

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, April 5, 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, Linda Hunter, Patte Newman, Tommy Taylor and Greg Schwinn (Barbara Hopkins, Gerry Krieser and Cecil Steward absent); Kathleen Sellman, Ray Hill, Mike DeKalb, Steve Henrichsen, Rick Houck, Jennifer Dam, Teresa McKinstry and Jean Walker 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 22, 2000. Motion to approve made by Schwinn, seconded by Newman and carried 6-0: Bayer, Duvall, Hunter, Newman, Taylor and Schwinn voting 'yes'; Hopkins, Krieser and Steward absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

April 5, 2000

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

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 1573A, SPECIAL PERMIT NO. 1781A AND WAIVER OF DESIGN STANDARDS NO. 00003.**

Hunter moved to approve the Consent Agenda, seconded by Duvall and carried 6-0: Bayer, Duvall, Hunter, Newman, Taylor and Schwinn voting 'yes'; Hopkins, Krieser and Steward absent.

Note: This is final action on Special Permit No. 1573A, unless appealed to the City Council by filing a notice of appeal with the City Clerk within 14 days following the action by the Planning Commission.

SPECIAL PERMIT NO. 1794
FOR A WIRELESS TELECOMMUNICATIONS TOWER
AND ASSOCIATED EQUIPMENT,
ON PROPERTY LOCATED AT 445 'A' STREET
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 5, 2000

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

Planning staff recommendation: Conditional approval.

Jennifer Dam of Planning staff submitted a memo from the State Historical Society with no objections to the permit.

Proponents

1. John Hertzler, 268 No. 115th Street, Suite #4, Omaha, NE, testified on behalf of Sprint PCS. Sprint is proposing a wireless communications facility at 445 A Street. This will include an 80' monopole facility and associated ground equipment.

Hertzler reviewed some history on this site. It was previously before the Commission in February. It was the first site on the agenda after the passage of the new zoning ordinance. Sprint was hoping to reach a decision on this site at that time; however, they were told to reapply in order to meet the requirements of the new ordinance. They have done so; made significant revisions; provided more information; and the end result is a recommendation for approval. Hertzler believes that the significant amount of work that Sprint has put into this site and the amount of information that staff has had is a testament to the fact that this is truly the best site in the area. He believes that the new ordinance was designed to force carriers to find the best possible location and he is confident that that is what happened in this case.

This site is in a rather heavy industrial district. An 80' monopole will be well in keeping with the character of the surrounding uses; it will be well-scaled with the uses of this property and other properties. The ground equipment will be enclosed by an opaque wood fence and will not be seen; there will be landscaping immediately adjacent to the compound and on A Street to better screen the entire area.

With regard to collocation, Hertzler believes the applicant has gone above and beyond in this case. This 80' monopole is the height that Sprint needs. There is room for two additional carriers. This tower is equipped such that it can be added onto at the top up to 115' should it be necessary for collocation in the future.

Hertzler agreed with the conditions of approval.

Opposition

1. **Jim Giesler**, President of **Central Lumber Sales**, which is located adjacent to the tower site, testified in opposition. He has concerns about this location and the waiver of the fall zone because that waiver would directly affect his property and his employees. Who is responsible in the event of a fall if the fall zone is waived? Where does the liability lie? He has been involved in the overpass location and there will be some ground acquired along A Street for that overpass. If we are adding value and assets to the property, will it increase the acquisition cost for the overpass? The waiver of the landscaping is also a concern. The neighborhood wants to make the overpass look very nice and he is not sure that putting a cell tower next to the overpass is an appropriate use. He wondered whether it could be located further back into the industrial zoning.

Staff questions

Jennifer Dam of Planning staff addressed the concerns with regard to the A Street overpass. The site originally proposed for this tower was on the east side and staff believed that it did interfere with the proposed overpass location. The applicant has worked with Public Works and the consultant to move the tower to the proposed location. This application has been routed to Public Works and Urban Development, who have been involved in the design of the overpass. Public Works indicates that the proposed location is satisfactory. With a 6' opaque fence with additional trees in the right-of-way it would be screened to the north, and as the trees grow it will obscure the view of the tower. There is no screening provided to the south, east or west, which is an industrial district and it would be difficult to put that screening in.

In terms of the fall zone, the wireless ordinance stipulates that the city would not be held liable so the liability would be upon the owner of the tower--in this case, Sprint PCS. Dam noted that the buildings surrounding the site are all quite a ways away, and there are not a huge number of employees in this area.

Hunter commented about the applicant's rejection of the two other sites. Considering that most of these towers are located out in fields or farming areas, and the applicant objected to the air pollution or sand from grain elevators, how is that any different from a farmer plowing up a field and creating dust and dirt? Dam's response was that the grain elevators are a legitimate concern, i.e. the heavy use during harvest time and the electronic equipment. The information provided by the engineer is that that cement mixer in use provided enough particulate contamination to interfere with the use of this tower.

Bayer asked whether the ordinance requires the applicant to have liability insurance. Dam advised that through the resolution the permittee is required to provide indemnification so that the city is not held liable.

Response by the Applicant

Hertzler responded to the concern about the fall zone. These towers are designed to buckle upon themselves within the compound. Statistically speaking, the likelihood of it falling any significant distance is extremely small.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 5, 2000

Duvall moved approval, with conditions, seconded by Schwinn and carried 6-0: Schwinn, Taylor, Newman, Hunter, Duvall and Bayer voting 'yes'; Steward, Krieser and Hopkins absent.

SPECIAL PERMIT NO. 1827
FOR A WIRELESS TELECOMMUNICATIONS TOWER
ON PROPERTY GENERALLY LOCATED
AT 14TH & SAUNDERS AVENUE.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 5, 2000

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

Planning staff recommendation: Conditional approval.

Jennifer Dam of Planning staff submitted a letter from the State Historical Society with no objections to the special permit. She also submitted a letter from Lincoln Airport Authority requiring submittal of FAA Form 7460-1 regarding distance and elevation data.

