, a figure that significantly exceeded the applicant's proposal and lacked a clear basis aside from the general idea of covering the cost of detachment. Post explained that, while the applicant remained open to further discussion, it did not appear that consensus could be reached at that time. She added that, following that meeting, she had spoken with the SID president, and conversations had continued regarding the possibility of establishing a formal detachment policy. If such a policy is eventually adopted, the applicant would return to the SID to revisit the issue. However, given that the applicant had been engaged in this process since August 2022—including attending three SID meetings, holding multiple conversations, and offering proposals—they felt it was appropriate to move forward at this time.

Rodenburg asked when the next quarterly SID meeting would be held.

Post responded that the last quarterly SID meeting was held in April.

Ebert asked how the proposed zone change would help, specifically without resulting in annexation or release from the SID.

Post explained that the change of zone would help because it would allow commercial use on the property. Currently, the property is zoned agricultural, limiting use primarily to farming or maintaining it as a single-family acreage. While they do not expect the current owners to develop it commercially, they anticipate it may be sold to someone who will. Post noted that most buyers looking for acreage typically do not want a property surrounded by arterial streets on three sides.

Joy asked Post if she or the owner wants to approve part of the property.

Post responded that it is an intriguing question but noted several challenges. First, emergency services, including the Fire Department, would have concerns. They would need to determine if parking is an allowed primary use in the zoning district. Additionally, access from the part of the property within city limits is an issue. There is also a proposed bike path that would run

through the north side of the property, which could be annexed. Building in that area would block the future bike path, making development difficult. Post mentioned that there have been extensive discussions about making the bike path possible, and constructing there would foreclose those opportunities.

Joy thanked Post. Chair Ryman Yost then asked if there were any more questions. Hearing none, they moved on with the hearing.

**Proponents:**

**Chance Hanshaw, 8230 South 91st Street, Lincoln, NE**, spoke in support of the H3 zoning. He noted that the area south of the Wrenchers has long been expected to become commercial. Born and raised in Cheney since 1976, he shared that it has always been anticipated that the area would develop commercially. He intends to develop his currently vacant property and expects water service by the end of the year. Hanshaw stated that maintaining the property as residential does not make sense. He invited any questions, but none were posed.

**Neutral:**

No one approached in a neutral capacity.

**Opposition:**

**Linda Spanel, 8440 South 91st Street, Lincoln, NE**, came forward and stated she is a longtime Cheney resident, spoke in opposition to the proposed zoning change. She explained that she owns an I-1-zoned property at 8400 South 91st Street, purchased in 1992, originally with permission for a machine shop. However, when constructing the shop, rezoning was required to I1 to obtain a permit. Her shop has operated as a one-man business for 35 years.

Spanel addressed the proposed H3 zoning on the storage shed property, noting that it came with stipulations limiting use to storage sheds only, not commercial businesses like quick shops. She stressed that the adjacent property owner's request for H3 zoning was unexpected and opposed by their community.

Spanel noted her extensive experience serving on the SID board, explaining that the SID was once taken over by the NDE due to lagoon overflow issues. She stated the community supports Rentschlers but opposes development of the property, wanting to preserve community integrity and avoid piecemeal annexation.

Spanel expressed concern about the impact of commercial development on surrounding homes and referenced previous fights against large developments like Menards. Linda highlighted water access issues, mentioning a nearby property owner's struggles to obtain water for a proposed 55+ housing development.

During the discussion, Henrichsen confirmed that the property owner could proceed with certain commercial uses if water service is extended and zoning conditions are met, including street extension. However, traffic concerns remain, including restricted left turns and increased U-turns due to nearby developments.

Spanel concluded by urging denial of the zoning request to protect the community.

