

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, March 21, 2001, 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, Steve Duvall, Linda Hunter, Gerry Krieser, Patte Newman, Cecil Steward and Tommy Taylor (Greg Schwinn absent); Kathleen Sellman, Ray Hill, Mike DeKalb, Jennifer Dam, Ed Zimmer, Jason Reynolds, 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 and requested a motion approving the minutes for the meeting held March 7, 2001. Hunter moved to amend the second paragraph on page 45 to clarify the motion to amend Comprehensive Plan Amendment No. 94-56, seconded by Steward and carried 7-0: Bayer, Carlson, Duvall, Hunter, Newman, Steward and Taylor voting 'yes'; Krieser and Schwinn absent. Motion to approve the minutes, as amended, made by Steward, seconded by Hunter and carried 7-0: Bayer, Carlson, Duvall, Hunter, Newman, Steward and Taylor voting 'yes'; Krieser and Schwinn absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

March 21, 2001

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

The Consent agenda consisted of the following items: **CHANGE OF ZONE NO. 3311; SPECIAL PERMIT NO. 1902; FINAL PLAT NO. 00030, NORTH HILLS 2ND ADDITION; CITY/COUNTY FINAL PLAT NO. 00036, STEVENS CREEK RIDGE ADDITION; and STREET AND ALLEY VACATION NO. 01004.**

Krieser declared a conflict of interest on City/County Final Plat 00036 and did not vote on the Consent Agenda.

Item No. 1.1, Change of Zone No. 3311, was removed from the Consent Agenda and scheduled for separate public hearing.

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

Note: This is final action on Special Permit No. 1902, the North Hills 2nd Addition Final Plat No. 00030 and the Stevens Creek Ridge Addition Final Plat No. 00036, 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.

Chair Bayer advised the Commission of a request to rearrange the agenda from a representative of one of the applicants for the Morning Glory Estates applications, which are scheduled for continued public hearing and are last on today's agenda. Motion was made by Steward and seconded by Krieser to move Items 4.2a,b,c,d and e to become the first public hearing on today's agenda. Motion carried 8-0: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Schwinn absent.

ANNEXATION NO. 00006;

CHANGE OF ZONE NO. 3255;

SPECIAL PERMIT NO. 1839,

MORNING GLORY ESTATES COMMUNITY UNIT PLAN;

PRELIMINARY PLAT NO. 00011,

MORNING GLORY ESTATES; and

USE PERMIT NO. 128,

ON PROPERTY GENERALLY LOCATED

AT NO. 84TH & HOLDREGE STREETS.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: March 21, 2001

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

Proponents

1. Mike Rierden appeared on behalf of the Jehovah Witnesses congregation. He indicated that he has spoken with the applicant, Don Linscott and Mark Hunzeker, and he requested a four-week deferral.

Mark Hunzeker, attorney for the applicant, Holdrege Investors, L.L.C., was in the audience and indicated his concurrence with the requested deferral.

Duvall move to defer four weeks, with continued public hearing and administrative action scheduled for April 18, 2001, seconded by Hunter and carried 8-0: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Schwinn absent.

There was no further public testimony.

CHANGE OF ZONE NO. 3311
FROM P PUBLIC USE TO O-3 OFFICE PARK,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 66TH STREET AND PIONEERS BLVD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 21, 2001

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

Planning staff recommendation: Approval.

This application was removed from the Consent Agenda at the request of Commissioner Carlson.

Proponents

1. Lynn Johnson, Director of the Parks & Recreation Department, explained that the intent of this application is to establish O-3 zoning for the parcel previously reviewed by the Planning Commission to be declared surplus property. This zoning action will be aligned with the Council's review of the surplus property designation. This zone change is consistent with the adjacent parcel owned by Talent Plus where the Commission previously approved O-3 zoning and a use permit for an office building.

Carlson inquired as to the next process to remove city ownership from the property. Johnson explained that the declaration of surplus property is on the Council's pending list waiting for this zoning action. In mid-April the Council will be reviewing both items.

Opposition

1. Ronald F. Bauer, 4421 Smoketree Hollow, which is part of the Pinehurst Townhouse Association directly south of the proposal at the intersection of Pine Ridge and So. 67th, testified in opposition. He is opposed to this change of zone as well as some of his other neighbors. It is not compatible with existing land use, which is residential and park. This proposes to have a commercial entity between residential and park and he does not believe that is compatible development. He does not believe it is in accordance with sound planning practices.

Bauer cited the basic purposes from the Comprehensive Plan, “1) To improve the physical environment of the community as a setting for human activities—to make it more functional, beautiful, decent, healthful, interesting and efficient; 2) to promote the public interest, the interest of the community at large, rather than the interests of individuals and special groups within the community;....5) to inject long-range considerations into the determination of short-range actions...”. Bauer purports that this change of zone is a short range action and it does not consider the long term needs of the city.

Bauer is interested in knowing the criteria used in determining that this land is surplus. It is irregularly shaped and is part of the Holmes Lake/Holmes Golf Course. He realizes that right now some maintenance facilities are there. If the maintenance facilities are surplus, so be it. But it is up to the city to take those out and re-landscape that property back into the park. The present boundaries are straight and even and this triangle will interrupt that straightness and evenness.

Bauer then referred to the staff report and the analysis regarding the relocation of Fire Station #6. If this commercial office development goes in, is this fire station still going to be moved, and if so, how does it fit into the total complex?

Bauer referred to #3 of the staff report Analysis. Talent Plus owns the office zoned property to the east and desires to purchase this parcel to combine with their land to develop an office campus. Bauer believes this is in direct conflict with the Comprehensive Plan—to promote the public interest, the interest of the community at large, rather than the interest of individuals or special interest groups within the community.

Bauer also disagrees with #8 of the staff report Analysis. The staff report states that future office development on this property is not anticipated to negatively impact any immediately adjacent residences, etc. Bayer believes it will negatively impact the entire neighborhood. He lives in this area and drives on Pioneers nearly every day. There is no way that an office campus complex will fit in.

Bauer advised that there would have been other neighbors here in opposition today but it is difficult for them to get off work to attend.

Carlson inquired whether Bauer’s neighborhood association had any input on the office park parcel already zoned O-3 in January of 1998. Commissioner Bayer recalled that there was neighborhood discussion at the hearing on the office for Talent Plus.

