

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, October 4, 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, Patte Newman, Tommy Taylor, Greg Schwinn and Cecil Steward (Gerry Krieser absent); Kathleen Sellman, Ray Hill, Mike DeKalb, Jennifer Dam, Rick Houck, Nicole Fleck Tooze, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair, Russ Bayer, called the meeting to order and requested a motion approving the minutes for the regular meeting held September 20, 2000. Motion to approve made by Schwinn, seconded by Taylor and carried 8-0: Bayer, Carlson, Duvall, Hunter, Newman, Taylor, Schwinn and Steward voting 'yes'; Krieser absent.

Bayer then called for a motion approving the minutes for the special meeting held September 27, 2000, on the Antelope Valley Comprehensive Plan Amendment. Motion to approve made by Steward, seconded by Schwinn and carried 7-0: Bayer, Carlson, Duvall, Hunter, Newman, Schwinn and Steward voting 'yes'; Taylor abstaining; Krieser absent.

COMPREHENSIVE PLAN AMENDMENT NO. 94-60
TO INCORPORATE THE ANTELOPE VALLEY PROJECT
INTO THE 1994 LINCOLN-LANCASTER COUNTY
COMPREHENSIVE PLAN

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: October 4, 2000

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

Duvall moved approval, seconded by Hunter.

Duvall finds this far-reaching and taking Lincoln into the future. It is greatly ambitious. It brings together the state and city into new levels that we've never seen before. He is very excited about this project.

Schwinn commented that the Commission heard a tremendous amount of testimony about this project during the hearing and the process. There were some disgruntled people that felt they had not been involved in the process. However, he believes the citizens had the opportunity to become part of the process. He does not think any arms were twisted. He believes there was consensus. There were comments about it being a "UNL land grab". Schwinn suggested that UNL is the crown jewel of our state and, as the city chosen to have this university, we should help it as much as possible. The University was here a lot longer than any of us in this room and we need to support it and allow it to create its own marked entity and having a main road traveling through like 16th and 17th do today is not good. For these reasons and for protection of the floodplain, Schwinn is very much in favor.

Steward commended the key planners and promoters for this project and the way it was handled. He agrees with Schwinn that if there was anyone in the city who now claims at this late date that they did not have opportunity to participate, they only have to look in the mirror and question themselves, not the project. More than any other project during his 30 years of residence, this was done with the intent of openness, transparency and public participation and sets a fine example for future projects. His preference would have been that our forefathers not locate on this watershed. This is why we have this problem. But they did. They didn't have as much information or technical expertise and perhaps as much vision as we try to glean from the planning process today.

Another compliment Steward had was that this project solves more than one problem with a solution. Things are so complex that anytime we try to solve single problems with single solutions, we're missing an opportunity. The perimeter circulation for UNL will bring better safety, and more efficiency to the University and the entire city. As to the neighborhood, if he were living in the adjacent neighborhood he would have been suspicious in the beginning, as many were, and acknowledged that he has been somewhat embarrassed by the UNL move to the east. But this project creates a hard edge, an edge that will serve both the campus and the neighborhood well. The Downtown is also a benefactor in that we will have the opportunity to assemble developable land into new project activities that will be extremely vital to the eastern quadrant of Downtown Lincoln with UNL on the north, state government on the south and the Haymarket on the west. This gives us opportunity for significant closure or definition to a new pedestrian oriented downtown. It provides the opportunity for more housing, and this is essential to the new image and vision of Lincoln's Downtown, but this does not, in his opinion, go far enough.

Steward also observed that this project calls for a new comprehensive look at the urban impacts in traffic and in watersheds. Some of the testimony brought out the fact that maybe the interconnection between this watershed and others in the community has not been carefully evaluated, but this project does not exacerbate that problem--it helps that problem. This project is good for the vitality of the future of Lincoln. Revitalization is something the project purports to accomplish but it can do more if we look at it in a more holistic way.

With regard to the two-way versus one-way pairs, Steward called attention to the history of K, L, P and Q Streets, and the history of blight in the center blocks along those streets. They have been difficult and unattractive from an economic standpoint, and have only begun to be redevelop because other economic forces have come into the City. He would not want to support another potential set of dead blocks between two major thoroughfares. One-way pairs are great for moving cars, but they are not great for a vital city. Steward wholeheartedly and eagerly supports this project.

Hunter stated that it is critically important that we realize what the basis of the project was; that is, for storm water and 100-year flood treatment of water so that we don't experience devastation of the city. The out-spreading of this project into revitalization and redevelopment where the campus is concerned was all the outgrowth of the original problem--the water. Of critical importance is the health of our Downtown--when you lose a strong city core, you lose the city. Part of this redevelopment and revitalization is going to strengthen Downtown Lincoln. Hunter was concerned with the testimony that everything seems to be for UNL. Regardless of the fact that it may seem like this is predominantly a UNL development, if anyone chooses to ignore the importance of this university in the health of this city and the future growth, you've probably missed the boat in consideration. The Downtown has been flooded in the past, so there is no question as to whether this is a problem. Reinvestment in Downtown will not come without some sort of far-reaching program of revitalization. This is an effort to handle existing problems and look farther into the future than has been done in the past. She wholeheartedly supports this project.

Carlson agreed with the previous comments. The rationale for this project is clear and it is compelling. A neighborhood resident talked about wanting us to keep in mind that our vote is not the end of our participation in Antelope Valley. Her statement was that it represents the beginning of our commitment. If we let the core of the city deteriorate, we will have problems. This is the biggest investment in the Downtown corridor than we have ever had. It is important to follow through. Where we go from here is what is going to make the difference. We have maps, charts and pictures, but how that translates into reality is going to make all the difference in this project. We need to keep our shoulders

behind this deal and make sure we encourage that vision and that it actually becomes a reality. We need to continue to encourage the boldness of that vision. We cannot cut corners. Carlson emphasized that we need to be strong in our thoughts about having bold development in this redevelopment area. Let's think clearly and broadly. Let's work hard to establish the best configuration of land uses and the associated transportation elements. Most importantly, let's make sure we have a commitment to the existing neighbors and businesses. That's what this is for. It needs to be paramount to address the needs of those who will lose their business and homes. Let's make sure our commitment stays strong to the people that are affected.

Newman was somewhat hesitant. She understands that no vote is not an available option because we need to do something. She sees it, however, as more of the same as far as transportation— a 6 lane roadway. She sees eleven wonderful goals in the Comprehensive Plan that talk about a multi-model system and alternative modes of transportation. If this is not the core that we can do that in--with the density, the entertainment center, the university--we're missing out if we don't plug a strong transit piece into this. The community has spoken. Those that testified in opposition were not opposed to the revitalization, it was the uncertainty with the details. She will vote in favor and will encourage those people who have given the time and energy to keep plugging away. She agrees that this is the beginning and we can make it something wonderful for the community, but we need to work out those details.

Bayer congratulated to the team. It's neat to be involved in a community that puts together players with different goals and objectives and come to something that is good for our community as a whole. He believes that they have successfully insured that all fatal flaws were eliminated in this plan. As Chair of the Commission, however, Bayer wanted to rebut to comments he has heard about the Commission's votes being preconceived, etc. In the 12 years he has served, that has never been the case. These are well thought-out comments and it is a disgrace to the community that people think the Commissioners have their decision made before the hearing. He has never seen anyone come here with a preconceived thought or vote dictated by anyone else. Bayer supports the plan and congratulates the team.

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

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

October 4, 2000

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

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 1854; COUNTY FINAL PLAT NO. 00029, LITTLE NEMAHA LAKE ESTATES, and COMPREHENSIVE PLAN CONFORMANCE NO. 00007.**

Item No. 1.1, Special Permit No. 1854, and Item No. 1.2, County Final Plat No. 00029, were removed from the Consent Agenda and scheduled for separate public hearing.

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

SPECIAL PERMIT NO. 1854
FOR A WIRELESS FACILITY, PLACING
ANTENNAS ON THE EXTERIOR OF AN
EXISTING STRUCTURE, ON PROPERTY
GENERALLY LOCATED AT SO. 9TH AND
D STREETS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 6, 2000

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

Planning staff recommendation: Conditional approval.

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

Jennifer Dam of Planning staff submitted a letter containing 10 signatures in opposition and a second letter in opposition with concern about the impact to the historic district listed on the National Register. There was also concern that the applicant did not contact the individual property owners in the area.

Proponents

1. **Jill Bazzell** presented the application on behalf of **Qwest Wireless**. With regard to impact on the historic district, Bazzell referred to a letter from the Nebraska State Historical Society approving this application, both at the city and state level. With regard to not contacting the immediate neighbors, Bazzell stated that Qwest has contacted every neighborhood in Lincoln to let them know they are coming to Lincoln. She had the contact name of P.C. Meza for this neighborhood as opposed to Steve Larrick. They had no other way to contact the neighborhood association. Qwest is happy to talk with the neighborhoods.

With regard to the concern that 5 or 6 more carriers will seek placement of individual towers in the same area, Bazzell clarified that this is not a tower to be placed on the church. It involves three single panel antennae that will be mounted to the side of the church, painted and camouflaged to match the building. She displayed a rendering showing the location of the antennas. When painted they will be the color of the building. They are basically not noticeable. The equipment box will be on top of the roof and will not be located on the ground. With regard to concern about interference with other equipment and health risk, Bazzell stated that there is no health risk. As far as interference, she does not know what equipment they are referring to. We do not interfere with other cell providers or 911. They do not interfere with regular television signals. This is not a tower—it is collocation. We have worked not to have it look like cellular equipment.

Opposition

1. **Tamra Polivka, 835 D Street**, testified in opposition. She is concerned about interference on her baby monitor. She experiences interference from cellular phones and she did not know how this might increase the occurrence of that.

Steward observed that the image shown gives a rather flat appearance without a shadow line. If it has a strong shadow it will appear to stand out regardless of the color. Corby Dill of Qwest advised that there will be an antenna on three sides. The one facing to the north does not extend far off the building. That one is going to be flat, although the other two will be pyramid shape. Steward suggested that anything they can do to flatten that edge against the brick and not have it standing away and not be thick will be helpful. Dill advised that they had worked on this issue with the Historical Society.

Dill also advised that there will be no problems with interference with the baby monitor. If the situation arises, the homeowner should contact Qwest.

Carlson wondered whether there are lighting standards in the Cooper Park softball fields. He is thinking about future providers. Dam did not know but that is an area that could certainly be considered. This application was approved by the Historic Preservation

Commission and the State Historical Society before moving forward. This is a dense residential area. The staff considers it sensitive and we will ask providers to do whatever they can to find the desirable locations.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 4, 2000

Steward moved approval, with conditions, seconded by Schwinn.

Hunter is concerned about the concept of putting these on historical buildings of any kind because on a scale of how long these cellular units are going to be functional and with the development of digital and new telephone services, what happens to these towers when they are nonfunctioning? What happens when these antennas are no longer in use and are taken off the building? What does it leave? We've been very consistent in making sure that when these towers go up that they are for multiple users.

Carlson suggested that it is important to remember that on the one side you have the tall tower with lots of providers, but maybe on the other side you have smaller, stealthier towers but more of them? Which is better?

Bayer believes that the staff does encourage the users to go to the stealth locations as primary locations rather than the alternative of putting up another tower.

Motion for conditional approval carried 8-0: Carlson, Hunter, Steward, Schwinn, Duvall, Taylor, Bayer and Newman voting 'yes'; Krieser 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.

COUNTY FINAL PLAT NO. 00029
LITTLE NEMAHA LAKE ESTATES,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 141ST STREET AND EAST SHILOH ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 4, 2000

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

Planning staff recommendation: Conditional approval.

This application was removed from the Consent Agenda and had separate public hearing at the request of Commissioner Steward.

Proponents

1. **Brian Carstens** appeared on behalf of the applicant to answer questions.

