MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, September 10, 2008, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Gene Carroll, Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Jim Partington, Lynn Sunderman and Tommy Taylor (Leirion Gaylor Baird absent). Marvin Krout, Ray Hill, Mike DeKalb, Ed Zimmer, Brian Will, Tom Cajka, Christy Eichorn, Brandon Garrett, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Chair Gene Carroll called the meeting to order and requested a motion approving the minutes for the regular meeting held August 27, 2008. Motion for approval made by Sunderman, seconded by Cornelius and carried 7-0: Carroll, Cornelius, Esseks, Larson, Partington, Sunderman and Taylor voting 'yes'; Gaylor Baird absent; Francis absent at time of vote.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: September 10, 2008

Members present: Carroll, Cornelius, Esseks, Francis, Larson, Partington, Sunderman and Taylor; Francis and Gaylor Baird absent.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 08023, CHANGE OF ZONE NO. 08045, CHANGE OF ZONE NO. 08047, COUNTY CHANGE OF ZONE NO. 08044, COUNTY MISCELLANEOUS NO. 08010, STREET AND ALLEY VACATION NO. 08004; and STREET AND ALLEY VACATION NO. 08007.**

Ex Parte Communications: None

Item No. 1.3, Change of Zone No. 08047, was removed from the Consent Agenda and scheduled for separate public hearing.

Taylor moved to approve the remaining Consent Agenda, seconded by Larson and carried 7-0: Carroll, Cornelius, Esseks, Larson, Partington, Sunderman and Taylor voting 'yes'; Gaylor Baird absent; Francis absent at time of vote.

CHANGE OF ZONE NO. 08047
FROM H-3 HIGHWAY COMMERCIAL DISTRICT
TO I-1 INDUSTRIAL DISTRICT
ON PROPERTY GENERALLY LOCATED
AT NORTH 56TH STREET AND SUPERIOR STREET
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 10, 2008

Members present: Taylor, Cornelius, Esseks, Partington, Sunderman, Larson and Carroll; Gaylor Baird and Francis absent.

Ex Parte Communications: None.

Staff recommendation: Approval.

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

Staff presentation: **Brandon Garrett of Planning staff** presented the proposal for change of zone at the northwest corner of N. 56th & Superior, currently occupied by a service station. The applicant requested a meeting with staff, indicating that the plans for this property included razing the existing building and constructing a new, larger facility, also a service station, perhaps with more pumps and more floor area. In developing the site plan, the applicant realized that H-3 required a 15' side yard setback and in this development they were wanting a 5' side yard setback. Thus the request for a change of zone to I-1 industrial, which has zero setbacks when adjacent to another commercial or industrial property. The other option would have been a text amendment to H-3 to reduce the side yard setback.

Proponents

1. Mark Hunzeker appeared on behalf of **Casey's General Stores**. Casey's has acquired the Gas N Shop locations in Lincoln and is in the process of upgrading and modernizing all of its stores in Lincoln. This location is not a nonconforming use because it is on commercial zoned land which is not within 100 feet of any of the uses affected by the alcohol special permit. As they planned for the improvements on this site and reconstruction of a new building, the changes in the setback and landscaping requirements at the front of the site do affect the ability to fit the new store and canopies in front of the store that are necessary to modernize the location. Staff was also comfortable with a text amendment to change the H-3 setback, but the applicant believes it to be a lesser change to go with the rezoning of this site inasmuch as the zoning to the west, south and east is all

I-1. Hunzeker suggested that the likely use of this area in the future is probably going to be heavy commercial to industrial type use. Therefore, a rezoning to I-1 appears to be more appropriate.

Esseks inquired whether this applicant needs the zero setback. Hunzeker indicated that they can develop the site with a 5' setback. A text change would have affected all the property in the City zoned H-3. The applicant chose I-1 knowing there would be enough room to build this site without necessarily affecting other sites.

Opposition

1. David Walker testified in opposition. He sold 40 feet to Casey's Stores, but when he sold them the property he assumed there would be a 15' setback, keeping the buildings 30 feet apart. They knew that they had the 15' setback when he sold them the property and he sold it to them as H-3. If they are allowed to butt up to the property line, he believes it will have an effect on his commercial property. His property is not industrial. He believes it will hurt the resale value of his property in the future. Walker's property is owner-occupied. Casey's entered into an agreement to purchase the building and Walker evicted the tenants. Then Casey's pulled out of the sale so it is currently vacant and he is trying to either sell it or re-rent it. His property is the building directly to the north.

