

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, January 12, 2000, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

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

**STATED PURPOSE OF MEETING:** Regular Planning Commission Meeting

Chair, Russ Bayer, called the meeting to order and requested a motion approving the minutes for the meeting held December 15, 1999. Motion to approve made by Krieser, seconded by Newman and carried 7-0: Bayer, Duvall, Hopkins, Krieser, Newman, Taylor and Steward voting 'yes'; Hunter abstaining; Schwinn absent.

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

January 12, 2000

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

The Consent Agenda consisted of the following items: **COUNTY CHANGE OF ZONE NO. 197; CHANGE OF ZONE NO. 3220; CHANGE OF ZONE NO. 3226; CHANGE OF ZONE NO. 3228; COUNTY CHANGE OF ZONE NO. 198; CHANGE OF ZONE NO. 3230; CHANGE OF ZONE NO. 3229; SPECIAL PERMIT NO. 1824; COMBINED USE/SPECIAL PERMIT NO. 11F; SPECIAL PERMIT NO. 1715A; SPECIAL PERMIT NO. 1819; COUNTY SPECIAL PERMIT NO. 174; COUNTY PRELIMINARY PLAT NO. 99025; COUNTY CHANGE OF ZONE NO. 196; CHANGE OF ZONE NO. 3223; FINAL PLAT NO. 99046, NORTH CREEK 2<sup>ND</sup> ADDITION; WAIVER OF DESIGN STANDARDS NO. 99014; AND WAIVER OF DESIGN STANDARDS NO. 99015.**

The clerk announced that staff had received a letter from the applicant, Brian Carstens on **Item No. 1.2, Change of Zone No. 3220**, requesting deferral until January 26, 2000.

Motion to defer made by Steward, seconded by Hopkins and carried 8-0: Bayer, Duvall, Hopkins, Hunter, Krieser, Newman, Taylor and Steward voting 'yes'; Schwinn absent.

**Item No. 1.6a, Change of Zone No. 3229, and Item No. 1.6b, Special Permit No. 1824,** were removed from the Consent Agenda and scheduled for separate public hearing.

Hopkins moved to approve the remaining Consent Agenda, seconded by Krieser and carried 8-0: Bayer, Duvall, Hopkins, Hunter, Krieser, Newman, Taylor and Steward voting 'yes'; Schwinn absent.

Note: This is final action on Combined Use Permit/Special Permit No. 11F, Special Permit No. 1819 and North Creek 2<sup>nd</sup> Addition Final Plat No. 99046, 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.

**CHANGE OF ZONE NO. 3229**  
**FROM R-2 RESIDENTIAL TO R-4 RESIDENTIAL**

**and**

**SPECIAL PERMIT NO. 1824**  
**FOR A DOMICILIARY CARE FACILITY**  
**ON PROPERTY GENERALLY LOCATED**  
**AT SOUTH 56TH STREET & PIONEERS BLVD.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:** January 12, 2000

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

Planning staff recommendation: Approval of the change of zone and conditional approval of the special permit.

This item was removed from the Consent Agenda and had separate public hearing.

Proponents.

**1. Mr. Whitney, CEO of TRG Consulting,** the applicant, explained this project for a 66,000 sq. ft., three-story, wood frame construction assisted living center. There will be 98 units, including four 2-bedroom units, totaling 102 residents on the site. TRG Consulting has done three buildings similar in Denver—two for nonprofit of 109 units and another of 111 units. This building will be developed and operated by the applicant. The units will each be one-bedroom except for the four two-bedroom units. The applicant has met with the homeowners on the west side and The Cedars Youth Center on the north side of the site.

Whitney described the building site, which will include a fountain and courtyard, etc. Fencing will be built to separate the properties, with landscaping. They have discussed some possible partnering of uses with The Cedars Home.

Whitney showed a rendering of the building and the proposed ingress and egress. All of the parking and traffic will go up along Pioneers and 56<sup>th</sup> to insulate the neighbors.

**2. Ron Ross of Ross Engineering** discussed the site plan. There will be a nice landscaped area on the west side of the facility that will be attractive to the neighbors; they have kept the entrance as far west as possible; the other entrance is a shared entrance with the neighbors to the north off 56<sup>th</sup> Street; there will be a series of retaining walls in the back to add character to the overall landscaping. Courtyards are created in the back of the facility for the residents. The project will provide detention; they have dealt with the drainage and have pacified Public Works with the on-site detention; they have also been asked to extend a storm sewer.

Duvall asked how much soil this will be adding. Ross did not know the total cubic yards of excavation, but the off-site borrow is computed at about 11,000 yards; they will probably import about 9,000 yds. of material.

**3. Mark Hunzeker** appeared on behalf of the applicant. This property has been vacant for some time. Over the last 20 years, there have probably been six people through his office with various ideas for this site, most of which had to do with some sort of commercial development, which they have tried to discourage. When this applicant came forth to develop additional assisted living facilities on this site, it appeared to be a good use because it is a relatively low traffic use at a high traffic intersection, and one which will not require the use of a lot of lighting or other attention-getting type devices that would conflict with the surrounding residential uses. R-4 abuts this property on three sides already and introduces a very minimal change into the neighborhood.

With respect to the conditions of approval, Hunzeker referred to Condition #2 which approves 98 residents. This was overlooked in their review of the staff report. The density for domiciliary care facilities is expressed in terms of the number of residents per a certain lot area as opposed to units. They made the application based upon 98 units and staff correctly points out that it is a restriction based on the number of residents. Hunzeker has talked with the City Law Department about making a change and he requested that Condition #2 be amended as follows: "This approval permits 98 units, with 102 residents". This accounts for the additional residents in the four two-bedroom units.

Hunzeker agreed with all other conditions of approval.

Opposition

1. **Sue Frye**, homeowner to the west of the proposal, 5410 Pioneers Blvd., testified in opposition. The area is very residential and very family oriented. It changed dramatically when Pioneers was widened. Traffic tripled. The children no longer play in the front yard because of the dangers. It is even dangerous to get your mail because of all the traffic. They view this proposal as an increase in traffic and they want to keep the area family oriented. They are not opposed to the assisted living building but she is against the location. Now she sees 15-20 trees out of her window. With this application they will see the building and the trees will be gone.

Response by the Applicant

Hunzeker responded to the opposition, stating that this is not a use that will cause a great deal of disruption in the neighborhood. They are elderly people that will not cause a lot of traffic or a lot of noise. This is probably as quiet and as low intensity, low traffic a use as one could find to put on this corner. They have attempted to save as many of the trees as possible, although there are a few that would be displaced, but that would be true of any development that occurs on this site.

Bayer noted a 6' fence between the west boundary and the neighbors. Hunzeker believes the Frye house is west of the townhomes to the west of this location. There will be a fence on the west property line. They have submitted a landscape screen plan and he believes there is a row of pine trees to be planted along the west boundary in addition to the fence.

Questions for staff

Steward inquired as to the maximum density with the existing R-2 zoning. Ray Hill of Planning staff did not do those calculations but he believes it would be about half of what it would be at R-4. Part of this lot is already zoned R-4 and he did not do that breakdown if it were left all R-2. With the density bonuses that would be allowed, it could be close to what they have now because they did not take advantage of all the density bonuses.

Steward assumes that there could likely have been at least as much per unit automobile traffic and storage but a much higher frequency of use of the auto density under R-2. Hill agreed that R-2 with a community unit plan would have a lot more traffic than the elderly housing. There had been a community unit plan approved on this site and it was withdrawn when they sold part of the land to The Cedars Home.

Hill agreed with the proposed amendment to Condition #2, and stated that the report will need to be amended accordingly to reflect this change.

Hunzeker suggested that if the property were developed at R-2 for domiciliary care, it would end up in the 75-80 unit range. If you just used the maximum density allowable

under a community unit plan, you could get into the range of 12 or more units with all of the traffic that goes with single family uses. This will generate much less traffic.

Hunter observed that the only traffic coming in and out would be employees and visitors. Hunzeker concurred, including delivery of food supplies, etc.

Public hearing was closed.

**CHANGE OF ZONE NO. 3229**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** January 12, 2000

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

**SPECIAL PERMIT NO. 1824**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** January 12, 2000

Steward moved to approve the Planning staff recommendation of conditional approval, with amendment to Condition #2 as requested by the applicant, seconded by Hopkins, and carried 8-0: Hunter, Steward, Duvall, Hopkins, Krieser, Newman, Taylor and Bayer voting 'yes'; Schwinn absent.

**COUNTY CHANGE OF ZONE NO. 194**  
**FROM AG AND I TO B BUSINESS**  
**ON PROPERTY GENERALLY LOCATED**  
**AT HIGHWAY 2 AND HIGHWAY 43**

**and**

**COUNTY CHANGE OF ZONE NO. 195**  
**A TEXT AMENDMENT TO THE LANCASTER**  
**COUNTY ZONING RESOLUTION TO MODIFY**  
**SIGNS IN THE B BUSINESS DISTRICT.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:** January 12, 2000

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

Planning staff recommendation: Deferral to allow a Comprehensive Plan Amendment to be advertised and processed with County Change of Zone No. 194.

Mike DeKalb of Planning staff submitted a letter received from the applicant requesting a 30-day deferral to allow finalization of long range plans and commitments.

Hopkins moved to defer with continued public hearing and administrative action scheduled for February 9, 2000, seconded by Hunter and carried 8-0: Hunter, Steward, Duvall, Hopkins, Krieser, Newman, Taylor and Bayer voting 'yes'; Schwinn absent.

There was no other public testimony.

