

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, July 11, 2001, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

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

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Russ Bayer called the meeting to order and requested a motion approving the minutes for the regular meeting held June 27, 2001. Schwinn made a motion for approval, seconded by Newman and carried 5-0: Bayer, Duvall, Newman, Schwinn and Steward voting 'yes'; Krieser abstaining; Carlson, Hunter and Taylor absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION BEFORE PLANNING COMMISSION:

July 11, 2001

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

The Consent agenda consisted of the following items: **CHANGE OF ZONE NO. 3325; COUNTY PRE-EXISTING SPECIAL PERMIT NO. 8A; COUNTY SPECIAL PERMIT NO. 188; FINAL PLAT NO. 99006, FAIRFIELD CENTRE 2ND ADDITION; FINAL PLAT NO. 01002, KNIGHTS COURT ADDITION; FINAL PLAT NO. 01008, HARTLAND HOMES EAST 4TH ADDITION; and MISCELLANEOUS NO. 01005.**

Item No. 1.2, County Pre-Existing Special Permit No. 8A, and Item No. 1.4, Final Plat No. 99006, Fairfield Centre 2nd Addition, were removed from the Consent Agenda and scheduled for separate public hearing.

Steward moved to approve the remaining Consent Agenda, seconded by Krieser and carried 6-0: Bayer, Duvall, Krieser, Newman, Schwinn and Steward voting 'yes'; Carlson, Hunter and Taylor absent.

Note: This is final action on the Knights Court Addition Final Plat No. 01002 and the Hartland Homes East 4th Addition Final Plat No. 01008, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by Planning Commission.

FINAL PLAT NO. 99006,
FAIRFIELD CENTRE 2ND ADDITION,
ON PROPERTY GENERALLY LOCATED
AT NO. 25TH STREET AND FAIRFIELD STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 11, 2001

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

Planning staff recommendation: Approval.

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

1. **Jason Reynolds** of Planning staff requested a two-week deferral to allow LES to fully review the proposed easements for utilities. The Applicant is aware and understands the reason for the deferral.

Duvall moved to defer two weeks, with continued public hearing and administrative action scheduled for July 25, 2001, seconded by Krieser and carried 6-0: Krieser, Newman, Duvall, Steward, Schwinn and Bayer voting 'yes'; Carlson, Taylor and Hunter absent.

COUNTY SPECIAL PERMIT NO. 8A
TO EXPAND A COMMERCIAL FEEDLOT FOR
TURKEYS, ON PROPERTY GENERALLY LOCATED
AT NO. 148TH STREET AND MILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 11, 2001

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

Planning staff recommendation: Conditional approval.

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

Proponents

1. **Bill Bevans**, the applicant, requested that the staff report and recommendation be adopted for the turkey production facility, which is currently operating under a pre-existing special permit. This expansion will allow up to 120,000 sq. ft. of confinement turkey barns for 100,000 head of turkeys. The plans for the two 50 x 1000 buildings are still under development. Bevans requested that he be allowed some flexibility in the final design plan within the realms of the square footages and number of head.

Bevans views this application as replacing the aging and increasingly outdated and inefficient facilities used on the farm located south of Waverly. While the intent is to continue to use those facilities, he will not be rebuilding them in the future when they blow away in wind storms. The existing operation will permit only two flocks per year through the buildings because they are not designed for cold weather. With this expansion proposal, he will be able to have seven flocks per year.

Bevans markets turkeys cooperatively at Gibbon. He is very much involved in operating that business. The plant requires turkeys year round in order to run efficiently, just as any manufacturing plant. He does not want summer and fall turkeys that are not matched by winter and spring production. He needs year round production facilities to meet the needs of the plants and markets.

Bevans submitted that the location is rather isolated. There is no intersection at N. 148th and Mill Road. It is a road that does not go anywhere and the development along 148th is mostly commercial. Along No. 148th there is National Crane, then the Farmers Coop Elevator site used for anhydrous propane and fuel storage, then a small fiber optics transfer station, then a sandblasting operation. The city's waste treatment facility enters off 148th at about that point. Next down the road is the old city dump site still surrounded by chain link fence; now you are at the curve in the road and you come to the existing turkey barn on the east side. The proposed facilities will fit in well with the existing land use in the area. This will be clean and odor free with very little dust. The summer time wind is from the south and to the north is farm ground and Salt Creek. To the south of the site there is only an existing turkey barn and farm ground. The neighbors to the east on Mill Road are the only people anywhere close and they are ½ mile from the site.

Bevans has visited with the neighbors. He has outlined his manure handling plan in a separate document. The manure stays in the barns where it is dry and odor free and he will do a major cleanout in December and January. He will not stockpile manure for long periods of time. It will be applied to farm ground using best management practices provided by NDEQ. The area farmers will take the manure away to their farm ground. The

site is isolated enough that odors that do exist will not cause anyone any problems. The turkey operation is exempt from a waste control facility because of the nature of the waste product and how they operate the facilities. NDEQ will be giving him another letter of exemption after evaluation on July 9th. The only down side is that it is prime soil which he hates to take out of crop production.

Opposition

1. Roger Schutte, 17805 So. 168th Street, Springfield, testified in opposition. His wife owns property that is very close to the subject property. This will be quite a large operation. It is no longer the ordinary farm that has a few cattle, chickens, pigs or turkeys. Any number of states around the country and numerous counties are currently struggling with operations like this. 55,000 turkeys is equivalent to 1,000 feeder cattle. 100,000 turkeys will make this operation in the category of concentrated feeding operations. A concentrated feeding operation is a serious negative factor for anyone living around it. 77,000 turkeys would relate to 1500 feeder cattle. He is opposed to the two barns equaling 100,000 sq. ft. of barn area. Outside of the existing barn is a big yard on each side that is currently full of turkeys. With this expanded operation, that will become even more of a factor.

Schutte believes we need to look further ahead. A key issue is odor. Zoning is first and foremost a preemptive and prospective strategy. It influences the shape of future development. The current situation does not reflect what we will see in the future.

Elkhorn and Gretna used to be like Waverly and now they are on the outskirts of Omaha and there is little separation between the two. As he drives around Waverly, there is housing to be developed on the west; housing on the south side of the community toward the interstate; residential development on the east side; and there will be residential development on the north side. This plan calls for park buffers.

Once the eastern loop is developed around this city, Schutte believes it may join the interstate at the Waverly interchange. Once that interchange is tied to the loop, Waverly will experience explosive growth. As you look down the road and plan for the future, it would seem that approving this turkey operation would be very nearsighted. Somewhere down the road there will be pressure for people to want to live in that area and this turkey operation will be a really big problem.

Schutte stated that he purchased the property because he does not believe it is always going to be agricultural and he does not believe the turkey farm will help the value of his property at all. While there may be no impact today, the Planning Commission needs to consider the future and he does not believe this application should be approved.

Steward inquired how long Schutte has owned the property. Schutte stated that he

purchased it in two different parcels, one 8-10 years ago and the other 3 years ago. The existing turkey operation was there when he purchased the property and he is not asking that anything change. He just does not want it to get any bigger. His property is currently being farmed.

