

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, March 5, 2003, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gerry Krieser, Roger Larson, Patte Newman, Greg Schwinn, Mary Bills-Strand and Tommy Taylor (Steve Duvall and Cecil Steward absent); Marvin Krout, Ray Hill, Mike DeKalb, Brian Will, Becky Horner, Greg Czaplewski, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Greg Schwinn called the meeting to order and requested a motion approving the minutes of the meeting held February 19, 2003. Newman moved to approve the minutes, seconded by Carlson and carried 5-0: Carlson, Newman, Schwinn, Bills-Strand and Taylor voting 'yes'; Krieser and Larson abstaining; Duvall and Steward absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION:

March 5, 2003

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

The Consent Agenda consisted of the following items: **COUNTY CHANGE OF ZONE NO. 212; COUNTY SPECIAL PERMIT NO. 198, WYNDAM PLACE COMMUNITY UNIT PLAN; COUNTY PRELIMINARY PLAT NO. 03000, WYNDAM PLACE; SPECIAL PERMIT NO. 617B; STREET AND ALLEY VACATION NO. 03002; FINAL PLAT NO. 02035, ASHLEY HEIGHTS 2ND ADDITION; and FINAL PLAT NO. 02038, HARTLAND'S CARDINAL HEIGHTS 2ND ADDITION.**

Item No. 1.2a, County Special Permit No. 198, and Item No. 1.2b, County Preliminary Plat No. 03000, were removed from the Consent Agenda and scheduled for separate public hearing.

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

Note: This is final action on Ashley Heights 2nd Addition Final Plat No. 02035 and Hartland's Cardinal Heights 2nd Addition Final Plat No. 02038, 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.

In terms of ex parte communications, Schwinn asked of the City Law Department whether contact with the Mayor's office and staff are considered ex parte communications that should be disclosed at the Planning Commission meeting. Rick Peo of the City Law Department requested to respond in writing prior to the next meeting.

COUNTY SPECIAL PERMIT NO. 198,
WYNDAM PLACE COMMUNITY UNIT PLAN,
and
COUNTY PRELIMINARY PLAT NO. 03000,
WYNDAM PLACE,
ON PROPERTY GENERALLY LOCATED AT
NO. 176TH STREET AND HOLDREGE STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 5, 2003

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

Staff recommendation: Conditional approval.

These applications were removed from the Consent Agenda and had separate public hearing.

There were no ex parte communications disclosed.

Mike DeKalb of Planning staff submitted a letter from the applicant requesting deferral until April 2nd. The developer will be attending a neighborhood meeting in the meantime.

Newman moved to defer, with continued public hearing and administrative action scheduled for April 2, 2003, seconded by Krieser and carried 7-0: Bills-Strand, Carlson, Newman, Taylor, Larson, Krieser and Schwinn voting 'yes'; Duvall and Steward absent.

Public Testimony

1. **Raymond Althouse**, 1120 No. 202nd Street, Eagle, stated that he is testifying in a neutral position. He lives right next to Holdrege Street. He is a farmer with a cow/calf operation and small hog operation. He also raises corn, soybeans and alfalfa. He has confined livestock facility permits in Cass County located at 202 and Holdrege and he uses the SE 1/4 of Section 13, Lancaster County, to inject liquid manure into the soil, as his rotation and crop plans permit. The northeast corner of this community unit plan and the

southwest corner of the SE 1/4 of Section 13 do meet. Althouse entered his confinement permits for the record.

