

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, January 13, 1999, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Russ Bayer, Ann Bleed, Steve Duvall, Barbara Hopkins, Gerry Krieser, Rick Wallace and Joe Wilson (Greg Schwinn and Cecil Steward absent); John Bradley, Ray Hill, Mike DeKalb, Steve Henrichsen, Nicole Fleck-Tooze, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair, Barbara Hopkins called the meeting to order and requested a motion approving the minutes for the meeting held December 16, 1999. Motion to approve made by Wilson, seconded by Wallace and carried 7-0: Bayer, Bleed, Duvall, Hopkins, Krieser, Wallace and Wilson voting 'yes'; Schwinn and Steward absent.

At the request of the clerk, motion was duly made, seconded and unanimously carried to rearrange the agenda and move Items 4.2a and 4.2b, Comprehensive Plan Amendment No. 94-32 and Annexation No. 98016, from being last on the agenda to being called for administrative action immediately following action on the Consent Agenda.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

January 13, 1999

Members present: Bayer, Bleed, Duvall, Hopkins, Krieser, Wallace and Wilson; Schwinn and Steward absent.

The Consent Agenda consisted of the following items: **USE PERMIT NO. 114; USE PERMIT NO. 115; SPECIAL PERMIT NO. 607E; SPECIAL PERMIT NO. 1384D; SPECIAL PERMIT NO. 1756; SPECIAL PERMIT NO. 1512C, AUTUMN RIDGE COMMUNITY UNIT PLAN; PRELIMINARY PLAT NO. 98027, AUTUMN RIDGE WEST; COUNTY FINAL PLAT NO. 98042, COUNTRY ESTATES; AND STREET AND ALLEY VACATION NO. 98021.**

Item No. 1.8, Street and Alley Vacation No. 98021; Item No. 1.6a, Special Permit No. 1512C, and Item No. 1.6b, Preliminary Plat No. 98027, were removed from the consent agenda and scheduled for separate public hearing.

Wallace moved to approve the remaining Consent Agenda, seconded by Duvall and carried 7-0: Bayer, Bleed, Duvall, Hopkins, Krieser, Wallace and Wilson voting 'yes'; Schwinn and Steward absent.

COMPREHENSIVE PLAN AMENDMENT NO. 94-32
TO EXTEND THE FUTURE SERVICE LIMIT
ALONG BOTH SIDES OF WEST "O" STREET,
FROM N.W. 40TH TO BEYOND N.W. 56TH.
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Schwinn and Steward absent.

These items were advanced in the agenda due to the possibility of meeting the legal advertising deadline for the January 27th Planning Commission meeting.

Steve Henrichsen of Planning staff submitted a letter from Richard Peterson, attorney for Crete Carrier, requesting that this item be readvertised and public hearing reopened on January 27, 1999. The applicant wishes to have another meeting with the adjacent property owners to discuss an alternate proposal, that being a proposal where only those properties currently zoned H-1, H-3 or H-4 (commercial) would be part of the annexation proposal at this time. Thus, several other properties which were part of the original request would be dropped because of the AG zoning. An additional two weeks will allow further discussion with staff and the property owners, with a new public hearing on January 27, 1999.

Hopkins inquired about the cost of the readvertising. Mr. Henrichsen advised that the costs are borne by the City as there is no filing fee for a Comprehensive Plan Amendment or Annexation request.

Bleed moved to reopen public hearing on January 27, 1999, seconded by Duvall and carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Steward and Schwinn absent.

ANNEXATION NO. 98016
TO ANNEX PROPERTY GENERALLY LOCATED
AT N.W. 56TH AND WEST "O" STREETS.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: January 13, 1999

Members present: Bleed, Duvall, Wallace, Bayer, Wilson, Krieser and Hopkins; Steward and Schwinn absent.

Bleed made a motion to reopen public hearing on January 27, 1999, as requested by the attorney for Crete Carrier (see discussion on Comprehensive Plan Amendment No. 94-32), seconded by Krieser.

Bayer stated that he will vote in opposition to reopening the hearing on the annexation. Including this property in the future service area makes a lot of sense to him, but he is voting against the annexation because it is an annexation to take care of one customer. Unless the applicant is prepared to come forward and is willing to pay for the entire cost of the infrastructure, he does not need any further public hearing. Wilson agrees, but he wants to hear the applicant's testimony.

Motion to reopen public hearing on January 27, 1999, carried 6-1: Duvall, Wallace, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Bayer voting 'no'; Steward and Schwinn absent.

SPECIAL PERMIT NO. 1512C,
AMENDMENT TO THE AUTUMN RIDGE CUP
and
PRELIMINARY PLAT NO. 98027,
AUTUMN RIDGE WEST,
ON PROPERTY GENERALLY LOCATED
AT NORTH 21ST STREET AND ATWOOD LANE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Steward and Schwinn absent.

Planning staff recommendation: Conditional approval.

These items were removed from the Consent Agenda and scheduled for separate public hearing at the request of the applicant's attorney.

Proponents

1. **Mark Hunzeker** appeared on behalf of applicant. This application is for an area north of the Autumn Wood development, reducing the total number of units by about 50 to a number that is somewhat less than half of the allowable density under the existing zoning.

Mr. Hunzeker pointed out that North 21st Street dead-ends into an area currently undeveloped. This unpaved street is a dedicated street and was platted as part of the original Autumn Wood development. Mr. Hunzeker believes the street was bonded and during a slow period the street was not built, the bonds expired and the city did not execute on the bonds. Thus, the city has dedicated right-of-way without paved streets in the right-of-way. Mr. Hunzeker urged that this street needs to get paved; however, this applicant does not control that property and is being asked by Condition #1.1.6 to agree to a condition that they add a note to the CUP that the final plats will not be scheduled on the Commission agenda until after those streets have been completed. It would be this applicant's desire to get the final plats scheduled prior to the time the streets are completed. This has been discussed with the property owner to the south and Mr. Hunzeker believes it is likely they will request Executive Orders to get those streets in. However, for the purposes of this CUP and plat, Mr. Hunzeker requested that Condition #1.1.6 be modified, adding "..., or executive orders issued, or paving districts requested." In other words, the plats can be scheduled on the agenda for final approval if the streets are already in, or if executive orders for their construction have been issued, or if they have requested a paving district to get the streets completed. This applicant has plenty of frontage along No. 21st to request the district and has more than 51% of the frontage to be able to put it in by district. Mr. Hunzeker requested this same change in Condition #1.1.5 of the preliminary plat, and

Conditions 3.3 of the CUP and plat.

Opposition

1. Mike Morosin, past president of Malone Neighborhood, testified in opposition to the waiving of the stormwater detention requirements. We need to start taking a look at what we're doing with the water in the bowl.

