

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, June 14, 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, Linda Hunter, Gerry Krieser, Patte Newman, Tommy Taylor, Greg Schwinn and Cecil Steward; Kathleen Sellman, John Bradley, Mike DeKalb, Ray Hill, Rick Houck, Jennifer Dam, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair, Russ Bayer, called the meeting to order and requested a motion approving the minutes for the meeting held May 31, 2000. Motion to approve made by Schwinn, seconded by Newman and carried 7-0: Bayer, Carlson, Duvall, Newman, Taylor, Schwinn and Steward voting 'yes'; Hunter and Krieser abstaining.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

June 14, 2000

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

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3261; CHANGE OF ZONE NO. 3262; SPECIAL PERMIT NO. 1843; FINAL PLAT NO. 99056, HARTLAND HOMES NORTHWEST 1ST ADDITION; FINAL PLAT NO. 00008, NORTH HILLS 1ST ADDITION; COMPREHENSIVE PLAN CONFORMANCE NO. 00005; STREET & ALLEY VACATION NO. 00006; STREET & ALLEY VACATION NO. 00008; AND MISCELLANEOUS NO. 00005.**

Item No. 1.3, Special Permit No. 1843, and Item No. 1.7, Street Vacation No. 00006, were removed from the Consent Agenda and scheduled for separate public hearing.

Steward moved to approve the remaining Consent Agenda, seconded by Krieser and carried 9-0: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Taylor, Schwinn and Steward voting 'yes'.

Note: This is final action on the Hartland Homes Northwest 1st Addition Final Plat and North Hills 1st Addition Final Plat, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

SPECIAL PERMIT NO. 1843
TO PERMIT THE SALE OF ALCOHOLIC BEVERAGES
FOR CONSUMPTION ON THE PREMISES
AT 2620 STOCKWELL STREET
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 14, 2000

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

Planning staff recommendation: Conditional approval.

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

Proponents:

1. **David Oliphant**, 2800 Woods Blvd., appeared on behalf of the applicant, Lora Belle Hanson. This project is called "The Grapevine" and is located at 2620 Stockwell. A lot of the neighbors came up with the idea of a nice neighborhood bar with food and beverage type operations. Oliphant became the project manager. City Spirits is now located at this address as an off-sale liquor store. This group of neighbors approached the owner about selling; they then proceeded to co-exist and came up with an agreement. Pace Woods, the landlord, has agreed as long as it is a neighborhood delicatessen with beverages and a small, low-key operation. They have found a beverage manager who has worked for Misty's South for many years. Financing is being provided by Lora Belle Hanson.

Oliphant went on to state that the intent is to bring to this neighborhood a low key, reasonably priced food and beverage operation in a comfortable, quiet and tasteful atmosphere. He explained their plans for remodeling City Spirits. They will provide handicap parking and ramps at both City Spirits and what will be called The Grapevine. There will be no additional outdoor lighting or additional signs.

Oliphant notes that there were concerns about stripes in the parking lot. He confirmed that there are no stripes in the alley. They are all in the parking lot and he submitted photographs. He has sent letters to some of the neighborhood and City Council members. The biggest concern he has found is the potential of a future owner. Oliphant believes that the sale in the future would be to someone with the same concept in mind. The facility will

seat a maximum of 40-50 people. He believes the neighborhood will be protected against anything that would be undesirable in the future.

Hunter was concerned about the alcohol being within 75' of residential uses. Oliphant believes the 75' is to the alley and the alley is another additional 90'. The separation is addressed by the fencing and landscaping which blocks vision by the neighbors.

There was no testimony in opposition.

Rick Houck of Planning staff addressed the screening requirement for the separation from residential uses. There is at least a 6' tall wooden fence along all the properties directly west which would be considered screening for the separation requirement from residential uses.

Carlson inquired whether this is an aesthetic judgment or pursuant to code. Houck explained that the spacing requirement can be mitigated by use of some type of screening. The Code is not specific as to the type of screening.