**USE PERMIT NO. 96A**  
**TO ADD A CURB CUT FOR DIRECT ACCESS**  
**TO 70TH STREET ON PROPERTY GENERALLY**  
**LOCATED AT SOUTH 70TH STREET AND NORMAL BLVD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:** January 12, 2000

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

Planning staff recommendation: Denial.

Proponents

1. **Mark Hunzeker** appeared on behalf of **Chateau Development**, the owner of the property. This is an application to add an access point on 70<sup>th</sup> Street to this property. This project was approved originally with an access that comes off 70<sup>th</sup> Street and goes through what is the shopping center parking lot and in from the north. As this project was being developed it became apparent that that access point is going to be very difficult at peak hours for getting in and out of the office building site because of the shopping center traffic.

Hunzeker referred to the aerial photo in the staff report. The access point is near the southwest corner of Russ's Market. During peak hours when traffic is going in and out of Russ's Market parking lot, getting in and out of the office park site is going to be very difficult, resulting in a lot of the traffic being forced onto a residential street on the east side of the building.

This proposal is for a one-way access, right turn in and a right turn out only. It will not have a left turn out onto 70<sup>th</sup> Street. It will be virtually identical to the northern access to the Russ's Market area as seen in the aerial photo. There is a T-bone type of access into that parking lot which makes it almost impossible to turn left. They already have a right turn lane along 70<sup>th</sup> Street that goes into Russ's Market that was built as a part of this project. The proposal is to build a second right turn deceleration lane. It is not unlike a number of other locations in the city such as No. 66<sup>th</sup> Street southbound into the Meginnis Ford parking lot, and the deceleration lane serving NBC off of 66<sup>th</sup> Street which also serves as combination acceleration outbound and deceleration right turn into East Park Plaza further to the north.

This application is 275' away from the next entrance into Russ's Market, and there is a driveway spacing design standard which requires a minimum of 30' for commercial drives on major streets and a desirable spacing of 200'. This application is at 275'. Hunzeker advised that there is really no design standard basis for denial of this access. There are other places around the city with multiple access points, e.g. SouthPointe Pavilions and others. The aerial photo shows that more access points are not only permitted in other areas but do contribute some access that people find very convenient. A right-in right-out will help access and limit the amount of commercial traffic coming out onto the residential street on the east side.

This is an office building that is under construction and nearly complete.

The spacing from Normal Blvd. centerline to centerline is 170', more or less. If it were going to be a street rather than just an access, the minimum offset is 75' and this is 170' from centerline to centerline.

Hopkins asked whether the applicant had originally asked to go both ways. Hunzeker stated that their first choice would have been to go both ways. Good or poor street design is sometimes a matter of opinion. If your focus is solely upon moving through traffic, then you want to have as few access points as possible. If your purpose is to allow for some commercial development along the way, you really do need to have some access points. Hunzeker believes that the staff is opposed to both situations.

Steward suggested that the developer for this property was surely aware that they had relinquished the right to this secondary access when the development began. Hunzeker concurred. Steward asked why now? Hunzeker believes that was an issue that had a little bit of discussion and there were some other issues that had more attention at the time. As the site started to be developed and it became apparent that there would be an access problem coming in from the north, they focused on it more and decided to request this amendment. The owner built the turn lane into the shopping center as part of the original application and is willing to build another one to facilitate this access. But that was not a focal point of the original discussion. Steward assumes the number of parking spaces and street configuration have not changed since the project began. Hunzeker believes that to be correct.

Bayer clarified that this suggests that a third lane will be added south of the proposed entrance for deceleration, and then a third lane will connect this entrance and the one at Russ's Market to allow deceleration and acceleration. Hunzeker concurred, at the developer's expense.

Hopkins noted that the staff recommendation is denial; however, there are conditions provided if the Commission votes to recommend approval. She asked the applicant whether those conditions are acceptable. Hunzeker had no problems with the suggested conditions of approval. They will work with staff on Condition #2.1.1 regarding additional right-of-way.

There was no testimony in opposition.

Staff questions

Steward asked staff to respond to the reference to good street design, especially from the perspective that 70<sup>th</sup> Street is envisioned as carrying more and more traffic. Dennis Bartels of Public Works stated that it is physically possible to come out of Normal and go across five lanes of traffic and turn right, which is considered an unsafe maneuver. Limiting access to 70<sup>th</sup> Street is one of the means of preserving the street capacity which the general public pays for. You need to look at the zoning history of the property. It started out as residential; the next was PUD with some small office; and then it got changed to O-3 knowing where the access points were. Now the public is supposed to diminish the street capacity of 70<sup>th</sup> Street to accommodate an office building that increased the intensity of use of the property. The original intent was something that was oriented to the neighborhood with access to 72<sup>nd</sup> Street. There were traffic calculations when the office building was approved and as a package the trips were similar. Everyone was aware that this was not the ideal circumstance for an office. Bartels stressed that the designated access point planned from day one with the shopping center to the north giving access to the south to this property was part and parcel to the approval of the original shopping center before anything was discussed on this property.

Newman believes the speed limit on 66<sup>th</sup> Street is 30 mph and the speed limit on 70<sup>th</sup> Street is 40 or 45 mph. Bartels believes there is a distinction with 66<sup>th</sup> Street. You can design streets for local access or for carrying traffic. We try to strike a balance between providing sufficient access to the businesses or uses and the need to carry the through traffic. The pie shaped medians do result in people turning the wrong way.

Bayer asked Bartels to explain why he is implying that by putting this in with the third lane, we are putting a burden on the citizenry. Bartels explained that if you accept the premise that controlling the driveways and access points preserves or adds to capacity of a through street, when you start chopping the streets up you congest the street and hasten the day when you have to have another through lane on 70<sup>th</sup> Street.

Bayer sees a conflict. We typically look at ways to not dump traffic into residential areas. Do we put the traffic into the parking lot to the north and 70<sup>th</sup> Street or do we push it into the residential area? Wouldn't we rather have the traffic going to 70<sup>th</sup>? Bartels pointed out that 72<sup>nd</sup> is bordered by the shopping center and high density residential apartments. There is a signal at 70<sup>th</sup> & Holmes Park Road.

Response by the Applicant

Hunzeker reminded the Commission as to the reference to 66<sup>th</sup> Street. The photo shown of the Meginnis Ford access is an area of 66<sup>th</sup> Street which was recently widened and redesigned and that configuration is almost brand new. As it relates to the portion of 66<sup>th</sup> Street further to the south, there are plans as part of the widening project for O Street to widen 66<sup>th</sup> Street and we are going to put medians in front of most of the access points which will be right-in right-out access points just like what is being proposed. He also referred to the HyVee at 70<sup>th</sup> and "O". The deceleration lane going eastbound that allows turn into HyVee functions as a right-turn lane at 70<sup>th</sup> & "O" and an acceleration lane out of the HyVee parking lot. The most recent that he is aware of is Famous Dave's at SouthPointe. If you are westbound on Pine Lake Road you can get to a full access intersection with Pine Lake Road at SouthPointe and you can go further west and take a right-in right-out access into the parking lot that serves Famous Dave's and the other restaurant areas. It is not unheard of and not necessarily terrible design. This application meets the design standards that apply.

Hunter asked staff whether there has ever been any discussion about a traffic light at Normal and 70<sup>th</sup>. Bartels stated that it does not meet the warrants for a light. That is why we do not want a four-way intersection there as we would rather not put a light there for capacity reasons. Hunter travels Normal Blvd. a lot to get to 70<sup>th</sup> Street and she is wondering if that has even been discussed. Turning onto 70<sup>th</sup> Street going north off of Normal is a hazard because of the speed of the traffic. In terms of access to properties along the main boulevards, isn't it preferable to have developer's offer to have these turn lanes developed rather than not have the turn lanes?

Bartels clarified that if the Commission chooses to approve this application, Public Works definitely would want the deceleration lane into this property. The right turn lane is definitely needed if the driveway is approved.

Hunzeker has no objection to lining up with Normal Boulevard if there is ever going to be a light. He understands why they do not want a light. If you are eastbound on Normal and you want to go someplace north of where you intersect Normal and 70<sup>th</sup>, you will take Van Dorn off Normal and go through the light rather than to the corner. There is not very much left turn traffic at that intersection anyway.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 12, 2000

Steward moved to deny, seconded by Newman.

Steward believes that these kinds of cuts, entrance and access on 70<sup>th</sup> should be restricted for future better transportation planning. All we have to do is look at 66<sup>th</sup> and O and other

places that have numerous curb cuts. He also believes it is not good development planning to have a known traffic generator in a known street pattern and then wait until the building is half built and come back and ask us to take care of the problem. The problem creates more hazards and difficulty for the public than the developer has a right to do.

Newman has always thought of 70<sup>th</sup> Street as a limited access, higher speed corridor north/south, and she understands the desire for limited access. She is starting to agree with traffic engineers.

Bayer will vote against denial. Why wouldn't I want slower traffic at this location? He wants the traffic slowed down. He has a problem with the alignment. He believes it should be either right across from Normal, or south or further north, but he believes there is a value in having the curbcut there at the developer's expense.

Hunter believes the people wanting to access the office building should have a turn lane for that purpose.

Motion to deny failed 2-6: Steward and Newman voting 'yes'; Hunter, Duvall, Hopkins, Krieser, Taylor and Bayer voting 'no'; Schwinn absent.

Hunter moved to approve, with conditions, seconded by Duvall.

Hunter does see problems with its current alignment. Bartels suggested that it should be as far south as possible so it makes it more difficult or impossible to turn off of Normal Blvd. into this site or get it south of Normal Blvd. Getting the right turn lane in may involve right-of-way from the complex at the northeast corner. Bayer does not think the Commission should redesign this curbcut. Bayer believes that Condition #2.1.1 takes care of this situation.

