

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, May 31, 2000, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Russ Bayer, Jon Carlson, Steve Duvall, Patte Newman, Tommy Taylor, Greg Schwinn and Cecil Steward (Linda Hunter and Gerry Krieser absent); Mike DeKalb, Ray Hill, Rick Houck, Jennifer Dam, 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 special meeting held May 10, 2000. Motion to approve made by Steward, seconded by Newman and carried 6-0: Bayer, Carlson, Duvall, Newman, Taylor and Schwinn voting 'yes'; Steward abstaining; Hunter and Krieser absent.

Bayer then called for a motion approving the minutes for the regular meeting held May 17, 2000. Motion to approve made by Newman, seconded by Steward and carried 6-0: Bayer, Carlson, Duvall, Newman, Taylor and Schwinn voting 'yes'; Steward abstaining; Hunter and Krieser absent.

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

May 31, 2000

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

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3257; SPECIAL PERMIT NO. 1838; FINAL PLAT NO. 00004, EDENTON NORTH 5<sup>TH</sup> ADDITION; STREET & ALLEY VACATION NO. 00005; MISCELLANEOUS NO. 00002; AND MISCELLANEOUS NO. 00003.**

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

Note: This is final action on the Edenton North 5<sup>th</sup> Addition Final Plat No. 00004 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.

The Chair then announced that the applicant for Item No. 3.4 on the agenda, Special Permit No. 1841, had requested rearrangement of the agenda to make an airline flight out of Kansas City. Carlson moved to change the order of the agenda with Item No. 3.4 as the first public hearing, seconded by Schwinn and carried 7-0: Carlson, Schwinn, Steward, Newman, Duvall, Taylor and Bayer voting 'yes'; Krieser and Hunter absent.

**SPECIAL PERMIT NO. 1841**  
**TO DISPLAY AUTOS FOR SALE**  
**IN THE FRONT YARD, ON PROPERTY**  
**GENERALLY LOCATED AT NO. 29TH STREET**  
**AND CORNHUSKER HIGHWAY.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 31, 2000

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

Planning staff recommendation: Denial.

Proponents

1. **L.W. Hoffman** testified on behalf of Anderson Ford for a car lot at 2900 Cornhusker Hwy. Hoffman presented the plot plan which has been revised as requested by the Planning Department. He also submitted photographs taken from different areas of Lincoln demonstrating parking in the front yard, i.e. such as 14<sup>th</sup> & Yolando; 1500 Cornhusker Highway; 27<sup>th</sup> & Cornhusker (tire sales); 2925 Cornhusker Highway; 2920 Cornhusker Highway; West "O" west of Popeye's.

Hoffman testified that the subject property at 29th & Cornhusker has more landscape than anyone else on the west side; there is also landscaping on the south side and east side of the building. Along 29th Street there is landscaping and another planting on the southeast corner. Hoffman is concerned about the landscape requirement in the front because of the fiber optic line being on the property. This is business-oriented. There were two previous businesses at this location that never made it. He believes it is proper to have cars for sale in the front yard. K-Mart is located to the north. There is no record that the city owns the property on the other side of the railroad right-of-way. Anderson Ford has a two-year lease on the property.

Hoffman agreed with the conditions of approval, except for the additional landscaping requirements. He would like the landscaping to remain as it exists.

Carlson asked whether there is any curbing or barrier on the rear yard towards K-Mart. Hoffman stated that to be all asphalt. There is no drive lane. K-Mart has vehicles for rent parked behind the subject property.

Hoffman clarified that the rear yard is along the railroad right-of-way and will not be used for cars for sale. It will be used for customer parking only. The side yard will not be used for cars that are for sale.

There was no testimony in opposition.

Staff questions

Steward noted that the immediate area around the building does seem to be landscaped and asked for staff comments. Ray Hill of the Planning staff advised that the design standards require that a parking lot used for the storage of vehicles for sale must meet the parking lot design standards which require the screening of the parking lot, not landscaping of the building. If they get permission to store vehicles for sale in the front yard, then they have to meet the parking lot design standards which is 2-4' above the ground at 60% screen. This would cover the grills and headlights of the cars.

Carlson understands the rationale is that when you choose to park the cars in the front yard, that then constitutes a parking lot and the intent is to screen the cars in the parking lot. The regulations turn this into a parking lot instead of a used car lot.

Schwinn asked what kind of parking lot this was before. Hill clarified that parking is allowed in the front yard in this zoning district, but you cannot use the front yard for the main use, which in this situation is the sale of cars. The north side is parking and all asphalt and the applicant is calling that the side yard. When you are on a corner lot the individual gets to choose which is the rear yard and which is the side yard. Because there is already parking on the east side, this applicant called that the rear yard to park customers and employees. They will not park on the north side.