Carlson confirmed that the special permit runs with the property, not the permittee. In other words, Oliphant is correct when people have concerns about a future tenant. Houck agreed that anyone could go in and do the on-sale liquor. The only control they have is the landlord not allowing someone else to have a lease on the property for another use.

Response by the Applicant

Oliphant reiterated that most of the people involved in this project are residents of the neighborhood and they would agree to enter into a covenant that a new buyer would have to go through the same special permit process.

Rick Peo of the City Law Department advised that the city does not get involved in enforcement of private covenants and he could not speak to the validity of that type of use covenant. Any future applicant would have to go before the Liquor Commission, and this special permit transfers automatically to the new owner if they have approval from the Liquor Commission. The owner can always come in and ask to voluntarily relinquish their rights to the special permit and go back to the underlying zoning, but it is not something that can be mandated.

Bayer advised that if they wanted to expand the premises, they would have to go through this process again.

Public hearing was closed.

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

Carlson wonders whether the covenant would make the neighbors happy. It is not something the Commission can mandate but he encouraged the applicant to discuss this with the neighbors.

Motion for conditional approval carried 7-2: Duvall, Schwinn, Steward, Bayer, Newman, Krieser and Carlson voting 'yes'; Taylor and Hunter voting 'no'.

STREET VACATION NO. 00006
TO VACATE THE SOUTH 35' OF E STREET
EXTENDING WEST FROM SO. 27TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 14, 2000

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

Planning staff recommendation: A finding of conformance with the Comprehensive Plan, provided a conservation easement is retained at the time title is transferred, and conditional approval of a reduced area.

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

Rick Peo of the City Law Department explained that this item was removed from the Consent Agenda to request to expand the boundaries of the proposed vacation as set forth in the staff recommendation. The applicant needs slightly additional more land to accomplish his project and the City has agreed to an expansion of the additional right-of-way along with condition that the additional right-of-way being vacated could be sold back to the City, at no cost, if needed in the future for right-of-way purposes.

To accomplish the change, Peo referred to page 2 of the staff report and suggested that Condition #2 be amended to read:

Commencing at a point 33 feet west of the east line of section 25-10-6 along the south right-of-way line of "E" Street, thence west along the south right-of-way line 145 feet to the northwest corner of Lot 3, Block 10 Houtz Place Addition, thence northerly 17 feet, thence easterly along a line 17 feet north of and parallel to the south right-of-way line of "E" Street for 128 feet, thence southeasterly approximately 24.042 feet to the point of beginning.

This gives the applicant a 17' x 17' triangle of additional right-of-way. That additional triangle of 17 x 17 x 24 would then be subject to the condition that the applicant resell the

right-of-way to the city if needed for future right-of-way. Peo will include this condition in the legal description at the time of conveyance of the property. This revised application does not need to be readvertised because the applicant had originally requested vacation of the entire street. Public Works has asked for the smaller version, as set forth in the staff recommendation.

Proponents

1. **Dave Pauley** acknowledged that the applicant is now requesting to revise the application to seek the south 17' of right-of-way, with the addition of the triangular 17' portion.

Carlson asked the applicant to advise as to the intended use of the vacated right-of-way. Pauley explained that it is needed to meet setback requirements for driveways. The specific project will be a fast-food drive-through. There will not be a building on the vacated right-of-way. It is for a driveway. The entity will be located to the south.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 14, 2000

Steward moved to approve the Planning staff recommendation, as revised by the City Law Department, seconded by Krieser.

Newman will vote against this street vacation. There happens to be a billboard on this property which she takes offense to and this is her only chance to vote against something on principle.

Carlson knows that this application addresses the vacation of the right-of-way, so his comments might be preliminary. He does not want to make a decision based on the future use, but he thinks the future use does have an impact. This is a very visible and aesthetic corner and he believes the Commission should continue the high profile aesthetics on that corner rather than continue with a detrimental impact on that corridor.

Motion for approval, as revised, failed 0-9: No one voted 'yes'; Bayer, Schwinn, Steward, Carlson, Hunter, Newman, Taylor, Duvall and Krieser voting 'no'.

