

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, SEPTEMBER 26, 2005 AT 5:30 P.M.**

The Meeting was called to order at 5:30 p.m. Present: Council Chair Svoboda; Council Members: Camp, Cook, Eschliman, Marvin, McRoy, Newman; Deputy City Clerk, Teresa J. Meier.

Council Chair Svoboda asked all present to stand and recite the Pledge of Allegiance and observe a moment of silent meditation.

**READING OF THE MINUTES**

ESCHLIMAN Having been appointed to read the minutes of the City Council proceedings of September 19, 2005, reported having done so, found same correct.

Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

Chairman Svoboda announced that the evening meeting during the month of October will be on Monday, October 24, 2005 at 5:30 p.m. due to Halloween being on Monday, October 31, 2005 which will be a 1:30 p.m. meeting. The open microphone session for October will be the 10<sup>th</sup> and 24<sup>th</sup>.

**PUBLIC HEARING**

APPLICATION OF MCMORE, INC. DBA SPORTSCASTERS BAR & GRILL TO EXPAND ITS LICENSED PREMISE BY THE ADDITION OF AN IRREGULAR SHAPED OUTSIDE AREA MEASURING APPROX. 43 FT. BY 22 FT. TO THE NORTHWEST AT 3048 N. 70TH ST. - Dave Moreland, 1639 Sunset Rd., took the oath and came forward to answer questions.

Doug McLeese, 2600 Jane Lane, took the oath and came forward to answer questions.

This matter was taken under advisement.

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF LINCOLN WATER DEPARTMENT, LOWER PLATTE RIVER CORRIDOR ALLIANCE, NEBRASKA LAND TRUST, U. S. GEOLOGICAL SURVEY, U.S. FISH & WILDLIFE SERVICE, UNIVERSITY OF NEBRASKA, CENTER FOR ADVANCED LAND MANAGEMENT INFORMATION TECHNOLOGIES, METROPOLITAN UTILITIES DIST., LOWER PLATTE SOUTH NATURAL RESOURCE DIST., LOWER PLATTE NORTH NATURAL RESOURCE DIST., NEBRASKA GAME & PARKS COMMISSION, NEBRASKA DEPT. OF ROADS, PAPIO-MISSOURI RIVER NATURAL RESOURCES DIST. & NEBRASKA DEPT. OF NATURAL RESOURCES FOR DATA ACQUISITION & INFORMATION SYSTEM DEVELOPMENT FOR THE LOWER PLATTE RIVER CUMULATIVE IMPACT STUDY - PHASE 2 - Patte Newman, Council Member, asked Staff why there was nothing mentioned about watershed management or the Ashland Well Fields.

Nicole Fleck-Tooze, Public Works Dept., stated this was to provide information that's going to help with the water supply in the future. Discussion followed.

This matter was taken under advisement.

APPROVING COYOTE WILLYS AT 2137 CORNHUSKER HWY. AS A KENO SATELLITE SITE - John Hewitt, 955 West O St., came forward to answer questions.

This matter was taken under advisement.

MISC. 05015 - DECLARING THE WEST O STREET REDEVELOPMENT AREA AS BLIGHTED & SUBSTANDARD GENERALLY BOUNDED BY 10TH ST. ON THE EAST, ½ MILE WEST OF N.W. 70TH ST. ON THE WEST, AND EITHER SIDE OF W. O ST., LOCATED SOUTH OF INTERSTATE 80 & NORTH OF THE BURLINGTON RAILROAD ON THE SOUTH. (IN CONNECTION W/ 05R-224);

CPC 05008 - ADOPTING THE WEST O STREET REDEVELOPMENT PLAN ON PROPERTY GENERALLY BOUNDED BY 10TH ST. ON THE EAST, ½ MILE WEST OF N.W. 70TH ST. ON THE WEST, AND EITHER SIDE OF W. O ST., LOCATED SOUTH OF INTERSTATE 80 & NORTH OF THE BURLINGTON RAILROAD ON THE SOUTH. (IN CONNECTION W/ 05R-223)- Wynn Hjermstad, Urban Development, came forward to present the West O Street Redevelopment plan. Discussion followed.

Don Wesely, no address given, came forward representing Lincoln Poultry and Nebraska Machinery in support. Discussion followed.

Danny Walker, 427 "E" Street, came forward in opposition.

Mike Morosin, 2055 "S" Street, asked if there was a safeguard on TIFFF funds to assure businesses will stay at location TIFFF money was used for.

Carl Sjulín, 1204 West O Street, came forward in support. Discussion followed.

This matter was taken under advisement.

SPECIAL PERMIT 1629F - APPLICATION OF DUTEAU INVESTMENT CO. TO ADJUST THE SIDE YARD SETBACK FROM 50 FT. TO 25 FT. TO ALLOW DISPLAY VEHICLE PARKING, ON PROPERTY GENERALLY LOCATED AT S. 27TH ST. & PORTER RIDGE RD. - Brian Carstens, 601 Old Cheney Road., Suite C, came forward representing Duteau Investment Co. to ask for approval and answer any questions. Discussion followed.

This matter was taken under advisement.

COMP. PLAN AMENDMENT 05015 - APPROVING THE DOWNTOWN MASTER PLAN AS A RECOGNIZED SUBAREA PLAN IN THE 2025 LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN IN THE AREA GENERALLY FROM 6TH ST. ON THE WEST TO 17TH ST. ON THE EAST, AND FROM H ST. ON THE SOUTH TO R ST. ON THE NORTH, INCLUDING THE HAYMARKET DIST. & ANTELOPE VALLEY - Kent Morgan, Ass't. Director of Planning Dept., came forward to present the Downtown Master Plan and to answer questions. Discussion followed.

Ms. Newman asked we do not need to make a specific recommendation or amendment saying we want those bike lanes to be put in within one year of the adoption of this Master Plan?

Mr. Morgan stated it would be staff's interpretation that what is included here is representative of what the Comp Plan calls for. That is our opinion at least our interpretation.

Cecil Steward, 125 N. 11<sup>th</sup> Street, resident of Downtown came forward in support.

John Weinberg, 6601 Everett, came forward in support. Discussion followed.

T.J. Casady, 7910 S. 21<sup>st</sup> Street, came forward representing the Updowntowners in support. Discussion followed.

Nader Sepahpur, downtown business owner, came forward in support.

Jane Stricker, 1219 P Street, owner of Birkenstock Footloose & Fancy, came forward in support.

Danny Walker, 427 "E" Street, came forward to ask questions and to make a complaint.

Dallas McGee, Urban Development, came forward to answer questions. Discussion followed.

This matter was taken under advisement.

TOOK BREAK 7:00 P.M.

RECONVENED 7:12 P.M.

**\*\* END OF PUBLIC HEARING \*\***

## COUNCIL ACTION

### LIQUOR RESOLUTIONS

APPLICATION OF ALLEY, INC. DBA THE ALLEY FOR A LIQUOR CATERING LICENSE FOR THEIR PRESENTLY LICENSED PREMISE AT 1031 M ST. - PRIOR TO READING:  
CAMP Moved to delay Public Hearing and action for one week to 10/03/05.  
Seconded by Eschliman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

APPLICATION OF MCMORE, INC. DBA SPORTSCASTERS BAR & GRILL TO EXPAND ITS LICENSED PREMISE BY THE ADDITION OF AN IRREGULAR SHAPED OUTSIDE AREA MEASURING APPROX. 43 FT. BY 22 FT. TO THE NORTHWEST AT 3048 N. 70TH ST. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83546 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the

application of McMore, Inc. dba Sportscasters Bar & Grill to expand its licensed premises by the addition of an area measuring approximately 43 feet by 22 feet to the northwest of the presently licensed premises located at 3048 N. 70th Street, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all City and State regulations.