2. Danny Walker, 427 E Street, disagrees with the applicant being given the opportunity to request changes to the conditions of approval without the public getting to see the changes being requested. When a legal representative makes amendments for the Commission to write down, he thinks the public hearing should be continued to allow the public more time to know what's going on.

Mr. Walker is also opposed to waivers of stormwater detention, etc. There are cities within the U.S. where stormwater and pell-mel development has gotten to such a concern that all of the authority has been taken away from the governmental bodies such as the Planning Commission, City Council and Planning Department.

Staff questions

Bleed asked for staff's reaction to the proposed amendments. Ray Hill of Planning staff stated that he was not aware of the amendments being requested prior to the hearing. He did suggest that just requesting an assessment district doesn't do anything because there needs to be an order after 51% of the property owners sign the petition.

Dennis Bartels of Public Works clarified that it was not a platted right-of-way. That right-of-way was purchased by the city at the request of the original developer of the whole Autumn Ridge subdivision to get that street in there. The property owner was unwilling to dedicate. The City Council created an improvement district and ordered Public Works to buy it, so the city purchased the right-of-way for that street. There never was a bond or anything else to get it paved. Mr. Bartels had recommended Condition #1.1.6 because that was the condition imposed on the original preliminary plat. They were not going to plat any more until there was a second outlet out of the development. This was done in response to the concern of the Tabitha residents. It needs to be paved before there are a number of residents in the subdivision. The city wants some certainty that the pavement will get there at the same timeframe as the area starts to develop. Requesting a paving district doesn't mean much unless you know you have enough property owners or the City Council is willing to create it. The original developer had talked in terms of adding pieces of 21st within Autumn Ridge to make up 50 plus percent frontage so that he could get an order to construct.

Bleed suggested then, as long as it gets paved in the appropriate time period, it would

be okay with the safeguards Mr. Hunzeker has suggested. Mr. Bartels' response was that the paving district is the only thing that is not really acceptable. It does not insure that it will get paved. An Executive Order puts it into the City's timeframe. In concept, Mr. Bartels did not disagree with Mr. Hunzeker's request for amendments, but he is concerned about the timing if the district is the chosen option.

Bleed asked staff to explain the waiver of stormwater detention in Condition #2.2 as she believes this condition would be a safeguard for downstream neighborhoods from flooding. Mr. Bartels explained that it is not a true detention of the subdivision. This waiver allows it to be combined with the Northwoods Plat to put the detention all in one spot. It is not that we are waiving the detention requirement--it relates to the location of it in the two contiguous subdivisions. It would not be located within the limits of this plat but provided with the adjacent subdivision.

Response by the Applicant

Hunzeker explained that the only reason he talked about requesting the district is because this applicant wants to make sure they can keep things flowing. Everyone thinks the street should be built, including the neighbors, the developer and the city. He cannot think of a reason that the district would be turned down if it could not be done otherwise. This applicant has plenty of the frontage to get it constructed. He assured that it will get done.

Mr. Hunzeker agreed with Mr. Bartels' response regarding the stormwater detention.

Public hearing was closed.

SPECIAL PERMIT NO. 1512C

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

January 13, 1999

Bleed moved to approve the Planning staff recommendation of conditional approval, with the amendments requested by the applicant, seconded by Wilson.

Bleed was satisfied with the discussion regarding the stormwater detention being located within the adjacent plat.

In response to Mr. Walker's concerns about the amendments, Hopkins explained that this is the public hearing and amendments can be presented. If there are major changes, the Commission is inclined to hold it over.

However, Bleed requested that the applicants attempt to get their amendments to staff in advance so that they have the opportunity to review and make a response.

Motion for conditional approval, with amendments, carried 7-0: Duvall, Wallace,

Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Steward and Schwinn absent.

PRELIMINARY PLAT NO. 98027

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

January 13, 1999

Bleed made a motion to approve the Planning staff recommendation of conditional approval, with the amendments requested by the applicant, seconded by Wilson and carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Steward and Schwinn absent.

STREET & ALLEY VACATION NO. 98021
TO VACATE SOUTH WEDGEWOOD CIRCLE
FROM THE WEST RIGHT-OF-WAY OF
SOUTH 70TH STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Steward and Schwinn absent.

Planning staff recommendation: Conformance with the Comprehensive Plan and conditional approval.

This item was removed from the Consent Agenda and scheduled for separate public hearing due to additional information in opposition received by the staff.

Ray Hill of Planning staff submitted a sketch that was presented to him by Mr. Sanford. Mr. Sanford is in opposition to the proposal.

Opposition

1. Don Sanford, 820 South 70th, testified in opposition. He purchased his home in 1962 and several years later 70th Street was widened and a median was installed which prevented him from leaving his home to go south. In order to correct this, the City Council approved the creation of South Wedgewood Circle, specifically to accommodate the 5 residences on the east side of 70th south of Wedgewood Dr. In the summer of 1998, there was a zone change and Mr. Sanford was told the circle would not be changed with Special Permit 286G, which showed the circle completely intact. In the interim, Mr. Sanford believes there must have been many changes made to Special Permit 286G without any notice to the property owners. On January 2, 1999, Mr. Sanford received the letter notifying him that the circle would be closed and that a private driveway would be constructed for St. E's. He was told he could use St. E's private streets to go south on 70th. Mr. Sanford is opposed to this street vacation because he would be entirely at the mercy of the private owner of the street or any future owner; and there is no express timeframe for the closing of the circle

and future access for turning around. In the past, Mr. Sanford has entertained the idea of selling his home and the first thing he is asked is about getting out and going south. At the present time, he points to the circle and mentions that it was put in by the city for these residences for that specific purpose. If this street vacation is approved, he does not know what kind of instruction he could give to any visitors leaving his home to go south. In addition, this will further detract from the value of his property.

As a compromise, Mr. Sanford suggested using the existing circle as a roundabout circle with a small island in the middle, as shown on the sketch he submitted. This would not impede traffic flow and would provide for as many future entrances and exits that might be practical. The roundabout could be either public or private, but he sees no reason it should be made private.

Wilson asked Mr. Sanford whether he has talked with St. E about the roundabout. Mr. Sanford did talk with Mr. Koesterer and he didn't know what a roundabout was. In fact, it was not St. E's idea to close the circle, but the architect's.