Newman moved to deny, seconded by Schwinn and carried 9-0: Bayer, Schwinn, Steward, Carlson, Hunter, Newman, Taylor, Duvall and Krieser voting 'yes'.

CHANGE OF ZONE NO. 3259
FROM R-8 RESIDENTIAL TO O-1 OFFICE

**ON PROPERTY GENERALLY LOCATED
AT SOUTH 14TH STREET AND "G" STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

June 14, 2000

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

Planning staff recommendation: Deferral until a report has been submitted by the Nebraska Capitol Environs Commission, which is scheduled to meet on June 22, 2000.

Proponents

1. **Mark Fahleson**, 1201 Lincoln Mall, appeared on behalf of the applicant, **Nebraska Association of County Officials**. He agreed that this public hearing should be deferred and also requested to defer his presentation until he has had an opportunity to review the report from the Capitol Environs Commission.

Ray Hill of Planning staff advised that the Capitol Environs Commission will review this change of zone at a meeting on June 22, 2000, and their recommendation will be available at the next meeting of the Planning Commission.

Duvall moved to defer with continued public hearing and administrative action scheduled for June 28, 2000, seconded by Hunter and carried 9-0: Taylor, Hunter, Schwinn, Carlson, Duvall, Newman, Steward, Krieser and Bayer voting 'yes'.

There was no other public testimony.

**COUNTY CHANGE OF ZONE NO. 199
AND
COUNTY PRELIMINARY PLAT NO. 00012,
GOLDEN POND ESTATES,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 103RD STREET AND GAGE ROAD.**

Applications withdrawn by the applicant on June 14, 2000.

SPECIAL PERMIT NO. 1835,
SAGE PRAIRIE COMMUNITY UNIT PLAN,
and
PRELIMINARY PLAT NO. 00007,
SAGE PRAIRIE,
ON PROPERTY GENERALLY LOCATED
AT NORTH 124TH STREET AND HOLDREGE STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 14, 2000

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

Planning staff recommendation: Conditional approval.

Proponents

1. **Brian Carstens** presented this application for an AG community unit plan at 124th & Holdrege. There is Cass County rural water in the area and they have agreed to the additional taps. Each lot will have its own septic system. So. 124th and Dixie Trail Road will be paved in this development. A 2-acre pond will be installed for common open space for the residents of the CUP. Carstens noted that there were petitions submitted early on in this plat process. The developer did meet with the neighbors back in April. Their big concern was the connection of Sage Prairie into their development at Dixie Trail. Dixie Trail was shown to be extended in the future to the east into this property as it develops. Dixie Trail will be paved within the Sage Prairie development, thus Carstens believes people will go another quarter mile to travel on asphalt as opposed to a gravel road in the abutting development.

Steward asked whether Carstens and the developer have had any discussion about the viability of this project considering that it is in one of the potential recommended beltway corridors. Carstens pointed to the beltway corridor on the map and advised that this development is “up and over the hill” and they have oriented most of the lots back toward the south and west. All of the new lots will be oriented back and away from the future bypass if it ever moved further west than presently shown. Steward wondered whether the beltway corridor is designated precisely enough so that this developer can do that much detailed planning. Steward believes the beltway could move either way because of general conditions. Steward is curious as to how this property can be developed from an economic standpoint, let alone from planning principles, in light of that huge undetermined development by the public in the future (the east beltway).

Schwinn referred to the individual septics and inquired whether the project is engineered so that in the future we can put city services into the subdivision. Carstens responded, stating that they will have Cass County rural water—there will not be a common sewer line for anybody. It is not engineered to do that in the future; however, they could consider it.

Schwinn thinks it needs to be so engineered because we're going ahead with the Stevens Creek planning and that area is going to be urbanized.

Opposition

1. Laurie Yoakum testified in opposition. She does not live in this neighborhood, but she believes it is ridiculous to have codes that require sidewalks, landscaping, etc., and then waive the requirements. She is opposed to the waivers. This area will be developed and will be part of our city. This is going to be our city and it needs to be mandatory for the codes to be enforced. There is a reason why we want sidewalks and certain size lots. She recommends that the Commission not grant the waivers.