Proponents

1. **John Hertzler** testified on behalf of **SPRINT PCS**. This will be a 100' monopole located generally at 14th and Saunders. This site was the second site before this Commission after the passage of the new ordinance. The applicant resubmitted and provided significantly more information in response. This ordinance forced them to prove that this is the best location. The various concerns of the staff have been addressed.

This site is located in an industrial area, which is always Sprint's first place to look for a new facility location. This is significantly further away from any residential zoning. The nearest residences are 1000 feet away. The land space will absorb the facility and keep it in scale with the neighborhood and buffer any adverse effects on residential areas. This site will be built for a second carrier. The real strength of this site is that there is an 85' tower now existing at this location. They will remove that tower and move that equipment to the new tower.

Hunter likes the idea of taking the old one down and replacing it with the new one.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: April 5, 2000

Duvall moved approval, with conditions, with amendment to add the requirement to submit the FAA Form 7460-1, seconded by Hunter and carried 6-0: Schwinn, Taylor, Newman, Hunter, Duvall and Bayer voting 'yes'; Steward, Krieser and Hopkins absent.

SPECIAL PERMIT NO. 1830
MANDARIN COURT COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT MANDARIN CIRCLE, NEAR SOUTH 84TH STREET
AND PIONEERS BOULEVARD.

PUBLIC HEARING BEFORE PLANNING COMMISSION: April 5, 2000

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

Planning staff recommendation: Denial.

Ray Hill of the Planning staff submitted a memo from the Fire Chief indicating that the applicant has talked with the Fire Department about pumping water from the lake to fight fires. The Fire Chief is willing to consider this proposal.

Proponents

1. **Richard Speidell**, 3820 J Street, the applicant, stated that he is requesting approval of a subdivision of property at 4811 Mandarin Circle to sell lots for residents. Through the process, he has tried hard to address the community neighborhood issues and quality of life issues. He believes that he has done a good job of this. There are a number of staff comments which he does not have any conflicts with. He is happy to meet all of the conditions of approval, with the exception of hooking up to city water. This issue has been a sticky issue because of the neighborhood's reluctance to have a water district. They were forced into a sewer district just last year and have had to pay the assessment and the hookup, and the property owners believe the additional burden of a water system would be unacceptable.

Speidell supports the Public Works comments about fire protection, but do we have to have a water main and hydrants to provide that protection? To that end, he initially proposed the private well system to serve that need and found the flow requirements were

much too high. Therefore, he is proposing pumping from the lake. The new structures being built in this neighborhood would have a greater degree of fire protection that does not involve tanker trucks with the creation of this subdivision through the CUP process. They will put a suction line down into the pond and route it up to the concrete of the drive so the fire truck could hook to that line and pump from the fixed resource. This means that he is not requesting a water district for this neighborhood, but would instead build a private system with the distribution portion being designed to city standards, so that if at some point the neighborhood was to become part of a water district, they could hook up to this distribution system. At that point they would separate the well from that system and use it for filling the pond or irrigation purposes.

In addition to fire safety, the staff's rationale for denial is compatibility with the existing neighborhood. As much as he appreciates the staff comments in terms of whether this project is compatible, Speidell does not believe the staff comments reflect the actual neighborhood as it exists at that location. The staff comments imply that this is a pristine acreage development with one residence built on each one-acre lot. If that was the case, he would agree that the Mandarin Court neighborhood would be a compromise, but the neighborhood that exists has had a lot of additional construction in addition to the original single units. He displayed a graphic map showing the actual built environment that exists in this neighborhood. The neighboring house to the east has three moderately large out-buildings as part of its existing built environment. The neighbor to the east of that also has an outbuilding that is larger than the principal residence. Speidell contends that the proposal is not the sudden and dramatic change in terms of the neighborhood, but is actually very similar in terms of built density and open space.

Speidell displayed a graphic map of the screening they have already done and propose to do. They planted trees last summer and fall to start protecting this site from the neighborhood. He is proposing additional screening so that the neighbor to the north would not be impacted. These additional trees will provide a "fence".

In addition, Speidell has agreed to build the house as a single story, ranch type structure so that it does not look down into the back yard of the neighbor to the north.

Speidell purchased the poorest house in the neighborhood with the intent to remodel that house and make it attractive; and to build the new houses in what was a previously city-owned right-of-way and put them onto the tax rolls and make them a positive and supporting part of the community.

Having been in the landscape industry for 25 years, Speidell is convinced that the screening they are doing will prevent the aesthetics from being a negative to the larger neighborhood. They have turned the smallest side of one house towards the street and screened it and have moved things around to provide more screening.

Bayer noted that the letter from the homeowners association suggests that reducing the application to two homes, for total of three, would be more acceptable. Speidell's response was that it is an issue of cost dynamics. That is why he has stood his ground and looked for other alternatives and compromises in terms of creating additional screening.

Speidell agreed with the proposed conditions of approval set forth in the staff report should the Commission choose to recommend approval, except that he does not want public water. Speidell agreed that the street lighting is fine as set forth in the conditions.

Opposition

1. Gary Danek, 4800 Mandarin Circle, directly across the street from the proposed development, testified in opposition as President of the Pioneer/Mar-Ma-Ra-Lo Heights Homeowners Assn. This is a 35+ year old neighborhood with approximately 29 acreage lots that contain 26 single family homes. That is the way it was developed and has always been. This permit will not match the character of this neighborhood. There is no benefit or improvement for this neighborhood. There is a possibility for problems with sewage systems. They have been told that several septic systems in the neighborhood have been failing. He questions whether they should dig up lateral fields for a new development. These neighbors bought their homes because it was an acreage development; because it was a nice, quiet pristine type neighborhood. The applicant is not a member or their neighborhood so the neighbors are concerned about maintenance of the common area and the outlots. They were told that Speidell intends to move out of town when this project is completed. This development could lead to the neighbors being forced to pay for assessments that they do not want, do not need and cannot afford. The sewer district cost each of them \$4,000 to \$7,000. This development will also put an increased load on an infrastructure built to support an acreage development. Adding these three homes will result in a 21% increase in traffic on the streets of the homes that front Mandarin Circle and a 13% increase for the entire neighborhood. He believes this will increase the traffic hazards.