Carlson was curious about the comprehensive plan conformity issue being on the Council’s pending list with this moving forward. Why are they moving forward together? Jennifer Dam of Planning staff believes that the Council wanted to see what zoning would be associated with the surplus property because if cannot be zoned P if declared surplus. Johnson added that

Talent Plus actually asked that the declaration of surplus property be placed on pending waiting for this zoning action. The appraisal on the property is based on O-3 zoning and there is a written the agreement such that Talent Plus would be responsible for the zoning, but they wanted to make sure the zoning was established prior to that so that the community would have an opportunity to discuss it.

Carlson inquired of Johnson about the criteria for surplus and the fire station issue. Johnson explained that the Fire Department has determined that even though the Comprehensive Plan still identifies this as a potential location, their preferred location is further south and east. As far as the criteria for determining surplus property, the process is initiated by the applicant and in this case it was Talent Plus. Staff reviewed the request to make sure indeed it would not have impact on the operation of the Golf Course and the parks and open space issues. It was presented to the Parks & Recreation Advisory Board, and that Board recommended approval and that it move to the Planning Commission. The win-win we see is that the land here has to be replaced value per value, i.e. more than ½ million dollars of land has to be placed elsewhere in the community so that there is a net increase in park land as a result of this sale.

Steward asked Johnson what he envisions for location for replacement of the maintenance function. Johnson stated it would be located at the north edge of the golf course on the south side of South Shore Drive and immediately east of the driving range. This location closer to the clubhouse and the holes on the golf course will be a better operational location for the maintenance facility. Steward wondered whether that would be a lesser visual impact by eyes from the street. Johnson indicated that there have been concerns raised about the appearance of that existing facility from Pioneers Blvd. on many occasions. The relocated facility will be more obscure.

Steward inquired whether Talent Plus will be placing other buildings on this parcel. Johnson believes that the master plan is essentially an extension of a wing of their office building and they would have parking on a portion of this property. It would be a westerly extension of one of the wings of their office building.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 21, 2001

Steward moved approval, seconded by Hunter and carried 8-0: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Schwinn absent.

CHANGE OF ZONE NO. 3307
A TEXT AMENDMENT TO TITLE 27 OF THE
LINCOLN MUNICIPAL CODE REGARDING
SIGNS IN THE O-3 OFFICE PARK DISTRICT.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 21, 2001

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

Planning staff recommendation: Approval.

Proponents

Mike DeKalb of Planning staff presented the application. A year ago an application requested by Brian Carstens and Bob Norris was processed which was a substantial adjustment to the O-3 zoning relative to signs. That change was adopted by the Council in April, 2000. In the meantime, there was an application involving signage that came through and Council determined that the adopted language did not fit the circumstances, and two of the Council members suggested that the administration process an amendment to reflect those areas of concern. This change of zone represents that adjustment.

There are four items suggested to be changed: 1) total wall area change from 250 square feet to 150 square feet; 2) wall signs within 500' of residential should not be illuminated; 3) electronically changing copy signs or message centers are prohibited; and 4) this amendment deletes the language that allows the City Council to grant variances and adjustments through use permits.

Newman asked whether this amendment basically reverts the language to what it was before April, 2000. DeKalb explained that two versions ago the wall signs did not have a percentage; this tones it down, but you still have the 10% coverage and 150 sq. ft. versus 32 sq. ft. for a wall sign. Two versions ago, the provision relative to Council adjustment did not exist and that provision was added in the last change (April, 2000).

Carlson inquired about the maximum square footage before April, 2000. DeKalb explained that the wall sign was 32 sq. ft.

Bayer referred to a letter the Commission had received from Nebraska Neon agreeing to the non-illumination when 500' from residential, but disagreeing with the prohibition of electronically changing signs and the change from 250 square feet to 150 square feet. DeKalb did meet with Nebraska Sign Company and explained where this application was

coming from and what was going on. He believes that their suggestions certainly have some merit but he could not comment relative to the Council's interest in bringing this forward.

Opposition

1. Bob Norris of Nebraska Sign Company testified in opposition. This discussion started after the sign ordinance was changed many years ago. In the O-3 district they allowed a specific number of signs (either 2 wall signs of 25 sq. ft. or one monument sign of 32' square feet, or a 25 square feet monument sign and one wall sign of 25 square feet). That became unworkable because as the O-3 zones developed, they were becoming one or two larger buildings with multiple tenants and that is why we spent literally a year working up the change which was passed a year ago.

Norris is disappointed in that the initiators of this change (who seem to be anonymous) have chosen not to meet with Nebraska Sign Company. Thompson's letter explains some acceptable changes. The non-illumination of signs when within 500' and abutting a residential district is acceptable. The single user in a building having the ability for lesser square footage of 150 or 10% makes sense and we wouldn't mind working to implement that. We don't agree with what appears to be an arbitrary disallowing of all electronic changing signs in the O-3 zones. Electronic signs today are state-of-the-art, replacing the manual message changing systems; they are more expensive and not everyone uses them; but they are efficient and technologically speaking, they are what is coming hard and fast. Apparently the city recognizes the benefits of message centers because you will be hearing about an overlay district around the ballpark near the Haymarket that will eventually allow for electronic message centers. There are electronic message centers in residential zones in the City at churches. These are carefully done. Therefore, Norris requested that this restriction not be included.

With regard to the ability for Council to make adjustments, Norris reminded the Commission that O-3 is a use permit zone. All the other use permit zones in the city allow that to happen. This is worthwhile as a consistent measure.

Steward clarified the 250 versus 150 square feet with Norris. Norris took the position that if you have 3-4 tenants in the building, then it needs to be left at 10% wall cover or 250 square feet, whichever is less, but he thinks it is worthwhile if there is only one user in a building, that they be limited to 150 square feet or 10%, whichever is less.

2. Mark Bronder, President and CEO of Hampton Enterprises and Hampton Commercial Construction, testified in opposition and agreed with Mr. Norris' testimony. Limiting a single tenant to 150 square feet makes sense; Hampton has no opposition to non-illumination within 500' of a residential zone. However, the ability to go to 250 square feet is

a need that Hampton does have. For example, Williamsburg Village has multiple tenant buildings and the signage that is granted is very discretionary, but they do need that ability to go to 250 square feet.