Staff questions

Esseks asked staff for direction. He believes Mr. Walker has a legitimate concern.
Garrett stated that from a pure land use perspective, the proposed use by the applicant is the same physical use as what exists today. He understands that the applicant is proposing a building that would be closer to the building to the north; however, due to the recent subdivision with the Walker Addition final plat last year, it shifted the property line, maintaining a 15' setback from the building and the property line for the property to the north. Now the property to the south stands on its own and this change of zone from H-3 to I-1 would allow a building setback of zero.

Response by the Applicant

Hunzeker believes this is an improvement because the existing canopy is literally out at the corner of 56th & Superior Streets. The improvement will bring the canopy back to the front of the building, moving the building to the north. He is perplexed by the argument that a zero setback on this property is going to adversely affect commercial property to the north. An intense use is permitted and encouraged all the way through the commercial zoning districts in Lincoln. The Comprehensive Plan has numerous references to encouraging higher intensity commercial uses. We are in a mode in Lincoln of needing to maximize the use of existing commercial areas and this will be some small step in that direction. Hunzeker does not believe that this change will adversely affect the value of the property to the north and probably enhances the value in that it makes it almost a matter of right if

he chose to rezone to industrial. The industrial zoning of the property expanding the uses available and reducing the setbacks would do more to enhance the value of Mr. Walker's property. He does not believe this is a matter of property value. It enables this property owner to make a good use of this property and improve what exists today.

Hunzeker did not have a sketch of the new building, although it is a fairly standard convenience store layout with the building to the north and canopies to the front. There is a landscaping strip along both Superior and 56th Street in accordance with design standards. The building will be approximately 40' deep by 90' long. The east/west dimension of the property is 200+ feet. The new building will move about 25-35 feet to the north with a 5' setback.

ACTION BY PLANNING COMMISSION: September 10, 2008

Larson moved approval, seconded by Sunderman.

Esseks asked the Chair his opinion because of his background in development. Carroll stated that he will vote in favor of the motion. He does not believe it affects the property owner to the north. Industrial zoning would probably benefit the property to the north. The new lot line does not affect the property to the north. Carroll thinks it is a great change for this site and an improvement for this site.

Motion for approval carried 7-0: Taylor, Cornelius, Esseks, Partington, Sunderman, Larson and Carroll voting "yes"; Gaylor Baird and Francis absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 08030, TEXT AMENDMENT TO TITLE 27;
CHANGE OF ZONE NO. 08031, LANDMARK DESIGNATION;
and
SPECIAL PERMIT NO. 08027,
FOR A CARRIAGE HOUSE,
ON PROPERTY LOCATED AT
1256 FALL CREEK ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 10, 2008

Members present: Taylor, Cornelius, Esseks, Partington, Sunderman, Francis, Larson and Carroll; Gaylor Baird absent.

Ex Parte Communications: Larson stated that he drove by the property at the request of the applicant.

Staff recommendation: Approval of the text amendment and Landmark designation, and conditional approval of the special permit.

Staff presentation: **Ed Zimmer of Planning staff** advised that the Historic Preservation Commission has recommended approval of all three applications. The landmark application is for the Robert Griswold House, built in 1935. Piedmont had a unique covenant on property development at that time. Rather than establishing yard setbacks, it required geometric placement at the center of the property, which raises some of the issues which this package tries to address. The recommendation is designation as a landmark for its architectural quality.

The text change would enable the special permit being requested by adjusting height and area requirements, which trip up this project. The City Council will have the authority, after review by Historic Preservation Commission and Planning Commission, to adjust the height and area requirements.

The special permit was reviewed by the Historic Preservation Commission for its appropriateness to this building and it has their affirmative recommendation that this carriage house (garage combined with a dwelling unit) would fit well on this property and is characteristic of this landmark.

Zimmer also advised that Carl Rohman, neighbor to the south, has indicated his support by phone call to Mr. Zimmer.

Esseks confirmed that the carriage house would be on the same parcel as the house and could not be sold separately. Zimmer confirmed that this is not a subdivision and it does not try to create a lot that could be subdivided. The lot could have a duplex at this time.

Carroll observed that once the property gets landmark designation, the ordinance requirements are more strict. Zimmer agreed, acknowledging that there would be a review of all changes or alterations to the property. The special permit is only by grace of the landmark designation. The landmark special permit is very tightly bound, short of a preservation easement on the property.

