

Lincoln City - Lancaster County

PLANNING COMMISSION AGENDA

PLANNING COMMISSION

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Cindy Ryman Yost: Vice Chair
Lorenzo Ball
Dick Campbell
Tracy Corr
Maribel Cruz
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PLANNING STAFF

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Geri Rorabaugh: Administrative Officer
Shelli Reid: Administrative Aide
Alexis Longstreet: Office Specialist

February 16, 2022

NOTICE: The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, February 16, 2022, at 1:00 p.m. in Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th St., Lincoln, Nebraska. For more information, call the Planning Department, (402) 441-7491.

MASKS ARE STRONGLY ENCOURAGED FOR OUR PUBLIC MEETINGS IN THIS BUILDING

****PLEASE NOTE:** The Planning Commission action is final action on any item with a notation of *FINAL ACTION*. Any aggrieved person may appeal Final Action of the Planning Commission to the City Council or County Board by filing a Notice of Appeal with the City Clerk or County Clerk within 14 days following the action of the Planning Commission.

The Planning Commission action on all other items is a recommendation to the City Council or County Board.

The Planning Commission will be allowing testimony on agenda items by videoconferencing. For those who wish to testify by video, you must register with the Planning Department Office to participate by calling 402-441-7491 or emailing Plan@lincoln.ne.gov by 10:00 a.m. the day of the meeting. You will be asked to provide your name, address, phone number and the agenda item(s) you wish to speak on, and your position on this item. On the day of the hearing, you will receive a link via email, which will be needed to join the hearing to provide your testimony.

AGENDA

WEDNESDAY, FEBRUARY 16, 2022

Approval of minutes of the regular meeting held February 2, 2022.

1. CONSENT AGENDA (Public Hearing and Administrative Action)

PERMITS:

Page 01 1.1 USE PERMIT 117F, to allow for the sale of alcohol for consumption off the premises, on property generally located at 1245 Libra Drive. *** **FINAL ACTION** ***
Staff recommendation: Conditional Approval
Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

Page 09 1.2 SPECIAL PERMIT 22001, to allow for the sale of alcohol for consumption both on and off the premises, on property generally located at 901 North 48th Street. The Planning Commission action is final, unless appealed to the Lincoln City Council. *** **FINAL ACTION** ***
Staff recommendation: Conditional Approval
Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

2. REQUESTS FOR DEFERRAL:

3. ITEMS REMOVED FROM CONSENT AGENDA:

4. PUBLIC HEARING AND ADMINISTRATIVE ACTION

COMPREHENSIVE PLAN AMENDMENT AND RELATED ITEMS:

4.1a COMPREHENSIVE PLAN AMENDMENT 22002, to amend the Lincoln-Lancaster County 2050 Comprehensive Plan to revise the Future Land Use Map in multiple areas on a parcel of approximately 42.15 acres, by revising portions of the western and northern sections from Urban Residential and Green Space to Commercial, at 7230 Yankee Hill Road, generally located northeast of South 70th Street and Yankee Hill Road.

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Staff recommendation: Approval

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

4.1b ANNEXATION 21010, to annex approximately 41.99 acres, more or less, on property generally located NE of South 70th Street and Yankee Hill Road.

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Staff recommendation: Conditional Approval

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

4.1c CHANGE OF ZONE 21053, from AG (Agricultural District) to R 3 (Residential District) District) PUD (Planned Unit Development) for the Market Pointe PUD for up to 120,000 square feet of commercial floor and up to 464 multiple family dwelling units with adjustments to the Zoning and Subdivision Ordinances, on property generally located NE of South 70th Street and Yankee Hill Road.

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Staff recommendation: Conditional Approval

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

4.2a COMPREHENSIVE PLAN AMENDMENT 22003, to amend the Lincoln-Lancaster County 2050 Comprehensive Plan to revise the Future Land Use Map from "Commercial" and "Urban Density -Residential" to "Public and Semi-Public", on property generally located at Waterford Estates Drive and Linwood Lane.

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Staff recommendation: Approval

Staff Planner: George Wesselhoft, 402-441-6366, gwesselhoft@lincoln.ne.gov

4.2b CHANGE OF ZONE 22001, from AG (Agricultural District), B-2 (Planned Neighborhood Business District) and R-3 (Residential District) to P (Public Use District), on property generally located at Waterford Estates Drive and Linwood Lane.

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Staff recommendation: Approval

Staff Planner: George Wesselhoft, 402-441-6366, gwesselhoft@lincoln.ne.gov

4.2c PRELIMINARY PLAT 04011A, for a preliminary plat amendment to show a revised street layout, with associated waiver, on property generally located at Waterford Estates Drive and Linwood Lane. *** FINAL ACTION ***

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Staff recommendation: Conditional Approval

Staff Planner: George Wesselhoft, 402-441-6366, gwesselhoft@lincoln.ne.gov

CHANGE OF ZONE:

4.3 CHANGE OF ZONE 20036, from AG (Agricultural District) to H-3 (Highway Commercial District), on property generally located at 8230 South 91 Street.

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Staff recommendation: Denial

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

TEXT AMENDMENT:

- Page 95 4.4 TEXT AMENDMENT 21011, to amend Article 2-Definitions; Article 4-AG Agricultural; Article 5-AGR Agricultural Residential; Article 6-Residential; Article 7-Business; Article 13-Special Permit, and Article 17-Additional Height and Area Regulations of the Lancaster County Zoning Regulations by restructuring Article 13 and reformatting the zoning code.
Staff recommendation: Approval
Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov

USE PERMIT:

- Page 113 4.5 USE PERMIT 15002B, to allow for the expansion of an existing use permit to include an additional 9.89 acres and 203 additional dwellings, with new requested waivers to setbacks, on property generally located at NW 12th Street and West Highland Boulevard.
Staff recommendation: Conditional Approval
Staff Planner: Rachel Christopher, 402-441-7603, rchristopher@lincoln.ne.gov

MISCELLANEOUS:

- Page 129 4.6 MISCELLANEOUS 22001, to review the proposed determination that the Bishop Heights Shopping Center Environs Redevelopment Area be declared blighted and substandard as defined in the Nebraska Community Development Law, located in the SW 1/4 of Section 6-9-7, Lincoln, Lancaster County, Nebraska, generally located at 27th Street and Highway 2.
Staff recommendation: Finding of Substandard and Blighting Conditions
Staff Planner: Benjamin Callahan, 402-441-6360, bcallahan@lincoln.ne.gov

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**AT THIS TIME, ANYONE WISHING TO SPEAK ON AN ITEM
NOT ON THE AGENDA, MAY DO SO.**

* * * * *

Adjournment

PENDING LIST:

CHANGE OF ZONE 04075I, to amend the existing Village Gardens PUD (Planned Unit Development) for the construction of multiple-family dwelling units with waivers to adjust height and parking, on property generally located at 56th Street and Pine Lake Road.

CHANGE OF ZONE 21024, from B-1 (Local Business District) to H-2 (Highway Business District), on property generally located at 4615 Vine Street.

Planning Department Staff Contacts:

David Cary, <i>Director</i>	402-441-6364	dcary@lincoln.ne.gov
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Tom Cajka, <i>Planner</i>	402-441-5662	tcajka@lincoln.ne.gov
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George Wesselhoft, <i>Planner</i>	402-441-6366	gwesselhoft@lincoln.ne.gov
Brian Will, <i>Planner</i>	402-441-6362	bwill@lincoln.ne.gov
Allan Zafft, <i>Transportation Planner</i>	402-441-6369	azafft@lincoln.ne.gov

* * * * *

The Planning Commission meeting which is broadcast live at 1:00 p.m. every other Wednesday will be available for viewing on LNK City TV at
<https://lnktv.lincoln.ne.gov/CablecastPublicSite/watch/3?channel=1>

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The Planning Commission agenda may be accessed on the Internet at
<https://app.lincoln.ne.gov/city/plan/boards/pc/pc.htm>

ACCOMMODATION NOTICE

The City of Lincoln complies with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 guidelines. Ensuring the public's access to and participating in public meetings is a priority for the City of Lincoln. In the event you are in need of a reasonable accommodation in order to attend or participate in a public meeting conducted by the City of Lincoln, please contact the Director of Equity and Diversity, Lincoln Commission on Human Rights, at 402 441-7624 as soon as possible before the scheduled meeting date in order to make your request.

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER
Use Permit #117F

FINAL ACTION?
Yes

DEVELOPER/OWNER
Phong Nguyen
Phnguyen2008@gmail.com

PLANNING COMMISSION HEARING DATE
February 16, 2022

RELATED APPLICATIONS
None

PROPERTY ADDRESS/LOCATION
1245 Libra Drive, #110

RECOMMENDATION: CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

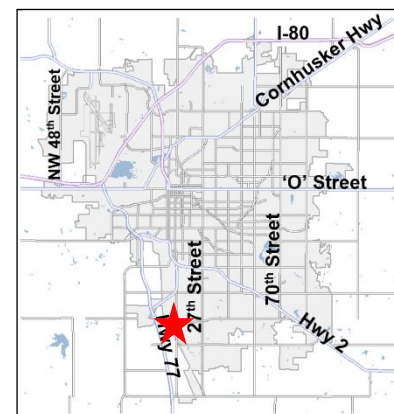
This is a request for a special permit to allow the consumption of alcohol off the premises. The applicant is Kyoung Chu on behalf of the Red Fox Bar and Grill and is seeking the ability to have off-sale alcohol primarily to support expanded catering. The entire premises meets the requirements for a special permit for off-sale alcohol.

The sale of alcohol in the City of Lincoln is regulated by both the State of Nebraska and the City of Lincoln. That is, in addition to the requirement for the issuance of a State liquor license, the sale of alcohol is also regulated by the Zoning Ordinance which requires a special permit in those districts where it is allowed.

Because the State Liquor License authorizes off-sale as part of the Liquor License, it must also be permitted by local zoning, as a result this special permit is also required.

JUSTIFICATION FOR RECOMMENDATION

Subject to the recommended conditions of approval, this request complies with all applicable criteria for a special permit for the sale of alcohol for consumption off the premises.



APPLICATION CONTACT

Kyoung Chu
(402)-429-1667
han@chumanagementgroup.com

STAFF CONTACT

Brian Will
(402) 441-6362
bwill@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The premises is located southwest of the intersection of South 14th and Pine Lake Road in the Horizon Business Center. The entire center is zoned I-3 and regulated by a use permit zoning overlay - UP#117. The Red Fox Bar and Grill is surrounded by commercial zoning and commercial uses in all directions. This request meets all the siting criteria of the Zoning Ordinance which seek to locate the sale of alcohol away from residential areas and other sensitive uses. Siting at this location is consistent with the goals of the Comprehensive Plan.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Figure GF.b: 2050 - This site is shown as future Commercial on the 2050 Future Land Use Plan.

Fundamentals of Growth in Lancaster County

The City of Lincoln's present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a mix of uses, and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

Policies Section

P14 - Commercial Infill: Develop infill commercial areas to be compatible with the character of the area.

Action Steps

1. Implement commercial infill redevelopment principles as discussed in the Business & Economy element.
2. Maintain and encourage businesses that conveniently serve nearby residents, while ensuring compatibility with adjacent neighborhoods.
3. Avoid encroachment into existing neighborhoods during expansion of existing commercial and industrial uses, and take steps to ensure expansions are in scale with the adjacent neighborhood, use appropriate screening, fulfill a demonstrated need, and do not hinder health and safety.
4. Prioritize retaining areas for continued residential development in older sections of the community by maintaining existing housing and supporting infill housing. Prior to approving the removal of housing to provide additional parking for existing centers, alternatives such as reduced parking requirements, shared parking, additional on-street parking, and/or the removal of other commercial structures should be explored. Maintain and encourage ethnically diverse commercial establishments that are beneficial to existing neighborhoods.

ANALYSIS

1. **SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC) 27.63.685:** Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.

The parking requirement for off-sale is that of the underlying zoning district. As a result no additional parking is required as a result of this request and the parking provided meets the requirements of the Zoning Ordinance.

(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under LMC Section 27.63.680 of this code.

