

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, July 14, 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, Gerry Krieser, Cecil Steward and Rick Wallace (Barbara Hopkins, Greg Schwinn and Joe Wilson absent); Ray Hill, Mike DeKalb, Jennifer Dam, Steve Henrichsen, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Vice-Chair, Russ Bayer called the meeting to order and requested a motion approving the minutes for the meeting held June 30, 1999. Motion to approve made by Steward, seconded by Bleed and carried 5-1: Bayer, Bleed, Duvall, Steward and Wallace voting 'yes'; Krieser abstaining; Hopkins, Schwinn and Wilson absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

July 14, 1999

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

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3191; SPECIAL PERMIT NO. 1780; SPECIAL PERMIT NO. 1782; PRELIMINARY PLAT NO. 99011, BAIR INDUSTRIAL PARK 1ST5 ADDITION; FINAL PLAT NO. 98023, VINTAGE HEIGHTS 4TH ADDITION; FINAL PLAT NO. 99003, AUTUMN RIDGE WEST ADDITION; STREET AND ALLEY VACATION NO. 99006; AND WAIVER OF DESIGN STANDARDS NO. 99008.**

Item No. 1.6, Final Plat No. 99003, and Item No. 1.7, Street and Alley Vacation No. 99006, were removed from the consent agenda and scheduled for separate public hearing.

Duvall moved to approve the remaining Consent Agenda, seconded by Krieser and carried 6-0: Bayer, Bleed, Duvall, Krieser, Steward and Wallace voting 'yes'; Hopkins, Schwinn and Wilson absent.

Note: This is final action on Final Plat No. 98023, Vintage Heights 4th Addition, unless appealed to City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**WAIVER OF DESIGN STANDARDS NO. 99006
FOR A VARIANCE TO THE SUBDIVISION
REQUIREMENTS FOR DEPTH OF
LOT WHEN ABUTTING A THOROUGHFARE,
ON PROPERTY GENERALLY LOCATED
ON THE EAST SIDE OF SO. 56TH STREET,
GENERALLY IN LINE WITH SPRUCE STREET,
SOUTH OF PIONEERS BLVD.**

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: July 14, 1999

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

Proponents

1. Joe Kerr, the applicant, and Bert Newell, the property owner, testified in support. Mr. Newell stated that he had had numerous discussions with the neighbor that was opposed at the first hearing and they have reached a written agreement. Mr. Newell also contacted the Colonial Hills neighborhood representative, who would not endorse the application on behalf of the neighborhood but the representative did like what Mr. Newell was doing.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 14, 1999

Steward moved approval of the Planning staff recommendation, seconded by Krieser and carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn absent.

ANNEXATION NO. 99011
TO ANNEX PROPERTY GENERALLY LOCATED
AT SOUTH 14TH STREET AND
MOCKINGBIRD LANE NORTH.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: July 14, 1999

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

Steve Henrichsen of Planning staff submitted a letter from Keith Herbster, 1201 N. Mockingbird Lane (Lazy Acres), in opposition. This is an unfriendly annexation and the Lazy Acres property owners still have several questions about the annexation, utilities, cost of utilities, etc.

Mr. Henrichsen also submitted a memo from the Planning Department addressing the questions raised in the Herbster letter. The City utilities are available, but there are too many variables for Public Works to be able to prepare an estimate of the costs; if sewer and water are requested in the future, the city could start the engineering to compute the cost details. The City is not proposing any sewer or water improvement districts at this time. With regard to fire protection, in the incident referred to, the Lincoln Fire Dept. was not called for 10 minutes—the rural fire district was called first; the Lincoln Fire Dept. responded 5 minutes and 20 seconds after they were called. Mr. Henrichsen suggested that the Lincoln Fire Dept. will provide a tremendous improvement in the fire service these residents will receive.

With regard to roads, Mr. Henrichsen advised that once the property is annexed, the city is liable to keep the roads in reasonable safe condition. Staff is still recommending approval of this annexation.

Mr. Henrichsen also submitted a letter from Melva Plouzek suggesting that this annexation be delayed similar to the way the North 40 Golf Course and Campbell Nursery annexations were delayed.

Wallace believes there are yet some unanswered questions and he asked whether there has been any dialogue from the Law Department in regard to the Herbster letter. Mr. Henrichsen responded that a letter was sent to property owners in May; the staff held a separate open house on June 2nd and attempted to answer as many of the questions as possible. Sewer and road improvements are something that have to be addressed at a future date as far as the costs. When you have a gravel road, the city is liable to maintain that road, but the residents pay for the cost of the gravel.

Steward asked staff to explain the plans for the areas in and around this property. Mr. Henrichsen stated that to the north of Lazy Acres is Densmore Park, where the future City Library and YMCA will be building a library and recreational facility; to the south in the I-3

area which is owned by LPS for a future high school; and the Horizon Business Center is even further south of the high school site; to the east is Lincoln Memorial Park Cemetery. All of the area to north, east and south is inside the city limits and in the process of becoming further urban. Steward wondered why it wouldn't be appropriate to defer this annexation until the infrastructure decisions on the two adjacent properties are made. Mr. Henrichsen's response was, "because that time may never come in this case". In regard to providing water and sewer to the adjacent properties, there is not any reason at this point to run utilities through this property and a district may never be requested. When the major sewer trunk lines and water mains are in place as in this area, it is appropriate to annex the property. It could be years or decades before requests for sewer or water districts come forward. Most of these residents do not want the water and sewer districts and are happy with their own wells and septic systems. The city is not requesting those water and sewer districts.

Then if the basic infrastructure is in place, Steward does not understand why it is not possible to give impact numbers at this time. Mr. Henrichssen explained that the trunk line is available along the railroad tracks to the west; the water main is to the east. Estimating the water service costs might be easier, but a lot of it has to do with the undeveloped area to the west with only one house on it. A lot of the costs of the sewer and water depend on whether or not that property develops. If it does, the developer may pick up quite a bit of the sewer and water costs. As the YMCA develops to the north, that may bring sewer main to Mockingbird Lane North; as the high school develops, depending on where they bring the main in, that would have a big impact on the sewer cost as well. In general, the staff has tried to provide estimates in the past, but there are enough variables in this particular area, that it would be hard to give those cost estimates.

Bleed asked whether the staff has explained the sewer and water district process to the owners. Mr. Henrichsen stated that to be an issue that was discussed at the open house. Certainly, on the sewer and water districts, they can be requested by a single individual that might affect numerous property owners. An assessment district calls for a separate public hearing before the City Council, who decides whether to approve it. The later subsequent steps would address the costs and the cost-sharing. The assessments would be paid over a 20-year period.

