

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

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

MEMBERS IN ATTENDANCE: Russ Bayer, Jon Carlson, Gerry Krieser, Patte Newman, Tommy Taylor, Greg Schwinn and Cecil Steward (Steve Duvall and Linda Hunter absent); Kathleen Sellman, Mike DeKalb, Ray Hill, Rick Houck, Nicole Fleck-Tooze, Jean Walker and Missy Minner 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 June 28, 2000. Motion to approve made by Newman, seconded by Steward and carried 5-0: Bayer, Carlson, Newman, Schwinn and Steward voting 'yes'; Krieser abstaining; Duvall, Hunter and Taylor absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

July 12, 2000

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

The Consent Agenda consisted of the following items: **USE PERMIT NO. 64A, USE PERMIT NO. 126A, SPECIAL PERMIT NO. 1776A, SPECIAL PERMIT NO. 1852, SPECIAL PERMIT NO. 1853, SPECIAL PERMIT NO. 1856, STREET VACATION NO. 00009 AND STREET VACATION NO. 00010.**

Item No. 1.1, Use Permit No. 64A; Item No. 1.4, Special Permit No. 1852; and Item No. 1.6, Special Permit No. 1856, were removed from the Consent Agenda and scheduled for separate public hearing. Steward moved to approve the remaining Consent Agenda, seconded by Schwinn and carried 6-0: Bayer, Carlson, Krieser, Newman, Schwinn and Steward voting 'yes'; Duvall, Hunter and Taylor absent.

Note: This is final action on Special Permit No. 1853, 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.

USE PERMIT NO. 64A
AMENDMENT TO THE KENSINGTON OFFICE PARK
TO PERMIT A GROUND SIGN IN THE FRONT YARD SETBACK
ON PROPERTY GENERALLY LOCATED AT
SOUTH 14TH STREET AND OLD CHENEY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 12, 2000

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

Planning staff recommendation: Conditional approval.

This item was removed from the Consent Agenda and had separate public hearing due to letters received from Information Technology, Inc. and Design Data in opposition.

Rick Houck of Planning staff submitted the two letters in opposition to the proposed ground sign because it would be located in the front yard; because of the height being above the surrounding grade; and because of the electronic flashing message board.

Proponents

1. Tom Cajka of Ross Engineering testified on behalf of the applicant, **Dana Rose**. The applicant has redesigned the sign, eliminating the electronic message board. The size of the sign has remained the same, at 8' high and 6' wide, sitting on a 2' brick pedestal. There is a slight berm that it sits upon. The reason for the change to the front yard setback is for visibility. They previously showed the sign up in a corner and it was being blocked by the development sign for Kensington Office Park. It will still be 30' back from the property line of Kensington Office Park. It encroaches on the 50' setback but it is still 30' from the property line.

2. Dana Rose, owner of **Culver's Restaurant** being built at 16th & Old Cheney, testified in support. The 50' ground sign is something new to Culver's versus the 100'-200' pole signs which they have in other locations across the country. They have gone to great lengths to design something that would be eye-appealing – it will be brick; they have eliminated the electronic message board. With it being limited to 50 sq. ft., they really need to have it visible. Rose believes it will fit in with the surrounding landscaping.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Steward moved approval of the Planning staff recommendation of conditional approval, with the revised design, seconded by Krieser.

Bayer believes the applicant has addressed the concerns of the neighbors.

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

SPECIAL PERMIT NO. 1852
TO PERMIT THE SALE OF ALCOHOLIC BEVERAGES
FOP CONSUMPTION OFF THE PREMISES
ON PROPERTY GENERALLY LOCATED
AT 13TH & ARAPAHOE STREETS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 12, 2000

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

Planning staff recommendation: Conditional approval.

This item was removed from the Consent Agenda and scheduled for separate public hearing due to a letter received in opposition.

Rick Houck of Planning staff submitted a letter in opposition from the Pastor of Southview Baptist Church. The Church does not believe the proposal represents the highest and best use of the property in question and does not enhance the sense of community for the neighborhood.

Proponents

1. Kent Radke appeared on behalf of **LCV, Inc.**, the President of which, Larry Baus, has been in the grocery business for well over 30 years.

2. Larry Baus, President of LCV, Inc., testified that he acquired the Village Market at 3001 So. 13th Street (formerly Dave's Shur-Save) on April 1st of this year. He enjoys working in the "neighborhood store" concept. He has applied for this special permit for off-sale in response to customer requests. He is very neighborhood aware and he is aware of the letters in opposition. He clarified that this is for off-sale only. This will enhance the profitability of the business and comply with customer requests.

Steward inquired as to the location of the nearest other facility selling beer. Baus indicated that there is a convenience store about one block to the west. The closest supermarket would be 27th & Highway 2.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 12, 2000

Newman moved approval, with conditions as set forth in the staff report, seconded by Schwinn and carried 6-1: Carlson, Schwinn, Steward, Krieser, Newman and Bayer voting yes; Taylor voting 'no'; Hunter and Duvall absent.

SPECIAL PERMIT NO. 1856
FOR A DOMICILIARY CARE FACILITY
ON PROPERTY GENERALLY LOCATED
AT SOUTH 84TH STREET AND MANDARIN CIRCLE.

PUBLIC HEARING BEFORE PLANNING COMMISSION: July 12, 2000

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

Planning staff recommendation: Conditional approval.

This item was removed from the Consent Agenda and had separate public hearing due to a letter received from the Mar-Ma-Ra-Lo Heights Homeowners Association.

Ray Hill of Planning staff submitted the letter from the President of Pioneer/Mar-Ma-Ra-Lo Heights Homeowners Assn. They are suggesting changes to the conditions of approval regarding parking and the paving of Mandarin Circle. Other than that, they support the conditions of approval.

Proponents

1. Marsha Stork of Emerald Care Co. presented the application. The site is located at the corner of 84th & Mandarin Circle. The request for domiciliary care is based upon a state license for 16 Alzheimers residents ranging from 70-80 years of age. It will be a ranch style type house. The applicant has met with the neighbors because they want to be a good neighbor. The house is about 8300 sq. ft. with individual bedrooms for each resident with a half bath. There would be common areas such as living room, dining room and kitchen areas. It has a porch and fenced-in area in the back. When the residents are outside, they will be supervised in an enclosed area. Stork operates a facility licensed for 16 residents in Lincoln that has been in operation about 4 ½ years at 17th & Superior.

2. J.D. Burt of Design Associates also testified on behalf of the applicant. They did meet with the Board of Directors of the neighborhood association before submitting the application. The neighbors' issue with the parking dealt with the paving mass detracting from the residential character. In response to that concern, the applicant has reduced the number of parking stalls. Another concern of the neighbors is that they have already been burdened with some utility costs; they are concerned with the paving of Mandarin Circle and Pagoda Lane; they are worried about being assessed for a water main. These homes are currently served with wells. They are in the City Limits with public sanitary sewer. This applicant has agreed to work with the city and request no paving of Mandarin Circle. The applicant also investigated water service that would connect into the 24" water main at 84th. It is not tappable so this applicant will build a water main in Mandarin Circle at its own expense. With regard to paving, Public Works believes it should be paved to a rural section, with no curb, no gutter, no sidewalk. The applicant would continue to request a waiver of that condition.

