

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, September 22, 1999, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Russ Bayer, Linda Hunter, Gerry Krieser, Patte Newman, Tommy Taylor and Cecil Steward (Steve Duvall, Barbara Hopkins and Greg Schwinn absent); John Bradley, Steve Henrichsen, Mike DeKalb, Ray Hill, Jennifer Dam, Rick Houck, 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 September 8, 1999. Motion to approve made by Steward, seconded by Krieser and carried 6-0: Bayer, Hunter, Krieser, Newman, Taylor and Steward voting 'yes'; Duvall, Hopkins and Schwinn absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

September 22, 1999

Members present: Bayer, Hunter, Krieser, Newman, Taylor and Steward; Duvall, Hopkins and Schwinn absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3203; CHANGE OF ZONE NO. 3208; CITY/COUNTY FINAL PLAT NO. 99010, MEADOW VIEW; AND STREET VACATION NO. 99007.**

Item No. 1.1, Change of Zone No. 3203; Item No. 1.2, Change of Zone No. 3208; and Item No. 1.4, Street Vacation No. 99007, were removed from the Consent Agenda and scheduled for separate public hearing.

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

**STREET & ALLEY VACATION NO. 99007
TO VACATE A PORTION OF NORTH 8TH STREET
BETWEEN "P" AND "Q" STREETS.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 22, 1999

Members present: Steward, Taylor, Hunter, Newman, Krieser and Bayer; Hopkins, Duvall and Schwinn absent.

Planning staff recommendation: Conditional approval.

This application was removed from the Consent Agenda and had separate public hearing due to receipt of a letter from Scott C. Miller, President of Telesis, Inc., advising that Telesis, Inc. is the property owner of Lot 2, Candy Factory Subdivision, and that this property should be removed from the proposed street vacation.

Jennifer Dam of Planning staff only became aware of the letter this morning. Prior to the street vacation being processed to the Planning Commission agenda, the City Attorney certified that the applicant (B & J Partners) was the owner of Lot 1 and Lot 2. The area requested on Q Street is being vacated so that certain egress stairwells and window wells are on private property. Dam suggested that the Planning Commission proceed to make its recommendation and before this application is scheduled on the Council agenda, she will resolve the ownership issue. If Telesis, Inc. is indeed the owner of Lot 2, they did not sign the petition to vacate and Lot 2 would be removed from the vacation request, if there were no public improvements made in front of Lot 2.

Dam further explained that B & J Partners is requesting the vacation because they have made improvements for the restaurant and it is their desire to have those improvements on private property and not in the public right-of-way.

Steward pointed out that Lot 2 it is at the end of the area being requested for vacation—it is not in the middle.

No one testified on behalf of the applicant.

There was no testimony in opposition.

Hunter inquired about participation of the TIF funds to rebuild a sidewalk structure. She is concerned with what happens if the TIF funds are not sufficient to take care of rebuilding those sidewalks? Who will cover the additional cost, if any? Dam would have to ask Urban Development to comment. She presumes that if it goes over a reasonable cost, the additional cost would revert back to the owner; however, this is not made specific in the conditions of approval. Urban Development staff was not present.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 22, 1999

Steward moved to approve the Planning staff recommendation of conditional approval, seconded by Krieser and carried 6-0: Steward, Taylor, Hunter, Newman, Krieser and Bayer voting 'yes'; Hopkins, Schwinn and Duvall absent.

CHANGE OF ZONE NO. 3203
TEXT AMENDMENT TO THE ZONING ORDINANCE
TO ALLOW THE ERECTION OF STRUCTURES
FOR CABLE TELEVISION PURPOSES.

PUBLIC HEARING BEFORE PLANNING COMMISSION: September 22, 1999

Members present: Steward, Taylor, Hunter, Newman, Krieser and Bayer; Hopkins, Schwinn and Duvall absent.

Planning staff recommendation: Approval, as set forth in the staff report dated September 8, 1999.

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

Proponents

1. **Michael Rierden** appeared on behalf of the applicant, Time-Warner/Cablevision. Cablevision is updating their system and they are working toward better reception for their channels and they want to strategically place throughout the city four or five hub sites, consisting of a building of about 20 x 30, in some areas of residential settings, built to fit into the neighborhood—gabled roof, brick facade, etc. Most of the buildings will go into industrial areas but there are a couple of residential areas to the east that will require a special permit. Rierden was hopeful that these structures might fit under the current ordinance, but it only applies to public service type entities—under the guidelines of the Public Service Commission—and Cablevision is not one of those entities. This text amendment provides a vehicle for a special permit process to allow Cablevision to put these hub sites in a designated district. There will be no windows on the building—mainly electrical equipment will be housed in the building; no noise type equipment; no lighting; very little traffic—maybe a technician once or twice a week.