Proponents

1. **Curt Koesterer, Director of Planning for St. E's**, testified on behalf of the **Nebraska Surgery Center**. They are developing an ambulatory surgery center on the campus, which is Special Permit 286G. In concert with that development, the applicant is looking at the entire campus and, in consultation with the landscape architect and the engineers, they are redoing the roadways and access on the campus. The applicant has been made aware of the 5 residences on South 70th Street. The applicant has assured these residences that St. E's has no problem with them coming onto the applicant's roads and parking lots for the purposes of turning around to go south and has no intention to restrict access. Mr. Koesterer submitted a drawing showing the location of the current cul-de-sac and the proposed location of the surgery center. The proposal is to make the cul-de-sac continue on into the existing parking lot and then have a drive coming off in front of the surgery center. There is a circle for turning around in the surgery center itself. It also continues around the surgery center and meets the drive again. This provides three methods to turn around and go the opposite direction on 70th Street. It provides a circle that also serves the surgery center.

Bayer pointed out that Mr. Sanford's concern is that the access becomes private property. Mr. Koesterer responded, stating that St. E is a quasi-public institution as a hospital and open to the public 24 hours a day, 365 days a year. The goal is to improve access to both the surgery center and the hospital. Mr. Koesterer stated that a letter has been sent from the President of St. E's to the five neighbors assuring they would have access to the surgery center drive.

2. Mike Johnson, Olsson Associates, testified in support. He requested the street vacation on behalf of the applicant. He suggested that there could be a public access easement on the plat so that it would be part of the permanent record. Mr. Koesterer stated that St. E wants to be a good neighbor and provide for the neighbors' needs. Mr. Johnson believes the public access easement would take care of the neighbors' concerns as far as any future property owner and the access becoming private property. Mr. Koesterer also advised that St. E is amenable to an agreement not to gate the street. Mr. Johnson stated that the administrative plat is currently in limbo due to this street vacation. Mr. Koesterer advised that the applicant has been granted a footings and foundations permit and the building permit is being held pending resolution of this street vacation.

Wilson wondered why the roundabout would not be acceptable. Mr. Johnson stated that it is a maintenance problem since it is private property. It would be a burden for St. E's to maintain and more pavement would be involved, thus it would be more costly. Roundabouts can also cause some confusion. Mr. Johnson believes the cul-de-sac would have to be removed and replaced even if it were a roundabout. Mr. Koesterer also offered that there is a concern with the traffic coming into the health center and going back out on 70th Street.

Mr. Koesterer confirmed that a public access easement would be acceptable to St. Elizabeth.

Dennis Bartels of Public Works suggested recommending that prior to vacating, the city require that there be a public access easement through the parking lot and it would be part of the public record. This would not be an unusual condition. It could be subject to turnaround provisions that the developer and Public Works agree upon. The public access easement gives some assurance to the property owners if circulating through the parking lot is satisfactory.

Bayer wondered whether the public access easement would delay this process. Mr. Bartels suggested that it be drawn on the final plat, i.e. "subject to public access easement for turnaround."

Ray Hill of Planning staff clarified that in the original permit, the applicant had asked for two alternates -- one with the cul-de-sac and one without, and that was the way it was approved. With the proposed street vacation, they are asking to replat and they cannot do the plat until the street is vacated. If the vacation is approved with the public access easement, then the street vacation can go forward and the plat can be approved. Planning has talked with St. E's and whether the street is vacated or not vacated, they can continue with the building construction.

Neutral position

1. **Danny Walker** suggested looking into the motor vehicle accidents on that private roadway. He believes this is a gray area -- it is a lot different than an accident happening on a public street. He believes it is a private roadway and there should be clarification from the City Attorney before it is approved. You need to protect the liability of those residents should an accident occur.

Opposition

1. **Scotty Hoffman**, 840 South 70th, testified in opposition. He has lived here since 1961. People living on the 800 block on South 70th had an agreement with the city that they would make this cul-de-sac available so that the residents could go from north to south without traveling a long distance to turn around. His concern is with driving in the area of the Surgery Center to turn around--half belongs to one owner and half belongs to another. He also would prefer the roundabout. There are many roundabouts in England and this concept has reduced the accident rate, slowed the traffic down and it works just fine.

Response by the Applicant

With regard to liability, Mr. Koesterer advised that St. E's is fully insured for any accidents which happen on their property. Public buses do drive through the parking lot and around the hospital. One of the reasons the architects are looking to make this change on the master site plan is for future developments on the campus and an attempt to get the road as far towards the property line as possible. To put a big circle there takes some of that property so that it cannot be used for other purposes. This proposal provides at least three different ways for the neighbors to turn around. As part of the development and the street vacation, St. E's is purchasing an additional 20' from the current property line to accommodate the new road so that all of the roads will be St. E property.

Mr. Koesterer explained the three routes that are available at the map. From the cul-de-sac to the circle in the surgery center would be about 70 yards.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: January 13, 1999

Bayer moved approval of the Planning staff recommendation of conditional approval, with amendment to add Condition #2: "Subject to public access easements as coordinated between the owner and the Public Works Department", seconded by Wallace.

Wallace would also like the public access easement adopted as a resolution by the Hospital Board.

Motion for conditional approval, with amendment, carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Schwinn and Steward absent.

At this point in the meeting, Planning Director John Bradley addressed the Commission. There are individuals in the audience who were confused about the procedure on the Consent Agenda and had wanted to speak on County Final Plat No. 98042, which the Commission acted upon during the Consent Agenda.

Upon discussion, Bleed made a motion to reconsider County Final Plat No. 98042 and reopen the public hearing, fully aware that the applicant was no longer present, seconded by Krieser.

Since the applicant was no longer present, Bayer stated that he would be more inclined to hold it over for two weeks and reopen at that time. However, Hopkins noted that this plat does go on to the County Board and there will be another public hearing at that time.

Bleed would like to hear what the people have to say and give them the opportunity speak. She did note, however, that it is a final plat that conforms with the preliminary plat.

Motion to reconsider and reopen public hearing carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Schwinn and Steward absent.

COUNTY FINAL PLAT NO. 98042
COUNTRY ESTATES,
ON PROPERTY GENERALLY LOCATED
AT THE N.W. CORNER OF S.W. 29TH AND
WEST ROCA ROAD/NEBRASKA HIGHWAY 33.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Steward and Schwinn absent.

Planning staff recommendation: Conditional approval.

The applicant was not present.

Bleed does not believe the Commission will find any reason that this plat is not in conformance with the preliminary plat, but she wants the neighbors to be able to speak.

Opposition

1. **Lynn Fry**, tenant on the property, testified in opposition. He has talked with the property owner and about a year ago the owner told Mr. Fry that he wanted to build a house there on a three-acre tract for his niece. That was the last he had ever heard. Mr. Fry had a verbal agreement to let the owner have three acres. Mr. Fry has a lease on this property until 2001 on the entire 150 acres. A road has been built and they plan to build houses, but they have not gotten permission from him as the tenant. He thinks they are getting the cart before the horse because he has the right to farm the tract until the year 2001.