Hunter pointed out that even with the proposed reduction in wall sign size, there is also the ability to have ground signs. So, really it is not a restriction in terms of having duplicate signage on the building and on the ground but it's a matter of reducing wall signs in the city. A 250 square foot sign is about 17 x 17 feet and that is pretty big. She wonders if that really has an impact when you have the ability to have additional signage on the ground. Bronder stated that the signage on the ground does not do a lot of good. It is difficult to read as you are traveling in a vehicle. We can use larger letters on the wall that are more prominent and more identifiable for vehicular traffic. That is how we get people into our buildings.

3. Mark Hunzeker appeared on behalf of **Hampton Enterprises and Holdrege Investors**, in opposition. These are two areas, one developed and one undeveloped, that will be affected by this amendment. A year ago there was no problem with the language in the current ordinance. During that year, we have had no examples shown by anyone of "bad signage" that has been put up under the current regulations. We have always had the ability to have changeable copy signs and there has been no objection to those to his knowledge. Every other use permit district in the city (B-2, B-5, etc.) has the ability to allow the City Council discretion to modify these requirements. It seems that the identification of individual businesses is not just a convenience to those businesses, but a necessity and a very great convenience to their clientele. The ground signs are limited to one per entrance to the office park, not to exceed 32 square feet. So in a Williamsburg context or Morning Glory Estates context, you have one ground sign per entrance and you need to be able to put up the signage on the buildings for people to find out where they are going. Hunzeker also agrees with the non-illuminated signs within 500' of residential. He also agrees that the wall sign be limited to 150 square feet per tenant in single tenant buildings, but the 250 square feet is important to have identification for individual buildings. There has been no real case made that there has been any abuse of this section and there is certainly a strong case to be made for multiple tenant buildings that they need additional signage to be able to identify those individual tenants. They need that identification and absent some real justification, Hunzeker believes it should be allowed to work.

Hunzeker also stated that no one wants to say what the real origin of this proposal is, but he believes it relates back to an individual application that was made to modify requirements for a particular office zoned parcel in south Lincoln. That modification was granted by the Planning Commission and the City Council, and, as far as he can tell, no one has objected other than one or two people who voted against it at the City Council. There is no regulation

in the ordinance that is so perfect that it shouldn't have the opportunity for review in light of existing and particular circumstances. That is why we have Board of Zoning Appeals and these adjustment provisions in every other use permit district. These ordinances are written by people who have no experience dealing in businesses and signage.

Hunzeker requested that the text amendment be denied. If not denied in total, he requested that the Commission only approve the reduction to 150 square feet for single tenant buildings and non-illuminated signs within 500' of a residential district.

Response by the Applicant

With regard to the nameless location and individuals, DeKalb advised that this information appears on page 3 of the staff report. Bayer clarified that the location was at 27th and Pine Lake Road, and Jeff Fortenberry and Jonathan Cook were not in favor of that action and requested that staff bring this amendment forward.

Steward believes we are at a point of splitting small pieces of a larger pie and it sounds like the industry and this proposal are very close. Given two weeks, he wondered whether the language could be worked out. Steward might prefer to modify the 250/150 circumstances as requested by the opposition, but that is going to be tricky language and he would rather it be done more deliberately and reasonable. DeKalb would not disagree with a deferral and an attempt to compromise.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 21, 2001

Hunter moved to approve the staff recommendation, seconded by Newman.

Hunter commented that in the past year and a half there have been a lot of things before the Commission having to do with billboards and now having to do with building signage and the issue of signage along the interstate, all of which is crying out for the same thing—a standard that does not blight visibility and trash up the area. She believes that 250 square feet is huge. As far as signage and identification is concerned, the traveling consumer is usually looking for an address. Monument signage is attractive and they could be identified by address. The point that was brought forward was to set a standard that said this is a maximum number and you have ground signage to identify location. We did that with the billboards and she believes this is consistent.

Steward is concerned with the largest permissible size as well; however, there are two procedural characteristics that are going to cause him to vote against the motion. He does believe there is a valid argument about appeal and he believes signs all begin to be a matter

of agreeing with or opposing taste, and while given a preference he would hope they would be 2' x 3' and limited one per building, that's never going to happen. He thinks the right to appeal to the City Council and to be consistent with other special use permits is important. Secondly, Steward believes we are being shortsighted from a potential graphics and appearance possibility in eliminating the electronically changing signs. One that he believes is not intrusive is the recent Journal Star sign at the new building. This would eliminate some potential technology that we are not even aware of that might be possible.

Carlson moved to amend that the language stricken in paragraph (d), "The sign regulations in subsection (b), paragraphs (2), (3), and (4), may be modified by the City Council in connection with the granting of a use permit in conformance with all other requirements of Chapter 27.27.", be reinserted allowing modification by City Council, seconded by Newman. Newman believes it is the single most important issue. We can set the standard but she believes there needs to be an appeal process for individual applications. Motion to amend carried 8-0: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Schwinn absent.

Steward moved to amend to eliminate the underlined portion of paragraph (d), "Electronically changing copy signs, also known as reader boards and message centers, shall be prohibited.", seconded by Duvall.

Hunter wondered whether that issue couldn't also be appealed to the City Council by virtue of the first motion to amend. Rick Peo of Law Department clarified that the appeal section is very limited. It only refers to subsections 2, 3 and 4 of paragraph (b). (b) 1 and (d) are not appealable rights.

Bayer believes the electronic signs can be very well done and are the wave of the future. We don't even know how they can look in the future.

DeKalb advised that this prohibition was added because all non-residential districts are allowed to have message centers up to 80 square feet within the allowed sign package for the district. There was a specific request related to the action on So. 27th and Cook and Fortenberry felt it was inappropriate. By this action, only the O-3 district could not have electronic signs.

Newman inquired whether electronically changing copy signs include the little movable trailers. DeKalb clarified that those are not included and are considered temporary signs.

Carlson believes the amendment becomes more compelling because it seems odd that we would single out one district.

Motion to amend to delete the prohibition of electronic signs carried 8-0: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Schwinn absent.

Bayer moved to amend to add the language as requested by Nebraska Neon to leave the 250 square feet, except in the case where there is a single building tenant, which would be 150 square feet, seconded by Duvall.