Steward's questions stem from not understanding the technology. This seems to be going in the opposite direction. We've never had these structures in residential areas before and he is concerned about the intrusion, even with the design character. Why does the technology require this? Will there be fencing required around the facilities? Rierden stated that there will be no fencing unless it would be required of the applicant for some reason. These buildings will withstand winds as powerful as a tornado and will be well secured. Rierden is not up-to-date on the technology question and no one from

Cablevision was present. He has been told that it is directed at a clearer type of reception. That is all he knows at this point in time.

Steward wondered whether this gives the Cable company the right to ask for a site for a "tower". Jennifer Dam of Planning staff stated that it does not. Towers are specifically defined under a different section of the zoning ordinance. This amendment is specifically related to a building. The City Attorney reviewed this proposed legislation in light of a pending model telecommunications ordinance as well as a personal wireless ordinance. This amendment does not conflict with those ordinances that will be coming forward in the near future. It is her understanding that this facility works like a switching station like a telephone company.

Steward noted that the staff report states that the proposed use shall not have any adverse impact or detrimental effect on the surrounding properties. How do we prove that? Dam indicated that to be existing language in the zoning ordinance for telephone switching stations. This change of zone simply allows cable companies to have a similar type of facility. If there is a concern about adverse impact on a neighborhood as far as decreasing property values, the city would ask them to build a structure that is compatible with the surrounding uses and it would be incumbent upon the applicant to prove that there is no adverse impact or detrimental effect.

Hunter inquired whether there is any other instance where the city has allowed privately owned businesses or corporations to build structures in city right-of-way. Dam explained that this amendment is not intended for use in city right-of-way. This would allow structures to be built by special permit in residential and other areas. Hunter clarified that they would have to come forward and receive a special permit for that use on private property. Rierden explained that they will be selecting the areas and finding out if there are any properties for sale in the area and will purchase the property, subject to being able to obtain a special permit. In addition, Rierden pointed out that there are protective covenants in most new subdivisions. They would either have to get a waiver of the "strictly residential use" requirement from the homeowners association or seek to locate elsewhere.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 22, 1999

Hunter moved approval, seconded by Taylor and carried 6-0: Steward, Taylor, Hunter, Newman, Krieser and Bayer voting 'yes'; Hopkins, Schwinn and Duvall absent.

CHANGE OF ZONE NO. 3208
TO DELETE THE 50' BUILDING LINE DISTRICT
ON PROPERTY GENERALLY LOCATED
AT SOUTH 84TH STREET AND PIONEERS BLVD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 22, 1999

Members present: Steward, Taylor, Hunter, Newman, Krieser and Bayer; Hopkins, Schwinn and Duvall absent.

Planning staff recommendation: Approval.

This application was removed from the Consent Agenda and scheduled for separated public hearing at the request of Commissioner Steward.

Proponents

1. Rich Rice was available to answer questions on behalf of the owner.

Steward did not understand what this does. His concern is whether we are doing something on this property that affects the right-of-way characteristics in other parts of Pioneers Blvd. Ray Hill of Planning staff explained that the Building Line District is part of a map that is part of the zoning ordinance. That building line district was an attempt to reserve right-of-way for street widenings. 84th & Pioneers at this location has a 50' Building Line District, which means that the front yard setback is measured 50' from the centerline of the street. This legislation does away with the Building Line District at that location, but there is an agreement with the property owner to deed the land to the city. Thus, the city will wind up with the right-of-way requested after the process has gone through, even though the Building Line District is being waived.

Steward inquired whether the purpose is to be able to build within that building line district. Hill stated, "no, the right-of-way is measured from the centerline and the right-of-way after they deed the land to the city will be at 50'." The difference is that the building will be sitting closer to the right-of-way than if the building line district had not been waived, but it does not affect the right-of-way. It has to do with the front yard setback.

Steward wondered whether there are any other characteristics of a building line district that predetermines or precedes in this particular vicinity so that there is not a dramatic offset. Hill clarified that when the property was rezoned to O-2, that changed some of the characteristics of this corner. The O-2 District provided access to Pioneers Blvd. The homes that back onto Pioneers Blvd. are set back further.

Bayer attempted to clarify that this is basically a land swap. Hill agreed. It is a matter of timing. Bayer wants to know if there is something in place that assures that the land swap will indeed happen. Mr. Rice, who represents the owner on the northwest corner of 84th

& Pioneers, stated that they do have an agreement with the city, in writing, for the conveyance of the property/right-of-way. Hill further explained that this does not change the zoning so it is not contract zoning.

Hunter wondered about any proposed building for this site. Rice stated that it is an office building. There have been public meetings with the neighbors and the neighbors are not objecting to the office building based upon the characteristics proposed. Hunter believes there is a tremendous drop-off at 84th Street. Are they going to be moving the building south on the lot? Rice presumes that would be the case. So, Hunter wondered whether this meant that it will protrude closer on Pioneers Blvd. than the residences. Hill stated "no"-- the homes are actually fronting onto Meredeth and are actually closer to Meredeth. If you drew the front yard line, then this building would be setting 10' closer to Pioneers than a home or other buildings would be allowed. This actually reduces the front yard setback by 10'.