Opposition

1. Melva Plouzek, testified in opposition, and read her letter into the record, referring to the previous delays of the North 40 Golf Course and the Campbell property annexations. She is requesting a similar delay; there is no need for the city services and the property owners do not want to pay the city to deliver gravel; they do not want the city to gravel the

road; having weeds mowed by the City is higher in cost than private hiring; they also have

a workable process for snow removal; the costs are an extreme concern to the 14 homes that would have to share the expense.

It was Ms. Plouzek who had the fire previously referred to and she put the fire out. The Fire Marshall said they could not do anything for her because the fire hydrant was ½ mile away. Had she not been home, her property would have been leveled. Fire protection with one fire hydrant ½ mile away is of no use.

Response by the Applicant

With regard to fire protection, Mr. Henrichsen explained that each truck will attempt to carry a certain amount of water; they would also then try to string lines out from the 14th Street hydrants back into the subdivision. At this time, the hydrants would be in South 14th Street. The Lincoln Fire Dept. felt that through the service they carry on the trucks plus the mutual aid agreements with the rural fire districts, they could serve this area adequately and they would have much faster response time than the rural fire district. Once annexed, the Lincoln Fire and Public Works Departments may add additional hydrants to the mains on arterial streets. If annexed today with a fire tomorrow, they would run the water from fire hydrants along 14th Street. He does not know the exact location.

Steward noted that this is probably the second or third area of acreages in a short period of time that is being surrounded by other development. He believes the Commission is going to see these coming more and more frequently because of circumstances where acreages are and where the city is moving. He wonders if staff has considered moving further out and encompassing more acreage developments. It appears here that we have a different situation than some normal annexations which are at the edge and contiguous, where older property owners, if annexed now, lose their leverage to influence any cost-sharing that may take place in adjacent developments that they have had nothing to do with and did not want in the first place. Where are we headed? Mr. Henrichsen noted that in the past five years, since 1994, when we started the annexation studies, we have had about 15 annexations initiated by the city which were opposed by the residents and most of those areas were acreage areas. A lot of the issues come down to the residents being on wells and septs and they do not want city services. For most of those areas, there have not been requests to put in water and sewer. Those water and sewer costs may be many years off in the future. They would be handled in the same manner as other areas of the city. Those assessments would be handled through a separate public hearing process and at that time the city can address the fairness of the cost-sharing. The improvement district process is the best place to address those costs. The city's annexation policy talks about services being generally available in the area, which they are in this case. The city is completely surrounding this area. With annexation, these

properties will be treated the same as other citizens of Lincoln. Mr. Henrichsen believes

we are showing some sensitivity because we are not requiring a lot of things such as paving, etc., that are found in other urban areas.

Bleed is not sure she understands what kind of leverage one would have. Steward believes this discussion maybe should occur at a different time because it is more of a policy kind of strategy. He believes we are getting into unusual circumstances, i.e. actions that the City/County Planning Commission has taken to approve in the past, and then new development occurs around them that does not account for their action or their activity; and whether or not they are being penalized as a result of other plans that are being made throughout the city.

Bayer suggested this be discussed at a future Planning Commission retreat.

Bayer commented that looking at this annexation, the justification is simply that it is surrounded on 3 sides and in conformance with the Comprehensive Plan. The pro to the residents is fire protection, and the con is increased taxes. These are the first most immediate impacts to the neighbors. Mr. Henrichsen agreed that there is certainly some con to uncertainty as to the potential for improvements. And with other areas, the minute someone's well fails and they are on a one-acre lot, they will find it difficult to put in a new well and may be here asking for annexation in order to solve their concern.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 14, 1999

Bleed moved approval, seconded by Krieser.

Bleed commented that this is a very difficult decision to make and Steward is correct that it is a situation that we will be facing over and over again in the next few years. We need to review the policy and attempt to alleviate some of the uncertainties and concerns of the homeowners. At the same time, we do have a policy in the Comprehensive Plan; this is clearly an area that is within the built environment in the city; there are some major structures going up with the school, park and library. We do not want to have a Swiss Cheese city where there are holes that are not annexed. Not requiring hookup to sewer and water does provides some time. The uncertainty is there as to when the assessment district might be requested and formed. She believes it makes sense to annex the area, although she does have sympathy for the homeowners in the area as far as the uncertainties with the costs, etc.

Wallace agreed. We all knew this was coming and it's here. He cautioned that we need to be aware that we have some established residents who have some income restraints. We need to be able to give them a clear picture up front so that the residents can plan how to meet the obligation. He is hopeful that some language can be incorporated to address the issue of giving the property owners some range of costs.

Steward will vote against the motion out of principle. He continues to speak about the difficult circumstance of planning acreages within the county; if we are going to plan them we have the responsibility to the properties to give them as much confidence as others within the plan context; if it does happen outside of their control and they become surrounded by some development, we need to be able to give them some real costs and the exact alternatives. Until we get a policy that is more clear he will vote against this kind of action.

Motion to approve failed 3-3: Wallace, Krieser and Bleed voting 'yes'; Duvall, Steward and Bayer voting 'no'; Hopkins, Wilson and Schwinn absent.

This application is held over for administrative action on July 28, 1999. Public hearing has been closed.

CHANGE OF ZONE NO. 3187

**TEXT AMENDMENT TO THE LINCOLN MUNICIPAL CODE
REGARDING SPACING BETWEEN OFF-PREMISE SIGNS.**

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: July 14, 1999

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

Rick Peo, Chief Assistant City Attorney, advised that at the time the Council was prepared to debate the sign moratorium, there was some indication that they would like to see this text amendment on the spacing requirements at the same time. The moratorium ordinance has already been passed, but Mr. Peo believes it would still be appropriate for the Planning Commission to make some kind of recommendation on this text amendment and forward it on to the City Council, whether it be approval, denial or deferral until the moratorium and review are complete. It can then be held at the City Council level as opposed to this level.

There was no testimony by the public.

Steward commented that under the character which generated this action, which was to get better control of our signage within our city, it is his opinion that this text amendment only deals with one kind of spacing and he's not sure that goes far enough. Mike DeKalb of Planning staff reiterated that the staff recommendation is still that this text amendment be deferred so that the moratorium period can provide the opportunity for a study group to look at all options. The Planning Commission could ask Council not to proceed on this text amendment until the moratorium and study are completed.

Mr. Peo pointed out, however, that it is not appropriate for the Planning Commission to hold applications on a pending agenda without the request or approval of the applicant. This needs to go forward to the governing body.

Public hearing closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 14, 1999

Steward moved to accept the staff recommendation for the change in spacing from 300' to 800', with a note that the Planning Commission believes that the entire sign policy should be reviewed during the moratorium period and that this text amendment is simply just one step in that review process, seconded by Duvall and carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn absent.

FINAL PLAT NO. 99003,
AUTUMN RIDGE WEST ADDITION
ON PROPERTY GENERALLY LOCATED
AT THE NORTH END OF 21ST STREET,
NORTH OFF OF FOLKWAYS BLVD.