This request is only for off-sale alcohol. On-sale alcohol was authorized previously for this premises by Special Permit #04051. Since that approval in 2004 the City has approved special permits by amending the zoning overlay if one exists. This consolidates zoning approvals and simplifies tracking. In this case, UP#117 is being amended to include this special permit for off-sale alcohol on Lot 15.

(c) The licensed premises of any building approved for such activity must be located no closer than (i) 100 feet from the property line of a premises used in whole or in part for a first-floor residential use, day care facility, park, church, or state mental health institution, or (ii) 100 feet from a residential district.

The proposed licensed premises is in the I-3 zoning district and fully surrounded by I-3 zoning and commercial uses. The nearest of any of the known sensitive uses listed under the location criteria is to the property line of R-3 zoning and a childcare facility located approximately 385' to the east on the other side of South 14th Street.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

No new lighting is shown, but lighting is reviewed at the time of building permits and must comply with Design Standards at that time.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not being proposed on the site plan.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

No such devices are proposed as part of this application.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

There is no residential zoning district within 150'.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to the premises is from South 14th Street which is not considered a residential street at this location.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or
- (2) Repeated violations related to the operation of the permittee's business.
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.

2. This request for the sale of alcohol for consumption off the premises complies with all applicable requirements of the Zoning Ordinance and is consistent with the Comprehensive Plan subject to the recommended conditions of approval. It is compatible with surrounding uses and is an appropriate use of land at this location.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: Commercial I-3

SURROUNDING LAND USE & ZONING

North: Vacant	I-3
South: Commercial	I-3
East: Day Care, Commercial	R-3, B-2
West: Commercial	I-3

LEGAL DESCRIPTION: Lot 1, Horizon Business Center 6th Addition, Lancaster County, Nebraska,

Prepared by

Brian Will

bwill@lincoln.ne.gov or at

402-441-6362

February 1, 2022

Applicant/

Contact:

Kyoung Chu

2720 North 5th Street

Lincoln, NE 68521

402-429-1667

han@chumanagementgroup.com

Owner:

Phong Nguyen

2541 Southview Circle

Lincoln, NE 68512

402-310-4684

Phnguyen2008@gmail.com

CONDITIONS OF APPROVAL - USE PERMIT #117F

This approval permits the sale of alcohol for consumption off the premises per LMC Section 27.63.685.

Conditions:

Standard

2. The following conditions are applicable to all requests:
 - 2.1 Before the sale of alcohol for consumption off the premises, all development and construction is to substantially comply with the approved plans.
 - 2.2 The physical location of setbacks, yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
 - 2.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 2.4 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefore to be paid in advance by the applicant. The sale of alcohol is not authorized unless the letter of acceptance has been filed.
 - 2.5 The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all prior resolutions approving this permit remain in full force and effect as specifically amended by this resolution.

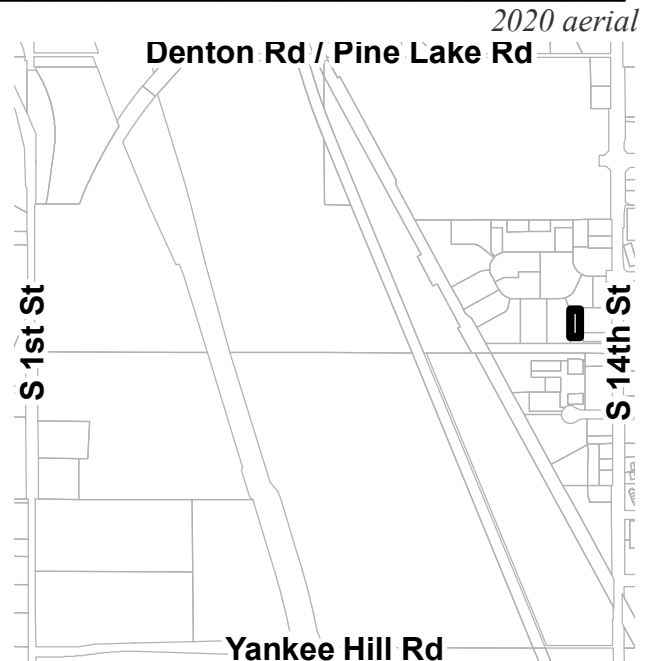
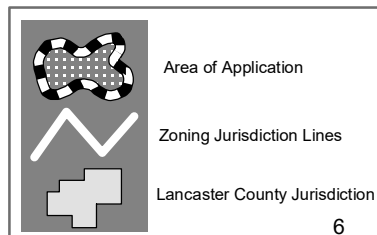
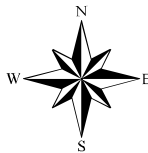


Use Permit #: UP117F
Horizon Business Center
S 14th St & Vavrina Blvd

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile:
Sec.23 T09N R06E



To: City of Lincoln Planning Department

Date: January 17, 2022

From: Chu Management Group DBA The Fox Bar & Grill

Location: 1245 Libra Dr. STE 110, Lincoln, NE 68512

Purpose:

The purpose of applying for a special permit for off-sale alcohol at The Fox Bar & Grill is so we can expand our business through catering. We will be changing our trademark (DBA) name this year in 2022, as well as a new menu, and already have been asked to provide catering to special events primarily weddings/graduations. We purchased this bar in April 2021, and the previous owner had already had the on-sale license, so we hope we would be able to obtain the special permit as well.

Thank you for understanding!

Kyoung Han Chu

Owner-Operator

402-429-1667

han@chumanagementgroup.com

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

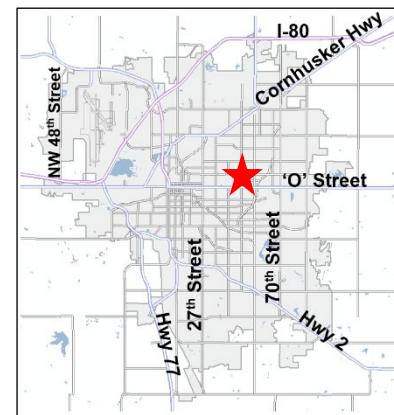
APPLICATION NUMBER Special Permit #22001	FINAL ACTION? Yes	DEVELOPER/OWNER DeLeon's
PLANNING COMMISSION HEARING DATE February 16, 2022	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION 901 North 48 th Street

RECOMMENDATION: CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request for a special permit to allow the sale of alcohol for consumption both on and off the premises. The applicant, DeLeon's, is a restaurant with a drive-through facility and indoor seeking to provide the sale of alcohol to customers for consumption both on and off the premises.

The sale of alcohol in the City of Lincoln is regulated by both the State of Nebraska and the City of Lincoln. That is, in addition to the requirement for the issuance of a State liquor license, the sale of alcohol is also regulated by the Zoning Ordinance which requires special permits in those districts where it is allowed.



JUSTIFICATION FOR RECOMMENDATION

Subject to the recommended conditions of approval, this request complies with all applicable criteria for a special permit for the sale of alcohol for consumption both on and off the premises.

APPLICATION CONTACT

McKynze Works
(402)-474-1731
mworks@morrowpoppelaw.com

STAFF CONTACT

Brian Will
(402) 441-6362
bwill@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

This helps the applicant provide the typical range of products anticipated by customers of the store. This request meets all the siting criteria of the Zoning Ordinance which seek to locate the sale of alcohol away from sensitive areas/uses. Siting at this location is consistent with the goals of the Comprehensive Plan.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Figure GF.b: 2050 - This site is shown as future Commercial on the 2050 Future Land Use Plan.

Fundamentals of Growth in Lancaster County

The City of Lincoln's present infrastructure investment should be maximized by planning for well-designed and appropriately placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a

mix of uses and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

Policies Section

P14 - Commercial Infill: Develop infill commercial areas to be compatible with the character of the area.

Action Steps

1. Implement commercial infill redevelopment principles as discussed in the Business & Economy element.
2. Maintain and encourage businesses that conveniently serve nearby residents, while ensuring compatibility with adjacent neighborhoods.
3. Avoid encroachment into existing neighborhoods during expansion of existing commercial and industrial uses and take steps to ensure expansions are in scale with the adjacent neighborhood, use appropriate screening, fulfill a demonstrated need, and do not hinder health and safety.
4. Prioritize retaining areas for continued residential development in older sections of the community by maintaining existing housing and supporting infill housing. Prior to approving the removal of housing to provide additional parking for existing centers, alternatives such as reduced parking requirements, shared parking, additional on-street parking, and/or the removal of other commercial structures should be explored. Maintain and encourage ethnically diverse commercial establishments that are beneficial to existing neighborhoods.

ANALYSIS

1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC) 27.63.680: The sale of alcoholic beverages for consumption on the premises may be allowed in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2, and I-3 zoning districts and on the premises of a restaurant in the O-3 district upon the approval of a special permit subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(a) Parking shall be in conformance with Chapter 27.67 Parking.

Parking must be provided at the rate specified in the Zoning Ordinance. An existing building is being renovated to accommodate the restaurant. The building layout and parking requirements are being reviewed by the Department of Building and Safety prior to issuance of building permits. The determinations made during that review are applicable to this request with respect to parking. If the plans provided to Building and Safety are approved for permits the calculations used there will be applied to this permit as well.

A condition of approval is included noting the parking shown on the site plan is subject to approval of the plans submitted for building permit.

(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.

This also includes a request to allow the sale of alcohol for consumption off the premise. Those criteria are addressed later in this report.

(c) The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than (i) 100 feet from the property line of a premises used in whole or in part for a first-floor residential use, day care facility, park, church, or state mental health institution, or (ii) 100 feet from a residential district (except where such use is accessory to a golf course or country club).

The proposed licensed premises is located in the H-2 commercial zoning which extends along North 48th Street in this area. It is surrounded by commercial zoning and uses. None of the sensitive uses specified above are within

100' of the business. The nearest of any of these is a mobile home park on the east side of North 48th Street in excess of 360' away.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

The permits for the site/building renovation are under review by Building and Safety, and lighting is reviewed at the time of building permit for compliance with the lighting Design Standards.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

There is no residential zoning in proximity to the site and the drive-through window is not located in a required setback from a residential zoning district.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

There will be speakers for the drive-through facility, but there is no residential zoning within 150' of the premises.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

There is no residential zoning district within 150' of the business.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to the site is from W Street, where even though it is a local street it is not considered a residential street in this area.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or
- (2) Repeated violations related to the operation of the permittee's business.
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.

2. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC) 27.63.685: Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.

As noted in Section 1 above, provided the parking provided meets the requirements for building permits it will also satisfy the parking requirements for this use. The condition of approval relative to parking applies to this use too.

(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under LMC Section 27.63.680 of this code.

This request is for both on and off-sale alcohol. If approved, this special permit authorizes both at this location.

(c) The licensed premises of any building approved for such activity must be located no closer than (i) 100 feet from the property line of a premises used in whole or in part for a first-floor residential use, day care facility, park, church, or state mental health institution, or (ii) 100 feet from a residential district.

As noted previously, the proposed licensed premises is located in the H-2 commercial zoning which extends along North 48th Street in this area. It is surrounded on all sides by commercial zoning and uses. None of the sensitive uses specified above are within 100' of the business. The nearest of any of these is R-2 Residential zoning located east across North 48th Street in excess of 400' away.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

The permits for the site/building renovation are under review by Building and Safety, and lighting is reviewed at the time of building permit for compliance with the lighting Design Standards.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

The drive-through facilities are not located in a required setback from a residential zoning district.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

There will be speakers and microphones associated with the drive-through component but any such devices would be in excess of 150' away from any residential zoning district.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

There is no residential zoning district within 150' of the proposed licensed premises.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to the site is from W Street, where even though it is a local street it is not considered a residential street in this area.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

3. This request for the sale of alcohol for consumption both on and off the premises complies with all applicable requirements of the Zoning Ordinance. Subject to the recommended conditions of approval it is consistent with the Comprehensive Plan and is an appropriate use of land at this location.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: Commercial H-2

SURROUNDING LAND USE & ZONING

North: Commercial	H-2
South: Commercial	H-2
East: Commercial	H-2
West: Commercial	H-2

LEGAL DESCRIPTION: The remaining portion of Lot 3, Block 12, Newman Addition and the adjacent vacated North 47th Street right-of-way, located in the NW ¼ of Sec. 20-10-7, Lancaster County, Nebraska

Prepared by

Brian Will
bwill@lincoln.ne.gov or at
402-441-6362
February 1, 2022

Owner/
Applicant: Jose Diaz De Leon
7900 Regent Drive
Lincoln, NE 68507
402-580-6477
dleonstacorico01@gmail.com

Contact: McKynze Works
Morrow Poppe Law
201 North 8th Street, Ste 300
Lincoln, NE 68508
402-474-1731
mworks@morrowpoppelaw.com

CONDITIONS OF APPROVAL - SPECIAL PERMIT #22001

This approval permits the sale of alcohol for consumption both on and off the premises per LMC Sections 27.63.680 and 27.63.685.