Rick Peo, Chief Assistant City Attorney, approached the Commission, stating that this is an attempt to allow the building to be built the way it was designed and submitted along with the change of zone that was approved by the City Council. They showed the site plan at that time and the neighbors had agreed with it. Then they found out that the Building Line District existed and we're trying to go back to square one and allow them to build what has been through public hearing and to which everyone has agreed.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 22, 1999

Steward moved approval, seconded by Krieser and carried 6-0: Steward, Taylor, Hunter, Newman, Krieser and Bayer voting 'yes'; Hopkins, Schwinn and Duvall absent.

**SPECIAL PERMIT NO. 664D,
AMENDMENT TO PARK PLACE ESTATES COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 70TH STREET AND VAN DORN.**

PUBLIC HEARING BEFORE PLANNING COMMISSION: September 22, 1999

Members present: Steward, Taylor, Hunter, Newman, Krieser and Bayer; Hopkins, Schwinn and Duvall absent.

Planning staff recommendation: Conditional approval.

Proponents

1. **Brian Carstens** appeared on behalf of **Gene Bordogna**. The developer has come to agreement with the homeowners association and it has been signed. The developer has no objections to the staff report and conditions of approval.

2. **Peter Katt** appeared on behalf of the **Park Place Homeowners Association**, which had filed an objection to administrative approval of this amendment. Since filing that objection, the association has met extensively with the developer and reached agreement. He believes the conditions of approval are appropriate and should be approved. The agreement provides for a separation of the area into two separate associations. This area has developed over time and they felt it was preferable for both sides to be built their separate ways so that the developed portion would become its own association and the undeveloped portion would become its own association. However, neither side got everything that they wanted.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 22, 1999

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

COUNTY SPECIAL PERMIT NO. 171,
COUNTRYSIDE ESTATES COMMUNITY UNIT PLAN,
and
COUNTY PRELIMINARY PLAT NO. 99019,
COUNTRYSIDE ESTATES,
ON PROPERTY GENERALLY LOCATED
AT S.W. 70TH & W. DENTON ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 22, 1999

Members present: Steward, Taylor, Hunter, Newman, Krieser and Bayer; Hopkins, Schwinn and Duvall absent.

Planning staff recommendation: Conditional approval.

Proponents

1. **Lyle Loth** appeared on behalf of the owners of the property and applicants and expressed agreement with all staff conditions of approval and requested approval.

There was no testimony in opposition.

Public hearing was closed.

COUNTY SPECIAL PERMIT NO. 171
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 22, 1999

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

COUNTY PRELIMINARY PLAT NO. 99019
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 22, 1999

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

SPECIAL PERMIT NO. 1791
FOR A HEALTH CARE FACILITY
ON PROPERTY GENERALLY LOCATED
AT 1430 SOUTH STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 22, 1999

Members present: Steward, Taylor, Hunter, Newman, Krieser and Bayer; Hopkins, Schwinn and Duvall absent.

Proponents

1. **Kent Seacrest** appeared on behalf of **Cedars Youth Services, Inc.**, for a special permit in the existing B-3 zoning, which is the old neighborhood retail zone, and the proposed use is a commercial use. The applicant had previously requested a four-week delay because of the request by one of the neighborhood associations for more dialog. They have now met with all surrounding property owners and there are mixed feelings about this project within the neighborhood; however, Seacrest felt the group was more in support than in opposition. The three neighborhoods are Everett, Irvingdale and Near South. Seacrest submitted copies of 11 letters from immediate neighbors in support. He also submitted a 12th letter from the Juvenile Probation Office indicating their support for this service, and he anticipates a 13th letter from Region V Services which indicates they do not oppose and can co-tenant with this use. Seacrest submitted a 14th letter from Kit Boesch, Human Services Administrator for the County and City, indicating her support for this needed service.

2. **Jim Blue, President of Cedars Youth Services, Inc.**, testified in support. This is a very important project to the kids of our community. Blue is professionally licensed by the State as a mental health practitioner and certified social worker. He is President and Chief Executive Officer of Cedars Youth Services and Cedars Home Foundation and is respectfully requesting approval of this application to relocate the Turning Point care facility. Cedars was founded over 50 years ago when kids were going to be sent out of our community. They were invited into the founder's home. The mission of Cedars is to help children, youth and their families grow to live safe, healthy and productive lives. Cedars operates essentially four different service areas: 1) provide emergency shelter for abused and neglected children; 2) residential programs for kids that cannot go back home or need specialized care; 3) early childhood development centers and quality child care centers for low income and at risk families; and 4) outreach and prevention services. Cedars is accredited by the National Association of Health Care Facilities, with commendation, which is the highest level of award for quality.