As far as the proposed CUP, Althouse informed the Commission that he lives 1.5 miles east where Holdrege dead-ends. He farms the SE 1/4 of Section 13, just across the road to the east. He owns the land to the east of Section 13 on the county line in Cass County, which is one mile east of the CUP. He did not receive notification of this application. Althouse stated that he is in favor of cluster zoning with the preservation of open space and he is hopeful that the Planning Commission will uphold the no build zone in the future. His concern is with Holdrege Street from 176th to 190th in that it does not meet road design standards. There are no grader ditches and the hills are steep. He has totaled two cars and he has seen 5-6 cars upside down on 184th Street. One person was killed on one of the hills and hit a tree on the south side of the road. He has seen cars go airborne. When he drives the combine over the hills where there is no grader ditch he drives six inches from the bank. There is no room for speeding cars. The trees need to be moved back so a person can get a tractor and combine to the side of the road to meet oncoming traffic. He has talked with the Dept. of Roads but he would be required to take his fence out. They have not done any road work because the people do not want the trees removed. The traffic from this CUP will go east. Cass County has setback requirements for trees from adjacent property lines. A proposed development on Holdrege Street one mile east of this CUP in Cass County will have 21 lots on 80 acres. There are nine new homes one-half mile north with five more to be built. An owner on 198th & Holdrege plans to sell acreages.

Whether this plan is approved or not, Althouse believes that Holdrege Street needs to be improved in this area. He is also concerned about water runoff from development with rooftops and driveways. Will there be retention areas set up for this runoff?

2. Lori Sass, who owns land in close proximity this proposed development, expressed concerns about the traffic on Holdrege and some hog confinement areas next to the proposal. A fatality on Holdrege happened at the end of her driveway. They contacted the County and were told that road improvements could not and would not be made. Traffic on Holdrege simply cannot handle this amount of traffic. There are other issues that the neighbors have which they will try to work out with the applicant at the neighborhood meeting. Sass indicated that the neighbors are not specifically opposed in general, but there are some significant safety concerns that need to be addressed.

This application will be scheduled for continued public hearing and administrative action on April 2, 2003.

CHANGE OF ZONE NO. 3395
FROM B-1 LOCAL BUSINESS TO R-5 RESIDENTIAL
ON PROPERTY GENERALLY LOCATED
AT NORTH 63RD & "Y" STREETS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 5, 2003

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

Staff recommendation: Approval.

There were no ex parte communications disclosed.

Proponents

1. Sandy Volker, Director of special projects for **Martin Luther Homes**, clarified that the applicant is "MLH Nebraska Housing". MLH Nebraska Housing is a private nonprofit organization which provides support to seniors and people with disabilities. The national offices were moved to Lincoln about nine years ago. Seven years ago, MLH Nebraska Housing started service and support in Lincoln. During that entire time, they have had difficulty finding accessible affordable housing, and last year had to deny people some services because they could not find the housing. They submitted an application to HUD for accessible and affordable housing for people with disabilities, and received the award last November. They now have acquired the subject property, which is just a drop in the bucket as far as the need but will provide 5 apartment units on this site.

2. Kurt Suhr of **Architecture One**, confirmed that the grant has been secured from HUD for the 5 apartments. Part of the grant requirements is site control and being able to show a site demonstrating all the amenities that are around it. The site that has been selected is at the northeast corner of 63rd & Y Streets. It was selected because of the character of the neighborhood—there is a bus route on Holdrege at 66th, shopping, public park, etc. The site is pretty flat and this is good for affordable and accessible housing.

The B-1 uses in the area include Tyrrells Flowers and the Kwik Shop. There is R-2 zoning to the north and south, and R-3 zoning to the west. The R-3 is high density. The site is a little over one-half acre. Suhr believes the R-5 zoning requested is in character with what exists in the R-3 zoning across the street. It will provide a nice transition between the R-3 and R-5. It is consistent with the Comprehensive Plan and well within walking distance of uses for the tenants.

Suhr then showed a preliminary site plan which showed the building being located in the southwest corner of the site with the parking to the east side of the site to buffer the building from the Kwik Shop. The east side is considered the rear yard and will allow them to meet the parking requirements. They will have 9 parking stalls and will provide the landscaping according to city standards.

Suhr clarified that because the project is funded by HUD, the number of apartments cannot change from five without severe penalties. There will be one build with four 2-bedroom

apartments and one 1-bedroom apartment, and a small community area. The emphasis on this project is independent living.