BE IT FURTHER RESOLVED that the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

**ORDINANCES - 2<sup>ND</sup> READING & RESOLUTIONS - NONE**

**RESOLUTIONS**

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF LINCOLN WATER DEPARTMENT, LOWER PLATTE RIVER CORRIDOR ALLIANCE, NEBRASKA LAND TRUST, U. S. GEOLOGICAL SURVEY, U.S. FISH & WILDLIFE SERVICE, UNIVERSITY OF NEBRASKA, CENTER FOR ADVANCED LAND MANAGEMENT INFORMATION TECHNOLOGIES, METROPOLITAN UTILITIES DIST., LOWER PLATTE SOUTH NATURAL RESOURCE DIST., LOWER PLATTE NORTH NATURAL RESOURCE DIST., NEBRASKA GAME & PARKS COMMISSION, NEBRASKA DEPT. OF ROADS, PAPIO-MISSOURI RIVER NATURAL RESOURCES DIST. & NEBRASKA DEPT. OF NATURAL RESOURCES FOR DATA ACQUISITION & INFORMATION SYSTEM DEVELOPMENT FOR THE LOWER PLATTE RIVER CUMULATIVE IMPACT STUDY - PHASE 2 - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83547 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Interlocal Agreement for Data Acquisition and Information System Development for the Lower Platte River Cumulative Impact Study - Phase 2 for the Lower Platte River Corridor between the City of Lincoln Water Department, Lower Platte River Corridor Alliance, Nebraska Land Trust, U. S. Geological Survey, U.S. Fish & Wildlife Service, University of Nebraska, Center for Advanced Land Management Information Technologies, Metropolitan Utilities District, Lower Platte South Natural Resource District, Lower Platte North Natural Resource District, Nebraska Game & Parks Commission, Nebraska Department of Roads, Papio-Missouri River Natural Resources District and Nebraska Department of Natural Resources, to cooperatively undertake a study of the cumulative effects of changes to the Lower Platte River, is hereby approved and the Mayor is authorized to execute said Agreement on behalf of the City. The multi year Agreement is intended to assess long-term ecosystem changes, determine the risk and impacts associated with individual large-scale infrastructure and development projects, as well as the combined effect of the many activities in the Lower Platte River Corridor. The cost of the entire project is budgeted at \$335,000 of which the City of Lincoln would be responsible for a \$15,000 contribution. Funds are available in Account #506010.

The City Clerk is hereby directed to transmit a certified copy of the executed original Interlocal Agreement to Jerry Obrist, Lincoln Water System for distribution. Jerry Obrist shall secure a final executed original with the signatures of all parties for filing with the City Clerk.

Introduced by Robin Eschliman

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Marvin, McRoy, Newman, Svoboda; NAYS: Eschliman.

APPROVING COYOTE WILLYS AT 2137 CORNHUSKER HWY. AS A KENO SATELLITE SITE - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83548 WHEREAS, the City of Lincoln and the County of Lancaster, Nebraska have entered into an Interlocal Agreement for the purposes of providing for joint City-County keno lottery; and

WHEREAS, the City has entered into a contract for the operation of keno type lottery with Lincoln's Big Red Keno, Ltd., a Nebraska limited partnership; and

WHEREAS, Section 5 of the Interlocal Agreement and Section 3(b) of the Keno contract grant the City the authority to approve all satellite locations within the corporate limits of Lincoln; and

WHEREAS, all requirements under the Interlocal Agreement and the Keno contract governing the establishment and location of keno satellite sites have been met.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that a keno satellite site is hereby authorized at the location of Coyote Willys, 2137 Cornhusker Highway, Lincoln, NE 68521.

The City Clerk is directed to return an executed copy of this Resolution to Legends, and a copy to Lincoln's Big Red Keno, Ltd.

Introduced by Robin Eschliman

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Marvin, McRoy, Newman, Svoboda; NAYS: Eschliman.

MISC. 05015 - DECLARING THE WEST O STREET REDEVELOPMENT AREA AS BLIGHTED & SUBSTANDARD GENERALLY BOUNDED BY 10TH ST. ON THE EAST, ½ MILE WEST OF N.W. 70TH ST. ON THE WEST, AND EITHER SIDE OF W. O ST., LOCATED SOUTH OF INTERSTATE 80 & NORTH OF THE BURLINGTON RAILROAD ON THE SOUTH. (IN CONNECTION W/ 05R-224) - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83549 WHEREAS, the City's Urban Development Department has prepared the West O Street Redevelopment Plan ("Redevelopment Plan") to cover an area generally bounded by 10th Street on the east, a ½ mile west of N.W. 70th Street on the west, and either side of West O Street, but located south of Interstate 80 north of the Burlington Railroad Yard on the south; and

WHEREAS, the City Council, after consideration of the West O Street Redevelopment Area, Lincoln, Nebraska, Blight and Substandard Determination Study, determined that the area was blighted and substandard and declared the area blighted and substandard on September 26, 2005; and

WHEREAS, the Director of Urban Development has filed with the City Clerk the Redevelopment Plan generally consisting of redevelopment efforts to construct a distribution warehouse and associated commercial/industrial development at N.W. 63rd and West O Street, N.W. 56th and West O Street, S.W. 32nd and West O Street, S.W. 59th and West O Streets, and the acquisition of substandard commercial/industrial and residential structures as part of redevelopment activities. Said plan is attached hereto and marked Attachment "A", and made a part hereof by reference. The Director of Urban Development has reviewed said plan and has found that the plan meets the conditions set forth in Neb. Rev. Stat. § 18-2113 (Reissue 1997); and

WHEREAS, on August 5, 2005 notice of public hearing was mailed, postage prepaid, to the president or chairperson of the governing body of each county, school district, community college, educational service unit, and natural resource district in which the real property subject to such plan is located and whose property tax receipts would be directly affected and to all registered neighborhood associations located in whole or in part within one mile radius of the area to be redeveloped setting forth the time, date, place, and purpose, of the public hearing to be held on August 17, 2005 before the Lincoln City - Lancaster County Planning Commission regarding the Redevelopment Plan, a copy of said notice and list of said registered neighborhood associations having been attached hereto as Attachment "B" and "C" respectively; and

WHEREAS, said proposed Redevelopment Plan has been submitted to the Lincoln-Lancaster County Planning Commission for review and recommendation, and said Planning Commission on August 17, 2005 found the plan to be in conformance with the Comprehensive Plan and recommended approval thereof; and

WHEREAS, on September 12, 2005 a notice of public hearing was mailed, postage prepaid, to the foregoing governing bodies and registered neighborhood associations setting forth the time, date, place, and purpose of the public hearing before the City Council to be held on September 26, 2005 regarding the proposed Redevelopment Plan, a copy of said notice having been attached hereto as Attachment "D"; and

WHEREAS, on September 9, 2005 and September 16, 2005 a notice of public hearing was published in the Lincoln Journal Star newspaper, setting forth the time, date, place, and purpose of the public hearing to be held on September 26, 2005 regarding the proposed Redevelopment Plan, a copy of such notice having been attached hereto and marked as Attachment "E"; and

WHEREAS, on September 26, 2005 in the City Council Chambers of the County City Building, 555 South 10th Street, Lincoln, Nebraska, the City Council held a public hearing relating to the proposed Redevelopment Plan and all interested parties were afforded at such public hearing a reasonable opportunity to express their views respecting said proposed plan; and

WHEREAS, the City Council has duly considered all statements made and materials submitted relating to said proposed Redevelopment Plan.