Bayer thinks signs are critically important for the success of business in this community and we should not take away the opportunity for businesses to succeed. We have eliminated the number of billboards in this community; we have impacted signs in entryways; businesses need this opportunity to advertise their existence. We can limit the signs by limiting the number of O-3 districts. It is critical to remember that these are businesses trying to exist in our community. This is a good compromise.

Steward clarified that the motion would actually read equivalent to 10% coverage of the wall face or 250 square feet for multiple tenant buildings, whichever is less, or 10% coverage or 150 square feet for a single tenant building, whichever is less.

Motion to mend carried 8-0: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Schwinn absent.

Main motion, as amended, carried 8-0: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Schwinn absent.

CHANGE OF ZONE NO. 3310
HAYMARKET PARK SIGN DISTRICT
ON PROPERTY GENERALLY LOCATED
AT NO. 6TH STREET AND CHARLESTON STREET,
BETWEEN I-80 AND SUN VALLEY BOULEVARD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 21, 2001

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

Planning staff recommendation: Conditional approval.

Proponents

1. **John Sinclair of Sinclair-Hille Architects** presented the application and submitted a proposed amendment, adding two conditions.

Sinclair stated that this would be the second special sign district in the City, the first being created several years ago in the Haymarket District. This application is related to section 27.69 of the code which allows for special signage opportunity for entertainment and recreational facilities. Haymarket Park was created as a joint public/private partnership between the City of Lincoln, Nebco and UNL, with the express intention of providing quality family environment in this park area.

This sign district is divided into three basic areas. The "Haymarket Pedestrian Connectors" includes the area in which the two pedestrian overpasses will rise from the 8th Street cul-de-sac, go over the railroad and land in the Haymarket Park area itself. The second area is called "Haymarket Park", which is the largest area within the district and related to all the general entertainment activities. The third area is called "Lincoln Stadium" which is related to the two baseball fields, the northernmost for UNL and the southernmost for Lincoln Pro Baseball.

This sign district proposal has been presented to the North Bottoms neighborhood, Urban Design Committee, Haymarket Association and the Downtown Lincoln Association. The proposed amendment to add Conditions #2 and #3 relates to several comments received from the North Bottoms Neighborhood, Urban Design Committee and the staff recommendation.

The "Haymarket Pedestrian Connector" has two sign components, called the gateway signage at the landing points south and north of the connector, and then the bridge entranceways which are the overpass components.

The Haymarket Park subdistrict is the general large scale entertainment function within the park with four basic signage opportunities at the ball park entrance drive, one at Ballpark Circle, another at the end of the pedestrian way moving between the two stadiums and the entranceway to the park. The overpass is also a bike trail and as that activity comes over and lands on the north side of the bridge, it will move around and down through the two stadiums, and then continues out to the new bike path and moves northeast. This provides a very public pedestrian access and the signage opportunities are related to that aspect of the park.

Lincoln Stadium is basically a definition of the various components related to the baseball activities all the way from corporate tent areas, outfield signage, scoreboards to the stadium entrance signage.

The proposed amendment to add Condition #2 relates to the meetings held with the North Bottoms Neighborhood representatives. There was a question brought up relative to the intention of the area that goes underneath I-180. North Bottoms requested that there be no signage opportunity within that area. It is abandoned railroad right-of-way that used to go under the track. Proposed Condition #2 reads as follows:

2. Pursuant to the North Bottoms Neighborhood request, add the following sentence to the sections entitled Background Summary + Sign District Plan and Special Sign Types under Haymarket Park: "There will be no permitted signs in that portion of the Haymarket Park Subdistrict located east of the line located 150 feet west of the centerline of I-180 as shown on Exhibit "A" which is attached hereto and incorporated herein by this reference."

The second amendment to add Condition #3 relates to the request by Urban Design Committee that the marque message center be designed to be more compatible with the design of the baseball stadium itself with masonry brick and precast concrete. This has been incorporated into the message center:

3. Pursuant to the Urban Design Committee recommendation, delete the ball park marque/message center sign as shown under the section titled Special Sign Types for Haymarket Park, and insert the sign as shown on Exhibit "B" which is attached hereto and incorporated herein by this reference.

Sinclair agreed with the staff condition that off-premise signage be eliminated.

Steward inquired whether there would be electronic advertising on the marque message center sign as well as the scoreboard. **Charlie Meyer, President of Lincoln Pro Baseball**, stated that as far as electronic advertising on the marque signage, they do not yet have final designs but it would be electronic and the lower two panels would be a tri-action sign with advertising capabilities. The scoreboard sign is very similar – the panels are tri-action panels on both sides. There will also be a video screen used. There will be no automatic fireworks.

There was no testimony in opposition.

Steward inquired as to the procedure if the ownership changes or maybe even some of the uses change and there are other signs to be proposed. What is the review circumstance? DeKalb stated that in the Haymarket, which is multiple owners and uses, there is a more definitive line of specific standards and the review procedure is through the Historic Preservation Commission. In this case, the overlay would apply to whoever the

successors might be. The base district allows P and I-1 zoning. With the additional limitations and theme established in this ordinance, there is no specific appeal procedure language. Any changes would require a text amendment and it would be processed through the Planning Commission and City Council.

Staff agreed with Condition #2 and Condition #3 proposed by the applicant.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: March 21, 2001

Duvall moved to approve the Planning staff recommendation of conditional approval, with the amendments as proposed by the applicant, seconded by Hunter.

Hunter believes that this application for electronic signs, etc., in a designated area is extremely appropriate. This really is consistent with any type of theme park – anything like that that has a special use has the use of specific types of signage.

Motion for approval, with conditions, as amended, carried 8-0: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Schwinn absent.

SPECIAL PERMIT NO. 1165B
TO EXPAND A SPECIAL PERMIT FOR
HISTORIC PRESERVATION TO INCLUDE
PROPERTY AT 1301 H STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION: March 21, 2001

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

Planning staff recommendation: Conditional approval.

Ed Zimmer of the Planning Department submitted a letter in opposition received today and a revised staff recommendation with a revised memo from Public Works . The revised conditions of approval incorporate the Public Works statement that a revised site plan is needed to show how the ultimate landscaping might work and a one-way circulation system.