Carlson inquired as to the mitigating landscaping for the streetscape along Cornhusker. Hill did not know.

Bayer clarified that if the applicant wanted to have plants solid across the bottom, they would only have to come up 60%.

Bayer inquired about Condition #1.1: "If the use of the premises is changed from vehicle sales, this special permit shall not be considered an adjustment or waiver of the standards for a parking lot nor shall the area be considered a nonconforming parking lot." Hill explained that the Law Department has requested this condition so that if the use is changed from a used car lot back to a restaurant, no one can come back and claim that there has been the approval of a standard that is not in conformance.

Carlson wondered what happens if the landscaping standard is waived at this point and it turns into a different use. Would the landscape requirements come back with a special permit for a different use? Hill answered in the affirmative. The special permit stays with the property.

Response by the Applicant

Hoffman submitted a copy of the resolution for the property at Capitol Beach and West "O" which was approved, which states that all privately owned improvements including landscape are to be maintained by the owner. They have beautiful grass there and it is business oriented. There is not a blade of grass above the curb. It is well maintained. This permit is only a couple years old. Hoffman wants to waive the additional landscaping.

Bayer confirmed with Hoffman that he is willing to agree to maintain the existing landscaping. Hoffman concurred.

Taylor asked for staff comment. Hill advised that the staff is recommending denial of the special permit; however, if the Commission chooses to recommend approval, the staff would recommend that the landscaping meet standards.

Taylor sought further clarification of the application. Hill explained that the applicant is seeking a special permit because you cannot place cars for sale or resale in the front yard because it is considered to be the primary use. The zoning ordinance does allow parking in the front yard, but it is an accessory use for parking for customers and employees. The zoning ordinance says that if you get a special permit to park cars for sale or resale in the front yard, then that parking needs to be constructed in accordance with design standards for parking lots, and parking lots require screening. Hill does not believe the Commission should use a violation of the standards in other areas, for whatever reason, as a cause to allow parking in the front yard on this application. The city should enforce the regulations.

Taylor wanted to know why the examples Hoffman referred to are allowed to exist in violation. Hill advised that the Building & Safety Department is the enforcement agency.

Schwinn requested staff to clarify the difference between Condition #2.1.1.1 and #2.1.1.2. Hill advised that both conditions would need to be amended in order to waive the landscaping requirements.

Response by the Applicant

Hoffman agrees that some of the front yard parking may be grandfathered. He was attempting to point out the ones that have zero landscape other than grass. This is a very small front yard. There is also a fiber optic line and street lighting.

Rick Peo, City Law Dept., advised the Commission that a waiver of design standards cannot be granted without having a separate public hearing on that request. A waiver must be advertised separately. This waiver was not requested at the time of the application and therefore must be advertised in order for the Commission to make a recommendation as to the landscape waiver. Peo suggested that the application could be amended, requesting the waiver, and readvertised for public hearing. If the applicant wants final action today, the waiver would require a separate application.

Schwinn moved to continue public hearing and administrative action on June 14, 2000, seconded by Taylor and carried 7-0: Schwinn, Taylor, Bayer, Newman, Carlson, Steward and Duvall voting 'yes'; Krieser and Hunter absent.

**USE PERMIT NO. 129**  
**FOR A COMMERCIAL AREA ON PROPERTY**  
**GENERALLY LOCATED AT SOUTH 14TH**  
**STREET, ½ MILE SOUTH OF PINE LAKE ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 31, 2000

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

Planning staff recommendation: Conditional approval.

Proponents.

1. **Rick Krueger**, President of Krueger Development, presented the application for the commercial area of Vavrina Meadows, consisting of 13 acres. He showed the commercial district and how it integrates with the property to the north. The application seeks to reduce the front yard setback along 14<sup>th</sup> Street and the north side of Vavrina Boulevard to 20' for parking and 40' for buildings; to reduce the front yard along South 15th Street to zero feet and increase the front yard along the south side of Vavrina Boulevard to 55'; to reduce the side yard along the south and north boundary to 5' for parking and 10' for buildings; and to reduce the rear yard along the east boundary abutting residential lots to 10' setback for buildings and 20' for parking.

Krueger also submitted the following proposed revisions to the conditions of approval:

Condition #1.1.1: 5' parking setback and 10' building setback on the north and south sides of the B-2 district. 50' building setback and 20' parking setback on the east side of the B-2 district.

Condition #1.1.2: 20' parking setback and a 40' building setback along 14th Street.

Condition #1.1.4: A landscape screen plan is submitted for the east side of the B-2 district. The landscaping and grading along the east side to be completed within one year following the initial occupancy of the use permit area, and the remaining landscaping and screening submitted as part of the building permit process. The general notes revised accordingly.

