

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, February 6, 2002, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

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

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Vice-Chair Cecil Steward called the meeting to order and requested a motion approving the minutes of the meeting held January 23, 2002. Krieser moved to approve the minutes, seconded by Newman and carried 7-0: Bills, Carlson, Duvall, Krieser, Newman, Steward and Taylor voting 'yes'; Hunter and Schwinn absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

February 6, 2002

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

The Consent agenda consisted of the following items: **SPECIAL PERMIT NO. 622E, SPECIAL PERMIT NO. 1423E, SPECIAL PERMIT NO. 1948 AND STREET AND ALLEY VACATION NO. 01025.**

Item No. 1.4, Street and Alley Vacation No. 01025, was removed from the Consent Agenda and scheduled for separate public hearing.

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

Note: This is final action on Special Permit No. 1948, 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.

STREET VACATION NO. 01025
TO VACATE A PORTION OF NORTH 7TH STREET
GENERALLY LOCATED AT NORTH 7TH
AND "P" STREETS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 6, 2002

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

Staff recommendation: A finding of conformance with the Comprehensive Plan.

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

Proponents

1. **Mr. Funk** appeared on behalf of the applicants, who lease property to Telesis, Inc. at 729 Q Street in the Haymarket. This is a request to vacate a portion of the sidewalk that appears underneath the existing fire escape on the west side of the former Jabrisco Restaurant. The purpose is to construct a fire escape from the basement of his building. As it stands now, they cannot do anything with the property underneath the fire escape. This request has been approved by the Historic Preservation Commission.

Mr. Funk agreed with the staff recommendation and the conditions of approval.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 6, 2002

Carlson moved to approve the staff recommendation and to find the street vacation to be in conformance with the Comprehensive Plan, seconded by Duvall and carried 7-0: Carlson, Newman, Bills, Taylor, Duvall, Steward and Krieser voting 'yes'; Hunter and Schwinn absent.

CHANGE OF ZONE NO. 3354
FROM R-4 RESIDENTIAL AND P PUBLIC USE
TO R-2 RESIDENTIAL,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 30TH STREET AND FRANKLIN STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 6, 2002

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

Staff recommendation: Denial.

Jason Reynolds of Planning staff submitted three letters in support.

Proponents

1. Kent Seacrest appeared on behalf of the **Antelope Park Neighborhood Association**, the applicant. This is a request to rezone of a portion of the neighborhood from R-4 to R-2, including 92 lot owners--three multi-family and about 88 single family homes. 95% of the area is presently used for single family.

This change of zone request is the result of a recent hearing on a particular piece of property zoned P Public Use. This change of zone is a much larger issue and geographical area. Seacrest suggested that the staff report lists many good reasons to support the rezoning, yet they have recommended denial. The purpose of this change of zone request is to keep this neighborhood single family. The question is, "does this neighborhood have what it takes to keep it single family?" Seacrest believes that it does. This neighborhood is good housing stock; it has great architectural features with one of the first curved streets in Lincoln and unusual shaped lots; while not right in the neighborhood, there is retail such as Leon's, dry cleaners, etc.; Sheridan and Lincoln High are in close proximity along with middle schools; there are several churches in the neighborhood and near the neighborhood; social needs programs are available; there are wonderful parks; the surrounding neighborhoods are strong with the Near South on one side and Country Club on the other side; and the neighborhood is reinvesting.

Seacrest noted that staff is opposed to this change of zone because it will result in 36% of the neighborhood being nonstandard. Seacrest went on to explain what is meant by "nonstandard". Nonconforming and nonstandard are names for "grandfathering". Seacrest suggested that this application seeking R-2 rights is grandfathering. When the rules are changed and we meet the new rules, then we are called conforming. If we don't meet the new rules, we are nonconforming or nonstandard. For example, when you don't meet the setbacks and front yards, then you are nonstandard. When you rezone, the R-2 requires a bigger lot

area for both single family and duplex. There will be some lots that today are 5,000 sq. ft. that will become nonstandard if the R-2 is approved. But the term “non-standard” means that you can still operate and occupy the home. The real issue the neighborhood needs to worry about is when it comes to rebuilding or expansion. Seacrest distributed and cited sections of the ordinance regarding nonstandard uses. The only criteria where this property becomes nonstandard is the lot area. The setbacks are the same in R-2 and R-4. Section 27.61.090(b) of the Lincoln Municipal Code provides that a house can be built back, regardless. This is a grandfather clause in the ultimate degree. They can do what they do today and it won't matter. This is one of those great and rare fact patterns where nonstandard doesn't mean a thing.

Seacrest noted that several years ago there was rezoning in the 26th, 27th and Everett area in the Near South Neighborhood from R-4 to R-2 and most of the neighborhood wanted it. Staff recommended denial for the same reason that it is recommending denial in this situation. The Planning Commission approved the downzoning unanimously and the Council did the same. You have to look at the big picture. Nonstandard is not the issue. The issue is the protection of the health, safety and welfare of the community.

Bills noted that when someone sells their home and it is a nonstandard lot, there seems to be an extra hoop you have to jump through for the loan company, requiring a letter from the city stating that a house is allowed to be built upon it. She wants the homeowners to be aware that there will be an extra hoop when selling their home. Seacrest suggested that the title company could give an endorsement that assures the right to build on that lot. Rick Peo of City Law Department agreed with Seacrest. Typically a nonstandard dwelling can be rebuilt. They are required to, as much as possible, conform with the yard setback requirements, so occasionally you have to make an analysis of the size of the lot and the building. You do have the potential that maybe if a nonstandard building got totally destroyed, they might be able to build a single family but may or may not be able to build back the same exact footprint. Potentially you might have a smaller building required unless you applied for a variance. But typically, they do have the right to reconstruct.

Seacrest also pointed out that the ordinance allows these homes to be rebuilt right on their foundation, even if they don't meet the 25' required front yard.

