

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, November 1, 2000, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Russ Bayer, Jon Carlson, Gerry Krieser, Patte Newman, Tommy Taylor, Greg Schwinn and Cecil Steward (Steve Duvall and Linda Hunter absent); Kathleen Sellman, Ray Hill, Mike DeKalb, Jennifer Dam, Rick Houck, Nicole Fleck Tooze, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair, Russ Bayer, called the meeting to order a requested a motion to approve the minutes of the regular meeting held October 18, 2000. Motion to approve made by Newman, seconded by Carlson and carried 6-0: Bayer, Carlson, Krieser, Newman, Schwinn and Steward voting 'yes'; Taylor abstaining; Duvall and Hunter absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION BEFORE PLANNING COMMISSION:

November 1, 2000

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

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3204; CHANGE OF ZONE NO. 3287; COUNTY SPECIAL PERMIT NO. 183 AND SPECIAL PERMIT NO. 1870, STEVENS CREEK RIDGE COMMUNITY UNIT PLAN; PRELIMINARY PLAT NO. 00025, STEVENS CREEK RIDGE; COMPREHENSIVE PLAN CONFORMANCE NO. 00008, STREET & ALLEY VACATION NO. 00020 AND MISCELLANEOUS NO. 00009.**

Item No. 1.3a, County Special Permit No. 183; Item No. 1.3b, Special Permit No. 1870 and Item No. 1.3c, Preliminary Plat No. 00025, were removed from the Consent Agenda and scheduled for separate public hearing at the request of Commissioner Steward.

Newman moved to approve the remaining Consent Agenda, seconded by Schwinn and carried 7-0: Bayer, Carlson, Krieser, Newman, Taylor, Schwinn and Steward voting 'yes'; Duvall and Hunter absent.

Note: This is final action on Comprehensive Plan Conformance No. 00008, for a permanent conservation easement over approximately 0.10 acres of floodplain on property generally located at South 6th and H Streets.

COUNTY SPECIAL PERMIT NO. 183
AND CITY SPECIAL PERMIT NO. 1870,
STEVENS CREEK RIDGE COMMUNITY UNIT PLAN
and
PRELIMINARY PLAT NO. 00025,
STEVENS CREEK RIDGE,
ON PROPERTY GENERALLY LOCATED
AT NORTH 134TH STREET AND HOLDREGE STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 1, 2000

Members present: Carlson, Schwinn, Taylor, Steward, Newman and Bayer; Krieser declaring a conflict of interest; Duvall and Hunter absent.

Planning staff recommendation: Conditional approval.

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

Proponents

1. **Brian Carstens** appeared on behalf of the applicants to answer questions.

Steward inquired whether there is an intent for the outlots to also be of 3-acre size. Carstens responded, "no", ...we did not ask for the 20% bonus so we did not lock it up into the 99 year conservation easement. The Commission turned down the 20% bonus on the property on the other side previously. Carstens clarified that the plan was developed with the anticipation of potential future urbanization. We did show a potential street to extend to the north in the future and could provide access, if necessary, due to the beltway location in the future. The outlot for the street is 60' wide for a typical residential subdivision street. The outlot would remain nonbuildable until such time as the zoning is changed or there is annexation.

Steward stated that the street configuration and location of the pond has him confused about the intended use of the remainder of the property. Carstens indicated they have no future plans at this point.

There was no testimony in opposition.

Staff questions

Steward believes this is the first application he has seen with the site drawn with relative proximity to the proposed beltway locations; he does not believe we have made a habit of relating these two quite so explicitly; and this is adjacent to one of the potential beltway sites. He believes it raises the question as to whether we should be deferring these developments until the beltway decision is made. He knows that we do not have such a policy but he is interested in staff comment. How many applications are we going to have before us that lock us out of flexibility once the beltway decision is made? Mike DeKalb of Planning staff advised that this is the third project that actually abuts one of the beltway corridors. The community unit plan for Crooked Creek abutted on each side; Pam Manske's development immediately to the west of this proposal abuts one of the corridors. DeKalb concurred that it is a point of consideration, but the staff report points out that there is no prohibition in the potential corridors at this time. Staff believes that the beltway is accommodated in both this application and the Manske application immediately adjacent. He believes it is designed appropriately to accommodate the future location of the beltway.