Suhr also showed preliminary elevations of the building and explained the exterior materials.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 5, 2003

Newman moved approval, seconded Taylor and carried 7-0: Bills-Strand, Carlson, Newman, Taylor, Larson, Krieser and Schwinn voting 'yes'; Duvall and Steward absent.

ANNEXATION NO. 03000;
SPECIAL PERMIT NO. 1991,
PINECREST COMMUNITY UNIT PLAN;

and

PRELIMINARY PLAT NO. 02020,
PINECREST,
ON PROPERTY GENERALLY LOCATED
AT NO. 14TH STREET AND MORTON STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 5, 2003

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

Staff recommendation: Approval of the Annexation, subject to an Annexation Agreement; and conditional approval of the Community Unit Plan and Preliminary Plat.

There were no ex parte communications disclosed.

Becky Horner of the Planning staff submitted an email from the property owner at 4900 No. 14th with concerns about any changes that might affect an existing artisan well on the property.

Proponents

1. **Mark Hunzeker** appeared on behalf of the developer. This project has been going on for approximately a year. They have worked out virtually all of the details with staff; however, he has a question concerning Condition #3.2.6 of the preliminary plat, which imposes the requirement that the developer pay all improvement costs except those which the City Council specifically subsidizes, which then includes the cost of the two outside

lanes of a suburban cross section in North 14th Street. Hunzeker suggested that the developer has had extended conversations with Public Works about No. 14th Street and what it means to this project. In fact, this developer was told directly by Allan Abbott that

this project did not create an immediate need for the improvement of No. 14th Street to city standards, and that the improvement would be done in the course of the CIP using impact fees from this project and from other projects in that vicinity. Hunzeker does not know what Condition #3.2.6 means.

With regard to the annexation, the condition of approval requires that there be a signed annexation agreement before the application is scheduled on the City Council agenda. Hunzeker would strongly prefer that this condition be amended to “approval, subject to reaching an annexation agreement with the City”, because he does not want this proposal to be hung up between here and the City Council agenda without the ability to have the public hearing on the issues of the annexation agreement because they have not yet even seen a draft. Hunzeker does not anticipate any difficulties in reaching an annexation agreement.

Opposition

1. Scott Holmes, Chief of the Environmental Health Division of **City-County Health Dept.**, testified that the Health Department is not in opposition but would request consideration of the issues raised in the Health Department memo to the Planning Department that he does not believe have been adequately addressed in the conditions of approval, specifically, the level of noise that will be experienced by the residential properties that will be located very close to the Interstate. There is a condition that there be a 6' berm and a 6' fence to attenuate noise, and given some discussions that they have had with the Nebraska Department of Roads, that will not be adequate to attenuate the noise to a level that would allow the residents to experience any similar level of noise described in the noise control ordinance of the Lincoln Municipal Code as a community standard, i.e. 65 decibels during the day and 55 at night. Within the noise code, it imposes upon the Health Officer to interact with other departments when issues relative to noise arise, and this is what the Health Department had attempted to do in their comments. Holmes is not certain that the proposed condition will protect the citizens who will be living there from noise generated by the Interstate.

Schwinn pondered that if this moves forward, the noise abatement is put in place and the lots are above that noise level, what does the City or Health Department have as recourse? Could the development be stopped? Holmes does not believe the code is written such that any action can be taken. The way the code is written is that no person can create noise which exceeds the threshold described in the code. This is a planning issue. Knowing what we know, and with the Department of Roads recommending 700 feet back from the

center line and the current proposal placing those properties within 200 feet—it is pretty obvious that we are looking at high noise levels. We are talking levels that are close to industry-type level noise limits.