Staff questions

Bayer inquired as to the Comprehensive Plan designation for this area over the next number of years. Mike DeKalb of Planning staff stated that the property is shown as agricultural within the planning period. The City is 4-5 miles away. Waverly did not respond to this application. Waverly is currently updating its Comprehensive Plan and DeKalb believes there will be a new version available in August of this year. Waverly is one mile away. The next use directly south of this land is industrial.

Steward inquired about floodplain. DeKalb stated that Salt Creek is across the road to the north. The floodplain is contained by the elevation of the road. There is no floodplain on this property.

Response by the Applicant

Bevans acknowledged that the current turkey operation has a pen on each side of the barn, but the facility he is proposing will not have outside pens. The birds will be contained in the barn and he will discontinue use of runs outside because it creates more dust and potential odors when it rains.

Bevans further stated that he has been raising turkeys in the area for more than 50 years. Most of the operation is south of Waverly along 148th, and there is a lot of residential development up and down that road. Some of the neighbors live less than 1/4 mile from the existing confinement facilities at 148th & Alvo Road and Bevans has never had a complaint. None of his neighbors are here today in opposition.

In comparison to a cattle feedlot, the result from feeding turkeys is not the same as cattle and pigs because the turkeys produce a very dry waste and they do not have to deal with urine. There are no lagoons and no pits. As long as they keep the manure in the barns, it recycles nicely and they add shavings. He does not believe the odor is a problem if you are 200 yards away.

Bevans has 15,000 head today. The old facilities are south of Waverly and he probably won't be rebuilding them. He anticipates that he might be able to use the existing buildings for the next 10 years. He views this as a replacement operation for the future.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

Duvall moved to approve the Planning staff recommendation of conditional approval, seconded by Schwinn.

Schwinn expressed appreciation to the applicant for his presentation. It was impressive and informative. Anytime we can help an agricultural industry, we need to do so. Schwinn appreciates what Bevans has done to upgrade the operation.

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

**SPECIAL PERMIT NO. 1921,
FOR A WIRELESS COMMUNICATIONS FACILITY
ON PROPERTY GENERALLY LOCATED
AT 5301 MADISON AVENUE.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 11, 2001

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

Planning staff recommendation: Conditional approval.

Proponents:

1. Harvey Cooper appeared on behalf of **Cricket Communications**. This is Cricket's first appearance before the Planning Commission in Lincoln. Cooper gave an overall picture of what Cricket expects to do in Lincoln. Cricket is headquartered in San Diego. The Cricket phone is unlike other wireless phones—they call it "the around town phone"—meant to be a replacement for wired phones. It is not meant to compete directly with other wireless communication. The phone is only good in the market. It only works here. It is not meant to be a truly mobile phone. It is a prepaid plan with a flat rate of between \$30-\$35 plus tax per month; it is unlimited time in and out; long distance is only available by prepayment. Other cell phones are meant for people who travel a lot. The Cricket phone is geared to the people who never leave the market; it is meant for spouses who never leave the area but would like to have a phone they can use at home and across the city; it is perfect for the high school student; and it is perfect for the college student who can use it as their phone rather than buying a wired phone for their dorm room and carrying a wireless phone. Cricket is unique because it gears for another level of the population—the people who can't get the credit to buy the other cell phones. This does not require a credit check because it is prepaid. It gets a greater market share at the bottom of the populous by enabling people who cannot get a wireless phone.

In Lincoln, Cricket plans to do blanket coverage on the first build in the city with 23-24 sites on the I-80 Corridor and Omaha. Of the 24 sites, 50% are projected to be collocations (11 sites). Of the remaining 50%, 25% are projected to be rooftops (6); that leaves about 6 more sites that would be raw land sites. Of the six remaining raw land sites they are looking at one flag pole replacement, one light pole replacement on a football field, and one light pole with stealth antennas. That will be 2-3 sites. Cricket's intent is to try to limit the impact on the city.

The system would also have ground equipment—two to three cabinets initially, eventually with six cabinets, which will be screened according to the ordinance, 5' high, 3' deep and 2' wide.

The site for this application is Nebraska Wesleyan by putting antennas on the Centennial Hall dormitory. They will be putting antennas on the south and north sides. The equipment will be on the rooftop, hidden behind a fence painted to match the brick. The antennas are set back 11 feet.

This site will cover Nebraska Wesleyan and the neighboring residential areas. This is the first of the Cricket sites, many of which will be hidden, collocations, stealths and rooftops.

Carlson inquired how many customers Cricket will carry at one sourcing site. What is the capacity? **Ken Weber**, private consultant for Cricket, responded that in general, the design is for a population between 5,500 and 10,500. It is usually in the 4,500 to 5,500 range in the metro areas. On the Wesleyan campus it will be slightly larger than that. This site is anticipated to be about 7,500.

Carlson asked whether they will be able to increase capacity without adding other sites. Weber stated that they can add antennas at each of the three locations on the building, which would double the capacity. There is also capacity for more on the rooftop.

Carlson inquired whether Cricket is required to have a triangular array. Weber stated that in general, the triangular array would be the first look. There is technology available to get tighter in. You do lose capacity when you hide the antenna too much.

Carlson inquired whether they need the additional height up and above the building. Weber indicated that to be primarily a construction issue from the owner--the owner did not want Cricket to attach to the facade and they could not attach to the face of the penthouse.

Steward asked whether Cricket has extensive coverage in other cities. Cooper stated that Cricket is a new venture; however, they are located in about 10 other cities, including Wichita, Nashville, Chattanooga, Tucson, Salt Lake City, Pueblo, Spokane, etc. Carlson

asked whether Cricket has direct competition from a similar technology in any of those other cities. Cooper advised that there is no direct competition in the sense of the marketing plan. What's interesting is the penetration rates. Because Cricket is prepaid, they are seeing 10% penetration in those markets.

Steward wondered whether we will be able to get rid of wires in the future. Weber offered that there are two technologies now, so we do have a number of evolving technologies. From the standpoint of replacing the land line phone, Weber believes that next year the manufacturers will be moving into the "third generation wireless", including more functions such as email, Internet, etc. This capability will be increased by the "third generation wireless" taking us one step closer to replacing the land line phone.

Steward noted that in the past we have had the disagreeable nature of wires in terms of aesthetics, and now the disagreeable nature of proliferation of antennas. Cooper stated that Cricket is very sensitive to the issue and will try to be the least reprehensible as possible, but there is a need and public policy that says we have to have these phones available.

Weber suggested that as the technology matures, we will see the average height of sites decrease because of capacity. We will see the lower height and a smaller geographic area, and it will eventually become the lower profile type facilities in the future. That is a technology that is still evolving.

There was no testimony in opposition.

Staff questions

With Cricket being a little different technology, Carlson inquired whether they would still be considered a new provider in terms of the Telecommunications Act. Abby Davis of the Planning staff stated that Cricket is certified under the FCC. The regulations apply to them even though their technology is slightly different.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

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

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

COUNTY SPECIAL PERMIT NO. 187,
PRAIRIE VISTA COMMUNITY UNIT PLAN,
AND
PRELIMINARY PLAT NO. 01009,
PRAIRIE VISTA,
ON PROPERTY GENERALLY LOCATED
AT N. 176TH STREET AND FLETCHER AVENUE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 11, 2001

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

Planning staff recommendation: Conditional approval.