Bayer suggested that Mr. Fry has an issue on the lease which is a legal issue. The Planning Department works with the owner of the property who has the right to subdivide. Mr. Bayer suggested that Mr. Fry consult his own legal advisor. The Planning Commission issue is with the owner of the land and what the land can be used for. Mr. Fry's issue is the right to use the land as a tenant.

Mr. Fry stated that he does not want the Commission to act on this plat until he has reached agreement with the owner as the tenant. Bayer does not believe that is within the scope of the Planning Commission's authority.

Bleed clarified that the only thing the Commission is now looking at at this point in the process is whether the final plat is in conformance with the previously approved preliminary plat. The Commission is being advised by the Planning staff that it does conform and unless there is some reason where the final plat does not match the preliminary plat, she does not believe the Planning Commission has any alternative but to accept the final plat.

2. **Joyce and John Howlett**, testified in opposition. They are concerned because they believe it is a very poor policy to allow development on this 150 acres. They assume the lots will sell for \$40,000 to \$50,000, which is inconsistent with the rural area. They fear that farming operations will be interrupted. This is not a needed development. It disrupts the farmland.

Mr. Howlett stated that the owner has left strips along the north, making it inconvenient to farm. They were not aware of the first hearing on the plat, but he does not believe this is the way Lancaster County wants to develop its property. It leaves property that will not be farmable. It does not follow any of the terraces. Bayer advised that the next step is a public hearing at the County Board. The County Board makes the final decision on this plat and has more latitude to address other issues.

3. **Stanley Brandt**, Martell, testified in opposition. The preliminary plat goes directly catty-corner across the quarter-section, and what they have graded in goes straight east and west across the section, so he believes there has been a change. He believes the final plat is different than the preliminary.

Mike DeKalb of Planning staff gave a history of this plat. Back in September, the property was zoned AG with a special permit to cluster under the CUP and preliminary plat, which was approved by Planning Commission and County Board. This is the final plat which is found to be completely in compliance with the approved preliminary plat and special permit (CUP). The final plat goes on to the County Board after the improvements are in place. Scheduling is normally about three Tuesdays following the action by Planning Commission. Mr. DeKalb again stated that staff finds the final plat to be in conformance with the approved preliminary plat.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: January 13, 1999

Bleed moved to approve the Planning staff recommendation of conditional approval, seconded by Bayer and carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Steward and Schwinn absent.

COUNTY CHANGE OF ZONE NO. 181
FROM AG TO AGR
ON PROPERTY GENERALLY LOCATED
NORTH AND WEST OF THE CORNER OF
NORTH 98TH STREET AND RAYMOND ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION: January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Steward and Schwinn absent.

Planning staff recommendation: Denial.

Mike DeKalb of Planning staff submitted a letter/petition in opposition for the reasons that there are current water problems and they are concerned about water supply, the septic situation and the drain fields; the opposition is fearful the owner of the adjacent 20 acres to the west would also want to rezone if this is approved.

Proponents

1. **Bob O'Gara**, attorney for the applicant, requested that the public hearing be continued for two weeks. The Baily's filed this application on their own and he has now been retained and would like the opportunity to meet with the neighbors.

Duvall moved to continue public hearing and administrative action on January 27, 1999, seconded by Wallace.

Bleed also requested any information on water availability.

Motion to continue carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Schwinn and Steward absent.

Opposition

1. **Kevin Wynegar**, 9300 Raymond Road, west of the subject property, testified in opposition. If they leave the zoning change on the corner of 17 acres, with a dormant 20 acres next to it, it could be divided into 3-acre lots and he is already having a problem with his well. His lateral systems are as much as he can do -- he has three 100' long laterals. That is as much as you can put out there. A lagoon on a three-acre lot fills it up and the water must be 100' away from the lagoon or septic.

This would be too many wells and septics. He is at 155' with his well. He has a 10' screen in his well. When he fills his stock tank, he doesn't have enough water in the house for awhile until the area fills back up. His neighbor went 168' and punched through salt so he had white foam coming up out of the hole. The next property over (the dormant one) had three wells before they could get any amount that would provide water for the house. There was a well accidentally drilled in the back of his property and they got nothing at all.

2. **Jerry Minchow**, 8301 Davey Road, the section to the northwest, testified in opposition. His farmstead is on 80 acres with a 3-gal/minute well at the house. 40 acres of his 80 looks like a pin cushion from trying to drill a well. 600' from his house and 200' down costs a considerable amount to get water to his house. His neighbors have had this same difficulty finding water. He agreed with the staff recommendation. County roads were designed to transport a few farmers from point A to point B, and now people are requesting to place large developments out in the midst. Safety is an issue. There have been fatal accidents on the county roads in this area. He wishes that the Commission would consider safety issues on rural roads when approving these kinds of developments.

3. **Sharon Duis** submitted her testimony in opposition in writing. She is also opposed to the continuance. She does not believe the attorney should be able to come forward at the eleventh hour and ask for a delay. The applicant knew long before the property owners that he wanted to do this. She believes it is too late now for the applicant to come in and request an extension. Her husband works for a living, too, but yet out of consideration for her and their other neighbors, he is here today. She strongly objects to the continuance.

There was no rebuttal by the applicant.

This item will be scheduled for continued public hearing and administrative action on January 27, 1999.

Bayer advised the opposition that the information presented today will be part of the record and will be considered. It is not necessary for them to come back to the continued hearing.

Hopkins also advised that applications have been held over frequently, especially when neighbors come forward with things that have not been agreed upon. The Commission expects the applicant to work with the neighbors so this type of a continuance is part of the normal process.

CHANGE OF ZONE NO. 3161
FROM O-3 OFFICE PARK TO H-4 GENERAL COMMERCIAL
and

SPECIAL PERMIT NO. 1629A
FOR A 32,000 SQ. FT. AUTOMOTIVE DEALERSHIP
ON PROPERTY GENERALLY LOCATED
AT SOUTH 27TH STREET & PORTER RIDGE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Steward and Schwinn absent.

Planning staff recommendation: Approval of the change of zone and conditional approval of the special permit.

Proponents

1. **Mark Hunzeker** appeared on behalf of the applicant. DuTeau Chevrolet has been in downtown Lincoln since 1928. The facility they currently occupy is an older building, spread out over 2-3 downtown blocks. GMC has been encouraging them for some time to relocate and GMC has considerable control over where they relocate. This site has been approved and is mostly appropriately zoned. All but the east 150' of the property is currently zoned H-4 which allows automobile dealerships. The east 150', which is the subject of the change of zone is currently zoned O-3. The entire parcel is subject to an existing planned service commercial special permit which permits 58,000 sq. ft. of commercial and office space. The proposal is to reduce that total from 58,000 sq. ft. down to 32,000 sq. ft. and to rezone the east 150' to H-4 to permit the storage of inventory on that parcel. The required setback under O-3 along the east side abutting the duplex lots is 20'; the required setback in H-4 which they propose is 50'; the allowable height in the O-3 district is 45'; the allowable height in H-4 is 35'. The site plan sets the building 150' back from the east property line.