Bayer confirmed that Danek's letter indicates that the neighborhood is willing to accept a total of three homes. Danek explained that at the moment, that would not be their position because Mr. Speidell has not met with the neighborhood since September of 1999 to offer any type of compromise.

2. Roger Schreiner, 4801 Mandarin Circle, who lives directly to the north of the proposed development, testified in opposition. He moved here for the rural atmosphere. He has appreciated the privacy of his 2-acre lot. One of the proposed lots backs up to the side of his immediate back yard. That back yard is to be only 10'. This means there will be a house overlooking his usable yard, destroying his privacy. The character of the neighborhood will be completely changed if this permit is allowed. The planting of trees on his side of the fence would create a see-through wall and will not hide a house that is towering over his back yard. He has had a good neighborhood relationship. His family is

willing to agree to a compromise even though it would have an effect on his property. He would endorse the proposal if it were redesigned to eliminate the one house that overlooks his yard.

3. Ross Wunderlich, 4825 Mandarin Circle, adjacent to the east of the proposal, testified in opposition. He has reviewed the plan with the applicant. He stated that they do appreciate the screening with trees. But if they had a choice, they would prefer to have no additional development of this property. This is an acreage community and the additional three homes will not fit with the existing character of the neighborhood. He wanted to live in a more rural neighborhood. Three more homes will reduce the quality of life that they presently enjoy. Edenton South, Pioneer Greens, and Himark are already being developed nearby. The residents in this area believe they should have a say as to what happens inside their neighborhood.

4. Rick Willet, 4535 Pagoda Lane, testified in opposition. He is not directly affected by this proposal, but his neighborhood is. He bought his home a year ago and the reason this area was targeted is because they like the area as it is with a lot of room for kids to roam, with a friendly atmosphere. He focused his comments on Mr. Schreiner's house adjacent to the west of the proposal. One of the homes will be allowed to be built within 10' of the Schreiner property. With the ground elevation as it is, that house that is proposed to be built there would have to be elevated in such a way that the first floor would be at least half way up Mr. Schreiner's existing fence. He does not believe that trees can totally guard all the privacy that Mr. Schreiner experiences in his lot. This house should not be built. Willet requested that this proposal be denied.

With regard to the outbuildings referred to by the applicant, Willet believes that the new homes would also be able to erect outbuildings, making it a very congested area.

Staff questions

Schwinn noted the concern raised by the Fire Department and wondered about the rest of the neighborhood. Do they have any better fire protection? Ray Hill of Planning staff explained that when they were annexed into the city, they did not have water and they are not required to tie onto the water system. It is up to the owners to do that. The Fire Dept. originally noted that in these situations they have to contract with the rural fire district that have the pumpers to come and fight the fires. It is not a good situation but that is the best that they can do for this neighborhood. The Fire Chief also indicated that this is on an "availability" type situation, i.e. if the rural fire trucks are not available, they are without fire protection.

Taylor inquired about the landscaping elevation of the property in the proposal in relation with the existing properties. Hill advised that the applicant did not provide a grading plan so he could not answer the question. However, a grading plan will be required before building permits if the community unit plan is approved.

Response by the Applicant

Speidell rebutted, stating that while working on the Antelope Commons project, he dedicated an area in excess of 10 acres as a permanent public easement along the south portion of that piece. Abutting that is an already zoned 7-8 acre city park, and there will be more open space across on the Hampton property following Antelope Creek. In terms of this project's impact on neighborhood open space, Speidell contends that an area of 25-30 acres of open space is currently available to those neighbors. This project does not take away some really big resource. The quality of the space dedicated by that public easement through Antelope Commons is a timbered prairie and ponds, an interesting and diverse space that those neighbors can all use. The open space has been protected, dedicated and lives on as part of this area in spite of what is taking place.

With regard to the density, Speidell stated that the proposal is only two units per acre. He is asking for 4 homes on 2.12 acres with ½ acre+ spaces for each home. Hoegemeyer-Palmer put 7 units on a 1-acre lot at the entrance to Pagoda Lane. Speidell is trying to put a total of four lots on 2 acres and believes he is being prudent with the bulk of development occurring back on the lot, with minimum obtrusiveness to the neighborhood. Speidell noted that Wunderlich does not want to live in this community where he feels like the houses are right up against his; however, Wunderlich neighbors the existing house. The three proposed homes are over 150' away from Wunderlich's house. Speidell admits that the Schreiner home is much more impacted by the potential of the new house, but that is why he made the effort with a single story structure and large tree plantings. He showed pictures of some of the screening that has already been done on the existing house.

Speidell believes this development will actually protect the existing neighborhood. He has been taught that neighborhoods that don't grow and have new additions, tend to become stuck in time in a negative way and deteriorate and create problems. He looks at this as an opportunity to build new residences to provide additional support for the neighborhood so that they can share in the cost of any water or paving district that is created.

Finally, Speidell knows people do not like change, but if we hadn't allowed change to take place, Lincoln would not exist.

Schwinn was curious about how Speidell put this parcel together on this lot. It is Schwinn's opinion that the city should never have given Capitol Parkway away. Speidell responded, stating that when he did the Antelope Commons project, this triangular parcel was intended to be included. The transference in terms of title was not completed so it was left out of the application. When they sold the 70-acre parcel, he maintained private ownership of the triangular portion and bought it from the previous owners to do this project. He retained the rights by contract to what would be the neighboring lot if and when the Antelope Commons project is developed by its current owner.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 5, 2000

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

Schwinn believes that the positive aspects of this application, including the open space, the pond and the plantings already done that this neighborhood already enjoys, far overwhelm any detriment that there may be to the neighborhood. He has a hard time seeing any detriment to the neighborhood. There are duplexes at the very gate of this community and they do not appear to be a detriment to the neighborhood. He believes this is a good project that is well thought out. A 23,000 sq. ft. lot is not a small lot.