2. Charlie Ogden, the applicant and owner who lives in the Griswold House, testified in support. He is the third owner of the house. He purchased the property in 1992. The house was originally a three bedroom house, but it is now a two-bedroom house with a noncomplying bedroom in the basement. He designed the proposed carriage house and has worked with the Historic Preservation Commission in coming up with an acceptable design.

Larson sought confirmation that this would not be a second dwelling unit but just supplementary space. Ogden views it as a carriage house to increase the garage space – it would have a work room for his retirement and a potting shed with opening to the back yard. On the second floor it would have a larger room and a smaller room that could serve as a bedroom, with a bathroom and a wet bar. It could serve as a granny flat or a guest house. It would not really be a “dwelling” unit.

Zimmer explained that it is being described as a dwelling unit because it has plumbing and space that could be living space, although the applicant does not intend to use it as such.

3. John Badami, DLR Group, the architect for the project, showed a color photograph of the rear of the house to emphasize that the materials that are being used are in the same character and quality as the existing home. The applicant has gone to great extent with the details to match the existing house. The reason they are locating this carriage house at its current location is to create new drive aisle widths for the new garage and to pay respect to the historic designation of the house as a stand alone building.

There was no testimony in opposition.

CHANGE OF ZONE NO. 08030
ACTION BY PLANNING COMMISSION: September 10, 2008

Larson moved approval, seconded by Francis and carried 8-0: Taylor, Francis, Cornelius, Esseks, Partington, Sunderman, Larson and Carroll voting 'yes'; Gaylor Baird absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 08031
ACTION BY PLANNING COMMISSION: September 10, 2008

Francis moved approval, seconded by Larson and carried 8-0: Taylor, Francis, Cornelius, Esseks, Partington, Sunderman, Larson and Carroll voting 'yes'; Gaylor Baird absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 08027
ACTION BY PLANNING COMMISSION: September 10, 2008

Larson moved to approve the staff recommendation of conditional approval, seconded by Esseks.

Carroll thanked the applicant for going through this long process. It will be an excellent addition to the site and he appreciates the applicant taking the time to do it right.

Motion for conditional approval carried 8-0: Taylor, Francis, Cornelius, Esseks, Partington, Sunderman, Larson and Carroll voting 'yes'; Gaylor Baird absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 08038
FOR EXPANSION OF A NONCONFORMING USE
ON PROPERTY GENERALLY LOCATED
AT NORTH 48TH STREET AND DUDLEY STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 10, 2008

Members present: Taylor, Cornelius, Esseks, Partington, Sunderman, Francis, Larson and Carroll; Gaylor Baird absent.

Ex Parte Communications: None.

Staff recommendation: Conditional Approval.

Staff presentation: **Brandon Garrett of Planning staff** stated that the Commission had received one letter in opposition. Garrett also explained that this same exact application came before the Planning Commission on June 20, 2007. The Planning Commission approved the permit with a condition that the applicant construct an 8' fence all the way around the outdoor deck. That condition was requested by the representative of a nearby property owner that was in opposition. The applicant did not agree with the fence requirement; however, he did not appeal that decision to the City Council within the 14-day appeal period. After a time when the applicant did not return the Letter of Acceptance of conditional approval, that application was voided.

This is a new application, but basically the same request. Garrett showed a photograph of the deck, which is existing, with direct access through a door into the restaurant known as EJ's Lounge. The deck is separated from the parking lot by the railings and there is a gate with steps to the parking lot for customers to access the restaurant. There is a taller opaque fence on the north side of the deck. The property owner that spoke in opposition is the same property owner in opposition today. The deck is just over 75' from the park. The property line to property line, corner to corner, from the person in opposition is approximately 185'. The building distance to the house in opposition is approximately 300', and from the house to the deck would be about 450'.

Esseks pointed out that the fence required by the Planning Commission last time would begin at ground level and go up 8'. He does not believe it would go that far above the railing of the existing deck if it were from the ground. Garrett concurred. However, the applicant has made it clear that he is not interested in totally enclosing the deck area and that is why he has reapplied.

Francis inquired whether there are any other examples of "beer gardens" that don't have much more fencing. And how are the persons operating the lounge going to see the patrons outside? She does not see any windows. She does not believe they will have good

control of the patrons on that deck without some visual opportunities. Garrett believes that the door leading into the building has a double window. He does not know whether there will be staff policing the deck.