Bayer wants to know when the Beltway corridor will be selected. Mike DeKalb of Planning staff did not know. He guesstimated that it will be at least over a year and beyond that he does not know. Bayer suggested that the Commission has the opportunity to cause the government not to spend too much money on buying this property if the corridor goes there (by denying development), or the opportunity to spend more money when this property is developed with expensive homes. Yet, the property owner has a right to do something with their land when the government cannot make up its mind.

With regard to the testimony in opposition, DeKalb advised that there is a specific provision and exception in the city subdivision regulations that speaks to this issue. If the development is more than one acre and is not to be annexed, those improvements can be waived. The proposed development is very low density and rural in character so he believes it is appropriate to grant the waivers at this time.

Kathleen Sellman, Director of Planning, advised that there has been no formal selection of a preferred corridor for the east beltway, and until there is a vote, there is no selection. This talk has come from boards and councils who have changed over a period of years as well, so we do not have a formal position on the east beltway corridor.

Response by the Applicant

Carstens pointed out that the owner has the right to develop this property into 20's. The idea here is to cluster 3-acre lots up against another 3-acre lot subdivision to the west. There are probably 35 homes in that subdivision and the beltway probably will not go up against those houses. That is why the developer has selected this location for clustering. He believes they have done what they can to keep the homes out of the future beltway.

Hunter observed that the northeast section of this property is wetland and probably not buildable anyway. Carstens stated that there is a little wetland/farm pond in the northeast corner. Hunter wondered whether the beltway would go around that wetland area. Carstens reiterated that it is a very small area--about 2 acres--identified as wetland, where an old farm pond has dried up.

Krieser stated that he attended the neighborhood meeting and everyone seemed to be in support once they got through the required road connection issue.

Bayer asked whether the developer is getting 7 lots because of the bonus from clustering. Carstens concurred that it is the 20% density bonus and they cannot use the rest of the land for development. There is a 99 year covenant on that.

Public hearing was closed.

SPECIAL PERMIT NO. 1835

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 14, 2000

Krieser moved to approve the Planning staff recommendation of conditional approval, seconded by Bayer.

Hunter stated that this really runs up a red flag for her because of all the conversation that has gone on about the location of the beltway. This is just a drop in terms of what's going to be coming down the pipe in the next few years. She sees a real problem developing. Where are we going to say no? Are we determining the location of the beltway by virtue of our actions on these developments?

Steward agreed that the Beltway is a part of what brings the pressure against what he has been speaking about for some time; that is, the vulnerability of acreages to the urban growth of the city. The fact that this is located near one of the possible corridors intensifies that possibility. This will be in the path of the growth of this city in the not too distant future. We are putting public resources at risk by approving this, but he is troubled by the fact that we are in the position of perhaps holding landholders hostage because the public can't make up its mind about where the infrastructure is going to be. On principle he will oppose the motion.

Carlson agreed with Steward. The acreage issue is becoming the Planning Commission meeting ritual. We're looking for guidance for the acreage situation. It comes up every meeting. He complimented the owners and developers because he believes this is a good plan and they are addressing the issues.

Hunter stated that she will have to vote no but she is very apologetic about it.

Taylor agreed with Hunter.

Bayer stated that the issue for him is the time the beltway determination is taking. We have been looking at the Beltway corridor for a long time. He asked staff about the decision because he does not think we should hold the landowners hostage. If no one else can make the decision, he will vote in favor of this so that we can force the Beltway decision to be made. How are we going to have a Stevens Creek plan in the next 9

months if we don't know where the beltway is going to be? He supports acreages in general, but he wants someone to make a decision and if the city won't, he will vote in favor.

Motion for conditional approval failed 3-6: Duvall, Krieser and Bayer voting 'yes'; Taylor, Hunter, Schwinn, Carlson, Newman and Steward voting 'no'.