Carlson sought to clarify what Seacrest was trying to say. You have a development that was built certainly before the current zoning, and maybe before any zoning, and we're trying to lay a zoning pattern on top of an existing neighborhood. It sounds like the applicant is saying that we may not be able to find the perfect zoning but the applicant is representing that this zoning is closer to what's actually there than the R-4 zoning. It seems like we run into this on new neighborhoods, too, but they have a chance to come in and ask for waivers. There are lots of new neighborhoods that would have nonstandard lots had they not asked for waivers. Seacrest concurred that in the new development

areas, the developer comes forward with a community unit plan showing adjustments in the front or side yards. But it is not practical for these people to come in with a community unit plan at this stage. That's why the law has allowed the grandfathering. They need to be able to build back their home and they can in this neighborhood. Seacrest reiterated that this is a single family neighborhood.

2. Lisa Good, 3036 Franklin, Interim President of the **Antelope Park Neighborhood Association**, testified in support. The Antelope Park Neighborhood Association has expressed an overwhelming desire to sustain the success of the primarily single family, owner-occupied character of this neighborhood. The association is the smallest in the city with 491 homes. "We are passionate about where we live." We have parks, band shells, trails, a zoo and many, many gardens. The residents provide support and stability to those around them and this neighborhood is living proof that Lincoln is nothing but a big little town where everybody knows everybody and pitches in to help. Antelope Park is a good place to raise a family. We have very many long term residents and many family generations in the neighborhood. Today we have an opportunity to make this change for the better. The neighborhood is vulnerable because many of the long term homeowners are moving, and those who are not intimately acquainted with the character of the neighborhood can, by existing zoning law, jeopardize the quality of life because R-4 allows two-family dwellings. This has created needless havoc in the neighborhood in terms of density, crime, noise and traffic. This neighborhood cannot handle any more density. The residents fear their property values will go down if zoning is allowed to continue in this fashion. Numerous improvements to the neighborhood can substantiate this claim.

3. Bob Blomstrom, 1826 Jefferson, testified in support. During the 14 years that he has been a resident of Antelope Park, he has seen considerable improvement in the immediate area. There are 11 houses in the 1800 block of Jefferson, and during the past 14 years, 10 of the 11 have had some sort of upgrading. The house next door to him was at one time a rental, but it has been renovated and sold as an owner-occupied home for \$60,000. A few months ago it sold again for \$90,000. This is a substantial increase in value of this property which can be attributed to the house itself and to the fact that the buyer considered it a desirable location.

Blomstrom also stated that there are three houses on Franklin which have been renovated in recent years. He believes the neighborhood is improving and he would like to see this trend continue.

4. Martin Hager, 2810 Sumner, testified in support as a long time resident. He moved into this neighborhood in 1979. He went to high school at Southeast and moved out of the neighborhood when he graduated. In 1990, he moved back to the neighborhood and

purchased his home based upon his experience growing up in this neighborhood. He agreed that the neighborhood does have some battles, such as the older residents moving out, deteriorating homes, and rentals. Parking is a problem in the neighborhood already. This is an opportunity to do something good for this neighborhood.

5. Doug Biels, 2829 Franklin, testified in support. He has lived in the neighborhood for 11 years and considers himself a newcomer because many of his neighbors have been there for 20 years. He has chosen to reinvest in his property because he likes the character of the neighborhood. They can walk three blocks to the public library; walk to the park and bike trail; Leon's is close by; and Sheridan School is within walking distance. The intent of this change of zone is to sustain the qualities that define this neighborhood. He believes the Comprehensive Plan supports the same objectives and cited from the Comprehensive Plan, such as

Identify, protect and enhance features which give Lincoln and Lancaster County its distinctive character, image, sense of purpose and means of orientation through urban design and historic preservation.

The proposed new Comprehensive Plan, under the guiding principles for existing neighborhoods: Promote the preservation, maintenance, renovation of existing housing and neighborhoods throughout the city with special emphasis on low and moderate income neighborhoods. Maintain and enhance infrastructure and services in these existing neighborhoods.

Promote the continued use of single family dwellings and all types of buildings to preserve the character of the neighborhood and to preserve portions of the past.

Require new development be compatible with the character of the neighborhood and adjacent uses.

Encourage retention of single family uses in order to maintain the mix of housing.

Single family homes, in particular, add opportunity for owner occupants in older neighborhoods and should be preserved. Also vulnerable and older neighborhoods are the least expensive single family housing which due to low prices makes it feasible to multi-family or commercial conversions.

Encourage public private partnerships with entities including Lincoln Housing Authority, Nebraska Housing Resources and Neighborhoods, Inc.

Biels believes it is clear that the goals and objectives of the Antelope Park Neighborhood Association and the Comprehensive Plan are pretty much the same.

6. Kathleen Hale, 1745 Jefferson, testified in support. Her property is outside of the proposed area, and the goal will be to change the zoning beyond these 92 properties in the future. Residents on the periphery have extended their wishes in support of this application. Even residents from the Near South area that regularly use the Antelope Park neighborhood streets to access Antelope Park also wish to see this neighborhood remain very stable and safe.

Lisa Good reappeared and showed some historical photographs of the neighborhood. The history of Antelope Park is rich. She referenced a book published by the Lincoln Chamber of Commerce in 1923, which heralds the entire area as a jewel of the city.

In conclusion, Good reminded the Commission that the Antelope Park neighborhood is 61% owner occupied according to the 1998 Urban Development figures; the neighborhood is overwhelmingly comprised of single family housing (94-95%); there are 92 properties included in this change of zone; she has 87 signatures indicating agreement of property owners that R-2 is more suitable for the neighborhood than R-4. Good urged the Commission to review the facts and agree with the 87 people who have signed the forms. Approximately 15 people stood in the audience as members of the neighborhood in support.

Opposition

1. Britt Ehlers, 1201 Lincoln Mall, Suite 102, testified in opposition on behalf of **Silver Creek Investments**, the property owner of two lots within the proposed zoning change area. One of his client's lots is the lot which was the subject of the change of zone from P to R-4 recently heard by the Planning Commission (Change of Zone No. 3349). First and foremost, Ehlers stated that he understands the neighborhood association's comments and concerns; however, it seems that his client's change of zone was the impetus for this proposed change of zone. It is directly because of the purchase of these two lots by Silver Creek Investments that this change of zone has come forward.