Condition #1.1.6: The general notes are revised to state that an administrative amendment to approve a specific site plan on each lot will not be required unless the site includes a drive thru facility, convenience store/gas pumps and/or a car wash.

Delete #1.1.11. They are platting to the center of 15<sup>th</sup> Street so those parking stalls will be on an individual lot as opposed to being in an outlot.

Newman is concerned about approving something that is “generic”. She asked whether the applicant has any architectural building style planned. Krueger advised that they do not have a building style covenant at this time. This is the same process that was used for the generic use permit at 27<sup>th</sup> & Pine Lake.

There was no testimony in opposition.

As far as “generic”, Hill explained that the generic use permit talks about uses and setbacks, and then when each lot is developed, the applicant comes back in and asks for an administrative amendment for staff to review the details of that site plan. The staff is recommending that there be no drive-thru facilities along the east side or along the north side and south side, which are abutting residential.

Schwinn noted that the applicant has submitted a screen plan for the east side of the B-2. Hill agreed that the plan was submitted; however, the staff has found that it did not meet design standards. Staff agrees that individual lots can be landscaped to fit their needs as long as they meet design standards; however, they should have a theme landscape screen around the entire perimeter of the B-2 to set it out. The landscape screen also needs to be constructed sooner than the one year.

Schwinn inquired as to the right-of-way on South 14<sup>th</sup> Street. Hill clarified it to be 50' to the centerline, total of 100'.

Steward made the observation that the applicant’s proposed amendment to Condition #1.1.1 is doing nothing but waiving the standards without seeing what the specific use is. Hill stated that the staff agreed to the generic use permit, but does not believe that setbacks should be waived on a generic use permit. Steward does not believe that the case can be made that they need that waiver of the setback without the specific uses being set forth. Hill added that the additional setback should be provided along 14<sup>th</sup> Street with the reduction allowed along 15<sup>th</sup> to give the character of a village.

Bayer asked whether the staff has the authority to waive the setback administratively when approving the specific site plan. Hill answered, “no, they would have to amend the use permit and request the waiver through the Planning Commission.” When the yard is established, then the individual uses can be approved administratively.

Carlson noted that the applicant wants to expand both toward 15<sup>th</sup> Street and 14<sup>th</sup> Street with its revised Condition #1.1.1.

Carlson noted that there has been some talk about 120' rights-of-way, but they do not exist now. He wonders about the impact of Condition #1.1.1 of the staff versus Condition #1.1.1 by the applicant. Hill advised that the standard is 50', using wherever the right-of-way line is located at the time they come in for a building permit, unless the Planning Commission and City Council adjusts it to a lesser setback.

Rick Peo noted that the staff report refers to 60' of right-of-way. The B-2 use permit regulations indicate that by a condition of approval, the Planning Commission/City Council can require additional right-of-way to be in conformance with the Comprehensive Plan. Currently, the Comprehensive Plan only has a 50' right-of-way on South 14<sup>th</sup>--not 60'. The Planning Commission could not require an additional 20' at this time. Peo has a concern in the sense that preliminary plats are valid for 10 years. If they are over 5 years old, and the conditions have changed, the city may require a new preliminary plat. The primary practice has been that if you have a valid preliminary plat, you get to develop in accordance with those standards. Between 5 and 10 years, we could require a new preliminary plat if the standards have changed. If the plat is less than 5 years old, he believes we are stuck with the 50' of right-of-way.

Carlson again asked what the impact would be. Peo suggested that if the city ever wants to expand the road and you have waived the setbacks, you've actually put the buildings quite a bit closer to the street. One of the Planning Commission's duties in the use permit is that the Planning Commission can require a greater setback than the minimum. With a generic use permit, a lot of the Planning Commission's decision making is taken away. Conversely, waivers probably should not be granted on a generic use permit.

Nicole Fleck-Tooze of Planning staff showed a draft “work in progress” map conveying the concept of primary public way corridors in the growth areas. As this use permit is raised, there are issues that are being considered in the public way corridor study, i.e. what should the cross-section look like. The staff is in the process of studying that and hoping to bring forward a Comprehensive Plan Amendment yet this summer. This area is within one of the primary public way corridors from Yankee Hill Road to Pine Lake Road.

Hill clarified that the preliminary plat on this site was approved in April of 1999.

Response by the Applicant

Krueger advised that the final plat for this area has been submitted so that should take away the concern as to whether they are coming forward with a final plat. Therefore, the idea that it will be more than 5 years before this develops is moot.