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

PRELIMINARY PLAT NO. 00007

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 14, 2000

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

STREET VACATION NO. 00007

**TO VACATE 'H' STREET BETWEEN SOUTH 5TH
AND SOUTH 6TH STREETS.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 14, 2000

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

Proponents

1. **Penny Berger** represented the applicant and appeared to answer any questions. This is a great project. The client is expanding their manufacturing facilities. It will increase employment for the City. The City plat maps had shown "H" Street as vacated back in 1913, but they found out that it actually was not vacated.

The applicant, TMCO, is a very high end machine tool and die manufacturing facility doing precision machining of precision parts for companies all over the world, with a couple of side businesses such as walking sprinklers and scientific ovens for testing of cereal products.

Carlson noted that there was some construction activity going on at this location already. It looks like there has been some earth moved. Berger acknowledged that it was the earth they put on "H" Street when they thought it was vacated. The expanded area will be used for parking. It should not affect the floodplain because cars can be parked in the floodplain.

There was no testimony in opposition.

Hunter asked staff to respond to the fill that is occurring that no one seems to know how it happened. Ray Hill of Planning staff suggested that this is a question that would need to be addressed to the applicant. It is his understanding that the applicant believed that they owned the land and were filling when in fact it was still city right-of-way. They should have received a permit from the city to place fill in the 100-year floodplain. If the applicant agrees to the conditions of approval of this street vacation, Hill believes the issue of fill can get back into the proper perspective.

Steward asked whether this area of that street has ever been used as a street. Hill clarified that it is still owned by the city and it is a platted street. The applicant believed it was vacated. But, beyond current memory, Steward suggested that this has not been used as a street. Hill did not know.

Response by the Applicant

Berger displayed a plat map that showed "H" Street as being vacated under Ordinance No. 1303, so the city plat map was in error and that is why they thought it had already been vacated. Berger demonstrated on the map the ownership of the property abutting the vacation request. Weathercraft is joining the petition. G Street is also vacated. It is all industrial uses in the area.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 14, 2000

Duvall moved approval, with conditions, seconded by Schwinn.

Duvall knows this business and they do an excellent job. They have a very good reputation and they do need to expand.

Motion for approval, with condition, carried 9-0: Taylor, Hunter, Schwinn, Carlson, Duvall, Newman, Steward, Krieser and Bayer voting 'yes'.

MISCELLANEOUS NO. 00004
TO EXTEND THE LENGTH OF TIME
IN WHICH TO INSTALL IMPROVEMENTS FOR
THE RUSSWOOD PARK FINAL PLAT,
GENERALLY LOCATED AT 8300 "O" STREET.

Application withdrawn by the applicant on June 13, 2000.

SPECIAL PERMIT NO. 1841
TO DISPLAY AUTOS FOR SALE IN THE FRONT YARD
AND REAR YARD, ON PROPERTY GENERALLY LOCATED
AT 29TH & CORNHUSKER HIGHWAY.
CONTINUED PUBLIC HEARING BEFORE PLANNING COMMISSION: June 14, 2000

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

Planning staff recommendation: Denial of the storage of vehicles for sale in the front yard; denial of the waiver of landscape requirements; and approval of the storage of vehicles for sale in the rear yard on the existing pavement, limited to 10 vehicles.

Proponents

1. **L.W. Hoffman**, architect, presented the application on behalf of Anderson Ford. He referred to the photographs submitted at the initial public hearing, demonstrating parking areas along Cornhusker Hwy and West O which have no screen above 4" in the front yard, which is the height of a blade of grass. All of the locations demonstrated also show parking in the front yard, whether illegal or by special permit. The required landscaping up to 3' will hide the cars. The two previous businesses at this location did not survive.

Hoffman then displayed photos of the existing landscaping. There is a depression area along Cornhusker Highway between the property line where there is a fiber optic line so they do not want to plant any big trees. Hoffman requested that the existing landscaping be accepted as the minimum landscape requirements. The entire rear yard is covered with pavement. There are offices on the inside. There is an overhead door to bring cars inside for display. They do have an occupancy permit.

Hoffman agreed with the conditions of approval, except Condition #1.2.4 regarding the landscaping requirements. The vehicles will not be serviced at this location.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 14, 2000

Schwinn moved approval with conditions, including the waiver of landscaping, seconded by Duvall.