Proponents

1. **Ray Lineweber**, the applicant, made a presentation. He is requesting to expand the special permit for the historic preservation to include both lots at 13th & H Street. He realizes this appears to be somewhat controversial, but that controversy is fueled by those who have a problem that want him to have the same problem—their parking. He has let this go on longer than he should have. It started back in August of 1999. He agrees with the staff recommendation, as revised. The fence will be built the same as it is on the rest of the property. He will do angle parking and will make certain his tenants have sufficient parking, as they always have had. In the 16 years Lineweber has had this building, the tenants of Billy's have never had a parking problem. Even when the other building created a parking problem for Billy's, they were able to work through it. It is time to bring closure to a bad problem.

Lineweber confirmed that he is comfortable with the conditions of approval, as revised.

Opposition

1. **Mark Hunzeker** appeared on behalf of **Mark Becker**, the owner of the office building immediately to the east of the parking lot which is the subject of this application. It is important that the Commission pay particular attention to the procedural posture that this is really in. There was a City Council hearing relative to whether or not the existing special permit was in compliance with the conditions. Rather than order the revocation of that permit, the City Council just put it aside.

This is the problem—Special Permit 1165A requires 10 parking stalls for Billy's Restaurant. If it had not been for the special permit, Billy's Restaurant could not exist. Five of those 10 parking stalls are located on the lot in this request.

The parking lot is on the lot next to Billy's Restaurant and it covers most of Lot 5, which is part of this application, but also a significant portion of Lot 4. The existing pavement is included in a single parking lot. The problem is that there are about five stalls that were included in Billy's permit application. As it exists, the parking lot on Lot 5 is illegal because it was built originally under a permit as an accessory use to the office building located on Lot 3. To the extent that it no longer is an accessory use to that building, the parking lot on Lot 5 is illegal because parking lots as a stand-alone use are not permitted in the O-1 district. This is a situation where a parking lot is illegal and is being added to the special permit for Billy's Restaurant in order to correct that deficiency. Hunzeker does not object to this aspect, but because it is illegal as a stand-alone use, the Billy's Restaurant permit is not in compliance with the existing conditions. Expansion is required to bring Billy's into compliance.

Hunzeker purports that the issue is whether the historic preservation special permit process should be used to a) bring Billy's into compliance with the requirements of the original special permit; and b) allow Lineweber to erect what amounts to a "spite" fence down his property line which will have an adverse impact on the abutting property and the general public.

Hunzeker suggested that the fence will prevent access to the parking which lies on the Becker property. To resolve that, Lineweber wants to put another curbcut on H Street, which eliminates 2 parking stalls on H Street; take out the front yard of his office building; take out several mature trees along the west side of his office building; and provide access to newly configured angle parking, which will effectively turn those stalls that already exist around and access them from the other way. It eliminates green space, trees, parking stalls on H Street and off the alley, and reduces the number of parking stalls – all for what? In order to permit Lineweber to build a fence that prevents Becker from having access to his parking stalls.

Hunzeker proposed an amendment to approve the expansion of the permit to include the parking lot to bring Billy's special permit into compliance, with two conditions:

- 1) eliminate the fence on the east property line, and
- 2) add a note that for so long as special permit in effect, or Lot 5 used as parking lot, grant owner of Lot 4 permission to use the driving aisle to access parking spaces on Lot 4; provided that permittee may require owner of Lot 4 to give written acknowledgment that use of Lot 5 for access to Lot 4 is permissive, shall never be construed as the grant of an easement, and shall cease upon termination of either SP.1165B or upon Lot 5 no longer being used as a parking lot, and require owner of Lot 4 to provide evidence of public liability insurance in an amount equal to that carried by permittee for Lot 5, and showing permittee as an additional insured on such policy.

Hunzeker believes this is a fair way to deal with this property. Lineweber has done a good job with Billy's. We're willing to allow the parking on Lot 4 to be used by Billy's after business hours. We're willing to participate in snow removal, which Becker has done this winter. But to use the city's historic preservation special permit process to commit this sort of aesthetic atrocity is really perverting the permit process. Taking out those trees and that yard so that we can have parallel opposing one-way traffic ways for parking when it is unneeded and unnecessary, and when you have a special permit process that allows the flexibility, really makes no sense. This is a process that is necessary for Lineweber to bring his property into compliance and Hunzeker believes his proposed amendments are fair. His client is willing to work with the applicant on maintenance, etc.

If a fence had been on the property line when the building on Lot 3 was proposed and constructed in the historic district, Steward inquired whether there are any special

characteristics that would result. Zimmer clarified that we are not dealing with a historic district but an original landmark. There was another property between the landmark and the former apartment building which is the office building.

Steward then posed the question about whether this is a routine parking requirement issue for this size, location and zone for an office building. It appears that it minimizes the parking that should be available to the tenants of this building and that if it were a free-standing proposal we would be requiring more parking. Zimmer advised that in the original special permit, the parking was for the uses at Billy's Restaurant (50% retail, 50% office) and the underlying zoning was R-8. The parking was discussed extensively in 1986 and the requirement of 10 parking stalls was part of that condition in 1986. Often parking in association with the landmark special permits is one of the trickiest issues because there is typically limited available land for the requested uses. The 10 was the number approved by Council in 1986.

Steward inquired about the parking that is remaining for use by the adjacent office building by this proposal. Are we ending up with the same spaces? Zimmer stated that we are not. The application involves Lots 5 and 6. You may look across the line to Lots 3 and 4 to the degree that this proposal impacts adjacent properties, but we are not looking at a unified proposal for Lots 3, 4, 5 and 6. Steward commented that the physical influence is on Lot 4 and he is trying to understand whether or not granting this, other than convenience, the curbcut and the trees, sets a precedence for an office parking relationship that we would not have approved otherwise. Zimmer would need to review the O-1 parking requirements. Ray Hill of Planning staff cited from the ordinance for O-1, which requires 1 parking space per 200 sq. ft. of floor area, but the parking may be located within 900 feet of the building, so that allows off-premise parking within 900' to meet the requirements.

Hunter observed that apparently the office complex had to be in some sort of compliance in order to get the use to begin with. Zimmer pointed out that the plan shown on page 75 of the agenda was approved in 1999 but was not implemented. With the conditions proposed today, we would be looking for some changes in the lots associated with Billy's.

Bayer asked whether there is any indication that approval of this action will allow the building on Lot 3 to get another special permit. Zimmer advised that the parking lot is not a special permit—it's a building permit by right.

Carlson observed that we have an apartment building converted to office. He is curious to know at what point they were forced to take access across Lot 5 in order to use that parking. Zimmer believes the parking lot was created in this configuration.