The "Turning Point" program was founded in 1993 for the reason that kids were being sent out of our community by the State because there was no comprehensive structured program for kids within southeast Nebraska. Kids need to be served here, where they will graduate from the program and where they will live as productive members of our

community. Turning Point is currently operating on the campus of LGH in a building which was used as apartments for doctors in residency, but it is too small and is not designed well. They currently have capacity for 10 kids in residents and about 5 kids coming in during the day for therapeutic activities. On average, they turn down 12 kids every month because they do not have sufficient space. Other than the Turning Point program, there are still no comprehensive structured programs for kids to live in southeast Nebraska. This is the only one of its type. Cedars is very dedicated to continue in the provision of quality services. The Turning Point program is a structured program for kids that need therapeutic structure in their lives and counseling services. The kids will range in age from 12-18, with the average age being 14. They stay for about 5 months, although ranging from one month to 12 months. There is on-site school in collaboration with LPS. The supervision of the kids is taken very, very seriously because that is what got Cedars where it is today. For every three kids there, there will be one staff person during prime time hours. At night it is a one-to-six ratio. It will be a locked facility in the sense that no one on the outside will be able to get in. About 80% of the kids move on to successful placements. This is not a new program being developed from scratch; they will not be developing new program procedures; they are relocating an existing program.

With regard to the issues causing concerns for the neighbors, i.e., lack of outdoor/backyard play area and parking, Blue believes these issues have accommodated. The current facility does not have a backyard/play area. The new facility will have an indoor full-sized gymnasium. With regard to parking, the shift staff will be required to park in the lot across the street. Blue thanked Jon Carlson for his leadership in the Near South Neighborhood Association.

3. L. Williams, 5020 Linden Street, Program Manager for Turning Point Cedars Residential and Day Services, testified in support with 12 years of experience in social work. The kids served currently at Turning Point are all adolescents between 12 and 18 years of age. They come from a 15-block radius. 59% served in the last 5 years are in the 15-block radius of the proposed building. They want to try to keep the children within the community. These are kids who have a lot of behavioral problems including depression, bonding disorders, attention deficit disorders, some with learning disabilities, etc.. Many of these kids have been moved from school to school to school and have not had an opportunity to become stabilized. Turning Point provides stabilization and good structure for these kids. The kids will know quite clearly what could be in their future. Cedars provides wrap-around services. Once they graduate they can go to day services with the same kind of structure and care. Some will go to group homes and some to foster families and some back to their biological families.

Bayer inquired about the success rate as far as residents leaving the facility and running. Williams indicated that in the last three to four months, not more than three children have left and they are usually back within the facility within 15 minutes. They do track the individual. Bayer asked whether there has been any experience where a fleeing individual has caused problems in the neighborhood. Williams was not aware of any. Oftentimes

they take the kids out into the neighborhood for walks and have never had any problems.

Taylor inquired about the length and loudness of the alarm if it goes off. Williams believes the alarm sounds for at least five minutes and it is very loud. All the doors immediately open up and let the residents outside. They have tornado or fire drills quite frequently, which is done by the hospital security. They are usually out of the building within a minute. It is a good safety device.

Williams further testified that the residents are placed there and will stay and live within the program. They can come and go as long as they have supervised staff with them or on a family outing. They have to have someone with them unless they've earned the privilege to go out on their own, and that usually doesn't happen until they've been there for awhile.

4. Brian Ulmer, 2901 A Street, who has been the certified therapeutic recreation specialist for Turning Point since Sept. 1998, testified in support. The therapeutic recreation plan of operation is designed to support an integral part of Turning Point, offering youth many ways to participate in activities that are fun and therapeutic. The program goal is to promote youth responsibility and awareness of his or her recreational needs as far as cognitive, social, emotional and physical demands. Ulmer conducts leisure education, a structured activity group, health group, experimental wilderness group and art group. The purpose of leisure education offers youth to learn about their own leisure interests and values. Structured activity groups allow for social interaction, group participation, etc. The health group promotes healthy lifestyle choices. They do group problem solving skills through teamwork; and the art component allows youth to express themselves in a creative manner to unlock some possible talents that may have never been uncovered. The wilderness group promotes environmental awareness and respect for nature in general. There are a lot of different group activities, including gardening, fishing, volleyball, tennis, golf, ping pong, football, soccer, basketball, painting, baseball, bowling, kite flying, sledding, walking, kick ball, chess, working with clay, swimming, cycling, weight lifting, art projects, computer, community resources, nature hikes, among others.

Ulmer explained that the main emphasis of his program is getting the kids out into the community and to experience a broad variety of resources, including trips to area parks, pools, YMCA, YWCA, area events such as the state and county fair, Shrine Circus, Star City Parade, arts and craft shows, University athletics, gymnastics, indoor football games, etc.

They have also used other resources, including the trail system, Roca Berry Farms, Sheldon Art Gallery, Kansas City Worlds of Fun, Children's Zoo, Henry Doorly Zoo, all area malls, Champions Fun Center, Adventure Golf, movie theaters, roller skating rinks, high school athletics and art events. This program provides a broad basis of leisure and recreation to work with when they graduate.

Ulmer further testified that the proposed new building plan is a vast improvement with the full gymnasium instead of sharing half a gym with the hospital.

