

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, August 22, 2001, 9:00 a.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Russ Bayer, Jon Carlson, Steve Duvall, Gerry Krieser, Patte Newman, Greg Schwinn, Cecil Steward and Tommy Taylor (Linda Hunter absent); Kathleen Sellman, Ray Hill, Mike DeKalb, Jason Reynolds, Becky Horner, Brian Will, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Meeting

Mayor Wesely presented a plaque to Russ Bayer for his 12 years of service on the Commission.

Vice-Chair Schwinn read a resolution into the record acknowledging Russ Bayer's 12 years of dedicated and volunteer service to the City of Lincoln and Lancaster County. Steward made a motion to approve the resolution, seconded by Newman and carried 7-0: Carlson, Duvall, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'; Bayer abstaining; Hunter absent.

Bayer called for a motion approving the minutes of the regular meeting held August 8, 2001. Duvall moved approval, seconded by Newman and carried 8-0: Bayer, Carlson, Duvall, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'; Hunter absent.

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

August 22, 2001

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

The Consent agenda consisted of the following items: **CHANGE OF ZONE NO. 3336; FINAL PLAT NO. 01010, WILDERNESS RIDGE 3<sup>RD</sup> ADDITION; FINAL PLAT NO. 01011, PINE LAKE HEIGHTS SOUTH 3<sup>RD</sup> ADDITION; FINAL PLAT NO. 01014, MEINTS ADDITION; FINAL PLAT NO. 01016, FALLBROOK 1<sup>ST</sup> ADDITION; FINAL PLAT NO. 01017, HIMARK ESTATES 5<sup>TH</sup> ADDITION; FINAL PLAT NO. 01018, HIMARK ESTATES 7<sup>TH</sup> ADDITION; MISCELLANEOUS NO. 01009; and STREET AND ALLEY VACATION NO. 01012.**

**Item No. 1.1, Change of Zone No. 3336, and Item No. 1.8b, Street and Alley Vacation No. 01012,** were removed from the Consent Agenda and scheduled for separate public hearing.

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

Note: This is final action on the Wilderness Ridge 3<sup>rd</sup> Addition Final Plat No. 01010, Pine Lake Heights South 3<sup>rd</sup> Addition Final Plat No. 01011, Meints Addition Final Plat No. 01014, Fallbrook 1<sup>st</sup> Addition Final Plat No. 01016, HiMark Estates 5<sup>th</sup> Addition Final Plat No. 01017 and HiMark Estates 7<sup>th</sup> Addition Final Plat No. 01018, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**CHANGE OF ZONE NO. 3336**  
**FROM I-1 INDUSTRIAL TO R-7 RESIDENTIAL**  
**ON PROPERTY GENERALLY LOCATED**  
**AT NO. 19<sup>TH</sup> STREET AND DUDLEY STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

August 22, 2001

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

Planning staff recommendation: Approval.

This application was removed from the Consent Agenda and scheduled for separate public hearing due to a letter in opposition from Rebecca Hasty, 1335 No. 19<sup>th</sup> Street.

Becky Horner of Planning staff submitted a letter in support from Maurice Baker, 3259 Starr Street.

Proponents

**1. Rex Anderson**, 1328 No. 19<sup>th</sup> Street, submitted a letter in support from four affected property owners. This is a small sliver of a change for the even side of the street only to better reflect how the property is actually used. There are some businesses across the street. This is not an attempt to run industry out but only to show the actual existing usage of the property. If UNL wants to expand, they will. If the city wants to redevelop or improve, they will. These properties are nonconforming. When Anderson was looking for homeowners insurance, he found out that because his property is nonconforming, if his property is over 50% damaged, he has to bulldoze it down. This change of zone will be a peace of mind for the homeowners and the mortgage holders as well. The nonconforming issue could also have an impact on potential sale of the property.

Newman asked why R-7 instead of R-4. Anderson explained that 1414 No. 19<sup>th</sup> is an existing multi-plex apartment building which requires R-7 zoning. He also clarified that this change does not include the west side of the street because there are a lot of businesses on that side as well as the person who wrote the letter in opposition (Rebecca Hasty). That property will not change. 1335 No. 19<sup>th</sup> is not included in this change of zone request.

**2. Delores Lintel**, 1125 No. 25<sup>th</sup>, a resident of neighborhood for over 40 years, testified in support, stating that this area has a sprinkling of zoning that has become inconsistent with the way the area has developed over the years. There are businesses and industry mixed in with residential. There are residential homes built on land zoned for industry. As redevelopment is considered for this area, it is important to have appropriate, stable and enforceable zoning. The zoning line needs to be drawn where it needs to be. This change of zone does not do any damage to the businesses along the west side of 19<sup>th</sup> Street. The property owners on the east side of the street want protection. The first defined goal of the Clinton Neighborhood Organization is to preserve the historic and residential character of the neighborhood through compatible land usage. The Clinton Neighborhood Organization recently developed a focus area action plan which further defined that goal to reduce land use conflicts by modifying existing zoning boundaries to better reflect the residential and industrial areas. This is an important decision for the Clinton Neighborhood and Lintel requested approval.