Rick Peo, City Law Department, did the research when this was before the City Council. It goes back a long ways. Billy's was to be rezoned to O-1 and that was met with opposition.

They decided to make it R-8 zoning with a special permit for the historic structure for the restaurant. During that time, the owner of the apartment building was looking at putting in their own parking lot somewhat similar to what would be required now. But the two parties got together and worked out an agreement that Billy's and the apartment building would have a combined parking lot between them with a common curbcut. Subsequently, there was a change of ownership in the apartment building and the new owner believed the lease was too expensive. The lease was terminated but the new owner still wanted to access parking through Lineweber's property. The city is involved because it creates a nonconforming use. If the office doesn't want it and is not using it, how do you resolve the problem? A lot of the original contract agreements were hard to interpret as to intent. Peo could provide an in-depth historical analysis if given additional time.

Carlson asked whether Peo has knowledge that there was a contractual obligation involved. Peo knew that there was a lease arrangement at the time the parking lot was constructed.

Bayer wanted to know how the City can stop someone from putting a fence on their own property. Peo suggested that if the property is not used as a parking lot, Lineweber can do what he wants. The question here is that he desires to use the parking lot for Billy's and not allow the access drive to be used for the office building. Then the office building has to put in a new curbcut and use existing parking as a driving aisle. If Lineweber blocks off that parking arrangement that previously existed, there is an issue as to whether Billy's is in compliance with the special permit because that parking lot was designed in a certain manner.

Bayer posed the question: If the fence goes up, is the parking illegal? Peo advised that to be legal, the parking lot was to be with the apartment house, not Billy's. The original application did not show the parking lot for Billy's. They had parking to the south and then indicated a lease arrangement for parking on the parking lot to the east. By expanding the boundaries of the special permit to encompass that lot, the fence could be allowed.

Newman asked whether this is legal and feasible. Peo stated that he has mixed emotions on this question. He does not like the prospect of forcing someone to allow his property to be used for access without compensation. The only other reason he somewhat gives consideration is that the parking lot originally had a curbcut installed at that location to serve both properties. The builder of the apartment house took out the permit for the curbcut and he was not the owner of the property; the curbcut was granted; the parking lot

was constructed; and we would imply that that was with the consent of Lineweber. We might have looked at it differently if we had known there was separate ownership of the building and the parking lot at the time the curbcut was requested.

Steward sought confirmation that the second curbcut has been approved but it has expired. Peo concurred. Steward observed then, if this action is approved, the office building property owner has to come back in for a renewal of that curbcut. If he chooses not to renew or delays it for an indefinite period of time, or gets the approval and delays the actual construction, and Lineweber builds the fence, the owner of the office building has no access to his parking. What does the city do? Peo suggested that if there is no parking within 900' available, it would be unlawful. However, Peo pondered that he won't have tenants anyway if he doesn't have any parking so it might be a moot point.

Response by the Applicant

Lineweber suggested a two week deferral to attempt to reach some accord. Billy's has 10 stalls per the special permit plus 23 stalls. He leases 10 stalls to the building on Lot 3. He had no intention to build a parking lot. He wants to be a good and generous person but he has been milked for too long. If he cannot reach an agreement he fully intends to build the fence. He had a lease; he received a letter on 8/27/99 from the apartment building owner saying he no longer needed Lineweber's parking.

Hunter clarified with Lineweber that he does not need 23 stalls. Lineweber agreed. Hunter suggested that the issue is someone paying the appropriate amount for rental of the parking stalls or the fence goes up. Lineweber responded that for two years he has tried to get the owner to recognize that he has to pay for the use of Lineweber's property.

With regard to the parking stalls, Lineweber clarified that there are 16 stalls on Lot 4, which are accessed by driving across Lineweber's property and some of them hang over on Lineweber's property. There are a total of 32 parking spaces on Lot 5 and part of Lot 4. The property line is at the east edge of the driveway. Lineweber now leases 10 spaces to other tenants. Previously, he leased the entire lot and 10 stalls were left for Billy's to comply with the conditions of the permit. Lineweber has plenty of stalls to comply with the permit.

Bayer clarified the issue. Lineweber is putting up the fence. But to reach an accord means that the owner or tenants of the building agree to some lease arrangement with Lineweber as the owner of the property. Lineweber agreed.

Carlson moved to defer two weeks, seconded by Taylor.

Hunter has a problem deferring it because with ongoing negotiations that have been going on for a year and a half, it's her understanding now that the hammer is real close to coming down. Maybe it's not an option to negotiate anymore. It is going to be difficult to say no to any amount if you are going to keep the spaces.

Steward pointed out that the property owner brought the proposal forward. If the owner is asking for a delay he believes we owe him that right. Steward is bothered by the potential loss of landscape. There are some very mature trees in this neighborhood; he is bothered by the second curbcut but he would defend the property owner's right to do what is appropriate to his property. If this were two adjacent residences, we would not give it ten minutes. Let's see if it can't be worked out one last time.

Motion to defer two weeks, with continued public hearing and administrative action scheduled for April 4, 2001, carried 7-1: Krieser, Duvall, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Hunter voting 'no'; Schwinn absent.

CHANGE OF ZONE NO. 3238
FROM AGR AGRICULTURAL RESIDENTIAL
TO R-1 RESIDENTIAL
and
PRELIMINARY PLAT NO. 00001,
HAWKSWOOD ESTATES
ON PROPERTY GENERALLY LOCATED
SOUTHWEST OF SO. 70TH STREET AND OLD CHENEY ROAD.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 21, 2001

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

Proponents

1. **Kent Seacrest** appeared on behalf of the Hawkswood neighborhood group comprised of five property owners, in support of this development. This is the third public hearing. The issues have gotten clearer but are not crystal clear. The subject property is a portion of a triangle shown on the Comprehensive Plan in light yellow—acreages, not normal urban residential. The property is also within the urban future service limits and is annexed. This is a series of 5-acre owners, turning their property into 1-acre lots with rural characteristics, i.e. minimum sidewalks, etc. The Comprehensive Plan supports this idea, but our standards are not used to this idea and that is the tension the developer is having with city staff.