NOW, THEREFORE, IT IS FOUND AND DETERMINED by the City Council of the City of Lincoln, Nebraska as follows:

1. That the Redevelopment Plan is described in sufficient detail and is designed with the general purpose of accomplishing a coordinated, adjusted, and harmonious development of the City which will promote general health, safety, and welfare, sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the reoccurrence of unsanitary or unsafe dwelling accommodations or conditions of blight.

2. That the Redevelopment Plan is feasible and in conformity with the general plan for the development of the City of Lincoln as a whole and said plan is in conformity with the legislative declarations, and the determinations set forth in the Community Development Law.

3. That such substandard and blighted conditions are beyond remedy and control solely by regulatory process and the exercise of police power and cannot be dealt with effectively by the ordinary operations or private enterprise without the aids provided by the Community Development law, specifically including Tax Increment Financing. The elimination of said substandard and blighted conditions under the authority of the Community Development Law is found to be a public purpose and in the public interest.

4. That for projects utilizing funds authorized in Section 18-2147 of the Community Development Law, (a) the redevelopment activities provided for in the plan would not be economically feasible without the use of tax-increment financing, (b) the redevelopment activities would not occur in the community redevelopment area without the use of tax-increment financing, and (c) the costs and benefits of the redevelopment activities, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services have been analyzed by the governing body and have been found to be in the long-term best interest of the community impacted by the redevelopment activities all as more specifically set forth in the Plan as Redevelopment Activities and Estimated Expenditures.

BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That pursuant to the provisions of the Nebraska Community Development Law and in light of the foregoing findings and determinations, the Redevelopment Plan attached hereto as Attachment "A" is hereby accepted and approved by the City Council as the governing body for the City of Lincoln.

BE IT FURTHER RESOLVED that the Urban Development Director or his authorized representative is hereby authorized and directed to take all steps necessary to implement the provisions of said Redevelopment Plan.

Introduced by Robin Eschliman

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

CPC 05008 - ADOPTING THE WEST O STREET REDEVELOPMENT PLAN ON PROPERTY GENERALLY BOUNDED BY 10TH ST. ON THE EAST, ½ MILE WEST OF N.W. 70TH ST. ON THE WEST, AND EITHER SIDE OF W. O ST., LOCATED SOUTH OF INTERSTATE 80 & NORTH OF THE BURLINGTON RAILROAD ON THE SOUTH. (IN CONNECTION W/ 05R-223)- CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83550 WHEREAS, it is desirable and in the public interest that the City of Lincoln, Nebraska, a municipal corporation and a city of the primary class, undertake and carry out urban redevelopment projects in areas of the City which are determined to be substandard and blighted and in need of redevelopment; and

WHEREAS, Chapter 18, Article 21, Nebraska Reissue Revised Statutes of 1943, as amended, known as the Community Development Law, is the urban renewal and redevelopment law for the State of Nebraska and prescribes the requirements and procedures for the planning and implementation of urban redevelopment projects; and

WHEREAS, the City in accordance with its Home Rule Charter and the laws of the State of Nebraska applicable to cities of the primary class has duly prepared and approved a general plan for the development of the City known as its Comprehensive Plan, all as required by Section 18-2110, R.R.S. 1943; and

WHEREAS, this Council has received and duly considered evidence relating to the present condition of the West O Street Redevelopment

Area, as shown and described on Attachment "A"; and

WHEREAS, this Council has received and duly considered other evidence, including evidence relating to the scope and limitations of the nearby redevelopment plans in the area, and the inability of the other plans to effectively remedy the substandard and blighted conditions;

WHEREAS, Article 8, Section 12 of the Constitution of the State of Nebraska requires that said area must be found to be both substandard and blighted in order for tax increment financing to be used in said area; and

WHEREAS, Section 18-2109, R.R.S. 1943, as amended, requires that prior to the preparation by the City of an urban redevelopment plan for a redevelopment project for the West O Street Redevelopment Area, this Council as governing body of the City, by resolution, after review and recommendation from the Lincoln City Lancaster County Planning Commission, find and determine that said area is both a substandard and blighted area as defined in said Community Development Law, and in need of redevelopment; and

WHEREAS, on August 19, 2005 notice of public hearing was mailed, postage prepaid, to the president or chairperson of the governing body of each county, school district, community college, educational service unit, and natural resource district in which the real property subject to such plan is located and whose property tax receipts would be directly affected and to all registered neighborhood associations located in whole or in part within one mile radius of the area to be redeveloped setting forth the time, date, place, and purpose, of the public hearing to be held on August 31, 2005 before the Lincoln City - Lancaster County Planning Commission regarding the proposed determination that the West O Street Redevelopment Area be declared a blighted and substandard area as defined in the Nebraska Community Development Law, a copy of said notice and list of said registered neighborhood associations having been attached hereto as Attachment "B" and "C" respectively; and

WHEREAS, the Lincoln City-Lancaster County Planning Commission on August 31, 2005 recommended that the West O Street Redevelopment Area be found to be both a substandard and blighted area as defined in said Community Development Law and the evidence demonstrates that said West O Street Redevelopment Area as shown and described on Attachment "A" constitutes both a substandard and blighted area as defined in said Community Development Law, which area is in need of redevelopment.

WHEREAS, on September 12, 2005 a notice of public hearing was mailed, postage prepaid, to the foregoing governing bodies and registered neighborhood associations setting forth the time, date, place, and purpose of the public hearing before the City Council to be held on September 26, 2005 regarding the proposed determination that the 48th and O Streets Redevelopment Area be declared a blighted and substandard area as defined in the Nebraska Community Development Law, a copy of said notice having been attached hereto as Attachment "D"; and

WHEREAS, on September 9, 2005 and September 16, 2005 a notice of public hearing was published in the Lincoln Journal Star newspaper, setting forth the time, date, place, and purpose of the public hearing to be held on September 26, 2005 regarding the proposed determination that the West O Street Redevelopment Area be declared a blighted and substandard area as defined in the Nebraska Community Development Law, a copy of such notice having been attached hereto and marked as Attachment "E"; and

WHEREAS, on September 26, 2005 in the City Council Chambers of the County City Building, 555 South 10th Street, Lincoln, Nebraska, the City Council held a public hearing relating to the proposed that the West O Street Redevelopment Area be declared a blighted and substandard area as defined in the Nebraska Community Development Law and all interested parties were afforded at such public hearing a reasonable opportunity to express their views respecting said proposed plan; and

WHEREAS, the City Council has duly considered all statements made and materials submitted relating to said proposed determination.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

1. That it is hereby found and determined that the West O Street Redevelopment Area as shown and described on Attachment "A", constitutes both a substandard and blighted area as defined by subsections (10) and (11), respectively, of Section 18-2103, R.R.S. 1943, as amended, and that said area is in need of redevelopment.