The applicant has revised the site plan internally and will be resubmitting, showing 8 parking stalls pursuant to the staff request with a minimal increase in width. The Homeowners Association concurs that the 8 parking stalls are appropriate and acceptable.

Burt has spoken with Public Works regarding the grading. 84th Street is scheduled to be improved in year 2002. With that comes a change in grade along 84th and additional grading into this property. The applicant has agreed with Public Works to work with them through this process to do some joint cooperative grading so the grading that Public Works is requesting is a non-issue.

With regard to street trees, Burt suggested that it would be more cost effective to postpone the planting of those trees. If planted today and in the year 2002 the city widens the street and regrades, the city ends up replacing the trees that they just planted. Burt requested an amendment to Condition #2.1.1.4, adding language that "Planting of screening and street trees shall be completed within two growing seasons after issuance of the Occupancy Permit for the domiciliary facility, except screening and street trees located within the limits of construction for the 84th Street widening project where all screening and street trees shall be completed within two growing seasons of the completion of the 84th Street connection."

Steward commented that it would seem appropriate, especially with this being occupied by elderly citizens, to have the hard surface paving in and out of the driveway, and it would be easier to maintain through winter conditions. Burt agreed that maintenance is an issue. The applicant's priority is to deal fairly with the neighbors. The neighbors are concerned that if this street becomes paved it opens the door for the rest of the subdivision to be paved and they share their concerns with cost.

3. Gary Danek, 4800 Mandarin Circle, testified as **President of the Pioneer/Mar-Ma-Ra-Lo Heights Homeowners Association** in favor of this permit. This development will help maintain the character of the neighborhood as an acreage neighborhood because it is one building or home on one acreage lot. If they were building a facility that housed the maximum of 21 residents, the neighbors could see the parking, but they are only asking for 16 residents, thus they would be overbuilding with the additional parking. Given the reduction in the ramp and the fact that the parking spaces will only take up 5 more feet, the Homeowners Association will reluctantly agree with the 8 parking spaces. The neighbors do not believe it is necessary to pave Mandarin Circle. Until 84th Street is done, it is a moot question because of the detention pond on the east side of 84th. This pond is dumping water across 84th Street when it rains and erodes the center of the road. A more proper function of Public Works might be to require repair and enlargement of that pond before requiring the paving of Mandarin Circle. 90% of the front footage owners would be opposed to this paving.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Steward moved approval of the Planning staff recommendation of conditional approval, with the amendment to Condition #2.1.1.4 as requested by the applicant, seconded by Krieser and carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

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

**CHANGE OF ZONE NO. 3206
FROM AGR AGRICULTURAL RESIDENTIAL
TO B-1 LOCAL BUSINESS, ON PROPERTY
GENERALLY LOCATED AT
SOUTH 70TH STREET AND PINE LAKE ROAD.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 12, 2000

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

Planning staff recommendation: Denial.

Ray Hill of Planning staff submitted six letters in opposition and a petition in opposition signed by 19 residents on South 66th Street and on Pine Lake Road.

Proponents

1. **Mike Marsh** presented the application on behalf of **Realty Trust Group**. Realty Trust Group has recently developed Alpine Village at 48th & Normal and the Gateway Executive Office Building at Cotner and Vine.

This is the first time for a change of zone request on this property located at 70th & Pine Lake Road, consisting of 5 acres, located on the southwest corner. The property is within the city limits and has access to city utilities. The property is catty/corner across the street from the Livingston property that is zoned commercial. The road has become four-laned to the property line. Realty Trust Group did have a meeting with the immediate neighbors on October 11, 1999, at the Berean Church. The tone of the neighbors at that meeting was that they appreciated being invited to provide input. They expressed that they realistically see development coming here. They do have concerns with businesses that would have late hours and high volume and they are concerned about screening. The applicant took that input, and is thinking about a medical convenience center with drug store and medical group much like at 56th & Pine Lake Road. That group is so pleased with their facility that they have provided this applicant with the names of several doctors who will be interested in this area.

Carlson inquired whether the B-1 as opposed to office zoning is what allows the drug store. Marsh indicated that to be partially the reason. They originally wanted B-2 but with the road widening they do not have enough acres. Being less than 5 acres, they had to request B-1. They have B-1 zoning at 48th & Normal.

Steward inquired whether the applicant is aware of the opposition. Marsh indicated that he just received a copy of the petition today. Steward wondered whether any of these individuals who are opposed attended the neighborhood meeting. Marsh stated that he has not reviewed the petition but those that wrote letters were not at the neighborhood meeting.

Opposition

1. **Renee Stephenson**, 7250 Pine Lake Road, testified in opposition. She clarified that Mary Jo Livingston does not own all the property that is catty/corner from the proposal. She owns 7 acres with a small nursery and is opposed to this change of zone.

Ray Hill of Planning staff clarified that the Mary Jo Livingston property has not been rezoned and that Alpine Village is zoned R-T--not B-1.

Schwinn asked whether there is site plan review with the B-1 zoning. Hill concurred that there is no site plan review in B-1 zoning. The O-3 would be the district that would allow

for offices with site plan review. O-3 would also allow a drug store if it is located inside the office building, but would be limited to a pharmacy type business.

Response by the Applicant

Mike Marsh agreed that Alpine Village is zoned R-T where the office is located. They also had some B-1 along Normal which was sold to J Marie's.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Newman moved to deny, seconded by Steward.

Newman does not think it is time yet. She would like to have site plan review and we want to avoid four-corner development.

Steward agreed. He also believes that with the degree of neighborhood opposition it is obvious that there has not been a consensus reached in the neighborhood. He believes this is probably inevitable, but in that case it would be better if the applicant and the neighbors were much more on the same page.

Schwinn commented that it seems like some of these corners have been held out in hopes that maybe something could come at a later date. 56th & Pine Lake Road is probably one of the original pieces in that whole puzzle that was put in place so that everyone would be aware of what was going to be there when they built their houses. He can't pay much attention to the neighbors not wanting this because the neighbors cannot choose what a property owner does with his own property. However, this needs a Comprehensive Plan amendment, in his opinion.

Bayer commented that it would be a fine project if it were part of a complete project for the whole neighborhood.

Motion to deny carried 6-1: Carlson, Schwinn, Steward, Taylor, Newman and Bayer voting 'yes'; Krieser voting 'no'; Hunter and Duvall absent.

CHANGE OF ZONE NO. 3207
FROM AG AGRICULTURAL TO B-2 PLANNED
NEIGHBORHOOD BUSINESS, ON PROPERTY
GENERALLY LOCATED AT
SOUTH 84TH STREET AND OLD CHENEY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 12, 2000

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

Planning staff recommendation: Denial.

Ray Hill of Planning staff submitted a letter in opposition from the Pioneer/Mar-Ma-Ra-Lo Heights Homeowners Association because of the additional traffic on 84th Street. Turning in and out of these small areas creates traffic problems.