Carlson asked Holmes to discuss the proximity and degree to which distance provides mitigation. Is 700 feet the minimum there? What about moving the road closer to the Interstate which would move the lots further away? Holmes observed that the general rule of thumb is doubling of distance reduces the noise by 3-6 decibels, depending on the reflective surface. If you started at the property border currently proposed (125' from the edge of the right-of-way), and added another 250', then you would have a drop in the noise level of around 3-6 decibels. The Department of Roads report indicates that those houses as proposed will expect noise at around 72 decibels. If you double the distance away, it will reduce it 3 to 4 to 5 decibels, so you would be below 70. As far as berming and mitigation, a fence is not acceptable. A true noise attenuation wall needs to be considered.

2. Mark Ottemann, Noise Engineer with the Nebraska Department of Roads, stated that the houses as proposed would be experiencing noise at more than 75 decibels. He has experienced this level in Omaha and it would be like having to scream to be heard when standing next to someone. In addition, Ottemann believes that the traffic will increase on this Interstate as it is proposed to be expanded. It would reach a point where if nothing has been done for these residences for noise attenuation, at some point in time something would have to be done according to the Code of Federal Regulations. He believes the taxpayers will ultimately have to pay for this attenuation. At some point in time it will require noise attenuation.

Ottemann further advised that the Department of Roads sends recommendations on areas that are being developed, and it is up to the decision makers as to whether those recommendations are followed or not. The Department of Roads is faced with problems when the Interstate is expanded. There are eight or nine locations in Omaha where noise attenuation has been accomplished. It is becoming more and more a factor.

Carlson asked Ottemann to describe physically what is necessary to attenuate the noise. Ottemann responded that in this location, the Interstate is about 14 to 20 ft. higher and in order to block the noise from that, it would require a berm that would be high enough to get it to the point where you could place a noise wall on top of the berm. He would probably put in at least a 15-20' berm, and then put a noise wall on top of that. You have to block line of sight from the traffic and the wall has to be 3' over the line of sight. Your alternatives are to find other uses that are more noise compatible such as commercial.

Schwinn inquired whether the Department of Roads has ever actively sought to stop a development because of this. Ottemann responded that the Department of Roads has not actively sought to stop a development, but he believes a lot of the government entities are becoming a lot more proactive because we know that down the road we are going to be

faced with the decision of how to protect the residences that are allowed to be developed too close to any major traffic facility.

Larson commented that if the houses are built as shown, there would not be enough of a print to put up that berm. Ottemann agreed. When that happens, if we don't have enough space on the State right-of-way, then we have to go to the residents and tell them that there is no solution.

Ottemann added that this stretch of I-80 will be 6 lanes.

Staff questions

Carlson asked staff to discuss the wetlands on the site, especially in proximity to the interstate in the northern and eastern portions of this proposed development. Horner stated that the developer has identified a number of wetland areas which they have attempted to preserve. She understands that they are impacting less than ½ acre of wetlands, which they are mitigating on-site. They had originally shown some of the lots encroaching more into the wetland areas, but they revised the site plan and moved more of them out. Carlson asked for clarification of the staff analysis indicating that "Less wetland area would be disturbed if the homes on the north side of Turtle Creek Road were removed and the road shifted to the north." Horner indicated that this is under the assumption that the homes south of Turtle Creek Road would then probably be moved to the north a little bit and the lot lines would actually be out of the wetland area. There would be more room to plat their lots. Carlson asked about the distance of the lots on the south side of Turtle Creek Road to the Interstate. Horner believes the lots are about 190' from the Interstate. Schwinn believes the back of the lots are less than 200' from the centerline of the Interstate. Horner stated that the lots abutting the Interstate are 109' deep. The lots south of Turtle Creek are 105' deep.

Response by the Applicant

Hunzeker referred to the letter regarding the artisan well. He indicated that whatever legal rights the owner has will be protected. This developer knows the well is there and has no problem with their continued use of it in accordance with the terms that have been in effect since before this property was acquired.