2. That it is hereby found and determined that substandard and

blighted conditions exist as set forth and discussed in Attachment "F" (entitled Blight and Substandard Determination Study) attached hereto and incorporated herein as though fully set forth verbatim.

3. That such substandard and blighted conditions are beyond remedy and control solely by regulatory process and the exercise of police power and cannot be dealt with effectively by the ordinary operations or private enterprise without the aids provided by the Community Development law, specifically including Tax Increment Financing. The elimination of said substandard and blighted conditions under the authority of the Community Development Law is found to be a public purpose and in the public interest.

4. That it is hereby found and determined that said area is an eligible site for urban redevelopment projects under the provision of Chapter 18, Article 21, Nebraska Revised Statutes of 1943, as amended.

BE IT FURTHER RESOLVED that the Department of Urban Development as the duly designated community development agency for the City of Lincoln is hereby authorized and directed to immediately proceed with the preparation of a new redevelopment plan and associated projects for the West O Street Redevelopment Area, which plan shall be prepared in accordance with the requirements and procedures of said Chapter 18, Article 21, for ultimate review and consideration by this Council.

Introduced by Robin Eschliman

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

SPECIAL PERMIT 1629F - APPLICATION OF DUTEAU INVESTMENT CO. TO ADJUST THE SIDE YARD SETBACK FROM 50 FT. TO 25 FT. TO ALLOW DISPLAY VEHICLE PARKING, ON PROPERTY GENERALLY LOCATED AT S. 27TH ST. & PORTER RIDGE RD. - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83551 WHEREAS, Duteau Investment Company has submitted an application designated as Special Permit No. 1629F for authority to amend Special Permit No. 1629 to adjust the side yard setback from 50 feet to 25 feet to allow vehicles to be displayed for sale and for no other uses on property located at the southeast corner of South 27th Street and Porter Ridge Drive, and legally described to wit:

Lot 1, Block 1, Porter Ridge West 4th Addition, Lincoln, Lancaster County, Nebraska, except a portion of Lot 1, Block 1, Porter Ridge West 4th Addition, more particularly described as follows:

Beginning at the northwest corner of said Lot 1, said corner being located at the intersection of the easterly 60 foot right-of-way of 27th Street and the southerly 40 foot right-of-way line of Porter Ridge Road; thence southerly along the west line of said Lot 1, a distance of 25.0 feet; thence northeasterly, a distance of 35.4 feet, more or less, to a point on the north line of said Lot 1 located 25.0 feet easterly from the northwest corner as measured along said north line; thence westerly along said north line a distance of 25.0 feet to said northwest corner and the point of beginning;

WHEREAS, the real property adjacent to the area included within the site plan for these additional ground signs will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Duteau Chevrolet Subaru, hereinafter referred to as "Permittee", to adjust the side yard setback from 50 feet to 25 feet to allow vehicles to be displayed for sale, on the property legally described above, be and the same is hereby granted under the provisions of Sections 27.63.470 of the Lincoln Municipal Code upon condition that the display of vehicles for sale be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves an adjustment to the side yard setback from 50 feet to 25 feet for the display of vehicles for sale along the east lot line.

2. Before receiving building permits:

- a. The Permittee must submit five copies of the final plan.
- b. The construction plans must conform to the approved plans.

3. Before construction this commercial use, all development and construction must be completed in conformance with the approved plans.

4. All privately-owned improvements, including landscaping, shall be permanently maintained by the owner or an appropriately established property owners association approved by the City Attorney.

5. The site plan approved by this permit represents the official approved permit, and shall be the basis for all interpretations of setbacks, yards, locations of structures, location of parking and circulation elements, etc.

6. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.

7. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

8. The site plan approved by this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Introduced by Robin Eschliman

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

COMP. PLAN AMENDMENT 05015 - APPROVING THE DOWNTOWN MASTER PLAN AS A RECOGNIZED SUBAREA PLAN IN THE 2025 LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN IN THE AREA GENERALLY FROM 6TH ST. ON THE WEST TO 17TH ST. ON THE EAST, AND FROM H ST. ON THE SOUTH TO R ST. ON THE NORTH, INCLUDING THE HAYMARKET DIST. & ANTELOPE VALLEY - PRIOR to reading:

COOK Moved to amend Bill No. 05R-226, the Downtown Master Plan, 2005, the area west of the City-County Building Complex by changing the area that is currently orange between G & L Streets, 7<sup>th</sup> and 9<sup>th</sup> Streets to a cross hatch pattern that is orange and pink with pink being government

Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

CLERK Read the following resolution, introduced by Robin Eschliman, who moved its adoption as amended:

A-83552 WHEREAS, the Planning Director has made application to amend the 2025 Lincoln/Lancaster County Comprehensive Plan to incorporate the Downtown Master Plan as a subarea plan; and

WHEREAS, the Lincoln City-Lancaster County Planning Commission has recommended approval of the Downtown Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska, that the Downtown Master Plan, on file in the office of the Planning Director and incorporated herein by reference is adopted as an approved subarea plan.

BE IT FURTHER RESOLVED that one printed copy of the Downtown Master Plan shall be filed in the office of the Planning Director for use and examination by the public.

BE IT FURTHER RESOLVED that the 2025 Lincoln/Lancaster County Comprehensive Plan be amended as follows:

1. Amend the "On-Going Comprehensive Plan Activities" section on page F 156 to add the following Plan to the list of approved subarea plans. Downtown Master Plan, 2005

BE IT FURTHER RESOLVED that any other references in said plan which may be affected by the above-specified amendments be, and they hereby are amended to conform to such specific amendments.

Introduced by Robin Eschliman

Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.



APPOINTING BLAKE EDWARDS TO THE COMMUNITY FORESTRY ADVISORY BOARD FOR A THREE-YEAR TERM EXPIRING AUGUST 17, 2008 - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83553 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Blake Edwards to the Community Forestry Board for a three-year term expiring August 17, 2008 is hereby approved.

Introduced by Robin Eschliman

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

REAPPOINTING JOHN WILLIAMS TO THE COMMUNITY FORESTRY ADVISORY BOARD FOR A THREE-YEAR TERM EXPIRING AUGUST 17, 2008 - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83554 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of John Williams to the Community Forestry Advisory Board for a three-year term expiring August 17, 2008 is hereby approved.