The applicant was not present.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: September 10, 2008

Esseks moved to approve the same resolution as adopted in 2007, including the 8' fence from the ground up around the perimeter of the deck, seconded by Cornelius.

Esseks stated that he drove over there this morning and the issue he remembers last time was what happens if the patrons get liquored up and wander over toward the park. The fence would be somewhat of an impediment to that. He saw dozens of cigarette butts so it looks as though patrons currently go over to the park. And it seems like the objection of the property owners who live adjacent to the park, including the family in opposition, has merit, particularly since we do have a provision in the ordinance which says there must be a certain separation between this property and the park or residential uses.

Cornelius agrees with Esseks. Further, this body came up with this resolution once and he does not see that the conditions have changed since then. He thinks it is prudent to make the same recommendation again.

Carroll observed that the Planning Commission required the 8' fence previously, and the applicant has made it known that he does not want to put a fence there. Therefore, Carroll indicated that he is inclined to deny the special permit because the applicant does not want to follow the rules and because the applicant is not here today.

Motion for conditional approval, with amendment to require the 8' fence, failed 3-5: Taylor, Esseks and Sunderman voting ‘yes’; Francis, Cornelius, Partington, Larson and Carroll voting ‘no’; Gaylor Baird absent.

Cornelius moved to deny, seconded by Taylor and carried 7-1: Taylor, Francis, Cornelius, Esseks, Partington, Larson and Carroll voting ‘yes’; Sunderman voting ‘no’; Gaylor Baird absent. This is final action, unless appealed to the City Council within 14 days.

STREET & ALLEY VACATION NO. 08006
TO VACATE A PORTION OF NORTH 9TH STREET
AND TO VACATE "X" STREET FROM THE WEST
LINE OF NORTH 9TH STREET TO THE EAST LINE
OF NORTH 8TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: September 10, 2008

Members present: Taylor, Cornelius, Esseks, Partington, Sunderman, Francis, Larson and Carroll; Gaylor Baird absent.

Ex Parte Communications: Esseks indicated that he had a discussion with staff.

Staff recommendation: A finding that the vacation of 9th Street and the vacation of "X" Street from the east line of the north-south alley in Block 6 to 9th Street is in conformance with the Comprehensive Plan; and a finding that the vacation of the alley abutting Lots 5 and 6, Block 3, and Lots 1 and 12, Block 6, North Lincoln Addition, is not in conformance with the Comprehensive Plan.

Staff presentation: **Tom Cajka of Planning staff** explained that this is a request to vacate "X" Street between 8th and 9th, and to vacate 9th Street from "W" to one lot north of "X" Street. Both sides of 9th Street are owned by Capital Contractors, along with other lots. The only parcel not owned by the petitioner is on the south side of "X" Street. The staff has no objection to vacating 9th Street with there being industrial uses on both sides and owned by the same property owner, to allow them to incorporate it into their business.

However, staff is recommending that from the east side of the alley back to 8th Street remain open because it provides some better circulation from the alley, especially from "W" Street. In addition, the south side is zoned R-4 so even if it was vacated the industrial use could only use the north half of "X" Street.

Cajka pointed out that not all of this proposal complies with the Antelope Valley Redevelopment Plan. That Plan shows all of this area as mixed types of residential; however, Capital Contractors has been there for many years and the likelihood of relocating in the foreseeable future is pretty slim.

If these streets are vacated, the subdivision ordinance requires that all platted lots have frontage and access to a public or private street, so a final plat is one of the requirements of this street vacation. Another requirement is that "W" Street would dead-end and 9th Street would dead-end so some type of turnaround would have to be constructed. Even though the staff is recommending not to vacate west of the alley, the alley does not go all the way to "X" Street at the present time. An additional requirement is that the petitioner construct the necessary improvements to "X" Street to enable the alley to connect to "X" Street. There is an open ditch on the south side of "X" Street at the present time.

Carroll pointed out that the alley on the north side of "X" Street goes through to "Y" Street.

Proponents

1. Mark Hunzeker appeared on behalf of **Capital Contractors,** which has been located in this vicinity since 1925 and has been acquiring additional properties as business expansion needs dictated over a long period of time. Capital Contractors owns all property abutting the proposed vacated 9th Street as well as three of the four lots that abut "X" Street. They need to move materials from one building to the other and potentially enclose their industrial campus. There is some truck traffic entering and leaving the site. The traffic going north and south is limited to UPS type vehicles; "X" Street does go through over to the stadium and out to Sun Valley Blvd., which is where all of the heavy truck traffic enters and leaves so it does not go through the neighborhood to the north. They did discuss the possibility of vacating the alley with a public access easement, but whether the alley is vacated or not is not terribly important.

