

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, March 22, 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 Greg Schwinn (Cecil Steward absent). Mike DeKalb, Steve Henrichsen, Ray Hill, 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 March 8, 2000. Motion to approve made by Duvall, seconded by Krieser and carried 8-0: Bayer, Duvall, Hopkins, Hunter, Krieser, Newman, Taylor and Schwinn voting 'yes'; Steward absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

March 22, 2000

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

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3243; CHANGE OF ZONE NO. 3244; CHANGE OF ZONE NO. 3247; SPECIAL PERMIT NO. 1691B; SPECIAL PERMIT 1713A; SPECIAL PERMIT NO. 1825; PRELIMINARY PLAT NO. 99030, PRAIRIE VIEW ESTATES; and FINAL PLAT NO. 99055, AUTUMN RIDGE WEST 1ST ADDITION.**

Item No. 1.1, Change of Zone No. 3243, Item No. 1.6a, Special Permit No. 1825 and Item No. 1.6b, Preliminary Plat No. 99030, were removed from the Consent Agenda and scheduled for separate public hearing.

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

Note: This is final action on the Autumn Ridge West 1st Addition Final Plat No. 99055,

unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days following the action by the Planning Commission.

CHANGE OF ZONE NO. 3243
TO AMEND THE SIGN ORDINANCE
IN THE O-3 ZONING DISTRICT.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 22, 2000

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

Planning staff recommendation: Approval.

This item was removed from the Consent Agenda at the request of Bob Norris and had separate public hearing.

Proponents

1. Bob Norris, President of Nebraska Neon Sign Company, requested to correct what he believes to be a clerical error that has occurred in the process of reviewing this application. He has been working on this change for quite a few months and intended to deal only with the O-3 zone. Paragraph (a)(1)(iii) in section 27.69.044 is shown in the proposed text amendment as being stricken. Norris did not intend for this paragraph to be removed from the text. This request is not intended to remove the ability to have the small monument signs in O-1 and O-2.

Mike DeKalb of Planning staff concurred with the proposed amendment to leave paragraph (a)(1)(iii) of section 27.69.044 intact.

2. Mark Hunzeker appeared on behalf of **Union Bank.** They have had some thoughts of proposing a text amendment to the O-3 sign code for some time and frankly, what is proposed in this change is a good change. Hunzeker would, however, like to amend paragraph (d) of section 27.69.044, which refers to the City Council being able to amend the sign regulations in paragraphs (b) 2 and 3. Hunzeker requested to add subparagraph 4 to that language, which is the individual ground sign for each building entrance. As it reads now, this language would allow the City Council to modify ground signs at the entrance to the office park and would allow for modification by the City Council of the size of internal directional signs per entrance, but would not allow for individual signs for buildings within an office park to be modified by the City Council. This language exists in the B-2 and B-5 Districts. O-3 is also a use permit district and he believes the City Council should have the ability to modify the ground sign in front of each building. This would not

permit modification of the size of wall signs. A modification would require action by both the Planning Commission and City Council in order to take place.

There was no testimony in opposition.

DeKalb was not opposed to Hunzeker's proposed amendment as it would be a minor adjustment.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: March 22, 2000

Hopkins moved approval with the two changes as requested by the applicant and Hunzeker, seconded by Duvall and carried 8-0: Hopkins, Duvall, Hunter, Bayer, Krieser, Schwinn, Taylor and Newman voting 'yes'; Steward absent.

**SPECIAL PERMIT NO. 1825,
PRAIRIE VIEW ESTATES COMMUNITY UNIT PLAN,
AND
PRELIMINARY PLAT NO. 99030,
PRAIRIE VIEW ESTATES,
ON PROPERTY GENERALLY LOCATED
AT WEST "A" AND S.W. 10TH STREETS.**

PUBLIC HEARING BEFORE PLANNING COMMISSION: March 22, 2000

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

Planning staff recommendation: Conditional Approval.

These items were removed from the Consent Agenda and had separate public hearing.

Proponents

1. **Ron Ross** of Ross Engineering, presented the application. This project was first before the City in 1979, with 35 zero lot line single family lots. It was approved but was not developed. He understands that there have been some contacts about increased traffic a block to the east on S.W. 10th. The project is 7 acres, which is currently totally undeveloped other than about 8 years ago when the Indian Center did a townhouse development to the south, which is still apartments, taking access off W. Garfield. This development will take access to the south through an agreement negotiated with the landowner on the south side.

Ross further explained that this project is for 34 total units – 16 single family and 18

townhouses. There is quite a bit of relief from the east side of the property. The neighbors are on the west side of S.W. 10th. There are tree masses on the south and west property line which will be retained. There are a lot of volunteer trees that have grown up in the center portion and will be removed to provide access for the roadways that serve this development.

The project shows a 4' sidewalk adjacent to the private roadway curb on S.W. 10th Street. There are two single family lots adjacent to that sidewalk. Over to the west, there are two single family homes that have driveways that take access to the private roadway. The site is tight. There is 25' of relief in the short distance from the east side to the west side. They will take care of that with the grading plan. Again, they have attempted to keep the existing tree mass to the west and to the south. They have tried to condense this development, thus in two locations for maybe 120' they are showing a 4' sidewalk on both sides of the private roadway. There is a design requirement that says the garage door must be 22' from either the curblin of the street or the sidewalk. To save room and not make the units any narrower or shorter, they are requesting a waiver to allow the 4' sidewalk adjacent to the private roadway. They have been allowed to do this in the past. This keeps more open space behind the units in the common areas. They had originally requested a waiver of the sidewalk in these two locations. These are private roadways. They do not believe they need the sidewalk on both sides of the street. This refers to Condition #1.1.2. Ross requested that they either be allowed to eliminate the sidewalks or at least be allowed to keep the 4' sidewalks right next to the street.

