

FACTSHEET

TITLE: ANNEXATION NO. 00001, requested by M & S Construction and the Lincoln Chamber of Commerce, to annex approximately 135.27 acres into the City of Lincoln, generally located at N.W. 48th and W. Adams Street.

STAFF RECOMMENDATION: Conditional Approval.

ASSOCIATED REQUESTS: Comprehensive Plan Amendment No. 94-52 (00R-317); Change of Zone No. 3248 (00-213); Special Permit No. 1833, Ashley Heights Community Unit Plan (00R-318); and Preliminary Plat No. 00005, Ashley Heights (00R-319).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 10/18/00
Administrative Action: 10/18/00

RECOMMENDATION: Denial (7-2: Duvall, Carlson, Steward, Hunter, Schwinn, Newman and Taylor voting 'yes'; Krieser and Bayer voting 'no').

FINDINGS OF FACT:

1. This annexation request and the associated Comprehensive Plan Amendment No. 94-52, Change of Zone No. 3248, the Ashley Heights Community Unit Plan and the Ashley Heights Preliminary Plat were heard at the same time before the Planning Commission.
2. The Planning staff recommendation to approve this Annexation request, with the conditions as set forth on p.7, is based upon the "Analysis" as set forth on p.3-6, concluding that the proposed development is consistent with the newly adopted Greater Arnold Heights Neighborhood Plan, and generally meets the requirements of the subdivision ordinance.
3. The applicant's testimony is found on p.8-10.
4. Testimony in opposition is found on p.10-11. The issue of the opposition is that the proposed development associated with this annexation request is not compatible with the existing industrial area and uses.
5. A letter from the Arnold Heights Neighborhood Association supporting and encouraging residential and commercial development in the Arnold Heights Area, but with concerns surrounding the Ashley Heights proposal is found on p.19-20.
6. The Planning Commission discussion with staff is found on p.11-13.
7. The applicant's response to the opposition is found on p.13.
8. On October 18, 2000, the Planning Commission disagreed with the staff recommendation and voted 7-2 to recommend **denial**, finding that the associated Comprehensive Plan Amendment should be denied and that the property should remain industrial (Krieser and Bayer dissenting). See discussion on p.13-14.
9. **Please Note:** Due to the Planning Commission recommendation of denial, the conditions of approval as set forth on p.7 **have not been completed** and should be required if the City Council votes to approve this annexation.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: November 13, 2000

REVIEWED BY: _____

DATE: November 13, 2000

REFERENCE NUMBER: FS\CC\FSA00001

EXISTING ZONING: I-2, Industrial

EXISTING LAND USE: Undeveloped farm land

SURROUNDING LAND USE AND ZONING: Zoned I-1, Industrial to the north with undeveloped farm land; zoned AG, Agricultural to the east and south with farm land; zoned R-3, residential to the west with single family residential uses; zoned B-1, Local Business District and I-2, Industrial to the northwest with commercial uses and industrial uses.

COMPREHENSIVE PLAN SPECIFICATIONS: In general conformance. Shown as Industrial in the 1994 Lincoln-Lancaster County Comprehensive Plan. Comprehensive Plan amendment #94-52 is associated with this request.

HISTORY: The Lincoln Chamber Industrial Park Preliminary Plat was approved in 1989.

SPECIFIC INFORMATION:

UTILITIES: Available

TRAFFIC ANALYSIS: The associated Conditional Zoning and Annexation Agreement indicates that the City is willing to postpone the traffic improvements needed until a Use Permit for the B-2 area is developed.

ANALYSIS:

1. This is a request for annexation; changes of zone from I-2, Industrial to B-2, Planned Neighborhood Business District, H-4 General Commercial District and R-3, Residential District; a preliminary plat, and; a special permit for a community unit plan. The request is associated with Comprehensive Plan Amendment 94-52, which is addressed in a separate report.
2. The applicant has requested a waivers of Section 26.23.130 "Block size" to allow block lengths over 1,320 feet in Block 8. Access to the lot to the east is provided at the north end of the proposed plat. The parcel to the east is used for agricultural purposes, but is designated as industrial in the Comprehensive Plan. If the parcel to the east were ever to develop as a more intensive use, it is preferable to have residences backing to it, and not to encourage industrial traffic to use residential streets.
3. The applicant has requested a waiver of Section 26.23.125 "Pedestrian Way" to eliminate the requirement for a pedestrian easement in Block 1. If a pedestrian way were put in place, it would require a crossing of the drainage way. It would be safer to discourage such a crossing.