With respect to "X" Street, Hunzeker does not believe the petitioner will object to not vacating the area west of the north/south alley; however, if the petitioner provides an access that crosses the ditch on the south side of "X" Street, there will be a continuous alley that will run all the way to "Y" Street. Hunzeker suggested that vacating that is something that is appropriate.

Hunzeker acknowledged the requirement for a conservation easement; however, the details and language of that easement have not yet been negotiated. To the extent that any improvement might be made on any of the vacated right-of-way, it should be possible to offset that with some sort of grading of some of the other parts of the property in order to create a no net fill situation. They will probably need to negotiate this issue as part of the conservation easement.

Carroll asked whether the petitioner is in agreement with the staff recommendation. Hunzeker agreed, as long as that recommendation vacates "X" Street east of the alley and all of the 9th Street area requested. They will work with Public Works on the turnarounds and other issues.

Francis inquired whether 9th Street is currently used for employee parking. Hunzeker did not know. There is parking on the street but it is also open to traffic. Francis also inquired whether the house on the corner of "W" and 9th Street has been vacated.

Frank Sidles, the applicant and owner of **Capital Contractors,** indicated that principally, the parking is all employee parking, except on football weekends. The heavy traffic moves west. "X" Street is open all the way to the baseball park. Capital Contractors is trying to look to the future and will probably need to expand to the west because they are running

out of space for the handling of materials. He believes that expansion will occur within three to four years and they shouldn't need any further expansion beyond that nor need to relocate in the near future.

Sidles stated that the house at "W" and 9th Street has been removed. The lots facing on North 9th Street are all vacant.

Opposition

1. Becky Schenaman, 817 Y Street, is opposed to vacating the alley between "W" and "X" Street. Her house sits four feet off that alley on the north corner of "Y" Street. When the traffic comes by her house, especially the big vehicles, it shakes her house and she cannot have more traffic coming off of "W" Street down that alley. The baseball traffic parks and they come through the alley. She tries to maintain her home. She does not oppose vacation of 9th Street, but the alleyways affect her home and she wants her land protected. Why can't her end of the alley be closed? Her house was built in 1895.

Esseks confirmed with Schenaman that because of the proposed closures, she believes she will have more traffic on the alley next to her home. Schenaman agreed. She does not care about the streets. She also indicated that she is happy to have Capital Contractors for a neighbor because she does not trust what Urban Development would put in there given the chance to redevelop.

Staff questions

Esseks observed that the purpose of alleys is to allow adjacent owners improved access to the public road system. Ms. Schenaman is arguing that her alley becomes more of a through street with this vacation. Cajka suggested that her argument may have more weight if the entirety of "X" Street were vacated, which is not the staff recommendation. If "X" Street is only vacated up to the alley, then people from the south can still turn on "X" Street. 8th Street is a paved road, the alley is gravel. If "X" Street was closed all the way, there could potentially be more traffic on the alley. The applicant is not opposed to leaving that part of "X" Street open.

Esseks also observed that Hunzeker has suggested that because this is the older developed part of the city, the city cannot impose a conservation easement upon his client. But if we are closing public land, is there adequate authority to impose a conservation easement? Cajka pointed out that the Comprehensive Plan states that if we surplus or vacate public property in the 100 year floodplain, a conservation easement should be put over that property or somewhere else of an equal amount.

Dennis Bartels of Public Works advised that Watershed Management has allowed an area in the general vicinity for the conservation easement in the past. It is a Comprehensive Plan requirement to minimize the fill that might be done in the floodplain. He believes it could be traded around later.

Cajka also pointed out that there are utilities within the street rights-of-way, so utility easements will need to be maintained over the right-of-way if it is vacated.

Response by the Applicant

Hunzeker noted that "X" Street is paved and the property owners south of "X" Street are more likely to go out onto "X" Street and over to 8th Street than continue down the alley. The applicant is willing to go along with the staff's recommendation. He agrees that the conservation easement is appropriate, but the terms of the easement are going to have to be negotiated.