Krueger further pointed out that this application has a floor area ratio of .198, which is under the .25 in the Comprehensive Plan. The floor area ratio will determine the size of the buildings and the scope of the development. This application does not seek to overbuild. If we are going to talk about urban villages, we need a little more variation to enable the developer to deal with the setbacks. Krueger showed a photo of a 40' setback on a major arterial, pointing out that the building is not too close to the road.

Bayer noted that with a four-lane road, there is 100' right-of-way. How much is left over that is not concrete? Krueger explained that a four-lane road is 26' wide on each side. He also showed a picture of a 20' setback from the road as an example of buildings which were done under a generic use permit.

With the photographs, Krueger was attempting to show that the flexibility that has been granted in the past has come to fruition.

The picture of the 40' setback is applicable to what is being requested on 14<sup>th</sup> Street in this application.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 31, 2000

Schwinn moved approval of the staff recommendation of conditional approval, seconded by Newman and carried 6-1: Schwinn, Newman, Carlson, Steward, Bayer and Taylor voting 'yes'; Duvall voting 'no'; Krieser and Hunter absent. None of the amendments requested by the applicant were granted.

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

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 31, 2000

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

Planning staff recommendation: Denial.

Proponents

1. **Alan Slattery** appeared on behalf of the applicant, **Gardens Complex L.L.C.** The subject site is the Unico Insurance Company at 45<sup>th</sup> & "O". South of the building is a parking lot. The application today involves the southeast corner of the parking lot for 17 stalls. In 1985, Special Permit 879A approved the parking in this entire area, including the subject area. It has been constructed as parking in stages. In 1987, there was a special permit approved for some temporary parking, which became permanent in 1997. This application is the last piece of the parking area pursuant to the 1985 approval.

Slattery noted that the Planning Dept. has recommended denial of this application and it has caught them off guard in that the parking for the entire area was approved in 1985. Staff's rationale for denial is the intrusion of parking into the residential neighborhood. Since the parking was approved in 1985, Slattery does not believe that intrusion into the residential neighborhood should be the issue considered here. The staff's recommendation of denial would appear to be more of a revocation of that earlier special permit.

Slattery recalled that there were some comments from neighbors and this application was placed on pending and the plans have been revised to deal with the concerns expressed by the neighbors. The curbcut on 45<sup>th</sup> Street has been removed, with traffic entering and exiting on 44<sup>th</sup>. There were recommendations for changes in elevations and the landscape plan.

Slattery requested that Condition #1.1.4 be deleted. The continuous parking would go along the south line and fits in with prior approvals for this site.

In terms of the history of this application, the analysis refers to a resolution approved in 1980 that restricted the use of this building to insurance and computer office center. Since that time, they have added more lots and constructed the parking. In 1997, the Board of Zoning Appeals approved a rescission of the original use restriction passed in 1980. There are presently no restrictions other than those pursuant to the H-2 zoning district.

Slattery reiterated that the staff recommendation of denial because of intrusion into the neighborhood should not be the issue. This parking was approved in 1985.

Carlson asked why this application is before the Commission if the parking has already been approved. Slattery acknowledged that there are changes in the site plan that are involved.

Steward inquired about the residence shown in the aerial photo. Slattery acknowledged that the house does exist on Lot 13. The entire parking area is Lots 12 and 13. The house is existing but it would be demolished in this process.

There was no testimony in opposition.

Bayer inquired of staff as to the need for this application if the parking was approved 10 years ago. Ray Hill of Planning staff explained that it is actually a change in the layout of the parking lot. The special permit which the applicant referred to included this whole area but did not have the southern curbcut to 44<sup>th</sup> Street. It was designed as one parking lot with one access. They did not construct the whole parking lot at once and came back and asked permission for the south to be a temporary parking lot which did not require paving and meeting the design standards. Carlson asked whether they could reconfigure the curbcut and go back to the original special permit and redo the existing parking lot to comply with that special permit. Hill explained that they would have to give up the present southern access to 44<sup>th</sup> Street and redesign the parking lot. They would have to do a lot of regrading and lower the existing southern parking lot considerably to get from the north parking lot to the south parking lot.

Steward clarified that the 17 stalls being requested with this special permit were included in the previous special permit but with a different curbcut configuration. Hill concurred. It all received a special permit for parking previously, but the only curbcuts were the north to 44<sup>th</sup> and the north to 45<sup>th</sup> Street, and it included lowering the grade of the parking lot and berming along 44<sup>th</sup> and 45<sup>th</sup> Streets. The difference in grade between the north and south parking lots is considerable because they laid the southern parking lot at grade rather than lowering into the ground. Steward is concerned about the property where the duplex sits. Hill stated that the original special permit lowered that entire parking lot, and then the circulation occurred all within their private property. Staff is suggesting that the better circulation is for it to be internal so that they can circulate within the parking lot and not move back out onto the public street. By moving back out onto the public street, there is an impact on the residential neighborhood.