Proponents:

1. **Lyle Loth** appeared on behalf of the **Ingwersons**, the owners of the property. Loth agreed with the staff report and conditions of approval, with two exceptions, that being Condition No. 1.1.6 in both the community unit plan and the preliminary plat, which deals with access to 176th Street. The developer is being asked to relinquish access to 176th Street except at Coddle Lane. Loth noted that 70 acres of the property is being reserved for agricultural uses with a finger that sticks out at the north edge of the property. They would like to at least maintain that as an AG access to get farm equipment back into the property without going onto the roadway. Loth requested that Condition #1.1.6 be amended, "Direct access from Lots 1, 4, 5 and 6 to North 176th Street shall be relinquished."

With regard to Condition No. 1.1.4, the County has indicated they will not maintain Coddle Lane as a public road and are requiring that it be a private roadway. Loth needed to have this condition clarified. Only 5 lots are being occupied, but there are actually 6. The developer would like to have Coddle Lane maintained as a County road, if possible.

Opposition

1. **Sharon Post**, 4850 No. 176th, just south and across the road, testified in opposition. She also submitted a petition in opposition containing 18 signatures. 9 out of 13 households within this mile--176th between Havelock and Fletcher--are in opposition. They are opposed because of the road maintenance, traffic increase, safety (there have been 5 fatalities on 176th within the last five years); rural water will not be extended to these houses, therefore, well drilling will have to be done; it is possible that it could lower the water table. Post has lived there 24 years with only six houses along this mile. She purchased 5 acres just to the north to prevent more houses. Other neighbors have done

the same thing. The six houses that have been developed across the road within the last six years were not preventable because the farmer farming the land had already surveyed them into plats before the 20-acre rule went into effect. Post does not understand the clustering. What will keep Ingwerson from selling off more acres? What will keep other people from purchasing 20 acres and clustering them? The majority of the household owners move to an acreage to get out of the city and to enjoy the country and mother nature. If we wanted to live in a village, we would have picked a home in Waverly, a surrounding village or in Lincoln. Some of the farmers did not want to sign the petition but they were not in favor because of the loss of farm land.

Staff questions

Steward asked staff whether there is any indication of water issues in this area. Mike DeKalb of Planning staff stated that this is not in one of the areas that is acknowledged and known as having poor quality and quantity or salt water hazard. This developer had originally proposed individual wells but it did not move forward because there was no groundwater quality report. Rural water will be provided by Cass County, which cancels the requirement for a groundwater report.

Steward wondered what would be the other nearest multi-residential area in the 3-5 acre range. DeKalb stated that this part of the county does not have a lot of pre-existing acreage lots, but south of this parcel there is a string of them. As far as the Comprehensive Plan designation or AGR zoning, there are none in this area. DeKalb pointed out that this subdivision is coming forward as AG zoning, with clustering through the community unit plan.

With regard to the 20-acre rule in the AG zoning, DeKalb acknowledged that there is a 20-acre minimum lot size with density of 1 dwelling unit per 20 acres. However, there is provision by special permit--community unit plan to cluster those units, or to scrape off that density--which in this case gives you five dwelling units. There is an additional provision where the developer can ask for the 20% bonus and that is how they get six units. That maximizes the number of lots. Without a change of zone, no additional lots or dwelling units could be developed.

Bayer noted that there are 70+ acres left over. DeKalb concurred, stating that the number of units has already been pulled off of that 77 acre parcel. It has one dwelling remaining that is designated for that. The other five residences are already used up on the lots that are shown. There is no more density allowed without a change of zone.

Bayer wondered about the applicant selling the remaining 70 acres. Can they put a house on the 70 acres? DeKalb stated that they could not--the density is all used up. The enforcement of the current zoning ordinance controls that. Nothing is forever, but as long as the property is zoned AG, it cannot change. It would take a change to AGR or

something else to change the density.

Carlson asked whether 176th is paved. DeKalb stated that 176th is not paved. 148th is paved. The rest of the roads are all gravel. The road to the south of Holdrege Street is dirt. This property is 1 mile from the county line.

With regard to Condition #1.1.4, DeKalb explained that the County does not have design standards for roads like the city. But the County Engineer does have an adopted policy relative to taking over maintenance of county roads. The County Engineer's preference is private roads maintained by a homeowner's association, but if it is a publicly dedicated road, their trigger for taking over maintenance is 6 lots with over 60% developed. The intent of the County Engineer's request is that if the subdivision stays at 5 lots, the County will never have to take over the maintenance, thus they are requesting a private road. The applicant has the right to do six lots and at the time of build-out, if the road is to the County Engineer's standards and not a private road, the County would then be obligated to take over and maintain that road as a dedicated gravel county road.

Bayer suggested that the wording of Condition #1.1.4 is confusing.

Schwinn confirmed that this subdivision will be served by Cass County Rural Water. DeKalb concurred. The conditions of approval require that the water lines be shown within the subdivision.

Schwinn inquired about the applicant's request to amend Condition #1.1.6 regarding farm access. DeKalb explained that when the developer relinquishes access, the County Engineer has historically been amenable to allowing a farm access point.

Carlson asked DeKalb whether he believes clustering is more appropriate than the 20-acre rule. DeKalb responded that both the city and county allow clustering and it moves units off of floodplain. And, in AG areas, the staff encourages this provision with the 20% bonus. There are multiple pluses to the concept. The clustering avoids splitting up 20 acre parcels with multiple driveways and access points, etc., and having it all broken up and not farmable. You can go down to three acres. The clustering generally limits the number of access points to one, with an internal road system, leaving a larger parcel that is farmable for the long term. When it comes to environmental protection, the clusters move houses out of the environmental areas, native prairie and farm land.

Carlson wondered whether there are topographic features that would prevent this developer from putting in five 20-acre parcels. DeKalb stated, "no". They could lay out five 20's with everyone having access.

Public hearing was closed.

COUNTY SPECIAL PERMIT NO. 187
PRAIRIE VISTA COMMUNITY UNIT PLAN.
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

Schwinn moved to approve the Planning staff recommendation of conditional approval, seconded by Krieser. Schwinn believes that the applicant's questions were answered with regard to the farm access. He can clarify that at County Board.

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

PRELIMINARY PLAT NO. 01009,
PRAIRIE VISTA.
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

Duvall made a motion to approve the Planning staff recommendation of conditional approval, seconded by Krieser.

Steward stated that he is voting in favor, however, with concerns. This support is a little out of character for him and he believes he owes at least the applicants and the neighbors some explanation. The community unit plan with the large acreage preserves green space; however, it also increases density. But, the density could not be increased without the special permit. He does not believe that once you break up an acreage into 20-acre sites that you end up with any real productive agriculture potential. It has been his concern that the breaking up and losing agricultural productive land in this county and increasing density is the wrong strategy. But, we are in the midst of a Comprehensive Plan review process and he believes we will be seeing some proposals that designate acreages in special areas. Steward believes there is continuing concern and he believes the neighbors have a right to be concerned, but these neighbors are also contributing to the sprawl. This is the lesser of the evil.

Carlson agreed with Steward's comments where the Comprehensive Plan is concerned. Maybe the 20-acre minimum is problematic. Thus, he encouraged people to get involved in the Comprehensive Plan process. Maybe the minimum acreage needs to be increased. Given the choice in front of the Commission, Carlson believes this is the better choice.