Ross also advised that the developer made several attempts to contact the neighborhood association. Unfortunately, they were given a wrong contact and telephone number. Therefore, they have not had a meeting with the neighbors to the east and they are in the process of getting that meeting scheduled.

Ross further advised that the street pattern is identical to what was previously approved by the city. There may be neighbors there that did not realize that a street would come through from A Street and tie into W. Garfield. That was what was originally approved by the city and that is what is being proposed. The developer does not want S.W. 10th to go straight through north and south. They are showing it as a meandering road to keep the speed down.

With regard to the concern about increased traffic on S.W. 10th, Ross suggested that the main entrance is to a public street intersection at S.W. 10th and West A, which is in line with the public intersection that is presently there today. He does not believe the traffic will meander south through the development, but it will drive to West A and then head either east or west down West A. There is an avenue where the people that live within the CUP immediately to the south can access out to A Street going through this project. If

there is concern for increased traffic, they would agree not to connect onto W. Garfield, but they would rather have a back door to the south and access on West A.

Opposition

1. Tracy Sorenson, 854 W. Garfield, is not opposed to the development of this property but she is opposed to this project. Why does this development need to be private? It will splinter and segregate neighborhoods. Private developments fall into disrepair. West Garfield Place just to the south is a 6-year old private development with 30' of unfinished sidewalk and large potholes in the street. When West Garfield Place was proposed, residents along S.W. 9th were concerned about traffic and requested that S.W. 10th be continued to "A" Street. Several large apartment buildings have been built at the end of S.W. 9th and several duplexes and single family at the end of S.W. 9th and S.W. 10th, south of West Garfield Place. S.W. 9th has become a very dangerous and heavily traveled street. This development will not alleviate any traffic from S.W. 9th and will contribute more to it. The residents of S.W. 9th are bearing more than their share of the traffic in this neighborhood. Continuing S.W. 10th straight through to "A" is following sound planning practices.

Schwinn inquired about Trimble Street that shows up on the map. Sorenson advised that S.W. 9th used to be known as Trimble Street and was changed to S.W. 9th.

2. Loetta Johnson, 1411 S.W. 9th Street, testified in opposition. This development needs to be done in a more neighborly manner. Let's forget the private drives. It will increase the traffic on S.W. 9th Street. There has been probably a 75% increase in traffic on S.W. 9th Street since they built the other development. In 6 months, their neighbor's car has been hit twice by hit and run. We are scared to park our cars; we are scared to let children play in the front yards. She is not happy with having a dead-end street in her back yard. We work hard to keep our neighborhoods clean and nice. We have seen significant growth and it is going to keep growing but let's do it in a neighborly fashion.

Johnson also offered that S.W. 9th is a public street and bus route, and there are school buses using that street. S.W. 11th has speed bumps, but it is S.W. 9th that has all the traffic. S.W. 10th should be extended straight through.

3. William Hergott, President of West A Neighborhood Association, testified not necessarily in opposition, but with concerns about the traffic problem. He requested a deferral so that the association might have the opportunity to meet with the developer. The sidewalks are very important. They have worked for years to bring sidewalks into this area. Please do not waive any sidewalks in this area. It would be great to have S.W. 10th built straight through. The traffic speed will also be a problem. There are 20-30 people concerned about this development, but they are willing to work with the developer in the meantime. They are scheduled to meet this Thursday.

Ray Hill of Planning staff pointed out that moving the sidewalk next to the curb is a waiver of the design standards that was not advertised so the Commission could not grant that waiver today. Staff had agreed to waive some of the sidewalks and he is unclear what the applicant is requesting. The applicant has requested that sidewalks not be required between W. Washington and Grassland on the east side of 11th, and staff has agreed to that waiver. Likewise, the staff has agreed to waive the sidewalk on the south side of Grassland Place east of 10th Street.

Hopkins is concerned about what happens to the sidewalk adjacent to the street when the roads are cleared of snow, etc. Hill stated that to be the reason for the separation. There is not the concern about utilities in a private roadway situation.

Hopkins asked whether there is any research on the safety features if the sidewalk is next to the curb. Hill responded, stating that the more separation you have, the safer it would be, of course.

Response by the Applicant

Ross stated that there is no misunderstanding on the two sidewalks being recommended to be waived. It is the two spots where they showed the 4' sidewalks next to the curb that are in question. They want the sidewalk to be adjacent to the curb. If that requires a waiver that delays this project, then they will move the sidewalk 4' and take it out of the interior lot. They do have a sidewalk network system. There is sidewalk access all the way through the development to tie into sidewalks on the south side of A going to existing sidewalks in W. Garfield.