**Lonnie Alonzo Athey, 9410 Yankee Hill Road, Lincoln, NE** came forward and spoke in opposition to the zoning change. At 78 years old, he noted his long-term ties to the area and his experience rebuilding after a fire destroyed his property. He explained that although he sought to rebuild, he faced significant challenges and legal costs, including obtaining a special use permit to restore his shop. Despite these hurdles, he continues agricultural use under that permit.

Athey acknowledged that the zoning change could benefit the property owner financially, estimating that commercial zoning could increase the property's value 10 to 15 times. However, he expressed frustration with what he perceives as unfair advantages, emphasizing that the community should not allow “buying your way into” zoning changes.

Athey stated his strong commitment to Cheney and his desire to see the area remain consistent with its current character. He intends to oppose the zoning change actively, recognizing that although it might benefit the owner financially, it may harm the community and surrounding residents.

**Spencer Arden- 9430 S 2<sup>nd</sup> Street, Cheney, NE** spoke in opposition to the proposed zoning change from residential/agricultural to commercial. He highlighted that 2nd Street is a gravel road used heavily by pedestrians, cyclists, and dog walkers, making increased traffic a concern for community safety and quality of life.

Arden described the area's road system as congested, comparing it to a “clogged artery,” especially near the intersection of 91st and Yankee Hill. He noted that the median at 91st and Yankee Hill limits left turns, causing backups at a narrow access point to Bregan Hill. He expressed concern that commercial development would worsen congestion at this key intersection.

He also pointed out that even if roads were expanded, the area would likely become more congested and less pedestrian-friendly. This is especially important because proposed bike trails and pedestrian pathways—used by children commuting to middle school and the local YMCA—would be impacted.

Arden noted that while an underpass beneath Highway 2 would improve safety for these routes, it is not located on the property proposed for rezoning. He suggested that commercial zoning could complicate efforts to develop such pedestrian infrastructure.

Further, Arden raised concerns about the unknown future uses of the property if rezoned. Smaller commercial uses, like an auto body shop or storage, might be manageable with current water and sewer services, but larger developments (e.g., hotels, gas stations, or truck stops) would demand more resources. Connecting to Lincoln's water and sewer system would require significant infrastructure work and construction.



Arden also referred to city guidelines discouraging four-corner commercial developments and pointed out that three of the four corners at this location are already commercial. The property's current access is limited to a cul-de-sac, and commercial development might require rezoning adjacent properties or annexation, complicating city planning.

In conclusion, Arden argued that while rezoning might benefit the individual property owner financially, it is unlikely to benefit the City of Lincoln or the Cheney community and could worsen traffic congestion and infrastructure strain.

**Adam Guillon, 8633 Lincoln Street, Lincoln, NE** - shared his perspective and opposition to the proposed zoning change. He described his connection to Cheney through his wife's family and emphasized his commitment to the community. Guillon recounted his own lengthy experience navigating the complex and frustrating process of building and rezoning within Cheney, including vacating an alleyway and replanning his property to expand his home for his family. He noted that despite being outside city limits but within the three-mile inclusion zone, Cheney's building and zoning regulations feel restrictive and challenging. Guillon also spoke about purchasing and reselling a former church nearby, which was converted into a home as part of his effort to improve the community.

Guillon disputed arguments that the property cannot be sold as residential or that neighbors would not want to live next to commercial property. He cited the example of a hundred townhomes located behind Tractor Supply, whose roofs have all been serviced by his roofing company, to show residential and commercial uses coexisting successfully.

Regarding the proposed disconnect fees, Guillon clarified that these fees were suggested by a developer to help offset likely annexation impacts, such as impact fees and hookup fees that would affect neighboring residents if the property were annexed and connected to city utilities.

Guillon stated he holds 50 signed petitions from SID board members opposing the zoning change, emphasizing the community's desire to preserve its character (See Exhibit 4). Guillon pointed out that Tractor Supply has been in the area for 15 years without issue, and many homes have been built around it, so its presence is not the problem some suggest.

In closing, Guillon asked the council to consider the community's concerns about preserving their neighborhoods and expressed his hope that the proposal would be denied.