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

STREET VACATION NO. 01010
TO VACATE SOUTH 22ND STREET FROM THE
NORTH LINE OF J STREET TO THE SOUTH LINE
OF THE EAST-WEST ALLEY BETWEEN SOUTH 21ST STREET
AND SOUTH 22ND STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 11, 2001

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

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

Proponents:

1. **Jeanette Stull** appeared on behalf of **Lincoln Public Schools**, which is requesting that the south half of the block between 21st Street and 22nd Street be vacated. LPS has acquired a lot adjacent to this area. The property being vacated and the lot purchased would be turned into a parking lot. Stull acknowledged that Public Works has expressed some concern. They would prefer that LPS vacate the entire 22nd Street because they do not want 22nd to look like a through street when it is not. However, LPS is not in a position to vacate all of 22nd Street because there is a property owner with a residence on the north half of the block with a garage needing access off 22nd Street. It would be cleaner to vacate the south part at this time, and then later on down the road, if LPS is able to acquire the residence, LPS would be amenable to vacating all of 22nd Street.

Stull pointed out that Public Works has asked LPS to make some changes such as "no outlet" signage, putting in some landscape barriers, snow removal, narrowing the entryway into the parking lot, etc., and LPS is willing to do these things in order to accommodate this project.

Newman noted that the buses used to come in off 21st to J. Will they continue to do that? Will the cul-de-sac be large enough for buses? Larry Hennings, Facilities Supervisor for LPS, advised that the buses will continue to come into that point to drop off students. These buses are generally special education buses and smaller buses and the radius is large enough even for the transport buses.

Newman asked whether LPS is taking over this entire block or whether there are still homes along J Street. Hennings advised that there continue to be four apartment houses

along J Street with access off J Street and off the alley in the back. The alley is paved between K and J. Steward then commented that a net practical effect would be if someone turned off K onto 22nd, they have a paved outlet through the alley. Hennings concurred, further offering that this proposal has gone through the Nebraska Capitol Environs Commission and the long range plan would eliminate the big parking lot in front of the school. The whole scheme is to tie in with the Antelope Valley project and development, making the front of Lincoln High look different than it does now.

Newman concluded that everyone will have to come in on 22nd and back out on 22nd. They won't go back behind on J Street to get in and out. Stull advised that LPS would be cutting off the corner of J Street and 22nd Street. It would only be used for buses and drop-off.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

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

**WAIVER OF DESIGN STANDARDS NO. 01010
TO EXTEND THE TIME FOR INSTALLATION OF
SIDEWALKS, STREET TREES AND LANDSCAPE SCREEN,
ON PROPERTY GENERALLY LOCATED
AT NO. 84TH & VINE STREETS.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 11, 2001

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

Planning staff recommendation: Conditional approval.

Proponents:

1. Terry Zimmerman, Construction Manager for Hampton Enterprises, presented the application on behalf of Center Associates. This request for extension of time to install certain improvements applies to the development at the northwest corner of 84th and O. This is a request for extension of time on the remaining unimproved property at Russwood Park along Russwood Parkway, Trail Ridge Court and Trail Ridge Road. If the improvements were installed now, they would be damaged during development of the

property and would need to be replaced. The improvements will be installed on Trail Ridge as soon as the property is developed.

Zimmerman agreed with the Planning staff recommendation, except in Condition #1, the applicant would like an extension of five years on Trail Ridge Court and Outlot B directly south of Trail Ridge Court; and in Condition #2, the applicant would request 90 days on Russwood Parkway and Trail Ridge Road.

Bayer pointed out the amendment to Condition #1 to allow five years would allow the developer to develop the property tomorrow without putting the improvements in for five years. Bayer suggested that the improvements be installed as the property is developed or within 5 years if the property remains undeveloped.

Duvall noted that #4 of the staff analysis suggests that the time extension should be reviewed annually and the applicant agrees with the annual review.

From a marketing standpoint, Steward wondered whether it wouldn't be to the developer's advantage to have this infrastructure in place for purposes of development. Zimmerman stated that the roadways have been constructed. The land we're talking about is residential. Replacement of trees may cause the sidewalk and the plantings to be removed at a later date and that is what we are trying to avoid. He does not know the marketing plans. He is strictly in charge of site improvements.

Carlson sought clarification of the timing problem. Zimmerman did not know the answer to this question. The developer was not present.

There was no testimony in opposition; however, the record consists of one letter in opposition.

Staff questions

Carlson asked staff whether 90 days would be acceptable for Condition #2. Becky Horner of Planning staff concurred.

Steward wondered whether there are implications to adjacent uses if these sidewalks are not put in for five years. Horner's response was that anyone walking would have to walk in the street. Steward then commented that we would normally expect sidewalks to go in when the streets are constructed. Horner concurred.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

Steward moved to approve the staff recommendation of conditional approval, with amendment to Condition #2 to extend the time to 90 days from approval of the waiver, seconded by Newman. There was no change made to Condition #1.

Motion for conditional approval, with amendment to Condition #2, carried 7-0: Krieser, Newman, Duvall, Carlson, Steward, Schwinn and Bayer voting 'yes'; Taylor and Hunter absent.

**WAIVER OF DESIGN STANDARDS NO. 01010
TO WAIVE STREET LIGHTS ON PROPERTY
GENERALLY LOCATED AT
HICKORY CREST ROAD AND JACK PINE COURT.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 11, 2001

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

Planning staff recommendation: Denial.

Proponents

1. Mark Hunzeker appeared on behalf of **Jim Hille** who had to leave today's meeting and thus requests a two-week deferral.

Duvall made a motion to defer, with continued public hearing and administrative action scheduled for July 25, 2001, seconded by Krieser and carried 7-0: Krieser, Newman, Duvall, Carlson, Steward, Schwinn and Bayer voting 'yes'; Taylor and Hunter absent.

ANNEXATION NO. 00003;
CHANGE OF ZONE NO. 3265
FROM AG AGRICULTURAL TO
I-3 EMPLOYMENT CENTER AND R-3 RESIDENTIAL;
SPECIAL PERMIT NO. 1845,
STONE BRIDGE CREEK COMMUNITY UNIT PLAN;
PRELIMINARY PLAT NO. 00017, STONE BRIDGE CREEK;
and
USE PERMIT NO. 139,
ON PROPERTY GENERALLY LOCATED
AT NO. 14TH STREET & INTERSTATE 80.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 11, 2001

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

Planning staff recommendation: Conditional approval of the annexation; approval of the change of zone; and conditional approval of the special permit, preliminary plat and use permit.

Becky Horner of Planning staff submitted proposed revisions to the conditions of approval on the preliminary plat and the use permit.

Proponents

1. **Mark Hunzeker** appeared on behalf of the developer, **Hampton Development Services**, stating that they have been working on this project for quite some time. The Comprehensive Plan Amendment went through a while back designating this area for this project. The primary mover behind this development was the need to establish a site for Centurion Wireless Technologies and Dual Dynamics, both of which will be located in the industrial area along I-80. This is a big project which he believes is going to help Lincoln move in the direction of I-80. They have spent a lot of time working through a lot of issues with the staff. There have been a substantial number of people involved in this project, including about 15 different staff people who have spent varying amounts of time. Hunzeker expressed appreciation for the cooperation they have received from the Planning and Public Works Departments. It has taken longer than they had hoped, but Hunzeker believes they have reached a point where the issues have been narrowed down to one or two.