Response by the Applicant

Slattery noted that eliminating the second curbcut on 44<sup>th</sup> Street puts more traffic on 45<sup>th</sup> Street and the neighbors were concerned about more traffic moving out onto 45<sup>th</sup> Street. The plan with two curbcuts on 44<sup>th</sup> does help move that traffic out. The applicant agrees with the elevation issues.

Newman inquired whether the applicant met with the neighbors. Slattery indicated that they have corresponded. Two dealt more with the circulation onto 45<sup>th</sup> Street. The last response related more to the intrusion issue, which he believes is a moot point, and they did not correspond with that neighbor.

Newman noted that the neighbors complain when people park in front of their houses. Is it true that there is no place to park in the parking lot? Slattery responded, stating that there is consideration of an addition to this building and that is why this parking is needed; however, there is plenty of parking available in the parking lot.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 31, 2000

Schwinn moved approval, with conditions, seconded by Duvall.

Carlson commented that his first reaction is that it upsets neighbors to have a house torn down. The other influence he sees is that we have property on "O" Street and that is where it should be. The question comes, how far should the retail and business go into the neighborhood? This is a tricky one because it is a divided parcel.

Newman believes it is an intrusion into the neighborhood. They've left two houses on the east side of the street as kind of an oasis. She hears from neighborhood people about parking in front of their houses.

Schwinn sees it as merely a case of squaring off the parking lot, tidying up the neighborhood and the commercial property and completing the edge between the two. He knows there are no guarantees, but he thinks this just completes the corner of 44<sup>th</sup> to 45<sup>th</sup> on "O".

Steward will vote against the motion. If you look at the block bounded by 44<sup>th</sup> and 45<sup>th</sup>, yes, it squares, but if you look at the two houses immediately east, it leaves the front of both of those houses looking directly into the parking lot--totally different than on the opposite side on the west on 44<sup>th</sup> Street. That faces another parking lot. It is an intrusion and he believes the businesses along O Street have to respect their residential neighbors.

Bayer's opinion is that 15 years ago this was approved and we had the opportunity for some residential housing and now they want to use it as a parking lot. They were told 15 years ago they could use it for parking and now they are told they cannot. He doesn't think it is fair.

Motion for approval, with conditions, failed 4-3: Schwinn, Carlson, Duvall and Bayer voting 'yes'; Steward, Taylor and Newman voting 'no'; Krieser and Hunter absent.

This item is held over for administrative action on June 14, 2000. Public hearing has been closed.

**SPECIAL PERMIT NO. 1840**  
**FOR A PARKING LOT ON PROPERTY**  
**GENERALLY LOCATED AT SOUTH 47<sup>TH</sup>**  
**STREET AND HILLSIDE STREET.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 31, 2000

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

Planning staff recommendation: Denial.

Proponents

**1. Peter Katt**, attorney, appeared on behalf of **Angie Muhleisen of Union Bank and Trust**. This is a request by Union Bank which will become the largest locally owned bank in the City of Lincoln upon completion of the NBC/Wells Fargo merger. This success has resulted in expansion on this site. The original bank has been located in this vicinity since 1917. These roots and the close tie that the bank has to the College View neighborhood have continued to make Union Bank an excellent corporate citizen in this neighborhood.

The proposed parking lot is across the alley to the south of the bank. Union Bank acquired the building south of the proposed parking lot in 1988. They acquired it from NebHelp, which had acquired it from the Post Office. During NebHelp's tenure in the building, the three-story addition was added under the existing zoning ordinance but NebHelp did not construct sufficient parking at that time. There are continual complaints from the neighbors about employees parking in and throughout the neighborhood. When Union Bank purchased the building in 1988, they began a program to build the parking lot to take care of the parking demand generated by that facility. Union Bank has taken pride in improving and providing a high level of maintenance and care of this facility. As a result of the Bank's continued success, there is a continuing need for additional parking. Union Bank maintains a number of facilities in this area beyond this building. The current overflow parking may spill out into the neighborhood. This is not a long term satisfactory situation for the residences or the bank's employees or customers.

Katt believes the staff analysis is generally accurate. The special permit requirements are identified and staff correctly points out that those requirements are generally satisfied by this application; however, where we part company with staff is that after the objective analysis, they conclude, based solely upon the Comprehensive Plan goal, saying that residential neighborhoods should never be violated and this permit should be denied. Katt does not believe the Comprehensive Plan should be interpreted so narrowly. In the Comprehensive Plan, there are several planning visions that the community gave us:

**A Continuing Commitment to Neighborhoods:** ...The health of Lincoln's varied neighborhoods and districts depends on implementing appropriate and individualized policies. In addition, the land use plan is the basis for zoning and other land development decisions. It should guide decisions that will maintain the quality and character of the community's established neighborhoods.