Hopkins wondered if the Law Dept. could offer any language to leave it open enough so that the staff and applicant can negotiate the issue. Rick Peo of the City Law Department suggested amending #2.1.1: "A revised site plan showing curbcut and additional 12' of right-of-way...". Bayer does not want Public Works to be able to stop the project by not approving the site plan. Peo believes they have to be reasonable in that the curbcut is to be granted.

The amendment to Condition #2.1.1 was considered part of the main motion.

Motion for conditional approval, with amendment to Condition #2.1.1, carried 6-2: Hunter, Duvall, Hopkins, Krieser, Taylor and Bayer voting 'yes'; Steward and Newman voting 'no'; Schwinn absent.

**SPECIAL PERMIT NO. 228H**  
**TO AMEND THE CAPITOL BEACH WEST COMMUNITY UNIT PLAN**  
**TO REDUCE THE FRONT YARD SETBACK ON PROPERTY**  
**LOCATED AT 252 W. LAKESHORE.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:** January 12, 2000

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

Planning staff recommendation: Denial.

**1. Lynne Rustad of Woods Bros. Realty**, testified on behalf of Hempel Construction. They are building a home at 252 W. Lakeshore Drive and would like to have a 14' setback from the curb to the front of the garage. When they purchased the property, there was an old fishing cabin on the property which was an eyesore which they will replace with a 2800 sq. ft. structure and will improve the site and the neighborhood. They have built a new sea wall at a cost of about \$10,000. The house will be built above the base flood data to meet the floodplain regulations. This application was originally requesting a 16' setback, but they would like to redesign and ask for 14'.

Bayer asked why they did not design the house differently. Rustad stated that when they originally designed they were unaware of the setback and the floodplain requirements. Part of the lot is in the floodplain and part of it is not. They thought the existing was grandfathered.

Steward noted another item on today's agenda that deals in the same neighborhood with carports, which is a different kind of intrusion in the front yard than a garage. He asked whether the applicant had considered an alternative to the garage. Rustad stated that this home is being built for retired people and they would like to have their cars enclosed in a garage.

There was no testimony in opposition.

Steward again noted the two requests in basically the same neighborhood--one reducing the setback for a garage and the other for carports. How do we rationalize approval of intrusion in the setback by carports versus denial of a garage intrusion? Rick Houck of Planning staff believes the main issue is visibility in backing out of the carport versus backing out of the garage onto a street. He viewed the site and there seems to be quite a bit of traffic on that street. When backing out of a garage this close to the street, you are probably into the street by the time you can see south or north. With a carport, you can actually see through the sides naturally and this is the main reason. Steward assumes the other concern is with only 16' between the curblines and garage you could not even temporarily park a car without extending into the street. Houck concurred and showed a photograph. He referred to the unit to the south with a van parked up against the garage

and it almost hangs out over the street. Public Works has no objection to reduction of front yard setback, except that the vehicle parked in the front of the garage would hang out into the street. Houck agreed that the neighbors have the 14' setback being requested.

Taylor wondered whether it would be possible to have windows on the side of the garage to provide the visibility. Houck believes it involves more of the site design than the actual structure.

Rick Peo of City Law Department suggested that the application needs to be clarified in that the staff report indicates reduction of the front yard setback to 16', and there is now testimony by the applicant that they are requesting 14'. If 14' is the actual application, it needs to be deferred for additional staff report, comment and advertising.

The applicant stated that they originally designed the home with 16', but they would like to make application for 14' setback because it would allow minimal redesign on the home. Rustad also suggested that the carports do not provide the visibility.

Houck stated that this 14' request would intensify the staff analysis. Bayer believes the map shows 16' from the curb, so that would be the 14' setback.

Hopkins moved to defer for two weeks, seconded by Krieser and carried 8-0: Hunter, Steward, Duvall, Hopkins, Krieser, Newman, Taylor and Bayer voting 'yes'; Schwinn absent.

**SPECIAL PERMIT NO. 2281**  
**TO AMEND THE CAPITOL BEACH WEST COMMUNITY UNIT PLAN**  
**TO REDUCE THE FRONT YARD SETBACK FOR**  
**EXISTING CARPORTS ON PROPERTY**  
**GENERALLY LOCATED ON WEST LAKESHORE DRIVE.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:** January 12, 2000

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

Planning staff recommendation: Conditional approval.

Proponents

1. **John Nichols of J.D. Construction**, testified in support and agreed with the staff recommendation and conditions of approval. He represents all of the property owners. Mr. Harmon already has an existing carport that is falling down and he will put up another carport if this is approved.

Hunter referred to 332 W. Lakeshore and noted that Analysis #4 suggests that visibility should not be hindered "unless siding is added". She does not want them to have the opportunity to add any siding or to add sides. Rick Houck of Planning staff explained that if there were no walls or doors in the plans, then Building & Safety would consider it to be a carport. Hunter is fearful they can build the carport and then put sides on it.

There was no testimony in opposition.

Houck advised that generally Building and Safety would differentiate a carport from a garage by siding and a door. His concern is not with the construction but someone putting up lattice work on the side, roses, etc., which starts blocking visibility. The special permit which approved this makes it specifically for carports. If they wanted to enclose with walls and a door and turn it into a garage, it could not be done without another amendment to the special permit.

Duvall wondered whether the owner could put up a wall of some sort on their own. Houck suggested that the Commission could add a condition that there be no blockage of open visibility.

Bayer referred to #15 in the analysis, which is a photograph of 492 West Lakeshore Drive. There is a fence all the way to the curb on either side of the carport. Houck advised that to be the one that is going to be torn down and rebuilt. Bayer then referred to #9, 432 W. Lakeshore Drive. The rationale for not approving the garage on the previous application is because they only have 14' to see and he believes these carports only have 3' to see because of the fence. Steward believes it's the parking in front of the garage and the overhang into the street that is the problem with the 14' setback for the garage in Special Permit 2281.

Response by the Applicant

Nichols suggested that in Analysis #9, at 432 W. Lakeshore Drive, the latticework was done by the homeowner, so what was submitted to the city did not show that latticework.

#15 is the Harmon residence and this carport will be torn down and is next door to #12. He is planning to tear down the fence when the carport is rebuilt. Almost all of the carports have structural columns to make them more appealing to the eye. He believes it would be hard to attach a wall or something to those columns.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 12, 2000

Hopkins moved to approve the Planning staff recommendation of conditional approval, seconded by Duvall.

Hopkins moved to amend to add a condition to make sure there is nothing added to the sides of the carports. Houck suggested adding a General condition such that, "No siding be added to the carports that would hinder visibility of any kind."

There was concern about the definition of a carport. A representative of Building and Safety was not available. The Commission deferred until an answer could be sought from Building & Safety.

Upon reconvening this item, Houck stated that Building & Safety does not have an exact definition of carport versus garage. They define a carport as having two or more open sides and then it does not need to be constructed for fire rating. Steward wondered about the definition of "open". Houck suggested that the Commission could add language to Condition #2, "and that no siding materials be added to the carports which would obstruct visibility". Hunter thinks there should be more restriction so that no material of any kind can be installed on the sides of these carports because one could contend that you can see through latticework and slats.

Bayer observed that they could plant bushes all along the side to go up seven feet or put up a fence. The effort is to indicate that the distinction between this and a garage is open sides.

It was agreed by the maker of the motion and the second that the main motion is for conditional approval, with amendment to add language to Condition #2, "that no siding materials be added to the carports." Motion carried 5-3: Hunter, Duvall, Hopkins, Taylor and Bayer voting 'yes'; Steward, Krieser and Newman voting 'no'; Schwinn absent.

Linda Hunter moved to reconsider Special Permit No. 228I, seconded by Newman.

Hunter apologized but because the Commission's action was deferred and interrupted, she was confused as to what issue she was voting upon.

Motion to reconsider carried 7-1: Hunter, Steward, Hopkins, Krieser, Newman, Taylor and Bayer voting 'yes'; Duvall voting 'no'; Schwinn absent.

Upon reconsideration, Taylor moved approval, with conditions, with amendment to add language to Condition #2, "that no siding materials be added to the carports.", seconded by Duvall and carried 5-3: Duvall, Hopkins, Krieser, Taylor and Bayer voting 'yes'; Hunter, Steward and Newman voting 'no'; Schwinn absent.

**SPECIAL PERMIT NO. 494D**  
**HARBOUR WEST COMMUNITY UNIT PLAN,**  
**ON PROPERTY GENERALLY LOCATED AT**  
**S.W. 11TH & WEST PEACH STREET.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:** January 12, 2000

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

Planning staff recommendation: Conditional approval.

Proponents

1. **J.D. Burt of Design Associates** appeared on behalf of Harbour West Meadows. He submitted a sequence of events with regard to the staff comments. He was generally in agreement with the staff conditions, except Condition #1.1.1, which deals with another access to Harbour West. This is an application to expand the limits and the site by 9 units.

Condition #1.1.1 talks about alternatives to provide an additional access to Harbour West Meadows. The applicant believes that both Lot 212 immediately north and Lot 222 further north are adequately served with public right-of-way to their west property line to accommodate any future subdivision. The northerly parcel is owned by a church with the anticipation of a facility at that location. The parcel to the north, Lot 212, has an existing residence and there is adequate area to extend W. Garfield and provide a cul-de-sac in compliance with design standards without the need to provide access from the Harbour West parcel.

Burt stated that he did get a call from one of the neighbors along the west side with a concern about drainage within this area. One of the reasons they have opted not to extend 11<sup>th</sup> Street is that in past history the city has done their best to protect drainageways and natural areas. It is his opinion that it is not needed to extend 11<sup>th</sup> because of the cost and the potential drainage issues. Extension of 11<sup>th</sup> Street falls outside the limits of what the subdivision ordinance requires pursuant to 26.23.070. They are providing a street to provide access to this subdivision.