Duvall commented that there is going to be a lot of development in this area in the next two years. This area will become highly populated and 23,000 sq. ft. lots will actually be a luxury.

Hunter is opposed to the density. Anytime someone has an acreage it is within their purview to put an outbuilding. An outbuilding does not require another resident, more traffic, or new sewer or water. There is a lot of difference between outbuildings and a residence. She believes that most of these lots are around two acres and the difference in putting a residence and an outbuilding on 2 acres versus 4 houses is significantly different.

Newman stated that she is neutral. She knows Speidell will not do anything less than absolute quality, but she can hear Schreiner's argument that anything within 10' of his lot line will impact his property. She wishes the applicant could work with Schreiner in terms of moving that house. She will vote in favor, but she sees Schreiner's point and she hopes Speidell will work with him.

Taylor is concerned for the neighbors. He wants to know more about the grading. With the opposition by the neighbors, he will not support the project. There needs to be an appeasement to the neighbors.

Hunter does not want the neighbors to be "forced" to accept a redevelopment of their neighborhood. She does not like to create more in a smaller space. We have to be sensitive to the way the neighborhood was originally developed and be consistent.

Bayer stated that he will vote against the approval. The perception of being one house per 23,000 sq. ft. is not reality. All four houses are on 1 acre with a big pond behind. We are a community growing in every direction, and in every direction we are surrounded by acreages. How we develop those acreages into our community is important. We need to be able to respect acreage lifestyle. We need to respect the rights of neighborhoods. We have an opportunity to protect this acreage neighborhood and maybe set some precedence for other acreages we bring into the city later on.

Motion for approval failed 3-3: Schwinn, Newman and Duvall voting 'yes'; Taylor, Hunter and Bayer voting 'no'; Krieser, Steward and Hopkins absent.

This application is held over for administrative action on April 19, 2000. Public hearing has been closed.

COUNTY SPECIAL PERMIT NO. 180,
IRONHORSE ACRES COMMUNITY UNIT PLAN
AND
COUNTY PRELIMINARY PLAT NO. 00006,
IRONHORSE ACRES,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 82ND STREET AND PELLA ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 5, 2000

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

Planning staff recommendation: Conditional approval.

Mike DeKalb of Planning staff submitted a memo from the Health Dept. noting that groundwater quality is high on sodiums and the water is quite hard. They recommend that prospective residents should be given information about the potential water quality problems before purchasing a lot. The report also notes that several of the soil types would be hard for septics and there should be no prohibitions against lagoons. The Health Department comments also note that there may be train traffic in the area which cargo may consist of hazardous chemicals. Due to the location of the railroad tracks and the volume of trains, noise may become a significant nuisance. The Health Department's bottom line recommendation is that they have no objection as long as the residents are notified about the water, sewage and potential noise issues from trains.

Proponents

1. Brian Carstens appeared on behalf of the applicant. This is another AG community unit plan at about 98th & Pella Road, adjacent to the BN track. The track is 80' lower than the property to the west. The developer has received approval from Firth for the two lots in their zoning jurisdiction. The applicant did have an error on the density calculations, thus they are permitted to have 12 dwelling units with 20% density bonus. Staff had originally requested that the density bonus not be allowed, but with the outlot in native prairie with pastures uses, the 20% density bonus is allowed and the staff has agreed.

With regard to the water quality issue, Carstens noted that they are required to provide a copy of the water report with the purchase agreement. As far as train traffic, Carstens stated that this is the same track that goes through Wilderness Park, through the middle

of town and right by the high school. There will be a general note on the plat and CUP that lagoons are not prohibited.

Carstens had no objections to the conditions of approval; however, he requested that Condition #1.1.10 be added to the community unit plan: "Add a note that Outlots B and C shall be preserved for native prairie and/or pasture uses." He also requested that Condition #2 of the community unit plan be amended to approve 12 single family lots and two outlots to be preserved for native prairie or pasture uses. The same condition should be added as Condition #1.3.10 on the preliminary plat.

Bayer wanted to add a condition about notifying potential buyers. Mike DeKalb of Planning staff advised that to be covered by Condition #3.2.3 of the preliminary plat.

There was no testimony in opposition.

Public hearing was closed.

COUNTY SPECIAL PERMIT NO. 180

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 5, 2000

Schwinn moved approval, with conditions, with amendments as requested by the applicant, seconded by Hunter and carried 6-0: Schwinn, Taylor, Newman, Hunter, Duvall and Bayer voting 'yes'; Steward, Krieser and Hopkins absent.

COUNTY PRELIMINARY PLAT NO. 00006

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 5, 2000

Hunter moved to approve, with conditions, with amendment as requested by the applicant, seconded by Schwinn and carried 6-0: Schwinn, Taylor, Newman, Hunter, Duvall and Bayer voting 'yes'; Steward, Krieser and Hopkins absent.

COMPREHENSIVE PLAN AMENDMENT NO. 94-51
TO CHANGE LAND FROM AGRICULTURAL TO INDUSTRIAL
AND
CHANGE OF ZONE NO. 3236
FROM AG AGRICULTURAL TO I-2 INDUSTRIAL PARK,
ON PROPERTY GENERALLY LOCATED
AT NORTH 98TH STREET AND HIGHWAY 6.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 5, 2000

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

Planning staff recommendation: Approval of the Comprehensive Plan Amendment, and approval of the change of zone, subject to removal of the entire area of the floodway and revisions to the protective covenants to the satisfaction of Public Works, County Engineer, Planning and Health.