**A Variety of Activity Centers:** Lincoln and Lancaster County will provide a variety of settings for community activities and employment. This variety is essential to building city and county communities that continue to meet the needs of the residents. These facilities should be integrated into the fabric of the community.

**Planning As A Process:** Community growth and development is a changing, dynamic process. Similarly, a land use plan must have the ability to respond to change in order to remain a vital, relevant tool that guides community decision making.

Under the commercial designation of the land use plan, there are eight types of commercial areas. The area this one fits into is labeled a Traditional Business District. Each of these districts serve an important niche. "The plan anticipates that many will continue to grow; some will evolve over the planning period to meet changing market needs; and others will remain stable and change little. ...Maintaining a balance between the health of existing commercial centers and an expanding commercial inventory on the urban edge is a major challenge.... Deteriorating commercial areas can have negative effects on nearby neighborhoods, injecting a level of public interest into what might otherwise be viewed as the workings of the competitive market."

Traditional business districts are vital to their surrounding neighborhoods. They also provide an important economic function for the City, providing relatively inexpensive space for small business. Yet, these districts are challenged by a lack of parking, limited exposure and competition from competing auto-oriented commercial developments. Strategies for investment should recognize the vital role that these districts play as special places in the City and the "image centers" of their neighborhoods.

This is the role that the applicant believes it plays in the College View area. Union Bank is committed to this neighborhood and they need an opportunity to grow. Union Bank needs the opportunity to find parking for their employees and customers.

Katt showed photographs of the current conditions in the area. The residential character as it abuts the existing commercial property is already somewhat compromised. He also showed photographs of existing parking lot facilities maintained by Union Bank in the area and pictures of Hillside Street, on the north side of the parking lot.

With regard to the conditions of approval, Katt submitted proposed changes. He requested to delete the language from Condition #1.1.1, "...plus replace each tree destroyed with a tree of similar characteristics." He also requested to delete Condition #1.1.2. If they need to do something more than provide the minimum landscape, they believe they can find areas for four additional trees, but more than that becomes problematic with the street cover that is already in the front yards, the street trees and the alley in the back. Katt believes they exceed the required landscape screen in the front yard as it faces Hillside.

Katt advised that they have met with the neighbors. The property owner adjacent on the west did not want any landscaping, but preferred a 6' privacy fence instead. The applicant has made revisions to the site plan based upon the meetings with the neighbors.

Steward noted that this building has changed hands three times since constructed. Katt observed that the original building in this complex was the post office building and it was that way for 25 years. NebHelp acquired that facility and built the three-story office addition of about 20,000 sq. ft. Thus, Steward commented that this has been a building in growth and transition through different uses. Katt observed that Union Bank has been the owner since 1988.

Steward referred to Katt's recital of the Comprehensive Plan in terms of "commercial in deterioration". Is that what this is? Katt believes that potential exists if attention is not paid to continuing to find viable use for the properties in this vicinity.

Steward asked the applicant to explain why they could not identify specific trees for specific replacement. Dan Muhleisen indicated that they could do that; however, for example, an 18" cedar is not a tree we would like to replace with specific species again. There are a lot of small scrub type volunteer trees that have come up on property lines. There are few nicer trees and they would be willing to place four more trees on the site, but the street trees are very large well-established trees. They are trying to create another lower canopy so that the line of sight is not impaired. Steward asked the applicant whether they are prepared to screen the lot with landscaping all the way around. Muhleisen concurred.

Carlson inquired whether Union Bank has any administrative offices outside of College View. Muhleisen answered in the affirmative. They have a big location at 27<sup>th</sup> & Pine Lake; they have offices Downtown at 13<sup>th</sup> & "O". They have mortgage lending at 66<sup>th</sup> & "O". Carlson thought that this site at 48<sup>th</sup> & Calvert was primarily administrative offices. Muhleisen confirmed that it is the main headquarters. The old NebHelp building is all administrative, commercial lending, and installment lending. It is their largest administrative office in Lincoln. They occupy 5 buildings in the 48<sup>th</sup> & Calvert area.

The proposed parking lot is directly north of the bank building.

Steward asked whether the applicant had considered berming on Hillside Street. The photo shows it to be at a higher elevation from the curblin. Muhleisen confirmed that they are showing a 3' berm at that location.