Proponents

1. Mike Marsh of Realty Trust Group presented the application. This property sits at the northwest corner of 84th & Old Cheney. This is the first time for a zone change request to B-2. It consists of 6.5 acres located inside the city limits with access to public utilities. Marsh reviewed the uses on the four corners, including residential/apartments; 20 acres owned by Bob Hampton; and Lincoln Christian School.

The applicant invited the neighbors to a meeting on October 13, 1999, and received no opposition at that time. The applicant had signed a declaration of use restriction with Lincoln Christian School which prohibits x-rated movies, adult magazines and no business with more than 50% of its business derived from alcohol. The concept is for a Lincoln Christian Center incorporating the Lincoln Christian School using the existing structure as their administrative offices, sort of like Piedmont. The integral part of this proposal is to have Lincoln Christian School utilize this property. At this time, without zoning, Lincoln Christian School cannot utilize the property free of charge as an administrative office.

Steward realizes it is not a requirement at this time, but he asked whether the applicant could give a sense of the footprint for this site and the overall square footage. Marsh indicated that they do not yet have a conceptual plan, but he suggested the Commission envision Piedmont Shopping Center—something of that nature with a similar layout, incorporating the existing structure for the Lincoln Christian School administrative offices.

Bayer asked whether the applicant has any ownership in this property. Marsh stated that the property is owned by Realty Trust Group. Bayer inquired whether this owner has had any conversations with Hampton or the owners to the east about an overall plan for the intersection. Marsh's response was that Hampton had no conflict with this zone change. As far as going to the south and east, Hartland Homes has purchased that property and it will become residential. He has had conversations with Duane Hartman regarding

access and they will be working together, if at all possible. It will be a neighborhood convenience center. Bayer noted that it is much easier for the Commission to make decisions when the proposal for the zone change comes forward with an actual plan tied to the change of zone.

2. Peter Schroeder, of the Lincoln Christian School Foundation, submitted a summary of a meeting held with the Mayor and the Director of Planning. Lincoln Christian School is excited for the potential space to be used across the street and looking at expansion in the near future. When they met with the Mayor and the Planning Director, they found out that the whole property has to be rezoned before Lincoln Christian School can use it. The Lincoln Christian School use would be low impact, short term, and they definitely support this change of zone. The Lincoln Christian School environment is protected by covenants with Hampton and Realty Trust Group as to liquor and adult entertainment. This property's mission is in alignment with the school and it will provide some continued space for the administration of the school. On behalf of the 400 families of Lincoln Christian School, Schroeder requested that the Commission give serious consideration to approval of the B-2 zoning.

Bayer asked Schroeder whether there has been any discussion about how the property would be used and how the buildings would be laid out. Since Lincoln Christian School is not the property owner, Schroeder did not want to attempt to explain.

Opposition

1. Peter Katt appeared on behalf of **Hartland Homes**, in opposition. Hartland Homes is the only adjoining neighbor to this change of zone request. The two parcels were purchased by Realty Trust in July and September of 1999. Hartland Homes has been an owner since 1994 as a part of the Hartland Homes East plat for continued expansion of the residential area in this neighborhood. Mr. Marsh was correct in that they did have conversations with Hartman early on, and Hartman had suggested that it might be beneficial for them to jointly pursue a development plan for this property in that the typical access points for the corner would be located further back on Old Cheney and 84th Street. The preferred access points are not accessible from this corner. Notwithstanding Mr. Hartman's contact with them about a joint effort, the applicant has expressed no interest in proceeding together jointly. Hartman has now proceeded with completing the development plans for his property as R-3 single family residential. That submission is currently in the Planning Department and will move forward. Hartman has worked with the owner of the "urban village" area and that area will be more than sufficient to take care of the commercial service needs for this area. Hartland Homes is opposed to the commercial zoning. The Comprehensive Plan shows that this area will remain residential.

Schwinn asked Katt to speak further about the urban village. Katt stated that his client has worked with Hampton Enterprises so that the layout of the Hartland Homes area will be compatible with that urban village.

Steward inquired whether Hartland Homes has participated with Planning on the So. 84th/Hwy 2 subarea plan. Katt stated that his office has not. Hartland Homes rarely asks for anything of them other than to be able to build affordable homes in this community. Hartman is concerned with how this change of zone would impact his ability to market and sell homes on his adjacent property and that is why Katt is appearing in opposition to this change of zone request on Hartman's behalf.

Steward asked staff to provide a briefing on the subarea plan. Ray Hill of Planning staff advised that the applicant's attorney for the 84th & Hwy 2 subarea plan has been doing the studies that are required and has indicated they would be submitted sometime in the near future. Steward believes it to be unclear as to why this change of zone does not connect to that planning process. Hill explained that it is the developer of the 84th & Hwy 2 project that is doing the subarea plan. This property is within 1 ½ miles, as pointed out in the staff report.

Bayer referred to the Lincoln Christian School's comment about covenants with Realty Trust Group. If we change the zone to B-2, can a covenant control what is built there by right? Hill indicated that it can, but the city does not enforce covenants. Bayer commented that B-2 allows a lot of different commercial uses.

Response by the Applicant

Marsh asked the Commission to keep in mind that the B-2 does give the community ample opportunity to have input into the site plan. What Realty Trust Group has developed in other areas should also be kept in mind. They want to be proud of what they have done. They want nothing more than to integrate into the residential and commercial uses in the City. Marsh is impressed with the commercial centers in south Kansas City and how they are integrated into the nice neighborhoods. This is what this developer desires, as well as integration with Lincoln Christian School, free of charge.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Newman moved denial, seconded by Carlson.

Newman is just not ready for this one. There is a presumption of consistency.

Carlson believes it is always nice to have a sense of what's going to be there--if nothing else but to have a sense of what's going on around it. He appreciates the integration goals, but anytime these projects come forward, the best projects always integrate with the projects around them with everyone on board.

Bayer commented that the best example is the developers and individuals between 84th & Holdrege and 84th & Adams, who brought in a complete package for the entire area with a multitude of landowners. There is enough property involved in this area to have discussions with all of the landowners.

Motion to deny carried 5-2: Carlson, Steward, Taylor, Newman and Bayer voting 'yes'; Schwinn and Krieser voting 'no'; Hunter and Duvall absent.

CHANGE OF ZONE NO. 3267
FROM H-2 HIGHWAY BUSINESS TO O-2 SUBURBAN OFFICE
ON PROPERTY GENERALLY LOCATED AT
44TH & "O" STREETS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 12, 2000

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

Planning staff recommendation: 2-week deferral.

The Clerk advised that the staff is requesting the two-week deferral in order to advertise a revised legal description.

There was no public testimony.

Schwinn moved to defer for two weeks, with continued public hearing and administrative action scheduled for July 26, 2000, seconded by Steward and carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

COUNTY CHANGE OF ZONE NO. 201
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL
and
COUNTY PRELIMINARY PLAT NO. 00018,
ROCA RIDGE,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 68TH STREET AND ROCA ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 12, 2000

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

Planning staff recommendation: Approval of the change of zone and conditional approval of the preliminary plat.