Hunzeker agreed with the staff's proposed revisions to the conditions of approval. Hunzeker also submitted further proposed amendments to the conditions of approval:

Condition #11.5 of the preliminary plat. Hunzeker proposed adding language to clarify that this development is providing for drainage in natural drainage ways and to clarify that the Public Works Department is not requiring a low flow liner in that natural drainage way because it would have required tearing out a substantial number of trees. The language proposed to be added to Condition #1.1.5 of the preliminary plat is: “; however, in areas where natural drainage ways are used to create storm water detention, the minimum 2% slope through the detention area and low flow liner requirement shall be waived. A note shall be added to the preliminary plat indicating that erosion control shall be a specific item of maintenance required for all outlots.” The additional language about erosion control may be embellished before this proceeds on to the City Council. Public Works wants to be assured that the channel is analyzed in a way that will allow for placement of some grade checks in the channel to control erosion. This developer is willing and anxious to do this because otherwise they will end up killing some of the trees from erosion.

Condition #1.1.8 of the preliminary plat: Hunzeker requested that this condition be amended as follows: “Pedestrian easement that meets the development standards of the Land Subdivision Ordinance in Blocks 2, 3, 5 and 7.”

Condition #1.1.9 of the preliminary plat: Hunzeker requested to add language to clarify the extension of the sidewalk easement that would extend through the outlot to eventual location of a trail: “A pedestrian easement and four foot sidewalk between Lots 13 and 14, Block 11, that extends the sidewalk and easement to the future pedestrian trail; however, the portion of the easement and sidewalk in an outlot C shall be located, dedicated and constructed at the time of construction of the bike trail.” In other words, the developer is willing to work with the Parks Department to dedicate an easement for a trail in the outlot when they tell us where they want it to be.

Hunzeker believes that staff is in agreement with these amendments.

Condition #1.1.6 if the preliminary plat: Hunzeker requested that this condition be deleted. At the northwest corner of the site where Arbor Road meets 14th, they have a street called North 16th Street that intersects Arbor Road at a right angle. That street is less than 1/4 mile from 14th Street. That is the location where this street has been shown for over a year in all the discussions with the staff. The applicant’s traffic impact study was done assuming that intersection was in place; in the event that 14th and Arbor Road becomes a very high traffic intersection, there is room enough to extend dual left turn lanes more than 700’ back from 14th Street. The traffic study indicates at least until the year 2025, there will never be a need for signalization of that intersection at No. 16th and Arbor Road. They do not want to re-engineer the cul-de-sac immediately east and bring that intersection over to the

location of that cul-de-sac and then create a new cul-de-sac on No. 16th. The developer wishes to maintain the street configuration as shown. There will not be problem with the intersection at that location. Even Public Works understands that we do not create a problem for at least the 25-year foreseeable future.

Carlson wondered why No. 16th was not originally drawn according to the design standards. Hunzeker's response was when they started this process this road was not in the Comprehensive Plan as being a major road. As part of this process, we need to design some sort of proposed street alignment for the property on the north side and frankly, we think this is the best way to line it up. We think this is a better alignment and design for this project and has minimal effect on that standard. Hunzeker also noted that the standard is really not one that is rigidly enforced. Even in the Comprehensive Plan Amendment that approved this project, extension of the urban area to the north is not contemplated. Right now, we don't have sewers planned to go north of there and he does not believe there is a need to go 1/4 mile from 14th Street with this road. All traffic information indicates it will function just fine.

There was no testimony in opposition.

Staff questions

Carlson asked staff to comment on the applicant's proposed amendments. Horner agreed with the proposed amendments, except the deletion of Condition #1.1.6, which should be discussed by Public Works.

Carlson asked Public Works to address No. 16th Street being within 1/4 mile of the intersection. Bartels believes it is 1,000 feet away from 14th. Assuming the traffic projections were done, the intersection does not have to be signalized. From Public Works' point of view, 1/4 mile spacing is the most efficient spacing we can put on an arterial street. The street is platted here. It is there forever. What comes into play is the long term—if Arbor Road reaches full capacity or the land uses change and we have to signalize that intersection, it helps preserve the capacity on Arbor Road and makes for better traffic flow on Arbor Road in the future. As long as it is not signalized, there is enough room, as Hunzeker said, to provide the left turn storage. Bartels stated that he hesitates to say it would not need signalization at 16th & Alvo, but the traffic study doesn't show it to be needed in the period of the traffic study. There are a lot of unknowns as far as how soon the north might develop.

Carlson wondered whether the curve becomes an issue as you move it east. Bartels stated that having it on the edge of the curve is not an ideal situation, but it is workable.

But, Steward wondered whether there are also some topographic issues. It's either going dramatically up or dramatically down. He thinks it goes up. So you would be on a curve

and on an incline and in the more dramatic position if you move it. Bartels stated that it is less grading to make it work at that location from the standpoint of this plat, although he believes they could engineer around it. The street location has been an issue. It is what the staff has recommended from the beginning--1/4 mile spacing--and the staff continues to maintain that position.

Bartels agreed with the applicant on the drainage issue. Public Works is not asking for additional concrete low flow liners in the drainage channels, but if you don't look at the erosion potential, they won't look like they do now if you dump the storm sewer out to them and ignore them. Bartels agreed with the applicant's proposed amendment to Condition #1.1.5.

Response by the Applicant

Hunzeker stated that this development is dedicating 120' of right-of-way on Alvo Road, and the initial construction of that road is a single lane on either side of a large median with turn lanes at every intersection. A median is designed to be wide enough to allow dual left turn lanes at all those intersections if it becomes necessary. Even if the traffic engineers are wrong and there is a need to signalize³ the intersection that we are being asked to move, there is enough room to provide dual left turn lanes and still have 600-700 feet of dual left turn lane at 14th and Alvo/Arbor Road. We're not going to interfere with that intersection.

Carlson was seeking more of a rationale other than "we didn't put it at the proper spacing and now it's going to be expensive to redraw it". Hunzeker indicated that they have talked with staff about the grades all along and it is an issue that we have consistently come back to throughout the process of this plat. We just came down to a disagreement. It's not something that Public Works has been pounding the table about, and Hunzeker feels pretty strongly that this is a better location. If it becomes necessary for the purpose of maintaining capacity at Alvo/Arbor, that median could be closed. We wouldn't have to have the ability to cross it.

Public hearing was closed.

ANNEXATION NO. 00003

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

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

CHANGE OF ZONE NO. 3265

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

Duvall moved approval, second by Krieser and carried 7-0: Krieser, Newman, Duvall, Carlson, Steward, Schwinn and Bayer voting 'yes'; Taylor and Hunter absent.

SPECIAL PERMIT NO. 1845,

STONE BRIDGE CREEK COMMUNITY UNIT PLAN

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

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

PRELIMINARY PLAT NO. 00017,

STONE BRIDGE CREEK

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

Duvall moved to approve the Planning staff recommendation of conditional approval, with the revisions proposed by staff and the applicant, including the deletion of Condition #1.1.6, seconded by Schwinn.