Taylor asked what activities give the residents a good physical outlet. Ulmer stated that at the YMCA they work in the weight room and other physical programs once a week. He tries to get each group outside daily, weather permitting.

Newman noted that what has been mentioned are all major field trips. She wonders about the kid that does not want to be in a big group but would rather just go to the park to be alone. Ulmer responded, stating that usually, when they go on outings, they have a 12-person van. If any of the kids need timeout, they can be separated from the group with a supervisor. If they want to go to a different area of the park, they are allowed to do that with staff supervision.

Taylor inquired whether they can go to the park on their own. Ulmer stated that if they wish to go to a park on their own they can do so if they have earned that privilege through good behavior.

As a recreational therapist, Steward inquired of Ulmer as to what is the higher value – an organized recreational activity or a spontaneous one, from a psychological mental health point of view. Steward believes it is surprising that this facility is on a commercial avenue and it is much more in a commercial neighborhood than a living neighborhood with some adjacent nature for spontaneous involvement. This troubles him. If he were in New York, he would have expected to see this kind of facility, but he just wonders if we're not missing an opportunity for the benefit of the welfare of the children. Ulmer's response was with 59% of the children coming from the area surrounding the center, he really emphasizes parks. The kids are within a 15-block radius of that center so they usually maintain parks instead of small front yards. He tries to associate them in parts of the area where they will go with their friends. A lot of the kids come from apartment complexes where there is no spontaneous area. The new gym adds another element.

Hunter inquired as to the worst case scenario when a resident comes into the home, and how they earn their way to special privileges. Ulmer deferred to Williams for a response to this inquiry.

Taylor stated that he visited the neighborhood where Turning Point is currently located and witnessed the flow of traffic. He wonders whether this has been a problem for the youth. Ulmer stated that they have not had any problems on any of their outings. Taylor believes the South Street location will have a lot of movement as well.

5. Tina, a former resident of Turning Point testified in support. Turning Point has benefitted her and how she was able to move on. In her home, she did not get along with her dad and now they get along. She went to another group home and it helped her because she acted better in the group home. She then went home to her biological

parents and they are communicating and getting along very well. She does not believe there were any problems with the kids acting up. Tina is 15 years old. She would like to play in the yard as well as at the Y. If she had a choice she would probably go to the Y because there would be more activities. She was in the program for five months.

6. Brad Gilbreth, certified Special Education Teacher, employed by LPS for the last seven years and the teacher at Turning Point for the last six years, testified in support. LPS is at Turning Point because many of the kids have missed a lot of their education from the many moves they have made. Many of the kids have had difficulty developing healthy social relationships and have not had the structure needed in order to succeed in the public schools. He helps them develop better social skills and provides that structure for reintegrating into the public schools. The students benefit from a smaller setting where they can get one-on-one attention. For many, it is the first time they experience success in an educational setting. Many have gone through the program and graduated from high school.

Steward asked whether it would be Mr. Gilbreth's preference to do some of that teaching outdoors. Gilbreth indicated that they do some of the teaching outdoors. They go to the park.

7. Pat Saylors, 1520 Garfield, testified in support as a neighbor. He is a mental health practitioner who works with kids in the community. Many of the families he works with are from lower socio-economic status and lower income and don't have the funds or means available to be able to follow the children out of the community. Family support is critical. As a neighbor, he lives four blocks north of the facility and he believes this facility will create more security in the community. We as a community have a responsibility to take care of our kids in our neighborhoods.

8. Lamont Richards, resident of Near South Neighborhood, 1644 Harwood, testified in support. He owns property adjacent to Cedars' leased property at 1921 So. 17th. They have never had any problems with Cedars at that location as far as parking or physical problems. They have taken good care of the property. He is pleased to have them nearby.

Taylor inquired about the parking. Richards recalled one time when they did park where they weren't allowed and all it took was a phone call and it was taken care of right away.

9. Melissa, a resident of Cedars for 6 months, testified in support. The group is a very important thing—they did things as a group—they were like a little community, but they also had free time where they could go out and be an individual. They did a lot of activities together. They had a lot of therapy in groups where they could talk openly and they worked it out together. It was good to know that we could all sit down and just talk calmly and help each other. Her mother came in for family therapy and it was helpful to learn how to communicate with each other. It teaches how to get along with people. It teaches anger control.

10. Richard testified in support. He was not in the program but all his life his sister has had a biological brain disorder and all her life she was sent out of town, including Topeka and Kearney. He thinks if there is a program like this in Lincoln it would do a lot of good for a lot of kids and his sister could have gotten the help that she needed in Lincoln. At Topeka State Hospital there were 150 kids and she did not get the individual attention she needed. A facility like this in the community would do a lot of good.