### **Staff Questions:**

Campbell asked Henrichsen what area of city government would be responsible for looking at annexing all of Cheney and taking over the SID.

Henrichsen stated that multiple areas of city government would be involved. One component would be determining how the city could take over the Cheney SID district, including how to handle the lagoon system, which is located on the east side of 98th Street. That would likely require building a pump station and additional infrastructure to move wastewater, as well as

evaluating the condition of the existing sewer pipes and whether repairs are needed. He said the entire Cheney area is within a rural water district, and a release fee would be required for the city to take over water service. If the city is the applicant, it would be responsible for paying the release fee, which is currently around \$7,000 per customer, adding up to over \$700,000. However, there is a clause in the agreement that reduces the fee by 10% for each year customers remain with the rural water district.

Henrichsen added that the rural water infrastructure is not usable by the city. While Lincoln could take over the Cheney sewer pipes, it could not use the rural water system. As a result, Lincoln Fire and Rescue would be serving the area without hydrants. The city is in the process of acquiring two pumper trucks for situations like this.

In addition to working with police and fire, he said the two main issues to resolve would be coordination with the rural water district and determining how Lincoln Fire and Rescue would provide service. The larger issue would be identifying who would pay the cost—potentially up to a million dollars—for the infrastructure to pump wastewater into the city sewer system. With a small number of users, those costs could be significant per customer.

Campbell stated that right now, Lincoln extends south of Cheney, including areas like the YMCA and nearby housing developments. On the north side, the city has already grown past Cheney. He noted that annexation is inevitable at some point and said he was trying to understand how that would happen.

Henrichsen responded that several decades ago, the city had looked at what could be done in this area, and it split into three different drainage districts. The Comprehensive Plan did not designate Cheney for annexation because it was not viewed as an area that could be feasibly annexed and served. He explained that the area north of 91st Street could potentially be served from the north, but most of the area to the south falls into the Stevens Creek drainage basin, which would require the Stevens Creek gravity sanitary sewer—something that is likely decades away. The existing sewage lagoon that serves the SID is located on the southern portion of the area. Henrichsen noted that while the City is not opposed to future discussions with the Cheney SID, the issues involved are complex and beyond the scope of what the applicants could address themselves.

Chair Ryman Yost asked if there were any additional questions for the staff. There were none.

#### **Applicant Rebuttal:**

Post came forward with a rebuttal and stated that the infrastructure and surrounding uses make this property ideal for commercial zoning. She reiterated that the applicants would fully support annexation into the city at the same time; however, given the high costs—potentially in the millions—they do not believe annexation will occur soon. For that reason, they have chosen to move forward with the zoning change request currently. She added that “near future” is a relative term, and expressed skepticism that annexation will happen while she is still practicing law. She concluded by thanking the Commission for their consideration and offered to answer any additional questions.

## **CHANGE OF ZONE 24020**

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

**June 11, 2025**

Campbell moved to close the public hearing, seconded Joy. Motion carried 6-0: Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost voting "yes"; Ball, Eddins and Feit absent.

Campbell moved to deny Change of Zone 24020; seconded by Joy. Following further discussion, the motion to deny was withdrawn.

Campbell then moved to approve Change of Zone 24020; seconded by Joy

Campbell stated that this is a very complex issue, whether it's related to the City of Lincoln or Cheney. He noted that as Lincoln continues to grow in that direction, the area will eventually become like College View, Havelock, or Bethany. He pointed out the existing mishmash of zoning and uses already occurring in the area and expressed uncertainty about a clear path forward. He added that a solution may only come if the roundabout is removed and the Rentschlers can purchase that property, allowing for a larger commercial development. However, without annexation into the City of Lincoln, the property cannot access city water and sewer services, and at this point, the city's growth has not yet reached that far.