It is Ehlers' opinion that R-2 zoning does not fit this area. The proposed area is a relatively small zoning area when compared to the rest of the surrounding areas. All of the areas except to the east, which is the park, are zoned R-4. It is not appropriate to change the zoning for a small few block area which will stand alone from everything else. Secondly, this is clearly a situation which is desirable in our community. This is the opportunity for some limited multi-family housing (duplex) to be interspersed in a single family neighborhood, which is the goal in a lot of situations. This allows people who cannot afford single family homes to come in and live in a property interspersed throughout an established neighborhood and be a part and feel a part of the neighborhood. On the block where his client has two lots, there are two tri-plexes on that very same block, thus it is not a substantial change to that area of the neighborhood to build duplexes.

Ehlers noted that there has been discussion about the quality of life. His client has every intention to enhance upon and improve that quality of life. For example, he showed a photograph of the property that his client purchased. The home on the property was dilapidated and has been that way for a long period of time. There were vagrants and numerous wild animals in the property. There are some problem areas in the neighborhood. What his clients paid for the property and the cost to do something with it, roughly equals the cost of a lot out in the Wilderness Ridge area. By changing the zoning and prohibiting developers such as Silver Creek from taking these properties and turning them into something productive for the neighborhood, you leave the neighborhood with no choice but to leave these properties as they now stand.

Ehlers then showed an example of one of the properties recently built by his client. They will provide off-street parking; they fence off all of the parking so that you don't see any of it; they sod the lawns; install underground sprinklers; and do the snow removal. Clearly, this is a positive alternative for this neighborhood.

Ehlers also commented that he does have some concern with the way this process has occurred. What we have is a situation where a property applies for a building permit; they cannot obtain the building permit because of the P zoning; the change of zone is delayed for no apparent reason; then a neighborhood association files a change of zone and it is allowed to catch up to the other action; and as a result everything is consolidated. He requested that the Commission vote to deny this change of zone.

Staff questions

Steward asked staff to enumerate the real number or percentage of the multi-family housing in this area. Jason Reynolds of Planning staff suggested that a rough estimate of the percentage of non-single family, not including businesses and churches, is slightly over 10%. Nonstandard for the whole neighborhood is approximately 28% if all were zoned as R-2.

Steward then inquired about the adjacent zoning patterns. Reynolds advised that to the east is P Public Use; to the south there is some business zoning and some R-4 and R-5; there is R-4 to the west across 27th Street; to the north is P Public Use park land. Steward clarified that there is no contiguous R-2 zoning. Reynolds concurred.

If one of the tri-plexes in that area burned down, Bills asked whether they would be able to rebuild as a tri-plex. It is Reynolds' understanding that if it burned down it could be rebuilt as a tri-plex provided it meets the setbacks. The tri-plexes would not be affected by this change.

With the whole area being zoned R-4, Duvall sees some disconnect in changing the small area to R-2. Rick Peo of the City Law Department does not believe this would classify as an illegal spot zoning which singles out a single owner for special treatment versus a larger area.

As far as R-2 or R-4, the Comprehensive Plan talks about low density residential and does not distinguish between the two, so there is not an issue of nonconformance with the Comprehensive Plan. It is just a situation that the city has power to zone and to rezone. He does not see a unique situation with this change of zone.

Newman asked Peo whether this is different than the Whitehead Oil case. Peo stated that Whitehead was a situation where the owner's property was zoned for the use and that use permit was held up in order for a change of zone to catch up. Here, the property was not zoned properly. There was P zoning which would not allow that particular lot to be built upon. The other lot was R-4 and could be used for whatever uses are permitted in R-4. Only the lot zoned P was potentially affected. Peo believes there is enough differences between the Whitehead and this case. It was City Council delays that were acted upon in the Whitehead Oil as opposed Planning Commission. However, Peo pointed out that the previous change of zone from P to R-4 (Change of Zone No. 3349) was the city's application and not the property owner's.

Response by the Applicant

Kent Seacrest does not believe this is a small area---it is about 5 blocks. Recently, the Commission approved one on No. 14th south of Holdrege that was less than half a block. It is definitely not an illegal spot zoning. Seacrest also pointed out that if you could remove Antelope Park, this neighborhood would be contiguous to R-2 zoning to the east. Therefore, he believes that this neighborhood is actually contiguous to R-2.

Seacrest also pointed out that R-2 does allow duplexes by right. All we are talking about here is reducing the density or the number of opportunities to do duplexes. The developer showed a picture of a blighted house and the neighborhood thanks them for knocking it down. However, Seacrest does not believe there is going to be any economic loss because the Urban Development Department offered to purchase the property as a safety net. The Commission needs to balance 92 peoples' interest versus one person's interest.

Seacrest further pointed out that this is a 75 year old neighborhood that was developed before this zoning. If we had a fresh slate, Seacrest believes the property would be zoned R-2 today. This is a neighborhood that is not in decay. We used to rezone to add more density because we were fearful there would be decay. In some neighborhoods that is a good strategy, but not this one because it has proven that it can reinvest without encouraging duplexes, tri-plexes and apartments.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 6, 2002

Carlson moved approval, seconded by Newman.

Carlson believes that the character of this neighborhood and the desires of the neighbors should have weight. It is difficult to come in and lay zoning over the top of an existing neighborhood and necessarily get it right in every instance every time. In this case, the existing zoning is not reflective of the actual use. Over 90% of the usage there is more accurately reflected by the R-2 than the R-4. It has been indicated that there is no size threshold, but if there is, we've certainly passed it. If there is a threshold for support and unanimity, he believes we're past that as well. Carlson stated that he was disturbed by the comments of the opposition inferring that there is no reinvestment going on. Driving through this neighborhood, he believes it is obvious that there is investment going on and dollars being spent on those single family houses. With the combination of those factors, he believes we have an area within a larger area where the characteristics are inappropriate for the zoning that exists. He believes this cleans that up and that this is a good application.