Steward's question has to do with process. In reading this report, under the history, it states that the change of zone had a recommendation of denial from staff and that it has been on hold at the request of the applicant since that time. However, he notes that the preliminary plat and community unit plan were approved by the County Board on 5/23/2000. Steward was curious about how it got to the County Board before it came to the Planning Commission and what happened to change the original recommendation of denial. Mike DeKalb of Planning staff explained that it required approval from the Village of Bennet. They reached some agreement and recommended approval and the County Board concurred. One of the issues was the conflict between the acreage development and the dairy operation to the west. There were a number of agreements reached between the town, the applicant and the abutting property owners.

It was further explained that the preliminary plat and community unit plan did come before the Planning Commission. Rick Houck of Planning staff clarified that there was a change of zone requested on a 40-acre tract that was denied by staff and the Planning Commission. The applicant then dropped that change of zone request to AGR and came back with a community unit plan and preliminary plat on the entire 157 acres under the existing AG zoning. This is now what is before the Commission. The preliminary plat and community unit plan were approved the first part of this year. This development is calculated under AG zoning, not AGR.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 4, 2000

Duvall moved approval, with conditions, seconded by Hunter.

Steward will vote to support this. It is in the area that he has expressed considerable concern about changing AG to subdivision development, but there are two prevailing factors: one is that it is in the jurisdiction of the county and they have acted and supported it. Secondly, it is a community unit plan and he thinks the plat reflects a better use of the land than some of the rural subdivision plats that he has seen.

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

CHANGE OF ZONE NO. 3271
A TEXT AMENDMENT TO THE LINCOLN
MUNICIPAL CODE REGARDING THE STORAGE
OR PARKING OF UNREGISTERED, WRECKED,
NON-OPERATING, JUNKED OR DISMANTLED
VEHICLES IN THE THREE-MILE JURISDICTION
OF THE CITY.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 4, 2000

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

Planning staff recommendation: Approval.

Proponents

1. **Rick Peo** of the City Law Department explained that the purpose of this text amendment is based upon a request from the County Board to expand the prohibition of keeping junked and dismantled vehicles on property. This ordinance basically mirrors the present city ordinance under the traffic code for junk cars within the city limits. It now puts this restriction in the zoning code as well. The fundamental effect is that the regulation of the storage of abandoned vehicles is extended into the three-mile area outside the city limits. It is believed that these types of vehicles are causing problems and the county requested we expand the city's jurisdiction on this issue.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 4, 2000

Duvall moved approval, seconded by Carlson.

Steward pointed out that this would allow such vehicles to be parked or stored on 20-acre parcels which fall under the definition of "farmstead". This is unfortunate but he realizes we probably cannot legally restrict it beyond the legislation proposed.

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

CHANGE OF ZONE NO. 3284
TEXT AMENDMENT TO THE LINCOLN
MUNICIPAL CODE TO DELETE ALL
REFERENCES TO AIRPORT ENVIRONS NOISE DISTRICT 2.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 4, 2000

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

Planning staff recommendation: Approval.

Proponents

1. **Rick Peo** of the City Law Department explained that this text amendment is really intended to be a housekeeping measure. We have reviewed the original study and it appears that the District 2 regulations were adopted primarily for convenience as to the boundaries and the effect of the rectangular boundary shown on page 59. In that portion of land it would be permissible for residential use in District #1 but prohibited in District #2 under the same Ldn lines. This is just to bring equality to the two districts. The Airport Authority supports this amendment as they are adequately protected by regulations on sound levels.

There was no testimony in opposition.

Public hearing closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 4, 2000

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

SPECIAL PERMIT NO. 1865
FOR A WIRELESS FACILITY ON
PROPERTY GENERALLY LOCATED AT
NORTH 25TH AND "Y" STREETS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 4, 2000

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

Planning staff recommendation: Deferral

Jennifer Dam of Planning staff advised that the applicant has agreed to deferral for two weeks to investigate alternative sites.

Proponents

1. **Jill Bazzell** of **Qwest Wireless** indicated that the alternative sites are Lincoln Lumber and the Police Station, both of which they have evaluated. The Police Station did not work because the Police Station did not want Qwest on 27th Street and moving the tower would have required rearranging the Qwest network and to move it back would create a gap in coverage. The Lincoln Lumber site has a Sprint tower, with a 70' metal structure on the lumber yard. The center line needs to be at 65' so they would be in the way of that structure and the frequencies would bounce off of it. In addition, Lincoln Lumber wants more than double the amount of money that ABC Electric wants. Qwest is working with ABC and the neighborhood now to find a location on the site more pleasing to the neighborhood and to the staff.

Steward moved to defer for two weeks, with continued public hearing and administrative action scheduled for October 18, 2000, seconded by Schwinn and carried 8-0: Carlson, Hunter, Steward, Schwinn, Duvall, Taylor, Bayer and Newman voting 'yes'; Krieser absent.

There was no further public testimony.

MISCELLANEOUS NO. 00008
A TEXT AMENDMENT TO THE PROPOSED
CITY OF LINCOLN DESIGN STANDARDS
REGARDING WAIVER PROCEDURES.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 4, 2000

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

Planning staff recommendation: Approval.

Proponents

1. **Rick Peo**, City Law Department, explained that in the new City of Lincoln Design Standards previously approved by the Planning Commission, the Planning Commission elected not to accept the proposed waiver procedure where the director submits findings and a report to the City Council, and requested that the existing procedures remain in effect. Peo believes it is important to put those procedures in writing and incorporate them into the design standards. That is what is before the Commission today. If the City Council does not elect to go with the director report, this text would be offered to them.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 4, 2000

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

ANNEXATION NO. 00005,
CHANGE OF ZONE NO. 3282,
FROM AGR TO B-2 PLANNED NEIGHBORHOOD BUSINESS,
and
USE PERMIT NO. 132 FOR RETAIL AND
SERVICE COMMERCIAL USES,
ON PROPERTY GENERALLY LOCATED
AT HIGHWAY 2 AND PINE LAKE ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 4, 2000

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

Planning staff recommendation: Approval of the Annexation and Change of Zone; and conditional approval of the Use Permit.

Ray Hill of Planning staff submitted a memo from the Director of Planning responding to the issue raised regarding the requirements for the Subarea Plan for 84th & Hwy 2 prior to approving a change of zone request. Hill also submitted two letters received in support, and 13 letters received in opposition.

Proponents

1. Mary Jo Livingston, 7420 Yankee Hill Road, the applicant, presented the applications. She stated that she is delivering on a promise—a promise made 2 ½ years ago and reiterated last March. A promise made when two Planning Commissions and two City Councils designated and reiterated the property at 70th & Hwy 2 as commercial. A promise made when then Mayor Johanns signed a resolution designating this property commercial. The promise made was to design an attractive, quality development and entryway to our City. She has had discussions with the neighborhoods, addressing their concerns about traffic, noise, lighting and litter. She has received a letter of support from the Edenton South Homeowners Association and Amber Hills. Edenton South believes that the proposal shows care and understanding for environmental factors, potential noise reduction, topographical considerations and physical spacing of structures. Edenton South believes this proposed development will be an example that other developers should use as a guide. Livingston is here to deliver on her promise.

She and her co-developer, Brian Hall, have an outstanding team of architects, engineers, landscape architects and designers. Willowbrook will lead the way in establishing entryway standards along the highway for the city. They have utilized the creativity of the team in designing a unique and pleasing entryway with increased setbacks along Hwy 2 from 50' to 100' for buildings and to 75' for driveways. Kim Todd has been requested to

design a plan utilizing native trees, shrubs, grasses and wildflowers. They have widened the walkway on top of one of the berms along Hwy 2 from 4' to 5' at the request of a neighbor. They will be using the grade of the land to provide natural berms along Hwy 2 and part of 70th Street. In addition, at a neighbor's request, they added berming along Pine Lake Road. This proposal retains a majority of the mature tree mass line that exists except for the stone arch bridge and water enhancement pool. There will be a uniform architecture theme of cultured stone, accents on buildings, stone signs, stone bridge and landscape stone around the pool.

Livingston also advised that this proposal has a much lower floor-to-area (FAR) ratio than is allowed by the Comprehensive Plan –17%. The Comprehensive Plan allows 25%. She believes that by combining these factors she is providing a plan that has much less building area than allowed and greater green space and landscaping than is required.

2. Michael Bott, architect, 1540 South 70th Street, testified in support. He explained the design measures incorporated to deal with the challenges of this site. This is a triangular shaped piece of land of approximately 38 acres, bounded on three sides by four-lane highways. Pine Lake Road is 2-lane but will become 4-lane in the next few years. Some of the challenges were lack of access on Hwy 2—there is a main median break on 70th Street and there will be another on Pine Lake Road when it is four-laned—so they need circulation from the site accessing those highways. There will be three other curb cuts. The main anchor tenant needed visibility to 70th Street and yet they wanted to tuck the shipping and trucking of materials to this site in behind it. There are residential uses to the west and south, with the Pine Lake development off to the east. With Hwy 2 being an entryway corridor, they have been very sensitive to making that as soft and green as possible and yet have a viable project.

In terms of site planning, this proposal is meant to be as sensitive as possible to the incoming view. They went to great measures to do computer generated renderings showing the plant material – they are full grown trees, with 100' setback along Hwy 2, in addition to about 50' of green space currently in the highway right-of-way. They also got together with Kim Todd to work out the native plant material along Hwy 2. In response to some of the input from neighbors, they will be doing some raised 5' berms with plantings and increase the intensity of the planting all the way around the perimeter of the site with pine trees, purple ash and sunset maples to bring color and beauty to the site, all above and beyond the minimum requirements. The water feature was a drainageway coming from Pine Lake and the Berean Church. They took that trickle of water and created a pond and developed a stone bridge which will tie in with the rest of the architecture on the site.

The shopping center signing and graphics will tie together with the architecture theme of the buildings. They have attempted to be very careful with the lighting, meeting the city requirements and going beyond the allowable cutoff angles and recessing the lights up into the fixtures. The site is 30' below the highway so that the roof top is barely visible from the highway and the lights will be set down below the intersection.

In terms of building design measures, Bott stated that they wanted an architectural theme that ran through this project and tied the large anchor user with the other pad sites. Working with Home Depot and Planning staff, they have developed the architecture materials and designs, including the use of cultured stone at entrances, step coping and coordinated wall finishes, etc. There will be no concrete block. The canopies will be of compatible color. Home Depot can break away from the orange canopy and will be looking at a bronze canopy. The applicant believes that with the stone, bronze and the copings this will be far above the average large home improvement center. There are smaller structures closer to the residential areas on the pad sites. A material theme is required on these structures, with cultured stone. Every pad site user has their own program but will be required to conform to the architectural theme to tie this overall development together.

Carlson asked whether it is the intent to attach the renderings to the submittal as conditions of approval. Bott agreed that would be possible, if desired. What they are showing is what they are going to do. They are prepared to do it.

3. Kim Todd, landscape architect, 500 No. 66th Street, stated that she would like to take the Commissioners out the Interstate towards Seward and back to get a sense of the kind of landscape they are talking about here and as a part of the entryways project for the City of Lincoln. This entails a style that is naturalized. On a developed site it is difficult to use the native sumac and not have all sorts of maintenance problems. Nevertheless, what will happen on Hwy 2 is a very naturalized environment. This project will use evergreen component for screening and to meet the neighbors' concerns, but truly, a lot of the plants will be shrub masses with winter interest, and a lot of the uses of native grasses. Another encouraging factor is the applicant's willingness to take a look at the setback and go well beyond the maximum to naturalize even further and blur the edge between what is being developed and what is truly natural. The same or similar plant materials can be used within the development. The intent is to allow and encourage a very good transition of density plantings appropriate to the site. This will be a great example of the direction the city wants to move toward for the entryways.

Bayer wondered how long before the tree masses will appear as shown in the pictures. Todd acknowledged that it will be awhile, without question. However, the interesting thing about plant material is that it starts to make an impact as soon as it is in the ground. You are not necessarily better off planting humongous plants. It takes a year for them to regenerate growth. We can assume 1' to 3' growth in all directions initially for each of the

ensuing years. Evergreens can go in a little bit bigger. Within a 5-year time period at the outside, people will have the impression that it has been well planted.