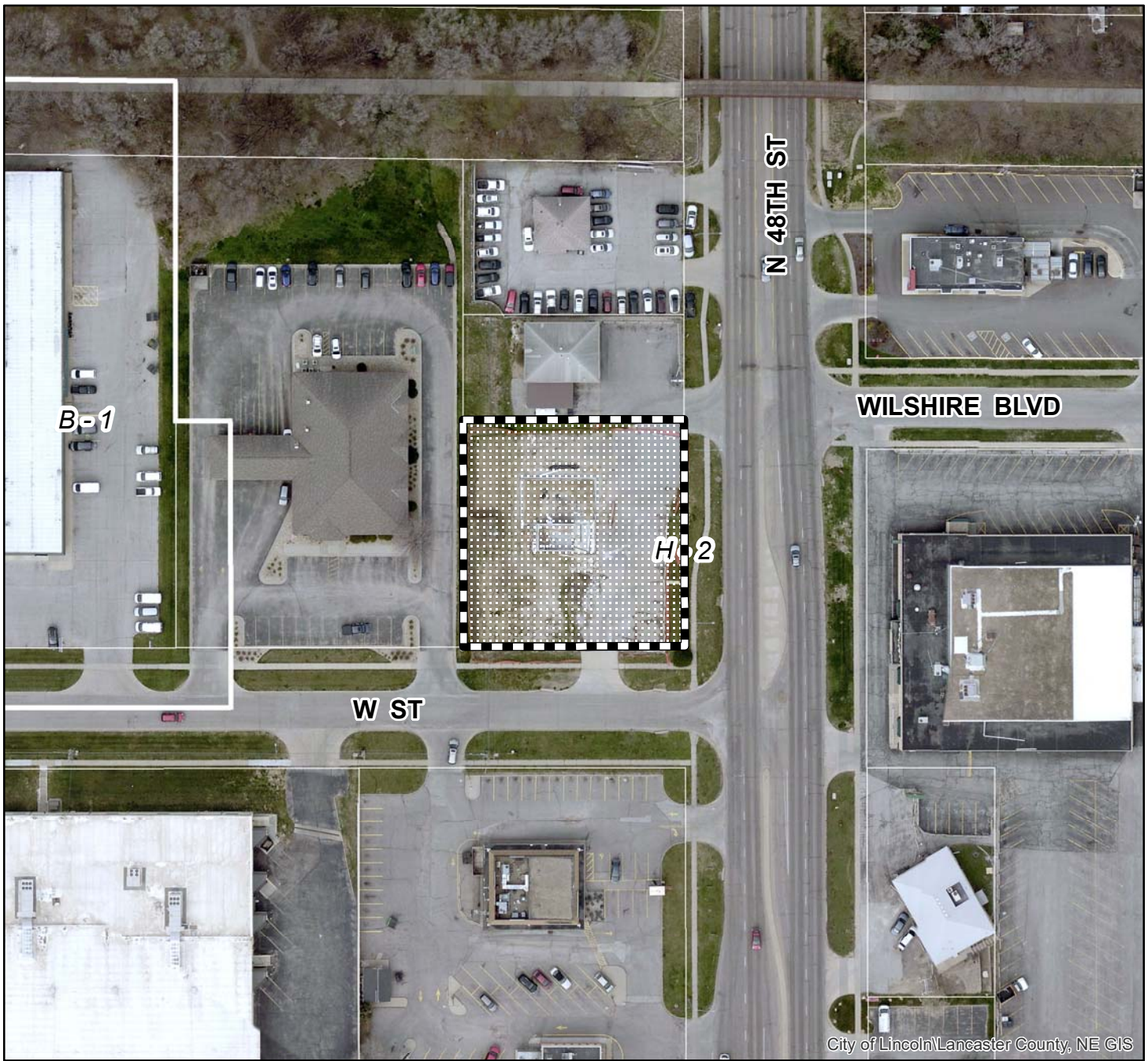
Conditions:

Site Specific

1. Before the sale of alcohol the permittee shall submit to the Planning Department a revised and reproducible final plot plan including 2 copies with all required revisions and documents as listed below:
 - 1.1 Revise the site plan if necessary consistent with the plans submitted to the Department of Building and Safety and approved for building permits with the approved parking plan for this premises.

Standard

2. The following conditions are applicable to all requests:
 - 2.1 Before the sale of alcohol for consumption on or off the premises, all development and construction is to substantially comply with the approved plans.
 - 2.2 The physical location of setbacks, yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
 - 2.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 2.4 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefore to be paid in advance by the applicant. The sale of alcohol is not authorized unless the letter of acceptance has been filed.



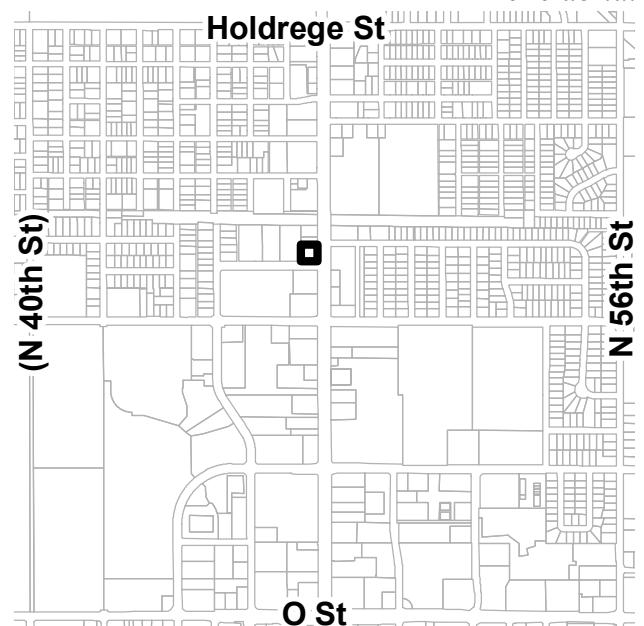
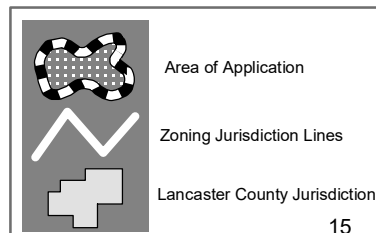
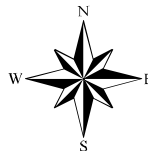
2020 aerial

Special Permit #: SP22001 N 48th St & W St

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile:
Sec.20 T10N R07E



Legend

- = Cor. Fnd
- = Cor. Set #5
- ⊕ = Rebar w/cap
- ⊕ = Section Corner
- ⊕ = Benchmark
- (M) = Meas. Dist.
- (P) = Plat Dist.
- (D) = Deed Dist.
- (R) = Record Dist.
- P.O.B. = Point of Beginning
- P.O.R. = Point of Reference
- E - = Underground Electric
- T - = Underground Telephone
- TV - = Underground Television
- FO - = Underground Fiber Optic
- OHP - = Overhead Utilities
- o - = Chain Link Fence
- x - = Barbed Wire Fence
- o - = Wood Fence

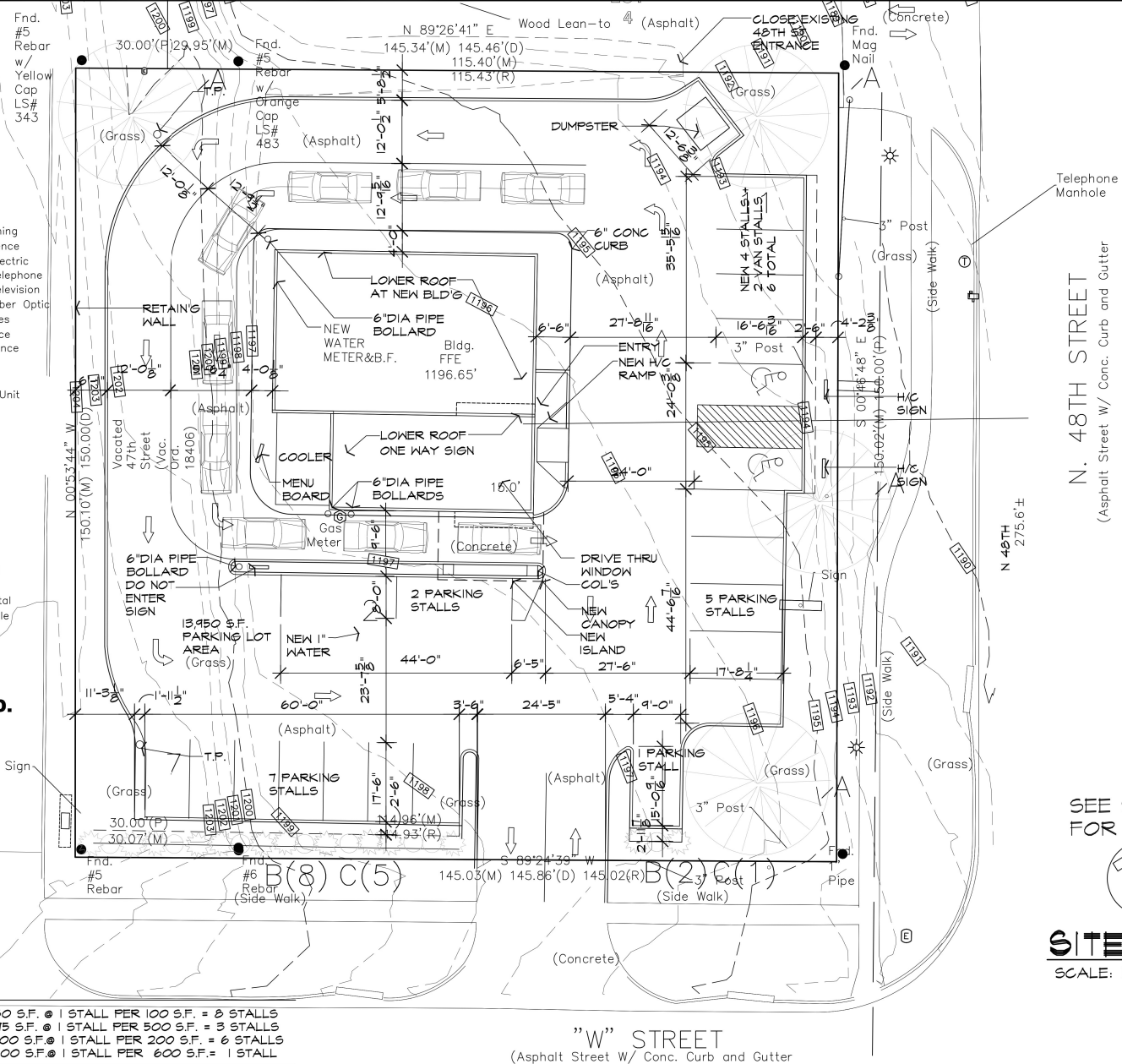
- ⊕ = Air Conditioning Unit
- ⊕ = Electric Meter
- ⊕ = Electric Manhole
- ⊕ = Electric Pedestal
- ⊕ = Fire Hydrant
- ⊕ = Gas Manhole
- ⊕ = Gas Meter
- ⊕ = Guy Wire
- ⊕ = Light Pole
- ⊕ = Manhole
- ⊕ = Post
- ⊕ = Power Pole
- ⊕ = Sanitary Manhole
- ⊕ = Storm Manhole
- ⊕ = Telephone Pedestal
- ⊕ = Telephone Manhole
- ⊕ = TV Manhole
- ⊕ = Valve
- ⊕ = Water Manhole
- ⊕ = Well