Newman noted that when this Commission discussed a text amendment for student housing recently, the Antelope Park Neighborhood testified saying they were nervous about the text amendment. This is a proactive neighborhood—this change of zone is being done because they are trying to be proactive. She believes that it is important to approve a change of zone like this when a neighborhood gets together and gets 87 signatures in a short period of time.

Duvall applauded the neighborhood organization for their efforts.

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

COUNTY SPECIAL PERMIT NO. 191
AND CITY SPECIAL PERMIT NO. 1956,
PHEASANT POINTE COMMUNITY UNIT PLAN
and
CITY/COUNTY PRELIMINARY PLAT NO. 01022,
PHEASANT POINTE,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 148TH STREET AND YANKEE HILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 6, 2002

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

Staff recommendation: Conditional approval.

Proponents

1. Jill Schuerman of Brian Carstens and Associates appeared on behalf of the applicant. Pheasant Pointe is a CUP cluster under AG zoning. There was only one issue in the staff report which pertained to the existing gas line/ammonia pipe line. Those lines have been located and will only go through Lot 1. They do not affect any of the cluster area. The applicant agrees with all conditions of approval as set forth in the staff report.

2. Betty Jeanne Holcomb-Keller appeared on behalf of Mrs. Harriet Coble of Coble Farms, New Market, Alabama. Mrs. Coble owns 149 acres of farmland in Lancaster County. According to the map, Mrs. Coble's property is at the top right hand corner adjacent to Midway Road and the intersection of Midway Road and 148th Street. Her land starts at that corner and goes north and east. Mrs. Coble is in favor of this development proposal because she understands that realistically, it is no longer financially feasible to continue to profitably farm this land.

There was no testimony in opposition.

Staff questions

Carlson inquired about Condition #1.5, which requires that the easement be shown on each side of the Williams pipeline. Mike DeKalb of Planning staff acknowledged that the applicant has provided the information as requested by the Health Department. There are probably 8 acres outside of the buildable area. On the 20 acre parcel in the lower right hand corner (southeast), there is more than enough room for the one house with the easement.

Steward asked staff to give a verbal indication of the expectation for water quantity and quality. DeKalb advised that this development proposes rural water, which is on 148th Street, so there should be no problem in meeting the water standard requirements.

Public hearing was closed.

COUNTY SPECIAL PERMIT NO. 191

PHEASANT POINTE COMMUNITY UNIT PLAN

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 6, 2002

Duvall moved to approve the staff recommendation of conditional approval, seconded by Krieser and carried 7-0: Carlson, Newman, Bills, Taylor, Duvall, Steward and Krieser voting 'yes'; Hunter and Schwinn absent.

SPECIAL PERMIT NO. 1956

PHEASANT POINTE COMMUNITY UNIT PLAN

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 6, 2002

Duvall moved to approve the staff recommendation of conditional approval, seconded by Krieser and carried 7-0: Carlson, Newman, Bills, Taylor, Duvall, Steward and Krieser voting 'yes'; Hunter and Schwinn absent.

CITY/COUNTY PRELIMINARY PLAT NO. 01022

PHEASANT POINTE

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 6, 2002

Duvall moved to approve the staff recommendation of conditional approval, seconded by Krieser and carried 7-0: Carlson, Newman, Bills, Taylor, Duvall, Steward and Krieser voting 'yes'; Hunter and Schwinn absent.

SPECIAL PERMIT NO. 1833A

AMENDMENT TO THE ASHLEY HEIGHTS COMMUNITY UNIT PLAN,

ON PROPERTY GENERALLY LOCATED

AT N.W. 48TH STREET AND W. HUNTINGTON AVENUE.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 6, 2002

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

Staff recommendation: Deferral, revised to conditional approval on January 31, 2002.

Proponents

1. **Steve Clymer of Olsson Associates** appeared on behalf of M & S Construction Company. This original staff recommendation to defer was due to some conditions that had been unresolved with Parks and Recreation, including an easement for a trail across the north lots of the property. Clymer indicated that the applicant has agreed to grant the easement for the proposed future trail. There had also been a problem with grading on a minipark and ADA accessibility into that park. The grading plan has been revised to meet the requirements of Parks and Recreation.

Newman noted that the Health Department is concerned about odors from Sunhusker Foods. Will there be any warning to the people about this? Clymer was not aware of any odor easement. He believes it could be a condition to notify the home buyers of this situation.

2. Karen Kotschwar, 5000 West Hughes, testified on behalf of the **Arnold Heights Neighborhood Association**. The association likes the relocation of the Park and since the grading issues have been addressed, the neighborhood association supports this application.

Kotschwar believes that there was a condition in the original preliminary plat requiring that the developer notify the purchasers of the property as to the odor issue.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: February 6, 2002

Carlson moved to approve the revised staff recommendation of conditional approval, seconded by Krieser and carried 7-0: Carlson, Newman, Bills, Taylor, Duvall, Steward and Krieser voting 'yes'; Hunter and Schwinn absent.

SPECIAL PERMIT NO. 1953
TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES
FOR CONSUMPTION OFF THE PREMISES,
ON PROPERTY GENERALLY LOCATED
AT 33RD & "O" STREETS.

PUBLIC HEARING BEFORE PLANNING COMMISSION: February 6, 2002

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

Staff recommendation: Denial

Brian Will of Planning staff submitted a letter in opposition from a property owner directly to the south.

Proponents

1. Bill Harrison, 3301 O Street, of Heritage Express, presented the application. Heritage Express wishes to sell only beer for consumption off the premises. This site is a former Amoco Service Station which has been converted to a convenience store that also dispenses gasoline. The south side of the property faces R-4 zoning. The applicant has proposed a privacy fence 9' from the property line on the west side. There is a row of trees on the east on a 2' easement which was made when the alley was closed. The privacy fence would be 9' from the property line and would run west to east 53' in length. At that point there is a 75' row of trees, at least 25' tall. Behind the row of trees is a 6' privacy fence on the neighbor's

property. The property line is elevated 6' from the parking lot to the top of the retaining wall and gradually declines to 4' on the west property line. The proposed fence would be built to match the landscaping of the other privacy fence from the power pole to 9' from the property line. It would be behind the billboard extending all the way to the power pole. The power pole marks the property line.