Proponents

1. Mark Hunzeker appeared on behalf of **Garner Industries**. This project was begun back in August or September of 1999, when Phil Mullins, President of Garner Industries began discussing with staff the possibility of moving his business to this location. Currently, Garner is located at 48th & Superior Streets and has a second location on No. 57th, east of Hwy 77 and north of Cornhusker. They employ about 110 people, all of whom are highly skilled, involved in very detailed, fine tool and dye and injection molding manufacturing type work. They work for very high tech businesses. This is the kind of business that we need to encourage and keep in Lincoln. They are out of space. They need new facilities. In fact, the projects they currently have bids out on could require them to lease additional space while the new facility is under construction, if approved. Garner is very committed to northeast Lincoln. They have an employment base in northeast Lincoln and they want to stay in that part of the community.

The site proposed at 98th & Cornhusker Highway/Hwy 6 is not without its problems as set forth in the staff report. It has a portion of the property within the floodway. An additional portion is in the floodplain, but it is within an area which Hunzeker believes can be adequately addressed on floodplain issues and still have adequate site for the first 75,000 sq. ft. first phase building and for an expansion area that would double the size of the initial structure, while at the same time addressing the drainage coming across 98th from the east and providing adequate facilities for both potable water and fire flow in the form of a well on the site, a pond from which water could be pumped in the event of need for fire protection and various measures to be taken to mitigate the fill in the floodplain.

Hunzeker further advised that this applicant has had a lot of conversation with city staff. The property is not designated industrial on the land use plan in the Comprehensive Plan

and it is not designated as part of the future urban area. There were initial discussions to the effect that they would like to have had city water service, but the staff's response was to get the property owners up and down Hwy 6 between 84th and 98th to agree to be annexed. That was done, but then there were other problems that arose with respect to financing the extension of the water and sewer to this site and a variety of other issues that have brought us to this point.

The applicant has met with staff for six weeks; they have worked through a substantial number of issues to the credit of Kathleen Sellman and her staff, Steve Henrichsen, in particular. There has been a real effort to try and work out the problems associated with this site. Hence, the recommendation for approval.

Hunzeker agreed as part of that approval to enter into restrictive covenants with the city that will encompass, although not verbatim, the language contained in paragraphs 1 through 12 on p.181-182 of the staff report. Hunzeker agreed that the applicant will certainly encompass those concerns and will enter into those covenants prior to action by the City Council. The applicant will be submitting a Planned Unit Development (PUD) which will replace the I-2 zoning and the protective covenants so that there is a mechanism with the more ordinary restrictions that are enforced by the city. The PUD will have a substantial amount of additional graphic information that will show the details of the grading plan and some more refined versions of the elevations.

Hunzeker submitted some very preliminary elevations depicting a building of tilt-up concrete construction. The east elevation will have the office area of the building wrapping around to the north side of the building. The building does not have all the windows shown that will likely be there, but the design has not progressed to that point yet. He has been assured by the owner that there will be windows in the plant which will provide natural light and break up the facade of the building. In those areas where windows are not present, they will break up the facade with the forming of the tilt-up walls, etc. The model chosen by Mr. Mullins for the site plan and construction of the facility is the Novartis model that is just up the road. This will be a very attractive entryway type development for Lincoln and one that should be embraced and approved.

Hunzeker reiterated that they will have restrictive covenants agreed upon prior to action by the City Council which will encompass the twelve items set forth in the staff report, but they may not be verbatim.

Opposition

1. Ed Patterson, 2108 Q Street, spoke at this time. For the better part of a decade, the corridor along Hwy 6 between Lincoln and Omaha can go in several different ways. It can be allowed to develop haphazardly by individual acreage plot developers with a dream home here and dream home there, or it could develop into a continuation of the theme of Novartis. He is encouraged to hear the applicant is intending to continue that theme along

Hwy 6. This should be the theme all the way from Lincoln to Omaha and should be promoted. Planning could promote that theme with a corridor of suitable size between the private property owners and the government right-of-way to segregate buried electric power, easy access to fiberoptic communications, water, and so on.

Patterson's concern was whether the development is able to produce a zero net fill profile. The building is partially in the floodplain, so that would require fill. Is that many acre feet of volume being taken out in the area of the pond? He thinks the pond looks a little small.

Staff questions

Schwinn asked staff to enlighten the Commission as to what will go on at the intersection of Fletcher & 98th. Steve Henrichsen of Planning staff stated that the city does not know what will be happening there at this moment. It will be addressed in the future. Dennis Bartels of Public Works advised that at this point, no plans have been developed. Public Works has asked for more site specific information and traffic information from the developer/builder to analyze the traffic. Due to the intersection at Alvo and 98th and Cornhusker being out of the future urban area, the city has not done any master planning of the streets. At a minimum, the City will expect paving from the driveway back to Cornhusker and will have to work through the traffic design issues in the next phase of this project. If 98th becomes an urban street, it will require a lot of changes that were not anticipated.

Hunter does not want to establish a precedent for future development outside the city limits. Are we creating a precedent here? Henrichsen stated that it is staff's opinion that the approval of this project will fill in one of the last portions on the south side of Cornhusker Hwy. As long as that zoning stays out of the floodway, this is basically the last portion. On the north side of Cornhusker Hwy, there is very little industrial, and the railroad tracks are on the north side of Cornhusker making access more problematic. The north is very different from the south side. Hunter asked whether the staff considers Cornhusker Hwy to be enough of a division that one side of the street is not going to reflect the opposite side of the street. Henrichsen suggested that the real factor is the double line of the railroad tracks on the north side of Cornhusker Hwy. The city would not want to encourage a lot of traffic heading across those tracks, and from an employer's point of view, you do not want to be on the north side of the tracks when there is not a lot of certainty about being able to cross that track.