Mike DeKalb of Planning staff submitted two letters in opposition because the lots outside the Village of Holland just recently sold out; the development on North Hickman is still struggling to sell its lots; the Norris School District does not need additional students; and 20-acre lots are more user friendly. The City of Hickman has submitted a letter in opposition. The Hickman Planning Commission has not had the opportunity to review this application.

Proponents

1. Danay Kalkowski appeared on behalf of the applicant, **South 68th Street, L.L.C.** In light of the letter received from the City of Hickman, she requested a two-week delay. This application has not had formal process yet through the City of Hickman and the Hickman Planning Commission meeting is next Wednesday evening. The applicant would like the opportunity to address their objections and issues.

Newman moved to defer, with continued public hearing and administrative action scheduled for July 26, 2000, seconded by Carlson and carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

Opposition

1. Danny Harms, 17200 South 72nd Street, Hickman, between Martell Road and Roca Road, testified at this time, stating that he is not so much in opposition but rather that he has concerns with the proposal. His concerns are that 68th Street takes a lot of traffic right now to Lincoln and back home or wherever. 68th Street is very narrow and it has no shoulders. It would be good if there would be some turn lanes put in. It is very dangerous pulling out on the Martell corner and Roca corner. These are almost blind intersections. There need to be improvements at these two locations before doing any development. There have already been quite a few accidents on 68th between Saltillo and Hickman.

Harms is also concerned about the water pressure in the area. Adding 34 more houses will have an impact on the water pressure, which isn't all that good now. Harms urged that these problems be corrected, especially 68th Street, before approving development of this property.

2. Paul Johnson, 16900 So. 72nd Street, Board member of Leisure Lake Estates Association, testified in opposition. He has asked all the Leisure Lake Estates residents for their opinions. They raise a number of concerns. Water supply is a concern. This area is served by the Lancaster County Rural Water District #1. We are in a drought situation and over the past two months their water use has been restricted. 34 more houses will not help this situation. They will need to be on rural water as well. Another concern is that there are already 23 houses. With 34 more, it will be a small village and there are concerns about fire, police enforcement, vandalism, etc. They are served by the volunteer fire department and he does not know whether they can serve another 34 houses.

Johnson submitted photos of the intersections at 68th & Martell Road and 68th & Roca Road. There is not a lot of sight distance at these intersections. Johnson had talked with County Engineer and they are in the process of correcting 68th Street. They are attempting to acquire right-of-way easements to put in shoulders and turning lanes. 68th Street should be improved before developing another 34 homes.

The Leisure Lake Estates Association has 12 acres of common area behind the households with two farm ponds. They are concerned about this developer's plans to instruct the people in the new development that these are common areas, etc. They are concerned about liability and policing the common areas.

Leisure Lake Estates is to the east of Leisure Lane. These lots are 3.25 to 4 acres, the same as what is being proposed. The Leisure Lake Estates property owners are not opposed to the size of the acreages but do share the other concerns mentioned.

These applications will have continued public hearing and administrative action on July 26, 2000.

CHANGE OF ZONE NO. 3269
FROM R-1 AND R-2 RESIDENTIAL
TO R-T RESIDENTIAL TRANSITION AND H-4 GENERAL COMMERCIAL
and
SPECIAL PERMIT NO. 1855
FOR 44,400 SQ. FT. OF RETAIL,
and
USE PERMIT NO. 131
FOR SEVEN 5,000 SQ. FT. OFFICE/MEDICAL BUILDINGS
ON PROPERTY GENERALLY LOCATED
AT SOUTH 56TH STREET AND WALTZ ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 12, 2000

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

Planning staff recommendation: Approval of the change of zone to H-4; denial of the change of zone to R-T; conditional approval of the special permit; and denial of the use permit.

Ray Hill of Planning staff submitted proposed additions to the conditions of approval on the special permit and the use permit to add a note indicating that the relocation of existing utility facilities will be at the owner/developer's expense.

With regard to Condition #1.1.10, Hill requested that the word "easement" be added after "bike path".

Proponents

1. Mark Hunzeker appeared on behalf of **Krein Real Estate**. This is a 16 acre site with miniature golf and batting cages to the North; 56th Street and the Trade Center to the east; and residential uses to the south and west. It is a fairly difficult site to deal with in terms of topography. Beal Slough runs through the site mostly from north to south, cutting off a substantial portion. When they looked at the site, the developer tried to evaluate what uses could be used without too much incursion into the Beal Slough floodplain and/or floodway. It is not good residential property from the standpoint of proximity to both 56th Street and the commercial uses on two sides. The portions which could be used for residential are very steep with a lot of trees. Multi-family residential would be the only option that could be considered.

This project is a plan to use the property along 56th for general commercial purposes and proposes office uses on the area south and west of Beal Slough. The applicant took these plans to the neighbors to test their reaction as far as compatibility issues. The initial plans had two-story buildings and substantially more office space than what they are showing today. In response to the concerns of the neighbors, the applicant has reduced the building heights to one-story and has designed the buildings into the side of the hill to keep the profile below the existing residential uses. They have increased the setbacks. R-T allows a 10' building setback—this plan shows 50'. They have moved the parking around so that no parking would be between or behind the buildings. All the parking will be in front of the buildings on the opposite side of the building from the residential uses. They have provided screening in the form of a 6' wooden fence which would meet and exceed all design standards, but it would be 20' inside the property line with landscaping on the outside abutting the residential uses. There will be some gates in the fence to provide for maintenance, etc. There will be additional landscaping between the fence and the residential neighbors.

The floor-area ratio (FAR) is 11.5%, which is well under half of the average development ratio for this type of use as set forth in the Comprehensive Plan. The area that is proposed to be zoned R-T is an 8% FAR.

This application has used the Beal Sough Master Plan data to delineate floodway and floodplain elevations. That has the effect of raising those flood elevations over and above what the FEMA floodplain would show, so this development is restricted substantially by utilizing that data. There will be no net fill in the floodplain. There are areas with parking in the floodplain, but no buildings in any case. The only area showing fill in the floodplain is where Waltz Road crosses Beal Slough, and the amount of fill being placed is being moved from parking areas.

The box culvert for Waltz Road is designed assuming that none of the improvements called for in the Beal Slough Master Plan will be made, so it is oversized. The area on the west side of Beal Slough on Waltz Road is in Phase 3, so that in the event some of those improvements upstream are made, they will be able to downsize that culvert.

This proposal also requests a reduction in the width of Walt Road. The Planning Department has recommended approval of this waiver.

In summary, Hunzeker stated that this developer has done a lot to respond to what the neighbors have said they wanted to see. This is a site which lends itself very well to this type of development. Hunzeker is not sure what one would accomplish by denying the change of zone to R-T. This would still leave a 10-acre parcel zoned R-1 and presumably the Commission would be faced with an application either for another change of zone or some sort of residential. It is hard to conceive of a single family configuration on that 10 acres. It would have some impact on the wetland area. The alternative would be multi-family, but a community unit plan with multi-family on the piece south and west of the creek would result in greater building coverage and greater parking coverage, resulting in more trees being destroyed and probably more hard surface area in the floodplain.