Schwinn recalled that there was some buffer distance being required by the Federal Highway Administration with regard to noise contours, something like 600' from the right-of-way. Dennis Bartels of Public Works knows there are concerns along I-80 but he is not sure there are any legislated requirements at this point in time.

Response by the Applicant

Carstens pointed out that this project is probably 450'-500' from that corridor edge.

Public hearing was closed.

COUNTY SPECIAL PERMIT NO. 183

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 1, 2000

Schwinn moved approval, with conditions, as set forth in the staff report, seconded by Bayer.

Schwinn commented that this is something that Commissioner Steward has been concerned with for a long time with regard to acreages in the area of the beltway. He had the fortunate experience of sitting through a meeting with DeKalb where he showed existing acreages that were in the city which have been engulfed and become part of the city. As a result, he is less concerned about them. He appreciates that the applicant has made plans for it to be urbanized in the future.

Steward commented that he has tried to be consistent on the conversion of AG uses to acreage developments, and he realizes that that consistency is somewhat outside the scope of our current Comprehensive Plan, but he is also aware that we seem to be making some headway toward getting county zoning strategies for acreage development so that they can be in more expected and designated areas. The beltway further complicates this particular location, in his opinion, and he would have liked to have reviewed this project after the beltway corridor decision is made, but we do not have a policy of holding the development rights hostage. It's just that we seem to continuously be stumbling over piecemeal strategy when we might have some opportunity for more comprehensive approaches. He apologizes to his colleague Krieser because he is personally involved in this development, but to be consistent Steward felt this discussion needed to take place.

Motion for conditional approval carried 5-1: Carlson, Schwinn, Taylor, Newman and Bayer voting 'yes'; Steward voting 'no'; Krieser declaring a conflict of interest; Duvall and Hunter absent.

SPECIAL PERMIT NO. 1870

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 1, 2000

Schwinn moved approval, with conditions, as set forth in the staff report, seconded by Bayer and carried 6-0: Carlson, Schwinn, Taylor, Steward, Newman and Bayer voting 'yes'; Krieser declaring a conflict of interest; Duvall and Hunter absent.

PRELIMINARY PLAT NO. 00025

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 1, 2000

Schwinn moved approval, with conditions, as set forth in the staff report, seconded by Bayer and carried 6-0: Carlson, Schwinn, Taylor, Steward, Newman and Bayer voting 'yes'; Krieser declaring a conflict of interest; Duvall and Hunter absent.

CHANGE OF ZONE NO. 3288
TEXT AMENDMENT TO TITLE 27 OF THE
LINCOLN MUNICIPAL CODE REGARDING
TEMPORARY STORAGE OF CONSTRUCTION EQUIPMENT
AND MATERIALS IN THE “AG” AGRICULTURAL DISTRICT.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 1, 2000

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

Planning staff recommendation: Approval.

Proponents

1. **Brian Carstens** explained that this text amendment is to allow temporary storage of construction equipment and materials in an area less than 10 acres. This text amendment proposal has come about because of the application for Special Permit No. 1313A at South 84th and Old Cheney Road, also on today’s agenda. Due to some annexation and subdivision on a corner of this property, this text amendment is an attempt to keep that property whole and keep the use going “as is”. This change to the text would allow the property to be developed at a future date with no adverse affect.

There was no testimony in opposition.

Schwinn commented that the subject construction site has always been at that location and he assumes that we have gotten to the point where because of piecemeal development, the construction storage site has become too small, thus the need for the text amendment. Schwinn wondered whether there might be some kind of grandfather clause that would be appropriate. Rick Peo of the City Attorney’s office believes it would be a voluntary decision on the permittee’s part to reduce the size of the property under the minimum requirements. “Either you do or you don’t”. Either you maintain the site as is or you give it up. The idea was to look at the possibility of allowing the concept. These were always intended to be temporary uses that would be eliminated as development came out to them. The thought is that they should not have to be eliminated totally at once, but gradually.