Ross then referred to the Indian Center project. That project served a need in this community. One of the reasons it got a rather strong approval was it provided affordable housing in an inner area of the city. However, some people didn't want that project in their back yard. It was under the direction of the Indian Center. One of the things Ross Engineering did not agree with is the private roadway design standards which allow 3" of asphalt over crushed rock or concrete base. Ross believes this can add increased maintenance. This project does not propose that kind of private roadway. They have full-depth asphalt. These streets will hold up and are allowed by design standards. Public streets stand in the way of the alternative type of development that we encourage throughout the city so that everything doesn't develop in a lot and block grid system. Private roadways will be maintained by the homeowners association.

Ross stated that if the city feels that S.W. 10th needs to come through as a public street, this project cannot be built. A public street requires 60' right-of-way with 25' setbacks. It would totally disrupt this type of development. This is a quality development which will blend into the neighborhood. He does not believe that this development with a vehicular avenue will increase traffic on S.W. 9th. It will actually take some traffic off by cutting through this development. They will delete the connection on W. Garfield if it is believed

that the traffic will increase.

Ross did not believe the nature of arguments warrant delaying this action. They will meet with the neighbors while this goes on to the City Council. They do not want a public street.

Hopkins moved to defer for two weeks, seconded by Newman. Hopkins appreciates the attempt but if they have not met with the neighbors she historically moves to hold it over. If they want to request the waiver to allow the sidewalks to be located adjacent to the street, it can be advertised for hearing in two weeks.

Motion to defer with continued public hearing and administrative action on April 5, 2000, carried 8-0: Hopkins, Newman, Hunter, Bayer, Krieser, Taylor, Schwinn and Duvall voting 'yes'; Steward absent.

CHANGE OF ZONE NO. 3242
FOR A TEXT AMENDMENT TO THE
LINCOLN MUNICIPAL CODE TO ALLOW
PRIVATE SCHOOLS WITH A CURRICULUM EQUIVALENT
TO PUBLIC ELEMENTARY OR PUBLIC HIGH SCHOOL
AS A PERMITTED USE IN THE AG AGRICULTURAL DISTRICT.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 22, 2000

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

Planning staff recommendation: Approval.

Proponents

1. Jacqueline Berniklau, the applicant, operates a private school on leased property at 26th & Saltillo. She owns property at 70th & Saltillo, (11401 South 70th) and is proposing this text amendment to allow operation of her private school in the AG district. Private schools operated by private individuals, churches or other agencies have similar responsibilities and guidelines to follow. She complies with the regulations of Nebraska Department of Education and the majority of her students are contracted by school districts. The text change would allow her school to be relocated at 70th & Saltillo. Although they have no immediate plans to relocate, the current space is leased space so they would like to have this text amendment for security in the future should they deem it necessary to relocate. The name of the school is Berniklau Education and Solutions Team. Berniklau had letters of support from the Department of Education -- Special Education and Approval and Accreditation.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: March 22, 2000

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

CHANGE OF ZONE NO. 3245
FROM AG AGRICULTURAL TO O-2 SUBURBAN OFFICE
ON PROPERTY GENERALLY LOCATED
AT SOUTH 84TH AND OLD CHENEY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 22, 2000

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

Planning staff recommendation: Denial.

Proponents

1. **Brian Carstens** appeared on behalf of the applicant. The subject property is located on the northeast corner of 84th and Old Cheney Road. There is now an apartment complex surrounding this property on the north and the east. This property is located within 1/8 miles of the fringe of the 84th and Hwy 2 subarea plan. This request is to change the zoning to O-2 to allow potential office/medical use. There will be 120' of right-of-way at that intersection and it will be close to the house on the south side.

Carstens stated that they would have requested O-3 with a use permit, but this site is just under an acre and they would need 3 acres for O-3 with a use permit.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: March 22, 2000

Duvall moved approval, seconded by Schwinn.

Duvall believes this is an area that will be built upon. We had this discussion about two months ago and this change is a continuation in the same direction.

Schwinn believes that on this corner the O-2 is probably more appropriate. He does not want to see a Kwik Shop or anything like that, but he believes the O-2 is appropriate and he will support that change.

Bayer stated that he typically supports this type of change, but we have an opportunity here where the land is virgin with respect to development. If we make this O-2, what happens on the southeast, southwest and northwest corners of that intersection? He would rather see all of that planned comprehensively. Hopkins concurred.

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

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

CHANGE OF ZONE NO. 3246,
TEXT AMENDMENT TO ALLOW
ADMINISTRATIVE OFFICE BUILDINGS
IN THE R-1 THROUGH R-8 RESIDENTIAL DISTRICTS,
and
SPECIAL PERMIT NO. 1164A
FOR ADDITIONAL RESIDENTIAL UNITS AND
AN OFFICE BUILDING
ON PROPERTY GENERALLY LOCATED
AT SOUTH 33RD STREET & SHERIDAN BLVD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 22, 2000

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

Planning staff recommendation: Approval of alternative language on the text amendment and conditional approval of the special permit.

Ray Hill of Planning staff submitted a letter in opposition to the project with concerns about commercial activity already located southwest of the corner of 33rd & Sheridan. That intersection is a very busy one because of the three schools and the commuter traffic.

Proponents

1. Father John Perkinton, Supt. of Schools for the Diocese of Lincoln and Director of the Diocese Building Commission, testified in support. This proposal will allow an office building at 3341 Sheridan Blvd. It will be a single story office building with a basement and will house some of the central offices of the Diocese activities including education, stewardship and foundation activities, family life work, religious education and the Southern Nebraska Register. They are requesting to construct the building with a flat roof as opposed to pitched roof. He believes that this style with the landscaping and use of building materials will fit into the overall neighborhood area.