Response by the Applicant

Hunzeker responded to the concern about fill in the floodplain. This applicant is going to be taking a substantial amount of fill out of the area both within the floodway and in the floodplain. The area where they are changing slightly the course of drainage coming under 98th Street is going to be flattened out considerably. They will be creating wetlands in that area that is within the floodplain and also in most of the area that is in the floodway

by virtue of flattening that area out and taking the grade down somewhat. They will not be taking every cubic yard of fill out of the floodplain or floodway. They will probably have a net fill of about 20,000 yards on this 30-acre site. They have agreed to continue to work with staff toward minimizing the amount of fill within the floodplain and floodway. They are continuing to work on manipulating the building. Part of the problem is a hill that will be taken down some and another hill that will probably have to come down, but they are very confident they can get down to 20,000 yards or less.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 94-51

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 5, 2000

Duvall moved approval, seconded by Taylor and carried 6-0: Schwinn, Taylor, Newman, Hunter, Duvall and Bayer voting 'yes'; Steward, Krieser and Hopkins absent.

CHANGE OF ZONE NO. 3236

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 5, 2000

Duvall moved approval, subject to removal of the entire area of the floodway and protective covenants to the satisfaction of Public Works, County Engineer, Planning and Health, seconded by Taylor and carried 6-0: Schwinn, Taylor, Newman, Hunter, Duvall and Bayer voting 'yes'; Steward, Krieser and Hopkins absent.

CHANGE OF ZONE NO. 3237

**TEXT AMENDMENT TO TITLE 27 OF THE
LINCOLN MUNICIPAL CODE, A/K/A THE
NEIGHBORHOOD CHARACTER PRESERVATION INITIATIVE.**

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 5, 2000

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

Jennifer Dam of Planning staff submitted a memo from Ed Zimmer indicating that the Historic Preservation Commission moved to support this proposal at its March 16, 2000, meeting. In addition, Dam submitted four letters in support.

Proponents

1. **Jon Carlson** indicated that since the original hearing, four more neighborhood associations have joined in this application: Meadowlane, East Campus, Indian Village and Arnold Heights. In addition, Carlson has received support from REOMA, Urban Development, Preservation Association of Lincoln and the Historic Preservation Commission.

2. Tim Francis, 2511 T Street, testified in support. Since 1977, when he learned what red-lining meant when he tried to sell his home, he has learned about block grant money, slip-ins, and high density zoning, and he has learned how to recruit homeowners and conscientious investors and lobby to get better things accomplished in older neighborhoods. Francis represents the **Hawley Area Association** around 25th and S & T. This is really a convenient time for this kind of proposal because the market forces in Lincoln being what there are, there is not much demand for slip-in apartments in older neighborhoods. Prices of older homes have increased. Part of this is because of the new construction on the edges of town, creating a competition for the owners of the 30-year old slip-ins. His mission as a realtor is to create a better product for other agents in Lincoln to sell. He does not anticipate a change in the density by this legislation, but the city will have more influence over how it is designed. Highest and best use is presumed to mean highest and best economic use. Well designed property also has a very high economic value. He wants to keep the historic landmark districts going forward. With so many good things in place in Lincoln between the cooperation of the Housing Authority, strong leadership from the Mayor, and the Antelope Valley project, he believes this is one more piece of that puzzle.

3. Jim Cook, 5119 Huntingdon Avenue, testified on behalf of the **University Place Community Organization** in support. The issue raised a month ago was whether this affects sprawl and this community at the edge. What social cost can we ascribe to allowing density unchecked at the center? There is economic benefit to the city, but that continuing economic benefit has a diminishing value over time. When we create obstacles to reinvestment in the city and don't protect that investment, what social disruption and what cost goes with not protecting it? If we decide that protecting our neighborhoods is important, is this legislation enough? Have we asked for enough? Perhaps we have not. Commissioner Steward opened the door with his comments at the last hearing. Cook believes there is opportunity for continuing community dialog about whether this is enough protection for the city at the center. How does this affect sprawl at the edge? When this community is ready to take on the challenging position about how to redevelop the city to align with transportation issues, maybe we can talk about high density. As it stands now, high density can find itself in many untoward places. How do we realign high density with transportation issues? That is a Comprehensive Planning issue. Cook advocates giving a clear signal to those thinking about reinvesting at the center that you can come back and expect that your life reinvestment will be honored.

4. Ed Patterson, 2108 Q Street, agrees with placing density in conjunction with transportation arterials. Why was it done the way it was done with "dezoning" flopped over the top of all single family neighborhoods. Given that was done, when we sell a home we have worked very hard to restore, why don't we sell it with the proviso that it be single family use from now on. This takes nothing away from the property owner. You avoid the issue of downzoning.

Patterson is President of the Malone Neighborhood. The **Malone Neighborhood** was among the first neighborhood associations to support this legislation, subject to the more than reasonable condition that valuations and condemnation be made on the basis of pre-downzoning calculations. This idea can be used to drastically cut the value of some of the land that UNL clearly wants. It would only be fair that UNL, even if through the hand of Antelope Valley, reaches condemnation by valuing that land under the pre-downzoning calculations. There is an unpleasant history of UNL's prior operations in real estate in the Malone Neighborhood.

Patterson believes there is a very substantial downzoning involved in the net effect of this proposal. He urged that the zoning that existed prior to this ordinance be used to calculate value in condemnation court.

5. Mark Hunzeker appeared on behalf of the **Lincoln Board of Realtors**. The letter from the Lincoln Board of Realtors refers to 20-30 year old apartment units in the older community. Those units were being built largely in response to a consciously dictated city policy which was restrictive upon development at the fringe and expressly encouraged higher density in core areas of the city for the purpose of supporting the downtown with a population base that would support a retail core. By loosening those regulations at the fringe, you saw a tremendous boom in multi-family construction in new housing development around the fringe of the city. As of now, there are not many, if any, apartment units being constructed in the older parts of the community. Some people are suggesting that a return to those policies of old might be appropriate to discourage urban sprawl, to make more efficient use of infrastructure and to generally increase the density of the urban area. He knows this is not that broad brush of a policy debate, but these kinds of regulations do have effects, and the effect of imposing higher cost either in the form of mandated open space or in the form of lower density, and to a lesser extent in the form of design criteria, have the effect of encouraging investment in these areas.