Relative to eliminating the one-year increment for reapplication for extensions, Steward was surprised that we would make it a longer period of time rather than annual checks. Peo advised that the staff’s proposed language allowed for a 5-year administrative amendment. The City Council would initiate the initial duration and then it could be

extended 1-5 years by administrative amendment. Ray Hill of Planning staff further explained that the amendment provides that the City Council can set the time limit and then, depending upon what is happening at that time, the permittee could ask for an administrative amendment to extend the use up to 5 years.

Carlson noted that there has been only one of these special permits.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: November 1, 2000

Steward moved to approve the staff language, seconded by Schwinn.

Carlson applauded the efforts of the Planning staff to get this information out into the community.

Motion for approval of the language proposed by staff carried 7-0: Krieser, Carlson, Schwinn, Taylor, Steward, Newman and Bayer voting 'yes'; Duvall and Hunter absent.

SPECIAL PERMIT NO. 168A
TO BUILD AND EXPAND A PARKING LOT
ON PROPERTY GENERALLY LOCATED
AT SOUTH 13TH STREET AND H STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION: November 1, 2000

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

Planning staff recommendation: Conditional approval.

Proponents

1. Jay McMaster of McMaster Real Estate, the applicant, presented the application for a special permit to expand the parking lot at 13th & H. McMaster has had this particular area for over 40 years and has been upgrading it piece by piece moving toward future development. At the present time, the parking is needed and they do have two pieces of property that are getting old and need more upkeep. Increasing the parking will help the progress of the area and make it more safe. They have been at this location without any problems. They will not disrupt the city utilities, sidewalks, streets, lawns or personnel. The people in the existing buildings will be relocated within their own properties.

2. Maryetta Colbert of McMaster Company Management advised that the parking lots that exist are under lease to another company. It was McMaster's mistake in leaving it up to them to do the city permits and meeting the city requirements. Unfortunately, they did not do that. McMaster will overtake these parking lots and make sure that all city requirements are met, in addition to the new parking that is being combined by this special permit. She has discussed this with the businesses on the block and they all support the additional parking. There are 42 tenants on the block at the present time, not including the businesses and their employees. At this time, around that block, there are 33 on-street parking spaces. The tenants and employees of the businesses compete with the people around that area, i.e. Billy's Restaurant, the Capitol, the County-City Building, downtown employees.

McMaster advised that Capitol Environs has reviewed this application and does not object as long as they keep the parking off the mall.

There was no testimony in opposition.

Mike DeKalb of Planning staff advised that the Nebraska Capitol Environs Commission concurred with the staff report and recommendation; however, it would be their preference that the corrections to the site plan be done prior to City Council approval.

Steward noted that the staff report mentions some tree loss due to this change. Are there any other trees in the interior that might have or could have been retained? DeKalb stated that there is nothing of any substance. The street trees are mature and will remain. There are no mature trees outside of the right-of-way.

Carlson attended the Capitol Environs meeting and it seemed like they were satisfied with the design but were concerned that it would be built accordingly. Is there another round of approval other than deferral to assure that the requirements are met?

DeKalb noted that this application must go on to the City Council and the revised site plans must be submitted prior to scheduling on the Council agenda. The design standards will pick up any flaws. Building permits will also be required, thus DeKalb believes there are sufficient checkpoints.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 1, 2000

Schwinn moved to approve the Planning staff recommendation of conditional approval, seconded by Krieser. Carlson expressed appreciation for the applicant's willingness to work through this.

Motion for conditional approval carried 7-0: Krieser, Carlson, Schwinn, Taylor, Steward,

Newman and Bayer voting 'yes'; Duvall and Hunter absent.

SPECIAL PERMIT NO. 1882
FOR A GYMNASTICS SCHOOL
ON PROPERTY GENERALLY LOCATED
AT SOUTH 40TH STREET AND PINE LAKE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 1, 2000

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

Planning staff recommendation: Denial.

Jennifer Dam of Planning staff submitted a written request by the applicant for a two-week deferral and three letters in opposition.

Steward moved to defer for two weeks, with continued public hearing and administrative action scheduled for November 15, 2000, seconded by Schwinn and carried 7-0: Krieser, Carlson, Schwinn, Taylor, Steward, Newman and Bayer voting 'yes'; Duvall and Hunter absent.

The applicant did not make a presentation.