With regard to traffic, Father Perkinton suggested that many of the activities are already being conducted at this location and the activities do not involve gatherings of large groups of people. On any given day, the number of vehicles that would be coming and going to this office building could be handled by the vehicles that would be represented in one full change of traffic lights at 33rd & Sheridan Blvd. He does not believe the concerns about increase in traffic are founded.

Newman inquired about the houses to the east that appear to no longer exist. Father Perkinton advised that the house at 3341 Sheridan Blvd. was removed.

Bayer assumed that the Diocese does not support the Planning Director's alternative language on the text amendment. Father Perkinton concurred. They do not agree with the staff recommendation to add a pitched roof.

Hunter wanted to know what would happens to the houses. Father Pinkerton stated that going from the southeast corner of 33rd & Sheridan there is a large two-story brick structure that is retirement suites for priests, and the house next to that structure is a small two-story brick home; the third house in the aerial photo has been demolished. One of the houses would be renovated for residency. The small house next to the large facility would eventually be demolished in order to add an extension.

2. Mark Huettner, with The Clark Enersen Partners, testified in support on behalf of the applicant. The office building is single story with a full basement for storage. There will be 16 people employed in the office building. There will not be a significant number of visitors or significant increase in traffic. There is more than adequate parking and the parking area is screened with landscaping elements. The facade is modest, spiritually adorned and relates to the adjacent modern administration, education and religious structures. The building does not serve as a residence, with the Sheridan facade having a residential scale. Huettner believes that this will have a minimal impact on adjacent residential properties. It is not their intent to create a building intrusive to the neighborhood charm. The special permit allows additional residential units and an office building.

If the Commission accepts the alternative proposal by the staff on the text amendment, Huettner stated that the design would follow the guidelines established. However, the applicant is requesting paragraph (d)(1) be deleted, which requires a pitched roof. Requiring a pitched roof on a building of this scale would only create unusable, unjustified and undesirable mass to the structure. Huettner advised that the applicant has met with the Planning staff to discuss options that have lead to this point. A change in direction at this time would be a setback for the project design and schedule.

Huettner submitted a packet of information showing the proposed building elevations and site drawings.

Bayer noted that all of the houses on that side of Sheridan and all of the buildings have

pitched roofs and he is having difficulty seeing how a flat roof is going to fit in the middle of all that. Huettner concurred that the houses have pitched roofs, although buildings for four blocks on the opposite side of Sheridan in that location all have flat roofs. The building materials are brick and stone that tie directly into the surrounding houses. If they added a pitched roof similar to the Bonacum house on the corner, it would add 25' to the height of the building, which he believes is more obtrusive to the neighborhood than a single story building of 14'.

Hopkins wanted to know the difference in cost with the flat roof as opposed to the pitched roof. Huettner responded that there is likely to be an increased cost for the pitched roof scheme as well as increased maintenance costs. Hopkins thinks it is very unusual.

Schwinn doesn't think there would be much difference in cost.

3. Jon Carlson testified in support on behalf of the **Near South Neighborhood**. He is supportive of the staff's alternative language on the text amendment. He believes the questions about the pitched roof versus flat roof are appropriate. It is important that the administrative office does the best it can to blend into this clearly residential neighborhood. More and more you see applicants requesting text changes to facilitate a use on the specific lot. This approach could have unforeseen negative impacts across the city. Carlson wondered if there might be a zoning district that would be lot specific and use specific that would allow the church to do what it needs to do rather than a text amendment that applies to the entire city.

Opposition

1. Bob Norris 2730 Sheridan, testified in opposition. He is not sure he is totally in opposition, but he would respond similarly as Mr. Carlson. He urged that a text change to the R-1 through R-8 residential districts for one lot in one place in the city seems to be quite a broad stroke. He has seen this before in a group home situation. It is an older neighborhood. The harder we fight to keep it residential, the better it is overall. The more we can encourage residential development in those older residential neighborhoods, the better off we are. He is not trying to be critical of the church or the architect. But changing the text to allow "administrative offices" (whatever that definition might be) in all residential zones in the city for this specific lot is quite a bit. He suggested the Diocese attempt to take care of their needs currently on-site or maybe they could use some space down by the Super-C.

Staff questions

Hopkins wondered whether there are alternatives available without the text change, Hill advised that one alternative would be an O-2 spot zone on this one lot, which is not necessarily something the staff would recommend. This subject has been debated for a long time amongst the staff. The staff had meetings with the applicant back in October and

within the last month they came forward with the design of the building. Thus, staff did not have opportunity to discuss the design of the building and the staff did the best they could to accommodate what they were requesting. If the zoning had been changed to O-3, it would have required a text amendment to allow the order of religious dwellings, so either way we turned there was going to have to be a text amendment or a spot zone. Staff believes this is probably the best solution.

Hopkins wondered what the ramifications might be with this text change in other areas of the city. Hill was not sure what this might open up, but staff felt very strongly that the design standards proposed would help that particular building blend into the neighborhood.

Newman asked whether any entity can go into any corner of any residential area in the city now and demolish as many houses as they want and then come and ask for zoning because there is nothing there? Hill advised that a property owner can get a building permit to demolish their house, but demolishing the house does not change the underlying zoning.