**3. Kent Seacrest**, member of Antelope Valley Study Team charged with developing transportation, stormwater and community revitalization strategies, testified in support. Over the five-year period, the Study Team has worked with the public on hundreds of solutions and

an amended draft single package received government approvals and is now in the Comprehensive Plan. Through that process, it was noted that this particular street had real interest—it is one of the most hodge-podged streets in Lincoln with houses in between industries on the west side of the street. This change of zone is the consistent part of the street. It just did not make sense to have nonconforming uses with good residential dwellings. The Study Team also looked at the transportation network and the Antelope Valley plan reconfigures 17<sup>th</sup> Street and closes the railroad crossing at 17<sup>th</sup>, which will quiet down Holdrege Street. As a result, this west edge of this neighborhood has a chance to sustain itself. In the Antelope Valley plan, a lot of the businesses, particularly Nebco, actively participated and the plan shows the quieting of this street down to closure or limited access to Holdrege some day. This is consistent as expressed by Urban Development, Planning, Public Works, the University and the NRD. This will strengthen the area.

There was no testimony in opposition.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

August 22, 2001

Newman moved approval, seconded by Duvall.

Duvall is happy that Seacrest has come forward and helped the neighborhood organization get things put in order. There are neighborhoods that have been forgotten and this is a good housekeeping issue.

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

**STREET & ALLEY VACATION NO. 01012  
TO VACATION THE SOUTH ½ OF THE NORTH-SOUTH ALLEY  
BETWEEN ST. PAUL AVENUE AND  
MADISON AVENUE.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

August 22, 2001

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

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

This application was removed from the Consent Agenda and scheduled for separate public hearing at the request of Brian Watkins.

Proponents

1. **Brian Watkins**, 2039 Q Street, appeared on behalf of the property owners requesting this street vacation. Watkins asked to remove this item from the consent agenda because of the condition requiring that the return on St. Paul comply with the commercial driveway design standards. A commercial driveway would be a 55' opening, whereas there is currently a 24' opening onto St. Paul. Watkins notes that directly across the street is a 24' opening from a city parking lot. If a commercial driveway requirement is made, the owners would not be able to construct a nice little market that they intend to do to the west side of that property. The desire is to hard surface an already gravel area. The owners wish to pave and improve a 10' alleyway and continue on. "We're like a mother who knows their child a bit better than a stranger." The existing 24' return on St. Paul is adequate. It was adequate for Kaufman Furniture for 50-60 years. Watkins submitted that the amount of traffic will not be any greater or any less than that experienced by Kaufman Furniture.

Steward confirmed with Watkins that there is an existing paved 24' return, and it is not an issue at the opposite end because it is an intersecting alley. Watkins concurred, restating that directly straight across is a 24' return from a big city parking lot.

There was no testimony in opposition.

Steward posed a staff question. Under these circumstances, how is the city disadvantaged by leaving it as it is? Dennis Bartels of Public Works believes that they want to use it for a two-way driveway and it is only a 10' alley. The return is the curb opening. To get a building permit they need to meet design standards, and if the driveway is to serve as a two-way traffic driving aisle, it does not meet standards. But, Steward noted the parking lot across the street with two-way potential. Bartels assumes it was only a 10' alley. When the alley return was built, if there was only a 10' alleyway, they had to build the return to fit the right-of-way that was platted.

Carlson inquired whether it is a two-way across the street to the south. Bartels could not answer this question. Steward believes that the end of the parking islands would indicate that it is two-way. Bartels noted that on the aerial it appears to be a lot wider than the 10'. The 50' wide opening is the opening at St. Paul Avenue. The driveway on the aerial photo on the other side of the street appears to be wider. To pave the parking lot it needs to become a driveway and the curbcut application needs to meet design standards. Bartels suggested that Public Works can work with the applicant to perhaps minimize the size, but if they are going to use it for two-way traffic it needs to be safe driveway design. There needs to be at least a 20' opening with a driveway. The staff is requesting 55'.

Bartels further attempted to clarify. To build their parking lot they will need to come in with a building plan to get approval and the building plan will be reviewed for compliance with design

standards. They are showing that the parking lot needs two-way access. If it was exit only or entrance only, it could be narrower. If the building plan shows both entrance and exit, the staff will want it wide enough so that one car could be entering while one car was waiting in the parking lot, and it would have to be at least 20-25' wide at the property line.