Opposition

1. **C.J. Thoma**, 7255 So. 41st Street, testified in opposition. When the Thoma's evaluated the purchase of their home, they did some research and met with a city planning representative to discuss the zoning of the residences behind their property. The Thoma's were informed that it was zoned as single family residential. Based on that information, they proceeded to purchase their home on South 41st Street. As noted in the staff report, the proposed building is extremely large for the lot size. Furthermore, there is a 46-stall parking lot which would be connected to the Thoma's back yard. This raises the concern about parking lot lighting during the extended business hours. When the Thoma's initially moved in, their back yard had standing water in it and it required time and expense to correct the drainage. With the advent of a parking lot adjacent she is worried about rain and snow potentially draining onto their yard.

Currently, behind the Thoma property there remains what is left of a small farm including outbuildings. This is aesthetically pleasing. The proposed business is not compatible with the neighborhood. In addition, consideration must be given to who might be future occupants of the building in the event the gym school should close. Such a large warehouse type building and parking lot would make it possible for future commercial zoning of the property and any business could move into the neighborhood.

Thoma concurred with the details outlined in the staff report and the recommendation of denial.

2. Craig Munier, 7311 South 41st Street, testified in opposition. He concurs with the staff report and recommendation and agrees with the concerns expressed by his neighbors. The traffic patterns, duration of use and removal of mature trees are additional concerns. The majority of the traffic from the north would have to be re-routed down So. 41st Street in order to access this property because the city would not allow a left turn lane in the median. The applicant estimates student and staff use of the property, with overlap, of 50 additional cars coming and going every day. This traffic pattern was never intended for So. 41st Street and this residential neighborhood. Munier does not believe duration of the use is consistent with school day use. The proposed schedule is until 8:30-9:00 p.m., Monday through Friday, and all day on Saturday. He does not believe this is consistent with a "school use". He is concerned about the removal of a number of mature trees. These trees provide shade to the neighborhood and add a nice aesthetic quality to this new neighborhood. Based on the zoning, the residents believed any development would be consistent with a residential neighborhood and this request does not meet those expectations.

3. Rob Thoma, 7255 So. 41st Street, testified in opposition. He emphasized that the Cripple Creek Homeowners Assn., representing over 850 homes, is in opposition, and a letter from the Association has been submitted for the record.

4. Scott Shaner, 7245 So. 41st Street, testified in opposition. He lives adjacent to the property in question. He is concerned about the traffic pattern that will result from this application. Public Works will not support a median. This property is located about 3-4 blocks from Lincoln's southernmost boundary so 99% of their customers will be accessing the property from the north. The property to the west of 40th Street is a very large city block of irregular shape and is unlikely to be used as an alternative traffic pattern. Presuming that this school operates in similar manner to another gym school, parents are not allowed to watch. Typically most of the parents drop the children off and return one hour later to pick them up. When we talk about influx of traffic, we are most likely talking about 2 cars per child per hour. Based on class size, this could range from 20 to 100 cars per hour accessing these streets. The bulk of the classes begin after 4:00 p.m. and this time of year it heightens the concern of the parents for the safety of their children. This neighborhood is full of 4-5 bedroom houses, young families. 13 out of 17 residences have children.

In addition, Shaner pointed out that Cavett Elementary is located 6-7 blocks from this property and the before and after school traffic route designates the intersection of 40th and Eagle Ridge Road as the designated route for children and traffic. Obviously, that intersection is going to receive the bulk of the traffic coming into this facility, also.

Bayer inquired whether Shaner has met with the applicant. Shaner believes there was one neighborhood meeting but he was not able to attend.

5. Luke Schnake, 7301 So. 41st, testified in opposition, advising that everyone with property adjacent to this proposal is opposed. In addition to the five houses facing the disagreeable aesthetics, the traffic flow becomes more complicated when Lincoln is to the northeast, thus there is a lot of traffic coming from 56th down into this area. There are hundreds of houses in this traffic pattern.

Public hearing will be continued with administrative action on November 15, 2000.

STREET VACATION NO. 00019
TO VACATE SOUTH 16TH STREET
GENERALLY LOCATED AT VAVRINA BOULEVARD
AND SOUTH 16TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 1, 2000

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

Planning staff recommendation: Conditional approval.