The other option suggested by Public Works is the extension of Last Chance Road, which is the easterly private roadway located within Harbour West. First of all, typically you do not want to design streets with intersections in the middle of horizontal curves because of safety issues.

With regard to the southerly extension of Gordon Drive to South Street, Burt advised that this is 80' away from an intersection which is not a good design. Looking at street design standards, South Street is a major street because of the speed limit and the limited access.

Design standards typically try to limit access to local streets. They are only 480' away from the existing intersection.

When this application came in and was approved in 1999, these folks took the time to talk to the city regarding access to South Street. They had originally asked for access to South Street and the City told them no.

Planning also talks about the number of dwelling units. It should be 269 dwelling units, with three accesses that exist. Burt referred to Contempo with 425 units with 2 access points, and Gaslight at 431 units with 2 access points. Burt requested that Condition #1.1.1 be deleted.

Bayer clarified with Burt that this application is to get an additional 9 lots to the north. Burt explained that the existing special permit was approved with specific building envelopes. The reason for including the existing portion is to allow a building envelope so that they don't have to come back in for an amendment to show a different size mobile home. From a safety point of view, Bayer noted that there will be a total of 76 units and there is only one way in and one way out. Burt concurred but he does not believe that to be unusual as you look at multi-family in community unit plans with one or two exits. Burt views this as a large cul-de-sac that does provide internal circulation.

Steward contends that this is not a cul-de-sac; it does not provide opportunity for emergency vehicles. Burt believes it could be viewed as an extremely large cul-de-sac. Steward's safety concern is at the intersection of S.W. 11<sup>th</sup> and S.W. Court with something transpiring further down, trapping off the access to emergency vehicles at the end. Burt suggested that if there is some sort of blockage, the emergency vehicles can go around to Last Chance and circle back around. 11<sup>th</sup> Street north of West Peach is the only problem and they have provided a T type intersection that is basically an enlarged hammerhead.

There was no testimony in opposition.

Staff questions

Steward asked whether the concern for Condition #1.1.1 is one of safety or traffic continuity. Buff Baker of Public Works stated that the first issue is safety and access. With the limited access points there now this looked like an opportunity to improve that situation with the addition of the portion to the north. Steward asked where the connection would be under the alternatives provided. Baker advised that the original thought was the extension of 11<sup>th</sup> Street. In its current design it was more-or-less a stub type intersection for the extension of 11<sup>th</sup> Street. Technically it could connect to W. Garfield.

Hopkins inquired about the different staff recommendation than was recommending previously. Baker stated that would be a normal situation with South Street. The South

Street bypass is a different configuration now than what was there at the time of this development.

Steve Henrichsen of Planning staff referred to the site plan and clarified that the northern end dead-ended in a hammerhead with the idea that it would be extended to the north. At that time, the owner did not own the property to the north. It was approved with access to Peach with the potential for some other extension to the north. It is clear that you extend a road to the adjacent property. If you do not want access to South Street, you would continue S.W. 11<sup>th</sup> to the northern limits of the plat. Then connect S.W. 11<sup>th</sup> to W. Garfield as the property to the north is developed.

Response by the Applicant

Burt rebutted, stating that when this application came in in 1988, the Hartland Homes East subdivision that now extends Washington and Garfield east from S.W. 12<sup>th</sup> was not in place. In typical situations he agreed that you are required to extend to your property limits. In this particular situation there are three I.T.'s that are each now served with public right-of-way so the development possibilities are available. The parcel for the extension is a remnant parcel from the State of Nebraska from the west bypass. The subdivision ordinance allows waiver of this type of condition. Because of the drainageway it does create a natural type of barrier. Burt also pointed out that when this application came in in 1988, South Street was constructed with its existing alignment.

Burt's concern with 11<sup>th</sup> Street is not just the redesign of the application. When you start looking at grades and crossing the drainageway, he believes they can accommodate the street extension but the burden of the box culvert or drainage facility would come at the expense of the adjacent property owner to the north.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** January 12, 2000

Hunter moved to approve the Planning staff recommendation of conditional approval, seconded by Steward.

Hunter believes it important not to box ourselves in. Steward believes that the planning principles are correct as outlined by the staff and he has not heard anything that convinces him to deviate from that future connection. With this being a trailer home, it seems that we have evidence that there is higher safety risk in these areas and we owe the public a little more diligence for emergency vehicle access.

Motion for conditional approval carried 8-0: Hunter, Steward, Duvall, Hopkins, Krieser, Newman, Taylor and Bayer voting 'yes'; Schwinn absent.

**SPECIAL PERMIT NO. 1423C**  
**AMENDMENT TO THE HIMARK ESTATES COMMUNITY UNIT PLAN**  
**ON PROPERTY GENERALLY LOCATED**  
**AT SOUTH 84TH STREET AND OLD CHENEY ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:** January 12, 2000

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

Planning staff recommendation: Denial.

Proponents

1. **Mark Hunzeker** appeared on behalf of the applicant and stated that he has submitted a letter to the Planning Director requesting that this matter be deferred for two weeks in order to resolve a number of the outstanding issues.

Hopkins moved to defer for two weeks, with continued public hearing and administrative action scheduled for January 26, 2000, seconded by Newman and carried 8-0: Hunter, Steward, Duvall, Hopkins, Krieser, Newman, Taylor and Bayer voting 'yes'; Schwinn absent.

There was no other public testimony.

**STREET & ALLEY VACATION NO. 99014**  
**TO VACATE LIBERTY LANE FROM CROMWELL**  
**DRIVE TO DAWN AVENUE.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:** January 12, 2000

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

Planning staff recommendation: Denial.

Mike DeKalb of planning staff submitted one letter in favor.

Proponents

1. **Brian Carstens** presented the application on behalf of several property owners in the Breezy Acres, Silver Springs and Highland Subdivision. This is a request to vacate existing platted right-of-way that has not been constructed and there is no roadway in there at this point. Breezy Acres was one of the first subdivisions in the area, which included Liberty Lane and Dawn Avenue. Five years ago Marlyn Schwartz came forward with the Silver Springs plat and as part of that subdivision, he originally had to dedicate additional half

right-of-way on the north side of Liberty Lane. At the time of final plat, Outlot A was created because the neighbors did not want that roadway created. Today he is asking to vacate that roadway. Carstens submitted a petition from almost all of the property owners in Breezy Acres, Highland and Silver Springs. One person did not sign and four were not home. Thus, there is basically unanimous approval to keep the road closed.

Carstens showed photographs of the area directly south of the proposed right-of-way. The pine trees would have to be removed because they are planted in the right-of-way. Moving further down the hill, the existing right-of-way is loaded with volunteer cedars and plum thickets; at the bottom it is completely wooded with a creek that rolls through there and two large culverts would have to be installed to take the roadway through. No wetlands have been delineated but there is a waterway.

All of the neighbors signing the petition see no need for the road. There is adequate circulation off of Castle Road to the north and Braemer Road to the south.

**2. Gus Swanson**, who lives adjacent to the road directly to the south, testified in support. The beautiful forest is on his property and he does not want it destroyed. He has met no one and has talked to no one who says that the road is needed. Why would you want to put a road through there? Who is going to take care of it?

**3. Marlyn Schwartz**, 10445 Dawn Avenue, testified in support. He has lived in the Breezy Acres Addition for 35 years. He developed Highland Subdivision which consists of about 28 families. Breezy Acres has 8 families. About 5 years ago, he delivered Silver Springs, which has 26 platted lots, with potential of two more. They have sold 19 of the 26 lots and the reason he is here today is that he has a buyer for one of the lots that is not platted and it is not platted because of the road proposed to be vacated. When the neighbors heard about the road they were very upset, so making this an outlot was the way to sell lots and keep peace with the neighbors. The owners are on 3 acres or more with no desire to be taken into the City Limits. We like being in the country. We do not perceive the city coming into this neighborhood anytime soon.

Schwartz is requesting the vacation of this street because the neighbors would be inconvenienced by the fact that a lot of additional traffic would be directed past their acreages. He understands why there was a request to dedicate this street originally. That connecting link to allow a second way into the Highland Subdivision was necessary at that time; however, five years ago when they started to develop Silver Springs, they put a paved road—Cromwell Street—an extension of the road that runs through the Highland Subdivision, that ultimately runs out to 56<sup>th</sup> Street, so now there is free circulation to the entire development. There is no need for that road. He has been involved in policing the undeveloped areas in Silver Springs. If that gravel road is put in, it will be a really neat place for the young lovers to go to drink and litter. Schwartz is not sure that he would be able to build the road, at least not while living in the neighborhood because his neighbors are angry about this street requirement. Schwartz respectfully requested that the street

be vacated and that the trees be preserved. There are deer and all kinds of wildlife that will be destroyed with the construction of this street.

Steward noted the barn that is built within the right-of-way. Schwartz clarified that it is a barn that was built many years ago. It does still exist.

**4. Don Bowman**, testified in support. He wants to purchase the subject lot. Bowman has talked with a lot of the neighbors. There is now a petition from virtually everyone in all three subdivisions who do not want the road and do not need the road. This is an anomalous situation where the Planning staff doesn't think the neighbors know what is good for them. This road will not be built, and if it is not built there will be a loss of tax revenue, etc. It makes sense to vacate the road in accordance with the wishes of everyone that lives there. He does not want to own property next to a gravel road.