Introduced by Robin Eschliman

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, OCT. 10, 2005 AT 1:30 P.M. FOR THE APP. OF EL RINCON MANAGEMENT CO., INC. DBA LAS MARGARITAS MEXICAN RESTAURANT FOR A CLASS "I" LIQUOR LICENSE AT 2700 JAMIE LANE - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83555 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., October 10, 2005 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for Application of El Rincon Management Co., Inc. dba Las Margaritas Mexican Restaurant for a Class "I" liquor license at 2700 Jamie Lane.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Dan Marvin

Seconded by Eschliman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, OCT. 10, 2005 AT 1:30 P.M. FOR THE APP. OF BRUNO ENTERPRISES, INC. TOO DBA BUFFALO WILD WINGS GRILL AND BAR FOR A CLASS "I" LIQUOR LICENSE AT 1328 P STREET - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83556 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., October 10, 2005 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for Application of Bruno Enterprises, Inc. Too dba Buffalo Wild Wings Grill and Bar for a Class "I" liquor license at 1328 P Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Dan Marvin

Seconded by Eschliman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, OCT. 10, 2005 AT 1:30 P.M. FOR THE APP. OF BRUNO ENTERPRISES, INC. TOO DBA BUFFALO WILD WINGS GRILL AND BAR FOR A CLASS "I" LIQUOR LICENSE AT 7301 S. 27<sup>TH</sup> ST., SUITE 100 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83557 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., October 10, 2005 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for Application of Bruno Enterprises, Inc. Too dba Buffalo Wild Wings Grill and Bar for a Class "I" liquor license at 7301 S. 27<sup>th</sup> Street, Suite 100.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Dan Marvin

Seconded by Eschliman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, OCT. 10, 2005 AT 1:30 P.M. FOR THE MAN. APP. OF RICK CASH FOR WILDERNESS RIDGE GOLF COURSE LOCATED AT 1800 WILDERNESS WOODS PLACE - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83558 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., October 10, 2005 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for Manager Application of Rick Cash for Wilderness Ridge Golf Course located at 1800 Wilderness Woods Place.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Dan Marvin

Seconded by Eschliman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

#### REPORTS OF CITY OFFICERS

REPORT OF NEBRASKA DEPARTMENT OF ROADS 2006-2011 SURFACE TRANSPORTATION PROGRAM - CLERK presented said report which was placed on file in the Office of the City Clerk.

#### ORDINANCES - 1<sup>ST</sup> READING & RESOLUTIONS

DECLARING THE NORTH SEVEN FEET OF LOT 1, BLOCK 3, ENGLSIDE ADD., AS SURPLUS PROPERTY, GENERALLY LOCATED AT 22ND & HOLDREGE STS. - CLERK read an ordinance, introduced by Dan Marvin, declaring the City-owned property generally located at the southwest corner of 22<sup>nd</sup> and Holdrege Streets as surplus and authorizing the sale thereof, the first time.

CHANGE OF ZONE 05060 - APPLICATION OF THE PLANNING DIRECTOR FOR A CHANGE FROM P PUBLIC USE TO R-2 RESIDENTIAL DIST. ON PROPERTY GENERALLY LOCATED AT 33RD ST. & DOANE ST. - CLERK read an ordinance, introduced by Dan Marvin, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

CHANGE OF ZONE 05066 - AMENDING LINCOLN MUNICIPAL CODE §27.63.470 "PERMITTED SPECIAL USE: PLANNED SERVICE COMMERCIAL" TO ADD PUBLIC OR PRIVATE ELEMENTARY & HIGH SCHOOLS AS AN ALLOWED USE BY THE PLANNED SERVICE COMMERCIAL SPECIAL PERMIT IN THE H-4 GENERAL COMMERCIAL DIST. - CLERK read an ordinance, introduced by Dan Marvin, amending Section 27.63.470 of the Lincoln Municipal Code relating to Permitted Special Use; Planned Service Commercial to add public or private elementary and high schools as an allowed use by the planned service commercial development special permit in the H-4 General Commercial District; and repealing Section 27.63.470 of the Lincoln Municipal Code as hitherto existing, the first time.

CHANGE OF ZONE 2531CC - APPLICATION OF JERRY & ANNETTE WEBER TO AMEND THE WILLIAMSBURG VILLAGE PLANNED UNIT DEVELOPMENT TO ADJUST THE REAR YARD SETBACK FROM 27.5' TO 20.5' TO ALLOW AN ADDITION TO THE EXISTING HOUSE ON PROPERTY LOCATED AT 3821 WILLIAMSBURG DR. - CLERK read an ordinance, introduced by Dan Marvin, amending the approved Development Plan for Williamsburg Village Planned Unit Development as appended to Change of Zone 2531BB to adjust the rear yard setback from 27.5' to 20.5' to allow an addition to the existing house, on property located at 3821 Williamsburg Drive, the first time.

APPROVING A LICENSE AGREEMENT BETWEEN THE CITY & VERIZON WIRELESS LLC FOR THE USE OF PROPERTY IN ANTELOPE PARK FOR CO-LOCATING TELECOMMUNICATIONS FACILITIES - CLERK read an ordinance, introduced by Dan Marvin, accepting and approving the License Agreements between the City of Lincoln, Nebraska, a municipal corporation, and Verizon Wireless (VAW) LLC dba Verizon Wireless for the placement of telecommunications facilities upon City property located in Antelope Park and authorizing the Mayor to sign such License Agreement on behalf of the City, the

first time.

**ORDINANCES - 3<sup>RD</sup> READING & RESOLUTIONS**

AMENDING ORDINANCE NO. 17381 TO ALLOW PREPARATION OF DETAILED PLANS AND SPECIFICATIONS FOR A MEDIAN ALONG SOUTH 56TH STREET BETWEEN MADALYN ROAD AND OLD CHENEY ROAD AS WELL AS TO ALLOW PREPARATION OF DETAILED PLANS AND SPECIFICATIONS AND CONSTRUCTION OF A WEST LEG TO THE SOUTH 56TH AND SHADOW PINES DRIVE INTERSECTION WHICH WILL CONNECT SOUTH 56TH STREET TO STEPHANIE LANE (Related Items: 05-129, 05R-178) - PRIOR to reading:

COOK Moved to delay action of Bill No. 05-129 for one week to 10/3/05.  
Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

CLERK Read an ordinance, introduced by Patte Newman, amending Ordinance No. 17381 which authorized and directed the Department of Public Works and Utilities to proceed with the preparation of detailed plans and specifications for the widening, reconstruction, and improvement of South 14<sup>th</sup> Street from Old Cheney to 1/4 mile south of Pine Lake Road; South 40<sup>th</sup> Street from Pine Lake Road south to a point approximately 500 feet south of San Mateo Lane; South 56<sup>th</sup> Street from Old Cheney Road to 1/4 mile south of Pine Lake Road; South 70<sup>th</sup> Street from Highway 2 to 1/4 mile south of Pine Lake Road; and Pine Lake Road from South 14<sup>th</sup> Street to Highway 2 (excluding 19<sup>th</sup> to 32<sup>nd</sup> Streets); and to acquire necessary rights-of-way and easements relating thereto and to proceed with construction thereof in conformance with the Capital Improvement Program, the third time.

APPROVING THE REMOVAL OF THE EXISTING BARRICADE IN CUMBERLAND DRIVE AT THE COMMON LINE OF COLONIAL ACRES 2<sup>ND</sup> ADDITION AND JERROLD HEIGHTS 2<sup>ND</sup> ADDITION (Related Items: 05-129, 05R-178)- PRIOR to reading:

COOK Moved to delay action on Bill No. 05R-178 for one week to 10/3/05.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

APPROVING A LEASE AGREEMENT BETWEEN THE CITY AND THE 3 AMIGOS PROPERTIES FOR A LEASE OF SPACE FOR A THREE-YEAR TERM FOR USE BY THE LINCOLN POLICE DEPARTMENT - CLERK read an ordinance, introduced by Jonathan Cook, accepting and approving a Lease Agreement between The 3 Amigos Properties, LLC and the City of Lincoln for a lease of space for a term of November 1, 2005 through October 31, 2008, for use by the Lincoln Police Department, the third time.