Rodenburg commented that there's no doubt this will eventually become a prime commercial location. However, he believes that, at present, the logistics—particularly involving the SID—make it unfeasible. He expressed hope that the Rentschlers can work through these challenges and eventually realize the value of the property as industrial, but Campbell corrected him, clarifying that it is highway commercial, not industrial.

Ebert asked if this was a difficult one and confirmed that this was not final action but rather a recommendation.

Henrichsen came forward and stated that this is a change of zone and will need to go to the City Council.

Ebert stated that she will likely be voting not in support of Campbell's motion recommending approval. She said it feels like this property is being held hostage in a lot of ways, and something needs to give for them to move forward. Ebert does not see any future where this is anything other than commercial, so for that reason, she would be voting against Campbell's motion.

Chair Ryman Yost said that they probably need to continue the discussion because they need five people voting one way or the other to move it forward to the City Council. At this point, she is also not going to vote in support of Campbell's motion because she feels like something needs to happen; otherwise, the issue will just continue to sit there.

Joy stated that the challenge is that although she seconded the motion, she wanted to keep things moving and continue the discussion. She feels that in most cases, especially north of 91st Street, businesses focus on their needs, and the area includes business, over-55 housing,

residential single-family housing, bike trails, and many positive developments around Cheney. She appreciates the SID board's needs and support but aligns with some fellow commissioners in viewing this as highway commercial property. The areas north of 91st Street seem focused on business, highway commercial, and church uses. Therefore, she is also a no on the motion, despite seconding it to keep the process moving.

Chair Ryman Yost stated that you must have something on the floor to talk about it.

Cruz stated that it feels bizarre to have this island, right, and that's essentially what it is — an island surrounded by other commercial properties. She appreciates that people want sovereignty over their own space. On the other hand, it seems like this has been a stalemate for so long, and it just needs to break. By changing the zoning for this one property, it may open other possibilities. It doesn't mean you automatically have to zone it full commercial or highway commercial but breaking the stalemate can allow proposing other options beyond what exists now, which seems too black and white—either one or the other—rather than considering some options in between.

Campbell stated that he agrees with the frustration about the body being involved but unable to move forward with anything, as Cruz said. He added that, as Joy asked, they could use the north half of that piece of property and put a parking lot on the south half because they could get city water that way.

Chair Ryman Yost said that there are commercial uses that wouldn't require them to get city water at this point. Rodenburg said to put it in the front of the lot, right of the two lots, but that could block the underpass of the trail.

Chair Ryman Yost said that she thinks this is a worthwhile conversation to have with the City Council, which is why she will vote against the motion. She believes this is something the commission should recommend for further exploration. Ryman Yost also feels it is an opportunity to move forward and allow the property owners to pursue options for their property that would not be inconsistent with what others in the same neighborhood have also done.

Joy said that it appears there have been zoning modifications north of 91st Street that have been more commercially based decisions, even though those areas are still within the SID.

Ebert added that, to Campbell's point, many factors would need to come together to make this a successful commercial area, but she trusts the applicant has evaluated those and found that this change of zone is helpful in that regard. Ebert stated that it's not the commission's place to decide what exact commercial use would be approved.

Rodenburg stated that five votes are needed to move this forward to the City Council. He expressed hope that both the opponents and the applicant can make progress and work out the issues. Rodenburg acknowledged the situation as a conundrum but said he is willing to change his vote just to get it to the next step.

Motion for approval of Change of Zone 24020 carried 5-1: Campbell, Cruz, Ebert, Joy, and Ryman Yost voting "yes"; Rodenburg dissenting. Ball, Eddins and Feit absent.

Campbell moved to adjourn the Planning Commission meeting of June 11, 2025, seconded Joy.

Motion carried 6-0: Campbell, Cruz, Ebert, Joy, Rodenburg and Ryman Yost voted "yes"; Ball, Eddins and Feit absent.

There being no further business, the meeting was adjourned at 5:28 pm.