ACTION BY PLANNING COMMISSION: September 10, 2008

Sunderman moved to approve of the staff recommendation, seconded by Francis:

Vacating 9th St.	Conforms to the Comprehensive Plan
Vacating "X" St. from the east line of the north-south alley in Block 6 to 9th St.	Conforms to the Comprehensive Plan
Vacating the alley abutting Lots 5 and 6, Block 3 and Lots 1 and 12, Block 6, North Lincoln Addition.	Not in conformance with the Comprehensive Plan

Taylor remembers seeing this previously and he has a lot of sympathy for Ms. Schenaman, but based upon the information before the Commission today, he is going to agree.

Cornelius believes that a compromise has been reached that is amenable to the city and the applicant, which also addresses the concerns of the property owner in the area by allowing traffic to turn onto "X" Street.

Francis believes this is a reasonable request.

Motion to approve the staff recommendation carried 8-0: Taylor, Francis, Cornelius, Esseks, Sunderman, Partington, Larson and Carroll voting 'yes'; Gaylor Baird absent. This is a recommendation to the City Council.

ANNEXATION NO. 08006
and
CHANGE OF ZONE NO. 08041,
PINE WOODS PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED
AT 70TH STREET AND PINE LAKE ROAD.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 10, 2008

Members present: Taylor, Cornelius, Esseks, Partington, Sunderman, Francis, Larson and Carroll; Gaylor Baird absent.

Ex Parte Communications: None.

Staff recommendation: Approval of the annexation, subject to an annexation agreement, and conditional approval of the planned unit development.

Staff presentation: **Brian Will of Planning staff** submitted a letter from Dr. Tom Gapp, not necessarily in opposition, but he is voicing concerns about traffic and safety.

These applications include two parcels. One of the lots is already in the City Limits. The change of zone covers both parcels. There are two adjustments to lot area from 5,000 to 4,300 square feet, which staff is recommending be approved. The other adjustment is a modification to design standards to allow sanitary sewer to flow opposite street grade, and staff is recommends approval.

Esseks asked staff to respond to Dr. Gapp's concerns. Will referred to the condition in the staff report which requires compliance with the Public Works comments, including:

> ...200' right and left turn lanes need to be shown in Pine Lake Road at 69th Street and in South 70th Street at the proposed temporary drive per current Public Works policy.

Dr. Gapp is concerned about vehicles northbound on 70th Street. That condition would require a turn lane in 70th Street to accommodate those left turning vehicles.

Proponents

1. Mike Marsh, Realty Trust Group, one of the owners of the property, testified as the applicant. He stated that they have worked very hard with staff on this proposal and he agreed with all conditions of approval, with a couple of amendments.

In response to Dr. Gapp's comments, all of the high traffic uses like convenience stores and fast foods have been eliminated.

Marsh believes he has reached agreement with staff on an amendment. There is an access that will be available when Revere is constructed. With regard to 69th Street, he is in agreement with staff that the adjacent ingress/egress will be vacated upon S. 69th Street going through. He is proposing to give the neighbor access to 69th Street.

Will agreed that Public Works has agreed to a modification of their comment in that if these two property owners can't come to some agreement, Public Works will assist and use their authority to make that occur. This does not require an amendment to the conditions of approval.

The request by the applicant to modify Condition #2.2 is also acceptable to staff:

2.2 Label the driveway onto South 70th Street as "TEMPORARY", and revise General Note #5 to include the following sentence: "THE TEMPORARY DRIVEWAY ONTO SOUTH 70TH STREET TO BE REMOVED AT SUCH TIME AS SOUTH 69TH STREET IS EXTENDED TO THE SOUTH OF THIS PROPERTY AND THE INTERSECTION OF SOUTH 70TH STREET AND REVERE LANE IS CONSTRUCTED."

There was no testimony in opposition.

ANNEXATION NO. 08006
ACTION BY PLANNING COMMISSION: September 10, 2008

Taylor moved approval, subject to an annexation agreement, seconded by Francis and carried 8-0: Taylor, Francis, Cornelius, Esseks, Sunderman, Partington, Larson and Carroll voting 'yes'; Gaylor Baird absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 08041
ACTION BY PLANNING COMMISSION: September 10, 2008

Taylor moved to approve the staff recommendation of conditional approval, with amendment to Condition #2.2, seconded by Francis and carried 8-0: Taylor, Francis, Cornelius, Esseks, Sunderman, Partington, Larson and Carroll voting 'yes'; Gaylor Baird absent. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 2:35 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on September 24, 2008.