The Board of Realtors is neutral on design criteria, but opposed to the effect of the lower density imposed and the mandated open space requirements that would be imposed on development in this area. It will discourage development and capital investment in those areas. It is discouraging to see legislation which seems to have a base assumption that more regulation begets better development. This is an erroneous assumption in his opinion and one which will discourage development and effectively require additional programs, i.e. block grant, etc., by the lack of investment in those areas.

Response by the Applicant

Jon Carlson reminded the Commission that there is a perimeter attached to the changes. Therefore, development on the edges would be unaffected by this proposed legislation. It only applies to the area within the perimeter delineated by the December 31, 1949, City Limits, within the prescribed R-4 through R-8 zoning areas.

With regard to whether this proposal goes far enough, Carlson suggested that the Commission could make an amendment to include the R-1 through R-3 areas.

With regard to the Board of Realtors' argument that this represents an indirect downzoning, Carlson noted that out of the 12 development scenarios affected by this change, i.e. single, double, triple lots in R-5, R-6, R-7 and R-8, only four are actually even impacted by this change at all. This is because the current parking standards already affect these areas to an equal or greater degree than this text amendment. This is a relatively minor impact and would only affect the larger multi-lot development in R-5 or R-7 within the perimeter area. Carlson argued that reducing the overscaled high impact development within established single family neighborhoods is precisely the good that this change can attempt to bring about. These are small focus changes that can bring large positive results.

With regard to the Board of Realtors' claim that this will cause disinvestment in these neighborhoods, Carlson believes this is thoroughly countered by the information provided at the last hearing by the Urban Development Department. The current development market is mainly focused outside of the perimeter area and would be unaffected by these changes. Carlson believes we must take a broader view of what constitutes "investment" in an area. According to Urban Development, investment is comprised not only of the appropriate new development, but also rehabilitation of the existing housing stock and revitalization of the existing infrastructure, public areas and businesses. It's a mistake to believe that the only value in these areas lies in their redevelopment potential. Even if we were to assume this, we have heard today from real estate professionals that inappropriate development actually harms the economic potential of these areas by lessening their appeal to buyers and renters, decreasing demand and thereby driving down the economic potential.

With regard to Commissioner Steward's comments at the last hearing, as to whether limiting density potential in the center wouldn't in fact encourage sprawl, Carlson commented that although this particular change has minimal impact on density potential, he generally agrees with Steward's analysis. Historically, our vision for Lincoln has been of a city with a vital downtown, surrounded by high density residential areas. The zoning reflects that vision. Unfortunately, over the last three decades, the results of this zoning have not produced the intended vision. Instead of the large buildings we wanted on the edge of downtown, gradually transitioning to mixed, small-scale residential development, we find over-scaled complexes dropped into existing single-family, sometimes historic neighborhoods. The piecemeal approach doesn't allow for the infrastructure to be updated sufficiently, overburdening the existing utilities, roads and schools. Simply zoning for high density does not produce the intended quality of life we want. So the question becomes, must high density development produce these effects within this area? The answer Carlson has found is, "not if a development is appropriately designed for the area". Good design mitigates those density problems. Higher density zoning must be accompanied by proper design standards to mitigate the aforementioned negative effects. We can continue Lincoln's vision of growth without encouraging sprawl by incorporating appropriate design

standards. This proposed initiative would allow for density, but requires modest design changes to mitigate the negative effects of that dense development. This is why the changes are brought forward as a package—they are balanced to allow for the continued higher density, design appropriate developments. They are smart, carefully crafted changes that enjoy overwhelming support from the people who rent and own property in these neighborhoods as represented by their testimony and the over 50 letters of support from the neighborhoods, from the rental managers of the properties represented by REOMA, and from many of the business people today who market and sell these properties. This amendment would allow us to maintain our vision of Lincoln as a growing community that continues to care about its citizens and the quality of life that we enjoy.

Kent Seacrest believes we are all trying to achieve the same thing—to increase property values. 15 neighborhood organizations support this because they think it will increase property values. We are trying to keep the pie pieces in check by keeping the values going. Investment in the core is the key. He is glad the Board of Realtors like the design standards. The density issues only apply to those multiple lot situations.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 5, 2000

Taylor moved approval, seconded by Newman.

Newman looks at the number of letters received in support, along with the 18 neighborhood associations, Historic Preservation Commission and REOMA. There is a wide assortment in support. The letter that hit her was from North 24th Street with the pictures. As far as increasing density in the inner city, she drove from Lincoln High to A and G, and there were 12 “for rent” signs. She does not believe increasing the density is an issue right now. This is too little too late but she believes it is a good start.

Hunter really wishes that there was some way this could be made even stronger. If we have to take a step in the right direction, this is probably it. People will reinvest if they have confirmation that the character is going to remain the same. If we are taking this step forward, she hopes there will be another in the future that will continue to strengthen it.

Taylor was impressed by all the letters, even the Board of Realtors, but he sees a lack of conviction in their point of view. The positive arguments have been very intelligent.

Motion for approval carried 6-0: Schwinn, Taylor, Newman, Hunter, Duvall and Bayer voting ‘yes’; Steward, Krieser and Hopkins absent.

**CHANGE OF ZONE NO. 3241
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL,
ON PROPERTY GENERALLY LOCATED AT
NO. 84TH STREET AND WAVERLY ROAD.**

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: April 5, 2000

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

Proponents

1. **Mark Hunzeker** appeared on behalf of the applicant and requested an additional two-week deferral until April 19th. The applicant had been promised lab reports on the water by yesterday and they have not arrived.

Duvall moved to defer, with continued public hearing and administrative action scheduled for April 19, 2000, seconded by Hunter and carried 6-0: Schwinn, Taylor, Newman, Hunter, Duvall and Bayer voting 'yes'; Steward, Krieser and Hopkins absent.

There was no other public testimony.