Carlson moved to amend to retain Condition #1.1.6. Motion failed for lack of a second. Schwinn commented that sometimes you have to weigh the internal traffic motions against what would be required on the main arterial streets. By moving over from No. 16th to No. 17th, or whatever, it would create an extra turn every time and that can create more of a problem for the internal traffic of the subdivision. He believes that in this case it is an easy enough tradeoff that we can make it work on this plat.

Steward stated that there are two circumstances causing him to support the applicant. One is the internal traffic pattern. It allows one to find a major way out of this subdivision. We get a lot of criticism from large subdivisions that people find themselves in a maze to get to the major thoroughfare. This would only become more of a problem if 16th became a cul-de-sac. Secondly, it is the topographic condition at the location where Cortez is shown.

Carlson commented that in general, he likes the plan. It is forward thinking with urban village concepts that we should support.

Bayer believes this type of development begins to set us apart with respect to interstate corridors. He thanked the developer for thinking about how we look as a city.

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

USE PERMIT NO. 139

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

Duvall moved to approve the Planning staff recommendation of conditional approval, with the revision proposed by staff deleting Condition #1.1.10, seconded by Krieser and carried 7-0: Krieser, Newman, Duvall, Carlson, Steward, Schwinn and Bayer voting 'yes'; Taylor and Hunter absent.

COUNTY SPECIAL PERMIT NO. 186
FOR A GOLF COURSE, DRIVING RANGE,
CLUBHOUSE WITH RESTAURANT, AND
MAINTENANCE FACILITY, ON PROPERTY
GENERALLY LOCATED AT
N.W. 140TH AND W. HOLDREGE STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 11, 2001

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

Planning staff recommendation: **Denial**

Mike DeKalb of Planning staff submitted a letter in opposition with concerns about damage to area wells; traffic on Holdrege; what is their recourse if there are water problems; will the applicant sign agreements to resolve issues ahead of time; heavy emphasis on tapping average rain fall; level of irrigation and impacts of irrigation; conflicts between golf course traffic and farm traffic, i.e. movement of cattle and farm machinery; and the agreement with Seward County.

Proponents

1. **Steve Mossman**, 134 So. 13th appeared on behalf of **Diamond Head Ranch Club** and introduced the presentation team.

2. **Trent Anderson**, Managing Member of Diamond Head, 900 N.W. 140th, presented the application as a special permit--there is no change of zone or housing development being proposed. The golf course will use surface water first and groundwater secondary; they have 5 surface water permits from the Department of Water Resources to capture 105 acre

feet or 34 million gallons. They will meet the irrigation needs 8 out of 10 years. Use of a cycled or pulse pumping irrigation well will allow irrigation to be pumped for 2.5 hours and then rested for 1.5 hours to allow the natural groundwater to be replaced and reduce the radius of influence.

Diamond Head Ranch is a horse operation; the property has been owned by his family since 1979, raising thoroughbreds and quarter horses until 5 years ago. On an average year, they run 21 million gallons of water out of the ground; on a dry year they run 28 million gallons; during an average year or dry year of well tests there was no affect on their own domestic well 1500 feet down the flow. The applicant has obtained a permit to conduct water downstream channel allowing to pump 45 million gallons into the tributary of Middle Creek to a point where it will be pumped out for irrigation of the golf course. There was a hearing on this and there was no evidence produced that would result in adverse effect on the neighboring water quality or quantity. The opposition could not prove that it would affect the health, safety and welfare.

The surface water permit allows irrigation. The applicant has installed 10 observation wells, which will be monitored during the well draw-down tests. The Department of Water Resources has put one of the wells into its monitoring program and it will be monitored April and October of each year.

Anderson agreed to comply with the conditions of approval set forth in the staff report. He has met with Seward County regarding traffic and water issues. Seward County was satisfied with the water and the results indicating that this golf course will not influence the neighbors' water.

Anderson stated that he also met with the majority of the neighbors. He forwarded the information to the six neighbors that did not show up.

Steward commented that most of the written information provided has to do primarily with the supply side of the water. He is as much or more concerned with the demand side, noting that there are methods and strategies in golf course design that are becoming much more sensitive to demand configuration for maintenance of golf courses.

2. Bill Love, nationally recognized golf course architect, Chairman of the Environmental Committee, member of the Executive Committee of the American Society of Golf Course Architects, and who teaches environmental golf course maintenance at University of Maryland, provided an overview of the design philosophy. This golf course has been designed in a classic traditional type, which means that the property was so naturally suited to it with the rolling terrain, the trees and the basic features of the topography, they do not intend to move a lot of dirt. In the routing process/layout, we search the property for the best combination of holes that would allow the topography to generate the character for each hole. The property has such a variety of terrain, along with the trees

and creeks, in conjunction with designing for wind and sun orientation, to allow construction of an exceptional course. It will also be done in a natural style design, meaning it is intended to derive its character out of the existing piece of property. Because it does that, it is purposely intended to reduce maintenance and operation requirements of the golf course--it builds in resource conservation by utilizing natural features. The bottom line is to be as compatible with the site as possible and to make it characteristic of the region. We are trying to create a golf course that once vegetated and with turf grasses in place, it will look like it has been here all along.

As far as the course itself, it will be a championship quality, public golf course. It is going to have the ability to run a tournament (amateur), but at the same time as always, we want it to be fun for everyone that comes out and plays it.

As far as specific features, the layout is based predominantly on three things: The topography, the orientation of the sun and the winds. It is done this way so that we don't have to move a lot of earth. We lay out the golf course so that they play from high point to high point to provide visibility. The maximum cut anywhere on the site is only 5' in one spot. The wind and the sun come into play. Wind can be a factor on an open site and it makes a big difference on how the golf is played.

The terrain is utilized to reduce maintenance and construction requirements. If you can keep maintenance costs down, it allows the operators to charge lower greens fees. They will accomplish this by moving less dirt and employing over 60% of the site in grasses requiring little or no irrigation. The turf areas have been reduced to a minimum. The irrigation is designed to accommodate the natural areas.

There will be multiple teeing areas so that all people can have an appropriate place to play and enjoy it. The greens will be built in accordance with industry standards so that they do not require additional maintenance.

As far as environmental considerations, Love stated that the terrain is an important issue. Typically, a golf course development can move anywhere from 500,000 to 750,000 cubic yards of dirt. On this course, they will move no more than 280,000 cubic yards. It will be kept in an open style design and it will not change the character of the property by the use of native grasses.

With regard to irrigation, Love advised that the irrigation system has kept the number of irrigation heads and the amount of irrigation coverage to a minimum. For the first two years, they will use temporary irrigation. After that, 60% of the site is going to be non-irrigated. On top of that there will be a water management program employed in the maintenance of the golf course. It will be maintained on the dry side. There is a specific plan that starts to reduce the amount of irrigated areas. The owner will need to educate the public to understand that the golf course does not have to be green from end to end.

They also plan to do habitat enhancement on the site by instituting educational programs, involving Boy Scouts, 4-H, University departments and Natural Resources.