Opposition

1. Jon Carlson, President of the **Near South Neighborhood Association**, expressed that the Near South Neighborhood Association Board has personal admiration for Cedars and its director. There is no question that they provide programs and services of the highest quality and of the greatest need. Near South supports many successful Cedars projects and they have been a considerate neighbor. At the Sept. 13th meeting; however, the Near South Board voted unanimously to continue to support the services but was divided in support of this specific proposed special permit. A motion to support failed 4-8, and a succeeding motion to oppose passed 8-4. Therefore, the Near South Neighborhood takes the position of opposition to this special permit. The opposition is centered entirely on the appropriateness of the site—the commercial nature of the site, its proximity to a major arterial and the request to waive building coverage and yard and area requirements. There is little, if any, of the open green space that the Near South would hope to associate with a project like this. They are providing indoor recreational space and daily off-site trips, but the need for extra considerations does suggest that this particular site may not offer the kinds of amenities necessary to run the program at its highest potential.

Carlson stated that Near South is also concerned about the deterioration of the South Street retail corridor. The commercial nature of this area is not an appropriate home for children. It is retail that represents the highest and best use of this site, as represented by the zoning. While those involved have worked hard, it seems to be a puzzle piece that doesn't fit well. This is a commercial site. Turning Point is work that needs to be done, but in a facility most conducive to the healing and learning that the program provides. Carlson assured that Near South will support Cedars in their efforts but there are concerns about this site. Near South wants to continue to be a partner in this and other programs.

Steward clarified with Carlson that the Near South Neighborhood has a concern not so much for what this facility is likely to do to the neighborhood, but more out of a philosophical perspective that perhaps a different site would be better for the program. Steward agrees that it appears that we (the Commission) are designing a program for people we have no responsibility for. The retail concern is valid. Is there any other underlying agenda? Carlson stated that everyone at the table was unanimous in support of Cedars and everything they do – the people that offered support were very vocal about their support of Cedars and trust of their professional opinion as to the appropriateness of the site. Those voting against supported Cedars but their concerns almost exclusively focused on the appropriateness of the site and the loss of retail for the neighborhood.

Personally, Carlson believes they have satisfied most of the questions. He does not have a problem with the day-to-day operations other than the functionality of the site.

Taylor inquired what the problem is with South Street. Carlson suggested that if you had to try to develop characteristics of a good residential setting for children in a group home type setting, being located on a busy street would not be one of the characteristics that would come to his mind. The characteristics of the site do not seem to lend to residents per se. Environments can go a long way towards tailoring the attitudes of the people that are in the facility. There is also a minor concern for safety.

Taylor asked whether there are any plans for commercial improvements on South Street. This facility is on 14th Street and there are vacant commercial buildings between 13th and 12th. Is there a project going on to revitalize that area? Carlson noted that the vacant building on 14th and South was the Goodwill Building; there are no specific plans before the Planning Dept. or Urban Development, but he has had casual talks with the owner. There had been some proposals in the past to resolve some of the parking issues, but there has been nothing formal or approved.

Response by the Applicant

Seacrest commented that great communities have many great parts to them. We need them all to be good and powerful and engage ourselves in a positive way. Some sense of more security is possible as far as slowing the traffic with double fines, etc. This is a local service for a local neighborhood. This group has worked long and hard. There is a tremendous “nimbyism” on a facility of this nature. If you put this facility in the middle of a neighborhood, the opposition will come forward. Cedars has put itself on the edge of a neighborhood. They looked at the retail component and the highest and best use of the building might be retail, but they went to the City and asked for parking assistance because retail will take much more parking than this use. If you want retail in there, you have to figure out the parking. There needs to be a policy to expand the zoning for parking in these older retail areas. Seacrest believes that this facility is a good balance of the need to fill that building. Now there are broken windows because of the vacancy. He also stressed that they do outdoor recreational activities every day unless there is bad weather. Yes, they are asking for a building waiver because the building is there and they cannot meet the open space requirement, but every residential development in downtown Lincoln would have to have the same waiver. We don’t worry about those kids in those facilities. This application does meet the parking requirements of the Municipal Code. The loading of the kids when they go out in the van is on 15th Street, not on South Street.

Hunter noted that the current facility has 12 residents, and the proposal would hold 24 full-time plus 10 day students. She is concerned that they will be full as soon as they open. Where is the ability to expand? Mr. Blue stated that the current facility has a capacity of 10 kids and residents – the new facility will have capacity of 24. “If our hearts could guide all of our actions we would be able to serve every child that asks for help,” but he would

not want to operate a group living facility that has more than 24 children because then it becomes a large institution. We can maintain a positive living environment with that number of kids. He does not believe they would want to expand this facility. Maybe they would someday come up with an additional site located somewhere else, but none of that has been explored. Hunter is not sure why it is such a positive environment for the youth to be located within the city. Why not acreages or other more open places? She is worried about the closed environment. Mr. Blue stated that they have been searching for two years; they looked at Airpark; farm land southeast of town; and others. It was determined that this was the option that is most consistent with their experience as an organization. This location is what meets and is consistent with their experience. Cedars operates all of their programs within neighborhoods. He has heard a lot of wonderful comments about Cedars and he is asking for the Commission's trust when they say this is a facility that will work.