With regard to Condition #1.1.8 of the special permit, Hunzeker noted that it requires the elimination of some parking spaces and reduces the parking ratio to the minimum required for doctors. This special permit only applies to the commercial buildings along 56th Street. The proposed parking ratio is probably a little over the 1 space per 225 sq. ft., which is the doctor requirement, but this has been done intentionally with the idea that some portion of one of those three buildings could become something like a coffee shop or small sit-down restaurant which would need additional parking. Therefore, Hunzeker requested that Condition #1.1.8 on Special Permit No. 1855 be deleted.

With regard to Condition #1.1.10 of the use permit, Hunzeker stated that the applicant agrees with respect to the R-T area.

Hunzeker requested that Condition #1.1.9 on the use permit be deleted. That condition requires deleting four of the seven buildings. He also requested that Condition #2 be amended to 35,000 sq. ft. and 7 buildings (as opposed to 15,000 sq. ft. and 3 buildings).

Hunzeker believes this is a good project. It is good use of this land. It leaves 70+ percent of the land area open and in a relatively natural state. The developer will be working with the NRD to provide some channel improvements which are called for in the Beal Slough Master Plan and will make those improvements.

Hunzeker noted that there was one comment by some folks concerned about the bike path and its location. Hunzeker advised that the location of the bike path will be flexible and they will voluntarily add a note to amend the location of the bike path at the request of the Parks Department. The Parks Department report is not yet available.

Carlson asked for clarification of the use permit. Hunzeker advised that the staff is recommending denial of the use permit, which is the R-T area. However, if the Commission approves the change of zone to R-T, the staff is recommending that the amount of office space be reduced to 15,000 sq. ft. in three buildings. The buildings the staff is recommending be deleted are Lot 4, and Buildings 8, 9 and 10. Hunzeker does not understand the staff's logic at all. If we are going to cross that channel, we should go ahead and do the three buildings. The way this is situated leaves a minimal impact with the 7 buildings. It resolves the issue with respect to a very difficult piece of ground.

Steward noted that the site plan suggests that the bike path cross Waltz Road on the surface. Hunzeker concurred. Waltz Road is not going to have a great deal of traffic. It is 21' wide. He does not believe that there is a crossing under Old Cheney Road for a bike path or at 56th Street. Steward believes it should cross in an intersection condition rather than just straight across the road. Hunzeker stated that they will work with Parks Department on this issue.

2. David Lauten(sp), 6120 So. 53rd, testified in support. The neighbors have been involved with the developer for a year. He was nominated as representative of the group of neighbors. They have had many meetings with the developer and have expressed their initial total rejection of the project, but they also understand that it is zoned residential and far worse things could happen to this land. The developer has followed through and given the neighbors what they have requested. He has discussed this with all the homeowners bordering this property and there is general acceptance from the neighborhood. They are not 100% in agreement but they have come a long way in understanding that development is going to happen. There is a tremendous amount of trust being put in this applicant and the neighbors believe this will be a positive development given the current zoning. The neighbors are fearful of three-story apartment houses. This design has protected most of the tree mass, except in the south section south of Beal Slough along London Road. This land has been uncared for over the last 10 years, so there is a tremendous amount of tree waste, garbage, construction debris, etc. It is not a place that will be easy to clean up.

3. Gene Simpson, property owner at 6300 So. 53rd, testified in support. His irregular tract is the reason why the applicant's tract is irregular. He does not believe there is a single property owner along 53rd that did not factor the wilderness area behind them into their decision to buy their house. One of the good things that this buffer area does is provide a sound barrier from 56th Street. Simpson wanted to inform the Commission that when it rains, that area turns into a waterfall. It is not flat. There are considerable topographic elevations. He has seen water coming down from the apartment complex. The water goes right back behind the property. That water has to go somewhere.

4. Gary Hansel, 5920 So. 53rd, testified during support testimony; however, he has concerns. His property line is on the far northwest corner. Betsy Egan owns the miniature golf course that is in his back yard. If we let this applicant develop this proposal, what is going to happen with Betsy Egan? Let's be realistic about the bike path. He also has a

concern about looking out from his deck at the roofs of the businesses. If we allow this development, what will Betsy Egan be able to do down the road between this property line and Old Cheney?

Opposition

1. Foster Collins, 2100 Calvert Street, testified in opposition on behalf of the **Blue Stem Group of the Sierra Club**. They generally oppose this project. Flood control is an issue. They are glad to see the applicant is proposing no net loss of flood storage capacity but they are concerned about the downstream flood level rise. That stretch of Beal Slough has demonstrated a history of flooding. They would also like to see a condition of approval that the Parks & Recreation Department reach agreement with the developer for the location of the bike path. From an environmental standpoint, Collins states that the tree masses represent a substantial riparian corridor, good wildlife habitat and function as a buffer to improve the water quality downstream. Collins would like to see a conservation easement over a large portion or assurance of environmental sensitivity, such as bio-engineering for stabilizing of the bank and buffering of the runoff from the parking lots to protect the water quality downstream.

2. Ken Reitan, 2310 So. Canterbury Lane, testified in opposition and requested denial of this development because it straddles Beal Slough. The City now has a plan to reduce flooding along Beal Slough, but this proposed development will make the situation worse. He does not believe it is possible that this development will not cause any rise in the 100 year flood elevation outside of the limits of this development. Somewhere the flood will be higher. Folks downstream will suffer property damage from parking lot runoff. Tree removal will contribute to water quality and quantity problems. He does not see this development being beneficial to the city.

Carlson wondered if there was some mitigation that could be done to deal with the parking lot runoff. Ray Hill of Planning staff advised that sometimes they use a detention basin that lets the pollutants filter out before dumping into the main stream. Nicole Fleck-Tooze of Planning staff suggested that they could explore options for bio-engineering techniques to filter the water. She does not know whether this has been done by the applicant.

With regard to the downstream rise, Fleck-Tooze informed the Commission that she had suggested that the highest standard is to show that you create no rise in the 100 year flood level. It would be desirable to show that that didn't occur. It would be desirable to see it at the downstream end. That could be done with a hydrological study.

Steward noted that this is one of the first projects following the approval of the Beal Slough Stormwater Basin Master Plan. He inquired whether Fleck-Tooze believes that this development does or does not meet those standards. Fleck-Tooze responded that she believes it makes an effort to meet those standards by providing for no loss of flood storage and preserving existing vegetation on site. The one concern is whether or not

there will be any rise in flood heights downstream. It would be desirable to show that. Another item would be water quality issues.

If this application is approved, Steward wanted to know whether there are enough checks in place to assure conformance to the design standards of the Beal Slough Master Plan. Fleck-Tooze does not know that there are specific conditions to identify bio-engineering measures for water quality; and there is not a condition that they show no rise in flood elevation downstream.

Taylor inquired about the sound barrier from 56th Street—would this development harm that barrier or will it enhance the sound level for the residents? Hill was not sure he could answer that. This would require measuring the sound to see how much is absorbed by the buildings, etc., and that has not been done. Taylor wondered whether this was a concern to the staff and Hill indicated that it was not.