PUBLIC HEARING BEFORE PLANNING COMMISSION: July 14, 1999

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

Planning staff recommendation: Conditional approval.

This application was removed from the Consent Agenda and scheduled for separate public hearing at the request of Mark Hunzeker.

Proponents

1. Mark Hunzeker appeared on behalf of the applicant requesting to change the condition of approval. The stretch of No. 21st is dedicated and unpaved, and everyone including the neighbors, Public Works and this developer want it to be paved. The condition of approval of the preliminary plat provided that they could not get a final plat until such time as they had either an Executive Order issued for the paving or a paving district requested. The community unit plan was worded such that either an Executive Order or the district was requested. There is a request pending for an Executive Order which cannot yet be issued and Mr. Hunzeker requested to amend the condition of the final plat as follows: "The final plat shall not be executed by the Chair of the Planning Commission or filed of record until either an Executive Order is issued or paving district requested for Folkways Boulevard and North 21st Street immediately south of this plat."

Rich Houck of Planning staff agreed with the proposed amendment. The main issue is to get the two streets installed. Right now, with the lots that have been created and houses built and multi-family units put up, they have created approximately 1500 trips a day on Sea Mountain Road. This is pretty heavy traffic for a local street. The addition of these lots will increase the number of trips a day and the road is needed.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 14, 1999

Bleed moved to approve the Planning staff recommendation of conditional approval, with amendment to the condition of approval as requested by the applicant, seconded by Wallace and carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn absent.

**STREET & ALLEY VACATION NO. 99006
TO VACATE HILL STREET BETWEEN
PARK AVENUE AND VAN DORN STREET BYPASS.
PUBLIC HEARING BEFORE PLANNING COMMISSION:** July 14, 1999

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

Planning staff recommendation: Conditional approval.

This application was removed from the Consent Agenda and scheduled for separate public hearing at the request of Mike Rierden.

Proponents

1. **Mike Rierden** appeared on behalf of the applicant and requested that Condition #2 be revised as follows: "To pay the cost to remove the street return or extend the return as a driveway". This is acceptable to the applicant and the staff.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 14, 1999

Wallace moved to approve the Planning staff recommendation of conditional approval, with amendment to Condition #2 as requested by the applicant, seconded by Duvall and carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn absent.

CHANGE OF ZONE NO. 3174;
CHANGE OF ZONE NO. 3175;
SPECIAL PERMIT NO. 1767, NORTH HILLS CUP;
and
PRELIMINARY PLAT NO. 99009, NORTH HILLS ADDITION,
ON PROPERTY GENERALLY LOCATED AT
NORTH 14TH STREET AND INTERSTATE 80.
PUBLIC HEARING BEFORE PLANNING COMMISSION: July 14, 1999

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

Planning staff recommendation: Deferral pending negotiations between the applicant and staff.

Bleed moved to defer public hearing until August 11, 1999, seconded by Duvall and carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn absent.

COMBINED USE/SPECIAL PERMIT NO. 11D
TO AMEND SOUTHPOINTE PAVILIONS
FOR 3 OFFICE BUILDINGS AND ONE EARLY
CHILDHOOD CARE FACILITY, ON PROPERTY
GENERALLY LOCATED AT S. 32ND AND PINE LAKE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: July 14, 1999

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

Planning staff recommendation: Conditional approval, as revised on July 9, 1999, adding Condition #1.2.9.

Proponents

1. **Brian Carstens** testified in support of this application to amend the use permit to allow for three small office buildings and an early childhood care facility for 150 children. They have requested some waivers of front yard setbacks because of the roundabout and staff is recommending approval of those waivers.

Mr. Carstens requested that Condition #1.2.3 be deleted because the neighbors prefer to

have the fence located along the property line. The applicant will provide landscape screen on the other side of the fence.

Mr. Carstens agreed with all other conditions of approval.

There was no testimony in opposition.

Steve Henrichsen of Planning staff stated that the staff supports the deletion of Condition #1.2.3 as long as there is no one in opposition. The staff did receive confirmation from the Gettysburg residents that they are in favor of moving the fence and it does meet the minimum standards.

Steward inquired about the concern with children getting into the detention cell. Mr. Henrichsen stated that to be the reason for Condition #1.2.8 to extend the fence to the east.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 14, 1999

Duvall moved to approve the Planning staff recommendation of conditional approval, as revised, with amendment deleting Condition #1.2.3, seconded by Steward and carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn absent.

**COMBINED USE/SPECIAL PERMIT NO. 15
FOR A CHILDCARE FACILITY FOR 100 CHILDREN
AND A CARETAKER'S APARTMENT
ON PROPERTY GENERALLY LOCATED AT
NORTH 27TH AND FOLKWAYS BLVD.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 14, 1999

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

Planning staff recommendation: Conditional approval.

Proponents

1. **Dave Lambrecht** appeared on behalf of **Larry Price**, the developer, who wants to build a day care on this lot for approximately 100 children. It would be an asset to the neighborhood and the community. It has been suggested that the day care building be switched with the building next to it, but this does not work because of the size of the building and the way the lot is shaped. The grading and drainage plan show that the

northwest corner is cut away quite a bit with a drop of approximately 12', putting the playground down in that area and buffering it from the neighbors to the west and north.

It was the applicant's desire to use the north driveway for entry, park by the island to drop off children and go on through the south driveway. This would keep the traffic flowing one direction. They can accomplish this with signage making it one-way.

Opposition

1. Janice Satra, property owner just west of the proposed facility, testified that she is not sure whether she is opposed but she has some concerns. She is concerned about the setback and adequate landscaping. It is hard to tell by looking at the site plan what the setback and landscaping will look like. Lack of proper landscaping will affect her property value. There is another large day care just a few blocks away. In addition, there is property zoned at 23rd and Superior for day care and this is close to a school to provide before and after school care. A motel has been proposed on the corner of 27th & Folkways for years and she would never consider taking her children to a day care that is across the street from a motel. It is a safety issue.

2. Barb Fisher, testified in opposition. She believes it is entirely inappropriate to allow a residence (i.e. the caretaker's apartment) in an area zoned for offices. She is the owner of Superior Child Development Center, which is licensed for 97 children and only four blocks away from the proposed facility. She has been in business for 3 ½ years and there are currently not enough children in the area to support two large centers. There are many home day cares in the area and other learning centers and none are at full capacity. This facility would create a huge financial burden on the existing centers. Ms. Fisher believes that a recommendation of denial would be appropriate, but a delay for at least a year would be better. There is land already zoned for day care right next to Campbell school.