4. The applicant has requested a waiver of Section 26.15.030(b) requiring a use permit be submitted at the time of the preliminary plat for the B-2 parcel. The parcel is currently zoned I-2, which could allow commercial development upon annexation. The developer has agreed to make transportation improvements associated with development of the B-2 parcel. The developer currently does not have a client to develop the B-2 parcel, but wants to start construction of the single family residential lots as quickly as possible. The transportation impacts of the B-2 parcel will be determined at the time a Use Permit is developed.
5. The applicant has requested a waiver of the Design Standards for roadway platform approaches to exceed 3%. The Public Works Department did not object to the request.
6. The annexation of this area includes a conditional zoning and annexation agreement. The annexation agreement stipulates provision of improvements and restrictions on uses for the southern portion of the large lot proposed for H-4 zoning.
7. The Public Works Department has indicated a need to revise portions of the annexation agreement related to city subsidies of sanitary sewer, and clarification of transportation improvements that will be required at a later date. These revisions shall be made prior to scheduling the item on the City Council agenda.
8. The agreement prohibits specific uses from the southern 200 feet of the lot proposed for H-4 zoning– the area closest to the residential portion of the proposal. Specifically, the uses prohibited from the southern 200 feet include:
Heavy equipment sales, storage of hazardous materials, storage or sale of farm implements, lumber yards, truck terminals, ambulance services, outdoor theater, open kennels, sale barns, drive-through restaurants, service stations, truck stops, auctions, excavation, storage of petroleum products, retail stores, and small batch concrete dispensing units.
9. The agreement also prohibits outdoor storage, dumpsters, driveways or roads from the south side of any buildings that would be constructed within the southern 200 feet of the proposed H-4 lot.
10. An additional 60' buffer and storm sewer easement is proposed between the proposed H-4 lot and the area proposed for residential dwellings.
11. The Health Department addressed concerns about the possibility of transporting hazardous waste/materials via truck and the potential storage of hazardous materials in the warehouses. However, while the annexation agreement does not place restrictions on the entire H-4 parcel, the restrictions in the annexation agreement prohibit the storage of hazardous materials in the south 200'.
12. The Health Department noted that six lots are shown within the flood-plain. The grading and drainage plan shows all of the residential lots outside of the flood plain.
13. The Health Department noted that during the construction process, the land owner will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County

Air Pollution Regulations and Standards Article 2, Section 32. Dust control measures shall include, but are not limited to, application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of vegetable ground cover will also be incorporated as necessary.

14. The Health Department noted that provisions should be made for retaining as much tree mass as possible. Alternately, the applicant will need to plan for disposal of tree waste by burying on site, grinding, offering for firewood, or hauling to the landfill. Permits for open burning of tree waste within the city limits will not be approved.
15. The Public Works Department noted that additional information is required about the proposed detention. The grades shown do not provide the required slope across the bottom of the detention, provisions for low flow through the detention, and provisions for maintenance access to the bottom of the detention.
16. The first submittal of this application indicated there would be 5,000 cubic yards of fill in the 100-year floodplain. *However, the revised plans set a positive example by going beyond the present requirements and grading the site in such a way as to actually gain 4,010 cubic yards of flood storage.*
17. The drainage channel is proposed to be relocated through the property. The drainageway on the site was channelized in 1985 by a previous owner and is not natural. There are 1.43 acres of wetlands which are contained within the banks of the drainageway; the applicant is proposing to impact 1.03 acres.
18. This application proposes on-site, in-kind mitigation for the wetland and waterway impacts. The new channel will increase the channel length 900 feet from approximately 4,200 feet to 5,100 feet. As noted in the application, there are benefits to lengthening the channel, including improved water quality. The mitigation for the wetlands will be the creation of 1.93 acres located within the channel and in areas adjacent to the channel.
19. The series of outlots and easements which are proposed appear to adequately accommodate the new 20-foot wide channel and 30-foot wide buffer strips.
20. The Public Works Department noted that the proposed sanitary sewer system is satisfactory, however there are differences in sizes shown on the "sanitary sewer" exhibit and the site plan. The proposed sewer system includes construction of a sewer north of the detention area north to an existing sewer outside this plat. This sewer outlet diverts sewer outside the natural drainage basin to allow this plat to be served at this time. The developer should be required to pay the cost of this sewer with no subsidy. The 15" sanitary sewer upstream from manhole 32 is eligible for a city subsidy. Public works has not agreed to subsidize all the construction, contrary to what the developer states in the resubmittal letter dated 18 September, 2000.