Steward inquired whether Todd had an opinion as to the signage as related to the entryway concept. Todd was not asked to review the signage and did not have an opinion at this point. The entryway concepts themselves are truly conceptual.

Carlson wondered if there is any element in design to stagger the tree planting. Todd suggested that just by choice of species a lot of that occurs. You are going to get a layered sort of appearance immediately. You won't get that on the spacing of street trees.

Carlson inquired whether it is the mission of the applicant to provide screening along the entire length and sight lines at the end, and Todd concurred.

Hunter noted that the subject property sits down from Highway 2 and in terms of commercial development, seeing landscaping like this is rare. She is on Hwy 2 frequently and the speed of traffic is pretty significant. Has there been any concern about the possibility of conceptually burying the Home Depot such that people don't even know they are passing it? Is this different than the normal Home Depot? Bott stated, "very much so".

They have prototypes used around the country but Home Depot can adapt to planning requirements. They have worked with them to tie their design in with the whole development so that we have the stone, the copings and the bronze canopy rather than their typical orange metal roof. It's a destination business and they are willing to be a little more hidden because of this fact. Bott also pointed out that all the tree mass being shown by the pond is existing.

4. Mark Mainelli, 3534 So. 48th, Speece-Lewis Engineers, testified. Speece-Lewis was hired to do the civil engineering on this project for on-site utilities, paving, stormwater management, environmental work, etc. They are proud to have worked with Livingston Investments with the ability to do what is right without having to worry about budgets. One of the biggest issues is the Beal Slough Master Plan and this proposal utilizes Beal Slough. It is a long term process. The Berean Church on the other side of Hwy 2 has an agreement with Livingston to detain any runoff caused by their massive use of the land on that corner. As far as Beal Slough goes, the architects and engineers realize they are going to maintain the Beal Slough integrity. We are not getting close to anybody else's property. The massive size of storage allows them to decrease the flooding potential downstream into Beal Slough. Two water quality features have been added. One is located near the bridge where they have delineated the wetlands and tried to re-enhance the wetlands, providing an opportunity for the water to slow down with the sediments dropping out. This area has been utilized for part of the stormwater running off the site.

The water cell to the southwest was not included in the drainage calculations for detention. It is there to collect the rest of the drainage from the parking lot before entering into Beal Slough. The Corps of Engineers was a part of this and they do have a Corps of Engineers permit.

Carlson wanted to know what grading will be done. Mainelli indicated that in coordination with the Berean Church there were wetlands disturbed and they were mitigated at the site. Anything north of the road was not disturbed. This was a natural valley so they raised the road and sized the pipe appropriately to retain the water long enough. Carlson sought confirmation that how it works in the north area today is how it will continue to flow. Mainelli concurred.

5. Tom Thoreson, Real Estate Manager for Home Depot for the Nebraska area, offered testimony in support. Home Depot been looking at Nebraska for a couple of years and has focused in on Lincoln. They have done extensive market research on Lincoln and have identified this community for potentially two to three stores. This particular site is one they have focused upon because it serves the southeast quadrant of the city most efficiently and most conveniently.

Thoreson advised that Home Depot is a home improvement retailer. Home Depot operates in excess of 1000 stores across 46 states, Canada, Puerto Rico, and Chile. It operates in a warehouse format. It is essentially all enclosed with the exception of a 16,500 sq. ft. garden center. The lumber yard is indoors. The store carries approximately 50,000 different items ranging from lawn and garden, to home improvement to general hardware items, and employs about 180-200 employees at an average wage in the Lincoln market of \$11.00/hour. They do not offer any minimum wage jobs. They have stock incentive programs. As a corporate company, Home Depot believes in its corporate responsibility to participate in the community and provides charitable contributions. Home Depot goes to great lengths to support at risk children, habitat for humanity and disaster relief services.

The headquarters for Home Depot is in Atlanta, Georgia. Home Depot opened its first doors in Nebraska in Omaha last Thursday. Steward inquired as to how many sites Home Depot has investigated in Lincoln. Thoreson indicated that they have looked at a lot of sites, probably more than twelve. They are starting to zero in on two sites in Lincoln for certain, and there may be a third.

Steward commented that contrary to some other “big box” developments, Home Depot is a destination retailer. He sought Thoreson’s comments about that from his experience with other communities. Is it better to be within a neighborhood setting? Thoreson stated that they haven’t seen anything dramatic in their operations related to being tied to any other retailer. He agrees that Home Depot is a destination retailer, although there can be cross-shopping experiences. There hasn’t been any significant finding that says they do

better tied to additional retail versus stand alone.

Steward inquired whether Home Depot has any particular marketing strategy for green products or recycled building materials, etc. Thoreson stated that they do; however, it is outside his area of expertise. He does know that the company has created a certification board by dealing with environmental manufacturers, retailers and suppliers to go out with a cognizant effort to determine what type of products to be developed, etc. It is a green certification.

6. Mark Hunzeker appeared on behalf of the applicant and developer. He submitted three proposed amendments to the conditions of approval, having to do with simple modifications to the site plan. The proposed amendments to Condition #1.1.3 and #1.1.4 have to do with moving the Home Depot building and the driveway on the east side of the drainageway further from the drainageway. The report requires that they relocate the building 25' farther away. They have determined that they can indeed meet the standard by moving 17' farther away from the wooded area and the stream without dramatically impacting the amount of parking that it takes up. It is Hunzeker's understanding that staff agrees.

Item #1.1.28 deals with not including any compact parking stalls. The applicant agrees that compact spaces don't work real well, but they do have a need for a few of those to use for employees. Hunzeker requested that Condition #1.1.28 be amended to allow for some compact stalls where they exceed the required parking. He believes staff is in agreement with this proposed amendment as well.

Hunzeker then discussed the history of this property. Some of that history is important as to why we are here. In 1994, the Planning Director was looking for commercial sites and designated nine or ten. This was one of those sites. As the Comprehensive Plan process wound down, several of those commercial sites were eliminated and this was one of them. The conditions that existed in 1994 were that Pine Lake Road had just been paved. Development of all the housing that you see south of Pine Lake Road had just begun. 70th Street was two-lane. There were no water lines serving this site. Highway 2 was beginning to be widened, so this site did not have the commercial feel that it has today. In 1998, this applicant requested that this site be designated commercial as part of the Annual Review of the Comprehensive Plan. This body and the City Council approved a commercial designation and also amended the phasing plan to move this into phase 1 of the Comprehensive Plan. At that time, this applicant was proposing an auto mall and there were many objections. At that time, Hwy 2 was more four-laned; the 70th Street widening was in the CIP; the widening of Pine Lake Road had been included in the Comprehensive Plan; the water lines were in or would soon be in; and it had become more obvious that this was not a residential site, but a site suited for commercial development. At that time, Mary Jo Livingston made commitments that this would be a very high quality site. The applicant listened to the objections about the auto mall and gave up that idea

after the site was designated commercial.

The developer has had a lot of interest from retailers, some wanting to do too much for this site and some didn't want to do enough to satisfy the commitment that Mary Jo Livingston had made. This proposal is for 116,000 sq. ft. Home Depot was willing to go the extra mile. When we came to the Planning Department to start this project, there were several things emphasized to Home Depot as being necessary in order to make this site what they promised. There was emphasis on the entryway corridor; large setbacks; an architectural theme; protection of Beal Slough; the need to provide infrastructure to serve this site; and the need to be sensitive to neighbors with respect to lighting and landscaping. Hunzeker believes this proposal meet those criteria. Modifications have been made to the plan in response to neighbors, including lighting, adding berms, changing the building design and issues with respect to additional landscaping, additional fencing for additional screening on the back side of the building and widening out the sidewalk.

This proposal seeks B-2 zoning. The original application was for B-5 and Hunzeker agrees that B-2 is more appropriate. It does not permit theaters or automobile dealerships. This is more of a community shopping center rather than a regional shopping center. The proposal has very high architectural standards exceeding any other large retailer of this type in the community. There is a theme that will be carried throughout the entire site. The proposed setbacks and landscaping exceed the minimum requirements by a long way.

With respect to traffic, Hunzeker pointed out that their traffic study indicates that in 25 years, in the buildout scenario, Hwy 2 will need to be 6 lanes between 56th and 70th. He believes that is true whether we do this project or not. This applicant has agreed with the Public Works Department to provide all the improvements necessary to accommodate traffic created by this project; they have also entered into agreements to provide for extension of sewer to serve this project and upstream. Areas north and west of Pine Lake and areas south of Pine Lake are all in the future urban area and need that sewer. This project will save the city one-quarter million dollars in sewer expenses.

Hunzeker contends that this applicant has done more than any developer he has ever seen recently in terms of going the extra mile on landscaping, architecture and all manners of engineering.

Steward asked Hunzeker to be a little more explicit about the contributions to the infrastructure. By the applicant's calculations, Hunzeker stated that the costs to extend the Beal Slough sewer would be about a \$750,000 project. This applicant will be entering into agreements with the city to provide funding which essentially pays for the equivalent cost of an 8" line running all that distance and will be contributing a significant amount in terms of paying engineering design and inspection fees in addition to the construction costs. The list of street improvements include right turn lanes at each of the entrances;

extending or building left turn lanes at both main entrances on 70th and Pine Lake Road; and a traffic signal at the main entrance on 70th. The applicant has agreed to phase the project so that the portion east of the drainageway will not be built until the year 2006, which is when Pine Lake Road is in the CIP for improvement. If the applicant comes in to build before that, the applicant has agreed to be responsible for two lanes plus a turn lane along this owner's entire boundary with Pine Lake Road.

Carlson inquired whether the applicant has any specific agreements for the other large pad tenants. Hunzeker stated that they do not have any specific commitment on any of the pad sites.

Hunter inquired about the signage. Hunzeker indicated that there would be no pole signs. They have proposed a monument sign at the corner of 70th & Hwy 2, one at each entrance on 70th and on Pine Lake Road and one on the east part of the site. The staff has objected to the sign on the main Pine Lake entrance. The applicant does not object to removing this sign.

Hunter inquired whether the signs will conform with the architecture of the building. Hunzeker answered in the affirmative. They will have bases and the stone will match the building.

Hunzeker offered that the drawings submitted may be added as conditions of approval or accepted as part of the application.

Opposition

1. Dr. Michael Eppel, spoke on behalf of the **Southeast Coalition of Homeowners** including the Country Meadows Homeowners Assn., Pine Lake Homeowners Assn., Southfork Homeowners Assn., Family Acres and Lee's Summit, in opposition. He is not speaking for Amber Hills or Edenton South.

The Southeast Coalition of Homeowners has major concerns about this development. The history is well-known to the Commissioners, suffice it to say that in the past this has not been considered a good commercial site and the Southeast Coalition of Homeowners believe that at the present it is not a good site for commercial development. "You can dress a pig in a wedding gown but it's still a pig." This is Home Depot whether it is cultured stone or cultured pearl. It is not the right place for Home Depot. We don't have a commitment from a grocery store for the other building and we have no assurance that will not become a K-Mart or Shopko, etc. We didn't hear about the pad sites. We didn't hear about the fast-food restaurants. This site is 8 blocks from 84th and Hwy 2. It is surrounded by low density residential on three sides and residential urban. 84th & Hwy 2 will be a shopping area bigger than Nebraska Crossing and bigger than Gateway. Why do we need a commercial center at 70th & Hwy 2 when there will be one at 84th? This will

be in the middle of a residential neighborhood. It is incompatible with the neighborhood. When the rest of the country is moving away from this kind of development, the applicant proposes to put something in that is incompatible with the neighborhood and something other towns and cities are moving away from. This is also referred to in B-2 as a neighborhood shopping center—this is not a neighborhood shopping center. This is a regional shopping center. Home Depot is not a neighborhood hardware store. It's a regional hardware or regional lumber yard type store. So B-2 is a stretch to suggest it is going to be a neighborhood development, even with the grocery store.