This group of property owners started working with the Fairchild property and is still attempting to working out an agreement. Fairchild was originally part of this group of property owners. Fairchild started out on an extended care facility and surrounded their facility with one-acre tracts. The Seacrest clients signed covenants and came to the Fairchild development hearing in support of the extended care facility. Some differences broke out after that fact and Seacrest believes we now have a situation where everyone is back together. He believes the property owners have an oral outline of an agreement on all the key points, except one friendly disagreement. They do anticipate having a written agreement between now and the time this application is heard by the City Council.

There are three traffic issues upon which the developer and the staff disagree. One is the Pinecrest extension. This application shows cul-de-sacs because of the large tree mass and city staff is trying to plan an urban setting and not an acreage setting. We do not want the additional roads to go through. It will destroy the tree masses. We have signed restrictive covenants limiting the acreages to one acre so this will not be traditional urban development. Seacrest agrees that extension of the road network is a life safety issue, but the Fire Dept. is indicating support of not extending the roads as long as we limit parking on the one side. This issue is reflected in Seacrest's proposed amendment to Conditions #1.1.1, and to add Conditions #2.2.8 and #2.2.9.

The next traffic issue is the Hickory Crest versus Pheasant Run access. The applicant agrees with the staff on this one. This was the issue with Fairchild. Seacrest believes that the goals are different. The applicants are concerned because the Fairchilds have shown commercial plans and the access at Hickory Crest that Fairchild is requesting would encourage more commercial. 70th & Old Cheney has a traffic light . Putting the access at Hickory Crest gets an intersection too close to a major arterial intersection. Cars on Old Cheney will get impatient and cut through the neighborhood to avoid the light. This is the area where we disagree with Fairchild and Seacrest requested the Commission's support.

The South 68th Street extension is an issue with the staff. Fairchild supports the applicant on this issue. No one wants to see 68th Street connected--extended from Southfork into this neighborhood--but staff is opposed and is requesting that extension. Southfork does not want this connection. It is a life safety issue. And again, the Fire Dept. is comfortable with this road not going through. This application shows a cul-de-sac and the Fire Dept. has no objections to this concept. This solves it from a health safety point of view. Seacrest requested that Condition #1.1.14 deleted.

The most affected neighbors, including the Fairchilds, support this development, except the Fairchilds have a difference of opinion on the Hickory Crest versus Pheasant Run. We have had two subsequent meetings with all the neighborhoods and the consensus has been what is being proposed with the amendments proposed by Seacrest today.

Seacrest expressed appreciation to Mark Hunzeker and the Fairchilds for their cooperation.

Carlson asked about the down side of not putting the roadways in, but the easement instead on the Pinecrest option. Seacrest believes that Pinecrest totally destroys Lot 10 because it goes right through the middle. It is hard to get six neighbors to agree and we've got it. We would have to go back to the major drawing board if we have to redo Lot 10. We plan to go forward and our view is that if government has the easement, tomorrow they could put the road in and special assess us. Our view is that the government has condemnation powers. We would rather not make it easy on them.

2. Mark Schorr, attorney, testified as a citizen and resident of Hickory Crest Subdivision to the north across Old Cheney Road. The Hawkswood Estates neighbors have been very involved in talking to all of the neighbors. He supports the proposal as presented by Seacrest and against the notion of further creating problems where Hickory Crest Road comes out of his neighborhood into Old Cheney. The Hawkswood Estates neighbors have held social gatherings to unveil the plans, they have answered questions, and they have invited us to meetings. He also knows that Southfork and Edenton South wholeheartedly support this plan but have some concerns about the road network. As far as the potential Hickory Crest connector, Schorr's entire neighborhood would be very concerned. That is a very busy and dangerous area. There were numerous accidents when Hickory Crest Road was put in. There is very poor visibility. We would be very concerned, given the amount of traffic, that we will have even more difficulty navigating in and out of our neighborhood if the Hickory Crest Road connection were required. Edenton South is very concerned about the Hickory Crest connection. It makes much more sense to do the ingress and egress out of Hawkswood where it is shown in the plan coming in and out across from Pheasant Run as opposed to taking down the trees along Old Cheney and going in and out of Hickory Crest.

3. Arthur Zygielbaum, 6601 Pinecrest, testified in support. He stated that he is also testifying on behalf of Stan Maley who lives north of him. Zygielbaum read a letter from Jim Abel and Janice Goracke in support, including the applicant's wishes not to extend 68th Street. Zygielbaum believes in the maintenance of expectation and quality of life and that what we leave is a legacy. He strongly supports the rezoning. He anticipates that they will be doing something similar in Sheldon Heights to the west. He is opposed to any commercial nonresidential use of the Fairchild Estates.

If 68th Street is extended, all of the traffic would change and it would cause a significant threat to the safety of the Southfork neighborhood and would change the characteristics of Southfork. There is no reason to extend 68th Street.

Zygielbaum spoke specifically about maintaining Pinecrest as proposed. There is little benefit in putting Pinecrest through. Safety can be accommodated with what exists. It will maintain the character of what we have.

4. Jan Schwenke, resident of Frontier Road, voiced opposition to the Pinecrest extension. Frontier Road is a nonpaved road and all of her neighbors enjoy the acreage situation and the rural atmosphere. She believes the Pheasant Run access makes much more sense with regard to traffic control for the Frontier Road residents.

5. Charles Green, 5650 Hickory Crest Road, testified in support. He has lived on Hickory Crest Road since February, 1998. Currently, the city is widening Old Cheney and will take about 20' of his property plus cut down his trees. An issue for his family and his neighborhood is the ability to get in and out at Hickory Crest Road. He supports the access road being across the street from Pheasant Run. If we are looking for partnership between homeowners and developers to insure and maintain quality of life, he believes the proposal of using the Pheasant Run access provides a quality partnership between the landowners and the business interests of Fairchild. Business growth is an important part of progress, however, it should be mutually beneficial to all citizens.

Newman asked Green whether it takes him a long time to get out of Old Cheney and whether a traffic light might work to his interest. Green's response was that currently, there is a moderate amount of traffic depending upon the time of day. If the Fairchild plan is included, then they would have a lot of traffic. With the widening of Old Cheney, it will lower the road about 5' so people coming up the hill will be able to see what's happening. We are pleased with Hickory Crest as it is now.