**5. David Hunter** testified on behalf of the applicant in support. He and his wife own property in Silver Springs. They do not desire the road either; however, there are some technical issues that apply. He noted that Public Works has requested denial of this street vacation, but usually when Public Works recommends a denial, it has to do with utility easements. This applicant would not be opposed to utility easements. Therefore the denial by Public Works would go away. 25-30 years ago it looked good to put the road through. But times have changed; there is no landlocking here whatsoever; everyone has adequate access; it is not necessary for the block lengths to comply. 56<sup>th</sup> Street is a very heavily traveled thoroughfare. To add another access for a direct route onto 56<sup>th</sup> Street is not a positive situation, either. We are envisioning approximately \$25,000 in tax revenue coming off of these two parcels if this street is vacated, of which 70% would go to the Norris School District.

There was no testimony in opposition.

Newman asked staff to review the 30-year history. DeKalb read from the staff report, referring to #9 of the analysis. The regulations require cross-streets every 1320 feet, and every mile section should be a major street. The reason the staff is recommending denial of the street vacation is because the street is required by the design standards. There were waivers granted at the time. Newman wondered if the people knew this road was to be built. DeKalb stated that the road was deeded to the County but he did not know whether the purchasers were aware of the road.

Bayer wonders whether the same regulations should apply with regard to the 1320 feet in the county. DeKalb explained that the rule is applied so that the road is there when the city gets there. This is outside the future urban area in the Comprehensive Plan but is within the green phase.

Hunter referred to the distance between Cromwell and Dawn Avenue, noting that Outlot A takes up over half of that distance. DeKalb recalled that in the original Silver Springs Addition, Outlot A originally consisted of three lots and the road right-of-way.

Hopkins asked what would happen to the barn if the road is built. DeKalb explained that building permits have been required in the county since the early 60's for parcels of 5 acres or less. This barn has no recorded building permit and none has been requested. He does not know when the barn was built because there is no permit. Hopkins wonders if it could have been built before the 60's. DeKalb stated that there was no public record of any discussion about the barn when the creation of the road was discussed in Breezy Acres. DeKalb suspects that it was probably built in the 60's. If the vacation is not approved the road right-of-way is saved. If the road is needed in the future, and if it is built, then the barn will have to be relocated or removed.

Response by the Applicant

Carstens showed a drawing of the administrative final plat that was submitted with this application. This plat takes care of all the subdivision issues that arise with this street vacation. This completes the subdivision. This is the last piece of the puzzle on 320 acres. He believes that the barn was constructed at the time the house was constructed in the 60's.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 12, 2000

Duvall moved to approve, seconded by Hunter.

Duvall is happy that all of the neighbors have signed the petition. They do not want the road.

Newman commented that the Commission is always hearing that we never plan far enough ahead. Just because we don't vote to vacate does not mean that the road goes in. She wants to retain the right to have that road if needed in the future. It is good planning for 30 years from now.

Hunter commented that the property is fully developed so we don't have the situation where there is other property where more streets will be needed. These are not city streets and the properties are all more than three acres. With the final plat, there is no further development which would require the road.

Steward stated that "final does not mean final". If this becomes annexed (and it is conceivable to envision because of its proximity), then we have a nonconforming circumstance in lots that can be further subdivided. Just because they are divided on a

map at this point does not mean that the public safety issues and transportation issues won't be greater because of other actions of other owners. He will vote against this on the basis of principles.

Taylor stated that he tends to agree with Newman because we are definitely interested in long term planning and not just thinking about the present. Taylor would like more clarification and more insight on what the staff is attempting to do. He is caught in-between.

Bayer believes the property will be developed someday, but he also believes the market place will dictate how it will be developed and that it will not be developed into residential type housing without a plat coming through and without a plan between the property owners today and the Planning Department of the future to determine the appropriate street layouts. There is a ton of land available for cross-streets when a plat is developed for this area. There will be a whole new set of plans and discussion to dictate placement of the road. We have numerous occasions where there have been roads planned and platted and then moved in later discussions of the final plat. Vacating this street does not handcuff planning in the future. It allows some nice development and gets some tax dollars to the Norris Public School district. It could become acreage within the city.

Hopkins thinks that there are different areas of town where there is more land around the houses. We have a tendency to not have too many straight streets. The straight line here is not as imperative to her.

Motion to approve carried 6-2: Hunter, Duvall, Hopkins, Krieser, Taylor and Bayer voting 'yes'; Steward and Newman voting 'no'; Schwinn absent.

**COMPREHENSIVE PLAN AMENDMENT NO. 94-46;**

**CHANGE OF ZONE NO. 3221;**

**SPECIAL PERMIT NO. 1822;**

**SPECIAL PERMIT NO. 1823; and**

**PRELIMINARY PLAT NO. 99028,**

**LINCOLN BALL PARK,**

**ON PROPERTY GENERALLY LOCATED**

**AT NO. 6TH AND CHARLESTON STREETS.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:** January 12, 2000

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

Planning staff recommendation: Approval of the Comprehensive Plan Amendment and change of zone, and conditional approval of the special permits and preliminary plat.

Jennifer Dam of Planning staff submitted comments from the Natural Resources Commission questioning whether all applicable floodplain development ordinances will be followed and they were not clear whether existing and proposed curbs and gutters were included in computations. The NRC also wanted to know how the city would assure that no additional development would occur on sites a, b, c and d

Dam also submitted a letter in support from the Chair of the Pedestrian Bicycle Advisory Committee and a memo from the Health Dept. regarding the ballpark lighting. Their only concern is potential for buried waste materials in the area being uncovered by installing the lights.

Proponents

**1. Ann Harrell, Aide to the Mayor**, appeared on behalf of the City which is one of the three partners in this project, and introduced representatives of NEBCO and the University of Nebraska, the other partners in this project.

**2. The Representative of NEBCO** stated that this is the first public public private partnership ever formed in Lincoln to put together a project of this size. One key focus of the project is to create a park within a park. The partnership with the University and the City to create a baseball complex as well as softball complex in a practical facility with multi-uses will provide a great architecturally significant gateway into the City. It will create a new summertime venue that will have a great affordable family entertainment value for Lincoln. It also gives a strong complement to downtown redevelopment and the Haymarket District with the connecting points with downtown, UNL and the Haymarket Area. An economic impact statement was prepared, reflecting, on an annual basis, a 1.8 million dollar impact to the local economy from local wages, a 4.3 million dollar economic impact; 5600 room nights will be generated from the minor league operation; 2.9 million dollars in taxable sales; and an opportunity for students and retirees with 100 jobs generated each summer.

**3. Joe Selig, UNL Athletic Department**, testified in support. In 1994, the University developed a long term facilities master plan for the Athletic Department. The first phase was completed this fall with the Memorial Stadium expansion and skyboxes. During the master plan analysis, it was determined that we needed more grass practice fields and improved baseball and softball facilities. They determined that the best solution would be to move the baseball facility. When NEBCO approached the University about partnering in this facility, UNL was delighted and asked for the opportunity to move softball there as well. The benefits are numerous, including a facility this close and adjacent to campus (remote facilities perform a function but are not as convenient for the student athletes); the facility will greatly assist recruiting and building one of the premier athletic programs in the nation; and it will allow Lincoln to host NCAA regionals. This project will only complement what we have done with Memorial Stadium and enhance and beautify this gateway to the City. It will also continue to assist in the health and vitality of Downtown.

**4. Patrick Phelan**, Principal with the DLR group and project manager, testified in support on behalf of the design team. He showed some images of the proposed project with John Olsson of Olsson Associates assisting. The major components of the project are baseball, softball, practice fields, the Public Works facilities (which currently exist on-site on the south end and will remain); the pedestrian connector to the Haymarket area; and the bike trail connection along the Salt Creek dike. The baseball stadium will initially consist of 4706 seats, with additional 1500 berm seats located along the baselines and outfield. The softball facility will have 1500 fixed seats with additional 500 berm seats. There are 2,000 parking stalls planned for the facility. The key design concepts are: "A park within a park"-spectators are able to circulate around the park and view the action from various angles without exiting the complex; conduciveness to family oriented activities; and a link between the UNL campus and the Downtown area.

**5. Scott Opfer of the Public Works & Utilities Department**, testified in support. The city was asked to conduct three different traffic studies, which were done by Olsson Associates.

--The first study was to look at the feasibility of putting in a vehicular bridge from this site to the Haymarket. The study showed that we would be dumping 5,000 trips of local traffic daily into the Haymarket based on population distribution, etc. That means 500 vehicles at peak hour and this would clog up all the intersections at 8<sup>th</sup> & S, P, and Q. It also affects the parking availability in the Haymarket which relies heavily on their on-street parking. It was determined that it was not feasible to put in a vehicular bridge into the Haymarket. Olssons was asked to contact other cities that had similar situations. Unfortunately, they did not find any.

--The second study was an origin destination study on Charleston Street. One of the major concerns of the neighborhood was the affect of the traffic on Charleston St. This study tracked license plates pulling onto Charleston from Sun Valley and determined where that traffic was going. They found that about 60% of the trips on Charleston were cut-through trips--people that live west cutting through to go east. The major reason to verify this was to help design the access to the ballpark. That is why the access is proposed to be moved roughly 700-800 feet south so that we don't provide an easy way to cut-through traffic. As part of that study it was also determined that 25% of the trips are generating to the tow lot and to the current Engineering Services building and the maintenance facility of Public Works. Two out of those three facilities will be gone with this project, so it will remove quite a bit of traffic from Charleston Street.

--The third study involved the effect of the events on traffic. The consultants worked with the Lincoln Police Department and their experience with UNL events and they are fairly comfortable that we can handle 2000 vehicles coming in and out of that ballpark. We will be overcautious--we are going to staff with off-duty police officers at three or four signalized intersections, the main one being the entrance to the

ballfield at relocated Sun Valley & Charleston, Sun Valley & West O and probably 11<sup>th</sup> & Cornhusker. Message signs will also be implemented. Charleston Street will be closed off prior to an event and at the end of an event to prohibit people cutting through that neighborhood.