21. The Public Works Department noted that the street system shown is satisfactory for the residential and commercial lots shown. The proposed B-2 lot will require a Use Permit. Additional paving improvements will likely be required with the submittal of the use permit. The existing rural pavement in N.W. 48th Street is satisfactory for the residential development. Improvements to N.W. 48th Street will be required with the Use Permit.
22. The Public Works Department noted that revisions to the annexation agreement will be required to address the future improvements to the streets for the Use Permit and the construction of the sanitary sewer.
23. The Parks and Recreation Department noted that the entirety of “Outlot C” should not be designated as a “mini-park”. An area of approximately 0.25 acres north of Lots 47 through 51 would be desirable. The walkway to the mini park should be a minimum of six feet in width and designated to meet accessibility guidelines. It would be desirable for the easement to be a minimum of ten feet in width.
24. The Parks and Recreation Department noted that they would like to discuss with the applicant the possibility of the applicant donating the cost of the playground equipment and play court improvements, and to have the homeowner’s association agree to mow the mini park.
25. The Parks and Recreation Department noted that the pedestrian easement between Lots 27 and 28, Block 8 should be 10' wide.
26. The resubmittal letter indicates that a pedestrian way easement has been shown in Block 9, however this is not reflected on the site plan.
27. The Fire Department, Police Department and Lower Platte South NRD find the proposal satisfactory.
28. Comments have not been received from the Airport Authority.
29. Comments have not been received from Lincoln Public Schools.

STAFF CONCLUSION: The proposed development is consistent with the newly adopted Greater Arnold Heights Neighborhood Plan, and generally meets the requirements of the subdivision ordinance. The following items should be approved if Comprehensive Plan Amendment #94-52 is approved.

STAFF RECOMMENDATIONS:

Annexation #00001	Conditional Approval
Change of Zone #3248	Approval
Special Permit #1833	Conditional Approval
Preliminary Plat #00005	Conditional Approval and approval of waiver requests

Conditions for Annexation Agreement:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:

- 1.1 Revise the annexation agreement to indicate that the City will subsidize only the 15" sanitary sewer line upstream from manhole 32.
- 1.2 Revise the annexation agreement regarding the provision of a traffic study on the B-2 parcel and improvements to mitigate traffic impacts to the satisfaction of the Public Works Department.
- 1.3 Revise the annexation agreement to remove the words "but not" from section ii on page 3 which is intended to exclude "Commercial storage or sale of farm implements and products used for agriculture, but not including fertilizer, or toxic or flammable agricultural chemicals" as permitted uses on the southern 200 feet of the parcel proposed for H-4 zoning.

Prepared by:

Jennifer L. Dam, AICP
Planner

**COMPREHENSIVE PLAN AMENDMENT NO. 94-52;
ANNEXATION NO. 00001;
CHANGE OF ZONE NO. 3248;
SPECIAL PERMIT NO. 1833,
ASHLEY HEIGHTS COMMUNITY UNIT PLAN;
AND
PRELIMINARY PLAT NO. 00005,
ASHLEY HEIGHTS**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 18, 2000

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

Planning staff recommendation: Approval of the Comprehensive Plan Amendment, Annexation and Change of Zone; and conditional approval of the community unit plan and preliminary plat.

Jennifer Dam of Planning staff submitted an email from the Arnold Heights Neighborhood Association in support with some concerns as detailed in the communication.

Proponents

1. Mark Hunzeker appeared on behalf of the developer, **M & S Construction**. This is a project that is finally putting to use some land that has been owned by the Lincoln Chamber Industrial Corporation for quite some time and to change the zoning of the property from I-2 to H-4, B-2 and R-3, and to develop a residential subdivision on a substantial portion. This is an area that is in need of residential lots and commercial services.