Hill explained the rationale for the staff recommendation to remove four of the proposed buildings. For Lot No. 4, the grading plan shows an extreme amount of grading to be completed in order to put that flat building on that very steep slope. This is an attempt to save some of the natural features of the property. On the other three buildings (lots), almost all of the trees have to be removed in order to construct those buildings and the parking lot. Lot #7 is closer to 56th Street, there is an opening there and the ground is flatter; there is only one 5,000 sq. ft. building on that location and the amount of traffic from and to that location would have less of an impact on 56th Street. Regrading the ground for the buildings changes the natural lay of the land and destroys the natural vegetation. It creates unstable ground until any new vegetation is established.

Carlson noted an outlot but this is not a community unit plan. Hill clarified that this is a use permit and special permit which would be followed up with a final plat. Carlson and Hill concurred that the density on this parcel is by virtue of the special permit. Carlson noted that the outlot is not protected from development like in a community unit plan.

Newman observed that the applicant says this is the best they can do and that residential would be more destructive. Can they put up as many residential homes as they would like? Hill advised that they would have to go through the subdivision process, which also has floodplain regulations.

Response by the Applicant

With respect to parking lot runoff, Hunzeker pointed out that there is a condition which requires resubmission of a grading and drainage plan to meet design standards and approved by Public Works. The applicant has had preliminary discussions and it is

possible that bio-engineering of the runoff would be a possibility and could be incorporated into the grading plan. They do not object, but there are some places on the site which may be a little steep for doing that. They could be drained through a constructed wetland area to filter some of the parking lot runoff as described by Fleck-Tooze.

With respect to increased runoff, Hunzeker suggested that the Beal Slough watershed is a huge area, and the incremental increase in runoff from this site will be so small that it would be hard to measure. He does not know whether it will be possible to have an engineer certify that there will be no increase, but he believes it fair to say that the increase will be so minimal as to be unnoticeable with respect to any property downstream. Any amount of construction in the area that will drain into this or any other watershed will in some amount increase runoff into the stream that is below it. It is impossible to not increase it. No additional runoff into that creek is an impossible standard. We are not encroaching into the floodplain. We are respecting a flood elevation which is not legally in effect. Legally, the floodplain is the FEMA floodplain. This development respects the Beal Slough Master Plan elevations which are much higher.

Hunzeker also advised that this developer has obtained a 404 Permit from the Corps of Engineers for the crossing of Beal Slough at Waltz Road. Those box culverts will be tall enough that we possibly could run a bike path through there, but it may not be the desire of the Parks Department to do that.

With respect to grading and drainage and erosion control, Hunzeker noted that the Commission and City Council recently approved a land disturbance permit requirement. They will be required to get a permit through Public Works and the NRD for the disturbance of this land, which will have a condition for all sorts of erosion control measures. It is not a matter of going in there and making a vast cut and fill for these building sites because we are tucking those buildings into the side of the hill. They are utilizing the building itself as a retaining wall.

Hunzeker also stated that if this proposal is approved, the developer would not be opposed to granting a conservation easement over the outlot, which would then permanently protect against the possibility of additional development on this site. However, the developer would not be willing to grant a conservation easement if he is limited to 3 buildings without the R-T zoning, as recommended by the staff.

Carlson asked staff to respond to the applicant's comments about the parking lot runoff consideration. Fleck-Tooze indicated that it would be more clear if there was something specifically referenced in the conditions such as the incorporation of bio-engineering techniques for water quality purposes. However, there may or may not be an opportunity to do that at every location. Steward wondered if that concern could be satisfied if the

conditions make reference to compliance with the Beal Slough Stormwater Basin Master Plan. Fleck-Tooze suggested that the conditions might provide that the applicant address the issues raised by the Beal Slough Master Plan. It talks about certain standards, but the design standards and ordinances were separate from the Master Plan document.

Carlson is also concerned about the downstream measurement. Fleck-Tooze suggested that there are two possible ways that flood heights might be impacted downstream. One is by additional runoff from hard surfaces, and that is the situation that our current design standards and stormwater regulations addressed with the requirement for stormwater detention. It talks about not increasing peak flows during major storm events. That detention is not provided here because that is a requirement of the subdivision ordinance and this is not a plat. The second possible way to impact flood heights is from a hydrological standpoint by displacement of water within that drainageway. That can be measured by showing you have no rise in flood heights downstream of your property line. If it were mentioned in that way it would guarantee that the flood heights were not being increased by either of those methods.

Hunzeker suggested that if the Commission wants to incorporate a condition relative to bio-engineering, language could be added to Condition #1.1.15 of the use permit and Condition #1.1.13 of the special permit: “A water system, sanitary sewer system, and grading and drainage designed to meet design standards, including compliance with the Beal Slough Basin Stormwater Master Plan, and approved by the Public Works & Utilities Department.” He does not know whether Public Works would be anxious to incorporate detention into a project that is directly abutting the stream. Historically, Public Works has taken the position that the closer a property is to the stream itself, the quicker you want that water to get into the stream and on downstream. It is upstream where you want to have detention. If you detain water next to the stream, you run the risk of increasing the peaks.

Steward wondered whether it would cause difficulty if the condition required them to meet design standards, “and the conditions and issues of the Beal Slough Stormwater Master Plan”. Hunzeker does not know what that really means. That Master Plan does not contain any standards. It is an identification of problems; it includes some proposed solutions to those problems; it does not have design standards relative to this issue. But, Steward commented that the Commission is faced with trying to micro-design circumstances that have come up spontaneously by a separate condition. And we have just completed a lengthy study of the stormwater conditions in Beal Slough, and here we have a project which needs to meet those conditions. Hunzeker believes that the main aspect of that Master Plan affected by this project is to accomplish one of the identified channel improvements that are part of that program of work that is going to cost \$15 million. This developer will be accomplishing that for the city at his own expense. This project probably does more good with respect to that plan than any other. Hunzeker believes that a reference to the plan may identify some concerns but it does not point to a set of standards. The standards are in the subdivision ordinance design standards and

the land disturbance permit requirements. Before grading, they will have to get a permit to disturb that land. The permit will have to address how we intend to control erosion on the site and how we intend to revegetate the site, etc.

Schwinn suggested that the conservation easement on the outlots be added as a condition of approval. Hunzeker agreed that the applicant would certainly be willing to do that, assuming that the amendments to Condition #2 are approved as he requested.

Public hearing was closed.

CHANGE OF ZONE NO. 3269

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Schwinn moved approval, as requested by the applicant, seconded by Taylor.

Carlson commented that he will be purchasing these sensitive areas the day that he wins the lottery. It is hard to say “no, you can’t develop the land”. He believes the applicant makes a compelling case that this land is not going to remain undeveloped. He wants to make sure, however, that this is the development that takes place and that we mitigate where mitigation needs to occur. He wants to add those mitigations to the conditions of approval.

Newman keeps asking herself, what is the best use for this land? Is it residential? Or pouring concrete parking lots and 7 buildings? Realistically, she can see more water runoff with parking lots and 7 buildings than with 15 houses. She will vote against the motion. She is very sensitive to the floodplain issues.