With regard to the noise issue, Hunzeker observed that this is a rather interesting and somewhat difficult issue to address because there is no standard, which is what the staff report indicates. There are no city regulations that apply in this circumstance. The city's noise ordinance is more in the nature of a nuisance type ordinance that makes it a

misdemeanor to create a noise disturbance which interferes with the use of residential property. Therefore, Hunzeker does not believe it applies in this situation.

With regard to the Department of Roads study, Hunzeker pointed out that the numbers being discussed are projected to be the noise levels in 2020. The only other study we have any experience with that is similar is the Anclux Study done for the airport about 20 years ago, and it is at least the consensus of people looking at those noise contours and flight patterns and technology changes, that those noise contours overstate the noise problem at the airport. Hunzeker stated that he is having trouble articulating a reason we should be talking about this today other than that it exists and the Department of Roads doesn't want to have to pay people for noise in the future. He understands the concern; however, this is an issue that can only be addressed in a comprehensive way, and the city needs to decide whether it wants to designate, almost exclusively, commercial uses along all of its major transportation corridors (which seems not to be the direction things were headed just a while back), or whether the city simply wants to say we are going to have open space, in which case the city can buy open space. Hunzeker does not believe it is not permissible to say to people, "we're worried about the noise impact in the future so you can't use your land."

Hunzeker went on to state that this particular project has raised some flags that haven't been raised before, but this is not the first time this particular issue (noise) has been at least discussed on the periphery of a project right in this vicinity. For example, Stone Bridge Creek had proposed to have industrial uses along the entire frontage of I-80, and the developer was opposed in that effort and told, "no, it's just fine, put residential there." Now we're being told something different on this project. The study being discussed has been available for four or five months and nothing was said until the last couple of weeks.

Schwinn commented that from a straight land use, there is probably no reason why this should ever be turned down. If we as a city and the state feel that a buffer should be here and we demand it of the developer, he believes it is a constitutional issue and the city should pay for it. But, having heard what has been said here today, as these lots go forward and the houses are sold and I-80 expanded, isn't there a certain liability placed back on the developer? Hunzeker's response was that the Interstate is already there and people who are going to buy these homes will know it is there. It is a very well publicized issue as to the widening of that stretch of the Interstate. He does not think it is an issue that is going to be creating a liability on the developer or builders because these are fairly common facts that anyone can discover. There are construction techniques that can be used and that are generally used, most of which are construction techniques that are built into a good house anyway. He does not believe this is going to create a liability for this developer or for the builders. It is in a location which probably may result in some differential pricing because of the relative noise associated with the areas adjacent to the Interstate. We have people living next to Interstates all over the country and he does not believe it should be prohibited.

Hunzeker again referred to Condition #3.2.6 of the preliminary plat. He does not object, but he would like to know what is intended. Rick Peo, City Law Department, believes the condition regarding the construction of No. 14th Street is an item that would be more appropriately included in the annexation agreement, depending on how we look at that facility. Peo also agreed that the condition on the annexation be changed as per the applicant's request, i.e. that an annexation agreement be reached before the annexation is approved by the City Council.

Public hearing was closed.

ANNEXATION NO. 03000

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 5, 2003

Carlson moved to deny, seconded by Newman.

It is Carlson's opinion that this type of analysis and investigation is completely appropriate for this body. The charge of the Planning Commission is to look at the Comprehensive Plan and look long term. The idea of placing residential in an area that we know is going to be difficult and a poor quality of life condition is unacceptable. The mitigation possibilities are physically and aesthetically unacceptable. He does not believe this is consistent with what we are seeking for the quality of development and planning here in Lincoln. He believes the proposed site plan needs to be rearranged because he does not believe the issues of public health, safety and welfare and the Comprehensive Plan issues are sufficiently addressed.

Newman observed that the Commission hears people commenting many times about common sense, and she thinks common sense tells us this is not the right place to put this development. Having the right to do something doesn't necessarily make it right.

Schwinn posed a question to Carlson and Newman -- if we say "no" as a governmental body, then in essence we are telling them they have no right to use this property as they wish. Newman disagreed. We are saying that if the solutions are not there, we need to find the correct solution before we approve it.