Newman wondered whether this text amendment would be more of a protection of what we have or is it going to be more of the same? She thinks this is a horrible precedent. She does not want someone to come into a residential area and knock down houses. Hill suggested that they cannot expand at will; however, they do have a right to request permits to demolish structures. They would still have to abide by the underlying zoning regulations whether the house is there or not.

Response by the Applicant

Father Perkinton addressed Commissioner Newman's concerns. The Diocese does not unilaterally demolish a building without a permit. If you consider the state of the building, it is in disrepair. They did not want to invest a great deal of money into rebuilding it if that site would be best employed to accommodate the expansion of the administrative, education and charitable offices of the Catholic church that were across the street.

Bernie Rempe of Clark Enersen Partners concurred that the applicant did meet with staff very early last year to begin this process even before the house was demolished. This house was in disrepair from the foundation up. They worked through some different scenarios with Planning staff and the original proposal is the one they felt most comfortable with and that is when they began design work. He understands the intent of the pitched roof, but a roof is only one of those elements with which you need to get the structure to blend. The applicant is requesting that the requirement for the sloped roof be deleted.

Schwinn inquired as to what other sites the applicant has considered for this building. Father Perkinton was not involved in the initial considerations. If any other sites were appraised, he does not know about them. He inherited this site from the Bishop.

Hopkins asked whether the Diocese offices will serve just one area or is it a city-wide service? Father Perkinton advised that they are central offices which would be city-wide and Diocese-wide extending to Catholic institutions in Nebraska south of the Platte River.

Public hearing was closed.

CHANGE OF ZONE NO. 3246

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 22, 2000

Taylor moved to approve the alternative language proposed by staff, seconded by Hopkins.

Hunter recalled having this same dialogue last week when it came to making apartments out of single family homes. Some of the words used have been “blend in” and she can see no way to take administrative office buildings and blend them into a residential community, especially in an old neighborhood like Sheridan Blvd. Another word is “screened”, which she believes means you are going to try to hide something from what it really is in an environment. If you have to hide it, you shouldn’t be doing it. Then she has heard “minimal impact”--we are trying to lessen the impact of something in a neighborhood that should not be there to begin with. Maybe the pitched roof is more expensive because it is more labor intensive. Then she hears “accommodate”-- we have to start reaching a little further than trying to make things fit into areas where they do not belong. Her comments are not in opposition to the Catholic Church. She is opposed to an administrative building trying to fit into an environment in a residential area. She understands how this happens--it is more convenient to encroach on the area around you to make it fit. She urged that this Commission and the other entities in this city start taking a stronger stand about protecting these neighborhoods. She finds this kind of change taking place in neighborhoods like this that are trying to keep their character, to be basically a cancer that starts growing and before very long there is not a neighborhood left. She cannot support this proposal.

Newman agreed with Hunter's comments. This really is unconscionable that someone thinks it's the right place to do something like this. If a house went down, another house should go back up. This is prime real estate for residential properties.

Taylor agrees, but a church is designed to fit into a residential area. That is what a church is all about. It is the extension of a family. It is designed to bring family together. It doesn't fit in a business district, either. Is there a special district or a special place for the church with its administrative offices? The fact that encourages him to support this text is the fact that there is very little opposition from the neighborhood. With that in mind, he believes the neighbors that are affected are not strong enough opposed. He supports the staff recommendation.

Hunter suggested that we have to lay a lot of credence to what this is. Regardless of whether it is a religious entity or a grocery store, they all have administrative offices. You're talking about putting business offices in a residential location, regardless of whether it is church affiliated or not.

Schwinn does not believe this is an appropriate time to tweak the text of the zoning ordinance. It seems like we are constantly making changes and some day we have to decide that we have it right. This text amendment affects the neighborhoods all across the city as opposed to being site specific. He does not believe we should work with the entire zoning code just to help this particular piece of property. He is not in favor of putting administrative buildings for churches in a residential area. If they want to expand their mission such as adding a preschool, or athletic facility or meeting center, he could understand, but this is an administrative building for the entire Diocese. There are other places this type of office building could be located.

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

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

SPECIAL PERMIT NO. 1164A

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 22, 2000

Hunter moved to deny, seconded by Newman.

Ray Hill of Planning staff explained that if the special permit is denied, the applicant does have the opportunity to appeal to City Council within 14 days.

Hill also explained that the resolution is prepared such that approval is based upon the City Council approving the change of zone to allow for the administrative office building; however, the resolution also approves the four additional dwellings for the religious order.

Rick Peo of City Law Dept. explained that this got sent up as a combined application. It includes the office and religious dwellings. He attempted to draft the resolution for the special permit as two approvals: 1) the expansion of the religious order, and 2) the administrative office building. If the Commission wishes to approve the resolution in part, they can do so. The applicant could then appeal the portion that is denied.

Hunter asked whether the additional residential units were proposed with the same flat roofs as the administrative office building. Peo does not believe they are proposing any new buildings. Hill added that the architect has indicated that the additional residential units would be similar to the existing Bonacum residence.

Peo suggested that it might be preferable for the special permit to be placed on pending until the Council takes action on the change of zone.

Hopkins wondered whether it could be conditioned to not allow flat roofs on any of the residences. Peo does not believe we have ever put a requirement on design for a religious order.

Hunter withdrew her motion to deny.

Hunter made a motion to place the special permit on pending, seconded by Newman.