Proponents

1. Rick Krueger presented this application which will allow movement of the traffic calming device further south about 300'. The device will be in South 16th Street. The purpose of this request is to be able to connect Vavrina Boulevard out to 14th and back in to 16th yet this fall. Krueger agreed with the staff recommendation.

Krueger noted that the staff is suggesting that this street vacation should not be moved on to the City Council until the new location for the calming device located in Vavrina Meadows 1st Addition preliminary plat is approved. Krueger requested that this condition be deleted so that they can move this proposal on to the City Council.

They have had extensive conversations with staff and have had the first round of discussions with staff on the Vavrina 1st Addition preliminary plat. Krueger will be resubmitting Vavrina 1st very soon. They cannot, however, make the desired connection this year if Condition #1.2 is required.

Rick Houck of Planning staff indicated that the main reason staff had suggested Condition #1.2 was to have a calming device in 16th Street. However, in further conversation with

the other staff, he would agree to delete Condition #1.2.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: November 1, 2000

Schwinn moved approval, with conditions, with amendment to delete Condition #1.2, seconded by Carlson and carried 7-0: Krieser, Carlson, Schwinn, Taylor, Steward, Newman and Bayer voting 'yes'; Duvall and Hunter absent.

SPECIAL PERMIT NO. 1313A
TO AMEND THE BOUNDARY AND LEGAL
DESCRIPTION ON PROPERTY GENERALLY LOCATED
AT SOUTH 84TH STREET AND OLD CHENEY ROAD.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: November 1, 2000

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

Planning staff recommendation: Conditional approval.

Proponents

Steve Henrichsen of the Planning staff stated that after further discussions with Public Works and the applicant, the staff is amending Condition #1.1.2 to read as follows: "Add a note that the access driveway to 84th Street is for temporary use. Access to this property shall be determined at the time of redevelopment". This makes it clear that this driveway may not be continued in the future, but at such time as there are plans to redevelop the site, we would decide if the access should remain or not.

Proponents

1. Brian Carstens testified on behalf of the applicant. The Planning Commission recently approved the preliminary plat of Hartland Homes East 1st Addition, which included a triangular section of Hampton Enterprises property used for growing nursery stock. It was determined that Betty Lou Lane would abut the floodplain and thus there was a change of zone to R-3. That change of zone took a portion of the AG zoning being used for the temporary storage of construction equipment and materials under Special Permit No. 1313 so that it is less than 10 acres. That is the reason for the text amendment heard previously today as Change of Zone No. 3288. Nothing will be changed except for the trees being

removed out of that corner. It will stay as is at this time.

The applicant agrees with the change to Condition #1.1.2.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: November 1, 2000

Carlson moved to approve the Planning staff recommendation of conditional approval, with amendment to Condition #1.1.2, seconded by Newman and carried 7-0: Krieser, Carlson, Schwinn, Taylor, Steward, Newman and Bayer voting 'yes'; Duvall and Hunter absent.

STREET VACATION NO. 00013
TO VACATE X STREET FROM THE
EAST LINE OF NORTH 8TH STREET
TO THE WEST LINE OF NORTH 9TH STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: November 1, 2000

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

Jennifer Dam of Planning staff submitted a petition in opposition containing approximately 108 signatures.

Proponents

1. Frank C. Sidles, testified as **President and Owner of Capital Contractors, Inc.**, which is a co-petitioner in this matter along with Henry Schmidt, one of the property owners. Sidles submitted a map showing the ownership of the area in question. Capital Steel, which is a division of Capital Contractors, fabricates steel for sub-structures for bridges. They will bid to fabricate that steel and has been successful in doing that throughout the Great Plains states of this country. Capital Steel is not a "Johnny come lately" to this area, being located in the North Bottoms since 1928. Capital Contractors has not purchased much property in the last 20 years in this area, except for the Lots 1, 2, 3 and 4 in Block 6, which were purchased approximately four years ago. There were two houses which have since been removed and the property is now all vacant and used for storage of materials. All of the yellow shaded area on the map submitted by Sidles, except for the partial area known as Lot 9, Block 2, is all industrially zoned. As a matter of fact, there is additional property that is industrial zoning which Capital Contractors does not own in part of Block 3 and a little further to the west.