**NEWMAN ADD.
BLK LOT
12 3**

PARKING DATA

DINING AREA	750 S.F. @ 1 STALL PER 100 S.F. = 8 STALLS
KITCHEN	575 S.F. @ 1 STALL PER 500 S.F. = 3 STALLS
OFFICE	1200 S.F. @ 1 STALL PER 200 S.F. = 6 STALLS
DRY STORAGE	500 S.F. @ 1 STALL PER 600 S.F. = 1 STALL

TOTAL NUMBER OF STALLS REQUIRED 18 STALLS
STALL SHOWN 21 STALLS



SEE SHEET ME-1
FOR UTILITIES



SITE PLAN

SCALE: 1" = 20'-0"

- 1 - ADDED NEW 1" WATER MAIN. ABANDON EXISTING 3/4".
- 2 - ADDED LANDSCAPING SHEET (SEE SHT. L-11).
- 3 - REMOVE EXISTING CAST IRON SEWER LINE, REPLACE WITH 4" PVC AND PROVIDE NEW CLEAN OUT.
- 09-29-21
- PARKING LOT REVISED.
- UTILITIES MOVED TO SHEET ME-1
- GAS METER RELOCATED



**D'LEON'S
NEW BUILDING
901 NO. 48TH STREET
LINCOLN, NEBRASKA**



4535 Normal Blvd., Suite 257
Lincoln, Nebraska 68506
Phone: (402) 421-1502 Fax: (402) 421-7835
E-mail: alan_hdp@windstream.net

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SITE PLAN

JOB NO: 18-0418
DATE: 08-01-18
REVISED: 03-29-21

DRAWN BY: JH

SHEET
C-1.1

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January 7, 2022

Planning Department
555 South 10th Street
Suite 213
Lincoln, NE 68508

HAND DELIVERED

RE: New Special Permit Application for the Sale of Alcoholic Beverages On and Off
Premises for Two Locations of D'Leon's Taco Rico, Inc. Restaurants

Dear Planning Department Personnel:

Enclosed herein please find two separate Planning Department Application Request Forms as well as (1) two Operating Statements describing the use and role of on and off sale alcohol relative to D'Leon's Taco Rico, Inc.'s overall business, (2) site plans for each location as well as (3) checks made out to the City of Lincoln for the application fee.

This office does represent the applicant and real property owner, Jose A. Diaz de Leon, so if you have any questions with regard to the information provided in the Application or the collateral documents provided, please do not hesitate to contact me directly.

Yours truly,

MORROW, POPPE,
WATERMEIER & LONOWSKI, P.C.
A Limited Liability Organization

By: 

McKynze P. Works

mworks@morrowpoppelaw.com

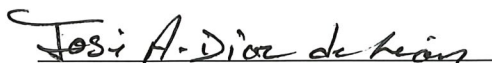
MPW/bc
Enclosures

December , 2021

City of Lincoln
Planning Department
555 S. 10th Street, Lincoln NE 68508

RE: D'Leon's Taco Rico, Inc. Application for New Special Permit for the sale of alcoholic beverages pursuant to LMC 27.63.680 and LMC 27.63.685 for 901 N. 48th Street, Lincoln, NE 68503

1. The overall plan is to provide customers with Mexican Food in a restaurant setting, with adult beverages at a bar and at dining tables as well as for the sale of alcoholic beverages off site as well, when desired. The owner has extensive experience in the restaurant business, with numerous D'Leon's Taco Rico locations in the Lincoln and Omaha area as well as throughout Nebraska. The business's primary focus is the service of quality food to the community. Alcohol service will be an important compliment to the food service that D'Leon's Taco Rico provides, and has provided to the Lincoln community for years and its ability to remain a staple restaurant in the communities it serves. The owner submits this letter in addition to its application for the sale of alcoholic beverages for consumption on the premises (LMC 27.63.680) and for consumption off the premises (LMC 27.63.685).
2. The owner employs numerous people locally, who work as cooks, cashiers, and will soon employ bartenders. The business hours for the **901 N. 48th Street**, Lincoln, Nebraska location are Sunday through Thursday, 6:00 am to 2:00 am and Friday and Saturday from 6:00 am to 3:00 am.
3. All of the D'Leon's Taco Rico locations are decorated in traditional Mexican décor. The restaurant's goal is to provide an authentic Mexican experience, along with authentic Mexican food and drinks.
4. The property is zoned as H-2.
5. On-site parking is provided for all patrons of the business and is in compliance with LMC 27.67.



Jose Antonio Diaz de Leon, Owner/Manager

SSS TO MAIL

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Comprehensive Plan Amendment #22002, Annexation #21010, Change of Zone #21053 - Market Pointe Planned Unit Development	FINAL ACTION? No	DEVELOPER/OWNER Alan Baade Baade Properties, LLC
PLANNING COMMISSION HEARING DATE January 5, 2022	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION South 70 th Street and Yankee Hill Road

- REVISED REPORT -
RECOMMENDATION: COMPREHENSIVE PLAN AMENDMENT #22002 - APPROVAL
AN#21010 - CONDITIONAL APPROVAL
CZ#21053 - CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

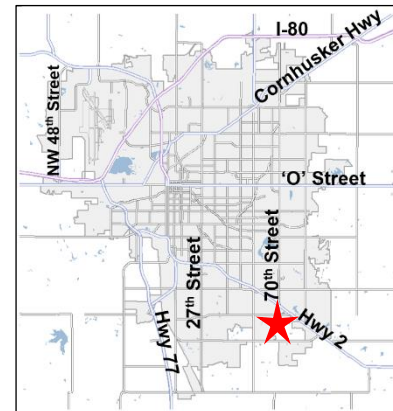
These applications were scheduled for the January 5, 2022 Planning Commission agenda. The Planning Department was recommending approval of the annexation but denial of the change of zone. The applicant requested a delay to allow time to work with the City to revise the application. The original staff report is revised based upon the review of that information. Additionally, another application, CPC#22002 has been submitted and is also reviewed as part of this revised report.

As a result this now a combined request for a Comprehensive Plan amendment (CPA), annexation, and a change of zone to R-3PUD for a mixed-use Planned Unit Development (PUD) located northeast of the intersection of South 70th Street and Yankee Hill Road. The CPA proposes to redesignate some land uses over the site so the Future Land Use Map resembles the proposed development. The PUD proposes 250 apartment units, 95,000 square feet of mini-storage units, and 91,000 square feet of commercial floor area plus a convenience store.

The site plan designates three areas - Areas A - C. Area A allows all allowed uses in the B-2 zoning district including mini-storage as permitted uses. Area B allows multiple-family dwelling and residential uses as per the R-5 zoning district as permitted uses. Area C allows those uses that are permitted in the R-3 zoning district.

JUSTIFICATION FOR RECOMMENDATION

For the Comprehensive Plan amendment it is noted that this future neighborhood has unique constraints as it is bounded by several obstacles that prevent ease of access, especially for pedestrians, to other nearby commercial centers. Periodically updating commercial designations on the Future Land Use map is acknowledged in the Comprehensive Plan as a way to ensure that the plan is responsive to market demands.



APPLICATION CONTACT

Alan Baade (402)430-9609 or
alanbaade55@gmail.com

STAFF CONTACT

Brian Will, (402) 441-6362 or
bwill@lincoln.ne.gov

With respect to annexation the City intends to initiate annexation of the areas outside the City limit approximately bounded by Pine Lake to Yankee Hill Roads, and from South 70th to South 84th Streets in the near future. The area is fully surrounded by the City and otherwise meets all the requirements for annexation.

Regarding the PUD, the major deficiencies have been addressed in that a traffic study has been submitted along with a Comprehensive Plan amendment. Additionally, some items noted during the first review have been corrected. Additional revisions are still advised, but subject to the recommended conditions of approval this request complies with the Zoning Ordinance.

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

CPA#22002 revises the designated land uses to those matching the proposed site plan for the PUD. The area along Yankee Hill Road located within PPA is still designated for commercial land uses to protect sensitive uses. Mixed-use centers are encouraged in the Comprehensive Plan.

WAIVERS:

1. Reduce setback from east and north boundary lines to 20' - LMC Chapter 27.72 - Recommend Approval
2. Reduce internal setbacks to 0' for commercial buildings - Section 27.72.030(a) - Recommend Approval
3. Reduce internal setbacks to 0' for buildings adjacent to unbuildable outlots - Sections 27.72.020(a) and Section 27.72.030(a) - Recommend Approval.
4. Exceed 1,320' block length for Block 1 - Section 26.23.130 - Recommend Approval

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Introduction Section: Growth Framework

Figure GF.b: 2050 - This site is designated for future urban residential land uses on the 2050 Future Land Use Plan.

Fundamentals of Growth in Lancaster County

The City of Lincoln's present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a mix of uses and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

New commercial and industrial development should be located in Lincoln and other incorporated communities. Lincoln has ample land area and infrastructure availability for commercial and industrial development. The situation is similar in most incorporated communities in the county. Rural areas of the county do not have access to urban infrastructure, and commercial or industrial development can add significant traffic and maintenance responsibilities to county roads.

Natural and environmentally sensitive areas should be preserved within and between neighborhoods. Conservation areas and open lands should be used to define and connect different neighborhoods. The natural topography and features of the land should be preserved by new development to maintain the natural drainageways and minimize land disturbance.

Goals Section

G1: Safe, Affordable, and Accessible Housing. Lincoln and Lancaster County will support the development of safe, affordable, and accessible quality housing that meets the diverse needs of the community. PlanForward understands the ongoing need for affordable housing and supports development of 5,000 affordable units by the year 2030.

G2: Complete Neighborhoods. Lincoln and Lancaster County will support complete neighborhoods within both developing and redeveloping areas of Lincoln. A complete neighborhood is one where residents are able to get the goods and services to meet daily needs within 15 minutes of their residence including a variety of housing options, grocery stores and other commercial services, quality public schools, public open spaces and recreational facilities, affordable active transportation options, and civic amenities. Housing variety should include townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and even small lot single-family.

Elements Section

E3 - Business, Economy and Workforce

Commercial Center Design Strategies

8. Encourage commercial development at $\frac{1}{4}$ or $\frac{1}{2}$ mile between major intersections in order to create centers that are centrally-located within each square mile to facilitate easier pedestrian access and also allow for vehicular access points that meet the city's Access Management Policy.

9. Discourage "four corner commercial development" - with commercial uses at all four corners of an intersection - in order to promote walkability and ease of movement within each commercial center.

Neighborhood Centers

These centers typically serve the neighborhood level. Neighborhood Centers should be located approximately $\frac{1}{2}$ mile apart, depending upon their size, scale, function and the population of the surrounding area. Future Neighborhood Centers are typically not sited on the Future Land Use map in advance but are identified as development plans are approved.

E8 Energy and Utilities

Floodplain Management The overriding policy for the floodplain is a "No Adverse Impact" policy for the City and County, which means that the community has a goal of insuring that the action of one property owner does not adversely impact the flooding risk for other properties. The majority of the strategies below relate back to and support this umbrella concept. The No Adverse Impact concept is supported by the Map 1.3: Growth Tiers with Priority Areas which designates the majority of floodplain areas outside of the existing urban area as Green Space, Environmental Resources, and Agricultural Stream Corridors. This supports the opportunity to reduce the risk of flood damage to life and property and to preserve the important functions of floodplains. This concept is more explicitly supported by the Salt Creek Flood Storage Area Standards and the Flood Regulations for New Growth Areas which protect flood storage in the areas with greatest risk for impacts. While regulations to support the No Adverse Impact concept have not been fully adopted throughout the Existing Urban Area or in the County's jurisdiction, goals and strategies in this plan support minimizing impacts to the floodplain in all circumstances.

Policies Section

P61 - Industrial Zoning and Pipelines

Discourage residential land uses and buildings with vulnerable populations from locating near high-pressure pipelines and industrial zoning districts. Provide adequate separation between vulnerable populations and hazardous materials to protect and promote the public's health.