The parking lot lighting was approved in September 2001. The entrance doors do not face the residential area; there will be no drive-through and thus no noise factors; Public Works has no objections; and the Traffic Department requires the fence 9' from the west property line.

Harrison pointed out that the closest business that sells alcohol is the Gas N Shop on 28th & "O". The back of their building is their property line. 4' from the back of that building is a house to the south. At the 33rd & "O" location, there is more than 60' from the building to the property line and the applicant is more than happy to install the fence. Harrison testified that the applicant will maintain that property line and the cleanliness of it at all times.

Harrison acknowledged that the Lincoln Police Department did recommend denial, but Harrison understands, after speaking with the Police Department, that they recommend denial of anything that does not meet the 100' separation.

In further support, Harrison submitted that "O" Street is well traveled. Many of the applicant's customers have requested that they sell beer. There are 7 coolers in the store with only two of those coolers will be used for six-pack and 12-pack volumes. They will not sell single cans or bottles.

Harrison also pointed out that in September 2001, when they received the building permit, the applicant agreed to close off one of the entry drives and cooperated at that time.

Steward inquired whether the trees are in the easement. Harrison indicated that they are, and further offered that the applicant will maintain those trees and has maintained them since they bought the property. Heritage Express has owned the property since July 2001. Steward inquired whether the applicant was aware of the restrictions on distance when the property was purchased. Harrison stated that they were not.

Opposition

1. Ralph Johnson, 819 No. 33rd, testified in opposition on behalf of the Hartley Neighborhood Association. The separation from residential is 47'—a substantial difference from 95' or 98'. It is the owner's problem that he was not aware of this restriction.

2. Bill Gekas, owner of the land on the corner of 33rd & "N" behind the billboard sign, testified in opposition. There is no fence located there at the present time. There is a small row of

bushes. He has owned the house since 1957 and lately he has been picking up trash bottles all over. He is not in favor of having beer there because it will add to the littering.

3. Bruce Sandhorst, 3320 N Street, testified in opposition. The location of the property is unusual in that the premises not only border a public use district but also a residential district. Additional screening and landscaping will not mitigate the adverse effects. Additional landscaping would further reduce the space available for parking. He does not understand why the thought of a fence is going to make everything okay. He can't imagine that a fence will make selling alcohol at that store okay. They should be required to meet the 100' requirement. We don't want to see Woods Park become a place where people can buy package liquor and unpack it and drink it in the park. We already have to deal with Saturday night drinkers that urinate on our property. He can't imagine that we would want to do anything to exacerbate those problems and lessen the quality of the neighborhood. The premises are currently open 24 hours a day. That change has already impacted the residential property in a negative way. Vehicular access to the premises is not adequate and traffic is turning around in his driveway dozens of times a day. The alcohol sales will increase the retail traffic to the convenience store and will increase the number of cars using the residential street and the residential driveway. Trash is also a problem.

4. Carol Gooding, 3351 N Street, testified in opposition. They do get extra traffic from cars turning around to get to this convenience store, and they already have their share of trash on the weekends.

Response by the Applicant

Mr. Harrison understands that trash is always an issue for any kind of retail outlet. He advised that they have 16 different trash cans located on the property for customers to use. There are two trash cans at each one of the six islands; there are four trash cans inside the store; four trash cans outside the door; and a main dumpster on the west side of the building. They clean the parking lot six times during the day. Trash is removed three times a day. They try to maintain the premises and keep it as clean as possible. They want to be good neighbors. Harrison asked the Commission to remember what it was like before Heritage Express purchased the property—there were abandoned cars on the parking lot with huge piles of used mechanic's parts, rusted rims and tires. He believes the applicant has made the property a better view for the customer and the public. He assured that they would do whatever is needed to help with the trash issue. He wants to make the neighbors happy. He would like to talk with the neighbors and discuss their concerns.

Harrison clarified that there is no entrance from a residential area. They closed off one of their entrances on 33rd to help with the traffic flow. This applicant cannot do anything about the westbound traffic on "O" Street turning in.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 6, 2002

Newman moved to deny, seconded by Carlson.

Newman believes that this Commission has been consistent in not allowing any liquor permits for convenience stores within 100' from a residential area. She understands that mistakes have been made in the past, but this is not a condition to endorse those mistakes.

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

SPECIAL PERMIT NO. 1940,
CARDINAL HEIGHTS 1ST ADDITION COMMUNITY UNIT PLAN
and
PRELIMINARY PLAT NO. 01017,
CARDINAL HEIGHTS 1ST ADDITION.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 6, 2002

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

Staff recommendation: Conditional approval.

Becky Horner of Planning staff submitted two emails received by the Planning Department, both of which express concerns about traffic.

Proponents

1. Lyle Loth, ESP, appeared on behalf of the applicant, **Hartland Homes, Inc.** The original preliminary plat of Cardinal Heights was approved in 1998 for 169 single family lots. Hartland Homes acquired the property and wishes to continue their tradition of providing affordable housing by increasing the density by 40 units with some townhouse lots and smaller single family lots. Loth agreed with the conditions of approval set forth in the staff report.

With regard to the letters received with concerns about traffic, Loth indicated that the developer does not disagree that traffic in this area is a problem, especially on N.W. 48th Street. Currently, N.W. 48th is a two-lane paved road existing from "O" Street to Hwy 34 to the north. The 1994 Comprehensive Plan shows that this street will be widened to 4 lanes with raised medians. It is shown to be in phase II, which would indicate that it would be in the 10-20 year timeframe. Loth went on to explain the existing conditions in the area with regard to the

traffic issue. Oak Hills was a project to the immediate east of Cardinal Heights with 127 single family lots. Olympic Heights is the subdivision to the immediate north, with 320 single family lots. There is also only one paved outlet from that subdivision to N.W. 48th at W. Huntington. There are some additional outlets to the west. Hartland Homes Northwest is at the corner of 56th and West Adams with 109 single family lots. Today, there are approximately 560 single family lots that are utilizing N.W. 48th Street. Loth agreed that Cardinal Heights is not going to improve the traffic situation, but the problem exists today. The city is aware of the problem and the improvements are in the Comprehensive Plan. In addition, Ashley Heights is on the east side of N.W. 48th with 297 dwelling units which funnel out on N.W. 48th.