Steward inquired about any B-2 in the area on Folkways. Jennifer Dam of Planning staff advised that the two northern lots zoned B-2 have been approved for a hotel conference center. The hotel/restaurant/convention center will be located on the northern part with parking on the southern part. The play area where the children would be for this center is fully enclosed and is in the back of the site.

Ms. Dam further advised that In the O-3 zoning district, day cares are a special permitted use, as in this case. There is an area at 24th & Dodge, south of Superior, ½ mi. south and 1/4 mi. west that had been proposed at one point for a day care center, but no special permit for that property has been applied for and none have been approved. That property is zoned R-2.

As far as setbacks and landscaping, Ms. Dam advised that the site plan shows a 40' setback from the west property line and the playground is within that 40' setback. There is approximately a 12' drop from the northwestern property line to the playground. Thus,

the playground will be sunken, with a 12' retaining wall and a 6' opaque fence, so there will be proper screening. The landscape plan for the northernmost property line meets the design standards with a 60% screen of trees.

Ms. Fisher pointed out that there is a huge sign on the lot at 24th & Dodge that says "Zoned for Day Care".

Response by the Applicant

Mr. Lambrecht showed a cross-section view showing the playground in relationship to the townhouses to the north. There is fencing all the way around the playground. There will be shrubbery going down the west side beyond the fence, with trees in the parking lot and a fence on the north side, even though not required, with some shrubbery. There is no access from the playground to the front of the building without going through the building itself.

Wallace inquired about the demographics and need for this day care. Mr. Lambrecht says that everyone he has asked thinks it's a great idea. The potential operator also runs a day care in Beatrice, taking children from 6 mos. to 12-13 years of age. There is a need for the early childhood day care. Especially with the development to the northwest and east, Mr. Lambrecht believes there is a need for this facility.

Steward asked whether this applicant/developer owns the property further south north of 26th. Mr. Lambrecht advised that that is a detention cell jointly owned by the property owners around it. There is little chance that this could be developed, other than as a parking lot by use of some high tech plastics to bridge across the detention cell.

Larry Price, the developer, stated that this is a new venture for him, but before pursuing a project, he first finds out if there is a need. He does not argue the point that there are enough day care facilities in the area at this time. But, there is no place to care for the children of the people attending conventions in the hotel. The emphasis on the day care is for people who come into the city for that need. He has done research on this with Gallup. He does not believe it will be a competition to the other day care centers. He also believes that competition helps each other.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 14, 1999

Steward moved approval of the revised staff recommendation of conditional approval for 100 children, seconded by Bayer.

Steward indicated that he heard some of what he was hoping to hear – that there was a functional use relationship between the other proposed commercial properties in the area. He believes that competition does improve child care and only time will tell whether it is a

commercial circumstance. This is a permitted use in this area and all of the planning appears to be in conformance.

Bayer concurred with Steward; however, the competition issue is not one for the Commission to discuss. The Commission is only to address the land use issues.

Motion for conditional approval, as set forth in the revised staff report dated July 11, 1999, carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn absent.

COUNTY SPECIAL PERMIT NO. 169
FOR A GOLF COURSE ON PROPERTY
GENERALLY LOCATED AT
N.W. 140TH STREET AND WEST HOLDREGE STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 14, 1999

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

Planning staff recommendation: Conditional approval.

Mike DeKalb of Planning staff submitted a letter in opposition from Richard D. Hedges with concerns about salt in the wells and the impact of a golf course on the domestic wells.

Proponents

1. Michael Rierden appeared on behalf of the applicant and thanked Mr. Hedges for his letter. Because of the information contained in Mr. Hedges' letter, Mr. Rierden requested a two week deferral to give the applicant an opportunity to put together information to satisfy the Planning Commission in order to move this matter on. The applicant desires to address the questions raised.

Bleed moved to defer for two weeks, with continued public hearing and administrative action scheduled for July 28, 1999, seconded by Steward and carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn absent.

Opposition

1. Richard Hedges, testified in opposition. His family has drilled wells for over 100 years in this area, and he has worked with the Conservation Division and UNL. Within a very few miles in any direction from this proposed golf course is a very fragile salt water environment. At the present time, there is enough salt in his water that his wife has to use bottled water due to high blood pressure. There is a church about 1 mi. away and many

of the Grade A dairy farms will be having their water tested within the week to determine how much salt they have in their water now. You cannot drill through salt; the deeper you get, the worse it will get. Recharge from Pawnee Lake could come up as a resolution, but due to the blue clay of approximately 120', about 1' would be totally unpenetrable by water. There would not be significant recharge from Pawnee Lake to this aquifer. The aquifer is being strained right now by the existing acreage development. Once this goes salt, it has been his experience that it takes many, many years for it to come back to fresh water. If this special permit is approved, the only way to protect the lifestyle of this community would be to put in monitored wells, which would be required to be pumped at least monthly during irrigation season. There is an irrigation well not too far from Mr. Hedges' home, and if he pumps his well hard it will go salt. The season for a golf course in an extremely dry year could be from the 1st of May to the 1st of November, which is going to use a lot of water. He does not believe it is fair to destroy the Grade A dairies by a golf course. When working with underground water, things are variable, and it is his opinion that this recharge area is very limited.

Steward noted the drilling/testing report from Mr. Dreezen dated in Sept. of 1998. Mr. Hedges has not seen the report but he has talked with the man who drilled the wells and it is his opinion that there is a good possibility that those wells will go salt.

Steward suggested that it would be helpful to have the expertise and the evidence of such a report before the next meeting.

2. Mark Hunzeker appeared on behalf of **Merle Jahde**, who owns a home approximately 2 mi. north. Mr. Jahde is not necessarily opposed to the golf course, but wanted to express similar concerns about the quality and quantity of fresh water in the area. The test report is a qualitative analysis and not a quantitative analysis. Mr. Hunzeker checked one golf course here in Lincoln which irrigates and it uses 50 to 60 million gallons of water a year—on dry days, 750,000 gallons a day; on wet days, 150,000 gallons a day. It is a fairly intense use of water. It is a real concern and one which needs to be raised and evaluated. Mr. Hunzeker stated that he appreciates the applicant's willingness to defer to address this issue.

3. Jo Sterling, 1003 N.W. 140th, which is on top of the proposed golf course, testified in opposition because of the wells. She just installed a new well two years ago. Right now they have good water and want to keep it that way. She is also concerned about the need for this use. There are several golf courses in the surrounding areas, including the Highlands, Pioneers Park, Seward, and Milford, and she believes these are all in a fairly close area. Another concern is the traffic--this is a gravel road. At the intersection at N.W. 140th & W. Holdrege, if someone comes flying over the hill, you don't have time to stop. She is concerned about safety on the road.

Steward referred to the concern expressed about the circuitous route one would have to take to reach this property. Ms. Sterling stated that the entrance to the golf course is on the corner of the entrance to her home. From any direction to go to the golf course will be

at that corner. Coming to Lincoln, she goes to the Interstate going one mile west. When she comes home in the evening she comes out West O and turns off N.W. 126th and comes on gravel road to 140th.