4. Dr. Dean Eisenhauer, Geographic Hydrologist and Professional Engineer, appeared as a private consultant, opining that the golf course use proposed requires less groundwater than some of the alternative uses found in the staff report. He discussed the procedure used to calculate the water needs. In Nebraska, since we have supplemental rainfall to supply part of the water needs of all crops and plants, we calculate irrigation needs as being the net requirement. Crop water use is calculated based on weather data and the type of crop and state of development. 17 years of data were used in the computation. The land area used in this computation for all conditions was 180 acres, except for the golf course at 97.5 acres. Total water needs reflect in a normal year that any plants that have a long growing season will tend to have the higher water consumption; whereas, our row crops have a shorter growing season. Data for dry year reflects that the golf course uses less water--45 million gallons, and Diamond Head agreed to cap it at that level. The water use on all irrigated crops grown on 180 acres will exceed the need of a 97-acre golf course, with the exception of soybeans. Eisenhauer reiterated that during dry years, the golf course will be limited to 45 million gallons per year.

5. Steve Nickel, professional engineer, described his conclusions that the golf course will not have a potential negative impact on groundwater quality or quantities in the area, which is contrary to the conclusions in the staff report. Nickel has conducted several studies in the area of this proposed golf course. The main question he has addressed is where the water will come from--primarily the water will come from surface water, there being 5 permits for diversion, impoundment and irrigation use, and a sixth permit for conducting the groundwater from the well down the stream channel to the ponds. The secondary supply of water for the course will be groundwater from the well on the property. This well has been used in the past for irrigation and is intended to be used for that in the future. The permits for surface water storage come from a block of surface water storage that was released by Game and Parks. They had put a stop on development of surface water but they have released 5,000 acre feet of storage for small projects so that the projects would not be held up. Of that 5,000 acre feet, Diamond Head has gotten permits for 105.2 acre feet.

Nickel testified that the surface water will be from rainfall and snow melt runoff. This is only from one of two creeks that enter the property, merge on the property and flow together downstream. There is a creek that comes in from the north and the creek we're concerned with comes in from the west and flows down through the ponds. With anything that we are doing, it will only affect half of the watershed that continues on downstream. By modeling the operation of the ponds and how they would capture and distribute the surface water, it is the applicant's contention that the 105.2 acre feet will be sufficient

water to meet the needs for irrigation 8 out of 10 years, and the other 2 years out of 10 would have to be supplemental groundwater. In the worst year, 50% of the permitted water could be diverted and it would require 13 million gallons of supplementation from groundwater.

Nickel further testified that groundwater at the site within the depth of the irrigation well has three identifiable aquifers which are semi-confined. Below the well there is an aquiclude that will not permit water from deeper to rise up into the area that is being pumped by the well. We performed three pump tests on this well. Two of those tests were continuous pumping for 72 hours. The third test was 2.5 hours of pumping and 1.5 hours of resting. In both cases the total capacity of the well was found to be 230 gallons a minute. The important consideration here is that in the surge test, with constant conditions, the draw-downs were 0 and 0.08. That will be an undetectable amount.

Nickel is of the professional opinion that pumping this well in the manner prescribed will produce no effect at a distance of 2000 ft. The closest wells are 1600 ft., 1200 ft. and 1400 ft. off to the southeast. He has letters from those with wells 1200 ft. to 1400 ft away indicating that there was no effect.

Mossman summarized that the aquifer is adequate to supply the irrigation well. There was no evidence or testimony before the Department of Water Resources during the C-33 application to indicate that any of the neighboring property interests would be adversely impacted.

Mossman urged the Commission to determine where the opponents who testify live and where their well is located. The applicant team has presented hydrologic evidence from experienced hydrologists that this would not have an impact. He does not believe the evidence is there to show that this golf course will have an impact on the groundwater quality or quantity in the area. Two years ago, there was a letter by the Deputy County Attorney Diane Staab stating that if the Planning Commission is presented with evidence that granting the special permit would result in problems to neighboring water quality and or quantity, they may vote to deny the permit on those grounds as it relates to the health, safety and welfare of the community. This finding should be based on testimony and other evidence received at the public hearing.

Other public testimony in support

6. Marty Ivins who lives 1200 feet just cross the interstate, testified in support. During the time the irrigation well has been in use he has never had any well problems other than replacing some pipe. In recent tests, he paid particular attention to quantity and quality and found no difference. His well has been operative for 23 years in constant use of domestic water and watering apple trees and the lawn.

Opposition

1. Mark Hunzeker appeared on behalf of a group of property owners that live in the vicinity of this proposed golf course. This proposal has been before the Planning Commission before and the applicant has done more homework. The basic problem and major problem at issue is that the availability of water is uncertain, both as to quantity and quality. The test results do not necessarily prove that there will be no effect on surrounding wells any more than we were able to prove that there would be an adverse effect in the previous proceedings. On average, there is enough water in the creeks that they intend to dam to irrigate the golf course, but, on average, the high temperatures in Nebraska are pretty nice. Hunzeker submitted that “averages” don’t really tell you anything because the majority of the flow in those streams will occur at times when no irrigation of the course is necessary.

Hunzeker pointed out that the average stream flow in an average year is 600 acre feet. This applicant has a permit to extract 105 acre feet. The question that arises and is of concern is how much of that 600 acre feet flows down to the Gulf of Mexico long before there is a need to capture the 105 acre feet for irrigation--Hunzeker would suggest “most of it”. There are only approximately 5 million gallons of storage in the ponds amounting to 13 or 14 acre feet, and that is only if there is at least a couple of feet of storage available in the ponds. Hunzeker submitted that the average stream flow is an erratic number that doesn’t tell you how much is going to be available at the time the golf course is going to need to be irrigated. Low stream flow occurs during dry weather when the golf course needs water. Hunzeker urged that it is inherently misleading to say irrigation needs can be met with surface water in 8 of the 10 years based on average stream flow and average irrigation because irrigation takes place at the time when stream flow is low.

Hunzeker also noted that the report does point out that there are reasonable fluctuations in the aquifer. The Nickel report shows that testing of the aquifer levels was done only over a 1.5 year period with an observation of seasonal fluctuation of up to 9 feet. Hunzeker suggested that seasonal fluctuation occurs at the time when the golf course is going to need the most water. The historic accounts by the neighbors indicate that there is serious potential relative to the stream flow in dry weather as well as adverse effects on domestic wells due to agricultural irrigation.

Hunzeker further pointed out that the only water use addressed by the proponents has been irrigation. They do not address the needs of the clubhouse, which is an accessory use.

Furthermore, Hunzeker purported that this is not a good location. Access is not that good. The golf course will attract housing to the area. A change in character of this area is not suggested by the Comprehensive Plan nor are there alternatives being considered by the Comprehensive Plan Committee.

Hunzeker further noted the proponent's suggestion that the amount of groundwater taken to irrigate this golf course will be tapped at 45 million gallons. Hunzeker suggested that there is no way for anyone to cap that amount. The only possibility that exists would be to enter into some sort of an agreement with the abutting property owners, and the enforceability of that becomes an onerous burden on the abutting property owners.

Hunzeker concluded, stating that given the questions that exist and the poor location chosen, this application must be denied.

Approximately 22 people stood in the audience indicating that they are represented by Hunzeker.

Steward observed that so far we've talked about water quantity. Quality is known to be a problem in this part of the county and there are variations on quality depending on drinking or irrigation. Steward inquired whether Hunzeker has obtained information from his clients that there is a water quality issue. Hunzeker believes there was testimony several weeks ago by Dick Hedges, with experience in this area, to the effect that there is a layer of fresh water that is essentially above a layer of salt water, and to the extent fresh water is over pumped, it can cause salt infiltration into fresh water aquifer.