In addition, Mr. Hunzeker advised that the east 50' (the setback along the east property line) will be dedicated to a 6' berm with a 6' vinyl fence and landscaping on the 50' setback. Mr. Hunzeker displayed the preliminary grading plan, showing the berm, etc. in the 50' setback. The nearest existing homes are on the east side of 28th Street, and those lots are about 140', so the nearest property line is going to be approximately 250' from the building, but between there would be a 50' setback with the berm and fence. Mr. Hunzeker also showed some photographs of the property to demonstrate the berming, etc.

Mr. Hunzeker advised that the applicant has met with the neighbors. Several concerns have been raised, including the noise that goes with an outdoor PA system. Mr. Hunzeker requested to amend the condition of the special permit to eliminate the possibility of an outdoor PA system as follows: omit the second sentence, inserting "... Outside speakers will not be used. ...".

With regard to lighting concerns, Mr. Hunzeker pointed out that Condition No. 2 requires that outside lighting must meet city design standards and be directed away from residential property.

Mr. Hunzeker also suggested adding to Condition No. 2: "The white vinyl fence shown as part of the screening plan shall be extended from the southeast corner of the site westerly a distance of 150'.", so that the entire area for which they are requesting the rezoning will have 6' screening/fence along the south boundary.

2. Rick Krueger, the seller, testified in support. He pointed out that abutting this property to the east there are 7 duplex lots that are final platted. They have not been marketed because they wanted this special permit to go through so that there would not be residents directly abutting it. There seems to be a question about access off 27th Street. He certainly believes that 27th Street access is part of the special permit and they wish to preserve this access. The underlying zoning was part of the Southridge Village global use permit.

Bayer noted that to the north is H-4 zoning across Porter Ridge Road; to the south is an LES substation; to the east the 7 adjoining lots are in the name of R.C. Krueger Development. Mr. Krueger concurred, stating that the closest current neighbor would be on the east side of 28th Street.

Opposition

1. Erik Andry, 7011 So. 32nd Street, appeared on behalf of the **Porter Ridge Neighborhood Association**, in opposition. He requested a four-week continuance in order to get the answers to some of the questions of the neighbors. They have had subcommittee meetings since the general neighborhood meeting. They have a lot more concerns now than were raised at the general neighborhood meeting. Two meetings with the immediate residents raised concerns that they wish to address with the applicant. They are currently scheduled to meet with Mike Minnick tomorrow. The neighborhood has conditions which they wish to have considered and added to the special permit.

Mr. Andry discussed some of the concerns of the neighbors, including lighting (they have a hard time believing that lights will be shut down after business hours); outdoor speakers; exterior signage on the front of the property--type, height, size; the berm and the fence on the south edge of the lot; locked gates to prevent people from driving onto the car lot; fence height raised to 8' from 6' (the land on the west will be developed as duplexes and it will make a difference); concerns and questions about left turn access off of Porter Ridge Road onto 27th Street; test drives through the neighborhood--main entrance and exit is on Porter Ridge Road and South 27th and the neighbors do not want test drives to be done through the neighborhood; and adding trees and shrubs to the berm is okay but it will take 15-20 years for this

vegetation to grow and be of any impact.

Mr. Andry believes the additional time is needed to get the information and answers to the neighbors.

Mr. Andry submitted the results of voting at the general neighborhood meeting where 99 people attended. He also submitted his written statement for the record.

2. Kim Hartwig, 7420 So. 28th, right across the street from the proposal, testified in opposition. She is opposed to DuTeau moving so close to their neighborhood. Their realtor stated that there would only be offices across the street from their home only six months ago. She is fearful DuTeau will destroy the neighborhood feeling of the neighborhood. It will drastically affect anyone who owns a home in the neighborhood--maybe the value of her home would not go down, but it certainly would not go up. Her reaction hearing that they were relocating to her area was that of anger. How could a big car lot settle so close to the neighborhood full of young families and children? She does not want DuTeau in her neighborhood. It is a money issue to the applicant. They are not concerned with the negative impact this will have on the neighborhood. She has no use for a car lot on a weekly or yearly basis. She would have more use for the grocery store. This will affect their daily life with people testing cars down the neighborhood streets. She also has concerns about the lighting. She is just very angry and worried that if her husband decides to sell their home, they will not get a favorable market because of the location of the car lot. This intrudes into the personal lives of the neighborhood at a financial gain to the applicant.

3. Kimberly Brim, 7410 South 28th, testified in opposition. She is frustrated. Theirs was the first house built on 28th and they were told by their realtor and others that the property is zoned for offices. They are not opposed to the duplexes or the offices. She thought the O-3 was to provide a buffer from their homes. They would not have bought the house had they known about this application. Another concern to her is that it is an eyesore to have a car lot in the neighborhood. She is concerned about the test drives through the neighborhood and the safety for the young children in the neighborhood. A car lot does not belong in a neighborhood. It's not the size of the building -- it's the 200 cars parked across the street.

Ms. Brim has talked with a realtor who told her that he could not say if the value of the homes would decrease, but he did say that they might have a harder time selling their home with the location of the auto dealership. The trees will not block anything for 20 years. She is frustrated, sad and angry that they were not aware this was coming forward.

4. Shirley Hatfield, who lives 10 miles south, testified in opposition on behalf of her daughter, Robin Hatfield, who wrote a letter in opposition.

Response by the Applicant

Mr. Hunzeker noted that a number of the concerns raised relative to locked gates or test drives through the neighborhood indicate that there is concern about traffic. He suggested that it is important to focus upon what this use actually does to traffic. The total square footage of the buildings alone will be reduced from 58,000 to 32,000. Auto dealerships generate a lot less traffic than do other types of commercial activity, including dentists and doctors offices. Thus, Mr. Hunzeker submits that the total traffic generation from this site will be dramatically reduced. This use will not increase traffic in the neighborhood. They would guesstimate a maximum of 20-25 test drives per day, and the applicant does not believe realistically that people will go into a neighborhood to test drive a vehicle. He believes this facility will have a positive impact with respect to traffic with the reduction in the total amount of commercial floor area. Mr. Hunzeker pointed out that the existing approval would generate a great deal more traffic and a great deal more in the way of general activity. If you put 58,000 sq. ft. of commercial and office space on this site, that means there will be about 200 or more parking spaces on the site and there is no restriction on the hours of activity, etc. DuTeau generally closes at 8:00 and 9:00 at night and would not object to a condition requiring that the lighting of the inventory lots will be reduced to security lighting after business hours. Parking lots are lit. If this is developed as other commercial, those lots would be lit as well. This application does not detract in any way from what is already approved.