With regard to the traffic issues, Eppel noted that we have heard this will not generate that much more traffic than otherwise on Hwy 2. The Commission did not hear that there are deliveries to the Home Depot store consisting of 8 to 10 semi's a day, which can be anywhere from the opening hours to one to two hours after they close, which is 11:00 p.m. on some days, so conceivably there could be deliveries up to and including 1:00 a.m. We don't know what the pad sites are going to be or the other store which will also generate more traffic. There is certainly going to be traffic delivering to and from those stores next to the neighborhoods. There will be lighting 24 hours a day with an outdoor garden center and lumber yard. There will be an outdoor PA system connected to the home and garden center. The traffic study does not take into account the effect of the regional shopping center at 84th & Hwy 2. That will generate its own traffic as well as the traffic for this center. There is no other site around Lincoln within a residential area where there is such a high density commercial use next to residential. Normally there would be some sort of step-down zoning or buffering such as office type development. But this is plopped right in the middle of residential with no transitioning. Where is the step-down?

Eppel then referred to Exhibit E of the Comprehensive Plan. The Southeast Coalition of Homeowners believe that this calls for a step-down type zoning within 1.5 miles of the regional shopping area and it calls for some studies to be done. He does not believe these studies have been completed; he does not believe this development meets the standards called for in that subarea plan. He believes there may be a legal challenge based on Exhibit E of the Comprehensive Plan.

Eppel is hopeful that Hunzeker wasn't saying that by contributing to the costs of the sewer, etc., this is a reason to do this project; in other words, to buy the zoning. We don't believe the fact that they are willing to contribute to these costs is a reason to approve something that is a bad plan for this neighborhood. The neighbors have been asked whether they are willing to compromise. Eppel believes that the neighbors have compromised a lot by compromising from AGR zoning initially. They had suggested residential. They are willing to go with some kind of office development. The applicant is not willing to compromise on that. They want the maximum return on the dollar. They want a regional type development with big box type stores and we do not believe this is appropriate for this neighborhood, particularly with what is being proposed at 84th & Hwy 2.

Dr. Eppel submitted a list of 20 names in opposition and approximately 40 people stood in the audience in opposition.

2. Christine Kiewra, 6400 So.66th, President of Country Meadows Homeowners Assn., representing approximately 55 homes, testified in opposition. Their first major concern is traffic. Country Meadows is a neighborhood that does not have sidewalks, curbs or street lights. Side street traffic brought on by this traffic would be a real hazard to this neighborhood. Turning from 66th onto Hwy 2 is already difficult, and this is close enough to 70th that there could not be a street light put in. The additional traffic by this project would be a severe safety issue. Hwy 2 is not six lanes at any point in this state. We need to hear more about that. In looking at their traffic study, there appear to be significant street improvements. She heard Hunzeker mention that they are willing to pay for this. Does he mean all of it or a percentage? We haven't seen an agreement yet.

The second major concern is the timing of this project. You've heard about 84th & Hwy 2, nine blocks away. It is interesting that they are doing this project in two phases. One of the developers mentioned that this area is too green to get a second anchor. Is that why they don't have other pad sites? There just are not enough homes to support commercial at this site and at 84th & Hwy 2.

Kiewra further testified that for 10 years this site was not okay as commercial. It was considered spot zoning; it would encourage strip development; there would be a negative impact on the Capitol View Corridor; Beal Slough was also an issue. There are several comments in the staff report about concerns of drainage, grading and environmental impacts. The planning staff will tell you that commercial development at this site still is not good planning, but you changed the rules when you changed the Comprehensive Plan so that is the parameters you have to work with. We need to recognize the fact that the lowest impact commercial development is the only acceptable compromise for the neighbors in this area.

Another issue is "regional vs. community". Kiewra agrees that Home Depot is an asset to the city. But this is only one anchor store of this entire project, which is 267,000 sq. ft., the upper limit of a neighborhood project is 300,000 sq. ft., and they are including more parking which leads her to wonder about the second anchor store.

We have heard about the need for compromise. We have heard that the applicant has met neighbors' concerns. Kiewra suggested that if the Commissioners had been at the neighborhood meeting, they would hear that the neighbors did not want a big box. In response, the applicant is giving us a higher berm and wildflowers. There is no landscaping that can be done to hide the pig. O-3 is the zoning that Country Meadows would request be considered for this site. It is a typical suburban buffer between high density and residential. There would be less total traffic and would be limited to business hours. It would be less intrusive aesthetically; less environmental impact; more compatible

with the surrounding homes and could be built in a way to enhance our entryway.

3. Steve Nickel, President of the **Family Acres Association**, from 56th to 84th from Old Cheney to Yankee Hill, consisting of about 100 family members. There are about 200 families that could belong to the association. Family Acres surrounds this property. We are not near it or over the hill. We surround it and we are opposed. The proposal is bad planning. First of all, it is contrary to the goals of the Comprehensive Plan. For example, on page 37 there is a land use goal to, "Preserve the rural quality of life assuring that changing rural residential land uses or growth is compatible with adjacent and surrounding land uses." Nickel contends that a "big box" is not compatible with low density housing. One of the commercial goals, on page 54, is to, "Discourage strip development and spot zoning and encourage more compact and higher quality retail and commercial development." Nickel believes that this proposal is in fact strip and spot development along Hwy 2. The transportation goal on page 81 states to, "Maintain zoning and traffic pattern compatible with existing land uses and retain the character of the rural and urban neighborhood." Nickel observed that most of the people in this area have been in their houses for anywhere from 10-30 years, and if that is not existing land use, he doesn't know what is. The Comprehensive Plan also states to, "...retain character of the rural and urban neighborhood." Family Acres has the concern that the location does not meet spacing requirements for shopping centers. Neighborhood centers are to be about two miles apart. It is two miles from 56th to 84th and Hwy 2. This proposal would continue strip zoning along Hwy 2 in a location where a shopping center should not be. This is not a little shopping center. It is essentially the same as Nebraska Crossing at I-80 near Gretna. It has already been decided that our neighborhood is going to live with a 500 pound gorilla (84th & Hwy 2). The current proposal puts an arm of that gorilla under our bedsheet in an area where there should be transition. Where is the transition going to occur? If this center is permitted, what will follow will be tremendous pressure on residences across 70th Street and across Pine Lake Road to sell out for major development. Where does it end? Our neighborhood will end up paying a social price for this proposed development. An acceptable solution would be an office park as a transition between our neighborhood and the intense development to come at 84th & Hwy 2. This would meet the goals of the Comprehensive Plan as well as the social goals of Family Acres.

Steward asked Nickel whether his group has had opportunity to express these concerns to the owner and developer. Nickel stated that he was not able to be in town when they had their neighborhood meetings, but someone else in the association has expressed their concerns within the last 4-6 weeks.

4. Jim Iwan, landowner, testified in opposition. He bought his acreage about seven years ago and has a lot of “sweat equity”. He agrees that the proposed development is beautiful and nice, but it’s a honey pot, like North 27th. If Home Depot gets in, it’s a domino. You see what’s coming. He is not against anyone making a profit. But as a nation we don’t like to make profits on the backs of other people and when people get hurt for a profit. Let’s make a reasonable profit—one that is harmless and not going to hurt anyone. As far as Home Depot, they invade communities. This is going to hurt many of the other businesses in Lincoln. There will be a lot of vacant store fronts.

5. Terry Beyer, 7300 Revere Lane, testified in opposition. He believes they have a neighbor that sold them out. She has no remorse or feelings--all she is looking for is the almighty dollar. We have plenty of businesses right there off Hwy 2. There is a Target Store at 56th & Hwy 2. We couldn’t put a Walmart or Sam’s on 84th & O; then they approved a car lot and Kohl’s Dept. Store. Beyer stated that he is praying that the Commission will take a good hard look at this and throw it out the window.

6. Beverly Mosher, 6363 So. 70th, northwest corner of 70th & Hwy 2, testified in opposition. This proposal will impact the city and the area nearby. At present, there is only one beautiful entrance into our city, and that is Hwy 2 approaching from the east. We find a beautiful pastoral scene. Not until we reach 56th Street do we find commercialization. We can be proud of this beautiful entrance. Please consider the impact of a shopping center with increased traffic, noise, light pollution and eventual strip malls with all the attendant ugliness. These property owners built their homes in the 1960’s for a modified rural lifestyle. Mosher stated that she had received generous offers to purchase some of her 6 acres, but she would not even consider such a decision which would adversely affect others and destroy their way of life and the beauty of the neighborhood. The proposed site would be perfect for residential dwellings and would adhere to the Comprehensive Plan. During the summer of 2000, 70th was widened to 4 lanes in front of her home. There were many months of inconvenience. For three days they could neither walk nor drive from their home. The needs of many exceed the needs of one. How can an individual be allowed to make such a disastrous impact on a beautiful area and a beautiful corridor into our city? The land in question was purchased by the acre rather than by the square foot. She has never heard a single person who lives in this area voice support of this unsightly project. At one meeting within the last six weeks, she said, “is there anyone in this room that supports the project?”, and there was dead silence. She implored the Planning Commission to consider function and responsibility to the city. Please deny demands from one single individual whose only goal is making money at the cost to many. Why would the Planning Commission even consider a proposal for a

shopping center in this beautiful residential area where no one wants it?

7. Harold Mosher, 6363 So. 70th, diagonally across the highway from the Livingston land, testified in opposition. He asked the Commission to please consider the issues that have been raised carefully as it will affect the quality of this neighborhood for years to come. To what extent should government use its power to classify property as commercial when it will result in damages to the adjacent property owners? In a democracy should a government ever do that? Should a government take your front yard away? Should the guy across the street? This is very real to him because his property is adjacent to Hwy 2 and adjacent to 70th Street. We all know that No. 27th Street north of Cornhusker Highway is at least six lanes. Hwy 2 was originally reconstructed from 2 to 4 lanes with a median. As a result, it carries a lot of traffic. Hwy 2 today carries more traffic than any state highway in the state of Nebraska. There is no money in the state treasury nor in the foreseeable future to widen Hwy 2. Is it important? Yes, it is very important. He attended a neighborhood meeting where a representative of Home Depot suggested that they fully expected 3500 customers a day if this site is redeveloped. Mrs. Livingston told us that she intends to have some other business activity such as a bank, a grocery store, fast food restaurants. She did not tell us how many customers they expect. Mosher believes it could easily attract 1000 customers a day. The question then becomes one of what you do with 5,000 more vehicles on Hwy 2. Remember K Street a few years ago? What happened when we changed it from one-way to two-way? Are we going to plug Hwy 2? Keeping in mind, too, that some of us have experienced the joy of the government's power of eminent domain. Mosher recognizes that the government can and should use it, but should it use it to benefit one property owner at the expense of another?

Mosher's home straddles Stevens Ridge. Hwy 2 does not go over Stevens Ridge, it goes through it. If Hwy 2 goes to 6 or 8 lanes, his property goes—not for the first time, but for the fifth time. Surely at some place along the line there is a place of decency when you say no, enough is enough. We were told about 70th being widened but we weren't told what kind of traffic would be put on 70th.

8. Bob Olson, 8001 Dougan Drive, **President of Pine Lake Homeowners Assn.**, testified in opposition on behalf of 132 households. He agreed with all the previous comments in opposition. This is a matter of good taste and consideration of your neighbors. It is a matter of what fits in the neighborhood and what blends in with the existing neighborhood. A "big box" and parking lot does not fit in. This is an encroachment. We would like to have something that is compatible with the neighborhood in this countryside and beautiful valley. We do not want more light and noise. Country

Acres does not have street lights and sidewalks and there is not a lot of traffic. The neighborhoods have preferred the property to be residential, and this has been expressed to the applicant. The applicant also refuses to put in an office park. The Pine Lake Homeowners would agree to an office campus.