Hopkins will vote against this motion because she believes there is merit to look at the total picture as it moves forward. She would rather separate out the office issue.

Motion to place on pending failed 4-4: Schwinn, Taylor, Newman and Hunter voting 'yes'; Krieser, Hopkins, Duvall and Bayer voting 'no'; Steward absent.

Hopkins moved to approve the Planning staff recommendation of conditional approval, with the language only as it relates to the residential portion and delete the approval of the office building, seconded by Schwinn and carried 7-1: Krieser, Schwinn, Hopkins, Taylor, Newman, Duvall and Bayer voting 'yes'; Hunter voting 'no'; Steward absent.

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

SPECIAL PERMIT NO. 879D
FOR A PARKING LOT
ON PROPERTY GENERALLY LOCATED
AT 131 SOUTH 45TH STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 22, 2000

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

Planning staff recommendation: Denial.

Ray Hill of Planning staff submitted a request by the applicant for deferral.

Proponents

1. **Allan LaDuke**, testified as the applicant. When he received the comments from staff and neighbors, he realized the proposal was not appropriate and will redesign the parking lot to eliminate the driveway on 45th Street.

There was no testimony in opposition.

Duvall moved to place the application on pending, seconded by Taylor. This will give the staff the same amount of time to review the revised submittal with the issuance of a new staff report. The application will be readvertised and notification will be provided to the property owners when it is placed back on the agenda.

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

SPECIAL PERMIT NO. 1773
FOR A LIMITED LANDFILL
ON PROPERTY GENERALLY LOCATED
AT S.W. 56TH AND WEST "O" STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 22, 2000

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

Planning staff recommendation: Conditional approval.

Mike DeKalb of Planning staff submitted a correction to page 8 of the staff report, and a letter received on March 21, 2000, on behalf of Williams Pipeline, indicating they have identified a 6" pipeline traversing the property; they are trying to contact the landowner who was granted an easement; deep rock and debris must be kept off the pipeline and they

must have access to the pipeline. In response thereto, the applicant has submitted a request for a two-week deferral to work out the details and possibly revise phase I.

Hopkins moved to defer two weeks, with continued public hearing and administrative action scheduled for April 5, 2000, seconded by Newman and carried 8-0: Hopkins, Newman, Hunter, Bayer, Schwinn, Taylor, Duvall, and Krieser voting 'yes'; Steward absent.

Opposition

1. The property owner of 6205 West "O", testified in opposition. Her property borders this property on the west side. She is wondering whether the present driveway they use to bring the dirt into this area will continue on the east side bordering the church or whether it will be moved to border her property. If so, she is concerned about the dust created by the trucks, which operate six days a week, 13 hours a day. This has been done in the past and in the summertime the dirt just hangs and comes over to her place. Another problem she has is Burlington Northern had put on a third track, causing a lot of dirt to wash down. They had a 6' fence on the Burlington Northern side, which is now a 4' fence with the dirt filling it up. If they bring in more fill, will that create more water backing up even further into their pasture land? The water stands and there are mosquito problems. She is concerned about the noise from the trucks. They have also promised to buffer with trees. LES has their lines there. She wants to know where the buffer trees are going to be located and what type they are proposing.

She has talked to the applicant by phone. She was out of town when they held a meeting. The applicant said that they would address the dust with water trucks. She has never seen a water truck down there and it has been pretty dusty.

This application will have continued public hearing and administrative action on April 5, 2000.

COUNTY SPECIAL PERMIT NO. 178,
LITTLE NEMAHA LAKE ESTATES COMMUNITY UNIT PLAN,
and
COUNTY PRELIMINARY PLAT NO. 00003,
LITTLE NEMAHA LAKE ESTATES,
ON PROPERTY GENERALLY LOCATED
AT 148TH STREET AND EAST SHILOH ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 22, 2000

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

Planning staff recommendation: Conditional approval.

Mike DeKalb of Planning staff submitted a letter in opposition from the property owner living immediately east of the proposal with concerns about outbuildings matching the color, material and architectural style of the residence and that no metal buildings should be allowed; purchasers of the lots must come with their “eyes open”—that this is a farming community; that there are odors from animal operations; does not want acreage buyers complaining about the odors; and that covenants be written in such a way that sensor lights or low landscape lighting be used.

Proponents

1. Brian Carstens presented the application on behalf of De Halbert. This project is for nine dwelling units just south and west of Bennet. Thus, they do have split jurisdiction so there are lots anywhere from 3 acres to 10 acres because of the Bennet jurisdiction.

With respect to the letter in opposition, Carstens advised that the covenants will be very strict. The buildings will have to match roof pitch, roof material and siding material of the houses. This will be a high-end project. They have one lot sold. Carstens could not address the lighting concern, but he believes that something could be worked out. With regard to the odors and noise, this is a condition of approval and is included in the covenants. He believes it will also be in the purchase agreements. The buyers will be made aware that they are moving into an agricultural area.

Carstens requested that Condition #1.1.2 of the special permit and Condition #1.2.2 of the preliminary plat be amended: Lots 1 and 2 shall have joint access, location at East Shiloh Road; and Lots 7 and 8 shall have joint access, location at Wittstruck Road.

Carstens noted that the farmer to the west had expressed concerns to the Village of Bennet about protecting his farming operation. Bayer asked whether the covenants prevent the new owners from pursuing litigation to get rid of the odors. Carstens stated that the provision will be included in the community unit plan as well. The applicant is

comfortable that they have this issue addressed with the conditions and the covenants.