COOK Moved to pass the ordinance as read.  
Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

The ordinance, being numbered **#18615**, is recorded in Ordinance Book #25, Page

CHANGE OF ZONE 05049 - APPLICATION OF ASPEN FOR A CHANGE OF ZONE FROM O-3 OFFICE PARK DISTRICT TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED AT RED ROCK LANE AND S. 56TH STREET. (RELATED ITEMS: 05-137, 05-138) (ACTION DATE: 9/26/05) - CLERK read an ordinance, introduced by Jonathan Cook, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

COOK Moved to pass the ordinance as read.  
Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

The ordinance, being numbered **#18616**, is recorded in Ordinance Book #25, Page

USE PERMIT 97A - APPLICATION OF ASPEN TO AMEND THE USE PERMIT TO CHANGE THE LAND USE TABLE AND REQUEST A WAIVER TO THE FRONT YARD SETBACK ON PROPERTY GENERALLY LOCATED AT RED ROCK LANE AND S. 56TH STREET. (RELATED ITEMS: 05-137, 05-138) (ACTION DATE: 9/26/05) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-83559 WHEREAS, William Krein has submitted an application in accordance with Sections 27.31.100 and 27.27.080 of the Lincoln Municipal Code designated as Use Permit No. 97A for authority to amend the use permit to develop 104,000 square feet of commercial space, with a requested waiver of the required front yard setback along S. 56th Street from 50 feet to 40 feet and along Red Rock Lane from 50 feet to 20 feet, on

property generally located at S. 56th Street and Pine Lake Road, legally described as:

Lot 1, Block 1, Aspen 4th Addition; Outlot B, Block 2, Aspen 4th Addition; Lots 1-4, Aspen 19th Addition, located in the Northeast Quarter of Section 20, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska;

WHEREAS, the real property adjacent to the area included within the site plan for this commercial development will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of William Krein, hereinafter referred to as "Permittee", to develop 104,000 square feet of commercial and office space be and the same is hereby granted under the provisions of Sections 27.31.100 and 27.27.080 of the Lincoln Municipal Code upon condition that construction and operation of said commercial development be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves the development of 104,000 square feet of commercial and office space as shown on the approved site plan.

2. A waiver of the required front yard setback along S. 56th Street from 50 feet to 40 feet and along Red Rock Lane from 50 feet to 20 feet is hereby approved.

3. Before receiving building permits the Permittee must submit a revised and reproducible final plan including 5 copies showing the following revisions and the plans are acceptable:

a. The construction plans must conform to the approved plans.

b. Final Plans shall be approved by the City.

4. Before occupying the buildings all development and construction must be completed in compliance with the approved plans.

5. All privately-owned improvements shall be permanently maintained by the Permittee or an appropriately established association approved by the City Attorney.

6. The site plan approved with this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

7. This resolution's terms, conditions, and requirements bind and obligate the Permittee, its successors and assigns.

8. The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant.

9. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Introduced by Jonathan Cook

Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

CHANGE OF ZONE 05056 - APPLICATION OF ROGER AND CAROL WILLIAMS, MARVIN WILLIAMS, VELDA WILLIAMS, AND VERNON WILLIAMS FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO AGR AGRICULTURAL RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT S.W. 12TH STREET AND W. DENTON ROAD - CLERK read an ordinance, introduced by Jonathan Cook, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

COOK Moved to pass the ordinance as read.

Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

The ordinance, being numbered **#18617**, is recorded in Ordinance Book #25, Page

CHANGE OF ZONE 05059 - APPLICATION OF MOLEX, INC. FOR A CHANGE OF ZONE FROM H-3 HIGHWAY COMMERCIAL DISTRICT AND I-2 INDUSTRIAL PARK DISTRICT TO I-1 INDUSTRIAL DISTRICT, ON PROPERTY GENERALLY LOCATED AT N.W. 12TH STREET AND WEST BOND CIRCLE - CLERK read an ordinance, introduced by Jonathan Cook, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

COOK Moved to pass the ordinance as read.

Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

The ordinance, being numbered **#18618**, is recorded in Ordinance Book #25, Page

SPECIAL PERMIT 1965 - APPLICATION OF HARTLAND HOMES, INC. TO DEVELOP HARTLAND HOMES N.W. 1ST COMMUNITY UNIT PLAN FOR 70 DWELLING UNITS, INCLUDING A REQUESTED VARIANCE TO ALLOW UNENCLOSED DECKS TO PROJECT 10' INTO THE REQUIRED REAR YARD AND A REDUCTION OF THE CUL-DE-SAC RADIUS REQUIREMENT FROM 60' TO 55', ON PROPERTY GENERALLY LOCATED WEST OF N.W. 48TH STREET AND NORTH OF WEST ST. PAUL AVENUE. (RELATED ITEMS: 05R-169, 05R-170, 05-96, 05-97) (ACTION DATE: 9/19/05)- CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83560 WHEREAS, Hartland Homes, Inc. has submitted an application designated as Special Permit No. 1965 for authority to develop Hartland Homes N.W. 1st Community Unit Plan consisting of 70 dwelling units, with a requested waiver to allow unenclosed decks to project 10 feet into the required rear yard, on property generally located west of N.W. 48th Street and north of West St. Paul Avenue, and legally described as:

Outlots B, C and D, Hartland Homes Northwest 2nd Addition; Lots 21, 22, 32 through 36, Block 1; Lots 3 through 16, 21 through 34, Block 5; Lots 1 through 12, Block 4, Airport Heights; Lot 16 Irregular Tract; the vacated public right-of-way of West Cleveland Avenue from the west line of Lot 2, Block 5, Airport Heights to the east line of Hartland Homes Northwest 3rd Addition; the vacated public right-of-way of West Madison Avenue from a point 21.12 feet east of the west line of Lot 35, Block 5, Airport Heights and the north half of the vacated public right-of-way adjacent to Lot 1, Block 8, Olympic Heights 1st Addition; all located in Section 18, Township 10 North, Range 6 East of the 6th P.M. of Lancaster County, Nebraska, more particularly described as follows:

Beginning at the northwest corner of said Outlot B, Hartland Homes Northwest 2nd Addition and extending thence north 90 degrees 00 minutes 00 seconds east, 104.65 feet; thence north 00 degrees 30 minutes 16 seconds east, a distance of 313.96 feet; thence south 89 degrees 58 minutes 41 seconds east, a distance of 119.85 feet; thence south 00 degrees 42 minutes 33 seconds west, a distance of 144.92 feet; thence north 89 degrees 59 minutes 18 seconds east, a distance of 120.15 feet; thence south 00 degrees 00 minutes 42 seconds east, a distance of 17.00 feet; thence north 89 degrees 59 minutes 18 seconds east, a distance of 419.62 feet; thence north 00 degrees 29 minutes 04 seconds east, a distance of 161.89 feet; thence south 89 degrees 58 minutes 44 seconds east, a distance of 300.35 feet; thence south 00 degrees 37 minutes 50 seconds west, a distance of 144.73 feet; thence south 89 degrees 59 minutes 18 seconds west, a distance of 120.12 feet; thence south 00 degrees 01 minutes 00 seconds west, a distance of 370.33 feet; thence south 89 degrees 59 minutes 00 seconds east, a distance of 21.13 feet; thence south 00 degrees 01 minutes 05 seconds west, a distance of 55.00 feet; thence north 89 degrees 59 minutes 00 seconds west, a distance of 112.83 feet; thence south 00 degrees 01 minutes 16 seconds east, a distance of 134.88 feet; thence south