The decision to petition for the vacating of this portion of X Street started when the baseball stadium came to be public knowledge. Additionally, with the development of the baseball complex, the Union Pacific Railroad tracks had to be eliminated. Those railroad tracks under the interstate ran all the way down X Street, but those tracks have now been removed and there is nothing there except the street itself. Capital's trucks which haul steel or third party haulers hauling steel go straight west out X Street. They used to haul steel through parts of the North Bottoms Neighborhood but that was not acceptable by the residents. Capital hauls quite long girders out and it was necessary to continue to be able to go down X Street. The city has been very cooperative with Capital's concerns about ingress and egress. There was never any question about Capital being able to continue straight west. They haul out west and get on North 6th Street, continuing onto Charleston and then over the new bridge.

With all of those advents, Capital Contractors joined with Hank Schmidt, the owner of Lot 12, Block 6, to petition to vacate this portion of X Street. Schmidt wanted to join in the vacation because his garage and maybe his house may be right on the lot line so that there is no driveway and no ingress and egress to his garage or to his lot because of the way X Street is situated.

Sidles advised that they attended the first neighborhood meeting in September of 1999 held by the city regarding the development of the baseball complex. At that particular point is when Capital got interested in the vacation. The petition was filed in April. In June, Sidles met with the President of the North Bottoms Neighborhood Association and explained the proposed vacation to close off X Street so that it could be used for storage purposes. There didn't seem to be a problem except for the concern about landscaping.

Sidles did observe that the North Bottoms did not like it because there was no master plan for the area; storage on the vacated lot didn't look good; and they didn't like the dead-end alley. He met again with the neighborhood on August 26. The gist of it is this: The North Bottoms Neighborhood Association, in September of 1999, vented their frustrations over the city not doing something about the football parking in the area. In Sidles' opinion, the North Bottoms Neighborhood has intimidated the city departments to not do anything without their concurrence. Frankly, this area is zoned I industrial; the biggest concern is the alley and its continued use, so the staff recommendation is denial because it is not consistent with the Comprehensive Plan. Sidles suggested that it's really a way of saying, "the North Bottoms Neighborhood said no, and we don't want to deny it for that reason." Sidles contends that it is zoned industrial and the street vacation would have been approved without any question by Public Works and Planning, but the North Bottoms Neighborhood has absolutely objected to it on the basis of no master plan, the storage is not appealing, and the dead-end alley is not acceptable.

Sidles then suggested amending the application to vacate only the east part of X Street,

running from the alley east to North 9th Street. It abuts both properties owned by Capital Contractors and then the alley could be open. Everybody that has the use of the alley would have access to the west part of X Street, and it should meet all the objections.

In closing, Sidles urged that the closing of this street impacts very few people. In fact, many names on the petition that was submitted are not from Lincoln because the signatures were obtained on the Saturday of a football game. The people are opposed to parking in the North Bottoms area. Sidles believes that closing X street would actually hinder parking in that area.

Sidles suggested opening the alley, closing the portion of X street that abuts the Capital Contractors property on Block 6 and Block 3, in addition to vacating a part of the property that is adjacent to Mr. Schmidt's property so that he can have a driveway. There is an open ditch on the south side of the street that the city should maintain.

Opposition

1. Becky Schenaman, 817 Y Street, testified in opposition. She obtained the signatures and wrote a letter in July. Her house sits 2' from the alley. She has lived there 35 years and everybody uses that alley. She has had people 6" from her foundation. What Capital wants to do is open the alley. She's the one that is going to have all the traffic. Her house vibrates from the traffic. Today she would not buy her property because of where it is located in relation to that alley. She does not want all the traffic from X street to come down that alley like a city street. She wants X Street to be left open. We are still on dirt roads two blocks away from the University and the baseball stadium. There has been nothing done to improve the area for this neighborhood. There is no decent street lighting. Yet they can have all the lights for the baseball and Memorial Stadium. The Schmidt property is a rental and she knows that it will be sold. The baseball project will pave part of X Street and she will have hundreds of cars coming down this alley if X Street is closed. The City needs to do something for this neighborhood.

Steward inquired how Schenaman leaves her property. She takes 9th Street over to 10th, over the viaduct. Steward is concerned about access by emergency vehicles into this area. What would be the normal quickest route from a major thoroughfare into Schenaman's area? Schenaman stated that she has had 911 at her house 5 times. They come over the 10th Street viaduct down 9th and onto Y. She does not know how closing X Street would affect emergency vehicles.