Opposition

1. Jim Wessel, 14303 South 141st Street, testified in opposition. He has a feedlot west of this proposed development. He is very concerned and wants the developer to guarantee that he will be able to remain in business. Will the developer guarantee that he will be able to stay in business without lawsuits? He does not have the resources to contest lawsuits. These lots will cost from \$80,000 to \$100,000, so the purchasers will obviously have resources that he doesn't have. Wessel is also concerned about traffic. The more traffic on that road, the more potential for problems with agricultural equipment on the road; this road carries lots of ag traffic; he has lived there 35 years. This development does not fit this neighborhood. He requested that the Planning Commission deny this application. This is an ag community. The developer has not contacted any of the neighbors.

2. Bill Siefert, one of the property owners within one-mile radius of the proposed development, testified in opposition. The Planning Commission and County Commissioners have a lot of work to do as far as the Comprehensive Plan is concerned in rural Lancaster County. He was before this Commission three years ago on another housing development about 2-3 miles south of here. At that time he was promised that there was a lot of work that needed to be done in regard to acreages in rural Lancaster County. Nothing has been done. What concerns him about developments like this is the fact that once this development is approved, then it will be much easier for a neighboring development to receive approval and suddenly the farmers are surrounded by houses. It permanently changes the character of the agricultural community, and it is irrevocable. Siefert recommended that projects like this be denied until the Comprehensive Plan is reviewed and a plan is implemented for the County.

A few years back, Lincoln did a Directional Growth Analysis, and he recalled that Lincoln decided that acreages were expensive to grow through. They did not want acreages within three miles of Lincoln. The cost of a developed lot in Lincoln has risen to the point that it is more economical for home builders to move out into rural areas. That is why we are seeing so many acreage developments outside the City of Lincoln and outside the communities. Siefert would like to see the plan reviewed and changes made to protect the character of the agricultural areas in rural Lancaster County.

Bayer believes that the acreage task force did complete a report about 18 months ago giving guidelines, but there has been nothing done that is binding that he is aware of. Bayer noted that Bennet allows a higher density in AG land than does Lancaster County.

Bayer suggested that Siefert contact the Bennet governing body and suggest the 20-acre minimum as opposed to 10-acres.

3. Don Kuhlman, 13707 Wittstruck Road, testified in opposition. His property abuts the proposed development on the southwest corner. He agreed with the previous testimony in opposition. He believes this development will cause hardship to Mr. Wessel, whether there are covenants or not. Covenants do not preclude legal action being taken against him. Kuhlman does not believe there is a lot of support for this development. The support is from the developers and they are going to put some money in their pocket and leave.

4. Wendell Ringland, 12801 Wittstruck Road, one mile from the subject property, testified in opposition. He has lived there all his life. He has fed fattening cattle since 1946, and he hopes to be able to continue his cow/calf operation. He has never had any disputes with the neighbors. There have been three new houses within ½ mile of his property on 20-acre lots and one is on 80 acres. He does not believe they need any more traffic, especially with tractors, combines and grain wagons on the road.

Questions for staff

Bayer noted there to be 167 acres in this development, and referring to #7 of the Analysis in the staff report, this developer would be allowed to have 13 units. The proposal is for 9 units. DeKalb concurred. Bayer does not understand how the Commission can deny this application. DeKalb noted that the County Board has denied a couple of developments like this with a finding that the clustering with the community unit plan that is generally supported, does not fit into the neighborhood. There were some farm feeder operations in the area that had risk of lawsuits and conflicts of uses, and the finding of the County Board at that time was that the development did not fit into the neighborhood.

At the request of the County Board and the County Attorney, the staff has been adding language to the conditions of approval that covenants include provision that the purchasers recognize that it is a rural and agricultural area, that farming operations do occur and that farming per se is not a nuisance. The County Board and County Attorney have taken the position that that, plus the right to farm laws of the State of Nebraska, provide some additional protection, but it certainly does not prevent a person's right to sue if they choose to do so.

DeKalb noted that the 10-acre lot size is the minimum in the Bennet jurisdiction. 10 acres is also the threshold where you need to have subdivision approval. They could creatively gerrymander 10+ acre lots within Bennet's jurisdiction and include a piece of the lake for all of the lots and essentially create 10 lots there. They have chosen not to take that approach.

Hopkins noted that it seems like we get more denials from the staff than approvals in these situations. Would the staff be inclined to make that type of determination about the conflict between the agricultural uses and the residential uses? DeKalb believes that Hopkins is thinking of change of zone applications, i.e. AG to AGR, that are not in conformance with the Plan, and in that case the staff recommendation has been denial unless other circumstances dictate otherwise. In this particular case, where there is AG zoning, clustering AG zoning is generally a preferable utilization and development of the land, and then staff attempts to condition the approval to ameliorate any conflicts that might appear.

Hopkins inquired whether there is lack of this type of area in the county for these developments. DeKalb stated that there is substantial opportunity for this type of development available.

Response by the Applicant

Carstens reiterated that this project is around a 45-acre NRD lake. They just received a plan from the Nemaha NRD this morning. All of the common area will be seeded and planted with trees and shrubs by the NRD as a habitat area. There is already an easement behind the dam in place for wildlife habitat. It is going to be a unique environment. It is not your typical acreage subdivision with a road weaving up the hill. There is not an abundance of this type of land available.