89 degrees 59 minutes 37 seconds west, a distance of 774.61 feet; thence north 00 degrees 27 minutes 12 seconds east, a distance of 165.23 feet; thence north 90 degrees 00 minutes 00 seconds west, a distance of 98.64 feet; thence north 03 degrees 38 minutes 07 seconds east, a distance of 24.97 feet; thence north 11 degrees 05 minutes 23 seconds east, a distance of 39.72 feet; thence north 09 degrees 47 minutes 27 seconds east, a distance of 35.00 feet to a point on a circular curve to the left having a central angle of 9 degrees 47 minutes 27 seconds, a radius of 225.00 feet and whose chord (38.40 feet) bears north 04 degrees 53 minutes 44 seconds east; thence along said curve 38.45 feet; thence north 00 degrees 00 minutes 00 seconds east, a distance of 59.25 feet to the point of beginning and containing a calculated area of 11.79 acres, more or less;

WHEREAS, the real property adjacent to the area included within the site plan for this community unit plan will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Hartland Homes, Inc., hereinafter referred to as "Permittee", to develop Hartland Homes Northwest 1st Community Unit Plan consisting of 70 dwelling units, together with a requested waiver to allow unenclosed decks to project 10 feet into the required rear yard, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the LMC upon condition that construction and operation of said community unit plan be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 70 dwelling units and a variance to allow unenclosed decks to project 10 feet into the required rear yard.
2. Before receiving building permits
  - a. The Permittee must submit an acceptable, revised and reproducible final plan including six copies.
  - b. The construction plans must conform to the approved plans.
  - c. Final plats within this community unit plan must be approved by the City.
  - d. The Permittee must grant an avigation and noise easement to the Lincoln Airport Authority on all or that part of the land located within the Airport Environs Noise District.
3. Before occupying the dwelling units all development and construction must be completed in conformance with the approved plans.
4. All privately-owned improvements must be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City Attorney.
5. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
6. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.
7. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jon Camp

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Eschliman, McRoy, Newman, Svoboda; NAYS: None; ABSTAINED: Marvin.

PRELIMINARY PLAT 02007 - APPLICATION HARTLAND HOMES, INC. TO DEVELOP HARTLAND HOMES N.W. 1ST ADDITION FOR 70 DWELLING UNITS ON APPROXIMATELY 12 ACRES, INCLUDING A REQUESTED VARIANCE TO ALLOW UNENCLOSED DECKS TO PROJECT 10' INTO THE REQUIRED REAR YARD AND A REDUCTION OF THE CUL-DE-SAC RADIUS REQUIREMENT FROM 60' TO 55', ON PROPERTY GENERALLY LOCATED WEST OF N.W. 48TH STREET AND NORTH OF WEST ST. PAUL AVENUE. (RELATED ITEMS: 05R-169, 05R-170, 05-96, 05-97) (ACTION DATE: 9/19/05) - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83561 WHEREAS, Hartland Homes, Inc. has submitted the preliminary plat of Hartland Homes N.W. 1st Addition for acceptance and approval, together with a request to waive City of Lincoln Land Subdivision Ordinance requirements to allow unenclosed decks to project 10 feet into the required rear yard; and

WHEREAS, the Lincoln City - Lancaster County Planning Commission has reviewed said preliminary plat and has recommended conditional approval of said plat.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the preliminary plat of Hartland Homes N.W. 1st Addition, located west of N.W. 48th Street and north of West St. Paul Avenue as submitted by Hartland Homes, Inc., is hereby accepted and approved, subject to the following terms and conditions:

1. The City Council must approve the following associated requests:
  - a. Special Permit #1965.
  - b. Street vacation #02003.
  - c. Street Vacation #03006.
2. Final Plats will be approved by the Planning Director after:
  - a. The sidewalks, streets, drainage facilities, street lighting, landscape screens, street trees, temporary turnarounds and barricades, and street name signs have been completed or the subdivider has submitted a bond or an escrow of security agreement to guarantee their completion.
  - b. The Subdivider has signed an agreement that binds the subdivider, its successors and assigns:
    - i. to complete the paving of private roadway shown on the final plat within two (2) years following the approval of this final plat.
    - ii. to complete the installation of sidewalks along both sides of all streets as shown on the final plat within four (4) years following the approval of this final plat.
    - iii. to construct the sidewalk in the pedestrian way easement in Outlot A at the same time as W. Cleveland and W. Madison are paved.
    - iv. to complete the public water distribution system to serve this plat within two (2) years following the approval of this final plat.
    - v. to complete the public wastewater collection system to serve this plat within two (2) years following the approval of this final plat.
    - vi. to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of this final plat.
    - vii. to complete the enclosed private drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of this final plat.
    - viii. to complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of this final plat.
    - ix. to complete the installation of public street lights along all streets within this plat within two (2) years following the approval of this final plat.

- x. to complete the installation of private street lights along all streets within this plat within two (2) years following the approval of this final plat.
- xi. to complete the planting of the street trees along all streets within this plat within four (4) years following the approval of this final plat.
- xii. to complete the planting of the landscape screen within this plat within two (2) years following the approval of this final plat.
- xiii. to complete the installation of the street name signs within two (2) years following the approval of this final plat.
- xiv. to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.
- xv. to timely complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance which inadvertently may have been omitted from the above list of required improvements.
- xvi. to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.
- xvii. to complete the public and private improvements shown on the preliminary plat and Community Unit Plan.
- xviii. to continuously and regularly maintain the Street trees along the private roadways and landscape screens.
- xix. The Subdivider agrees to maintain the outlots and private improvements on a permanent and continuous basis, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of stormwater detention/retention facilities as they were designed and constructed within the development and these are the responsibility of the Subdivider. Subdivider further agrees to retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on a permanent and continuous basis. However, the Subdivider may be relieved and discharged of such maintenance obligations only upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:
  - (a) Subdivider shall not be relieved of Subdivider's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans; and
  - (b) The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.
- xx. to submit to the lot buyers and home builders a copy of the soil analysis.



- xxi. to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
- xxii. to perpetually maintain the sidewalks in the pedestrian way easements on Outlot A at their own cost and expense.
- xxiii. to protect the trees that are indicated to remain during construction and development.
- xxiv. to inform all prospective purchasers and users that the land is located within the Airport Environs Noise District, that the land is subject to an avigation and noise easement granted to Lincoln Airport Authority, and that the land is potentially subject to aircraft noise levels which may affect users of the property and interfere with its use.

Introduced by Jon Camp

Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, McRoy, Newman, Svoboda; NAYS: None; ABSTAINED: Marvin.

STREET VACATION 02003 - APPLICATION OF HARTLAND HOMES INC. TO VACATE WEST MADISON AVENUE FROM A POINT 7.17 FEET WEST OF THE WEST LINE OF N.W. 49TH STREET TO N.W. 53RD STREET. (RELATED ITEMS: 05R-169, 05R-170, 05-96, 05-97) (ACTION DATE: 9/19/05) - CLERK read an ordinance, introduced by Jon Camp, vacating W. Madison Avenue from a point 7.17 feet west of the west line of N.W. 49<sup>th</sup> Street to the east line of N.W. 53<sup>rd</sup> Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the third time.