Rick Peo of the City Law Department believes that the applicant may be asking for a driveway width that the Planning Commission does not have authority to regulate. This is a request to vacate the street. The ordinance requires that street returns are to be paid for by the applicant. Typically, the city will reserve easements over any vacated right-of-way. When they come back later for a parking lot and a driveway, they will have to meet design standards or go through a formal waiver of driveway design standards, but that is not before the Commission today.

Bartels clarified that the Public Works recommendation was to remove the alley return and build a standard driveway. If they weren't going to be putting in a driveway, we would require a bond to remove the alley return. The staff had earlier discussions with the applicant and Urban Development. They wanted to vacate the alley to give them more space and flexibility in designing the parking lot. It was Public Works' understanding that they needed a driveway.

Carlson does not believe the condition of approval specifies the size. The condition guarantees that they won't just close the alley. Bartels clarified that the intent of the condition is either to restore the curblin if they no longer need access or give them some flexibility. We don't want to build a curb and then come back and tear it out and put a driveway in its place. We were aware they wanted a parking lot and we were trying to match the conditions with what they needed to meet the conditions of a building permit for the parking lot.

Becky Horner or Planning staff suggested that Condition #1.1 be revised to read: "The applicant shall file a surety with the City in the amount of \$1,000.00 to guarantee the removal of the alley returns."

Bartels explained that when the real estate office considers the value of the property they take into account the reconstruction that is necessary and adjust the selling price accordingly.

Peo again clarified that the Commission is only voting on the vacation. This action has nothing to do with the size of the entryway or who is going to pay for it. The \$1,000 is for removal of the street return which is a requirement of the ordinance itself. Bayer wanted to know when we find out about the 55' versus 24'. Peo stated that it would be when they want to put a driveway approach in for the parking lot, and there is a waiver procedure for that, also.

There was no rebuttal by the applicant.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

August 22, 2001

Steward moved to approve the Planning staff recommendation, with amendment to Condition #1.1 as stated, seconded by Schwinn and carried 8-0: Krieser, Steward, Schwinn, Newman, Duvall, Carlson, Taylor and Bayer voting 'yes'; Hunter absent.

**CHANGE OF ZONE NO. 3335**

**FROM R-2 RESIDENTIAL TO B-1 LOCAL BUSINESS**

**ON PROPERTY GENERALLY LOCATED**

**AT 600 WEST E STREET.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

August 22, 2001

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

Planning staff recommendation: Denial

Proponents

**1. Kent Seacrest** appeared on behalf of **Lincoln Plating Company** and requested to place this application on pending for four months to work with the staff on a joint idea for this project. If the street can be moved a little ways, they can get the parking lot in. Luckily, the street has not been poured. The four-month delay will give the applicant an opportunity to work with the neighbors, both residential and business. This would also require an amendment to the preliminary plat in order to move the street. Part of the street that has already been platted will have to be vacated and then they will make application for a special permit for a parking lot in a residential zone. What was our simple solution has become more complex but Seacrest thanked the staff for showing some willingness to be flexible and the applicant is willing to go forward in that manner.

Duvall moved to place the application on pending, seconded by Newman and carried 8-0: Krieser, Steward, Schwinn, Newman, Duvall, Carlson, Taylor and Bayer voting 'yes'; Hunter absent.

There was no other public testimony.

**SPECIAL PERMIT NO. 1901A**  
**AN AMENDMENT TO THE VAVIK RIDGE COMMUNITY UNIT PLAN**  
**ON PROPERTY GENERALLY LOCATED**  
**AT SOUTH 56<sup>TH</sup> STREET AND ELKCREST DRIVE.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

August 22, 2001

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

Planning staff recommendation: Conditional approval.

Proponents

1. **Brian Carstens** appeared on behalf of **RLM**, explaining that the developer made a mistake when this CUP came forward three months ago. They forgot to ask for a waiver of the front yard setback from 25' to 5'. And while coming back through the process, they are also requesting to make four units two feet deeper. The only modification to the previously approved plan is that four duplex buildings are made 2' deeper and the front yard is requested to be reduced to 5'. They were measuring from the private roadway when they should have been measuring from the property line.

There was no testimony in opposition.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

August 22, 2001

Steward moved to approve the Planning staff recommendation of conditional approval, seconded by Schwinn and carried 8-0: Krieser, Steward, Schwinn, Newman, Duvall, Carlson, Taylor and Bayer voting 'yes'; Hunter absent.

**SPECIAL PERMIT NO. 1926**  
**FOR AUTHORITY TO SELL ALCOHOL FOR**  
**CONSUMPTION OFF THE PREMISES**  
**ON PROPERTY GENERALLY LOCATED**  
**AT 27<sup>TH</sup> AND F STREETS.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

August 22, 2001

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

Planning staff recommendation: Conditional approval.