6. James Seacrest, 6901 Kings Court, testified in support of the proposal as requested by the applicant. Kent Seacrest is his nephew, but he has not discussed this development with Kent until briefly today. With regard to the Pinecrest extension, the neighbors have worked hard and think it is a good use of the land. He is personally against the Hickory Crest extension onto Old Cheney because it is a very dangerous intersection. More traffic will be a hindrance. He does not believe it would be appropriate to have two traffic lights within one block of each other in a residential neighborhood. Bringing the extension out from Hawkswood at Pheasant Run does help move the traffic around and does keep the residential flavor of the neighborhood complete and intact.

7. Mark Hunzeker appeared on behalf of **Mr. and Mrs. Zane Fairchild**, the owners of the property at the intersection of 70th and Old Cheney. They had one very productive meeting where they outlined the terms of an agreement between Fairchilds and the other property owners within this plat. The Fairchilds are in support of their general scheme for this area and specifically in support of their not wanting to make a connection to Southfork. The Fairchilds definitely support leaving this plat in its current configuration.

Hunzeker advised that the Fairchilds do have some modified plans for their property which do not conform to what is shown on the Seacrest plat. The Fairchild application has not been submitted, but it is a retirement type townhouse development and will involve some sort of elderly residential care type facility. They do intend to cooperate with getting access into the area shown as being an access off of a stub street that was originally preliminarily platted. In reconfiguring the roadway they will provide access to the lots shown on the Hawkswood plat.

The one issue where Fairchilds differ with this proposal is that they think that Hickory Crest is the place that access should be taken to Old Cheney Road. There is only one access on Old Cheney that reaches up to Colonial Hills, and that is Hickory Crest. It is difficult to get out to Old Cheney from the interior of that section. There is another access point yet to be built that is part of the Black Forest Estates plat (Carveth) which has a connection that goes to Colonial Hills; however, that access is very close to what will be a signalized intersection at the road that goes in east of Brewskys and accesses the office park and hotel off of Old Cheney. It will be much too close to that signalized intersection to ever warrant a signal. Hickory Crest is actually 850' from 70th Street and while closer than Public Works would like, it is the only other place that is rational to put a signal to get people out of Colonial Hills and onto Old Cheney Road. There are only about 2 dozen homes that access Old Cheney at Pheasant Run on the north side. We have this problem in a number of places in town. The fact is that lining these access points up so that in effect you have collectors across from collectors giving access back into the interior makes a lot of sense. He believes the staff's first preference is Hickory Crest and he thinks there is a reason for it. The Fairchilds have agreed to disagree with the applicant on this connection.

Hunzeker also stated that the Fairchilds will insist that the agreements be finalized before City Council action on this plat. He believes that they can reach agreement.

There was no testimony in opposition.

Additional comments by the Applicant

Seacrest informed the Commission that he was told in a staff meeting that Public Works and Planning that staff could support either access, Hickory Crest or Pheasant Run. The issue here is that both access points are on this applicant's land. The best solution is Pheasant Run so they get their right-in and right-out movements. If the access is Hickory Crest, it tempts Fairchild to seek commercial rezoning. The Comprehensive Plan shows their property as acreage residential.

Seacrest also observed that if another light is added at Hickory Crest, it makes it easier for cut-through traffic to avoid the light at 70th. 800' does not meet the standard for separation of lights.

Steward pondered that if that intersection became a signalized intersection, and Old Cheney is widened and becomes a much more high volume traffic carrier, does that not put some pressure on change of zone and use at the intersection on the four corners? Seacrest's response was that the Hickory Crest access would encourage more opportunity to seek commercial.

Seacrest also informed the Commission that his clients do not want both access points. An acreage does not need two access points and this would require reconfiguring their lots again.

Public hearing was closed.

CHANGE OF ZONE NO. 3238

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 21, 2001

Steward moved approval, seconded by Newman and carried 7-0: Krieser, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Duvall and Schwinn absent.

PRELIMINARY PLAT NO. 00001, HAWKSWOOD ESTATES

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 21, 2001

Hunter moved to approve the Planning staff recommendation of conditional approval, with the amendments as requested by Seacrest, seconded by Steward.

Hunter commented that this is one of the first times she has seen the Fire Dept. not want streets put in, but maybe it makes sense with acreage development. In listening to this whole situation this brings back the Colonial Hills discussion when street accesses were not put in and nobody wanted accesses going into Pheasant Run.

Steward is convinced that there would be increased avoidance traffic from Old Cheney to South 70th if the access were the more near intersection, whether signalized or not. But basically, he is supporting this as presented on three points: merit, principle and precedence. As pointed out earlier by Seacrest, we are beginning to face the issues of acreages being annexed and incorporated and revised to a more urban density. This neighborhood has done an exceptional job of working with surrounding neighbors and working through this process. It seems that the city has some responsibilities that don't fit

the ordinary standard in these cases and that's the principle. If we put these acreages this close, then we have responsibility to the original landowners that is different than if it was a raw development. This sets a precedence for what, how and what flexibility and diversity we are willing to project for the next one.

Newman echoed Hunter's comments. We are all still smarting a little bit from Colonial Hills in that there was no connectivity and if it would have been thought about ahead of time, we wouldn't come up against that 20 years later. We need to keep the character of the neighborhood and respect the neighborhoods. The outcry from the neighbors for the Pheasant Run connection is overwhelming.

Carlson noted that Colonial Hills is left with Hickory Crest and he wonders if that is going to continue to be a traffic issue. Will the Pheasant Run connection eliminate the light at Hickory Crest? He agrees that the testimony of the neighbors is compelling, but he is not sure it's clear.

Hunter further observed that the development that was trying to be passed at the time was a development that was south of Colonial Hills and they proposed an access on Pheasant Run which would come out on Old Cheney. If that development would still go through, that connector would be in place. But, the big difference is that this is an acreage development and Colonial Hills is not.

Bayer echoed the precedence point. He is thrilled that we have come up with something that preserves the acreage environment in the urban area.

Motion for conditional approval, with amendments requested by the applicant, carried 7-0: Krieser, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Duvall and Schwinn absent.

David Hunter, State Title Services, approached the Commission to comment upon Special Permit No. 1165B. He was unable to attend the hearing earlier. Rick Peo of the Law Department urged that it would not be appropriate to take additional testimony without the applicant present. That special permit will have continued public hearing on April 4th and Mr. Hunter was encouraged to come back and speak at that time.

There being no further business, the meeting was adjourned at 4:05 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on April 4, 2001.