CAMP Moved to pass the ordinance as read.

Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Svoboda; NAYS: None; ABSTAINED: Newman. The ordinance, being numbered **#18619**, is recorded in Ordinance Book #25, Page

STREET VACATION 03006 - APPLICATION OF HARTLAND HOMES INC., THE KOREAN CHURCH OF LINCOLN, AND ROBERT & RAEANN LORENCE, TO VACATE WEST CLEVELAND AVENUE FROM THE WEST LINE OF N.W. 48TH STREET TO THE EAST LINE OF HARTLAND HOMES N.W. 2ND ADDITION, GENERALLY LOCATED WEST OF N.W. 48TH STREET AND ONE BLOCK SOUTH OF WEST ADAMS STREET. (RELATED ITEMS: 05R-169, 05R-170, 05-96, 05-97) (ACTION DATE: 9/19/05) - CLERK read an ordinance, introduced by Jon Camp, vacating West Cleveland Avenue from the west line of Lot 2, Block 5, Airport Heights to the east line of Hartland Homes N.W. 3<sup>rd</sup> Addition, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the third time.

CAMP Moved to pass the ordinance as read.

Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None. The ordinance, being numbered **#18620**, is recorded in Ordinance Book #25, Page

COMP. PLAN AMENDMENT NO. 05014 - AMENDING THE LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN BY DELETING REFERENCES TO THE THEATER POLICY AND ENTERTAINMENT IN THE DOWNTOWN, AND BY DELETING ONE STATEMENT REQUIRING MARKET STUDIES FOR PROPOSED NEW THEATERS OUTSIDE OF THE DOWNTOWN AREA. (IN CONNECTION W/05-85, 05-86, 05R-135, 05R-136) (ACTION DATE: 7/11/05) (6/20/05 - PLACED ON PENDING TO 7/25/05 WITH P.H.) (7/11/05 - PENDING TO 8/29/05 W/P.H.) ( 8/15/05 - PUBLIC HEARING CON'T TO 9/12/05) (8/22/05 - PLACED ON PENDING TO 9/19/05 W/PUBLIC HEARING)- Jon Camp submitted for the record a multitude of postcards stating those in favor and those in opposition.

CLERK Read the resolution, introduced by Dan Marvin, who moved its adoption:

Seconded by Eschliman & **LOST** by the following vote: AYES: None; NAYS: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda.

The resolution, having **LOST**, was assigned the File **#38-4508** & was placed on file in the Office of the City Clerk.

AMENDING SECTION 27.63.630(C) OF THE LINCOLN MUNICIPAL CODE ZONING ORDINANCE FOR THEATERS IN THE B-5 PLANNED REGIONAL BUSINESS DISTRICT, TO ALLOW THEATERS WITH MORE THAN SIX SCREENS, PROVIDED THEY ARE LOCATED OUTSIDE A 6.5 MILE RADIUS MEASURED FROM THE CENTER OF THE INTERSECTION OF 13TH AND O STREETS. (IN CONNECTION W/05-86, 05R-134, 05R-135, 05R-136) (6/20/05 - PLACED ON PENDING TO 7/25/05 WITH P.H.) (7/11/05 - PENDING TO 8/29/05 W/P.H.) ( 8/15/05 - PUBLIC HEARING CON'T. TO 9/12/05) (8/22/05 - PLACED ON PENDING TO 9/19/05 W/PUBLIC HEARING) - CLERK read an ordinance, introduced by Dan Marvin, amending Section 27.63.630 of the Lincoln Municipal Code relating to theaters as a special permitted use in the B-

5 Planned Regional Business District to allow theaters with more than six screens, provided they are located outside a 6.5 mile radius measured from the center of the intersection of 13<sup>th</sup> and O Streets; and repealing Section 27.63.630 of the Lincoln Municipal Code as hitherto existing, the third time.

MARVIN Moved to pass the ordinance as read.  
Seconded by Newman & **LOST** by the following vote: AYES: None; NAYS: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda.  
The ordinance, having **LOST**, was assigned the File #38-4509 & was placed on file in the Office of the City Clerk.

CHANGE OF ZONE 05036 - APPLICATION OF EIGER CORPORATION FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO B-5 PLANNED REGIONAL BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED AT SOUTH 91ST STREET AND PINE LAKE ROAD. (IN CONNECTION W/05R-134, 05-85, 05-86, 05R-135, 05R-136) (6/20/05 - PLACED ON PENDING TO 7/25/05 WITH P.H.) (7/11/05 - PENDING TO 8/29/05 W/P.H.) ( 8/15/05 - PUBLIC HEARING CON'T . TO 9/12/05) (8/22/05 - PLACED ON PENDING TO 9/19/05 W/PUBLIC HEARING)- PRIOR to reading:

COOK Moved to delay action on Bill No. 05-86 for one week to 10/3/05.  
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

APPEAL OF EIGER CORPORATION FROM THE PLANNING COMMISSION DENIAL OF SPECIAL PERMIT 05023 TO CONSTRUCT AN 80,000 SQ. FT. THEATER COMPLEX WITH 18 SCREENS IN THE B-5 ZONING DISTRICT, ON PROPERTY GENERALLY LOCATED AT S. 91ST STREET AND PINE LAKE ROAD. (IN CONNECTION W/05R-134, 05-85, 05-86, 05R-136) (ACTION DATE: 7/11/05) (6/20/05 - PLACED ON PENDING TO 7/25/05 WITH P.H.) (7/11/05 - PENDING TO 8/29/05 W/P.H.) ( 8/15/05 - PUBLIC HEARING CON'T . TO 9/12/05) (8/22/05 - PLACED ON PENDING TO 9/19/05 W/PUBLIC HEARING)- PRIOR to reading:

COOK Moved to delay action on Bill No. 05R-135 for one week to 10/3/05.  
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

APPEAL OF EIGER CORPORATION FROM THE PLANNING COMMISSION DENIAL OF USE PERMIT 140B TO ALLOW 950,983 SQ. FT. OF COMMERCIAL AND OFFICE FLOOR AREA, ON PROPERTY GENERALLY LOCATED AT S. 91ST STREET AND PINE LAKE ROAD.(IN CONNECTION W/05R-134, 05R-135, 05-85, 05-86) (ACTION DATE: 7/11/05) (6/20/05 - PLACED ON PENDING TO 7/25/05 WITH P.H.) (7/11/05 - PENDING TO 8/29/05 W/P.H.) 8/15/05 - PUBLIC HEARING CON'T. TO 9/12/05) (8/22/05 - PLACED ON PENDING TO 9/19/05 W/PUBLIC HEARING)- PRIOR to reading:

COOK Moved to delay action on Bill No. 05R-136 for one week to 10/3/05.  
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

#### MISCELLANEOUS BUSINESS

##### PENDING -

CAMP Moved to extend the Pending List to October 3, 2005.  
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

##### UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on October 3, 2005.  
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

**ADJOURNMENT 8:16 P.M.**

CAMP            Moved to adjourn the City Council meeting of September 26, 2005.  
                  Seconded by Newman & carried by the following vote: AYES: Camp,  
                  Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.  
                  So ordered.

---

Teresa J. Meier, Deputy City Clerk

---

Judy Roscoe, Senior Office Assistant

REGULAR MEETING  
September 26, 2005  
PAGE 172