Steward stated that he will support the motion on the basis that he has come to the conclusion that it is the best use and that there is a more sensitive opportunity in this strategy for preservation of the tree mass and the stormwater and the natural habitat of that drainage than there would be with streets, curbs, driveways and houses at the maximum density possible. We’re talking about choices between two conditions on a very difficult site. He thinks housing is unrealistic.

Motion for approval, as requested by the applicant, carried 6-1: Carlson, Schwinn, Steward, Krieser, Taylor and Bayer voting ‘yes’; Newman voting ‘no’; Hunter and Duvall absent.

SPECIAL PERMIT NO. 1855

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Schwinn moved approval, with conditions, with amendment deleting Condition #1.1.8 and adding the word “easement” after “bike path” to Condition #1.1.10, seconded by Krieser. Bayer pointed out that this is the property adjacent to 56th Street.

Steward moved to amend to add language to Condition #1.1.13, “including compliance with the Beal Slough Basin Stormwater Master Plan”, seconded by Krieser.

Carlson asked whether the amendment to Condition #1.1.13 is intended to address the parking lot runoff. Steward stated that the intent is to assure that this project has the scrutiny of Public Works and all of the elements of the city in its best opportunity to conform to that Master Plan without becoming specifically involved in whether it is a bio-engineering condition or not, and whether we get into stream bank specifics. Carlson is not sure that language will satisfy those concerns. Steward agreed, but if we don’t have the design standards that will, he does not believe the Commission should be trying to make those design standards here.

Motion to amend Condition #1.1.13 carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting ‘yes’; Hunter and Duvall absent.

Carlson is concerned about the rise outside the parcel. Steward would have the same rationale--that it is protected by compliance with the Beal Slough Master Plan.

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

USE PERMIT NO. 131

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Schwinn moved approval, with conditions, with amendments:

- a) Deleting Condition #1.1.9;
- b) Adding “easement” after “bike path” in Condition #1.1.12;
- c) Amending Condition #1.1.15 to reflect the amendment to Condition #1.1.13 of Special Permit No. 1855;
- d) Adding Condition #1.1.19, “grant a conservation easement to the outlots”;
and
- e) Amendment to Condition #2 to 35,000 sq. ft. and 7 buildings.

seconded by Taylor.

Carlson encouraged the Sierra Group to find out how their concerns can be addressed in the code and get those measures put in place if the community is interested in doing so.

Schwinn believes the developer has done an excellent job of taking a difficult site and addressing the Beal Slough and neighborhood concerns. He believes it will be beneficial to the neighborhood.

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

**COMPREHENSIVE PLAN CONFORMANCE NO. 00005
TO ACQUIRE A PERMANENT CONSERVATION EASEMENT
ON PROPERTY GENERALLY LOCATED AT
S.W. 70TH & OLD CHENEY ROAD.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 12, 2000

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

Planning staff recommendation: A finding of conformance with the Comprehensive Plan.

Proponents

Nicole Fleck-Tooze of the Planning Department explained that this application is to find that the establishment of a permanent conservation easement over an environmentally sensitive area in Countryside Estates 1st Addition is in conformance with the Comprehensive Plan. The purpose is to preserve the wetlands, drainageway, and floodplain areas.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Steward moved to find the establishment of a conservation easement to be in conformance with the Comprehensive Plan, seconded by Krieser and carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

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

July 12, 2000

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

Planning staff recommendation: Conditional approval of revised application.

Proponents

1. **Brian Carstens** presented the application. A month ago, this project was presented and received a recommendation of denial. The applicant revised the application and requested reconsideration. The applicant met with HWS for additional information on the Beltway Study corridors. The preliminary EIS is to be issued on all three beltway locations and Carstens was advised that this is the “East (middle)” location. If the roadway deviated hardly at all they would have to redo the EIS. Any issues causing a change of that alignment should have been done before the EIS. The lots in this proposed development are as far away as possible.

Carstens further pointed out that the revised application deletes one dwelling unit. There is no 20% density bonus, which removes the 99 year conservation easement. The private roadway is 60' in width. The outlot is the typical residential street width that could be dedicated to the city in the future. Typical sewer and water extensions could be made up that street. They have placed the road adjacent to the existing 15-acre lot so that it could be further subdivided off that roadway. The applicant's lot is 20-acres. The large open space and nursery area have been previously approved.

In summary, the revised application deletes reference to the 99 year conservation easement, removes one dwelling unit and shows the proposed alignment for the “East (middle) Beltway Corridor”.

Krieser inquired about rural water. Carstens confirmed that Cass County will provide rural water for this area.

Carlson inquired whether the road is set up to run the sewer line. Are the lots set on grade so the sewer can run to the main? Carstens stated that the sewer line could come up the draw. As we annex those types of acreages we will probably see sanitary sewers running up creeks in back yards. The north and east side all flows down towards the road.

There was no testimony in opposition.

Public hearing was closed.

SPECIAL PERMIT NO. 1835

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Schwinn moved approval, with conditions as set forth in the staff report, seconded by Krieser and carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

PRELIMINARY PLAT NO. 00007, SAGE PRAIRIE

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Schwinn moved approval, with conditions as set forth in the staff report, seconded by Krieser and carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

COMPREHENSIVE PLAN CONFORMANCE NO. 00004

FOR A PERMANENT CONSERVATION EASEMENT;

and

COUNTY SPECIAL PERMIT NO. 182,

HAWK'S POINTE COMMUNITY UNIT PLAN;

and

COUNTY PRELIMINARY PLAT NO. 00015,

HAWK'S POINTE,

ON PROPERTY GENERALLY LOCATED

AT NO. 1ST STREET AND RAYMOND ROAD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 12, 2000

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

Nicole-Fleck Tooze of Planning staff explained that the revised staff recommendation removes the conservation easement from the special permit; however, the Comprehensive Plan Conformity item only finds whether or not the establishment of a permanent conservation easement would be in conformance with the Comprehensive Plan—it does not

direct the applicant to establish one. The staff recommends that the Commission does find the conservation easement to be in conformance with the Comprehensive Plan, and as it moves forward, it can be dropped by the County Board if they do not wish to pursue it as a condition.

Proponents

1. Eric Pavey, the applicant, reminded the Commission that this is fourth generation farm land from his family and a lot of it is saline wetland and probably 100 acres of native prairie that has never been turned. The public hearing was reopened and held over to give the applicant an opportunity to have more discussion with staff to try to get more safeguards in place to benefit the conservation issues. He believes that the memorandum from the Planning Department dated July 10, 2000, is a good compromise. In lieu of actually putting the land into a conservation easement, the conditions provide an easement as this owner's responsibility as part of the special permit. The new conditions #3.8 and #3.9 take care of the conservation easement. Condition #3.10 addresses the concern for the conservation easement if the property is sold. In event of sale of the land to any other party, there would be a permanent conservation easement.

With regard to safeguarding the native prairie, a condition has been added to show building envelopes on each of the lots. All of the lots are very site specific and will have covenants. He will limit the number of outbuildings and the size of lawns so that most of the lawns will be native prairie.