This developer has been through several incarnations of this project. The initial proposal converted all of the area, except that area shown at B-2, into residential. They then moved toward a slightly modified version moving the residential further south to line up with the existing south line of Sunhusker Foods. Then they came to the current configuration which shows that this developer is doing what it can to provide a buffer for the new residential from the industrial area.

This development provides a 120' wide drainage corridor with a minipark. There is a 60' setback from the property line of the property being zoned to H-4 with landscaping before any commercial development can occur. There are also restrictions agreed upon which limit the uses in the south 200' of the H-4 area to uses which are relatively low traffic and low impact type uses in order to facilitate the transition from residential to the commercial.

This applicant has not submitted a use permit for the B-2 district because the area isn't quite ready yet for a grocery store and neighborhood type shopping center; however, upon completion of the residential development, it is likely that there will be sufficient rooftops in the area to justify construction of the grocery store. Hunzeker is hopeful that the applicant can be back here within a reasonably short period of time with a use permit to show a layout for a neighborhood shopping center.

Hunzeker stated that there was a traffic study done which indicates that when the B-2 area is developed, they will need to be making some improvements for access. The agreement on these improvements has been deferred until we know the configuration of the shopping center and total square footage.

Hunzeker then addressed the conditions of approval. With respect to the conditions for the annexation agreement, the staff is requiring that it be revised to indicate that the City will subsidize only the 15" sanitary sewer line upstream from manhole 32. This issue is still under negotiation with the Public Works Department and Hunzeker requested that the phrase be added, "if required by Public Works". This will be resolved prior to going to the City Council.

With respect to the community unit plan, Condition #1.2.8 requires a walkway to the park that is a minimum of 6' in width, designated to meet accessibility guidelines and within a 10' easement. Hunzeker has discussed this with the Parks Department and they have agreed that the 10' easement would be a 6' easement, i.e. a 6' path and a 6' easement. With respect to Condition #1.2.9 to revise the plan to show 10' pedestrian way easements, Hunzeker advised that the staff has agreed to reduce this to 5' pedestrian way easements. These same revisions appear in the preliminary plat as Condition #1.1.8 and #1.1.9.

With regard to Condition #1.2.4 of the community unit plan relating to sidewalks on the south side of W. Adams Street (Condition #1.1.4 of the plat), Hunzeker pointed out that West Adams currently terminates at the east end of the Sunhusker Foods property. They have had numerous meetings about extension of West Adams Street. The area to the east is in the floodplain and shown as industrial and it is unlikely that that street will be needed. The developer has agreed with the City that they will pave that portion of W. Adams to a certain point, but the likelihood of development in this area occurring any time in our foreseeable future is very light. Hunzeker requested a waiver of the sidewalks on the south side of Adams Street. This is a justifiable request and would require deletion of the language in Condition #1.2.4 of the special permit and #1.1.4 of the plat, "and the south side of West Adams Street adjacent to this plat".

Hunzeker stated that this developer has assumed the obligation of the Airport Authority to step up to a share of the paving in West Adams Street. This developer is putting in a lot of improvement there that probably is going to get almost zero use. Hunzeker indicated that the staff is not necessarily in complete agreement on this issue.

Steward asked whether the applicant has had discussions with staff with regard to the landscape plan. Hunzeker answered in the affirmative. There is a requirement to meet the landscape screening requirement. The applicant has agreed to meet the city design standards; however, this may not have yet been submitted.

Duvall asked whether the applicant has worked with the neighbors. Hunzeker stated that they met with the Arnold Heights group last week and they still have some questions. However, his impression is that they are generally supportive of the project but they do have a few questions. The applicant has offered to meet with them again between now and the City Council to get those questions and concerns answered.

The applicant met with its industrial neighbor last week and Hunzeker is not sure there is anything that can be done that will alleviate the concerns expressed. Hunzeker believes this developer has done quite a bit to buffer this development from the industrial user. Much of that came at the behest of the staff and the Health Department and he is confident that in terms of selling lots and having people living in this vicinity, these residential lots are at least as far away from the industrial user as the ones already there on the west side of N.W. 48th Street.

Hunzeker advised that the residential area will be moderate income homes. It will not be subsidized housing, but they will not be the top end, with price range of \$110,000 to \$150,000. The townhouse product will be three-bedroom, two-story, ranging from \$105,000 to \$110,000 per duplex unit. The residential range would be \$115,000 to \$150,000. They would be considered starter homes, 1120 - 1200 sq. ft. ranch type.