**5. John Cambridge of Olsson Associates** discussed the floodplain issues. The entire complex is located within the flood fringe of Salt Creek. There are three regulatory issues: 1) buildings elevated 1' above base flood elevation; 2) making sure there is a no rise condition for the proposed bridge access; and 3) addressing the floodplain storage issues in the flood fringe. In developing this project, the developers have minimized the amount of imported fill by lowering the areas that can be lowered and raising those areas that are required to be raised. There was an opportunity to transfer credit for allowable fill on adjoining city-owned property for this project.

To make sure that fill does not occur, there will be a conservation easement prohibiting further development on that property. All of the fills have been calculated to the top of the pavement.

**6. Kent Seacrest** testified in support on behalf of the partnering group. He discussed the affects on the neighborhood and how they worked with the neighbors. The distance from the stadium to the closest residence in the North Bottoms Neighborhood is measured at 600'. There will be a berm at I-180 30' high in between that distance. The North Bottoms consists of 39% home ownership and rental is the balance of 61%.

The neighbors were concerned about the lighting. Seacrest stated that there is a condition in Special Permit 1823 that requires compliance with the city's outdoor recreational lighting standards and those standards are in the staff report. There is a specific design standard that requires that no outdoor recreational facility shall be illuminated after 12:00 midnight except to conclude a specific activity in progress. The reality is that most of the baseball and softball games of the University are played during the day. The Northern League games generally start at 7:00 p.m. The only intentional double-headers would be in the event of a rainout. The professional engineers indicate that this project can meet the lighting standard conditions.

Seacrest then stated that all conditions of approval are agreed upon. There are no amendments being requested.

Steward noted the specific reference to the entrance to the City--"a park within a park"--which would suggest visual language from those words that this is going to be landscaped in some interesting or distinctive way. Is it possible to imagine that even the parking lots may have landscaping? Seacrest acknowledged that it is the intent to have that landscaping in the parking lots and in the perimeter open space. They will want to

screen the Public Works building. There will be heavy landscaping between the stadiums. A water fountain is envisioned in the cul-de-sac. These amenities will be quality. They are not empty words.

Newman noted that the Health Dept. requested a no net rise and she wondered whether this was considered. Is it possible? Where would the water go if it does flood? Seacrest stated that they did look at the no net rise and it added unbelievable cost to the project and it was concluded that it would not be feasible.

John Cambridge of Olssons stated that this project does meet no net rise for the bridge itself and it actually improves the conditions because of the added structure underneath that bridge. Upstream from the bridge the floodway elevation is reduced by about 3/10ths, but they cannot make the no rise for the flood fringe; however, the project does meet the 15% recommended maximum fill.

Seacrest did not have a cost figure for the no net rise. It's an old rubble field. The DEQ likes this project because of the way they propose to sculpt the property to minimize any sensitivity of disturbing old rubble. Encapsulation is what they believe to be the appropriate way to go.

Support

**6. Brad Korell, President of NBC and current chair of DLA,** testified in support. The DLA board has had a presentation from the developers and is very much supportive of this project. It has an economic benefit for our community with new jobs, and with that comes new revenues which are taxable and provide a tax source to our community. It provides an entertainment venue that Lincoln is ready for. It is designed for family entertainment. The project has been well designed and supports and integrates well the existing design plans for the UNL main campus and integrates well with the Haymarket district. There is a pedestrian walkway from the stadium to the Haymarket which has been deferred. The DLA supports this walkway to the Haymarket area and would rather it not be deferred. The DLA encourages that the pedestrian walkway be completed as soon as practicable. The DLA also believes the unique partnership is exactly the right type of partnership to make these projects happen. It is unique and a foundation that serves well for this type of project. His impressions are that Mr. Abel is doing us right. He has a reputation for doing things quality. Korell had a conversation with Mr. Abel and his goals are "fun" and "affordable". He is very intent on making sure this works for families.

Steward expressed concern about the deferment of the pedestrian connection into the Haymarket as well. If it is deferred very long, we lose a great psychological advantage for marketing the downtown connection. He asked whether there might be possibility for some interim transport shuttle connection from Downtown that might be considered. Korell believes there would be some interest in considering that activity. The DLA had not thought of it but they would be glad to participate in any study that the city might do.

Opposition

1. **Terry Kubicek**, 1800 S. 53<sup>rd</sup> Street, appeared not so much in opposition but to offer a word of caution. When public infrastructure is located in floodplains that cannot meet "no net rise", it puts someone else at risk. It sets a bad precedent. How can the City or the County require private developers to meet a no net rise or no net loss if the city itself does not meet the same standard? None of the calculations are based on a fully urbanized condition. If this was done, we might well have significantly higher flows that might inundate this facility, its parking lot or ingress and egress. It would seem prudent for that kind of modeling--a fully urban condition. This would give a greater standard and margin of public safety. He does not like to see fill in floodplain. He likes the flood storage. It is important for Lincoln. If we are going to locate the facility, then we ought to raise it to keep it out of harm's way. In raising it we put more cap over the rubble or debris, which should gain a gold star from DEQ. Kubicek cautions about public safety. He supports the University, but "let's not do it at the risk of public safety."

2. **Frank Sidles**, stated that he is not in opposition but he is not sure where he fits in. He is the President and owner of **Capital Contractors, Inc.**, which has been located in this area since 1927 and Capital Steel located there in 1951. They have been doing business in this community for that period of time. They fabricate steel for heavy highway construction, principally bridge construction. They bring the steel by rail. It all comes in on the BN; it is off-loaded with overhead cranes and taken into shops and then stored in back. When they get ready to transport they use a third party transporter. They used to transport it down 9<sup>th</sup> Street over to W Street, then down 8<sup>th</sup> Street and circle around and get on No. 6<sup>th</sup> Street. This became a nuisance for the people in the area because the steel girders encroached on people's yards as they rounded the corners, etc. For the last 15-20 years and even longer, they rented ground on the ballpark property and have been going directly west down X Street and entering onto No. 6<sup>th</sup> Street. The trucks would have a direct shot going right down X Street and turn and go onto No. 6<sup>th</sup> Street. Sidles and Capital Steel support this project, but he hastens to add that they are concerned about the ingress and egress for their trucks as this development proceeds. He has talked with the Mayor, Public Works, and Olssons and everyone has been very congenial about providing outlets for Capital Contractors. He believes the railroad is going to be selling the property to the city. It is important that Capital Steel have some kind of a written agreement with the city that will allow them to have direct access onto 6<sup>th</sup> Street. If they don't have some kind of access, they will have to go back to transporting through the area, which no one wants. The business of Capital Steel is solely dependent upon bringing in steel and trucking it out. They need to have the ingress and egress. There is definitely much less congestion in that whole area if they have access directly west and onto 6<sup>th</sup> Street. This project needs to understand that when the railroad is negotiating with the city, they are also negotiating that part that is directly east of 6<sup>th</sup> Street which affects Capital Steel. This directly impacts their business.

Bayer asked Sidles whether he has approached the city or the partners and discussed it directly. Sidles indicated that he has talked with Charlie Meyer, Public Works, the Mayor, and Olsson Associates, and everyone has been very congenial and they've gone through some redesign processes for radii to get in and get out. But if at some point those radii break down, Capital Steel wants to be on record that they have access to get out. They could do it through the North Bottoms area without great degree of difficulty, but they would prefer continuous access the way they have it now.

Staff questions

Steward did not want to let the testimony that we're somehow developing a double standard circumstance go uninvestigated. This is a distinct use facility that more than likely will not be used in a flooding condition, so public safety is likely not of a major consequence in and of the facility itself. Because of berming, landscaping, parking lot coverage, grass fields, etc., there is the potential for a certain calculable storage capacity affiliated with a development of this size. Have we in our engineering taken those characteristics into account? John Cambridge answered "yes"--that was part of going above and beyond the standard floodplain regulations--preserving 85% of that area available for flood storage in the event of either an event beyond the levies or a rain in the Salt Creek area. 85% is still available for storage of flood waters.

Steward then commented that because of the distinctive nature both from an engineering standpoint as well as functional use standard, it would be accurate to say that this is not a double-standard--that the no net rise does not in this case pertain as it would in some other fully habitated development concern that the city might have. Nicole Fleck-Tooze of Planning staff responded that the nature of the development is certainly different than some other urban type development. It does not meet the no net rise--it has been discussed--but it does goes above the minimum requirements that are in place today.

Response by the Applicant

Seacrest stated that the community standard is that you can fill. There has been discussion whether or not we should go to a more appropriate standard such as no net rise, but that is not the standard in this community. The only project where we have been no net rise was the Horizon Business Center and that was not required by the city but was voluntary by the developer.

Bayer noted that there were no neighbors testifying in opposition today. Seacrest stated that they have had many, many meetings with the neighbors. These meetings work. They heard from the neighbors on lighting, noise, traffic, Charleston Street, etc. He does not want to leave the impression that the neighbors are content but it does show that they have worked hard with the neighbors and are making progress. In those meetings with the neighbors, the development team has pointed out some benefits such as the extra parking for football game days. A lot of that parking is being relocated. They have also told the

neighbors that when they move the tow lot they will amend the contract with the towers and not allow them to go down Charleston Street. There have been efforts to show some positive aspects.