Olson also pointed out that there was a gentleman's agreement between the Mayor and some of the city officials that if the affected neighbors would go along with the mega mall at 84th & Hwy 2, they would see that there was no spot zoning or strip zoning. It appears to Olson that gentleman's agreement has gone out the window.

Olson noted that people build their homes and develop their property in regard to what's already there. Home Depot with its only access off 70th will cause traffic problems. If this property goes commercial and is developed, the neighbors believe the next step will be more commercial on the Livingston property across Highway 2, along the Pine Lake Homeowners' west fence line.

Olson also pointed out that the majority of the 300 homeowners in the coalition are opposed. The Pine Lake Homeowners had their own neighborhood meeting. The applicant had promised to work with the neighbors, but it was just a show and tell meeting. We just don't trust what's going to happen. Olson pointed out that there is virtually no landscaping at the Home Depot site in Omaha.

9. Bevan Alvey, next door neighbor to Bob Olson in Pine Lake, testified in opposition. He attended a number of the meetings with the developer and at each one of those meetings there has been a vote taken of the people in attendance as to whether or not they support the project. He does not know how all the people in the entire area would vote, but at the meetings he attended, out of all the people there, only one person stood up in support of this project and he worked for one of the architecture firms involved in developing it. There are 1500 Nebraskans that live within 1.5 miles of this proposed project. They will be getting a petition together, but he thinks out of those 1500 people who will be affected, there will be unanimous opposition.

Alvey asked the Commission to keep in mind that we're not just talking about Home Depot. We're talking about 15-20 pad sites which will involve other types of commercial uses and they're all going down 70th Street. If those become retail and fast-food, the people across the street are not going to want to continue to live in that sort of environment and will sell out to something other than residential. When you put something in the middle like this, you will have a degradation of the entire surrounding area and the adjoining neighbors.

With regard to the subarea plan, Alvey understands it was intended to be part of the Comprehensive Plan and involves planning for the whole area. The planning of that whole area involves traffic studies, environmental impact and other types of studies in terms of development of that area that should be done in order to be able to determine the right uses for that subarea. He understands that is what planning is all about. Before putting a specific use right in the middle, this planning needs to be done. We need to withhold the decision on this property until the subarea plan is completed.

10. Kent Seacrest appeared on behalf of the “500 pound gorilla”, the proposed regional shopping center at 84th & Hwy 2 owned by Andermatt L.L.C., controlling about 550 acres which was designated in the Comprehensive Plan in 1994 as the next regional shopping center. He is not in opposition. He is not here to talk about the substance of the plan at all. He is here to talk about process dealing with Exhibit E of the 1994 Comprehensive Plan.

Exhibit E was put into the Comprehensive Plan at the same time as the 500 pound gorilla. It was put together by a committee of seven—the Mayor, Planning Director, attorney representing the Pine Lake area, Neal Westphal, representative of the Pine Lake Neighborhood Assn., Kelvin Korver and Michael Rierden. Seacrest noted that the Planning Commission received a memo from the Planning staff today indicating that Exhibit E does not apply to 70th And Hwy 2. This is disturbing because there is language about defining the scope and it was defined to be the 1.5 mile area. “Zoning of land in the sub-area plan will not occur until the completion of the following studies:...”. Seacrest reads that to say zoning of the land in the 1.5 mile area will not occur until completion of the studies. He has talked with some of the committee members and they agree that the purpose was to be sure there was no commercial type zoning within the whole 1.5 miles. The whole premise was that we would put all the key commercial in one big area and master plan it and not have it spread along Hwy 2. The subarea is to be sure we don’t have strip development up and down Hwy 2.

Seacrest advised that the subarea plan was submitted last month. The four studies required by Exhibit E have been submitted. They invited everybody in that subarea, a mailing list of 1200, and had a public meeting. The potential strip includes Shopko, which owns property at 66th Hwy 2, which was vetoed; the subject property; the sister triangle; the tract now owned by St. Elizabeth; and another piece of vacant property. We haven’t even talked about Stevens Creek which we are starting to master plan.

Seacrest urged that the Commission follow the Comprehensive Plan. The language is clear that you are not to zone in this 1.5 miles until the subarea is done. It is submitted and will take about three months to complete. Seacrest requested that the subarea plan be given an opportunity to work itself through.

Staff questions

Carlson asked staff to speak to the issue of Exhibit E. Ray Hill of Planning staff explained that at the time the city approved the Comprehensive Plan Amendment to show this land as commercial, they did not ask for any studies to be completed before the zoning is changed. Carlson wondered whether that position is in conflict from what happened at the time of 84th & Hwy 2. Hill did not believe so. The amendment to the Comprehensive Plan happened after the subarea plan was put into the Comprehensive Plan and asked for those additional studies. That language was in the Comprehensive Plan at the time the City Council chose to designate this area as commercial. But Carlson thinks the case could be made that we have one plan requesting additional studies prior to change of zone, and a second plan that interprets that the studies are not required. Rick Peo of the City Law Department has not had a chance to read the memo or look at the matter specifically, but when we do a Comprehensive Plan Amendment, there is always a provision added in the resolution providing that any other inconsistencies in the plan are also being amended at the same time. Normally, a later amendment in time supersedes any contrary designations, but he was not prepared to make that conclusive statement today.

Steward did not recollect whether there was any discussion of a subarea plan preceding it when this item for change to commercial was heard. Peo did not have the details about that particular application at this time either.

Steward noted that there have been representations made of the city's role and the developer's role in infrastructure financing. Are there any specifics that the Planning Department expects this development to make in regard to extending infrastructure? Hill advised that the Comprehensive Plan indicates that the CIP and the City's limited funds are very important in the development of the city. It also points out that if the development occurs in advance of when the city can afford the infrastructure, the private development should be responsible for paying for those improvements. With this application including annexation, it allows the city to negotiate with the landowner on those costs for developing this property. At this time, the Public Works Department is responsible for those improvements and has been negotiating with the developer on who is paying for what and when, and that annexation agreement will be finalized before this project will be presented to the City Council.

Carlson wondered about the process of using Office zoning as transitional zoning. Is that common? Hill answered in the affirmative. There are areas where O-3 has been used as a transition. The neighbors do believe it does present a good transition because of the activities that occur in an office park. Carlson was suggesting that there be some transition even within the site. Is the site too small to offer that? Hill indicated that there has been discussion as to whether the strip along 70th could be something other than fast-food and drive thru's. In the conditions of approval on the use permit, the staff has asked that the drive thru's be limited to the area north of the main entrance away from the neighborhood closer to Hwy 2. The convenience store/service station is located at the

corner of Pine Lake Road and Hwy 2, away from the neighborhood. The property across Pine Lake Road is also owned by this applicant, so we suggested that it be moved as far away from the neighbors as possible.

Carlson inquired about the condition not allowing fuel pumps. Hill explained that along 70th Street, the conditions require that there be no convenience store, with or without fuel pumps. They do have one at Pine Lake Road and Hwy 2.

Carlson wondered whether there are uses within the B-2 that would be more transitional and less intense. Hill advised that office buildings are also allowed in the B-2 district.

Response by the Applicant

Mark Hunzeker began with the process question. The amendment adopted by the Council two years ago, which designated this property as commercial, had quite a little discussion, and one of the reasons given not to amend the Comprehensive Plan in that fashion was the so-called Exhibit E. It was argued that there were promises made that there would be no commercial within some long distance of that intersection, and despite that, it was recommended that this is appropriately commercial property. In addition to changing the land use designation, the amendment also changed the phasing plan. Interestingly, the Comprehensive Plan specifically addresses areas designated phase 1 to be areas where the community actively encourages growth.

“...All major infrastructure required to facilitate development in this area will generally be in place or included in the first year of the CIP, although some improvements may be developed in years 2-6 of the CIP if such phasing is concurrent with the development of the land. The community will generally approve development proposals in this area that are consistent with the land use portion of this plan if all the capital facility needs are met and if the proposal is consistent with the zoning criteria.”

Hunzeker pointed out that the staff report goes through the zoning criteria and recommends approval. There is nothing to be learned by waiting for the 84th & Hwy 2 process to take its course. The water is in place; the sewer line will be in place; the improvements in Pine Lake Road are in the CIP; this portion of the subarea plan is as complete as it can be. With respect to an office park, to use this property as an office park will mean a substantially higher floor area ratio—it would require more office space to make this project economically viable. That means higher, not lower, peak hour traffic volumes. General office will generate 640 peak hour trips versus 330 that the proposed project will generate. That rises to 1150 peak hour trips if a third of the office was medical. The a.m. peaks are dramatically higher because retail uses have notoriously low morning peak hour traffic.

With respect to lighting, this applicant has double-checked the lighting plan to make sure its meet the standards. The only places that it appears they might be exceeding the standards are within the halo of the street lights on 70th St. There is more light that will be visible from anywhere off this site on the streets abutting this site than there will be on this site. The applicant would not object to being required to turn off 2/3rds of the lights in the parking lot as soon as the employees are gone. They will do that anyway, except for security lighting.

With respect to noise, Hunzeker suggested that if it is possible to over-engineer a project, this one may be it. They had a physicist from UNL do a study of the noise potential for the outdoor speakers for the garden center. There are three little speakers that serve as a paging system and it was concluded that by designing them to point downward, they will be inaudible at the property line. It is also possible to design those systems so that they have an automatic cutback at certain hours.

With regard to not submitting a market study, Hunzeker believes that Home Depot would take strong exception to that. There has been a market study and this is the site they want to be on.

As far as the east building becoming a K-mart, etc., Hunzeker observed that it is only 65,000 sq. ft. It's a grocery store or maybe something small but not big enough for a big box use. The proposal is for a grocery store. Home Depot generates less traffic than most general retail uses. It generates considerably less traffic. So, when they talk about this property not having a big box, we're not talking about reducing traffic by doing that. This project is a relatively low impact project the way it is designed. This is a 116,000 sq. ft. building—it's not a big box. It is smaller than any of the discount stores. This applicant has put a lot of work into this project in keeping the size of this anchor tenant down to keep the big setbacks and protect the drainageway. This project represents a standard which the Commission should feel is excellent compared to almost any other commercial property of its type anywhere in Lincoln. This area, whether it looked that way 10 or 15 years ago or not, is part of the city, will be part of the city, and will be ever more so as time goes on. Just think back once again to where we were seven years ago—Pine Lake Road was gravel; no development whatsoever south of Pine Lake Road, and look where we are today with the amount of additional traffic and additional development that has taken place and what is likely to take place. It is easy to say this property was shown as AG or AGR at some point in the past, but for 25 years we have looked at Stevens Creek and it has been shown as AG. Does anyone in this room think that 25 years from now it will be AG? Change is something the Comprehensive Plan is supposed to accommodate.

Hunter is pretty concerned about a proposal which talks about office buildings, banks, financial companies, restaurants, dry cleaners and on- and off-sale alcoholic beverages. In terms of looking at development sites, she is surprised the public didn't shout to high heaven about the concept of on- and off-sale of alcohol because that brings in a whole

other concept. The applicant did not mention this as a potential user, either. Hunzeker explained that to be a list of potential uses that were included in the original application. The use permit ordinance requires that they list potential uses. It is not at all out of the ordinary to have on- and off-sale at the same establishment. He believes that restaurants like Lazlo's sell their own product off-sale. A stand-alone bar or the possibility of a neighborhood type bar is not the kind of tenant this applicant is anticipating. They are thinking more in terms of sit-down restaurants, i.e. Applebee's, the Chili's type, etc. Hunter realizes that grocery stores sell alcoholic beverages. Hunzeker then stated that sort of use is restricted by Home Depot policies. Thoreson, the Home Deposit representative, stated that Home Depot tries to stay away from locating in shopping centers that would have a liquor store or perhaps some sort of facility that all they do is serve or sell liquor on- or off-premise. A grocery store selling liquor could potentially be in conflict with the Home Depot policies. Their biggest concern is having a facility that sells liquor for sit-down purposes with that being their only source of business. If tied to a food element, it is more acceptable. This will have to be addressed by Home Depot. Company-wide, they try to restrict that type of use within the shopping center in which they operate. That is a restriction that falls in the form of a document recorded against the land and can only be changed if the consenting parties agree to change it.