4. Edna Whitney, 13310 W. Holdrege, ½ mi. from N.W. 126th, testified in opposition. Replacing wells is expensive for the senior citizens who do not have the finances. She had a water well that went out in February and had to have a new one drilled, which cost her a lot of money. She understands the maintenance building will be right across the street from her house, and she believes there is plenty of ground closer to the interstate where they could put the maintenance building.

Ms. Whitney had to replace her well because it went dry and it was not good water.

5. Kevin Lostroh, 13651 W. Adams, approximately 3/4 mi. north of the proposed site, testified in opposition. Approximately 25-30 people also stood in the audience in opposition. Mr. Lostroh farms in the area. He is concerned about the water as previously discussed. If there is a dry year or two, it will really affect the neighboring wells for livestock and domestic use. Traffic is also a major concern. On the 4th of July, for example, it was difficult to get on 126th or West Adams because of the Pawnee Lake traffic. This golf course will add more traffic. His family has been on the farm for 129 years and he does not want the livelihood of the community ruined by lack of water and the increased traffic.

With regard to the proposed property for the golf course, Diamond Head is pastureland and the property owned by Borgmans was farmed and it was a good farm.

Mr. Lostroh's well is approximately 20-25 years old; he had to add a 20' length of pipe a few years ago during a dryer year. He will be having his well checked.

6. Harold Busboom, 3401 N.W. 126th, testified in opposition. He did not receive a notification letter.

Bleed posed the question: If we would decide that the well that would irrigate the golf course will adversely impact existing domestic wells, to what extent is the Commission justified to deny the application for that reason alone? Rick Peo, Assistant City Attorney, suggested that if it causes an adverse effect that cannot be remedied, it would be justification for denial. The remedies would need further research. Mike DeKalb also offered that the County Board in the past, has denied a special permit when they felt it did not adequately address the concerns raised, and if there were no reasonable alternatives or conditions to remedy the adverse impact. In this particular case, there is a lack of information on groundwater. The proposed conditions of approval attempt to address this to some degree by making it an "environmentally friendly" golf course. There may be alternatives, but we do not have that information available.

Bleed asked if a special permit can be conditioned such that if in the future there is a problem with a domestic well that can be traced to the golf course well, there would be a series of steps taken to address that. Mr. Peo suggested that this gets into the point of what caused the problem, etc. That might be stretching it. These are issues that would need more research than he is comfortable addressing today.

In the meantime, Steward requested that staff discuss with the applicant the best practices that other arid climates have used, yet he is not implying that this would be an acceptable application. Mr. DeKalb has been discussing it with the applicant's attorney and will continue.

There was no response to the opposition by the applicant.

Since Bleed will be absent on July 28th, she gave her comments about the proposal. She has a lot of concerns about this application in terms of water use for a golf course and is hopeful they will take a very close look at the water information and make sure we are satisfied that there will be sufficient water.

ANNEXATION NO. 99006

and

PRELIMINARY PLAT NO. 99010,

LEE'S PLACE,

ON PROPERTY GENERALLY LOCATED

AT SOUTH CODDINGTON AVENUE AND WEST VAN DORN STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 14, 1999

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

Planning staff recommendation: Approval of the annexation and conditional approval of the plat.

Proponents

1. Rick Krueger, President of R.C. Krueger Development, the applicant, presented the application. This is a very straight forward plat for residential development under the R-3 zoning district, with one outlot for detention.

2. William Hergott, President of the West A Neighborhood Association, has not talked with anyone except the city about this proposal. Their main concern would be the waiver of sidewalks. If the waiver is approved, there will only be sidewalks on one side of Coddington and one side of Van Dorn. Other than the sidewalk waiver, the West A

Neighborhood supports this proposal.

3. Dan Navratil, Principal of Roper School, also has concerns about the sidewalks and, more specifically, when the sidewalks will be built. He understands that the developer may have four years to do the sidewalk. The number of children in the school is increasing tremendously. Even is there is one house and children walking down Coddington, we are asking for problems. You have to walk on the edge of Coddington because both sides of the street have a ditch. He wants the sidewalks to be a top priority from Van Dorn all the way up Coddington. It does not matter which side of the street the sidewalk is on, but it is critical to have the sidewalk in place if there is even just one house built there. One side of the street is acceptable.

4. Bill Utley, 2430 S.W. 18th Street, adjacent to the proposed annexation, stated that he will support the development, but only if the sidewalks are installed. In the immediate area, Folsom, South and a little piece on Van Dorn are very dangerous. The area along Coddington from the school down to Van Dorn must have a sidewalk in place.

Opposition

1. Charles Pallesen, attorney, testified on behalf of Irma Dineen, the owner of property surrounded by this proposal, in opposition. She owns one acre with one house. It is not a situation where Mrs. Dineen wanted the development to occur, although she knows there is not a lot she can do about it. But she receives a letter dated July 2nd over the long holiday weekend, with the staff report available on July 8th, and Mr. Pallesen got his comments in to the staff and the applicant on the July 7th and 8th. Therefore, the Commission does not have record of Mrs. Dineen's concern. She was not contacted by the developer prior to the publication of this hearing and the letter she received. Mr. Pallesen has since talked with the developer and it is unfortunate that Mrs. Dineen has not been involved in the process. Mr. Pallesen does not believe the design of the development takes in the maximum use of her property. If she were included in the design, Mrs. Dineen has a valuable piece of property. The way the plat is presented, the maximum amount of lots that she could get out of a full acre would be 3. If her property were included in the plat, she could get 5 or 6 lots. There is access on Coddington, but it appears that Coddington will be closed to ingress and egress if her one acre were developed.

Mr. Pallesen does not know whether her acre is included in the sidewalk installation, and he wonders whether she will be assessed for the sidewalk. The other question is water and sewer, which he has inquired about to the city but has not yet received a response. With only access from the new street to the north, Mrs. Dineen ends up with lots that are 174' deep, which is not maximum use of a piece of property.

Mr. Pallesen requested that this project be deferred until maximum consideration has been given to the Dineen property. If we do not address what can be done with the Dineen property, it will be devalued. By Krueger putting in the improvements on the north without

asking for an assessment district, is a benefit to Mrs. Dineen? This owner is on fixed income and if her property is not considered in this plat, he does not believe she can develop the property herself with only three lots.

Mr. Pallesen is requesting the deferral so that the city, Krueger and Mrs. Dineen can have an opportunity to discuss this together. If the Commission makes a decision, Mr. Pallesen requested that Mrs. Dineen come out of this without any costs. She wants assurance that there will be no sidewalk assessment and that the actual sewer and water hookup to her house would be paid by the developer.