Hunter observed that the business located at 27th & Cornhusker appears to have RV's practically parked on the street, with no setbacks, no green, no buffer zone. She is mystified as to why that is allowed to go on but yet we are requested to deny this application.

Steward stated that he will support this motion for approval. It bothers him that the Commission is asked to waive the minimal landscaping that was considered in relationship to car sales and parking of automobiles in the front yard; however, Cornhusker Highway has become "something else". He will vote for this in order to keep that "something else" on Cornhusker Highway as opposed to other places. It is better there along with its neighbors than other locations. And why not? It is an economic function that does not need to be scattered all over the city.

Carlson also stated that he will support the motion.

Newman wants to make sure they will maintain the existing landscaping. Hoffman indicated that the maintenance will be contracted.

Schwinn moved to amend to strike Condition #1.2.4, seconded by Newman. Bayer wondered whether there needed to be a condition that accepts the existing landscaping. Hill agreed that the approval of the waiver of landscaping and the acceptance of the existing landscaping should become part of the conditions of approval.

Schwinn added to the motion to amend to accept the existing landscaping as the minimum landscaping requirements. Newman, who had seconded the motion to amend, agreed.

Motion to amend to revise Condition #1.2.4 to accept the existing landscaping as the minimum landscaping requirements carried 9-0: Taylor, Hunter, Schwinn, Carlson, Duvall, Newman, Steward, Krieser and Bayer voting 'yes'.

Main motion for conditional approval, as amended, carried 9-0: Taylor, Hunter, Schwinn, Carlson, Duvall, Newman, Steward, Krieser and Bayer voting 'yes'.

STREET VACATION NO. 00004
TO VACATE THE WESTERMOST 20' OF 11TH STREET,
GENERALLY LOCATED AT SOUTH 11TH AND "B" STREETS.
CONTINUED PUBLIC HEARING BEFORE PLANNING COMMISSION: June 14, 2000

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

Jennifer Dam of Planning staff submitted a letter from William Wood, Vice President of the Everett Neighborhood, in opposition.

Proponents

1. **John Horan** with the Cline Williams Law Firm appeared on behalf of **Salem Family, L.L.C.**, to vacate a portion of the 11th Street right-of-way adjacent to the applicant's property at 1235 11th Street. The zoning is B-3. The basis for this request is that additional parking space is necessary to enhance and maximize the potential of this property as a usable lot in B-3 zoning. The other commercial property on the same block on the same side of the street has 90 degree parking in the right-of-way in the front of its building. This applicant does not have such parking. They need the same opportunity to provide parking for customers, patrons and employees. The right-of-way width on 11th Street is currently 120'. Even if the vacation is granted, the city would still have in excess of 100' of right-of-way, which would include over 19' of green space separating the applicant's property from 11th Street. The city is not using this right-of-way nor will the city use it in the future. It will never be a major thoroughfare with 9th and 10th immediately to the west and 13th two blocks to the east. If the city decided it needed landscaping on 11th, there would be 19' of green space on the west side of the street.

The staff has a major concern about interference with the sidewalk. The applicant is willing to amend the petition to vacate only 15', which would essentially vacate the property up to the sidewalk, as opposed to the 20'. Therefore, Horan amended the petition to vacate 15' in the alternative, as opposed to 20'

With regard to the right of-way width violation issue, Horan suggested that there is nothing in the Comprehensive Plan that specifically addresses the 11th Street right-of-way. As far as maintaining the historical character, Horan submitted that this vacation would not in any way detract from the historical distinct appearance of 11th Street. There are already variances in the pavement widths, which are visible. The variance in right-of-way width they are requesting will not create any visible change or aesthetic change. All the area they are seeking to vacate is already covered with pavement.

Horan is aware that there has been some neighborhood opposition voiced and it is his understanding that most of that is based on the nature of the business which has recently been conducted at this location—vehicle body repair. The tenant has used the property for

that purpose but that tenant only has an oral month-to-month lease with this applicant.