Carlson stated that he is rendering his opinion as a Commissioner to be passed on to the elected body, and his opinion on this development is that it is not a proper plan.

In response to a question raised by Larson regarding annexation, Peo indicated that if the property is not annexed, the property would not have city water and sewer.

Motion to deny failed 2-5: Carlson and Newman voting 'yes'; Bills-Strand, Taylor, Larson, Krieser and Schwinn voting 'no'; Duvall and Steward absent.

Larson made a motion for approval, subject to reaching an annexation agreement prior to

approval by the City Council, seconded by Bills-Strand and carried 5-2: Bills-Strand, Taylor, Larson, Krieser and Schwinn voting 'yes'; Carlson and Newman voting 'no'; Duvall and Steward absent.

SPECIAL PERMIT NO. 1991

PINECREST COMMUNITY UNIT PLAN

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 5, 2003

Bills-Strand moved to defer for two weeks because she would like to see the applicant come back with some ideas on ways to work with the mitigation of the sound, seconded by Larson.

Bills-Strand further commented that she believes we owe it to future taxpayers that may have to put in a sound barrier, and we also owe it to the people that would live in these lots to put up that sound barrier. The Comprehensive Plan already calls for the zoning, so we need to work with it as best we can.

The Clerk suggested that if this results in new information, the public hearing should be reopened which requires readvertising and notices to property owners. Rick Peo of the City Law Department concurred.

Motion was amended to defer four weeks with reopened public hearing and administrative action scheduled for April 2, 2003, seconded by Larson and carried 7-0: Bills-Strand, Carlson, Newman, Taylor, Larson, Krieser and Schwinn voting 'yes'; Duvall and Steward absent.

PRELIMINARY PLAT NO. 02020

PINECREST

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 5, 2003

Bills-Strand moved to defer for four weeks, and reopened public hearing and administrative action on April 2, 2003, seconded by Larson and carried 7-0: Bills-Strand, Carlson, Newman, Taylor, Larson, Krieser and Schwinn voting 'yes'; Duvall and Steward absent.

SPECIAL PERMIT NO. 1998

FOR A RECREATIONAL FACILITY

ON PROPERTY GENERALLY LOCATED

AT SOUTH 84TH AND SOUTH STREETS.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 5, 2003

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

Staff recommendation: Denial.

There were no ex parte communications disclosed.

Brian Will of Planning staff submitted additional information for the record, including a letter from J.D. Burt on behalf of the applicant to Ray Hill in response to an inquiry about purchasing additional property surrounding the site to increase the setback. The applicant believes that the proposed site plan is adequate. Two letters in opposition were also submitted.

Bills-Strand noted that the staff had previously suggested locating this facility at Seacrest Field. Where was it on that property the staff would propose to have this facility located? Brian Will indicated that he had provided the aerial photographs of the Seacrest Field layout only because the issue had been raised during the public hearing. Will was not the staff person involved in those discussions, but in general terms, he does not know that there were specific siting recommendations made by staff.

The Commission then requested to have J.D. Burt come forward. Burt indicated that there are two different ownerships of the property on that campus--part by LPS and part by the City. The property near the intersection was part of the mitigation park ground that was not going to be advantageous for use as far as the legal ownership. They also looked at another area in the southeast corner of the site adjacent to A Street and it was also deemed to be unacceptable.

Bills-Strand wants to know what the staff believes would be acceptable for placement at Seacrest Field. Will stated that the staff review was based upon the application submitted. The staff attempted to indicate that these facilities can be appropriate even in this location, but that the scale and scope of the proposal is too large for this location. From there you would have to take a look at larger sites or a site that could accommodate a larger setback from the property line to the building. This site has some unique characteristics and impediments to moving the building for the size of building that is proposed.

Bills-Strand asked if it would be acceptable to staff if they could either enlarge the envelope or move it down a little further to the south? Will indicated that one of the suggestions the staff had forwarded was to acquire additional property to provide an additional setback and buffer between the facility and what will be future residential properties.