Newman sought clarification that X Street goes all the way underneath I-80 over to 6th as does Charleston. Are there any other streets? Dennis Bartels of Public Works advised that Charleston and X are the two east/west streets.

2. David Prochnow testified in opposition. He lives in the neighborhood and would not

criticize anyone getting signatures from people going to football games. We have learned that football, UNL and the City rule. We were supposed to have this meeting two months ago and the applicant postponed it in order to meet with the neighborhood. We had that meeting and the neighborhood association does not want this street closed. We met in a building that does not even have a sidewalk. He has lived in this neighborhood all his life. He has never seen X Street maintained by the city other than when the railroad used to mow it. However, two days before the neighborhood meeting it was mowed slick and clean and that is the first time he has seen the ditch mowed in his life. Recently, a wireless communications tower was approved for the Capital Steel property. He does not understand why Capital Contractors would allow this tower if they don't have enough property.

Prochnow is also concerned about emergency vehicles. There was a murder recently in this neighborhood. There was a fight recently after one of the football games. Nothing can get in or out when the traffic is bumper to bumper. The neighborhood has never had a sidewalk to a shopping center or to Oak Lake, and now you want to take streets away? This will bring Capital Steel even closer to the neighborhood – the sound of a chain hitting a flat bed truck, etc.

3. Michael Scherbak, a resident of 1020 North 9th Street for 50 years, testified in opposition. The closing of X Street will increase traffic on 9th Street with semi's and flatbeds and there is a lot of dust that is created with these trucks going down 9th Street. There is mud when it does rain. Capital Contractors has not been a good neighbor. He has asked them to do a few things and they space it off.

4. Elmer Burbach testified in opposition. He wants X Street left open. It has been there for 70 years and he sees no reason to close it today, especially with the increased traffic from the ballpark. The alley also needs to be left open.

Dennis Bartels of Public Works clarified that 9th Street is as far east as X Street goes—it is not a major entrance into the neighborhood now. Until we get it paved with the baseball project, Capital has used it to get over to 6th Street to get trucks out. When the baseball project is completed, 6th Street will be paved to 7th Street underneath the interstate so at that point in time there will be a continuous street from 6th to 8th if this vacation is approved, or from 6th to 9th if the vacation is not approved.

Steward observed that obviously, the baseball stadium creates new traffic demands. Were projected traffic counts included for X Street because of the baseball complex? Bartels stated that he was not directly involved, but the design is such that the intent is that the baseball traffic should be using Sun Valley as opposed to Charleston, exiting to the west. He does not know if it will keep traffic out of the area but the intent is to discourage it. The

new entrance and new bridge is to the south of the existing Charleston.

Steward is trying to rationalize as he recalled some testimony about discouraging east/west traffic movement through the neighborhood, and yet, if this becomes a paved connection to 6th Street, it will open up traffic through the neighborhood. Bartels indicated that it was just 6th to 7th underneath 1-80, and that was not the intent until the Capital Contractors problem came up. At the present time, there is a path along the railroad tracks used to get west underneath the interstate so that they do not damage the street or cars.

Steward inquired whether X Street is an essential part of a transportation plan resulting from new traffic from the baseball complex? Jennifer Dam of Planning staff stated, "no, it is not". Traffic would be discouraged from using X Street. The City agreed to pave between 6th and 7th under the bridge so that Capital could continue to move their steel beams out. Traffic from the baseball stadium will be routed in and out of Sun Valley Blvd. The negotiations with the neighborhood as the baseball project was being developed included traffic controls along Charleston so that it would either be barricaded or closed or there would be traffic control individuals so that traffic would not be going through the neighborhood from the baseball stadium.

Response by the Applicant

Sidles confirmed that initially, when the discussion about X Street was started with the baseball development, he brought to the attention of the city the need for ingress and egress for Capital Contractors. They have gone straight west on X Street for 15-18 years. Without that ingress and egress, it was going to be mandatory that we get through the neighborhood, which the city did not want. Because of the size of our girders, going straight west made much more sense and the city has been very cooperative in the radius to get on No. 6th, around Charleston, etc.