Steward asked whether Mrs. Dineen has at any time been approached by the developer for purchase or otherwise. Mr. Pallesen responded that she had not. Mr. Pallesen talked with the developer last week and they are not close to any agreement at this time. There has been no contact by the developer on their initiative. Mrs. Dineen was disappointed that she was not contacted by the developer because she has discussed sale of the property in the past.

2. Lynn Darling, 2601 S.W. 23rd, testified in opposition to the annexation. This is the cart before the horse again, not knowing that Roper School is already overcrowded with two portables and another coming this fall. If we really care about our children, this would be delayed until at least the school system had something on the books that they were potentially going to add on to the school. It is beyond comprehension that the City would annex something with the potential of 200-300 more kids. In addition, she requested that the developer redesign the plat in order to save the present landscaping business of approximately 3 acres. Mr. Lennertz's talk on "New Urbanism" had a wonderful concept of the neighborhood parks and that landscaping business already has 18 mature pine trees and 14 deciduous trees that are headed for a bulldozer. This is incomprehensible and indefensible, not counting the heavenly honeysuckle fence. The reality is that this area is a very perfect birding area. This is absolute prime place for a neighborhood park and to observe the birds. Ms. Darling plead that Mr. Krueger start developing in a healthy neighborhood like manner. Plats developed like this do not encourage longevity in the neighborhood. She would like to see the developer redesign this plat for the neighbors and the people that will live there, and "please pay attention to the little birds that do not have a voice at all".

Bayer asked whether staff believes the one sidewalk along Coddington and one along West Van Dorn satisfies the needs, and does it matter which side of the street. In addition, what about the assessment to Mrs. Dineen? Steve Henrichsen of Planning staff responded, stating that since this is a straight preliminary plat, all the staff can address is the sidewalks on the east side of the street. We do not have the ability to force them in on the west side of the street. This area is outside the city limits so the city did not have the ability to construct the sidewalk. With the annexation, this would extend the city limits and all of the right-of-way would be inside the city limits so that the city could then address the sidewalks.

In addition, Mr. Henrichsen advised that the area of the plat does not include the existing single family home represented by Mr. Pallesen and does not include the Lee's Chicken lot on the south. The developer cannot be required to install sidewalk on property he does not own. He could work out something with the property owner or there could be a sidewalk assessment district. This plat does allow up to four years for the sidewalk to be constructed. Mr. Krueger is also only obliged to build 4' of sidewalk adjacent to the property. The City's Comprehensive Plan provides this area to be a 10' bicycle trail, so 6' of the width will be the responsibility of the city. This is not currently in the CIP; however, the letters from the neighborhood association and the school have prompted the interest of the City Council to see if it could be done sooner. There are plans to do the Bison Trail, which is south of Van Dorn, connecting Pioneers Park and Wilderness Park via bike trail.

Steward realizes the applicant has indicated a phasing process, but at total buildout, how many residences are we looking at? Mr. Henrichsen stated there would be 131 residential lots, which could possibly equate to approximately 200 children. Steward asked whether the staff has discussed this development with LPS. Mr. Henrichsen's response was that all of the plats are sent to LPS. The staff also meets with LPS staff monthly to keep them up-to-date. It is not unique to Roper Elementary to be beyond capacity. Mr. Henrichsen understands that they do have portables at the Roper Elementary site. He believes that LPS would have submitted a letter of concern if they felt there would be a problem.

Steward inquired whether increased taxes will provide for 200 additional students in the school. Mr. Henrichsen did not know.

Response by the Applicant

Mr. Krueger referred to the Dineen property. He brought the street out just north of her property so that it is totally on the subdivision, the reason being so that she could stay there indefinitely. He is not asking for any contributions from her of any kind. The net effect of that roadway and the sewer and water and sidewalk on the north part of her property is an increase in her overall value. He apologized for not contacting her sooner.

With regard to the density issue on her site, it is a short acre and Krueger is getting 3.68 dwelling units per acre, so to get three dwelling units or three lots on her property is not a diminution of her value.

With regard to the timing of sidewalk installation, Krueger stated that this development will be done in phases, and LES must be in there before the sidewalks are constructed. He believes there will be internal sidewalks in place in earlier phases. None of the concrete is on the residential lot. The waiver is requested because of the trees in the public right-of-

way and they do not want to put the sidewalks on the single family lots.

Steward asked Mr. Krueger to speak to the criticism about the landscape and the potential for a park. Mr. Krueger responded that this is a straight plat in R-3 zoning and it is in close proximity to the school for recreational facilities. It is not a requirement and staff has not expressed an interest.

Bleed commented and admitted that she has some sympathy toward Ms. Darling's comments and suggested that Mr. Krueger think about it in the future. Mr. Krueger pointed out that a lot of the things Mr. Lennertz talked about are being implemented on South 14th, but this property has existing zoning so they are coming forward with a straight plat.

Steward moved for a two week deferral on the basis of timing and process, seconded by Bleed.

Steward commented that this is another case of an acreage owner needing every opportunity in terms of time and process to be engaged on their own interest against a large interest that surrounds them and limits their options. He believes some better understandings could be worked out with a couple more weeks of discussion.

Motion for continued public hearing and administrative action on July 28, 1999, carried 4-2: Wallace, Duvall, Steward and Bleed voting 'yes'; Krieser and Bayer voting 'no'; Hopkins, Wilson and Schwinn absent.

Bayer requested that the staff make contact with LPS to make sure they have this information.

COMPREHENSIVE PLAN AMENDMENT NO. 94-35;
ANNEXATION NO. 99007;
CHANGE OF ZONE NO. 3171;
and
PRELIMINARY PLAT NO. 99007, EAGLE CREST.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 14, 1999

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

Planning staff recommendation: Approval of the Comprehensive Plan Amendment; approval of the Annexation, subject to an Annexation Agreement; approval of the Change of Zone and conditional approval of the preliminary plat, with revisions.

Jennifer Dam of Planning staff submitted a letter from the Nebraska Dept. of Roads objecting to the intersection of Eagle Crest Road and No. 84th Street. The City staff believes that intersection should be in place for improved traffic circulation. Therefore, the

staff proposed additional conditions of approval to cover this issue as follows:

- 3.2 The State Department of Roads and the Federal Highway Administration have approved the intersection of N. 84th and Eagle Crest Road.
- 3.3 The developer has repurchased access rights to the intersection of N. 84th and Eagle Crest Road from the City at the market value of the property after the development.

Ms. Dam also requested to add Condition #1.1.8 as follows due to receipt of late comments from LES:

- 1.1.8 Provide easements requested by L.E.S.

Ms. Dam also requested to add language to Condition #2.3 as follows:

- 2.3 Annexation #99007, and associated annexation agreement regarding infrastructure improvements.