Opposition

1. Charlie Humble testified in opposition on behalf of **R.E. Meyer Co.**, known as Sunhusker Foods, along with **Steve Sands, Vice President of R.E. Meyer Co.**, 4611 W. Adams. Sunhusker is located right at the corner of N.W. 48th and W. Adams, on 15 acres of I-2 zoning. It has been Sunhusker Foods for 10 years, now known as R.E. Meyer since April of this year.

2. Steve Sands also testified in opposition. He suggested that locating residential uses next to I-2 zoning makes no sense for the residential neighbors or for the R.E. Meyer business. R.E. Meyer Co. was formed in April of this year, purchasing Sunhusker Foods and Standard Meat Co. Sands was President and CEO of Standard Meat Co. The company then also folded in the assets of Meyer Natural Angus. This is actually a vibrant stroke for Lincoln because it was the type of merger that created jobs instantly and no one was laid off. They are in the process of folding the Standard Meat operation on Van Dorn into the R.E. Meyer facility on West. Adams. There are 3 million pounds of product coming in every month and 3 million pounds leaving every month. Lots of trucks. Every day R.E. Meyer generates 20,000 pounds of inedible product—bones, fat, blood, guts. R.E. Meyer receives the animal hanging on the hook and breaks it down into its constituent muscle parts.

Sands believes that R.E. Meyer/Sunhusker has been a good neighbor to Arnold Heights because they sought to mitigate the impact on Arnold Heights by having their docks and lighting on the east and south, etc. All of those mitigations that benefitted Arnold Heights would negatively impact Ashley Heights. For example, there are a lot of flies and smells generated at this site. The prevailing wind pattern goes directly into Ashley Heights away from Arnold Heights. R.E. Meyer also produces a cooked product, half of which goes to Japan and overseas. Cooking creates smells and those smells and odors are vented. R.E. Meyer intends to increase its cooking capacities.

Sands also believes that there are traffic pattern problems. Where 45th is platted goes right by the R.E. Meyer dock. The recreational areas are north of 45th so there will be lots of kids riding bikes right past the docks. R.E. Meyer run two shifts, with a third shift that does cleanup. They are always operating. R.E. Meyer has over 200 employees with an annual payroll in excess of 5 million dollars. Most of what R.E. Meyer sells is outside the confines of Nebraska.

Sands advised the Commission that when Mr. Meyer invested millions of dollars to bring the three companies together, he didn't know about this proposed change in zoning. Meyer was assured that when the area was platted as Lincoln Industrial Development Corp. 10 years ago, they did not expect residential uses, and Meyer did not expect residential when he bought it 6 months ago. This caught R.E. Meyer by surprise and they see many, many problems. "We think its going to paint us into a box where we're a bad neighbor." The meat industry fights issues every day. Meat industry is a hard industry to site. R.E. Meyer has a site, has been there and has been a good neighbor. R.E. Meyer does not want to be sent up to incur the wrath of their neighbors.

R.E. Meyer Co. is adamantly opposed to the change of zone. It would jeopardize their future growth and legitimately jeopardize the current business as they operate it today. They have dangerous equipment. This residential development will bring lots of kids and pets to this area.

Humble further testified that this is a bad mixture of land uses. From a land use perspective, taking the I-2 area and to say that, "this is the solution to the problem of why it didn't go", is a very bad solution. Think of it in terms of R.E. Meyer being the applicant. Let's say the 300 houses are there and in we come and ask for I-2 on the corner so that we can put in our meat plant. What do you think the staff recommendation would be that kind of request? Humble predicts that It would be immediate denial. R.E. Meyer is there first. Locating residences here will cause problems. Yes, the Comprehensive Plan for Greater Arnold Heights called for additional housing, but there are residential opportunities to the west of N.W. 48th Street. To put residential in an industrial park and an industrial area is very bad planning and this business will bear the brunt of it.

Steward inquired whether R.E. Meyer handles any toxic materials and whether all of the liquid waste is going into the city sanitary system. The General Manager of R.E. Meyer stated that they do not have any toxic chemicals on the property. They do discharge into the sanitary sewer, going into a grease trap first.

Bayer confirmed that part of the issue is R.E. Meyer feels like it will be forced out. Humble's response was that R.E. Meyer wants to add employees, they want to add shifts, and they want to add building. They cannot be forced to close down and leave.