Schwinn referred to the letter from J.D. Burt which points out that if the property were annexed and rezoned R-2 or R-3, this would be an acceptable use. Ray Hill of Planning staff disagreed. Regardless of AG, R-2 or R-3 zoning, the size of the structure (which we

have not been able to determine but may be about the same size as all of the government buildings from K Street to G Street and probably taller than the County-City Building) is too close for any property. Hill acknowledged that this particular use along 84th Street may not be a bad use, but it needs to be on a much larger tract of ground. The staff had suggested that if they would acquire additional land to provide the 100' setback, that would be something the staff would consider and possibly recommend approval.

Schwinn noted that LPS owns land on one side. It is Hill's understanding from LPS that it is probably not going to be a school site. The staff is not saying this is a bad location or a bad project—we're just saying it is not enough land.

Carlson moved to deny, seconded by Newman.

Carlson believes that the staff report does a pretty good job of representing the situation. His opinion is that this is a use that it appears the community wants and there is a need for this use, but the question is, can you make that use appropriate for this site or find a site appropriate for the use? Since we don't have that match, he is recommending denial.

Schwinn recalled the battles with the spirit soccer field – everyone wants a soccer field two blocks away but no one wants it next to their house and it is really hard to site those facilities when you do it like that. The Commission has received some letters from Woods Park and in that regard Schwinn referred to what his predecessor Russ Bayer used to say, "it's amazing -- if the private sector can't do it, the public sector couldn't either", and we haven't had any trouble doing whatever we wanted to in Woods Park. We have bubbles there and we built a baseball diamond there. Schwinn believes the proposal is a good use. Once the uses are constructed, people appreciate them.

Bills-Strand indicated that she is struggling on this one a little bit. If they could just add a little bit more land or move it just a little bit more south and get it out of the back yards, she wants to support this facility. Maybe LPS could work with us on adding a little more land.

Taylor has the same struggle. He thinks it is an excellent idea. He is not opposed to the general area, but he believes they need to figure out a way to get some more land.

Schwinn wondered whether the Commission would consider a deferral to see if something can be worked out with LPS. Upon further discussion, Carlson withdrew the motion to deny, and Newman as the second agreed.

Carlson moved to defer for four weeks, with reopened public hearing and administrative action scheduled for April 2, 2003, seconded by Newman and carried 7-0: Bills-Strand, Carlson, Newman, Taylor, Larson, Krieser and Schwinn voting 'yes'; Duvall and Steward absent.

OTHER BUSINESS

The Clerk announced that the Commission has received written request from the applicant's representative on **COUNTY CHANGE OF ZONE NO. 211 AND COUNTY PRELIMINARY PLAT NO. 02029, THE PRESERVE AT CROSS CREEK**, located at South 68th Street and Roca Road. These applications are currently on the Planning Commission pending list, being deferred on February 5, 2003, until completion of the rural studies set forth in the Comprehensive Plan. The applicant has received a letter from the City of Hickman with no objection to the proposal and the applicant is requesting a new public hearing.

Bills-Strand made a motion to schedule a new public hearing and administrative action for April 2, 2003, seconded by Taylor.

Carlson pointed out and clarified that the motion was to place on pending and was somewhat time specific based on return of the acreage study and whatever standards are developed. It was his understanding that this project was not placed on pending in order to resolve particular issues, but put on pending in order to get the additional Comprehensive Plan information back, and he is still waiting to see that.

The Clerk also announced a letter received from James Chambers regarding private airfields that are located in the general area.

Motion to remove from pending with new public hearing and administrative action on April 2, 2003, carried 5-2: Bills-Strand, Taylor, Larson, Krieser and Schwinn voting 'yes'; Carlson and Newman voting 'no'; Duvall and Steward absent.

There being no further business, the meeting was adjourned at 2:25 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on March 19, 2003.