**2. Tom Cast**, 3350 South 46<sup>th</sup>, owner of property across Hillside from the proposed parking lot, testified in support. At the neighborhood meeting, all neighbors on the north side were present or represented and it was concluded that the properties there are not concerned with the parking lot, but they would like to see the alley improved that is adjacent—the north/south alley. It is gravel. When it rains the rock washes out onto the street and causes a problem in the neighborhood. They would like to see that improved at this time. Hillside is a 22' wide street and you won't get out onto 48<sup>th</sup> Street. The neighbors on the north side concur with approval of the parking lot. They just would like to see the alley improved at the same time. The east/west alley to the south is all paved by previous owners and that water comes down there extremely fast and ends up on Hillside Street.

Cast also stated that Union Bank is a good neighbor and maintains their property.

Carlson asked Mr. Cast, if given the choice, would he rather have houses or a parking lot? Cast's response was that the applicant represented that they would install the berm, and right now the lot is 4-5' higher. It will blend in all right. It doesn't matter whether they have houses or a parking lot.

There was no testimony in opposition.

Response by the Applicant

With regard to the alley, Katt stated that the applicant has agreed to pave that alley and it was included in the application.

Rick Peo, City Attorney, advised that the reduction or waiver of the front yard is not allowed in this application. A waiver of the front yard is not one of the designated options that Council can adopt. The section authorizing an adjustment of the front yard, if applicable, is applicable by right and does not require action by this body. He does not believe it is applicable in this situation. In his opinion, they must meet the front yard setback of the district for the parking lot. Condition #1.1.2 needs to remain in place.

Newman's major concern is intrusion into the neighborhood. She asked whether the applicant tried to use the three houses along 48<sup>th</sup> instead of these three houses left in an oasis. Muhleisen advised that there was an attempt to purchase at least one of the houses along 48<sup>th</sup> but they could not reach an agreement with the owner.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY THE PLANNING COMMISSION:**

May 31, 2000

Schwinn moved approval, with conditions, with amendment deleting the language from #1.1.1, as requested by the applicant with regard to replacement of trees, seconded by Duvall.

Schwinn believes we must consider the corporate tenant and neighbor. Union Bank is one of our strongest local businesses. They have been in the neighborhood for many years; has always been a very good neighbor; and the parking across the street is done very nicely. He does business at that bank and there is a shortage of parking. As far as the residential properties at the corner on 48<sup>th</sup> Street, obviously, those owners believe there is a higher use than a parking lot and the value of their property is much higher than what anyone could rightfully pay for a parking lot. That has to do with preserving somebody's financial future. This is a good project and we need to support them as fully as possible.

Newman drove down Hillside. It's such a nice little residential street and she just doesn't know where you draw the line. She does not believe anybody is saying Union Bank doesn't do a wonderful job, but she can't get over the intrusion into the neighborhood.

Carlson commended Union Bank for all their activities, but the question he has is whether this is appropriate for their administrative office building. Again, it's a balancing act. He does not want Union Bank to leave the neighborhood, but it is an intrusion into the neighborhood. Unfortunately, he is leaning towards a weak "no".

Steward will reluctantly support the motion based on two conditions. He is convinced that the design will be a screening effort and the particular site circumstance, the age of the street trees and the way the applicant is managing the proposal will not visually intrude as much as it might in a different situation. Since we had no apparent strong neighborhood opposition, he thinks it deserves the consideration and the respect which they have apparently worked out with the adjacent neighbors. His reluctance is the intrusion factor and the condition that once this is established as a parking lot, it can change hands again and more than likely will. That gives him more concern about the precedence than the visual tooth-like effect within the neighborhood. He does believe that it is a strong neighborhood commercial operation and that they need this support.

Taylor has the same reluctance because of the residential area, but he is taking into consideration that Union Bank is established in that area and already exists. If they are looking for more parking space for their employees, this appears to be very well planned and it is being done very correctly. He likes the answers that the representatives for Union Bank gave. With the good screening around the parking lot, it doesn't appear to be an intrusion in the neighborhood like the previous application on today's agenda.

Carlson clarified that as far as the intrusion, he means the move towards Hillside. He could see parking or additional commercial on Calvert and 48<sup>th</sup>, but the movement towards Hillside, especially into the R-2, is a problem for him.

Motion for approval, with conditions, as amended, carried 5-2: Schwinn, Steward, Duvall, Taylor and Bayer voting 'yes'; Carlson and Newman voting 'no'; Krieser and Hunter absent.

**STREET VACATION NO. 00004**  
**TO VACATE THE WESTERNMOST 20' OF**  
**11<sup>TH</sup> STREET RIGHT-OF-WAY, GENERALLY**  
**LOCATED AT SOUTH 11<sup>TH</sup> AND B STREETS.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 31, 2000

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

Planning staff recommendation: Denial.

The applicant had previously requested a two-week deferral in writing.