In addition, the staff recommendation on the Annexation is changed to conditional approval, with the condition that City Council shall approve an associated Annexation Agreement.

Proponents

1, Gary Bredehoft of Olsson Associates appeared on behalf of the owners and developers. He agrees with the conditions of approval and the additional and revised conditions as submitted by staff today, with the exception of Condition #1.1.2. The applicant would request that Condition #1.1.2 be deleted. The Southeast Rural Fire District has requested that this condition be deleted because the Rural Fire District has a drive that comes in and out of their building and they would like their drive system to remain as is and not be affected.

Steward inquired as to the ultimate plans for Lots 1 and 2. Mr. Bredehoft noted that the uses would be O-3 uses. He believes they plan to put in an office building. Lot 2 is the property of the Rural Fire District. It would require a use permit that would have to come back through the public hearing process. Don Hoegemeyer, the developer, stated that he does not see anything other than O-3 office buildings at this time.

Opposition

1. Stan Berlowitz, President of Sunrise Estates Community Association, which adjoins immediately to the southeast, testified at this time. He stated that he was not speaking on behalf of the association because they were not informed of this application until late Friday. Personally, he is not in opposition to the annexation or any of the other plans but requested that the Commission carefully consider the effects of this development on existing acreages in the area, specifically Sunrise Estates. Bayer recalled that when Sunrise Estates was approved, he believes it was approved so that more lots could be built on the acreages. Mr. Berlowitz concurred; however, they have concerns about if and when they are annexed and what effect surrounding developments will have on Sunrise Estates.

2. Mark Shula, Vice President of Sunrise Hills Area Association, which is immediately south, also testified at this time. He was not informed of this application until July 2nd. He noted a comment in the staff report which discusses the amount of traffic being generated. He thought the plat referred to a 3-window drive-thru bank. He thought that was going to be in the northwest versus the southwest corner. If the bank is still included, there would be a serious concern about the traffic on No. 84th Street.

Mr. Shula has lived in this area for 5 years, and he believes there was a previous plat that showed a neighborhood park in this area. They currently have no park areas east of 84th Street. The children have to cross 84th Street, and it is an 8-block walk. With regard to the street design in Eagle Crest and North Woods Drive, as a resident who has to turn left on 84th Street, he has a difficult time turning left on 84th out of his development and he believes this will also be a problem for this development.

Unless they get answers to these questions, the Sunrise Hills Area Association is in opposition.

Jennifer Dam of Planning staff advised that at one point the developer was proposing that the O-3 zoning come down south of the roadway and had shown a diagram with a drive-thru bank. Staff objected to that and they have since amended the request and the O-3 zoning is compatible with everything north of the road. If they were requesting a use permit with a drive-thru bank it would require a public hearing and the traffic concerns would be addressed at that time.

Steward asked staff to respond to the concern expressed about the acreages in Sunrise Estates. Ms. Dam advised that this property was not included in an area that could be sewerred. The developer figured out a way to engineer it so that it could be served by gravity sewer. Everything east is on the ridgeline and could not be sewerred until the Stevens Creek area is developed. At that time, there would potentially be an impact on those other acreage developments. Sunrise Estates was developed with future urbanization in mind so that those lots could be split into urban sized lots. This specific development shows a future street connection to the east, but the property immediately

east is owned by the church so a street would not go through until such time as the church develops that property.

Ms. Dam also advised that the intersection at No. 84th & Eagle Crest will be a right-in, right-out only.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 94-35

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 14, 1999

Duvall moved approval, seconded by Wallace and carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn absent.;

ANNEXATION NO. 99007

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 14, 1999

Duvall moved approval, subject to an Annexation Agreement, seconded by Krieser and carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn absent.

CHANGE OF ZONE NO. 3171

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 14, 1999

Duvall moved approval, seconded by Krieser and carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn absent.

PRELIMINARY PLAT NO. 99007, EAGLE CREST

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 14, 1999

Wallace moved approval, with revisions as submitted by the staff, seconded by Krieser.

Ms. Dam pointed out that the staff objects to removing Condition #1.1.2, as requested by the applicant, because it is next to the new roadway. It would be easy for the Fire District to take access to that new road with one driveway at that point to Holdrege Street. Once it ceases to be a rural fire district, the city would want that driveway to be removed. There is concern about the safety with the two driveways.

Motion for conditional approval, as revised, carried 6-0: Wallace, Krieser, Duvall, Steward,

Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn absent. The Commission did not vote to delete Condition #1.1.2.

COMPREHENSIVE PLAN AMENDMENT NO. 94-37;
CHANGE OF ZONE NO. 3181
and
PRELIMINARY PLAT NO. 99012 - FAIRCHILD ESTATES
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 14, 1999

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

Planning staff recommendation: Approval of the Comprehensive Plan Amendment and Change of Zone if the Preliminary Plat is approved; and conditional approval of the Preliminary Plat.

Proponents

1. Mike Rierden testified on behalf of the Fairchilds, the owners and applicants. The intent for the large lot on the site plan, Lot 3, 7 ½ acres, is to come forward very shortly with a special permit for assisted living. They are just not prepared to do that at this point in time.

Mr. Rierden stated that the applicant will agree and comply with all the conditions of approval on the preliminary plat; however, he submitted some additional conditions of approval to address the roadway. Coming off of 70th, at the entryway, they have agreed with Public Works that the roadway up to the entrance to the assisted living will be of urban cross-section design. But from the west point where the urban cross-section ends up to the connection to the properties to the west, the applicant would like to see rural rather than urban section. The lots proposed on the west are basically acreage type and they want to maintain the rural or acreage character of the area, and they believe they need to have a road that is rural in design in order to do that. Dennis Bartels of Public Works has not yet given his blessing to the rural design concept.

The proposed new conditions are worded such that the developer will to put in the urban section if the developer to the west is not successful in getting the rural section. If the rural section is approved on the property to the west, this developers wants the ability to put that in, also.

2. Ron Ross of Ross Engineering testified on behalf of the applicant. They have had numerous meetings with the neighbors to the south and west. The project is two-fold. The Fairchilds have had this land in their family for a considerable amount of time and have

decided to get off the farm and allow development to proceed. One of the anchor aspects will be assisted living. The assisted living facility is not before the Commission now but it will be coming forward shortly. Mr. Ross went through some of the design aspects of the potential use permit. There will not be any access out of the area other than the roadway system coming back to the south. They will buffer the two neighbors to the south with a private roadway which they hope to have similar to Southfork and Country Meadows.

Public Works has indicated a concern about having a subdivision annexed into the city that has the rural character roads until something is worked out to amend the design standards. He believes they will be successful in working this out with city staff and coming forward with some new design standards.

Mr. Ross requested that the additional conditions of approval as submitted by Mr. Rierden be made a part of the final plat section as opposed to before scheduling on City Council agenda.