Currently, West Adams between 48th and 56th is a gravel road; N.W. 56th is also a gravel road, but in the approval of two earlier projects, View Pointe West and Hartland Homes Northwest, the conditions were that the city agreed to pave Adams Street and 56th Street along the south side, so there will be some paving coming that will help the circumstance in the future.

2. Karen Kotschwar, 5000 W. Hughes, testified on behalf of the Arnolds Heights Neighborhood Association. The Association is not in opposition. Their main concern is the fact that N.W. 56th is not paved. In fact, it is a poorly maintained gravel road. W. Adams has a lot of traffic and it is always full of holes and in dire need of paving. The Association is wondering about the possibility of having N.W. 56th paved from West Adams to "O" Street as an alternate to N.W. 48th because of the traffic on N.W. 48th. We know N.W. 48th is in the 20-year improvement plan and we've been told this over and over and it has been pushed back and back. We are hoping that after Ashley Heights is built, we can at least get some turn lanes and signaling on W. Huntington.

There was no testimony in opposition.

Staff questions

Steward asked staff to respond to the road improvement issue. Dennis Bartels of Public Works advised that a future project is identified for N.W. 48th Street but it is not funded at this point in time. Public Works receives more complaints on W. Adams and N.W. 56th. The city recognizes the need but it is a funding issue. With this plat there is a condition that they cannot plat the lots immediately adjacent to N.W. 56th Street until it is paved. That doesn't help the overall traffic, but it mitigates the dust problems that you have when lots back onto a gravel road. We do not have funding identified or specific years for these projects.

Carlson wondered whether there are property owners abutting N.W. 56th that would participate in the improvements. Bartels indicated that there are not. All of the recent plats are double frontage type lots. There are very few property owners that take direct access to these streets. He would anticipate that the paving will be a total city responsibility and will be assessed to the property owners. However, at this point in time, we do not have a mechanism in the

subdivision ordinance to ask for participation. N.W. 56th and W. Adams are identified in the preliminary CIP for next year. There are significant traffic counts all over. If we pave these, we will have to pull some other projects that have been in the CIP previous years.

Carlson inquired about the phasing. Becky Horner of Planning staff explained that one of the conditions is that the phasing plan be revised to satisfy Public Works because the plan they submitted for review did not indicate those phases clearly. She clarified that it will be the lots abutting directly onto 56th which will be in the final phase and cannot be final platted until that street is improved.

Public hearing was closed.

SPECIAL PERMIT NO. 1940,
CARDINAL HEIGHTS 1ST ADDITION COMMUNITY UNIT PLAN
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 6, 2002

Duvall moved to approve the staff recommendation of conditional approval, seconded by Bills and carried 7-0: Carlson, Newman, Bills, Duvall, Taylor, Steward and Krieser voting 'yes'; Hunter and Schwinn absent.

PRELIMINARY PLAT NO. 01017,
CARDINAL HEIGHTS 1ST ADDITION
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 6, 2002

Krieser moved to approve the staff recommendation of conditional approval, seconded by Duvall and carried 7-0: Carlson, Newman, Bills, Duvall, Taylor, Steward and Krieser voting 'yes'; Hunter and Schwinn absent.

WAIVER OF DESIGN STANDARDS NO. 02001
TO WAIVE STREET PAVING, SIDEWALKS,
STORM SEWERS AND STREET TREES,
ON PROPERTY GENERALLY LOCATED
AT WEST "M" STREET AND SOUTH CODDINGTON AVENUE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 6, 2002

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

Staff recommendation: Denial

Proponents

1. **Terry Barber** appeared on behalf of the applicants, who have requested waivers from certain design standards that were made conditions of the subdivision of the parcel of land. The staff indicates that there are no unusual circumstances to justify the waivers. Barber suggested that without these waivers, the conditions for the subdivision will create an island's worth of improvements several blocks off of "O" Street, which will not be connected to "O" Street, will not be needed for anything related to the current use of the property, and will create unjustifiable expense. The subdivision was requested in order to straighten out title issues with the parcel. The desire is to divide the property appropriately. Barber acknowledged that if there is development in this area at some time in the future, the improvements that have been made conditions might make sense. But at this point in time, Barber believes that it makes more sense to grant the waivers now and wait until such improvements do make sense in this area.

There was no testimony in opposition.

Staff questions

Duvall noted that the property seems to be an industrial island. Tom Cajka of Planning staff clarified that the property is at the end of South Coddington. Public Works has made stipulation that there has been some talk about developing the area to the west, and as that area develops there could be potential for some redevelopment along Coddington Avenue. With increased traffic and density and being in an industrial area, staff believes that South Coddington should be brought to urban standards. Cajka further pointed out that S.W. 20th Street, just one block away, is paved with curb and gutter and storm sewer all the way from "O" Street to the railroad tracks. For future planning purposes, the staff believes there is a need to start here. The area does not have sidewalks or streets.

Dennis Bartels of Public Works does not disagree that there are problems for getting the pavement there. The logical thing to do is to pave all the way from "O" Street south to the limits of this plat. It is difficult to build the sidewalks and install the street trees until you've got the curb and gutter street section. There is also a pending plat immediately south of "O" Street adjacent to "N" Street. The Planning Commission considered a street vacation about a year ago which is on pending subject to some conditions and getting a plat. They would have the same issues with substandard paving for that subdivision.

Steward inquired whether there would be any possibility that this could be designated as a paving district. That was what Bartels was trying to say--Public Works would not object to it but there might be problems getting enough interest from property owners to force the paving

in. The City Council could force part of it in by gap paving, but sometimes they are reluctant to do it. Bartels is not willing to eliminate the pavement without at least an effort of trying to go through the process.