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

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: April 5, 2000

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

Proponents

1. **Gary Bredehoft of Olsson Associates** testified on behalf of the owner and developer. He is requesting approval to operate a limited landfill at S.W. 56th & West "O". His client has been working on this for over a year and he believes they have satisfied all departments. Bredehoft agreed with the conditions of approval, except Condition #1.1.1.9. He requested that the open working face of the fill will not exceed five acres (as opposed to two acres). He believes that the staff agrees with this amendment.

Bredehoft stated that he has also talked with staff and Williams Pipeline and he believes they have worked everything out. They have revised the grading plan to start the slope and quit the slope and fill when it reaches that easement. They have agreed to a 100' easement.

With regard to the concerns raised about dust, Bredehoft stated that the applicant is willing to include a note that prior to operation, the owner/developer will have a dust control plan approved by the City-County Health Department.

Bredehoft stated that the applicant has addressed the concerns of BN with regard to runoff and the sediment control plan, which has been submitted and approved.

Opposition

1. **Trev Peterson**, 1000 NBC Center, attorney, testified on behalf of the **Burlington Northern and Sante Fe Railroad**. He is not sure his client is opposed, but the railroad had some concerns about the project. This project is located immediately north of BN's Hobson Yard facility, which is one of the most busiest rail facilities. They are concerned with runoff issues, primarily silt, and request that the city impose a "no net gain" in the runoff. Part of the problem is that the Hobson Yard is built in a low-lying spot and it is difficult to drain. They want to be certain the proposed development does not push more water with silt into the yard than the drainage facility can handle. He is curious to know whether the proposed plan does address the no net gain and runoff in terms of cubic feet per second off the facility. He thought a detention cell was going to be included, but it would have used part of the railroad land and this is not acceptable. The drainage should be taken care of on their own property. Peterson stated that he has since been told that there will be a ditch as opposed to a detention cell.

Staff questions

Schwinn asked staff to respond to the runoff issue. Dennis Bartels of Public Works stated that there is a sediment and erosion control plan. Thus, as far as the grading goes, they are required to control the silt and sediment that might run off the site as part of the approval of the plan, and restoration is part of the approved plan. This proposal is not for any new development on the area. It talks about restoring it to vegetation, thus by Public Works' standards, they did not address the no net rise. If it is being restored back to vegetation he does not anticipate any gain in runoff from this site. This is not a plan approving a building site. It is stockpiling or filling on the site that is being approved. He does not anticipate any major changes in the runoff character or the amount of runoff from the site.

DeKalb offered that the base standard for runoff is AG state and essentially this is going to be returned to a grassed state. In fact, the slope will be brought up somewhat.

Newman wondered about the dust issue. She realizes they have to do what Health says, but is there a fine if dust is raised? DeKalb did not know if there is a fine involved. If the condition of the special permit has repeated violations, the Health Department would advise Planning, Building & Safety and the City Council and the operations could be stopped.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 5, 2000

Taylor moved approval, with conditions, with amendment to Condition #1.1.1.9 as requested by the applicant, seconded by Duvall.

Schwinn believes this is a good situation where private industry stepped forward to create this situation. Lots of times we have a hard time getting rid of our stuff and this will be a good asset and take away some of the pressure we have on our public landfills.

Motion for conditional approval, with amendment, carried 6-0: Schwinn, Taylor, Newman, Hunter, Duvall and Bayer voting 'yes'; Krieser, Steward and Hopkins absent.

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

**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" STREET AND S.W. 10TH STREET.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

April 5, 2000

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

Proponents

1. **Tom Cajka of Ross Engineering** testified on behalf of the applicant. Since the last meeting, they met with the West A Neighborhood Association last Thursday and reviewed the project with them and he believes the applicant was able to address their concerns. Their concerns had to do with this being a so-called "private" development. They were assured that all streets and sidewalks would be available for anyone to use. Cajka believes there was some misunderstanding with using the terminology of private roadways. Another issue was waiving the sidewalks and he believes this was another misunderstanding. In the plan there are sidewalks throughout the project with the exception of two small areas on W. Washington Lane and Grassland Place. The other issue is the waiver of design standards for 4' separation of the sidewalk from the street on S.W. 10th south of Grassland Place and S.W. 11th south of Grassland Lane.

Cajka also advised that just last night, Ron Ross met with the neighbors whose back yards abut this proposed development. After discussion, the neighbors decided they wanted to go back to the regular board fence to match the other existing fences in the neighborhood.

2. Bill Hergott, President of West A Neighborhood Association, reported on behalf of the neighborhood association and he believes they have worked out the issues. Each homeowner that was concerned about what was happening behind their property is now in support.

3. Teresa Schultz, landowner in the area, is selling this property to the developer. She has taken care of the property and has been approached by developers in the past. This time she was interested because of the way they are developing the property with fewer units. She believes it will be much better than the vacant lot that is out there now.

Public hearing was closed.

SPECIAL PERMIT NO. 1825

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 5, 2000

Newman moved approval, with conditions, seconded by Hunter.

Newman appreciates that they have talked with the neighbors.

Motion for conditional approval carried 6-0: Schwinn, Taylor, Newman, Hunter, Duvall and Bayer voting 'yes'; Krieser, Steward and Hopkins absent.

Duvall moved to reconsider, seconded by Newman and carried 6-0: Schwinn, Taylor, Newman, Hunter, Duvall and Bayer voting 'yes'; Krieser, Steward and Hopkins absent.

Duvall moved to approve, with conditions, with amendment to Condition #1.1.2 to waive the 4' separation design standard between the sidewalk and the street, seconded by Newman and carried 6-0: Schwinn, Taylor, Newman, Hunter, Duvall and Bayer voting 'yes'; Krieser, Steward and Hopkins absent.

PRELIMINARY PLAT NO. 99030

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 5, 2000

Newman moved approval, with conditions, with amendment to Condition #1.1.2 to approve the waiver of design standards as requested by the applicant, seconded by Taylor and carried 6-0: Schwinn, Taylor, Newman, Hunter, Duvall and Bayer voting 'yes'; Krieser, Steward and Hopkins absent.

There being no further business, the meeting was adjourned at 3:50 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on April 19, 2000.