Initially, there was some discussion about fencing off the area down on North 6th so that only at the time that Capital was going in and out would they have ingress and egress which would stop all traffic from going east. The city is not interested in having traffic going down there, resulting in parking in the North Bottoms area.

From the standpoint of emergency vehicles, they come over the 10th Street viaduct, and turn on Charleston. They could turn on No. 9th and they could turn on No. 8th. X Street is a gravel and dirt road. The traffic pattern is substantially less than 100'. The city has never maintained anything much wider than 30-40'. The City is going to pave under the interstate from No. 6th to No. 7th. Other than that, X Street will remain gravel or dirt. The emergency vehicles will take paved streets. North 8th is paved all the way to Charleston. No. 9th is paved only to X Street. Sidles believes the impact is negligible in this area, particularly if you only close the east half from the alley over.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 1, 2000

Carlson moved to deny, seconded by Newman.

Carlson stated that he has not been intimidated by the neighbors and he believes the neighbors should have some say as to whether their public streets are vacated. We do have an instance here where there is a lot of industrial zoning, but there is a residential island in there and this makes it more clear that we should protect that island while it still exists. At some point industrial will overtake that area, but we have not crossed that threshold yet. If that threshold is crossed, then this conversation might have a different take. People are interested in protecting access to their homes. As far as access in and out of the baseball stadium, it sounds like "cutting your nose off to spite you face". We are talking about putting barriers up on Charleston Street at specific times and we could do that same thing on X Street. He does not believe we need to be closing off a street because of potential baseball games. There could be a time to vacate this street, but this is not the time. If only part of it is vacated, he thinks the neighbors should have input into that alternative.

Motion to deny carried 7-0: Krieser, Carlson, Schwinn, Taylor, Steward, Newman and Bayer voting 'yes'; Duvall and Hunter absent.

**SPECIAL PERMIT NO. 1865
FOR A WIRELESS FACILITY
ON PROPERTY GENERALLY LOCATED
AT NORTH 25TH AND Y STREETS.**

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: November 1, 2000

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

Proponents

1. **Jill Bazzell** appeared on behalf of the applicant, **Qwest Wireless**. They have worked with Planning to move the site and remove the lights. They have talked with the president of the neighborhood association who had some technical questions and she believes they

addressed her concerns. They did have a neighborhood meeting but Qwest was unable to attend; however, they did provide written information and renderings. They have heard no response.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: November 1, 2000

Steward moved to approve the Planning staff recommendation of conditional approval, seconded by Taylor and carried 7-0: Krieser, Carlson, Schwinn, Taylor, Steward, Newman and Bayer voting 'yes'; Duvall and Hunter absent.

Note: This is final action unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

SPECIAL PERMIT NO. 1872
TO CONSTRUCT A DWELLING FOR A
DOMESTIC EMPLOYEE ON PROPERTY
GENERALLY LOCATED AT
SOUTH 98TH STREET AND YANKEE HILL ROAD.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: November 1, 2000

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

Mike DeKalb of Planning staff advised that the site plan has been revised changing the application from an accessory building to attaching the dwelling to another building. Therefore, Condition #1 should read: "This approval permits an accessory dwelling for one domestic employee employed on the premises."

Proponents

1. **Ron Moore**, of Creative Design Homes, appeared on behalf of the applicant and agreed with the change to Condition #1.
2. **Jay Miller**, 10050 Yankee Hill Road, the property owner, also agreed with the staff recommendation, as revised.

Carlson inquired whether the Cheney SID is satisfied with the situation. Miller indicated that there are two letters which have been submitted signed by Jack Schuetz, who is the

covenant maker for the area, and by Deb Marlar, the Chair of the Cheney SID. When they started the plan it was a separate unattached building and he did not know it required a separate hookup for SID. Miller went back and revised the plan and made the dwelling an addition to his home as opposed to a separate building.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 1, 2000

Newman moved approval, with conditions, with the amendment to Condition #1, seconded by Krieser and carried 7-0: Krieser, Carlson, Schwinn, Taylor, Steward, Newman and Bayer voting 'yes'; Duvall and Hunter absent.

Note: This is final action unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

There being no further business, the meeting was adjourned at 2:45 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on November 15, 2000.