There are several major pipelines that travel through Lancaster County and parts of our community. Our community will continue to grow into where these high-pressure pipelines are currently located and additional pipelines will be required to support the growth of our community and the nation. Most of these new pipelines are proposed and developed by private companies. These pipelines transport large quantities of hazardous materials that can have serious public health and safety impacts to adjacent properties in the event of pipeline failure or damage. Therefore, uses with vulnerable populations including residential structures, childcare centers, retirement facilities, schools, or hospitals should not be located near pipelines. Uses that are acceptable near pipelines include residential garages, commercial and industrial uses, parking lots, open spaces or roads.

Industrial zoning can also pose a significant risk to adjacent properties with vulnerable populations due to the types of uses that can store, use or produce hazardous materials. Rail lines are also a concern near vulnerable populations due to the transport of hazardous materials in large quantities.

Action Steps

1. Land uses with vulnerable populations should not be located within pipeline planning areas. For large high-pressure pipelines, pipeline planning areas are established based upon pipeline metrics or the United States Department of Transportation's Emergency Response Guidebook. Most high-pressure pipelines have a planning area of approximately 150-250 feet from either side of the pipeline.
2. Land uses with vulnerable populations should not be located within 300 feet of an industrially-zoned district or heavy industrial use such as a rail line. Even if a given industrial site does not include hazardous materials at present, a hazardous use could be added in the future.
3. Do not support expansion of existing residential uses currently located within a pipeline planning area or within 300 feet of an industrial zoning district.
4. Businesses and government agencies should continue to work together on developing and updating Emergency Management Plans for dealing with accidents and emergencies.
5. Continue strategic re-zonings of legacy industrial districts to less intensive commercial zoning districts when near residential uses.

P80 - Annexation: Annexation should be utilized to provide municipal services in a fair and efficient manner.

The City of Lincoln requires that properties receiving municipal services be located within city limits. City annexation should occur before any property is provided with water, sanitary sewer, or other potential City services. In most cases this also means that annexation must occur prior to a property receiving an urban zoning designation. The City routinely annexes land at the request of a developer or landowner as part of the regular development process. This allows properties to be supplied with City services when they are needed, and the City benefits from the property taxes, utilities, and other fees that City residents pay. Some properties along the City's edge may not be interested in further development and thus will not request annexation. In some cases it is necessary for the City to initiate annexation of adjacent properties that are already developed and require a minimal public investment to serve.

Action Steps

1. Regularly evaluate for potential annexation all property along the city's edge for which basic infrastructure is generally available or planned for in the near term. The City should annex land in Tier 1 Priorities A and B

that is contiguous to city limits and generally urban in character. All land that is engulfed by the City should be annexed.

2. Provide advance notice to properties that may be subject to city-initiated annexation.
3. Properties within the Tier 1 Priority A growth area should be annexed upon approval of final plat.
4. Coordinate the provision of services for areas considered for annexation with the Capital Improvement Program.

ANALYSIS

1. The requests include annexation and a change of zone for AGR to R-3PUD for up to 95,000 square feet of mini-storage, 91,000 square feet of commercial floor area and an 8-station convenience store, and 250 apartment units. The PUD Development Plan proposes adjustments to allow: In Area A all uses allowed in the B-2 zoning district; in Area B all uses allowed in the R-5 zoning district; in Area C all uses as allowed in the R-3 zoning district. There are also waiver requests to internal setbacks and to block length.
2. This request includes a new Comprehensive Plan Amendment request to revise the Future Land Use (FLU) map within the project area. The FLU amendment generally results in more Commercial land on the site and involves three specific land use changes:

- a. Approximately 8.4 acres from Green Space to Commercial
- b. Approximately 6.2 acres from Urban Residential to Commercial

3. Green Space to Commercial: The existing Green Space boundary matches the 100-year floodplain. The applicant is proposing commercial uses in portions of the existing floodplain. As discussed elsewhere in the staff report, development of the site will need to comply with the City's floodplain regulations. A grading and drainage study was submitted for review as part of the PUD. Per Policy 21, Action Step 7 of the Comprehensive Plan:

Consider maintaining no net fill conditions for properties in the floodplain being developed or redeveloped. Maintain no net fill conditions for those properties seeking Special Permits through Planning, Tax Increment Financing, or on former City property.

Urban density land use is appropriate here provided the applicant demonstrates floodplain management practices that result in no net fill on the site.

4. Urban Residential to Commercial: This includes a majority of the proposed commercial area within the PUD. More discussion about the creation of a new commercial center in this area is in the following analysis points. This portion of the site is currently used for agriculture and is outside the floodplain.
5. There is a significant amount of approved commercial space in the area already. In total, approximately 4.5 million square feet of approved commercial area is within a 1.5 mile radius of this site. Of that amount approximately 2.5 million square feet are approved but undeveloped.
6. In the immediate vicinity there is approximately 740,000 square feet of commercial floor approved. Across the street at the northwest corner of South 70th Street and Yankee Hill Road the Harvest Hills use permit with B-2 zoning is approved for up to 120,000 square feet of commercial floor area. At the southeast corner of the intersection The Woodlands at Yankee Hill PUD has an approved commercial center for up to 325,000 square feet of commercial floor area. Additionally, at approximately South 84th Street and Yankee Woods Drive within the same development there is another commercial center approved for up to 415,000 square feet of commercial floor area.
7. The Comprehensive Plan offers significant guidance on the location of new commercial centers. Several of the most relevant items are listed below with explanation. These are all from the Commercial Centers section of Element 3: Business, Economy, and Workforce.

- a. *Encourage commercial development at ¼ or ½ mile between major intersections in order to create centers that are centrally-located within each square mile to facilitate easier pedestrian access and also allow for vehicular access points that meet the city's Access Management Policy.*

This proposed commercial center is directly northeast of the intersection of 70th & Yankee Hill. Drainageways located to the east (and more central to the mile) would make it difficult to locate a commercial center in that location. The proposed access points will meet the city's Access Management Policy provided a deviation request is approved.

- b. *Neighborhood Centers should be located approximately ½ mile apart, depending upon their size, scale, function and the population of the surrounding area.*

The purpose of the ½ mile spacing is to create centers that are spatially distributed to allow for easy access via multiple modes of transportation, and to make sure that no specific area is "over-approved" - creating multiple underutilized centers rather than one strong center.

There are existing approved commercial centers less than ½ mile away, directly to the west (across 70th Street) and south (across Yankee Hill Road). These centers are for the most part undeveloped. The developer of this proposed site has indicated that potential tenants have been identified, so it is possible that this center will develop in the near future if approved. If any of the commercial centers in this area are not able to attract commercial uses, the Comprehensive Plan supports redevelopment of commercial areas into mixed-use or residential uses.

- c. *Neighborhood Centers provide services and retail goods oriented to the neighborhood level, with significant pedestrian orientation and access. Residential mixed use is encouraged. Neighborhood centers are a key element of the Complete Neighborhoods concept.*

The proposed site plan includes a mix of commercial and residential uses, including a supermarket. The undeveloped area east of the proposed development is shown on the Future Land Use map as Urban Residential. This future neighborhood has unique constraints in that it is bounded by several obstacles that prevent ease of access, especially for pedestrians, to other nearby commercial centers. The west, east and south boundaries of the neighborhood are major arterial streets (70th, 84, Yankee Hill). The north boundary is the creek and railroad tracks. A commercial center in this area provides a walkable option for neighborhood residents.

- d. *Future Neighborhood Centers are typically not sited on the Future Land Use map in advance but are identified as development plans are approved.*

Updating commercial designations on the Future Land Use map is acknowledged in the Comprehensive Plan as a way to ensure that the plan is responsive to market demands.

- 8. The waivers as restated in this revised request are generally appropriate but are confusing to interpret and administer as proposed. It is recommended the waiver to setbacks be stated as follows:

- a. Setbacks - The setbacks for Areas A and B are adjusted to 0' with the exceptions: A perimeter 20' setback (to buildings and parking) around the entire perimeter boundary of the PUD; A 20' setback (for buildings and parking) where adjacent to private roadways; A minimum 50' separation shall be maintained between any commercial and residential building.
- b. Block Length - The block length waiver cannot be fully mitigated in this development due to the associated constraints. However, the lack of street connections which causes the need for the waiver can be significantly alleviated with a simple connection currently not shown on the plan. An extension of Bridle Court south behind Lot 4 and connecting with South 72nd Street will significantly enhance traffic flow through the development and increase convenience and safety for all users and residents. As it is, any traffic at the south end wishing to exit using Bridle Lane or to get to a shop on the north

end must use the driveway in front of the grocery store on Lot 4. This creates constant conflict between customers of the store who must navigate the traffic passing through the site. It is a safety and congestion issue that is easily remedied with a street connection behind Lot 4 and which reduces the magnitude of the block length waiver being requested.

9. There are corrections still needed on the plans. The significant ones are as follows:
 - a. PUD Note #3 lists the allowed uses for all three use areas. However, as stated only permitted uses would be allowed and all conditional and special permitted uses would be prohibited. The note designating uses for all three areas should be restated as follows: Area A Uses - All uses as allowed per the B-2 zoning district regulations; Area B Uses - All uses as allowed per the R-5 zoning district regulations; Area C Uses - All uses as allowed per the R-3 zoning district regulations.
 - b. All roadways within the boundary of the development need to be labeled as private roadways.
 - c. The Pipeline Planning Area needs to be delineated on all sheets including its dimension from the edge of the pipeline.
 - d. PUD Note #11 should include all the sensitive uses described by the Health Department. It should be revised to state 'Residential dwellings, childcare facilities, schools, healthcare facilities, or retirement facilities are prohibited in the Pipeline Planning Area.'
 - e. A traffic study has been submitted as is required by the Access Management Policy. It is under review but comments have not been received in time to be included in this report. As a result, this report includes a condition that the site plan will need to be revised subject to the recommendations of LTU after review and acceptance of the study.
 - f. It is noted that a deviation request has been submitted to LTU relative to the access point onto Yankee Hill Road at South 72nd Street. That access point does not comply with Access Management Policy and either the request needs to be approved or the access point removed.
 - g. It is also noted that the draft annexation agreement appears to seek reimbursement from Impact Fees for the culvert crossing of the drainage at Bridle Lane and South 70th Street. LTU notes that this is not a reimbursable expense because the crossing is not part of an impact fee facility, rather just a local street connection to a private development.
10. There is significant floodway, floodplain and minimum flood corridor on this site. A grading and drainage study was reviewed by LTU/Watershed Management and there are comments for correction.
11. The subject area is in Tier 1, Priority B of the Comprehensive Plan. It is also shown within the City's Future Service Limit and is designated for future Urban Density-Residential land uses. The development is adjacent to the city limit, and all municipal utilities and services are available to serve it.
12. This site is located within a larger area generally bounded by South 70th and South 84th Streets and by Pine Lake and Yankee Hill Roads which the City is proposing to initiate for annexation in the near future. It meets the City's Annexation Policy and there is no reason not to annex it now per the applicant's request.
13. With the revised plan an application for a Comprehensive Plan amendment was submitted. If approved, the proposed mix of uses will comply with the 2050 Comprehensive Plan.
14. As originally submitted the recommendation was for approval of the annexation but denial of the change of zone for the PUD. This recommendation for denial was in part since application was incomplete as it did not include a traffic study nor a request for Comprehensive Plan Amendment. Both were submitted subsequent and have been reviewed or are under review by the City.
15. As revised and subject to the recommended conditions of approval this request complies with the Zoning Ordinance. Subject to approval of the associated Comprehensive Plan Amendment, these requests also are consistent with the Comprehensive Plan.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: Agriculture AG Agriculture

SURROUNDING LAND USE & ZONING

North:	Acreage Residential	AGR
South:	Vacant	R-3PUD
East:	Acreage Residential	AGR
West:	Vacant	R-3, B-2

APPROXIMATE LAND AREA: 41.99 acres, more or less

LEGAL DESCRIPTION: CPA#22002/AN#21010/CZ#21053 - Lot 74 I.T. and Lot 41 I.T., located in the SE 1/4 of Section 21-9-7 and the SW 1/4 of Section 22-9-7, Lincoln, Lancaster County, Nebraska.