Carlson inquired whether the traffic calculations take into consideration the design limitations of the site. Hunzeker responded, stating that it is easier to put more office space on the site than retail. Setbacks in the O-3 zoning are 20' versus 50' in B-2.

Carlson inquired of Hunzeker as to the potential for office transition within the site. Hunzeker agreed that it is possible to build office space in the B-2 district. If people come along who want one of those seven pad sites for an office building, that is certainly a possibility.

Carlson noted restrictions in the conditions as to the pad sites on 70th Street. Hunzeker confirmed that the applicant has agreed to those restrictions.

Carlson inquired about the delivery trucks. Thoreson confirmed that when they got together with the neighbors they did say that on an average the store receives 8-10 truck deliveries a day, and it is extremely difficult to control those delivery schedules. However, their deliveries usually occur within their business hours. Occasionally those trucks do show up an hour before or an hour after, but there wouldn't be staff to receive that

merchandise so the truck will be turned away. They could potentially receive merchandise after-hours, but in most cases they do not. He guaranteed, however, that it would be within the margin of error and would not be at all hours of the night.

Steward asked whether Home Depot delivers its merchandise. Thoreson answered in the affirmative. Steward wondered whether they depend upon a significant volume of their business being to commercial builders. Thoreson answered, "no". There is a portion dedicated to commercial/pro-business, but the majority of the business is the do-it-yourselfer. Their own trucks could be delivering any hour throughout the day.

Bayer inquired about the compatibility of other buildings on the pad sites. Hunzeker indicated that they will include the architecture elements. They will not all be identical but they will all include the architecture elements, i.e. stone materials, etc.

Bayer recalled years ago talking about Edgewood. We had this issue about delivery and he believes the delivery hours were limited. Hunzeker does not think it was Edgewood. He thinks deliveries might have become an issue at the HyVee in Williamsburg. The loading docks at Home Depot are behind the building, so trucks will go in behind the store away from 70th Street abutting the creek and the mature trees along the creek to unload. Bayer suggested that the only real issue is that the trucks are going to come down 70th or Pine Lake Road and turn into the far south driveway to go behind the building.

As to staff's position in regard to the applicant's request for amendments to the conditions of approval, Hill stated that the staff would prefer that the Home Depot building be relocated the 25' distance farther away from the wooded area and the stream, but 17' is an improvement over what was originally submitted.

Carlson moved to defer with continued public hearing and action on October 18th, seconded by Newman.

Carlson is interested in doing some further exploration on office transition within the site; he is interested in the City Attorney reviewing the applicability of the Exhibit E; he is interested in seeing a landscape plan on paper that can be attached to the use permit; and he is interested in the landscaping in general, but he does not know that they have gone to the I-80 entryway standard. In this particular instance, there is a possibility that this site could work but there are a lot of mitigating issues that he wants to see it in writing; and he wants to find out whether it is appropriate to add a condition listing uses that are not to be included on this site.

Steward stated that he will vote in favor of the deferral only on one single process issue and that is the relevance and the history of the subarea plan as related to the earlier Commission approval and discussion. Once that is clarified, he thinks it is the only mitigating circumstance which would call for a deferral. Otherwise he thinks we have

enough information to make a decision. There is some history that could be relevant.

Schwinn will vote against deferral because typically when we have a big project like this there is still a lot of negotiating and he did not hear that much between staff and the developer, which indicates to him that they have gone above and beyond what we would ordinarily expect. It seems like everything that has been asked for has been given. He agrees with Steward about the overlapping issue. But it keeps coming back to this “gentleman’s agreement” in 1994 and he thinks that is kind of a ludicrous concept that they would decide not to zone within a 1.5 mile radius. How can you make that promise? It does not make any sense to him.

Taylor will vote against deferral because it looks like the arguments that have been raised have all been answered very thoroughly and he is really pleased with the Home Depot operation in that they are taking some very strident measures to uphold some very good and wholesome standards. He believes all the questions have been answered. Anything more will just lead to redundancy. It is clear in his mind that we have enough information to make a decision.

As far as having all the information, Carlson pointed out that he does not have the landscape plan in his materials. What’s important on this is landscaping. He does trust Kim Todd and her professional ability but he wants to see it. Hill referred to page 9 of the staff report, Analysis #5, which indicates that the proposed landscape plan generally exceeds the design standards, except the number of shade trees proposed in the parking lot located west of the home improvement store and in the parking lot for the east development. The applicant has provided the staff with a landscape plan that the staff has reviewed and determined that it exceeds the minimum design standards of the city, except that they chose flowering trees in the parking lot rather than shade trees.

Carlson’s response was that while he relies almost all the time on the expertise of the staff, he believes it is appropriate to have the information in front of the Commissioners to make the decision. This site can work if it has mitigating design features and he needs to be satisfied that those exist. If not, he cannot vote in favor of the project.

Hunter stated that she will vote in favor of the deferral for only one reason. One of the disadvantages of being new on the Planning Commission is that a lot of the history of what happened with this property happened before a good portion of these Commissioners were on the Planning Commission, and it leaves them at a great disadvantage to fully understand what happened. This is one of the most passionate things upon which she has seen the neighborhood come forward and she does not want to vote on something

without the comfort of knowing the history. Her biggest concern is that this was a residential area that was changed in the Comprehensive Plan to reflect commercial. She thinks she needs to understand why that happened to begin with. She needs time to do some research.

Bayer stated that he will vote against deferral because he believes the information is available and the applicant is willing to attach the renderings as part of the plan.

Motion to defer failed 4-4: Steward, Carlson, Newman and Hunter voting 'yes'; Duvall, Schwinn, Taylor and Bayer voting 'no'.

Public hearing was closed.

ANNEXATION NO. 00005

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 4, 2000

Steward moved to deny, seconded by Carlson.

Steward complimented the development team on a superb job of architecture, landscape architecture and visual presentation of materials, giving him some considerable confidence that parts of this community know how to make a presentation that is environmentally conscious and friendly. This does not, however, cover up the fact that it is the wrong project in the wrong place. This is an entryway corridor that is very important. Whether it's almost out of sight, it isn't out of sight. Whether it's almost affiliated more with a major thoroughfare than with neighborhoods around it, it isn't detached and unaffiliated with the neighborhoods around it. He strongly believes that this Commission made an error of judgment when it was proposed to be commercial in the first place. He thinks there is some history that is relevant that should be explored to be sure that we did not aggregate the process when that decision was made. The key to this is some words which Mr. Hunzeker used and that is "economically viable". Those are pre-conditions in which the surrounding neighbors have no input; those are pre-conditions which only the property owner and developers control; and also, when one says it's ever more so to become more and more part of the city, those are code words for "there will be more and more commercial on this thoroughfare". He does not believe the big box strategy in this location is appropriate. He understands the economic pressure. He regrets that philosophically. He thinks it takes money out of the community that would never work for the community, although among the big box developers it would appear that Home Depot strives to do a more community conscious job. He believes it is a very attractive looking project but he

cannot support what he believes to be not very “cultured” planning (playing off of the cultured stone we’ve been presented with), and he would suggest that this project should not be approved.

Carlson reiterated his previous comments. He will not vote for this project until he has the information he is requesting.

Schwinn commented that this is one of the things that he and Steward have fundamentally disagreed upon. Schwinn believes the major corridor is where you put the big box because you don’t want everyone to drive through the neighborhoods to get to it. He also understands the concerns about the entry corridors into the City. He has heard some talk about the concerns about environmental impacts in the staff report. With the staff recommending approval, he believes that all of those concerns have been answered. This is not the only place in town like this. 27th and Pine Lake Road has residential abutting right up to commercial on three corners. There is only office on one corner. If we don’t need any more shopping centers, we don’t need any more jobs and we don’t need any more tax revenues. He is bothered—there have been many times that this developer has been referred to as greedy. There is a developer that created the acreages and there was probably a farmer there before the acreage owners that didn’t want acreages there either. We made the decision to turn this property into commercial and it was because of the fact that it was on Hwy 2; it’s a very hard edge and not a place that people would want to live. That is what happens when you live on a major highway. As a city grows, sometimes that has to happen. He believes this developer has gone above and beyond the call of duty. He has seen projects like this that are completely masked. This is a destination business. They don’t need the signage. They can camouflage the project very well. This is a good fit for the site.

Taylor commented that he was particularly stricken by the gentlemen that said letting Home Depot in will kill some of the smaller businesses. He has noticed this to be true. For example, Sutherland Lumber, Ace Hardware, etc. But it appears that this is just what is happening with the passage of time. None of those small retailers such as a paint store, etc., testified today, so it did not seem to be that important. He believes the developer has taken tremendous effort to develop this property. As traffic increases we are going to be looking for more lanes on Hwy 2. We can’t hold back the future by preventing or stopping this commercial development. There will be a commercial development at that site. The question is what kind and who the developer will be. If we prevent this developer from doing an outstanding job, he does not know that we’ll get this caliber of a developer later on. We all hope for progress and greater income coming into our community and this is part of it. We need to learn how to adapt to it, especially with this being done in such an outstanding fashion.

Since the motion to defer failed, Hunter observed that she will not have the opportunity to gather all the information. There are a couple of points that have bothered her about this area of Hwy 2. If you look at acreage developments that exist all around this property, the question that comes to her is why this particular property was not developed as acreages. How did all the acreages develop with this section being left out in the middle? An overbearing thought for her is that this is Hwy 2 and it is the access highway between Lincoln and Kansas City. She lives very close to this area and she drives Hwy 2, and there are 18-wheel trucks on that highway all day and all night. This is not like a local roadway that is suddenly to be used by delivery trucks. As far as fear of large trucks, she can guarantee that when 84th is developed, it is going to get bigger and more. This development is something that a Planning Commission should drool over in terms of what this developer is proposing to make fit nicely in the community. Whoever comes in to develop 84th should know that she will be looking for the same thing so that we don't wind up with another North 27th entrance to the City. Without having the benefit of knowing why that land was turned commercial, she will have to lean on the fact that those that preceded her must have known what they were doing.

Steward commented further that there is nothing inevitable about change. That's what planning is about. We do not have to accept anything that has already been decided until there is a building there. We do not have to accept the fact that because it is commercial it takes precedence over residential interests. We don't have to accept the fact that we drive this highway. Have we driven the neighborhoods? Have we put ourselves in the position of the 1500 people around this who have demonstrated that they do not want this project in their neighborhood? Where do we balance commercial interest with quality of life if we don't do a Comprehensive Plan and stick to it? We have an excellent Comprehensive Plan but we've not had the will or political courage to stick to it until the community decides that it should be changed. He thinks this is a watershed decision that this Commission is about to make and he thinks the Commission has heard some significant residential voices.

Newman agrees with everything that everyone has says. She does not think it is a residential area and she agrees that the developer has gone the extra mile. But the broad brush stroke of commercial is a wide, wide stroke and she is not sure seven building pads, which could include fast food, is the right thing for this area. She is concerned about the subarea study. She would have rather had the opportunity to review that information further. She will vote to deny based on the subarea study issue.

Taylor agreed with Hunter. It is commercial for a reason and evidently the area is not really residential. He understands Steward. He lives in the Highlands and did not like the idea when they took up the farm land in his back yard so that he can't see the Capitol or hear the Cornhuskers anymore. So things do change.

Bayer reminded the Commissioners that this is a vote on the annexation of this property

into the City. Based on the staff report, this annexation is in conformance with the Comprehensive Plan. Win or lose, let's bring some more property into Lincoln and put it on our tax roles.

Motion to deny failed 3-5: Steward, Carlson and Newman voting 'yes'; Duvall, Schwinn, Taylor, Hunter and Bayer voting 'no'.

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

CHANGE OF ZONE NO. 3282

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 4, 2000

Steward moved to deny, seconded by Carlson.