Proponents

1. **Mark Lyon**, 1623 Dakota Circle, appeared on behalf of the applicant, **Ideal Grocery**. Ideal Grocery will be applying for a wine only license--no beer or hard spirits--to complement the gourmet foods that they carry. The applicant had no objections to the conditions of approval.

There was no testimony in opposition.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** August 22, 2001

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

Newman stated that she sees a major difference with this application because the four lane street puts about one mile between the closest residential house and the grocery store. Her second consideration is the shortened hours of sale.

Taylor also believes this is quite different than an earlier application before the Commission. The last one imposed upon the neighborhood and was not located on an arterial street. He believes this is consistent with what Ideal does as a grocer.

Schwinn stated that he sees absolutely no difference between this and having Russ's in his neighborhood or the Kabredlo's on No. 27<sup>th</sup> or on R Street.

Carlson respectfully disagreed with Schwinn. He believes there is a difference in degree, geography, location, clientele and the way shopping traffic moves in and out. He thinks this is a good project.

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

**STREET & ALLEY VACATION NO. 01011**  
**TO VACATE THE EAST 20' OF SOUTH 12<sup>TH</sup> STREET,**  
**FROM A TO B STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

August 22, 2001

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

Planning staff recommendation: Denial.

The applicant has requested a deferral until October 3, 2001, pending review by the Historic Preservation Commission.

Duvall moved to defer, with continued public hearing and administrative action scheduled for October 3, 2001, second by Krieser and carried 8-0: Krieser, Steward, Schwinn, Newman, Duvall, Carlson, Taylor and Bayer voting 'yes'; Hunter absent.

**SPECIAL PERMIT NO. 1786A**

**AMENDMENT TO THE BLACK FOREST ESTATES**

**COMMUNITY UNIT PLAN,**

**ON PROPERTY GENERALLY LOCATED**

**AT SO. 62<sup>ND</sup> STREET AND OLD CHENEY ROAD.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** August 22, 2001

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

Jason Reynolds of Planning staff submitted a letter from the applicant amending the application such that Crosscut Lane will remain a private roadway. This amendment to the application deletes the waiver of block length for Burlwood Drive, the waiver of cul-de-sac length for Black Forest Drive/Court and the waiver of cul-de-sac radius size. This amendment to the Community Unit Plan deletes the sidewalks along both sides of Black Forest Court; revises Note 17 to waive sidewalks along the west side of Black Forest Drive instead of the east side; and provides a picnic shelter on Outlot "D". With the withdrawal of the request to remove Crosscut Lane between Burlwood Drive and Black Forest Drive, the staff recommendation is revised to conditional approval and the revised conditions were submitted to the Commission.

The applicant was not present.

There was no testimony in opposition.

Carlson noted that Black Forest Court is the stub north of Crosscut Lane. Reynolds clarified that Lots 5 and 6 at Black Forest Court are "flag" lots—their property extends to the terminus of Black Forest Drive. That private roadway is essentially a shared driveway for Lots 5 and 6, and they are buildable lots intended to have homes.

With regard to the sidewalk waivers, Reynolds explained that the houses on Black Forest Court have a driveway that leads to the sidewalks on Black Forest Drive. They would be able to walk down their driveway to the sidewalk on the east side of Black Forest Drive.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

August 22, 2001

Schwinn moved to approve the revised Planning staff recommendation of conditional approval as submitted under Memorandum dated August 22, 2001, seconded by Steward.

Carlson stated that he is leery about sidewalk waivers and he has a difficult time waiving them.

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

**OTHER BUSINESS**

August 22, 2001

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

Bayer announced that the election of Chair and Vice-Chair now occurs in August of odd-numbered years. The new Chair and Vice-Chair will take over at the September 5<sup>th</sup> meeting.

Bayer opened nominations for Chair. Steward nominated Greg Schwinn, seconded by Duvall. There were no other nominations. Schwinn was elected Chair by 7-0 vote: Krieser, Steward, Newman, Duvall, Carlson, Taylor and Bayer voting 'yes'; Schwinn abstained; Hunter absent.

Bayer then opened nominations for Vice-Chair. Newman nominated Steward, seconded by Carlson. There were no other nominations. Steward was elected Vice-Chair by 7-0 vote: Krieser, Schwinn, Newman, Duvall, Carlson, Taylor and Bayer voting 'yes'; Steward abstained; Hunter absent.

Carlson expressed personal appreciation to Russ Bayer for his leadership as Chair of the Commission.

There being no further business, the meeting was adjourned at 10:00 a.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on September 5, 2001.