Steward asked Seacrest to respond to the concerns of Capital Steel. Seacrest indicated that the intent is that this project will be a city facility. They do not need a special permit in the I-1 district. Mr. Sidles has been told that he can negotiate an easement underneath I-180, but they have to sit down and negotiate it. The city has expressed willingness to do that direct route. As far as the radius, the design radius on the proposed new road network exceeds the radii of our community on any other road. Those details are in the engineering phase and they can be negotiated.

Public hearing was closed.

**COMPREHENSIVE PLAN AMENDMENT NO. 94-46**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** January 12, 2000

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

**CHANGE OF ZONE NO. 3221**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** January 12, 2000

Duvall moved approval, seconded by Hopkins. Hopkins commented that in general, this is exciting and she is pleased to see the public and private partnership and how many meetings have been conducted in working out all the details.

Bayer applauded and congratulated the proponents for their work and willingness to work with the neighbors.

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

**SPECIAL PERMIT NO. 1822**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** January 12, 2000

Duvall moved approval, seconded by Krieser.

Hopkins advised that the Commission did check on when the alcoholic beverages would be sold and it is not all of the time and not at the UNL games.

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

**SPECIAL PERMIT NO. 1823**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** January 12, 2000

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

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

**PRELIMINARY PLAT NO. 99028, LINCOLN BALL PARK**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** January 12, 2000

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

**CHANGE OF ZONE NO. 3216;**

**MISCELLANEOUS NO. 99011 AND MISCELLANEOUS NO. 99012,  
FOR AMENDMENTS TO THE ZONING ORDINANCE; LAND SUBDIVISION  
ORDINANCE AND DESIGN STANDARDS REGARDING  
REGULATIONS.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** January 12, 2000

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

Proponents

1. **Don Taute** appeared on behalf of the applicant and referred to a memo sent to the Commission on or about January 3, 2000, outlining some changes to the proposed language that were a culmination of the comments, questions and concerns raised at the earlier public hearings on these items. Commissioners should have also received a memorandum summarizing the discussions which were held at a meeting on December 29<sup>th</sup> between staff and Messrs. Hunzeker and Kubicek. Certain amendments have been incorporated in the draft ordinance as a result of further discussions and negotiations. Taute reviewed the discussions and changes:

--There was a lot of discussion on the definition of minimum flood corridor. The original definition has not been changed because the staff felt it was a reasonable starting point for defining the flood corridor. You have heard proposals from Hunzeker that it be a minimum width sufficient to handle a 100-year storm and in some instances that could be less or more than what is contained in the definition. Kubicek is advocating a minimum 100' corridor plus 10 times the channel width and

this would substantially be larger than what is proposed. Because of the varying views, staff determined that the proposed definition is workable and reasonable, being tied to a standard that is at least defined and used in certain circumstances by the Corps of Engineers.

--There was considerable discussion about what overland flow routes meant (26.15.020(b)(7) and (8)). They have tried to define how the overland flow routes related to the overall storm drainage system.

--The final recommendation eliminates certain language with respect to subsection (c) of 26.15.020 regarding trees and shrubs and mitigation issues. The language "and adjacent to" has been eliminated and the reference to "riparian vegetation" has been eliminated due to definition issues. The staff agreed to establish a minimum one-to-one mitigation ratio, at least as a starting point. In that same section, it addresses the trees and shrubs utilized for mitigation purposes, meeting the standards of the city's plant and materials list. Some of the discussion related to utilization of native species and again because of definitions the staff did not want to tie it into a specific definition because that might not always be the best thing to use for mitigation purposes.

--With regard to overland flow routes, 26.19.031, the proposal incorporates the same language as incorporated in 26.15.020 dealing with overland flow routes. The new language attempts to better define that in relation to the lowest opening in buildings adjacent to those corridors to have that protection aspect dealt with.

--With respect to 27.081.010 on land disturbance, there was a lot of discussion on the agricultural aspects and the proposal attempts to expand that definition with respect to what agricultural practices would be exempted from the application of the land disturbance permit. Hunzeker raised issue with respect to certain properties that have already been through the subdivision process and what would have to be done to comply with these provisions. There is an exemption for those types of situations where they would not have to apply and deal with this particular requirement in a land disturbance situation.

Taute advised the Commission that an honest attempt has been made to incorporate the concerns and issues that have been raised.

**2. Nicole Fleck-Tooze of Planning staff** responded to a letter received from the Wachiska Audubon Society. It proposes some specific provisions to the language, that the base width used to measure the flood corridor be increased from 60' to 120'. In general, we would expect that an increase in the buffer width would provide some benefits. The 60' base width is based on the recommendations of the stormwater advisory committee and the formula used by the Corps of Engineers. Wachiska also proposes a 1-acre threshold for grading and drainage. The 2-acres was recommended by the advisory committee.

NPDES regulations which were published in December will be reducing the federal threshold from 5 acres to 1 acre and those would need to be met within 3 years, if not sooner. Lincoln may need to modify its requirements in the future. Audubon proposed specific language relative to vegetation to be preserved. The current language includes native vegetation but it is not limited to native species only. Audubon also suggests extending the minimum flood corridors to areas within FEMA designated floodplain. Fleck-Tooze advised that this would be possible.

Taute further commented that he would not have any opposition to establishing an effective date for the changes in this ordinance so that applicants would not have to go back and make changes to plats already in process. He would consider 30 days beyond the effective date of the ordinance.

Support

**3. Russell Miller**, 341 So. 52<sup>nd</sup> Street, owns commercial property in the South Bottoms in the floodplain. He is in favor of this ordinance. The Beal Slough report stated that runoff into Salt Creek is 80% more than what it was in 1986. That extra water would increase the flood damage to the South Bottoms and other areas of Lincoln. Does the Home Builders Assn. want to go on record that they approve of that? It makes him angry that his costs go up because of flood insurance. Do they want to increase the flood damage to an existing development? Their action on Beal Slough shows that to be definitely what they want to do. Why would any home builder want to make a substandard development? But that is what they did in Beal Slough by not following the regulations. The substandard development of Beal Slough is going to cost the taxpayers. If these regulations had been in place, the city would not have to find the money to fix their substandard developments.

The word on the street is that the developers have hurried to get a lot of projects on the books in order to avoid complying with these regulations, and thus they could continue making substandard developments that increase flood damage to the other areas of town.

**4. Tim Knott, Wachiska Audubon Society**, testified in support. The Audubon Society is very much concerned about the narrow channel minimum flood corridor that is specified in the proposed changes because of the fact that just about everyone has told us that 100 to 150 feet is what is required to do an adequate job of filtering runoff, pesticides, etc. Most of the wooded stream corridors in Lancaster County are on the average of 180' wide. If we go with the 60' wide channel we will lose a lot of valuable wildlife habitat and a lot of buffer that could improve the quality of water and do a good job of storing flood water in the future. He agreed that the best way to delineate channel widths is to do a full delineation of the 100 year floodplain in fully developed condition. An interim alternative

might be to have a stepped or graduated setup, i.e. 150 acres or less might have a 60' wide channel; anything from 150 to 640 acres could have 100' wide channel; and anything that drains an area the size of 640 acres plus could have 150' wide channel. This would assure that some of the valuable wildlife habitat might not be eliminated.

**5. Mark Hunzeker** appeared on behalf of the **Home Builders Association of Lincoln and Lincoln Board of Realtors**. He believes that the majority of the changes proposed are beneficial and improve the ordinance substantially and avoid interpretation in a way that could unnecessarily increase costs without any real benefit to anyone. Both of his clients are very concerned about flood damage to anyone. They do not advocate development that is going to harm anyone downstream, but they do take the position that everything you do in the way of additional regulation of the process of providing lots and housing costs money. We have been experiencing double digit increases for several years now and it needs to be considered in additional regulations. This package on stormwater will in fact add somewhere in the neighborhood of \$750 to the cost of each dwelling unit that is developed. That is a very real cost to a first time home buyer that may be the difference between being able to buy a home and not buy a home.

The concerns of his clients have been the potential for arbitrary application of some of the things that don't have much to do with stormwater control and have more to do with environmental regulation that is outside the scope of what is considered to be the city's zoning jurisdiction. The minimum flood corridor is not necessarily a flood control measure. He suggested that a flood control corridor be established which is sufficient to convey the 100-year storm that would flow into that drainageway. To the extent that that exceeds 60', fine, but to the extent that it is not 60' wide it seems that we ought to be able to minimize the required channel in a way that we have done in the past and to not necessarily be required to mitigate for every piece of vegetation that may be in that corridor. You are setting up a situation where you are encouraging land owners to evaluate these areas where it is very likely that a rational development of the site will require some grading or change in topography in some areas and to simply take care of making those changes before a subdivision application. He believes this will happen much more than it does today as a result of arbitrary imposition of artificially wide channels and arbitrary regulation of what is being called riparian vegetation and what most of us would refer to as very undesirable vegetation if it were in our back yard. They are undesirable species which are replaced by more desirable species. In most cases, homeowners will do it if the developer doesn't.

Hunzeker also observed that developers increase tree coverage in Lincoln, Nebraska. We are increasing tree coverage as we develop residential property in Lincoln. We are a little nervous about what a "channel" is.

At a minimum, Hunzeker suggested that 60 days from the effective date of the ordinance

is a time which will permit the process to go on in an orderly fashion. A preliminary plat generally takes at least 30 days to prepare and there is a 6-week period of review after it is originally submitted.

Taylor asked for the meaning of the word “riparian”. Hunzeker did not know the definition and he noted that the revisions as presented today have removed that word from the ordinance. Taylor observed that the dictionary states it to be vegetation along banks. It is unlike lawn vegetation and it does a little bit more for preventing erosion or the loss of land. His research proved to him that that type of vegetation is very important for saving our soil. One of the biggest problem about development is the fact that we’re putting in lawns and by doing that we are creating a problem itself. He is concerned about excluding riparian vegetation from this ordinance. As far as “mitigation” it seems like we’re turning positive terms into negative terms to do something. He is just kind of uncomfortable about it.