2. Kevin Lostroh, 13651 W. Adams, testified in opposition. The clubhouse and restaurant water requirements are a concern. As far as testimony on irrigation, he does not believe they can irrigate the whole farm if it was in an AG setting. It would not be economically feasible and it would be very labor intensive. Salt is a concern as far as quality. He does not think 72 hours for a pumping test sounds very long. He is more worried about 30-60 days. There is only about one year where they irrigated much of that farm so he does not believe the amount of water used would be comparable. He has had no well problems.

3. Dick Hedges testified in opposition. He wanted to know how much experience the applicant's hydrologist has in a salt fresh area. Hedges has been a well driller for 41 years in this area. Unless the expert has experience in this area of the property, he doesn't know anything. Hedges has experience drilling wells in this area. He inquired whether a salt test has ever been done by a licensed laboratory. He lives on the corner of 126th & "O". There are no trails and there are a lot of children in the neighborhood. We have a lot of farmers

in this community who have to get their heavy machinery out there. There are going to be traffic and pedestrian accidents. Another problem is with being on the edge of the county, emergency services are not readily available. If there is a restaurant there will be drinking and he believes this is a safety hazard to the children in the neighborhood.

4. Larry Minzel, 11800 W. Holdrege, 1.5 miles east, testified in opposition. Nothing has changed in the last three years. Last year we had a really dry year and there was hardly any flow through the creeks. He farms two sides. He does not know where they are coming up with the pumping figures. They talk about recharge ponds--we have had Pawnee Lake in our area for 30 years and it is only 3 miles away. It does not recharge our wells. Two years ago they said the farms to the east were the wells that would be affected, yet he knows the well to the west was affected.

Bayer asked whether Minzel has ever had water problems. Minzel responded that they do have trouble getting good wells and he had one salt well that he dug deeper. There is no irrigation in this area north of I-80. There are a couple on the south side. He dryland farms.

5. Alvin Klug testified in opposition. On Monday of this week he had Keith Paulsen from the NRD measure the water that goes down this creek. It comes out in his pasture. It measured out 15.25 gallons. That is exactly the same amount of water that comes out of a garden hose at 50 lbs. of pressure. Try watering a golf course with a garden hose. We did have sand come into our closest well. His pump warranty was canceled because it was pumping sand. His son was pumping air last fall. He owns the land to the west and east and all the way up the creek. All of the water comes across the road to there.

Bayer inquired whether there are any farmers that have irrigated in this general area. Klug stated that they only irrigate if they live along the creek. There is gravel on the banks of the creek but otherwise there is no irrigation because we're just lucky to have drinking water. You have to have gravel or sandstone or something to get the water and we don't have that.

6. Brian Reiling, 13100 W. Holdrege, directly across from the ranch and directly west of the other property that they propose to purchase on the north side of Holdrege, testified in opposition. Trent Anderson did hold a meeting about three weeks ago and he did receive an invitation. Unfortunately, he was not able to attend; however, he did not receive the information that Anderson said he sent out. Reiling's well, is within less than 300 ft of the proposed golf course site.

Steward asked Reiling whether he was aware of the testing that was going on across from him. Reiling did not see any testing and was never told of it. Steward asked whether Reiling could make any connection with the period of time reported that the testing was taking place as to any drop or diminished capacity in his well. Reiling could not answer,

advised that to be water that would become surface water after pumped out of the ground. 138 acre feet is about 46 million gallons. Steward noted that it goes on to say that the applicant will be required to install meters.

Steward inquired whether the applicant is planning on observable metered conditions in order to present evidence on an annual basis that they are complying with this limitation. Nickel acknowledged that to be the intent. The meters will be read and that will be public information. Steward also confirmed that if the applicant does not comply within a period of three years, the permit will be withdrawn. Nickel concurred.

Staff questions

Steward asked staff whether any of the new information provided changes the staff recommendation. Mike DeKalb of Planning staff stated that when the staff report was written there was no additional information other than the surface water permits. Since then, over the last 6 weeks, the Commission and the staff have had additional information, some of which answers some of the questions. In 1999, the condition of staff had been that the applicant agree to Seward County's requirements for improvement of the road to the west. At that time, the applicant did not want to do that. This time, it appears that it has been addressed and they apparently have an agreement and there is a condition in the staff report binding them to meet those requirements.

DeKalb also stated that the groundwater issue is still a dilemma. This is a sensitive area. We have salt water intrusion with poor water quality and quantity. He is not sure there is sufficient information to change the recommendation.

Steward asked whether the staff recommendation is still denial. DeKalb stated that the staff does not have sufficient information relative to water to justify changing that recommendation.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

Newman moved denial, seconded by Duvall.

Duvall has friends in the area and they have had problems with water. It has always been dryland farming and marginal at that. That area of the county has always been poor and people have had a hard time making a living out there and a high demand use is contrary.

Newman stated that on the water issue alone she would say no because she believes that the farmers would be irrigating if there was sufficient water and they are not. There are other issues of access, traffic, alcohol, and gravel roads. She cannot put recreational uses above agricultural and residential.

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Steward stated that he is in a dilemma. On the one hand he thinks there is enough historical evidence for us to know that in this part of the county there are distinctly different water quality and quantity circumstances than in the mid and southern part of the county. On the other hand, from a Comprehensive Plan perspective, there is some advantage for this kind of development to be in the direction that Lincoln has not grown. On the one hand he can rationalize that the applicant has become sensitive to the environmental issues, and that they have done a great deal of engineering homework. But, on the other hand, he hears a lot of anecdotal reference to the problems that are likely to be created. Steward believes there are mitigating planning issues that speak in favor of the project but he has deep concern about the ability to serve it.

Bayer believes it is an okay location as far as traffic and the golf course, but he is not ready to make the commitment because of the water. If they were only using surface water, he would support it, but he is not willing to take the risk. He does not want to put recreational use ahead of rural living and agriculture.

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

SPECIAL PERMIT NO. 1873
FOR A PERSONAL WIRELESS FACILITY
WITH A REQUEST TO WAIVE THE FALL ZONE,
ON PROPERTY GENERALLY LOCATED
AT 4700 ANTELOPE CREEK ROAD.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

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

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

Carlson has viewed the site and he believes there could be ample opportunity for this kind of site to be located on the east side of 48th in a more commercial area, and not on the fringe of a residential area. He believes there are options that exist that have not been explored that would be superior to this location.

Motion for conditional approval failed 2-5: Steward and Schwinn voting 'yes'; Krieser,

Newman, Duvall, Carlson and Bayer voting 'no'; Taylor and Hunter absent.

Newman moved to deny, seconded by Carlson and carried 7-0: Krieser, Newman, Duvall, Carlson, Steward, Schwinn and Bayer voting 'yes'; Taylor and Hunter absent.

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

Before closing the meeting, Bayer noted that there is a change in the rules and procedures of the Planning Commission coming forward so that the election of Chair and Vice-Chair can occur in August. With that in mind, if individuals are interested in running for Chair or Vice-Chair, please let everyone know because the election will be held at the end of the meeting on August 22 for the subsequent two years.

The Planning Commission will reconvene at 6:00 p.m. for a special public hearing on the proposed South and East Beltway Comprehensive Plan Amendments.

There being no further business, the meeting was adjourned at 4:20 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on July 25, 2001.