Relative to the size of the landscaping, Mr. Hunzeker stated that the difference in elevation from the backs of the lots to the top of the berm will be about 6'. The fence on top of that is another 6'. It might not be uniform the entire distance and the southeast corner will be the most exposed, but you will not see those cars from the other side of the street. Moreover, the view looking from east to west today is an LES substation. He does not believe this proposal imposes anything that detracts from what already exists. In fact, when this is completed it will be very attractive. There is not another example of a modern car dealership in Lincoln to use for comparison.

Mr. Hunzeker also advised that this applicant would prefer not to have a delay at this time. They would prefer to work with the neighbors between now and the time the change of zone goes to Council.

With regard to signage, Mr. Hunzeker advised that there will be a single pole sign which he believes to be 100 sq. ft.

Steve Henrichsen of Planning staff stated that when this original special permit was approved, there was B-2 and B-5 zoning on the other three corners. He believes the special permit is limited to two pole signs for the entire center, both being restricted to center identification signs. This special permit specifically eliminated any individual pole signs. He anticipates that there would be a ground sign allowed at this location, but this needs to be researched and confirmed. Mr. Hunzeker observed that the H-4 district generally allows one on-premise pole sign per business, and he would anticipate one somewhere near the corner of 27th & Porter Ridge. Mr. Henrichsen agreed that one of the center pole signs was at this location in the original special permit.

Hopkins was curious about the test drive and what it might consist of. Is DuTeau open on Saturdays for something like test drives, etc.? Mike Minnick, President of DuTeau Chevrolet, indicated that there would be more test drives on Saturdays. Mechanics would take test drives between 7:30 a.m. to 4:30 p.m. during the week. Most test drives occur on major thoroughfares rather than through the neighborhood. Normally on test drives, if a younger person was to come in, a salesperson would be sent along and would use their better judgment on the test drive.

Bayer noted that the reason the Commission thought H-4 on the corner was a good deal was because it was next to O-3. He is inclined to delay this application for two weeks so that the applicant can bring in some of the pictures to win over the neighborhood with respect to the new beautiful view of the new dealership. Part of

what we are trying to do is work this out with the neighbors. We want people to be able to believe what we put on paper. Does two weeks really hurt? Mr. Minnick indicated that he does have some pictures that were taken in Denver, Colorado.

Mr. Hunzeker reminded the Commission that the difference between what is being proposed and what is allowed takes the building from 20' away to 150' away, and takes the parking from 20' away to 50' away with a substantial berm and landscaping, which are not required by the existing permit. In terms of the visual screening, there is no comparison and, frankly, if you take the cross-section and look at what will be visible from 28th Street, there will be much less visible with this plan than with the approved special permit, both in terms of cars and buildings. Mr. Minnick also offered that DuTeau will have professional help in construction and the lighting, etc.

Wallace wants the applicant to meet with the neighbors and he suggested two weeks, as opposed to four weeks as requested by the neighbors, to iron out some of the issues, maybe for clarity sake, to give the neighbors some comfort level.

Mr. Minnick suggested that it is difficult to show what the landscaping is going to look like.

Hopkins believes that it is important to have these discussions with the neighbors. Mr. Minnick agreed that two weeks would not be a big problem.

Wilson observed that there appears to be a wider swath of H-4 along Pine Lake Road and wondered whether the applicant had investigated this location. Mr. Hunzeker does not believe it is available for this use. The parcel at the intersection of 27th & Pine Lake Road probably has higher and better use than an automobile dealership.

Bayer moved to continue public hearing and administrative action on January 27, 1999, seconded by Wallace, to allow opportunity for further work with the neighbors. Motion carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Steward and Schwinn absent.

**PRE-EXISTING USE PERMIT NO. 23B
FOR A CONVENIENCE STORE AND THREE GAS PUMPS
ON PROPERTY GENERALLY LOCATED
AT 83RD & "O" STREETS.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Schwinn and Steward absent.

Planning staff recommendation: Conditional approval.

Proponents

1. **Mark Hunzeker** testified on behalf of **Whitehead Oil Company** and submitted colored site plans of the proposal and what exists today. The filling station at 8231 "O" Street is an old station built in the early 60's. It is simply not up to existing standards for Phillips or for Whitehead Oil. They have struggled with the site because it is not very big and they have done about as much as reasonable in order to put a new modern store on this site. The Phillips Petroleum general standard for this type of operation in a metro area such as Lincoln is to have a minimum of four dispensers. Phillips is allowing three at this site. The building is about 25% smaller than the Phillips standard for buildings of this type in areas of this type. They have met several times with the staff to try every way possible to work out all the things they could to get this site to work appropriately, and this is the best they think they can do. It does not meet several of the zoning and design standard requirements, but it represents a significant improvement over the facility that exists today. The existing tanks have been removed. They want to erect a new modern facility which will hopefully serve the area well.

With regard to Condition #1.2.2, Mr. Hunzeker is not sure what it means and would like to have it deleted. It requires a revision of the site plan "to show less". It doesn't say how much or how to revise it. This condition is in response to the Public Works comment that it should be a smaller building with fewer pump islands to more closely meet design standards. Mr. Hunzeker suggested that removing a pump would not improve the operation of the site; reducing the size of the building does not improve the operation of the site either, but just puts it a little more into the box of the design standards. Our parking requirements and design standards do not address the way a gas station operates with people parking at the pump while they shop or pay for their gas. For that reason, Mr. Hunzeker believes that the lack of parking in these circumstances is not a serious impediment. As to the driveways, etc., if they restricted the size of the driveways it would make this much more inconvenient and not work even as well as it does now. He believes Public Works would agree that, given the number of pump islands and the size of the store, this is probably as good a site plan as we can get. Mr. Hunzeker requested that Condition #1.2.2 be deleted

and that the number "3,445" sq. ft. be inserted in Condition #2.

Bayer used to live near this neighborhood and had a neighbor call up and say that there was an agreement between the gas station and the neighborhood that they could cut through this property and cut behind the existing gas building so they could go westbound on "O" Street. Bayer asked Mr. Hunzeker whether that was a formal agreement. Mr. Hunzeker stated that he has not reviewed that agreement personally. There is an agreement of sorts that does not rise to the level of an easement that says if there is a driveway onto Cherry Hill Blvd., that it can be used to traverse the property over to the service road. They did try to put a driveway out to Cherry Hill Blvd., but it really doesn't work well. It pushes the building much further toward "O" Street and eliminates the additional green area. There are some discussions taking place as between Jerry Joyce and the owner of the old Mademoiselle spa and he does not know to what extent there is an agreement reached, but there was some discussion as to some cross traffic there. Bayer confirmed then that there is no requirement or such an agreement that exists for anybody. Mr. Hunzeker concurred.