Steward noted that Cedars is functioning as a place of transition. It is not a place of long term dependency. Mr. Blue concurred, with the average time being 5 months length of stay. So, Steward believes there may be something to not having the environment be the most important but having the people be the most important. Mr. Blue stated that their number one priority is staff and people. People are their product. People do their work, but environment is also very important and they are doing a significant renovation with this project. They have a Board of Directors consisting of 17 community volunteers and staff who have looked at this proposal and believe it is the most appropriate.

Taylor visited the Cedars existing neighborhood and talked with some of the neighbors. It appears that there have been no problems and it seems to be pretty well controlled. The three neighbors that had concerns were fearful that the yard would be a problem, and parking would be a problem. He also visited the proposed neighborhood and talked with some of the neighbors. In the neighborhood on 14th and South Street the concern was parking. It appears that the parking is very controlled in the existing facility. He did not detect any intrusion into the neighborhood.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 22, 1999

Steward moved approval of the Planning staff recommendation of conditional approval, seconded by Taylor.

Steward shares the concern for the site and the urban kind of character for the program, but on balance and on reflection and hearing the testimony, especially hearing the testimony of the young people who are benefactors of the program, it seems that we have to give community trust to the people who designed the program and who have thoroughly analyzed an appropriate place. He is sure it is a balance between convenience, affordability and best practices in the program. It would seem to him that this building

satisfies the needs of the program and with the track record that this community has had with Cedars over the many years, he believes it deserves the opportunity to be in a location that they determine to be best suited to their need.

Hunter thought the Commission should discuss the retail end of the situation. As a person that lives just south of South Street, one of the things she has seen happen in the past year is some older buildings being demolished and she knows that there are plans for one of the larger retailers to do a new building. With extremely strong retail background, she thinks we need to determine whether we should set a precedent in killing the retail that exists or that may be possible in the future. For example, as with the shopping center to the west, when retail redevelopment starts happening, it tends to happen in a domino effect in rehabilitation of the buildings, so she would like to hear some discussion about making a long term decision with this location that will paint a stop to the future retail revitalization.

Taylor doesn't think the area looks very good. The question is, are there going to be businesses that will come in there? Would this facility make sure that no business comes in there? Taylor's concern was primarily for the safety of the neighbors. The neighbors are concerned about yard area for the kids, parking and the noise. He does not think we should put the commercial ahead of our youth. He believes the concerns of the neighbors are addressed. The parking situation with Cedars is very well handled and very well managed. Their activities take care of there being no yard area. In terms of noise, one of the neighbors had problems with the alarms three years ago, but nothing since that time. In terms of commercial, he sees too much good happening with this project.

Hunter expressed that she definitely is not opposed to this operation, but, in terms of retail, this kind of neighborhood needs service type businesses – not high-end clothing type retail – and that usually is a hub facility in a neighborhood. When we're talking about the potential for not having it, if you stop that type of service ability inside of those community areas, little by little it goes away to another place.

Newman agrees with Hunter. One of her concerns is that it is a B-3 zone and it is a touchy type of commercial district. She would like to see the neighborhood work with Clay Smith on this building and get it to be a viable corridor as a pedestrian friendly area for the neighborhood. We all know Cedars does a wonderful service and there is a need in the community, but she does not believe this is the right place for these kids. She stood on South Street and looked out those windows and all those kids will see is asphalt. She has major concerns about waiving an open space requirement. Children want to be outdoors, whether supervised or unsupervised, and it is really important for the children to have that outdoors activity. Because of the lack of green space and because this is a commercial area, Newman will oppose it.

On the point of whether this will ever be commercial, Steward noted that one of the circumstances we have to realize is that this is an area in transition and any building that is occupied that has been a former commercial building is going to engender the potential for other things to happen. With the number of people, the number of staff and the amount of purchasing power of this operation, there can be the potential for some new service businesses that relate to new activities and new demands that this operation would bring to the neighborhood. Steward believes he is one of the strongest advocates in this community for service commercial within walking distance, but he just does not see that this is going to be that unless the city takes over the property. He believes this is an improvement to this section of town for activity and for controlled occupation. He has fought the battle at this table about waiving green space in facilities for the elderly, and he believes it is absolutely wrong, but this is a transition residential circumstance and Cedars seems to be bending over backwards to help the people use the community resources. In giving these youth broad exposure, maybe it's best that they don't spend the time in the yard.

Krieser will vote in favor because if 59% of the kids are from that area, then there is a need for it there. With all the supervision they don't need the green space.

Hunter asked whether all of the improvement is going to be done inside the building. The outside facade of that building is probably one of its biggest detriments. Seacrest stated that the building was rehabilitated about four years ago and it had some retail tenants and most failed because of parking. Cedars will replace the canopy; otherwise they are relatively brand new windows. They will reconstruct the east side and put in street trees. Mr. Blue noted that the interest received from some of the neighbors was maintaining the facade and they have submitted an elevation to the Planning Department. He also pointed out that a lot of their surrounding support has been from the existing businesses.