Steward stated that his comments on the annexation also apply to this motion. He is not in favor of the total project.

Hunter confirmed that if the B-2 zoning is approved, there could be office uses.

Carlson still took the position that he wants further information before voting for this proposal.

Motion to deny failed 3-5: Steward, Carlson and Newman voting 'yes'; Duvall, Schwinn, Taylor, Hunter and Bayer voting 'no'.

Taylor moved approval, seconded by Schwinn and carried 5-3: Duvall, Schwinn, Taylor, Hunter and Bayer voting 'yes'; Steward, Carlson and Newman voting 'no'; Krieser absent.

USE PERMIT NO. 132

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 4, 2000

Schwinn moved approval, with the amendments as requested by the applicant, with amendment to require that the images as portrayed in the booklet submitted by the applicant become part of the use permit, and with amendment to require that 2/3rds of the parking lot lights be turned off after business hours, seconded by Duvall.

Hunter would like to place a restriction on alcohol beverages for on-premise consumption. The concept of that in the context of an Applebee's or something like that is a different environment. A bar is a whole other matter. Rick Peo of the City Law Department was reluctant to agree that the Commission could limit the specific uses. The applicant is required to designate the proposed uses, but that does not mean they can't come back and ask for additional uses. He was not certain whether the Commission has the ability in the

B-2 zoning district to exclude and not allow certain uses. Peo was not prepared to answer that question today. That question could be handled between now and the City Council if it goes forward.

Hunter moved to amend to require that no on-sale alcohol facilities that primarily sell alcohol be allowed, seconded by Taylor. Steward suggested that if this motion is an attempt to make this a residential neighborhood, the opportunity has been missed by the choice of zoning.

Motion to amend carried 5-3: Schwinn, Taylor, Carlson, Hunter and Bayer voting 'yes'; Duvall, Steward and Newman voting 'no'.

Carlson stated that he voted for the amendment because it adds to the package but it's not enough.

Motion for approval, with conditions, as amended, carried 5-3: Duvall, Schwinn, Taylor, Hunter and Bayer voting 'yes'; Steward, Carlson and Newman voting 'no'; Krieser absent.

**COUNTY CHANGE OF ZONE NO. 201
FROM AG TO AGR**

and

**COUNTY PRELIMINARY PLAT NO. 00018,
ROCA RIDGE,**

**ON PROPERTY GENERALLY LOCATED
AT SOUTH 68TH STREET AND ROCA ROAD.**

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: October 4, 2000

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

Proponents

1. **Kent Seacrest** appeared on behalf of the applicant. They are still working with the City of Hickman and need to have a fourth meeting. Therefore, Seacrest requested another two week deferral.

Steward moved to defer with continued public hearing and administrative action on October 18, 2000, seconded by Schwinn and carried 6-0: Schwinn, Steward, Taylor, Carlson, Hunter and Bayer voting 'yes'; Krieser, Duvall and Newman absent.

Opposition

1. **Paul Johnson**, 16900 So. 72nd Street, has attended every one of these meetings. The neighbors were initially totally opposed. They have met as neighbors and groups around this development and came up with some things that they could appropriately live with and think it would be a good fit for the surrounding area. The developer wants 34 houses. There are some wetlands and some old retention ponds that need to be upgraded and used to control flooding. In their development across the road, the neighbors have some green space and some open area. Therefore, they would like to limit the number of acreages to 20 or 25. The applicant is proposing paving through his development. The neighbors would like to have the applicant extend the paving to 72nd Street and they would also like some turn lanes on 68th, Roca, Martell and on Leisure Lane. This development will increase the traffic flow on these areas. The neighbors are also concerned about fire protection. Maybe they can work together to get the retention ponds to give them some fire protection. There are 60 people that have signed the petition. They have shared their comments with the applicant and with the Hickman City Council.

There was no further public testimony.

CHANGE OF ZONE NO. 3238,
CHANGE OF ZONE NO. 3239
AND PRELIMINARY PLAT NO. 00001
HAWKSWOOD ESTATES
ON PROPERTY GENERALLY LOCATED
SOUTH AND WEST OF 70TH & OLD CHENEY ROAD.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: October 4, 2000

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

Ray Hill of Planning staff submitted a memo from the Fire Department indicating that they have agreed to the waiver of the street lengths as long as there are additional fire hydrants and that parking is limited to one side of the street.

Proponents

1. **Kent Seacrest** appeared on behalf of 6 property owners as the applicant coalition. There was a Comprehensive Plan Amendment done in 1994 that added low density residential. There was new language added that says we've got a lot of acreages and what we're going to do when the acreages are in the city limits. It says that 1-5 acres for a home site is appropriate inside the city. This application at 70th & Old Cheney Road is low density residential. The property is annexed. It is all acreages. What was envisioned was that in some instances it is appropriate to go down to 1 acre and give them city water and city sewer. This was one of the areas that Tim Stewart, former Planning

Director, had envisioned--that we could have acreages on city water and city sewer and let them go to 1-acre. It was even envisioned that we were going to do a new zone dubbed AGR-1. AGR takes three acres. Seacrest thought that it was going to be AGR-1 but the staff has never brought that concept forward even though it is inferred in the Comprehensive Plan.

This group of property owners has done that vision. They have bound themselves together in a covenant where they are saying they want one acre or larger. Most of them have 5 acres today. This also says that they can also do clustering to protect some sensitive environmental areas as long as they average one acre per dwelling. The staff report suggested and assumed that they were going to turn this into regular urban residential, with 5-6 homes per acre.

Seacrest requested to amend Change of Zone 3238 to R-1 instead of R-3, and to withdraw Change of Zone No. 3239. In addition, Seacrest submitted proposed amendments to the conditions of approval on the preliminary plat. The staff wanted the applicant to put more roads in the development, but the property owners and neighbors do not desire those roads. The Fire Department now agrees with the applicant. The solution is the long cul-de-sac with parking on only one side. The Fire Department now supports the applicant's original proposed road network. Public Works is also in support of the original road network now that the Fire Department is satisfied.

Seacrest requested to add Condition #1.1.20, to remove South 68th Street and show a South 68th Street cul-de-sac (radius 60') between Lot 18, Block 2 and Lot 2, Block 3. 68th Street starts in Southfork to the south and dead-ends at their development. This development does not need that road. Southfork has requested that 68th Street not be extended. They have reached an agreement with key property owners in Southfork to put in a cul-de-sac at the end of their road. Three of the lots in this development then get access and there is no need to circulate back and forth. The Fire Dept. agrees with this amendment. This is an attempt to keep a rural character for this area without a lot of through traffic movement.

Seacrest further explained that this is a preliminary plat so that each of the property owners can go forward and start final platting if they so choose. Seacrest concurred with Schwinn that all the owners with a variety of acreages will have the ability to sell off portions of their property.

Seacrest noted that there were other neighborhoods in support of the new road network. We have moved the major street called Stevens Ridge Road which is used to connect to Old Cheney Road. We are now proposing that it be connected to Old Cheney across the street from Pheasant Run. Seacrest submitted a letter from the President of Pheasant Ridge Association in support of the proposal and agreeing to move the road across the street from them.

Seacrest stated that there is also support from two neighbors to the west who were not able to stay this afternoon.

2. Warren Johnson, 6801 Hickory Crest Road, immediately across Old Cheney on the northwest corner of 70th & Old Cheney, testified in support. He has lived there for 35 years. At the time that they all started out in this area, everybody had 5+ acre lots. This proposal has been reviewed with the property owners in Hickory Crest Addition and they are 100% in favor of this proposal. This is very compatible and it does not change the neighborhood any more because it has already changed on the north side of the road. He pointed out that they are moving the connection into Old Cheney from Hickory Crest to Pheasant Run. This is a very important and positive change. Hickory Crest Road and Old Cheney is a disaster waiting to happen. Hickory Crest Road as it goes north within a period of two blocks makes four 90 degree turns and it is not suitable for any kind of additional traffic. Where Hickory Crest Road comes in there is a big rise and you take your life in your own hands when you try to turn on there. It would require a light; it delays the traffic of four lanes; and it is low on the priorities for maintenance during the winter but they understand that.

3. Dick Dam, 5310 Thies Cove Drive, testified in support on behalf of the Board of the Edenton Association which runs roughly from Glenoaks Dr. to Old Cheney Road. They are 72 townhouses and 125 single family homes. They are concerned about the development of the southwest corner of 70th and Old Cheney. Diane Oldfather called him and some of the board members met and went over the plans and the three of them agreed wholeheartedly to support this application. They do not have another board meeting until next Monday. They would agree with R-1 or R-3 and are pleased to have it maintained as a residential area.

4. Mike Rierden appeared on behalf of **Zane and Ethel Fairchild**, who are the owners of Lot 70, which is technically not part of this plat. They support this proposal, but the one concern they have is Condition #1.1.7, which the applicant is requesting be amended to relocate Hawkswood Road to intersect with Old Cheney Road and line up with Pheasant Run (instead of Hickory Crest Road). His clients would like to have the Hickory Crest

connection that staff is recommending. His clients do not know how their property would ultimately develop but it is a better connection because of the median cut to Hickory Crest to the north. We don't think it would be a good idea to have the traffic from our property going through this residential development.

Dennis Bartels of Public Works clarified the issue of 68th Street out of Southfork. Public Works would continue to recommend that 68th Street be connected to Stevens Ridge Road. That is why that stub street was platted in Southfork--with the intention that it be continued. Southfork is 20+ lots. You have one long cul-de-sac with one way in and out of there. If traffic got heavy enough on 70th we would end up signaling a T intersection. If connected to Stevens Ridge Road, it is probably a better signaled location. The staff would like to see 68th Street continued as originally submitted with this plat. He has mixed reactions on the other street requests. Pine Crest Drive exceeds our typical length for a cul-de-sac. The terrain is fairly difficult. The staff assumed that Hickory Crest had to be there. Hickory Crest is closer to 70th Street than the staff would like but that is where it ended up. In the long term we are likely to have to signalize the intersection and the city would prefer it be at Hickory Crest if this were the case. We do not like to signalize T intersections at major streets. Pheasant Run is a dead-end street. If you had a signal there it would serve a limited amount of vehicles on the north side.

Carlson inquired about having two outlets on 70th Street--Pheasant Run and Hickory Crest--that way the R-3 portion could serve itself. Bartels agreed that it could probably function but typically we like to limit the number of intersections. Once you get past Hickory Crest it is proposed as a five-lane section with a common left turn as opposed to median divided. Functionally it would probably work with both. But, as you go further west there are at least two other intersections between the subdivision and Hwy 2 (62nd and one other named street further west).

Carlson noted that the Fire Department does not have a fire safety issue with the cul-de-sac. That is what Dennis Bartels was told today, but the plat he had reviewed up to today always showed 68th connecting Stevens Ridge Road to that existing stub street in the Southfork Addition. Southfork is limited on access now. They only have one access out to 70th Street. Bartels' assumption is that there will be more cars coming out of Southfork into this subdivision. Bartels was not party to the Fire Department comments. Both circulation and operational problems are Bartels' issues. We don't want to signalize both Southfork Blvd. and Stevens Ridge Road.

Hill clarified that Lot 70 is currently zoned R-3.

With regard to closing off of 68th Street, Hill advised that to be a waiver of design standards that was not included in the original request. The staff did not have an opportunity to discuss this request in the staff report. Hill does not know whether that can be considered because it was not part of the original proposal. When Southfork was

proposed it was intended that street continue to the north. The stub street was extended to the property to the south with the indication that road connection would be made.

Steward inquired whether staff has had the opportunity to review all the requested amendments. Hill only received the proposed amendments at this meeting so he could only review them quickly. However, he also advised that the staff has had discussions with the developer and the staff knew something like this was coming in. They basically agreed to disagree about the street system and most of the proposed amendments relate to the street system. The change of zone to R-1 rather than R-3 is not a problem. However, the legal ad provided no notice that the change to 68th Street was going to be made. Condition #1.1.20 that was proposed to be added has not had any staff review and comment and it was not advertised for this hearing.