Pavey is still requesting that Condition #1.16 be deleted (Revise Lot 1 so it is outside the 100 year floodplain and wetlands). It would be just as easy to resurvey and make the actual road part of Lot 1 so it would get around easements and would abut directly into Wylie Circle. The actual roadway would just be part of Lot 1. Carlson noted that if the building envelopes are established he couldn't build there anyway.

There was no testimony in opposition.

Pavey also stated that it has always been his intent to keep his lot over 20 acres. If he chopped that off, he would end of going south to keep 20 acres, which defeats the purpose of cutting that toe off.

Carlson asked whether there is a direction to go south out of the wetlands. Have we satisfied his desire to maintain more than 20 acres in a different direction? DeKalb indicated that he could adjust his lot line. The extension of Wylie Road does not make up enough difference. Pavey noted that it was a consideration while building the home, but now that the house is built it really doesn't matter. It's just another lot. Everything around

there is all native prairie. That toe isn't actually in any wetlands. DeKalb still believes he could adjust the lot lines. Bayer believes there is an expense to doing that. And Pavey stated that to be the reason—he does not want to have to go to that expense and that is why he wants it deleted.

Public hearing was closed.

COMPREHENSIVE PLAN CONFORMANCE NO. 00004

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Taylor moved to find the permanent conservation easement to be in conformance with the Comprehensive Plan, seconded by Steward and carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

COUNTY SPECIAL PERMIT NO. 182

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Steward moved approval of staff recommendation of conditional approval, with the revisions as outlined in July 10th memorandum from Mike DeKalb of Planning Staff, with amendment to delete Condition #1.16, seconded by Newman and carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

COUNTY PRELIMINARY PLAT NO. 00015

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Steward moved approval of the staff recommendation of conditional approval, with the revisions as outlined in the July 10th memorandum from Mike DeKalb of Planning staff, incorporating the amendments to County Special Permit No. 182, seconded by Schwinn.

Carlson thanked the applicant for his patience.

Motion for conditional approval, as revised and amended, carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

SPECIAL PERMIT NO. 1753A
AMENDMENT TO THE VAVRINA MEADOWS COMMUNITY UNIT PLAN
ON PROPERTY GENERALLY LOCATED
AT SOUTH 14TH AND VAVRINA BOULEVARD.

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

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

Proponents

1. **Rick Krueger, President of Krueger Development**, presented the application, which consists of a generic use permit for the day care facility so that they can show it as being able to accommodate up to 150 children in a 10,000 sq. ft. building with open space for playground uses. He does not have a provider at this point in time but there have been a number who have expressed interest. The second use is an apartment complex consisting of four buildings. The site plan shows all of the apartments with underground parking, which preserves a great degree of the site for open space. If they were to go with all surface parking as approved at this time, it would result in 35% green space and increase the parking area to 43%. This plan is brought forward to increase the density in order to allow the parking underground.

Krueger explained that the height waiver is requested in order to build 9' interior walls and a 5/12 pitched roof, which is reflected in the single family and duplex townhome units.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: July 12, 2000

Carlson moved approval, with conditions as set forth in the revised staff report, seconded by Taylor.

Carlson talked with the applicant and he is very impressed. This begins to demonstrate some of the ideas of density by design—efficient use of space with design mitigating the potential negative effects of density. We need to move towards this in Lincoln. This developer is to be commended. He believes there is clear rationale for the waiver and it will not set any kind of a precedent.

Motion for conditional approval carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

CHANGE OF ZONE NO. 3256
A TEXT AMENDMENT REGARDING
USES PERMITTED IN THE AIRPORT
ENVIRONS DISTRICT.

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

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

Ray Hill of the Planning staff requested that this application be continued for another two weeks to allow the public and the Planning Commission to review the revised language. The Airport Authority has seen the new language and is satisfied, but a new staff report will need to be produced.

Schwinn moved to defer, with continued public hearing and administrative action scheduled for July 26, 2000, seconded by Carlson and carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

Opposition

1. Peter Katt appeared on behalf of **Hartland Homes**. The reason for their interest in the Airport Environs Noise District is that last fall, Harland Homes acquired some of the surplus property from the State adjoining the Correctional Center generally west of Coddington, south of A Street and north of South Street, and will be bringing that forward for development in the not too distant future. That property is involved in the area that is subject to noise restrictions under the current zoning map.

Katt submitted that the issue is this: The city's authority to regulate under this noise district is based upon whether or not in fact the lines on this map are accurate. The lines on the zoning decibel line map are based upon a study done in 1982, at a time when jets were noisier and this whole area of noise restrictions adjacent to airports was in its infancy. Katt has had conversations with the city and they say they are not going to change anything and the cost of the study is too much. Katt believes that this text amendment is an illegal response in terms of the city's willingness to exercise its police power jurisdiction in connection with the zoning ordinances. He submitted a brief synopsis of some information he was able to obtain over the Internet from the FAA, outlining a very good methodology that looks at making a rational decision based upon real facts as to protection of the public from airport noise.

Katt also submitted information having to do with the national airport in Washington DC, which is pertinent factual information in terms of changes in jet noise technology from 1979 to today; noise measurements; etc.

Katt recommends that no changes be made at this time and that the noise ordinance simply be deleted. The city has no legal basis to continue to regulate noise compatibility based upon a study done in 1982.

This text amendment will have continued public hearing and administrative action on July 26, 2000.

SPECIAL PERMIT NO. 1846
FOR A PERSONAL WIRELESS FACILITY
ON PROPERTY GENERALLY LOCATED
AT NO. 9TH AND W STREETS.

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

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

Jennifer Dam of Planning staff submitted an email from the North Bottoms Neighborhood Association requesting delay of this application until they receive additional feedback from the applicant.

In addition, Dam noted that at the last meeting, the question about use of the baseball lights and UNL property came up. The baseball lights will not be installed for at least a year. She did not know whether we would meet the need requirements of the applicant by asking them to wait that long and it would not meet the ordinance requirement to act within a reasonable time.

Dam also talked with UNL. Their Master Plan shows a building immediately north of Memorial Stadium in what is now a parking lot so they would not consider putting a tower in that parking lot. The Athletic Dept. said they had not talked about putting something on the building or the stadium and offered to talk with other people in the University to determine whether they would consider something if appropriately designed. Therefore, Dam requested another two-week deferral in order to get more feedback from the University.

Proponents

1. Sharon Martin, real estate market manager for **U.S. West Wireless**, stated that the applicant continues to take the position that the site at Capitol Steel is the most logical choice to provide the engineering coverage for what they are looking for as well as the least aesthetic negative impact on the community. Their concern with the UNL property is that there will be even more neighborhood and public concern on how that will look. Locating on the stadium itself is another enormous concern for the applicant.

Steward asked the applicant whether they are implying that the Commission should vote today or is the applicant willing to wait another two weeks? Martin stated that she would leave that to the Commission's judgment.

Schwinn moved to continue for two weeks, with continued public hearing and administrative action scheduled for July 26, 2000, seconded by Steward and carried 7-0: Carlson, Schwinn, Steward, Krieser, Taylor, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

There being no further business, the meeting was adjourned at 4:50 p.m.

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