Bayer wondered whether there would be room on the 15 acres to add building. Humbles answered in the affirmative. There is no hidden agenda--we just know that meat companies and residential do not mix well.

Schwinn recalled the Standard Meat Co. property at the Van Dorn Bypass, noting that at that time the Health Dept. had tremendous reservations about residential being located that close to an industrial site, and yet we have a letter from the Health Department on this application that does not show a lot of concern about residential uses being located next to this meat packing plant. Jennifer Dam of Planning staff explained that the existing residential uses are closer to R.E. Meyer/Sunhusker than the proposed residential. The closest house in the existing residential area is 110' away. Planning staff viewed this proposal as reducing the large area of potential industrial uses and making it better for the existing areas to the west. Since Sunhusker Foods (R.E. Meyer) is already there, the purchasers of the homes would know it was there at the time of purchase of the lot.

Bayer wondered whether an expansion of Sunhusker Foods would come through the permit process with opportunities for public hearing that could potentially prevent them from expanding. Dam advised that it would go through the building permit process.

Carlson asked for a response to the concerns raised in the communication from the Arnold Heights Neighborhood. With regard to the traffic study, Dam advised that the staff has agreed to hold off on any required improvements until they actually have a user for the B-2 area. The residential and commercial traffic generated is probably less than what could be developed by right under the existing I-2 district. In terms of access, there would be two points--one going north on N.W. 45th and out W. Adams, and out W. Huntington Street. If the area to the south ever develops, that could provide additional access in the future. There are provisions for stubs to the south. In terms of school transportation, this area is within the area that would have busing to Arnold Heights Elementary School. The children who live in Lincoln Heights are currently bused. School capacity has not been discussed.

Dam also advised that the minipark location was determined between Parks and the developer and Parks believes it to be a suitable location for the minipark.

Stepping back in the overall matter of the Comprehensive Plan and good planning principles, Steward thought that the point raised about who was there first is an excellent one. The industrial proposing to be in such close proximity to housing would be a serious question if that were the case. What is the staff rationale, on a broad principle basis, for allowing these proximities? Dam clarified that as approved today, this entire area is zoned I-2, which puts a greater area of residential uses closer to industrial. The proposed Comprehensive Plan amendment reduces the amount of residential being adjacent to industrial. If Sunhusker Foods came in today and requested industrial on that corner and the residential was already in place, she agreed that the staff would not likely recommend approval. However, this proposal makes it better and moves the proposed residential uses further way from the industrial.

Taylor's concern is the distance between the residential and the industrial. Dam reiterated that the closest house in this proposal would be over 300' away. The closest existing house to the industrial is 110'. On an average, the existing houses are about 300' away.

Taylor asked whether there is any concern about the odors, etc. Dam thought that the prevailing winds in the summer came out of the southwest and would blow the odors a different direction and in toward the airport.

Bayer stated that he's a little nervous that it is going to be difficult to sell a house because it is going to smell and there are going to be trucks all the time. Is there any precedence to require a condition that says prospective buyers be notified of what's there? Dam explained that currently, the city requires owners to be notified of soil conditions and she thought a condition could be added to require that owners be notified of the Sunhusker Foods use.

Response by the Applicant

Hunzeker is not sure the distance is a critical factor but it might be easier to keep this in perspective by looking at the aerial photo which shows the subject property and where the residential area is located with respect to the industrial. The applicant believes that the area to the east provides some

transition. This applicant had intended to leave it zoned industrial but, at the request of the Planning staff and the Health Department, they are requesting to change the zoning on this 40+ acres to Highway Commercial. Hunzeker submitted that the distance from the closest residential lot to Sunhusker is closer to 500' than any other numbers that have been discussed. This development is pretty well buffered relative to the existing residential and it may be the case that there are concerns on the part of R.E. Meyer that they may in the future begin to emit odors, but it is Hunzeker's understanding that over the last 10 years they have had four complaints. The prevailing wind in the summer is out of the southeast and southwest. When windows are likely to be open and humidity likely to be high, the winds are coming out of the south. None of that seemed to bother Sunhusker Foods when they located their plant at its existing location when all the residential that exists to the northwest was already in place. There is a considerable distance from their property line to their existing plant. Hunzeker pointed out that this applicant is very comfortable in marketing residential units in this location. If there needs to be some disclosure provision to prospective buyers, he would agree, but he thinks it is fairly obvious and something that will be hard to miss for anybody that goes out there to look at a lot.