Opposition

1. **Jean Page**, 3531 No. 11<sup>th</sup>, who owns rental property on the block, testified in opposition. She advised that this is in the Everett Neighborhood and requested that they be notified. At one point the Everett neighborhood was discussing this and they weren't happy about it. She is against this vacation because she does not think it should adjoin that property. The building is right up against the alley right-of-way and she is sure that is a grandfather clause. If this is added to that property, they might be able to increase the building size and with the setback it would cause visual concerns going down the alley. She does not believe vacating the right-of-way would be in character with the neighborhood. There is a school across the street. The lot to the south does have parking. She would not object to public parking in this area, but it would have to be enforced by the law enforcement.

Carlson advised that there is correspondence from the Everett neighborhood in the staff report.

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

**COUNTY SPECIAL PERMIT NO. 181,  
POST ROCK PINES COMMUNITY UNIT PLAN,  
ON PROPERTY GENERALLY LOCATED AT  
SOUTH 120<sup>TH</sup> STREET AND FIRTH ROAD.**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 31, 2000

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

Duvall moved approval, with conditions, seconded by Schwinn.

Carlson asked staff to discuss the water situation and the benefit that the community is gaining from the community unit plan. Mike DeKalb of Planning staff stated that he called the Health Dept. and reconfirmed that they are comfortable that there is adequate quality and quantity of water. Firth has great water. The Lancaster County Rural Water District has well fields three to four miles to the east. This area of the county has 300 plus gallons per minute. The Health Department also checked with the Soil Conservation Service and found that there was one well log immediately across the street to the west and it showed very good quantity and quality of water.

As to the "clustering" benefit, DeKalb advised that in the AG zoning, one can do 20-acre lots by right. The intent of clustering in the community unit plan is to keep the density and impact in the rural area down. Clustering shifts the same number of units with 20% bonus into one spot to get one access point to the road. The balance of the land is generally an outlot for farming purposes. The management of the land in this manner is preferable.

DeKalb did have a call from a neighbor who had some water quality problems, but it is not prevalent in the area.

Newman suggested that in the future, the staff reports indicate whether there are paved roads and what the vicinity of feedlots might be in the area. This is important information to her. In this application, DeKalb advised that Firth Road is paved; the north/south roads are gravel. He did drive the area looking for feedlots. There are some operations about a mile north and across Gage County Road about 2 miles to the south, but not in this immediate area. There are some miniature horses in some lots that are pasturing but he would treat that as a farming operation.

Bayer noted that the applicant had requested that Condition #1.2 be deleted.

Duvall made a motion to amend to delete Condition #1.2, seconded by Schwinn and carried 5-2: Schwinn, Taylor, Duvall, Newman and Bayer voting 'yes'; Steward and Carlson voting 'no'; Krieser and Hunter absent.

Carlson did vote against this application at the last meeting, but he is pleased with the answers to the water issues and the clustering issue. He also had given comments at the last meeting about having a policy in place to incorporate acreage developments. This development is a mile from the county line. It is still an issue but he does not know that it is an appropriate issue for this specific development.

Steward voted against this before and he will continue to vote no unless and until we have a county-wide land use plan for acreage development. We also do not have an adequate control for the community unit plan. As he pointed out last time, the clustering of lots is being made in one corner adjacent to another property line which the current property owner does not own and has no control of. The CUP was originally designed to give the residents and the community the benefit of the unused land. It is not a quantity control characteristic--it is an amenity and environmental mechanism to allow more green space to be left. But when you put all the cluster on one corner he does not believe it is in the spirit of what the CUP is about.

Newman believes it is the lesser of two evils. Do you want some developer to put up 8 houses on 20 acres each, or is it better to have it clustered? Steward does not believe it is an either/or question. We need better control over both the small acreages and the large acreages and it is a major comprehensive plan issue. There is a need and people have the right and there is a residential market for acreages. We just don't have any good sense about where they can and should go. There is information out there to tell us that if we would simply plan it.

Motion for conditional approval, as amended, carried 6-1: Schwinn, Carlson, Taylor, Duvall, Newman and Bayer voting 'yes'; Steward voting 'no'; Krieser and Hunter absent.

**COUNTY PRELIMINARY PLAT NO. 00008,**  
**POST ROCK PINES,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT SOUTH 120<sup>TH</sup> STREET AND FIRTH ROAD.**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 31, 2000

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

Schwinn moved approval, with conditions, with amendment deleting Condition #1.2, seconded by Duvall and carried 6-1: Schwinn, Carlson, Taylor, Duvall, Newman and Bayer voting 'yes'; Steward voting 'no'; Krieser and Hunter absent.

There being no further business, the meeting was adjourned at 3:35 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on June 14, 2000.

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