Bayer asked whether sidewalks will be required if the rural street section is allowed. Mr. Ross believes they will be coming in with a unified plan that will not have sidewalks on the rural roads because of the ditches. There will be sidewalks leading into the assisted living areas. But, Mr. Rierden added that they are not arguing the fact that it is the developer's responsibility to put sidewalks on 70th and Old Cheney.

If the properties to the west do not develop, Mr. Rierden stated that it is understood that the street would be urban cross-section design.

3. Kent Seacrest appeared on behalf of a coalition of different families who live to the west of the proposed plat, in support. These neighbors form a bigger neighborhood; every neighborhood is bounded by a triangle of Hwy 2, Old Cheney and 70th; and every neighbor is about 5+ acres. How do you have urbanization occur with acreages in the path of urbanization? This is a new vision. These are old acreages. This is how to retrofit acreages into the city limits. We probably do not want 5-acre type lots. The issue becomes if you have an acreage layout and the first home decides to go into urban development, all of a sudden that 5 acres has a lot of homes on it and the incompatibility starts to build. How do we retrofit collectively? The site to the south and west is his clients' interest. They are laying themselves back into 1-acre lots—it is not urban density and not typical acreage density. There will not be septic and wells, but yet you keep some of that more rural atmosphere around you. The 1994 Comprehensive Plan created low density residential but it has never come forward until now. Mr. Seacrest envisions a “baby hybrid”, e.g., AGR-1, meaning one acre in the city with urban services, but still with some of the rural characteristics. They are going to have restrictive covenants but need the city's help on infrastructure to keep the rural characteristic with less street lights and sidewalks. This is an issue they need to work through with City staff.

Mr. Seacrest expressed support for the amendments for the rural cross-sections. Mr.

Seacrest pointed out that there is a north/south street that is off the applicant's property. He requested that this street be removed. His clients have another vision of putting a connector back on Old Cheney Road further to the west. The connection shown is too close to 70th & Old Cheney Road.

There was no testimony in opposition.

Bayer asked for a staff response to removing the street connection. Ray Hill of Planning staff stated that it is the staff's main concern that we do not create a block length in excess of 1320', and since the project to the west has not been submitted and we have no idea of the distance, he does not know whether we would be leading ourselves down that path or not. However, this action gives the indication that that street would be acceptable. He agrees that it is outside the boundary of the subject proposal, but we need a decision and the Commission needs to eliminate that street if they wish to do so.

Dennis Bartels of Public Works stated that one other reason that the staff has asked that that street be shown is the approved functional plans for widening on Old Cheney Road. There is a stub right-of-way proposed at that location as approved by the City Council.

Bleed asked what the problem might be if that street connection is removed. Mr. Bartels believes there are opportunities to move it somewhere else. There may be other intersections to line up with. There may or may not be a block length problem. He does not believe the city has purchased the right-of-way yet.

In the discussion about waiving the curb and gutters and sidewalks, Steward asked whether it is conceivable to talk about trail design standards rather than sidewalks. It seems that you can articulate a country atmosphere in this area with another design standard for a sidewalk which serves more than one purpose. Mr. Hill did not know if the city cares whether it is asphalt or some other material as long as there is a design and path clearly distinguished for a walking area. It needs to be obvious that it is a pedestrian walk area. One of the concerns with the rural cross-section with roadside ditches is where the water would be flowing during a storm versus where the people would be walking. Mr. Bartels added that they could also design a rural section with a sidewalk/path on both sides. There are ways to accommodate traditional sidewalks on both sides, even if it is a rural road. The other potential problem with the street lighting issue, by the subdivision ordinance and other technicalities, your public sidewalk system should be lighted as well, so this will need to be addressed. There are a lot of issues in maintenance of the ditches, etc.

Response by the Applicant

Mr. Ross stated that they will be coming back to this body on the special permit for the assisted living and will want to have an integrated sidewalk system. The development to the west will also look at alternate sidewalk systems. The CUP will be amended at the time

they know what the sidewalks and rural roads will be. They will come in with an alternate trail system that will intermesh with the neighbors to the west.

Regarding Hickory Crest, the north/south street to be deleted, Mr. Ross stated that it has been a very, very detailed topic of discussion with the neighbors to the west. They complied with the subdivision criteria and showed that street knowing they were antagonizing the neighbors. This developer is willing to delete that street. However, they could leave it shown at this time, but maybe it should be clarified with a note on the drawings that states something like, "in approval of the upcoming CUP, when it is determined what the alternate street system is to be, the CUP needs to be amended.", or some kind of note that states they can eliminate that street and not build it once the street system is determined.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 94-37

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 14, 1999

Wallace moved approval, seconded by Duvall and carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Schwinn and Wilson absent.

CHANGE OF ZONE NO. 3181

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 14, 1999

Wallace moved approval, seconded by Duvall and carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Schwinn and Wilson absent.

PRELIMINARY PLAT NO. 99012, FAIRCHILD ESTATES

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 14, 1999

Duvall moved to approve the Planning staff recommendation of conditional approval, with amendments as requested by the applicant under Condition #3, seconded by Krieser.

Steward requested a friendly amendment to the main motion to require a note on the plat in reference to Hickory Crest, the south extension--that the exact location be determined by action on the adjacent plat review. This was accepted as a friendly amendment to the main motion.

Bleed believes this to be an interesting concept of having a somewhat rural area within the City because it does have potential for filling a need that people have of wanting to go out into the country but really don't want that much land and that much to take care of.

Steward appreciates that this is one approach to the surrounded acreage issue which gives the property owners value back against additional costs that will be incurred by becoming urbanized. In that sense he can totally support something like this which says there is return because of decisions being made by the property owners and there is not loss suffered by the property owners because of public decisions surrounding it.

Wallace agreed and likes the idea of adjoining projects.

Motion for conditional approval, with amendments, carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn absent.

CHANGE OF ZONE NO. 3188
FROM R-4 RESIDENTIAL TO B-3 COMMERCIAL
ON PROPERTY GENERALLY LOCATED
AT NO. 27TH AND STARR STREETS.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 14, 1999

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

Steward moved to deny, seconded by Wallace.

Bleed does not believe that this neighborhood needs to have more commercial intruding into the neighborhood. She agrees that this is not the best of housing but she believes it is a house worth maintaining or worth replacing with another affordable residence.

Bayer suggested the Commission should send the message that a property owner cannot allow property to deteriorate and then get the change of zone.

Steward agreed. For seven years, this house has been sitting there with little or nothing done to it and it is the responsibility of the property owner to not assume action because of condition.

Motion to deny carried 6-0: Wallace, Krieser, Duvall, Steward, Bleed and Bayer voting 'yes'; Hopkins, Wilson and Schwinn 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 July 28, 1999.