Horan stated that he is asking the Commission to take a broad long range view of what this property could be and the potential benefits and advantages that could be there if there was ample parking. There are many potential uses in the B-3 district that support the need for the additional parking.

Carlson asked whether this applicant has plans for a future use. Horan stated that there has been some talk about an owner in the neighborhood having an interest in a neighborhood soda fountain, but there is nothing definite at this point. The current user needs the additional parking as well. Horan believes the current use and the potential uses afford the need for parking. Carlson disagrees. He asked Horan whether he is supporting the current tenant or whether he is wanting something else. Horan again explained that the current tenant has an oral month-to-month lease and there is reasonable possibility that it will be a long term relationship, but there has also been talk about long term commercial uses. Carlson believes it is important if the current use continues. Horan suggested that cars will be parked there no matter what use is there. The view will also be the same no matter what the use is. Carlson believes there is a difference between customer parking and a junk car. Horan objects to the characterization of junk cars. It is a body repair shop.

Opposition

1. Laurie Yoakum, who lives in the Everett Neighborhood, testified in opposition. This is a business that has been a gas station and a repair shop for years. Yes, there is a vacation for parking in front of Studio B directly to the south, directly across from Everett School. She suggested that possibly when Studio B was approved for the vacation for their parking, Everett school was probably a junior high with the majority of the students being taller. She is concerned about safety. Grade school kids seem to jet in and out of cars. 11th Street is a very busy street because it is very wide. There is also a drop-off spot on the north side of the street, but it is not sufficient for the number of children being dropped off. She does not believe Studio B should be used as a guideline for this property because the environment has changed. The Everett Neighborhood Board is in opposition, and she is personally very concerned about the safety issues.

Dennis Bartels of Public Works clarified that the parking to the south is on-street, public parking. It is not owned by the building. It is not vacated. It is public parking in the setback and anyone can use it.

Response by the Applicant

With regard to the safety concerns, Horan suggested that the proposed vacation would be far more safe than the parking you see to the south for the very reason that it is off the street. There is a 19' buffer of green space and additional 5' sidewalk. There is 24' that separate the street from where the cars will be parked, but to the south it is on-street parking that is more hazardous.

Bayer asked whether the applicant's revision from 20' to 15' changes the staff recommendation. Dam stated that the staff would still recommend denial.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 14, 2000

Newman moved denial, seconded by Carlson.

Newman noted that a pedestrian observational survey was conducted at this school on January 31st for 15 minutes. There were 102 cars that drove through, 87 cars dropping off and 80 kids crossing. This is not safe.

Carlson stated that he is not against the adaptive reuse of this property, but he believes this is the "cart before the horse". We have an existing business that can be characterized as potentially troublesome. If we have a better higher use, let's see some plans as to why the vacation is necessary. This is a historic landmark district. The vacation is important because he thinks it will change the characterization because B-3 has zero setback.

Hunter suggested that any time we make decisions to make these kinds of changes, we need to be dealing with absolutes and not wishes or maybe's.

Motion to deny carried 9-0: Hunter, Carlson, Newman, Bayer, Duvall, Taylor, Krieser, Schwinn and Steward voting 'yes'.

SPECIAL PERMIT NO. 879D
FOR A PARKING LOT
ON PROPERTY GENERALLY LOCATED
AT 131 SOUTH 4TH STREET.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 14, 2000

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

Steward moved to deny, seconded by Taylor and failed 4-4: Krieser, Steward, Newman, and Taylor voting 'yes'; Schwinn, Carlson, Duvall and Bayer voting 'no'. Hunter was not at the last meeting and abstained from voting; however, in order to pass a motion she was asked to cast a vote.

Bayer explained that this application deals with the office building on the corner of 45th & "O". They want to expand parking into an area previously approved for parking, although over the years they have changed the site plan. The discussion during the public hearing had to do with parking intruding into the neighborhood.

Hunter then cast her vote to deny. Motion to deny carried 5-4: Hunter, Krieser, Steward, Newman and Taylor voting 'yes'; Schwinn, Carlson, Duvall and Bayer voting 'no'.

There being no further business, the meeting was adjourned at 2:40 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on June 28, 2000.