Prepared by

Brian Will, bwill@lincoln.ne.gov
February 3, 2022

**Owner/
Applicant/
Contact:**

Alan Baade
Baade Properties, LLC
5500 Saltillo Road
Roca, NE 68430
(402)430-9609
alanbaade55@gmail.com

CONDITIONS OF APPROVAL

Annexation #21010

The owner will enter into an annexation agreement with the City of Lincoln prior to consideration by the City Council that addresses transportation impacts and Rural Water and Fire District reimbursement to the satisfaction of the Planning Department and LTU.

Change of Zone #21053

Per LMC Chapter 27.60 this approval permits a Planned Unit Development for up to 91,000 square feet of commercial floor area with an 8-station convenience store floor, 95,000 square feet of mini-warehouse and 250 multiple-family dwelling units with waivers to setbacks to 0' and block length.

Site Specific Conditions:

1. The permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 2 copies with all required revisions and documents as listed below:
 - 1.1 Make the following revisions to the PUD plan set:
 - 1.1.1 Delete PUD Note #4 and as it is not necessary.
 - 1.1.2 Delete 'is adjusted from 35'' from PUD Note #6 given 55' is now the allowed height per LMC.
 - 1.1.2 Show a 20' perimeter setback inside the entire boundary of the PUD.
 - 1.1.3 Delete Waiver notes 2 and 3 and revise #1 to state: The setbacks for Areas A and B are adjusted to 0' with the exceptions: A perimeter 20' setback (to buildings and parking) around the entire perimeter boundary of the PUD; A 20' setback (for buildings and parking) where adjacent to private roadways; A minimum 50' separation shall be maintained between any commercial and residential building.
 - 1.1.4 Label all internal streets as private roadways and show the future roundabout at the intersection of Bridle Lane and South 70th Street.
 - 1.1.7 Delineate and label the Pipeline Planning Area including its dimension from the edge of the pipeline on Sheet #1 of 10.
 - 1.1.8 Revise PUD Note #11 to state 'Residential dwellings, childcare facilities, schools, healthcare facilities, or retirement facilities are prohibited in the Pipeline Planning Area.'
 - 1.1.9 Show the traffic improvements in South 70th Street and Yankee Hill Road as recommended by LTU after their review and acceptance of a traffic study.
 - 1.1.10 Remove the South 72nd Street access point onto Yankee Hill Road if the deviation request is denied by the City.
 - 1.1.11 Show Bridle Lane connected to South 72nd Street behind Lot 4.
 - 1.1.12 Modify the drainage adjacent to South 70th Street to reduce the floodplain across the site as part of the grading and drainage study or move the buildings on Lots 4 and 6 out of it.

1.1.13 Make other corrections and modifications per the published comments of LTU/Watershed Management of the review of the grading and drainage study dated 1/31/22.

1.1.14 Make other corrections and modifications per the published comments of LTU/Water Department.

2. Before a final plat is approved provide the following documents to the Planning Department:

2.1 Verification from the Register of Deeds that the letter of acceptance as required by the approval of the planned unit development has been recorded.

3. Final plat(s) is/are approved by the City.

If any final plat on all or a portion of the approved planned unit development is submitted five (5) years or more after the approval of the planned unit development, the city may require that a new planned unit development be submitted, pursuant to all the provisions of section 26.31.015. A new planned unit development may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the planned unit development as originally approved does not comply with the amended rules and regulations.

Before the approval of a final plat, the public streets, private roadway improvements, sidewalks, public sanitary sewer system, public water system, drainage facilities, land preparation and grading, sediment and erosions control measures, storm water detention/retention facilities, drainageway improvements, street lights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs, must be completed or provisions (bond, escrow or security agreement) to guarantee completion must be approved by the City Law Department. The improvements must be completed in conformance with adopted design standards and within the time period specified in the Land Subdivision Ordinance. A cash contribution to the City in lieu of a bond, escrow, or security agreement may be furnished for sidewalks and street trees along major streets that have not been improved to an urban cross section. A cash contribution to the City in lieu of a bond, escrow, or security agreement may be furnished for street trees on a final plat with 10 or fewer lots.

No final plat shall be approved until the Permittee, as subdivider, enters into an agreement with the City whereby Permittee agrees:

to complete the street paving of public streets, and temporary turnarounds and barricades located at the temporary dead-end of the streets shown on the final plat within two (2) years following the approval of the final plat.

to complete the installation of sidewalks along both sides of all streets as shown on the final plat within four (4) years following the approval of the final plat.

to complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.

to complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.

to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

to complete the installation of public street lights along streets within this plat within two (2) years following the approval of the final plat.

to complete the planting of the street trees along all streets within this plat within six (6) years following the approval of the final plat.

to complete the planting of the landscape screen within this plat within two (2) years following the approval of the final plat.

to complete the installation of the street name signs within two (2) years following the approval of the final plat.

to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.

to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.

to submit to the Director of Lincoln Transportation and Utilities a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.

to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

to complete the public and private improvements shown on the planned unit development.

to keep taxes and special assessments on the outlots from becoming delinquent.

to maintain the outlots on a permanent and continuous basis.

to maintain the private improvements in good order and state of repair, including the routine and reasonable preventive maintenance of the private improvements, on a permanent and continuous basis.

to maintain the plants in the medians and islands, including replacement and replanting as reasonably necessary, on a permanent and continuous basis.

to recognize that there may be additional maintenance issues or costs associated with the proper functioning of storm water detention/retention facilities as they were designed and construction within the development and that these additional maintenance issues or costs are the responsibility of the Permittee.

to retain ownership of and the right of entry to the outlots in order to perform the above-described maintenance of the outlots and private improvements on a permanent and continuous basis. However, Permittee(s) may be relieved and discharged of such maintenance obligations upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:

- (1) Permittee shall not be relieved of Permittee's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans.
- (2) The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds

to pay all design, engineering, labor, material, inspection, and other improvement costs.

to inform all purchasers and users of land is located within the 100 year floodplain that the grading of the lots and outlots within the 100 year floodplain shall be in conformance with the approved grading plan or as amended by the Director of Planning. The volume of fill material brought into each lot and outlot from outside the floodplain shall not exceed that shown on the approved grading plan accompanying the preliminary plat.

to protect the trees that are indicated to remain during construction and development.

Standard Conditions:

4. The following conditions are applicable to all requests:
 - 4.1 Before occupying the dwelling units or commercial buildings all development and construction shall substantially comply with the approved plans.
 - 4.2 All privately-owned improvements, including landscaping and recreational facilities, shall be permanently maintained by the Permittee or an appropriately established homeowners or business association approved by the City.
 - 4.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters be in substantial compliance with the location of said items as shown on the approved site plan.
 - 4.4 The terms, conditions, and requirements of this resolution shall run with the land and be binding upon the Permittee, its successors and assigns.
 - 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.

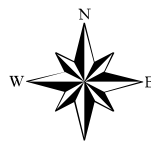


**Annexation #: AN21010 &
Change of Zone #: CZ21053 (AG to R-3)
Market Pointe
S 70th St & Yankee Hill Rd**

Zoning:

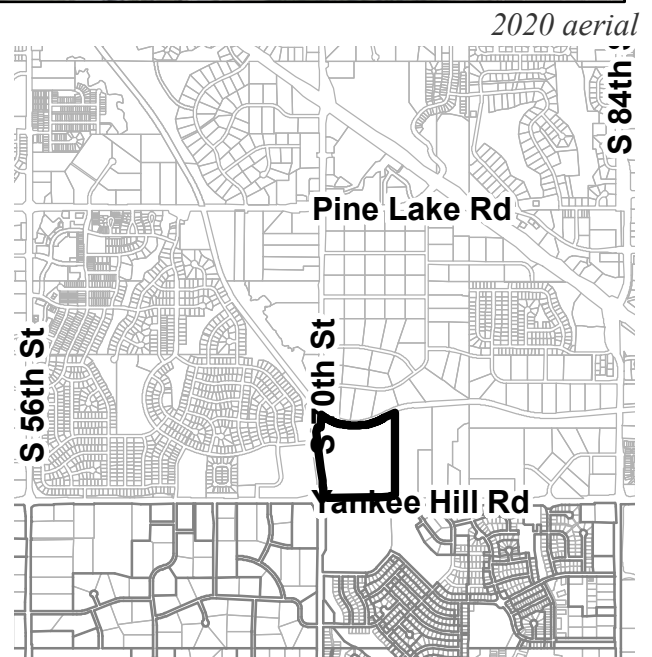
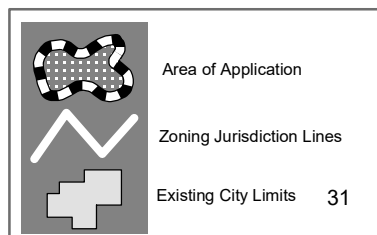
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

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









Two Square Miles:

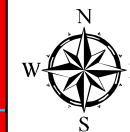
Sec.21 T09N R07E
Sec.22 T09N R07E



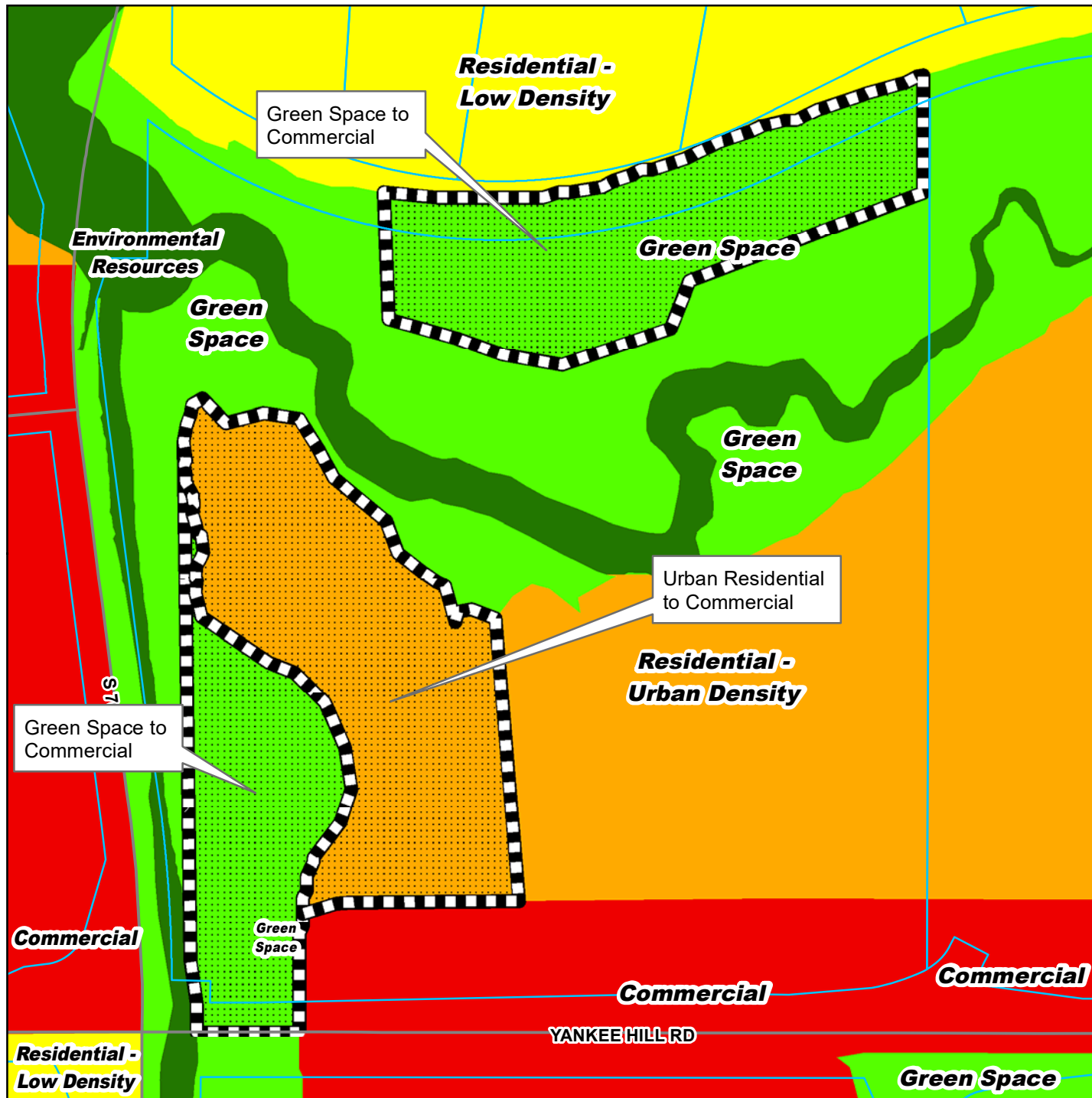
Proposed Land Use Change

Legend

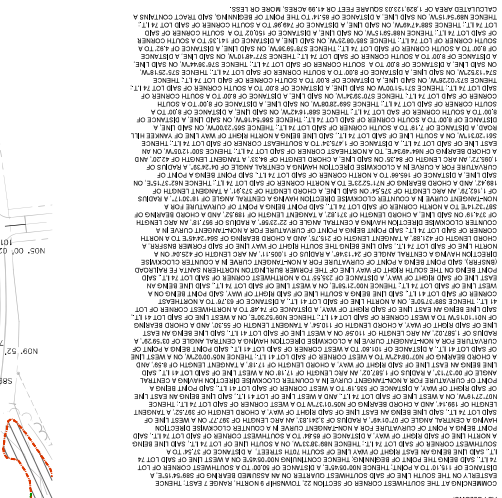
-  Tax Parcels
-  Application Areas
- Future Land Use**
 -  AG
 -  AG STREAM
 -  Commercial
 -  Environmental Resources
 -  Green Space
 -  Industrial
 -  Public/Semi-Public
 -  RES-LOW
 -  Residential - Urban Density
 -  Lakes & Streams



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(CPA22002)



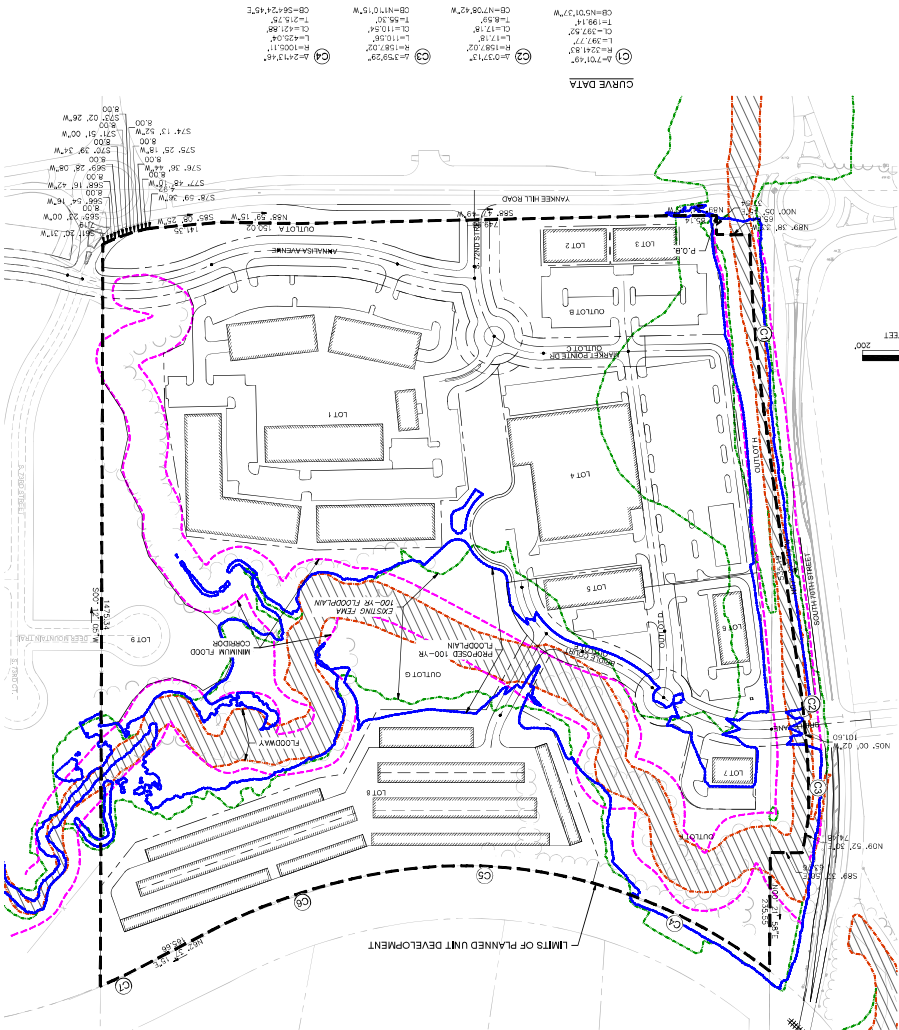
SHEET LIST TABLE	
SHEET NUMBER	COVER SHEET TITLE
1	ZONING PLAN
2	GRADING PLAN
3	IRrig. PLAN
4	IRrig. PLAN
5	IRrig. PLAN
6	IRrig. PLAN
7	IRrig. PLAN
8	IRrig. PLAN
9	IRrig. PLAN



P.U.D. - LEGAL DESCRIPTION



ENGINEER
OLSON
801 P STREET, SUITE 200
LINCOLN, NE 68508
CONTACT: BOB MARSHALL
BMA5HW@OLSON.COM
(402)-458-5691



GENERAL NOTES

- [illegible]

-
- PROPOSED LEGEND
- MINIMUM FLOOD CORRIDOR
- FLOODWAY
- EXISTING 100-YR FEMA FLOODWAY
- POWER POLE/ONLY WIRE
- WIRE FENCE
- STORM WATER
- WATER MAIN
- POWER UNDERGROUND
- POWER OVERHEAD
- COMMUNICATION UNDERGROUND
- STORM SEWER
- TREE MASS
- WETLANDS
- SECTION LINE
- RIGHT-OF-WAY

- ```

PRIO05ED 100-18 TL000PLAN
PRIO05ED LOT UNIT
PRIO05ED BLOCK OR CURB
PRIO05ED ROAD OR CANYON
PRIO05ED RIGHT OF WAY

```

SCOTT D. KELLY  
MARK A. CHRISTENSEN  
RICHARD P. GARDEN, JR.  
JOHN C. MILES  
THOMAS C. HUSTON  
DON R. JANSSEN  
SUSAN K. SAPP  
KEVIN J. SCHNEIDER  
GARY R. BATENHORST  
JILL GOSSIN JENSEN  
ROCHELLE A. MULLEN  
TRENTEN P. BAUSCH  
MICHAEL C. PALLESEN  
RICHARD P. JEFFRIES  
TRACY A. OLDEMEYER  
TRENT R. SIDDER  
ANDRE R. BARRY  
DAVID J. ROUTH  
JASON R. YUNG TUM  
MEGAN S. WRIGHT  
THERESA D. KOLLER  
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January 19, 2022

ADAM W. BARNEY  
GREGORY S. FRAYSER  
JENNIE A. KUEHNER  
TRAVIS W. TETTENBORN  
BEAU B. BUMP  
SHANNON E. FALLON  
JODY N. DUVALL  
CRISTIN MCGARRY BERKHAUSEN  
KATIE A. JOSEPH  
LILY AMARE  
JOHN F. ZIMMER, V  
NATHAN D. CLARK  
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BRITTNEY M. HOLLEY  
AMANDA C. SWISHER  
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ISAIAH J. FROHLING  
CHRISTOPHER B. GREENE  
JESSICA K. ROBINSON

STEPHEN E. GEHRING  
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ROBERT J. ROUTH  
DAVID R. BUNTAIN  
TERRY R. WITTLER  
RICHARD A. SPELLMAN  
DAVID O. COLVER †  
DONALD F. BURT (INACTIVE)  
STEPHEN H. NELSEN (INACTIVE)

†ATTORNEYS ADMITTED IN COLORADO ONLY

**VIA U.S. MAIL and EMAIL: [dcary@lincoln.ne.gov](mailto:dcary@lincoln.ne.gov)**

David Cary  
Director of Planning  
Lincoln City/Lancaster County Planning Department  
555 South 10th Street, Suite 213  
Lincoln, NE 68508

Re: Submittal for the Market Pointe Planned Unit Development at South 70<sup>th</sup>  
Street and Yankee Hill Road  
Our File No.: 1687.016

Dear Mr. Cary:

On behalf of Baade Properties, LLC, I am pleased to submit this amended and restated purpose letter for a Mixed-Use Development proposed for 7230 Yankee Hill Road located at the northeast corner of South 70<sup>th</sup> Street and Yankee Hill Road in Lincoln. This purpose letter should replace the prior version dated December 8, 2022.

Alan Baade, the principal of Baade Properties, LLC, has been planning for the development of this parcel into a mixed-use center. The parcel contains approximately 42.15 acres ("Baade Property"). The submittal for Market Pointe is now more complete with the Traffic Study completed and submitted for city review as well as a draft Conditional Annexation Agreement for review by the City Departments.

To develop this site, the following land use approval steps are required:

1. **Comprehensive Plan Amendment:** The Baade Property is depicted in the "Plan Forward"- Lincoln-Lancaster County 2050 Comprehensive Plan as urban residential with a small number of commercial uses reflected in Figure GF.b. Baade Properties, LLC seeks that the Baade Property be designated as a "Neighborhood Center". Due to the development

conditions contained in and around the site, including the constraints of a railroad track on the north, the location of Beal Slough which traverses the property and the pipeline planning area located adjacent to the border with Yankee Hill Road, this Baade Property is better utilized for a Mixed-Use center combining commercial and residential uses. The Development Plan for the Community Unit Plan overlay designation contemplates a mix of uses including:

- A. **Commercial Uses:** The development plan contemplates the following commercial uses:
  - 55,000 square feet supermarket
  - 34,000 square feet of retail
  - Service Station (8 fueling positions)
  - 1,900 square foot Restaurant with drive- through
- B. **Multifamily Uses:** 250 dwelling units of an apartment development oriented towards South 70<sup>th</sup> Street; and
- C. **Storage Unit Use:** 95,000 square feet of mini-warehousing uses located on the northern portion of the property adjacent to the railroad track.

Thus, Baade Properties, LLC requests an amendment to the **Plan Forward 2050 Comprehensive Plan** to designate the Baade Property as a “**Neighborhood Center**” for commercial uses which will permit the mixed-use development contemplated by the Development Plan.

- 2. **Annexation:** The Baade Property is legally described as:

“Lot Seventy Four (74) in the Southwest Quarter of Section Twenty-Two (22), Township Nine (9) North, Range Seven (7) East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska.”

The site is outside the city limits of the City of Lincoln and requires annexation. Baade Properties, LLC hereby requests that the City annex the Baade Property to be included within the corporate limits of the City. This parcel is located in an area which is completely surrounded by corporate limits and essentially is an island and should be included in the corporate limits of the City of Lincoln. I understand that the City of Lincoln is independently starting the process to annex this “island” into the city limits. I have prepared a Conditional Annexation Agreement which is intended to describe the conditions for the annexation and change of zone and provide a path for these governmental approvals.

3. **Change of Zone:** Currently, the Baade parcel is zoned in the “AG” agricultural zoning district. The enclosed application seeks to change the zone of the parcel to the “R-3” zoning classification; and
4. **Overlay District:** In conjunction with the Change of Zone, Baade Properties, LLC seeks approval of a PUD overlay district for a “Planned Unit Development” to permit the development of the mix of uses. The PUD is intended to be controlled by the Development Plan as reflected on the Site Plan which will be uploaded for City review and processing.
5. **Waivers:** Due to the existing conditions, Baade Properties, LLC also seeks the following waivers to permit the Development Plan to be implemented:

A. **Setback Waiver:**

- i) To the extent required, a waiver is requested to reduce the setback from the east boundary line to 20’ and north boundary line adjacent to the railroad track to 20’.
- ii) For the commercial buildings, a waiver is requested for internal setbacks to 0’. Additionally, for any perimeter setback for the multifamily and mini-warehousing uses adjacent to an unbuildable outlot, we request a waiver of the setback down to 0” provided that the dimension of the outlot can substitute for the setback otherwise required.