Steward sought clarification that there is no storm sewer service in this area. Bartels explained that the present drainage is just open drainage in the roadside ditches. This is lower than West "O" Street. The drainage from the street and/or the site will probably drain to the south to a ditch towards Middle Creek.

Carlson asked what would happen with curb and cutter. Bartels indicated that it will discharge at some location in the same direction.

Referring to the properties that do not have the streets, sidewalks, etc., Carlson inquired whether they received waivers. Bartels explained that the subdivisions that exist are old subdivisions where there were no requirements at that point in time.

Duvall inquired about the time line for Coddington in the CIP. Bartels stated that it is not in the CIP. At this point, it is just a local street. We would expect property owners to initiate the action to get it improved. The city would subsidize a district to do it. We do not program local streets for paving in the CIP.

Response by the Applicant

Barber reemphasized that the staff comments indicate they are looking somewhat into the future in standing by the conditions on the subdivision. Again, the applicants and other persons in this neighborhood are not going to argue the point that in the future, as the area develops, there is probably going to be a time to bring this up to urban standards, but this just isn't the time. We've done an informal canvas of the neighbors as far as creating a district with zero interest at this point in time. It doesn't make sense to force these conditions. It is only sensible to waive these conditions.

Steward confirmed with staff that if the Commission waives the design standards today, they are waived for good and not just delayed. Rick Peo of the City Law Department concurred that if the requirements are waived, the construction of improvements are gone. The only option would be to defer the timing of construction of the improvements, but if they are waived we don't have a second chance to come back in and ask for them. They would have to come in through a district by property owner petition.

Carlson moved to defer for two weeks, seconded by Newman. Carlson is offering a deferral because he is not prepared to create a time line. At this point, he is not inclined to vote in favor of waivers. He is hopeful that a time line might be constructed by the staff that might be more satisfactory.

Newman is not comfortable waiving the improvements.

Steward believes there may be opportunity to solve this situation that does not harm the property owner, i.e. to put some time characteristics to it, leaving the city with the option of ultimate improvement to standards.

Motion to defer with continued public hearing and administrative action scheduled for February 20, 2002, carried 6-1: Carlson, Bills, Steward, Krieser, Duvall and Newman voted 'yes'; Taylor voting 'no'; Hunter and Schwinn absent.

ANNEXATION NO. 01008;
CHANGE OF ZONE NO. 3195 AND CHANGE OF ZONE NO. 3253,
FROM R-3 RESIDENTIAL TO B-2 PLANNED NEIGHBORHOOD
BUSINESS DISTRICT;
and
USE PERMIT NO. 133,
ON PROPERTY GENERALLY LOCATED
AT S. CODDINGTON AVENUE AND WEST VAN DORN STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 6, 2002

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

Staff recommendation: Deferral of the Annexation; approval of the Changes of Zone and conditional approval of the Use Permit.

The applicant previously submitted a written request for a two-week deferral.

Carlson moved to defer with continued public hearing and administrative action scheduled for February 20, 2002, seconded by Newman and carried 7-0: Taylor, Carlson, Bills, Steward, Krieser, Duvall and Newman voting 'yes'; Hunter and Schwinn absent.

There was no public testimony.

CHANGE OF ZONE NO. 3351
FROM H-4 GENERAL COMMERCIAL
TO I-1 INDUSTRIAL,
ON PROPERTY GENERALLY LOCATED
AT S.W. 5TH STREET AND WEST “A” STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: February 6, 2002

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

Staff recommendation: Denial.

Proponents

1. **Mark Hunzeker** appeared on behalf of the applicant. Von Busch Refuse is currently located on 3rd and West “A” and is virtually being required to move due to the relocation of “A” Street as it goes over the railroad tracks east of this property. The overpass and rights-of-way are taking approximately 155' of Von Busch's existing location, making it necessary for Von Busch to move from its current location. Von Busch plans to build on this property.

Hunzeker went on to state that the problem with the existing zoning is that the setbacks required under H-4 and the parking requirements are excessive for this type of business. The property to the north is zoned Industrial; the property to the east is zoned Industrial; the property to the south is zoned Industrial. The area to the north is zoned Industrial from the north boundary of this property to West “O” Street. The property to the south is zoned Industrial along the entire frontage of this property. All of the property that is currently zoned H-4 is directly across from Industrial zoning. Thus, Hunzeker purported that the objection implicitly made that it is too close to residential simply does not hold. There is already Industrial zoned property much closer to the residential area that is currently in place.

Hunzeker further pointed out to the Commission that Von Busch has put a tremendous amount of work into this property. He has cleaned it up and placed fill to level it out, all the time with the intention of eventually using this property for some beneficial use. It was rezoned a couple of years ago from B-2 to H-4; however, Hunzeker recalls that the initial instinct was to zone it Industrial at that time, but it ended up being zoned H-4. S.W. 5th is a drainage way and will likely never be a street.

Hunzeker believes it is appropriate to rezone this property. There have been conversations about what might likely happen to this property. Bob Stephens of Stephens and Smith owns property on both sides, some zoned industrial and some highway commercial. Hunzeker believes Stephens would prefer industrial zoning as well.

Newman sought clarification as to why Von Busch cannot do business with the H-4. Hunzeker stated that the H-4 requires one parking stall for every 300 sq. ft. of building area. For his trucks and servicing, the size of the building will be something like 15,000 sq. ft. There will be an additional portion for office use that will be another 3,000 to 5,000 sq. ft.. The total is actually around 18,000 sq. ft., which projects to about 65 parking stalls. Von Busch couldn't use 65 parking stalls for a company picnic. And it is very expensive to provide this amount of parking and it constricts the site plan.

Other than the use of the building, Steward inquired whether Von Busch parks a significant number of trucks on the property. Hunzeker stated that all of the trucks will be parked within the new building. Steward's concern is that the property is in the floodplain. Hunzeker does not believe this property is in the floodplain because it has had some fill. Even if it is above flood elevation, Hunzeker is not sure there is a concern about flood elevations because of the use of the building primarily for parking of vehicles.