Bayer commented that the mall basically going from 11th to 17th has a unique nature and it is health care on both ends. For a number of years, there has been an opportunity for retail and health care to coexist there. He will support the motion because 60% of the residents are from that neighborhood.

Motion for conditional approval carried 5-1: Steward, Taylor, Hunter, Krieser and Bayer voting 'yes'; Newman voting 'no'; Hopkins, Schwinn and Duvall absent.

USE PERMIT NO. 56E
TO PERMIT A 165.3 SQ. FT. POLE SIGN
FOR THE SHOPPING CENTER
AT THE NORTHEAST CORNER OF
NO. 27TH STREET AND CORNHUSKER HIGHWAY.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 22, 1999

Members present: Steward, Taylor, Hunter, Newman, Krieser and Bayer; Hopkins,

Schwinn and Duvall absent.

1. John McCarthy, of Kieffer & Co. appeared on behalf of the applicant, Shopko. The B-5 zoning would allow two ground signs for each street frontage. The existing sign that is supposed to identify the property where Shopko will be located is a “K-Mart” sign. McCarthy suggests that this is a “thin veil” of an identification sign. Thus, Shopko, based on the two frontages, would like another sign for their facility.

McCarthy noted that 27th Street is the main corridor into that shopping center. Shopko will be on 28th & Cather, so their physical setup in that B-5 is almost a block from the main corridor. Getting a 50 sq. ft. ground sign would not do any good for the traffic on 27th Street—it would not be visible. There is also a soon-to-be bank located right in front of the Shopko property between 27th and 28th, which will also block Shopko visually.

As McCarthy views the surrounding area, there are no residential areas and it is mostly industrial/commercial uses. B-2 is across the street and those facilities are each allowed a free-standing ground sign at significant height. Shopko is proposing a 200 sq. ft. “Shopko” sign with secondary businesses that they wish to identify as well, bringing it to a 260 sq. ft. pylon sign. At the corner of Cather and 28th, a 35' height would be reasonable to target 27th Street because of Shopko’s far setback. In comparison to a 50' sq. ft. ground sign, this is a reasonable type of sign to be viewed from 27th Street.

Bayer noted that the staff analysis talks about what signs are allowed in the B-5 district. Shopko will not utilize the 10 sq. ft. portal and entrance signs; they will utilize wall signs of up to 30% coverage; the one 100 sq. ft. on premise pole or ground sign for the Center is interpreted by staff as the existing “K-Mart” sign; they will not be utilizing the one 50 sq. ft. on premise ground sign for each pad site. The proposed pole sign is requested to replace the 10 sq. ft. portal and entrance signs and the one 50 sq. ft. on premise ground sign for each pad site. McCarthy pointed out that none of the properties are owned by the same people. Each of the sites, including Taco Bell, Hollywood Video, the bank and K-Mart, are all under separate ownership.

Steward believes that Shopko knew the sign regulations when they purchased the property. McCarthy concurred that they were made aware of it.

The wall sign will be 360 sq. ft.

2. Jeff Kirschenbaum, testified in support on behalf of Noddle Development, the developer of Shopko, which also developed the original Super K-MART and initiated the initial use permit. Since the construction of Super K-Mart, the property has been under the jurisdiction of one use permit. At the time when Super K Mart was developed, that was the only business that was going into the shopping center, so obviously, in order to put the signage up that K-Mart wanted, they chose to go with a pylon sign since they were the only business. With the new businesses that have come in, everyone has kind of had to

somewhat live with the signage. The other businesses that are setback do have some visibility from 27th Street but Shopko will not because of the Boston Market building.

Steward asked whether the developer gave any planning credibility to the notion that there would be stores in front of stores that would be blocking the view. Kirschenbaum indicated that they had contemplated three large buildings on the site in the original use permit. The only outlot contemplated at that time was Taco Bell. Everything else since then has been done through amendment. The shopping center has somewhat evolved over time.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 22, 1999

Steward moved to deny, seconded by Newman.

Steward agreed with the developer's testimony that this center has evolved over time and he believes this is one of the hazards of evolution. When there are buildings stacked between major arterials and view corridors, somehow they are putting it back upon the community and the city to solve the problem that was either not anticipated or overlooked. He does not think it is the community's responsibility, especially at a time when we have a moratorium on billboards. This is a double-purpose billboard size sign and it will be interpreted as such by the community if it is installed.

Newman agrees. This might open the floodgate to other areas and she would not want to see that.

Hunter commented that most developments have a pad site area out in the front whether marked out at the beginning or not. There is a long space between Menards and 27th and to think there would be no businesses would be an oversight.

Motion to deny carried 6-0: Steward, Taylor, Hunter, Newman, Krieser and Bayer voting 'yes'; Hopkins, Schwinn and Duvall absent.

There being no further business, the meeting was adjourned at 3:45 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on October 6, 1999.

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