Hunzeker suggested that most of the areas that we are going to be dealing with are basically drainageways in cornfields where there is not a lot of natural vegetation and it is not generally 60' wide.

**6. Terry Kubicek**, appeared as **President of the Friends of Wilderness Park**. He read from page 67 of the Beal Slough study referring to the minimum 30' width of each buffer zone and where possible, the buffer zone should be 100' or more, etc. That study also states that opportunity be provided for future multi-purpose use of channel corridors. This is an excellent standard to reinforce. His suggestion of channel width plus 100' plus 10 times the depth is to preserve more of that corridor for trails and vegetation that is there and to be closer to the 100-year frequency floodplain that should be delineated.

There is one item that is extremely critical. The Corps of Engineers' standard that is touted to be their standard for floodplains is in fact not. He believes it is bordering on fraud and it increases public risk, public safety and a false sense of security and safety. The 60' width comes from a wetlands standard for channelization. It is not a floodplain or floodway standard at all. He checked with the Corps in Omaha. They do not recognize any such standard for floodplain management. He talked with the Corps office in Kearney and they indicated it to be more of a general buffer standard and not for floodway and floodplain management. The SCS would use TR55 standards. The standard that is before the Commission creates a false sense of security in that it reflects a 100-yr frequency storm. Frankly, it does not. Kubicek is asking for a floodplain delineation to provide a standard and a safety margin. Floodplain studies take a lot of time to do. He does not want to put developers at risk so let's look at an interim standard that is more reflective of the situation in Beal Slough, which gets closer to taking the existing bed width plus 100' plus 10 times the depth, and use that as an interim floodway corridor while we catch up with the full modeling.

Response by the Applicant

Nicole Fleck-Tooze discussed making the minimum flood corridor width the same as the 100-year flood corridor. One issue is that there is a great difference between making that based on the existing 100-year versus a post-development 100-year flood width. The proposal, as it reads, preserves some area along the channel for conveyance of flood water and has some water quality purposes to it. The existing vegetation that is proposed to be preserved certainly has benefits in erosion control. Another issue is that when a subdivision is submitted, there is a requirement that the 100-year flood width be delineated and buildings do need to be protected from that 100-year flood level, but it does not require preservation of vegetation in the entire width.

As far as whether the vegetation should be preserved, Fleck-Tooze suggested that if it is preserved to the maximum possible it does have some benefits from a stabilization standpoint. The minimum flood corridor width would apply only to channels that are large enough to drain 150 acres, so it would not apply to a ditch further upstream.

Taylor wanted to know what types of riparian vegetation exist. Fleck-Tooze stated that there could be a variety. We're not talking about cornfields. The channel would need to be large enough to incorporate the 150 acre drainage area.

Steward believes that there is tension between a prescriptive specification and a performance based specification here. Personally, he is more in favor of performance based specification wherever possible because what we are dealing with is variations in terrain, vegetation, rainfall, elevations and stream flow, and a strict measurable corridor seems to fly in the face of understanding the way nature works. It's like building highways rather than respecting nature. But he also assumes that a prescriptive specification is easier to administer and we err sometimes on the side of conservancy and other times on the side of undersizing. Obviously, the proposal comes with a recommendation for a prescriptive distinct corridor. Is there a middle ground? Can we move closer to a performance based approach and have a better chance of responding to natural events than this strict corridor? Steward is uncomfortable with the 60' width. He does not believe in the worst case circumstances that it is enough. But he doesn't know what is enough. Wouldn't we be in a more defensible position if we followed the Hunzeker proposal to hold developers to a preconstruction definition of the 100-year floodplain corridor? Fleck-Tooze responded, "yes". If it were related to the pre-construction floodplain limits it would relate more. Partly, the formula allows the ability to have a prescription for areas where you don't yet have floodplain limits defined, e.g. while the subdivision process requires that those limits be established, if they are in areas that have not been mapped, you don't know. It would be important to also determine whether you were looking at pre-development versus post-development floodplain. Pre-development would relate more to the floodplain issues.

Steward believes that the whole idea is to allow the natural functions to take place as much as possible. Every time we interrupt that system we increase the chances for community flooding. Fleck-Tooze concurred.

Bayer is relying on the expertise of the staff, the advisory committee and other professionals. At a briefing back in October, the staff showed some pictures of some flooding. Will this ordinance prevent that in the future? Fleck-Tooze stated that to be the intent.

Hunter noted that the storm that occurred in Beal Slough was not a 100-year flood. She wanted to know what year storm that was and whether this ordinance will protect us in that situation and the even bigger storm. Fleck-Tooze believes that was somewhere between a 25 and 30 year storm event so this would go beyond that and protect for the larger 100 year storm event.

Hopkins thought the 100-year flood was the line. What is the most you could anticipate? Is 100 enough that we're in the safe zone? Fleck-Tooze stated that the 100-year is the national standard for regulation but FEMA does recognize that there are 500 year floods.

Steve Masters of Public Works added that regardless of what we've selected we want to protect and preserve and manage in some way. No matter what, we have an education challenge in front of us and we need to work closely with developers, builders and architects to develop an understanding, but whatever we pick there is a challenge presented to us.

With regard to the cost to individual homeowners, Hunter believes it is always easier to think about the cost of repairing something later. When she considers \$750 as additional cost of a home, it doesn't seem like an awful lot of money to pay when you start looking at 15 million dollars in fixing something later. She is interested in the process of paying our dues up front. That 15 million dollars is what we're all paying for one specific area. She would rather have paid the dollars up-front and not have her basement flooded and her insurance going up.

Public hearing was closed.

**CHANGE OF ZONE NO. 3216**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 12, 2000

Hopkins moved approval, with revisions as submitted by the staff, seconded by Newman.

Taylor concurs with Hunter. We do not want to be cheap on the front end and have to pay through the nose on the back end. We would be doing our community a disservice by being penny conscious and dollar foolish. We need to look at the long term. He wants to do what's necessary for the vegetation, corridor, etc.

Duvall expressed concern about the riparian and natural vegetation. Quite a few of these corridors show up with volunteer trees and shrubs and a lot of the native vegetation is pretty bad stuff. We are trying to stress maintaining what has been there when really what is there is short-lived, weak and undesirable.

Steward thinks this ordinance brings up a fundamental set of values. Do we change everything by our standards or do we respect natural systems that came long before? There are no natural disasters. As long as we continue to disrespect everything about the natural system we will continue to suffer the consequences. We are in a very timid way saying within certain corridors we do the best we can to respect the natural vegetation that exists. It may not be the most beautiful, but it's probably been there a long time and it's serving a water/land function. He encourages that we not stray even further from the riparian principle.

Newman believes that is why we have "mitigation" included. She agreed with Hunter and Taylor as to the cost for a new home. Russell Miller's insurance for one year for floodplain insurance was \$600. She does not believe the added cost is an issue.

Taylor would have preferred to have "riparian vegetation" left in the ordinance. He agrees that we need to work with our natural resources better and not short-circuit things artificially. Let's look at substance more than form.

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

**MISCELLANEOUS NO. 99011**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** January 12, 2000

Hopkins moved approval, with the revisions as submitted by the staff, seconded by Newman.

Steward moved to amend 26.07.126, line 14, page 1, to change 60' to 100', seconded by Newman.

Steward knows the 100' is as arbitrary as what he has come to believe that the 60' is. He would prefer the prescriptive approach but he is convinced that it is minimal and he would hope that at least with this discussion it would suggest that this definition needs more work. He does not wish to hold up the entire proposal on the basis of the debate and discussion that surrounds this issue. In the meantime he would rather err on the side of greater rather than less. He has the intuitive reaction that the 60' is too little and does not go far enough. At the very least this amendment will increase and enhance the discussion at the City Council.

Motion to amend 26.27.016, Minimum Flood Corridor, from 60' to 100' carried 6-2: Hunter, Steward, Hopkins, Krieser, Newman and Baylor voting 'yes'; Duvall and Bayer voting 'no'; Schwinn absent.

Steward made a motion to amend Section 13 on page 13, line 16, that this ordinance shall take effect and be in force 30 days after its passage and publication according to law, seconded by Newman. Steward's rationale is that we've been at this almost two months; the task force has been at it longer than that; the whole community has been on notice that there are changes coming and he does not believe it is appropriate to allow a longer grace period or grandfathering than would be essentially fair and he thinks 30 days is fair.

Taute suggested the same amendment needs to be made in Change of Zone No. 3216 and Miscellaneous No. 99012.

Motion to amend Section 13 on page 13 carried 8-0: Hunter, Steward, Duvall, Hopkins, Krieser, Newman, Taylor and Bayer voting 'yes'; Schwinn absent.

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

Hopkins made a motion that if there are any like changes that need to be made to any of the three applications based on the amendments made to Miscellaneous No. 99011, that they also be incorporated into Change of Zone No. 3216 and Miscellaneous No. 99012, seconded by Steward and carried 8-0: Hunter, Steward, Duvall, Hopkins, Krieser, Newman, Taylor and Bayer voting 'yes'; Schwinn absent.

**MISCELLANEOUS NO. 99012**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 12, 2000

Hopkins moved approval, with the appropriate amendments to parallel the changes made to Change of Zone No. 3216 and Miscellaneous No. 99011, seconded by Hunter.

Bayer applauded all who have been involved in this process. The Commission has to rely on staff, the citizens and everyone involved and he thanked all for their efforts.

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

There being no further business, the meeting was adjourned at 7:00 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on January 26, 2000.