There was no testimony in opposition.

Bleed asked for staff's reaction to the proposed changes to conditions. Dennis Bartels of Public Works suggested that if we are going to put a 3500 sq. ft. building and 3 pump islands at this location, he agrees that this is probably the best that can be done. The city's design standards are set up for safety for the traveling public and adjacent streets. If you have three through lanes on "O" Street it would complicate this site further. But there is no proposal as such on the table. If the desire is to approve a building of this size and three pump islands, he is not sure there is anything more that could be done.

Wallace inquired about driveway access onto "O" Street. Mr. Bartels responded, stating that a site like this has access to three public streets. Certainly, the preference would be to take access to the local streets. The Design Standards call for minimum of 55' of space between the edge of one pavement to the other, and on major streets the desire is 200'. The more conflict points, the more chance of an accident. Eliminating driveways is for the benefit of the through traffic. For capacity reasons of the street, it would be desirable not to have the "O" Street driveway. However, if you are going to put this much development on this small a site, there is no way to arrange it without an "O" Street driveway. They did make the attempt, but it was not possible.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

January 13, 1999

Bleed moved approval of Planning staff recommendation of conditional approval, with

amendments deleting Condition #1.2.2 and inserting 3,445 sq. ft. in Condition #2, as requested by the applicant, seconded by Duvall.

Bleed appreciates the comments by Mr. Bartels about the design standards and would normally want to adhere to them, but this is a difficult site and it looks as though the design is going to be a definite improvement. There are times when exceptions to the design standards make some sense.

Motion for conditional approval, with amendments, carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Schwinn and Steward absent.

COUNTY SPECIAL PERMIT NO. 167
FOR A GARDEN CENTER ON PROPERTY
GENERALLY LOCATED AT SO. 68TH
STREET AND BENNET ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Schwinn and Steward absent.

Planning staff recommendation: Denial.

Mike DeKalb of Planning staff submitted a letter from Attorney Mike Rierden dated January 12, 1999, requesting a two week continuance to resolve some of the issues.

Wallace made motion for continued public hearing and administrative action on January 27, 1999, seconded by Bleed and carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Schwinn and Steward absent.

There was no public testimony.

**SPECIAL PERMIT NO. 1620B,
AMENDMENT TO THE HIGHLAND VIEW 1ST COMMUNITY UNIT PLAN,
TO DELETE THE CONDITION REQUIRING THAT
SOUTHERN ACCESS BE PROVIDED PRIOR TO THE
ISSUANCE OF OCCUPANCY PERMITS ON THE SOUTHERN
TWO 16-PLEXES, ON PROPERTY GENERALLY LOCATED
WEST OF N. 1ST STREET JUST NORTH OF BENTON.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Steward and Schwinn absent.

Planning staff recommendation: Conditional approval.

Proponents

1. **Kent Seacrest** appeared on behalf of the applicant and agreed with the staff recommendation and conditions of approval.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

January 13, 1999

Bayer moved to approve the Planning staff recommendation of conditional approval, seconded by Bleed and carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Steward and Schwinn absent.

**ANNEXATION NO. 97013;
CHANGE OF ZONE NO. 3080,
FROM AG, I-1, B-2 AND R-3 TO I-3;**

and

**PRELIMINARY PLAT NO. 97023,
SUPERIOR POINTE EMPLOYMENT CENTER,
ON PROPERTY GENERALLY LOCATED
AT NO. 33RD STREET & FOLKWAYS BLVD.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Schwinn and Steward absent.

Planning staff recommendation: Conditional approval.

Nicole Fleck-Tooze of the Planning staff submitted revisions to the staff report which reflect discussions with the applicant related to the need for a trail system through the 33rd Street corridor; a condition is added for a pedestrian way easement to connect to the trail; and clarifying language of Condition #4.3 to provide a conservation easement over all of Outlots A, B and C.

Proponents

1. DaNay Kalkowski appeared behalf of **Superior Pointe Partners** in support. The Superior Pointe property is located directly east of the King Ridge property and the north high school site, north of superior between Fletcher and Folkways. The property will be bisected by No. 33rd and bounded on the east by Salt Creek. The change of zone and annexation are in compliance with the Comprehensive Plan. Staff is recommending approval.

Ms. Kalkowski submitted a motion to amend containing two amendments to the revised conditions submitted by staff. With regard to condition #1.1.4, Ms. Kalkowski advised that the developer has worked this out with the staff. Lot 8 will be transferred from Superior Pointe to LPS for its use with the school site so her proposed amendment deletes the current language and requires a notation restricting the use of that lot in conjunction with LPS. If the use changes, it would need to be replatted.

Ms. Kalkowski further noted that the property contains areas of wetlands which the developer has tried to work around. They have worked with the city to find a location for No. 33rd that avoids as many wetlands in the area as possible. The location shown is a location that the property owners and the city have agreed upon and minimizes the impacts on the wetlands. Three significant areas of wetlands are located within outlots A, B and C. Condition #1.1.5 and Condition #4.3, as revised by the staff would require Superior Pointe to file a permanent conservation easement over the entire outlots or deed the outlots to a conservation organization. Ms. Kalkowski requested that those conditions be amended. It has been the applicant's intent to protect the wetlands in those outlots; however, Outlot A is not delineated as a wetland and there is some useable property on this outlot. Ms. Kalkowski believes that the Planning staff agrees with this amendment. Ms. Kalkowski further noted that normally, the developer would argue that Planning does not have this authority, but since there is an annexation, change of zone and preliminary plat, the developer would agree with these requirements.

Ms. Kalkowski advised that the developer did have some disagreement with staff on the road circulation and sidewalks. She believes these issues will be affected by the uses. Because the applicant has requested that the use permit be delayed into the future, and Planning supports this request, the applicant will accept the conditions as listed today and will discuss these issues again if still at issue during the use permit

process.

Opposition

1. **Danny Walker**, 427 E Street, testified in opposition and asked for additional time to speak.