Rick Peo of Law Department was not sure whether the South 68th Street issue is a waiver or not. It could be just an argument of whether they need to have a through street. It's just a question of whether it has to totally connect to provide access to the abutting property. Peo would need time to review this issue.

Steward inquired of the applicant as to how much stress is involved if the Commission defers this for two weeks. He is concerned that we have a representative of sets of property owners who are not together; we have staff and the applicant who are not together; and we have a potential legal question. Seacrest does not think there is any legal requirement for the waiver. His concern is that there is a lot of neighborhood support here. He is real surprised Southfork wasn't here about not extending 68th Street. He thought that the Fire Department's agreement would make it acceptable. He just doesn't think that the staff likes the concept of acreages inside the city limits. If it makes the Commission more comfortable, it could be deferred for two weeks but he would ask that the public hearing remain open.

Steward moved to defer with continued public hearing and administrative action on October 18, 2000, seconded by Hunter.

Steward observed that this is an exceptionally creative solution to a very difficult problem we are going to face more than once because of short vision on location of acreages, but he is concerned that there be a full Commission in order to have the best deliberation because it does set a precedent.

Schwinn likes the proposal, especially moving Hickory Crest down. The south side of the road has very dense vegetation and that road never thaws in the winter. However, he agrees that there is a need to have the comfort level with staff and he would also like to have more Commissioners voting.

Hunter wants more of an opportunity to review the proposed amendments.

Motion for continued public hearing and administrative action on October 18, 2000, carried 5-0: Duvall, Schwinn, Steward, Carlson and Hunter voting 'yes'; Krieser, Taylor, Newman and Bayer absent.

SPECIAL PERMIT NO. 1826
FOR A DOMICILIARY CARE FACILITY
ON PROPERTY LOCATED AT
4444 SOUTH 56TH STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: October 4, 2000

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

Ray Hill of Planning staff referred the Commission to a revised staff report. The only change to the conditions is that the conditions are to be completed before receiving building permit rather than before being scheduled on the City Council agenda. Earlier, the applicant had requested a density bonus which would have required that the application go to the City Council, but the applicant subsequently withdrew the density bonus and the staff report was not previously amended accordingly.

Proponents

1. **Michael Rierden** appeared on behalf of the applicant. This application was previously deferred at the request of a representative of the Colonial Hills Neighborhood. The applicant met with them and they are in agreement and comfortable with the proposal. There were several individuals who expressed some concerns pertaining to fencing, landscaping desires, etc., and the applicant has met with them and satisfied their concerns. Rierden offered a letter dated Oct. 4, 2000, from Bob Schoenleber to Michelle Mennenga outlining the agreement that was reached. To date, Rierden does not believe that there is any opposition or concerns pertaining to the project.

The applicant agrees to all conditions of approval set forth in the staff report.

Carlson wondered if the letter agreement should be attached to the special permit. Hill suggested that in order for the letter to be included in the record, someone on the Planning Commission would have to move the conditions of approval and add the conditions contained in that letter.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: October 4, 2000

Duvall moved approval, with conditions, with amendment to add the conditions set forth in the Schoenleber letter dated October 4, 2000, seconded by Hunter.

Schwinn thinks it is a good looking project and makes a nice addition to the neighborhood.

Carlson also expressed appreciation to the applicant for going back to the neighborhood.

Motion for conditional approval, with amendments, carried 5-0: Carlson, Duvall, Hunter, Steward and Schwinn voting 'yes'; Bayer, Newman, Taylor and Krieser 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.

SPECIAL PERMIT NO. 1866
FOR A WIRELESS FACILITY
ON PROPERTY LOCATED AT LEIGHTON
AVENUE AND NORTH 48TH STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: October 4, 2000

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

Jennifer Dam of Planning staff advised that the applicant has now supplied the floodplain information and collocation information so the staff recommendation is now conditional approval.

Proponents

1. Jill Bazzell of Qwest Wireless, informed the Commission that Qwest has met with the University Place Neighborhood organization. The only concern they still had was the color. We told them we would paint it any color they wanted as long as the landlord agreed to it. There is an existing LES tower box on the site now. Therefore, Qwest is asking to move the tower about 10'. We just found out that the power comes under the box in the tower location so we cannot run a conduit through the LES high voltage electronics. Qwest desires to move their tower about 10' to the north. It does not take up any more parking spaces and it is all within the leased area.

It was noted that the staff report allows an 85' tower so that it is amenable to collocation. Bazzell wanted the Commission to be aware that if the tower is 15' taller than what is proposed, it will look less like a light pole. Qwest believes there is room underneath for a provider if the tower is 65'. However, Qwest is more than happy to make it taller. The staff theory is that no one would want to be lower than the 65'. It would look better aesthetically at 65'. It might be possible to make it an extendable pole, but it would take more design work.

Hunter commented that this isn't something that is being hidden on a building and the concept of having another pole down the street is not acceptable. It is her opinion that the additional 15' is better than two poles. Bazzell indicated that they did discuss the higher pole with the neighborhood and they didn't give an opinion one way or the other on the height. Their main concern was that coming from the south up 48th Street it is a more historic part of the neighborhood where aesthetics may be more necessary. If coming from the north to south, they would not be as worried about the aesthetics on that side.

Hunter noted that there are two more poles down the alleyway to the east, but she thinks we need to be considerate toward collocation.

Bazzell believes that if they need to make it taller than 80', it needs to be done at the time of initial construction rather than trying to extend it later.

There was no testimony in opposition.

Staff agreed that moving the tower 10' is acceptable. The site plan has to be revised anyway.

Steward wondered whether the Commission could approve it without a specific height. Dam stated that not to be possible. The ordinance requires that these towers need to be specified for the certain height. The 85' includes the height of the lightning rod to the top.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 4, 2000

Steward moved approval, with conditions, as presented by staff at the 85' height, seconded by Hunter and carried 5-0: Carlson, Hunter, Duvall, Steward and Schwinn voting 'yes'; Bayer, Newman, Taylor and Krieser 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.

COMPREHENSIVE PLAN AMENDMENT NO. 94-58
THE PUBLIC WAY CORRIDORS BOULEVARD CONCEPT.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: October 4, 2000

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

Nicole Fleck-Tooze of Planning staff submitted a letter in opposition from Krueger Development on the basis that there is lack of supporting traffic data and that the community need for this proposal has not been met.

Fleck-Tooze also submitted letter from the County Ecological Advisory Committee in support.

Fleck-Tooze advised that the staff met again with several members of the development community and most recently on Monday, Sept. 25. Some illustrations showing alternative concepts were previously forwarded to the Commission. After evaluating the alternatives discussed at the meeting with the development community, staff continues to recommend the 140' boulevard concept because it affords the greatest flexibility for the future. The 140' offsets full turn lane movement at mile line intersections. There is still the ability to maintain space between the sidewalk and the property line. There is a 12' space provided between the sidewalk and curb which achieves multiple objectives--allows for street trees, utilities, street lights, snow storage, and safety. The 140' concept also provides for space between the sidewalk and property line to accommodate evergreen tree landscaping. It is also suggested that the 140' concept provides for future elements that cannot be anticipated today.

The alternative study concept of 120' was submitted. Earlier this week, the City Council and County Board approved the Long Range Transportation Plan which did show 120' along nearly all of these corridors that are identified for Public Way Corridors. This 120' alternative doesn't accommodate the offset relationship between left turn lanes; it reduces width between the sidewalk and curb to 10'; we lose the ability to have evergreen trees as a landscape screen; it could accommodate smaller shrub plantings; and it reduces the space between the sidewalk and curb at intersections.

The additional alternative that was discussed on September 25th, is referred as the "coke bottle"--wider width of corridor at the intersections and narrower width in between. This reduces the median to a point where there is no ability to add more than a single left turn lane; and it significantly limits the ability to pull landscape screen into the corridor, but could accommodate shrub plantings. There was a desire by the members of the development community present at the meeting to see a narrower alternative.

Again, the staff would suggest that the 140' corridor is the one which provides the most

flexibility in the future. Fleck-Tooze pointed out that the memo submitted by the staff on September 6, 2000, did have revisions to the staff recommendation and revised the area of application to reflect the future urban service limit and made commitments to adopt the ordinance provisions that have been discussed.

Hunter sought confirmation that if this was adopted, then this would set the standard; however, there is always the possibility and capability of the developer to request revision depending on what happens in those areas. Fleck-Tooze concurred.

Steward reiterated his previous concerns. He understands the 140' right-of-way and he agrees that it gives the greatest flexibility. However, if we put in 140' of right-of-way with straight line landscaping and straight line fences at the edges, he would like to be sure that we have the flexibility and the intent to vary that fencing line for the sake of pedestrian interest. It's one thing to have straight streets and another thing to have straight and boring trails, sidewalks and pedestrian edges. Do we have this flexibility? In Fleck-Tooze' opinion, the answer was "yes, very much so". While the language that is proposed to be included within the Comprehensive Plan might not specifically address that, it addresses the ability to be flexible.

Steward also commented that there can be development patterns in the future that we can't imagine today that cause us to want to try to acquire 140' right-of-way on something other than the grid pattern. Fleck-Tooze believes the revised language proposed in the September 6th memo takes care of this concern. Steward agreed.

Opposition

1. Mark Hunzeker appeared on behalf of **Home Builders Association of Lincoln**. We have had a number of meetings and we've talked about this with staff and staff has decided they do not wish to reach any sort of compromise and are still recommending a 140' right-of-way corridor. It is a mistake. It's too much. Two weeks ago we approved the LRTP which showed no need for any such right-of-way anywhere in the future urban area. The adopted LRTP shows a maximum of 120' of right-of-way in those areas. This is going to be expensive. The City will have to buy right-of-way. Just take a look at what the city does when it doesn't have the right-of-way that it says it needs. Along Old Cheney Road, along side Knolls Golf Course there is an additional 5' of right-of-way that could have been acquired to move light posts more than 6' away from the curb, but this wasn't done. When it comes to pinching pennies to get a project completed, the safety issue of setting things back away from the curb apparently disappears. If you don't have the money to buy an additional few feet of right-of-way in a situation like that where it is easily available, where are you going to get the money to buy an extra 20' on each side of the road when you don't need it? It costs more money to install it and it costs more money to maintain it. When someone comes in with a residential plat, the city is going to have a hard time justifying an exaction of 60' from centerline because of a residential plat.

There is a Nebraska case directly on the point as to when the city can take right-of-way and you cannot just landbank right-of-way. it is not legal. You have to pay for it.

In addition, Hunzeker cautioned that the flexibility talk and the language in here that says Public Way Corridors need not be entirely in public right-of-way, etc., is very fine thought but it's not a regulation. It's Comprehensive Plan language. And we've had more talk that says we're not going to implement it until we have regulations in place.

Hunzeker represents two different developers now that are being asked to supply a 140' corridor along side their property as a condition of their development, before this even gets passed by the Planning Commission or the City Council. This needs to be stopped. At a minimum, he suggested that the Commission should keep the public hearing open. He pleaded that this language not be approved. Don't approve anything with respect to additional right-of-way in this Comprehensive Plan until staff comes forward with the regulations so we can see just how flexibility it really is.

2. Kent Seacrest appeared on behalf of **Ridge Development Company, Southview, Inc. and Andermatt, L.L.C.**, in opposition. Seacrest suggested that more Commissioners should be present for this debate. We have had two good meetings with the staff on this and he doesn't think they were finished. He would like to be sent back for one more meeting.

Carlson moved deferral, with continued public hearing and administrative action on October 18, 2000, seconded by Hunter.

Hunter would like to see at least four other commissioners here to make this decision because it is a tremendous long range decision.

Motion for continued public hearing and administrative action on October 18, 2000, carried 5-0: Duvall, Schwinn, Steward, Carlson and Hunter voting 'yes'; Krieser, Taylor, Newman and Bayer absent.

There being no further business, the meeting was adjourned at 6:55 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on October 18, 2000.