Steward is also concerned about environmental matters from a refuse process. What happens inside the building? **Jake Von Busch** explained that he does have a wash bay in the building to wash the trucks. They do the greasing and oil changing in this building; however, the main mechanic work is done at International Harvester. He maintains a piece of property on 3rd Street where all of the containers and roll-offs are located. That building on 3rd Street will also be used for repair.

Hunzeker suggested that there are regulations by Health with respect to wash bays and drainage pits, etc.

2. Bob Stephens of Stephens and Smith, owner of the property both to the east and west of the property in question, testified in support with one caveat – if the zoning on the Von Busch property is going to be changed from H-4 to I-2, then Stephens wants the same change on his property as well. The area is generally industrial. There is some residential to the west of both of these properties; however, he does not see the usage changing dramatically whether it be H-4 or I-1.

Steward inquired about the use of the property at S.W. 6th Street to the north and of the Stephens property. Stephens acknowledged that there is a single family home on that location and there are some single family and duplexes located generally to the west. Steward commented then that if there was an additional request to expand this I-1, obviously it would not include that parcel at "B" and S.W. 6th. Stephens believes that the property may already be zoned H-4 and sort of a nonconforming use today.

Stephens is willing to apply for a change of zone, also. He supported the H-4 zoning two years ago because he thought he could make that work. But if the zone is changed to I-1 and the Stephens property is the last little piece there, it makes more sense to zone the Stephens property I-1, also.

There was no testimony in opposition.

Carlson asked staff about the ownership of the remnant H-4. Brian Will of Planning staff advised that the single family home is zoned H-4. Carlson noted that the staff report indicates difficulty because the remaining H-4 does not meet the 5-acre minimum. Will clarified that if this particular application is approved, then the remaining H-4 within the area falls below the 5-acre minimum. There is a concern by staff about buffering the residential property to the west. He also clarified that the parking requirement in I-1 is one parking stall per 1,000 sq. ft.

Newman wondered whether there is any possibility to waive the parking requirements in the H-4 since the parking will be inside the building. Will suggested that there is certainly opportunity for the applicant to seek a variance of the parking standards and setback requirements within the H-4 district through the Board of Zoning Appeals.

Response by the Applicant

Hunzeker agreed that they could go to the Board of Zoning Appeals and ask for a variance. But the language of the Board of Zoning Appeals jurisdiction is something along the lines of being able to show circumstances of unique, peculiar or unusual circumstances that apply which create some sort of hardship. In this situation, he is not sure this is terribly unique, but it is certainly a hardship. Generally speaking, however, when we make that argument to the Board of Zoning Appeals, we have heard from staff that that means you must prove that you virtually have no use available to the property in order to claim that the variance is necessary to provide a reasonable use of the property. Hunzeker's argument has always been that that is the function of the Board of Zoning Appeals--to provide relief to allow for a reasonable use, not necessarily that there is no reasonable use without it. That is why we're here. There is no guarantee that we will be able to get a variance from the Board of Zoning Appeals. Usually when we ask for variance of parking, it is conditioned upon providing the space for the additional parking in the event that the use of the building changes in the future. This is not an area where you are likely to see much in the way of different type of use. It's just a function of how much land is going to be chewed up with setbacks and parking that is unnecessary.

Steward inquired about spending more time to make this a larger application. Hunzeker stated that Stephens is willing to make the application for his property and Hunzeker would

agree to a deferral of this application if it is possible to bring it forward quickly. His client would prefer not to wait. He does not believe that leaving less than 5 acres of H-4 creates a nonstandard issue. He would not disagree to having the changes of zone brought forward together.

Bills moved to defer four weeks, with continued public hearing and administrative action scheduled for March 6, 2002, seconded by Taylor. The purpose of the four-week deferral is to provide the opportunity to bring in the rest of the property.

Carlson agrees with deferral, but he is not sure how to blend the I-2 and the residential uses. With the application before the Commission now, he is not sure how the I-1 will lessen that.

Steward commented that he is not certain the I-1 is of any significant difference than the H-4 basically in terms of impact on this particular location and the residential uses. He does have a concern about the one property at the corner of "B" and 6th Street and how that is going to end up being treated in an extended application. He is also concerned about the small area along the creek, although the creek itself presents a good opportunity for a boundary definition. He believes these are two areas that are going to need to be resolved in the intervening time, as well as the other adjacent east and west properties.

Motion to defer four weeks, with continued public hearing and administrative action scheduled for March 6, 2002, carried 7-0: Taylor, Carlson, Bills, Steward, Krieser, Duvall and Newman voting 'yes'; Hunter and Schwinn absent.

ANNEXATION NO. 01007;

CHANGE OF ZONE NO. 3338

FROM AG AGRICULTURAL TO R-3 RESIDENTIAL;

CHANGE OF ZONE NO. 3339

FROM AG AGRICULTURAL TO O-3 OFFICE PARK;

SPECIAL PERMIT NO. 1930,

THOMPSON CREEK COMMUNITY UNIT PLAN;

PRELIMINARY PLAT NO. 01015, THOMPSON CREEK;

and

USE PERMIT NO. 141,

ON PROPERTY GENERALLY LOCATED

AT SOUTH 56TH STREET AND UNION HILL ROAD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: February 6, 2002

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

Jason Reynolds of Planning staff requested an additional two week deferral to continue to negotiate the annexation agreement with the applicant. He advised that there has also been a request from the property owner to the south to have some revisions to the site plan.

Bills made a motion to defer for two weeks, with continued public hearing and action scheduled for February 20, 2002, seconded by Carlson and carried 7-0: Taylor, Carlson, Bills, Steward, Krieser, Duvall and Newman voting 'yes'; Hunter and Schwinn absent.

There being no further business, the meeting was adjourned at 3:45 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on February 20, 2002.

F:\FILES\PLANNING\PC\MINUTES\2002\pcm0206.02.wpd