The developer is only asking for 9 dwelling units. They could creatively carve it up into 10's and 20's with 13 dwelling units and not even be required to come before the Planning Commission.

Schwinn noted that the developer owns the entire section and they have given easements to the NRD for the lake. Schwinn does not see much land available for farming. Carstens indicated that there would only be small parcels here and there. The staff report correctly states that it is not prime agricultural ground. Carstens believes that the residential is its highest and best use.

Bayer is disappointed that the developer has not called the neighbors together. Carstens believes that the applicant did talk with the neighbor to the west. Bayer wondered whether the developer would meet with the neighbors between now and when this is scheduled on the County Board. Carstens agreed. He also suggested working on some language that would make them more comfortable as far as indemnifying them. Bayer believes that to be the bottom line issue. People do not understand what the odor is like.

Public hearing was closed.

COUNTY SPECIAL PERMIT NO. 178

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 22, 2000

Schwinn moved to approve the Planning staff recommendation of conditional approval, seconded by Duvall. It was agreed that the clarification/amendment to Condition #1.2.2 requested by the applicant is a part of this motion.

Newman has problems with this proposal. She thought it was a sure thing and looked great, but the testimony today has swayed her. If we can't protect the farmers from potential lawsuits, she cannot vote for this.

Hunter knows Brian Carstens very well and knows the kind of developments that he does and they are very commendable; however, she knows that cattle or hog operations cause such an inundating odor. She does not think people really understand the intensity of something like that and how it permeates your residence and environment. She understands that the cost of development has got to be less when out on an acreage, but her concern is that this patch of development jumps up in the middle of an acreage. She feels like development, as it expands out of Lincoln, should probably be more on a methodical type procedure where one thing flows into the other instead of something in the middle and then everything else encroaches on the outside of it. She cannot support this development.

Hopkins appreciates the farming concerns, but the options here are the 9 units that are proposed, or 13.54 units that can be developed without Planning Commission approval. When it comes to that, she would rather have 9 households there than 13.54.

Hunter suggested that besides the odor there is the dust and dirt that gets stirred up in the air from the gravel roads.

Hopkins believes the purchasers will be aware of the agricultural and environmental factors as they view the sites. She reiterated that she would rather see the 9 units rather than the 13.

Motion for conditional approval, with amendment to #1.1.2, carried 6-2: Krieser, Schwinn, Hopkins, Taylor, Duvall and Bayer voting 'yes'; Newman and Hunter voting 'no'; Steward absent.

COUNTY PRELIMINARY PLAT NO. 00003

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 22, 2000

Hopkins moved to approve the Planning staff recommendation of conditional approval, with amendment to Condition #1.2.2, seconded by Schwinn and carried 6-2: Krieser, Schwinn, Hopkins, Taylor, Duvall and Bayer voting 'yes'; Newman and Hunter voting 'no'; Steward absent.

WAIVER OF DESIGN STANDARDS NO. 00002

TO WAIVE PAVING REQUIREMENTS AND

SIDEWALK ALONG THE NORTH SIDE OF FRANKLIN

STREET BETWEEN SOUTH 51ST AND SOUTH 52ND STREETS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 22, 2000

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

Planning staff recommendation: Approval of the waiver of paving, so long as the subdivider and current owners agree not to object to the improvements to Franklin Street when ordered by the City Council; and denial of the waiver of sidewalks.

Rick Houck of Planning staff submitted a petition for 11 dwelling units on 51st and 52nd Street in support of granting the waivers as requested. They do not believe that paving or sidewalks are necessary.

Proponents

1. John Glynn, attorney for the applicant, made the presentation. When an administrative final plat was done back in 1997, two of the requirements were a bond for paving and a bond for the sidewalk. The developer attempted to get gap paving in 1998, which was denied by the City Council. Public Works has recommended a waiver of this paving as well as the sidewalk. The Planning staff agrees with the waiver of the paving, but disagrees on the sidewalk. The applicant is willing to accept the staff recommendation. The developer is willing to put the sidewalk in at anytime it is requested. She can't speak for the owners on the north side of Franklin, but she is obligated to the current owner of the property to pay for the paving and the sidewalk. She is just asking that the bond be waived on the paving due to the fact that she has an annual premium coming up.

2. Eric Bowling, 1904 South 51st Street, testified in support. They are not interested in having the street paved or sidewalk put in. There is no need for it.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 22, 2000

Hopkins moved to approve staff recommendation, which approves the waiver of paving so long as the developer and current owners agree not to object to the improvement to Franklin Street when ordered by the City Council, and denies the sidewalk waiver, seconded by Hunter.

Newman drove this site. On one street you see an elementary school with no sidewalks, and on the other side of the block you see one of the world's most famous hospitals. We're living with a gravel road in the middle of the city. Why can't we get this paved? Aren't there CDBG funds available? Why have standards and why have rules if they don't apply to every neighborhood? This is not some little village out in the middle of nowhere with no design standards.

Hunter wants to know why it was not paved to begin with. Houck did not know why it was never paved. Dennis Bartels of Public Works offered that the applicant had gone to the City Council. The City Council had the authority to order the paving, but the City was not going to pave half a street. The application was to pave the entire block and the neighborhood objected to the assessments and the City Council turned it down.

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

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

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on April 5, 2000.