Mr. Walker suggested that the Commission refer to the requested waivers. He pointed out that of the five waivers being requested, three of them refer to floodplain and detention ponds. He submits that it is very strange that for four days now he has been reading stories on Antelope Valley in the newspaper and yet people can bring items such as this forward with all the waiver requests, suggesting that they be allowed to go ahead--there is no problem. What are we looking at? Evidently, if this goes through, there will be millions of millions of dollars dumped into the Antelope Valley project regarding flood control, and yet we turn right around and waive the requirements at the top end. The school is in the floodplain. Where is this going to end? Are we going to push Antelope Valley and find out that that isn't even enough because of what we've done in the Superior Street area? This is not the only area being developed in the Superior Street area. The developer suggests that instead of elevating, they'll floodproof. What do they mean by floodproof? Are they going to retain their own runoff? Mr. Walker believes this is pell-mel irresponsible planning. It seems like we should be more worried about living in the floodplain than trails. The area he lives in is being neglected by the Antelope Valley study; the advance warning system isn't going to help a whole lot, especially with 6-8 hours. He does not understand where this stuff goes. Who are these people catering to with these waivers? "No net rise" is phony because they use it on one individual development. Future and existing developments should be considered in the no net rise issue. When you build in that floodplain, whether it is floodproofed or elevated to the proper level, you are going to have a rise. Lincoln is not rated good as far as actions such as this. Lincoln is rate 8 on a scale of 1-10, with 1 being excellent. Why isn't the NRD represented today? Who is representing the people that live in this floodplain? The fact is that there are areas in this country where they are pulling the authority

away from the elected and appointed officials with regard to floodplain. Maybe that is what we need. 10% of the people in his neighborhood have floodplain insurance and 65 to 75 percent of them cannot afford it. You cannot get good loans without flood insurance. There is no financial assistance for floodplain insurance. He would love to see regulations against building in the floodplain.

Bleed noted that there has been no conclusion yet of how that Antelope superflow is going to affect Salt Creek.

Staff questions

Bleed is not sure the waivers to which Mr. Walker is referring would do anything one way or the other to increase the flooding. Nicole Fleck-Tooze of Planning staff concurred. Items #2 and #3 are not waivers to the requirements--they are a waiver to allow the requirements to be delayed until the time of use permit. All of those things would be addressed with the use permit when we know in more detail what will be on the site. Specifically, one of the reasons for Item No. 2 was to try to minimize the amount of fill that was needed. On Item No. 4, the city engineer reviewed this plat and there are particular cases in which it is better for peak flood waters to get the stormwater moving, in terms of onsite detention, out through the channel more quickly. It is anticipated that the waivers requested would actually improve the 100 year flood event.

There was no rebuttal by the applicant.

ANNEXATION NO. 97013

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: January 13, 1999

Wallace moved approval, seconded by Bayer and carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Steward and Schwinn absent.

CHANGE OF ZONE NO. 3080

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: January 13, 1999

Wallace moved approval, seconded by Bayer.

Bleed mentioned that she does appreciate Mr. Walker's concerns about flood control and building in the floodplain. She agrees that we do need to be diligent, but in this case, as explained, the waivers reduce the likelihood of flooding.

Motion for approval carried 7-0: Duvall, Wallace, Bayer, Wilson Krieser, Bleed and Hopkins voting 'yes'; Schwinn and Steward absent.

PRELIMINARY PLAT NO. 97023

SUPERIOR POINTE EMPLOYMENT CENTER

ADMINISTRATIVE ACTION BY THE PLANNING COMMISSION: January 13, 1999

Bayer moved to approve the Planning staff recommendation of conditional approval, as revised by staff with the amendments proposed by the applicant, seconded by Wilson and carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Schwinn and Steward absent.

ANNEXATION NO. 98012;

CHANGE OF ZONE NO. 3144

FROM R-3 TO H-3;

CHANGE OF ZONE NO. 3156

FROM R-3 TO H-3;

and

PRELIMINARY PLAT NO. 98021

NORTH CREEK,

ON PROPERTY GENERALLY LOCATED AT

NORTH 27TH STREET & FLETCHER AVENUE.

PUBLIC HEARING BEFORE PLANNING COMMISSION: January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Schwinn and Steward absent.

Planning staff recommendation: Approval of the annexation; approval of Change of Zone No. 3144; approval from R-3 to O-3 on Change of Zone No. 3156; and conditional approval of the preliminary plat.

Steve Henrichsen of Planning staff submitted a letter from Tom Bleeker in opposition on behalf of property owners on Lot 15, immediately adjacent to the southeast. They are concerned about No. 23rd Street, which is being shown as only a half street in this plat. The other half of that 60' wide right-of-way would fall on their property, which they oppose. Most of their Lot 15 is wetland and this development will be detrimental to their wetlands and they are concerned about being assessed for 23rd Street. There is also concern about adding commercial area on this tract.

Chair Hopkins advised that the attorney for the applicant, Mark Hunzeker, has requested a two week deferral.

Bleed made a motion to continue public hearing and administrative action on January 27, 1999, seconded by Krieser and carried 7-0: Duvall, Wallace, Bayer, Wilson,

Krieser, Bleed and Hopkins voting 'yes'; Schwinn and Steward absent.

COUNTY SPECIAL PERMIT NO. 162,
MEADOW VIEW COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT S.W. 84TH AND WEST VAN DORN.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Schwinn and Steward absent.

Mike DeKalb of Planning staff submitted a letter dated January 11, 1999, from the developer, attaching a favorable supplemental groundwater report. The developer is willing to add a note to the site plan for protective covenants containing a requirement that at least 75% of the lawn area be planted to a drought resistant grass species. Also, to improve the fire protection capabilities of the SW Rural Fire District, the developer will provide a "Dry Hydrant" arrangement at the proposed lake so that the firefighters can refill their tankers more quickly.

Mr. DeKalb reviewed the supplemental groundwater report. In summary, it states that the wells in the Meadow View development will not have measurable impact on other wells in the area in terms of water quantity available to them in either the short term or long term.

Bayer moved to approve the Planning staff recommendation of conditional approval, seconded by Krieser and carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Schwinn and Steward absent.

SPECIAL PERMIT NO. 1741
MEADOW VIEW COMMUNITY UNIT PLAN
ON PROPERTY GENERALLY LOCATED
AT S.W. 84TH AND WEST VAN DORN.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Schwinn and Steward absent.

Bayer moved to approve the Planning staff recommendation of conditional approval, seconded by Wilson and carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Schwinn and Steward absent.

PRELIMINARY PLAT NO. 98025
MEADOW VIEW
ON PROPERTY GENERALLY LOCATED
AT S.W. 84TH AND WEST VAN DORN.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: January 13, 1999

Members present: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins; Schwinn and Steward absent.

Bayer moved to approve the Planning staff recommendation of conditional approval, with amendment to Condition #3.2.3 regarding notice to buyers and home builders of the groundwater report and information, seconded by Wallace and carried 7-0: Duvall, Wallace, Bayer, Wilson, Krieser, Bleed and Hopkins voting 'yes'; Schwinn and Steward absent.

There being no further business, the meeting was adjourned at 4:40 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on January 27, 1999.