Hunzeker submitted that this is very positive for the Arnold Heights neighborhood; the housing is needed and the shopping is needed. Without the rooftops the shopping is not likely to happen.

Hunter was interested in knowing the uses that might be located on the B-2 zoned property. Hunzeker indicated that they are hoping for a grocer to anchor a neighborhood shopping center, including the usual kinds of neighborhood shopping stores, i.e. drug store, ancillary retail to go with the grocer, etc. The grocers are telling this applicant that there aren't enough rooftops for a grocery store without this development.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 94-52

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 18, 2000

Duvall moved to deny, seconded by Steward.

Duvall commented that this property is industrial and it has always been that way. They still share the same road going out 45th Street so there is going to be a lot of traffic going by. He believes the property should remain industrial.

Hunter observed that this is really an almost reversal of the type of thing the Planning Commission would normally see. With industrial on the north side of West Adams and the uses of that property that are on the south side of West Adams, she feels like the R.E. Meyer Co. probably instituted their business there with the future expectation that there would be other industrial uses that would surround them and not that they would end up being surrounded by residential uses. She does not think this is the appropriate area for more residential development.

Steward believes it's a philosophical point of view. He does not like the idea of changing the Comprehensive Plan in this particular way. Secondly, he thinks we are being asked to look at the potential of middle income housing when, in effect, with the other surrounding circumstances of an industrial facility, it creates the high potential for low income, ghettoization of less than desirable properties, and that will cause them to be downgraded from an economic point of view just in order to make the property pay. He does not think it is a good idea.

Taylor agreed with Steward and Hunter. If you have been in an area of packing house odors, you know the residential is going to be degraded.

Bayer was torn. The argument that the industrial has always been there is a strong one. The counter is that "the only thing that has gone there is this", implies that there is not a lot of desire for industrial in that area. With regard to affordable housing, he believes that this is almost infill because there is already housing to the west and northwest. He thinks he likes the idea. What got him is when the applicant said Sunhusker wasn't concerned about the smell when they put themselves there ten years ago. He can see both sides and we just have to weigh the priorities. Bayer is excited about affordable housing.

Schwinn was also torn with mixed emotions. He believes that the B-2 zoning is very, very appropriate and it will be a great location for the services needed in that neighborhood. He has concerns that we approved a huge subdivision to the west that never got built. He is fearful that the market isn't there. As far as the arguments from Sunhusker, they are very compelling also, and he agrees that we probably would not have allowed them in this area if they came in later. However, all the land directly north of Sunhusker is zoned I-1, which does not mean there is going to be an end to industrial uses out there. He believes this is a good housing opportunity; he believes that we call for mixed uses and this is about as mixed as you are ever going to have. It is a "buyer beware" situation and that is not the Planning Commission decision.

Motion to deny carried 6-3: Duvall, Carlson, Steward, Hunter, Newman and Taylor voting 'yes'; Krieser, Schwinn and Bayer voting 'no'.

ANNEXATION NO. 00001

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: October 18, 2000

Steward moved to deny, seconded by Duvall and carried 7-2: Duvall, Carlson, Steward, Hunter, Schwinn, Newman and Taylor voting 'yes'; Krieser and Bayer voting 'no'.

CHANGE OF ZONE NO. 3248

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: October 18, 2000

Duvall moved to deny, seconded by Steward and carried 7-2: Duvall, Carlson, Steward, Hunter, Schwinn, Newman and Taylor voting 'yes'; Krieser and Bayer voting 'no'.

SPECIAL PERMIT NO. 1833

ASHLEY HEIGHTS COMMUNITY UNIT PLAN

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 18, 2000

Steward moved to deny, seconded by Duvall and carried 7-2: Duvall, Carlson, Steward, Hunter, Schwinn, Newman and Taylor voting 'yes'; Krieser and Bayer voting 'no'.

PRELIMINARY PLAT NO. 00005

ASHLEY HEIGHTS

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 18, 2000

Duvall moved to deny, seconded by Steward and carried 7-2: Duvall, Carlson, Steward, Hunter, Schwinn, Newman and Taylor voting 'yes'; Krieser and Bayer voting 'no'.