- B. **Block Length Waiver:** Baade Properties, LLC also seeks a waiver of the block length requirement. Brad Marshall, project engineer with Olsson, reviewed the possibility of extending 72<sup>nd</sup> Street to connect directly with Bridle Lane. However, the topography and the detention area east of the grocery store lot present obstacles to the extension of 72<sup>nd</sup> Street as requested.

The site is located at a prime location which consists of the intersection of two arterial streets as it is located Northeast of Yankee Hill Road and South 70<sup>th</sup> Street. The site has limitations and challenges, but its visibility is unmatched. On its northern border, a railroad track is located which railway has recently put back into usage by the rail company. A pipeline planning area is located on its southern edge which prohibits any residential uses. A creek bed which is characterized as a floodway and floodplain traverses the site through its northern 1/3 and along its western boundary. Consequently, the site planning has been a challenge.

David Cary  
January 19, 2022  
Page 4

The site plan submitted orients the commercial use of the PUD site plan along South 70<sup>th</sup> Street. Further, the site plan proposes to locate the multifamily site along the eastern border but complies with the spacing requirements of the Pipeline Planning Area.

We had previously delivered and would ask that you utilize:

1. The application signed by Alan Baade for the Annexation, Change of Zone and the Planned Unit Development;
2. A check in the amount of \$5,305 comprised of \$1,005 for the Change of Zone and \$4,300 for the Planned Unit Development; and
3. Project Documents. Brandon Biba, the Project Engineer with Olsson, will be uploading the legal description and the PUD Development Plan to the City of Lincoln's ProjectDox portal.

Baade Properties, LLC has prepared the Annexation Agreement for the annexation of the property to provide a mechanism for the funding of the street improvements required in the South 70<sup>th</sup> Street right of way for the intersection with Bridle Lane which is submitted concurrent to this revised Purpose Letter.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tom Huston", with a stylized flourish at the end.

Thomas C. Huston  
For the Firm

cc: Alan Baade (via email)



## LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER  
Change of Zone #22001  
Comprehensive Plan Amendment #22003

FINAL ACTION?  
No

DEVELOPER/OWNER  
Southeast Community College

PLANNING COMMISSION HEARING DATE  
February 16, 2022

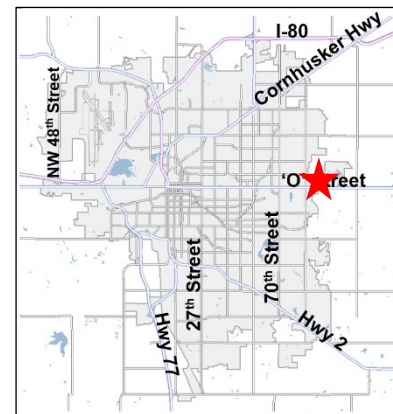
RELATED APPLICATIONS  
PP #04011A

PROPERTY ADDRESS/LOCATION  
Waterford Estates Dr. and Linwood Lane

### RECOMMENDATION: APPROVAL

#### BRIEF SUMMARY OF REQUEST

This is a request for a change of zone from AG Agricultural District, B-2 Planned Neighborhood Business District and R-3 Residential to P Public Use District on approximately 34.69 acres and for a change of zone from O-3 Office District to P Public Use District on approximately 7.79 acres. This property is generally located near the intersection of Waterford Estates Drive and Linwood Lane. The change of zone is proposed to reflect ownership and future land use by the Southeast Community College. The Comprehensive Plan Amendment (CPA) proposal is also to amend the 2050 Future Land Use Plan to revise from "Commercial" and also "Residential - Urban Density" future land use to "Public and Semi-Public". This is for the Waterford Estates platted outlot which is to the east of the main campus area where future college uses are planned.



#### JUSTIFICATION FOR RECOMMENDATION

The proposed P Public Use zoning is appropriate as both the owner and uses will be that of Southeast Community College with the CPA designation reflecting the same.

#### APPLICATION CONTACT

Erin Bright, (402) 474-6311 or  
[ebright@olsson.com](mailto:ebright@olsson.com)

#### STAFF CONTACT

George Wesselhoft, (402) 441-6366 or  
[gwesselhoft@lincoln.ne.gov](mailto:gwesselhoft@lincoln.ne.gov)

#### COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The proposal is consistent with the Comprehensive Plan which recognizes the various colleges, trade schools and universities in the community and encourages planning with surrounding neighborhoods.

## KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

### Introduction Section: Growth Framework

#### Figure GF.b: 2050

- This site is predominately shown as future commercial on the 2050 Future Land Use Plan (34.69 acres, Outlot A in Waterford Estates 26<sup>th</sup> Addition) and public-semi public (7.79 acres, portions of I.T. Lots 15, 16, and 19). A very minor part of the 34.69 acres site near Waterford Estates Drive is shown as urban residential on the north side and also a minor part is designated as green space and environmental resources on the south side along O Street.

#### Land Use Plan (Existing)

- Commercial: Areas of retail, office, service and residential mixed uses. Commercial uses may vary widely in their intensity of use and impact. Individual areas designated as commercial in the land use plan may not be appropriate for every commercial zoning district.

-Urban Residential. Residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. All types of housing are appropriate here, from detached single family, duplex and missing middle, to higher density multi-family. Undeveloped areas shown as Urban Residential may also include neighborhood-scale commercial and other compatible uses that will be added to the map after approval of development plans.

#### Land Use Plan (Proposed Amendment)

Public and Semi-Public. Areas of public or semi-public land use and/or structures that serve the general public. Only the largest facilities are shown on the land use plan. Highways and interstates are also included in this category.

### **Fundamentals of Growth in Lancaster County**

The City of Lincoln's present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a mix of uses, and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

### Goals Section

G2: Complete Neighborhoods. Lincoln and Lancaster County will support complete neighborhoods within both developing and redeveloping areas of Lincoln. A complete neighborhood is one where residents are able to get the goods and services to meet daily needs within 15 minutes of their residence including a variety of housing options, grocery stores and other commercial services, quality public schools, public open spaces and recreational facilities, affordable active transportation options, and civic amenities. Housing variety should include townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and even small lot single-family.

G4: Economic Opportunity. Lincoln and Lancaster County will have high-quality jobs in an economic environment that supports business creation, innovation, and expansion. Quality-of-life attributes, such as diverse and accessible housing, good shopping, restaurants and entertainment, quality schools and healthcare, a sense of safety, and amenities such as parks and trails are important to ensuring that skilled individuals want to remain or relocate to our community.

### Elements Section

E7: Community Colleges, Trade Schools, and Universities

Lincoln is home to a community college and several technical and trade schools providing a comprehensive array of higher education and vocational opportunities. These public and private facilities are dispersed

throughout the community.

Lincoln has multiple institutions of higher learning, with campuses located throughout the city. These include the University of Nebraska-Lincoln (UNL campuses: Downtown and East), Nebraska Wesleyan University, Union College, Southeast Community College, Purdue University Global, and satellite campuses for Doane College and Bellevue University.

These colleges and universities are actively involved with surrounding neighborhoods and business districts. UNL has been a major partner in the Antelope Valley Project, the West Haymarket Arena development, and the Innovation Campus project on the former State Fair Park site. Wesleyan University was part of the North 48th Street/ University Place project approved in 2004. Union College took a lead role in efforts to increase mobility and improve streetscapes in the South 48th Street College View neighborhood in 2007. These institutions and others should be actively engaged in future planning efforts.

Figure E9.c: Priority Trail Projects:

Priority Trail T11 (N. 84<sup>th</sup> to Stevens Creek) is identified through the property as part of the Waterford Estates segment.

## **Policies Section**

### **P44 Education**

Lancaster County has ten public school districts, the largest being Lincoln Public Schools (LPS), the only public school district in Lincoln. In addition, there are dozens of private and parochial schools in the county, with a majority located in Lincoln. Lincoln is also home to several colleges and universities, including University of Nebraska, Nebraska Wesleyan University, Union College, Southeast Community College and satellite campuses for Doane University and Bellevue University.

Action Step 6. Coordinate neighborhood revitalization and transportation plans for the surrounding areas with University of Nebraska, Nebraska Wesleyan University, Union College, and Southeast Community College.

Action Step 7. Assist educational institutions with being “good neighbors” with surrounding residential areas and ensure that neighborhoods are involved in the discussion of any zoning changes related to campus boundary updates.

## **ANALYSIS**

1. This is a proposal by Southeast Community College for a change of zone over 34.69 acres to rezone from AG Agricultural District, B-2 Planning Neighborhood Business District and R-3 Residential to P Public Use District and over 7.79 acres to rezone from O-3 Office Park District to P Public Use District. The property in question is owned by the College. While exact buildings or uses are not identified for the undeveloped parcel, the uses will be those of the College and therefore public. This application includes changes to future land use associated with Change of Zone #22001. The proposal is to change the future land use designation from Commercial and Urban Residential to Public and Semi-Public for the 34.69 acres that is being rezoned from AG, B-2 and R-3 to P District.
2. The smaller change of zone area of the 7.79 acres to change an area within the interior of their campus that had previously been rezoned from P to O-3 in 2009. This was done as part of Change of Zone 09008 when a partnership was planned with the Nebraska Institute of Forensic Sciences for the construction of facilities to accommodate activities such as research, laboratories, and other facilities. This did not happen as previously planned and the current conditions make the change back to P Public Use District appropriate. UP09001 was also approved in 2009 and was the related Use Permit for the O-3 zoning. The Use Permit will be effectively rescinded with the Change of Zone.
3. The majority of the Southeast Community College campus is already zoned P Public Use. This district is intended to provide a district essentially for mapping purposes which will identify real property presently owned and used by any governmental entity, including local, state, or federal government entities, and put to some form of public use.
4. The existing future land use designation of commercial for the 34.69 acre parcel was established prior to the current Southeast Community College ownership and public use plans associated with these applications. As such,

a Comprehensive Plan Amendment to now reflect anticipated College uses is appropriate.

5. Related PP04011A proposes to amend the Waterford Estates preliminary plat which showed conceptual street connections including Waterford Estates Drive and an east-west connection along the south property line. The proposal modifies the alignment of the Waterford Estates Drive and proposes private roadways. In addition, the proposal realigns the O Street access to the south.
6. The Comprehensive Plan identifies a future bike trail that will ultimately extend from 84<sup>th</sup> Street to Stevens Creek and will extend through the south part of the property in question. Easement will be provided for the bike trail as part of the final plat.
7. The Change of Zone proposal and related Comprehensive Plan Amendment are consistent with the Comprehensive Plan because it will rezone the property and amend the Future Land Use Plan to reflect the public use of the College, which the Plan recognizes along with the need for planning with the surrounding neighborhood.

**EXISTING LAND USE & ZONING:** (34.69 acres) -Agriculture, Pasture; AG, B-2  
(7.79 acres) - Southeast Community College; O-3

#### **SURROUNDING LAND USE & ZONING**

(34.69 acres)

North: Single Family Residential; R-3  
South: Agriculture, Undeveloped; AG, R-3  
East: Agriculture, Pasture; AG, B-2  
West: Southeast Community College; P

(7.79 acres)

North: Southeast Community College; P  
South: Apartments, Undeveloped; R-3  
East: Southeast Community College; P  
West: Southeast Community College; P

**APPLICATION HISTORY:** See attached

**APPROXIMATE LAND AREA:** 42.48 acres in total

**LEGAL DESCRIPTION:** (34.69 acres) Outlot A, Waterford Estates 26<sup>th</sup> Addition  
(7.79 acres) See attached

#### **PROPOSED AMENDMENT:**

Amend the 2050 Lincoln/Lancaster County Comprehensive Plan as follows:

1. Amend Figure GF.b for the 2050 Future Land Use Plan to reflect changes in land use and all other maps, figures, and plans where the future land use is displayed.

Prepared by

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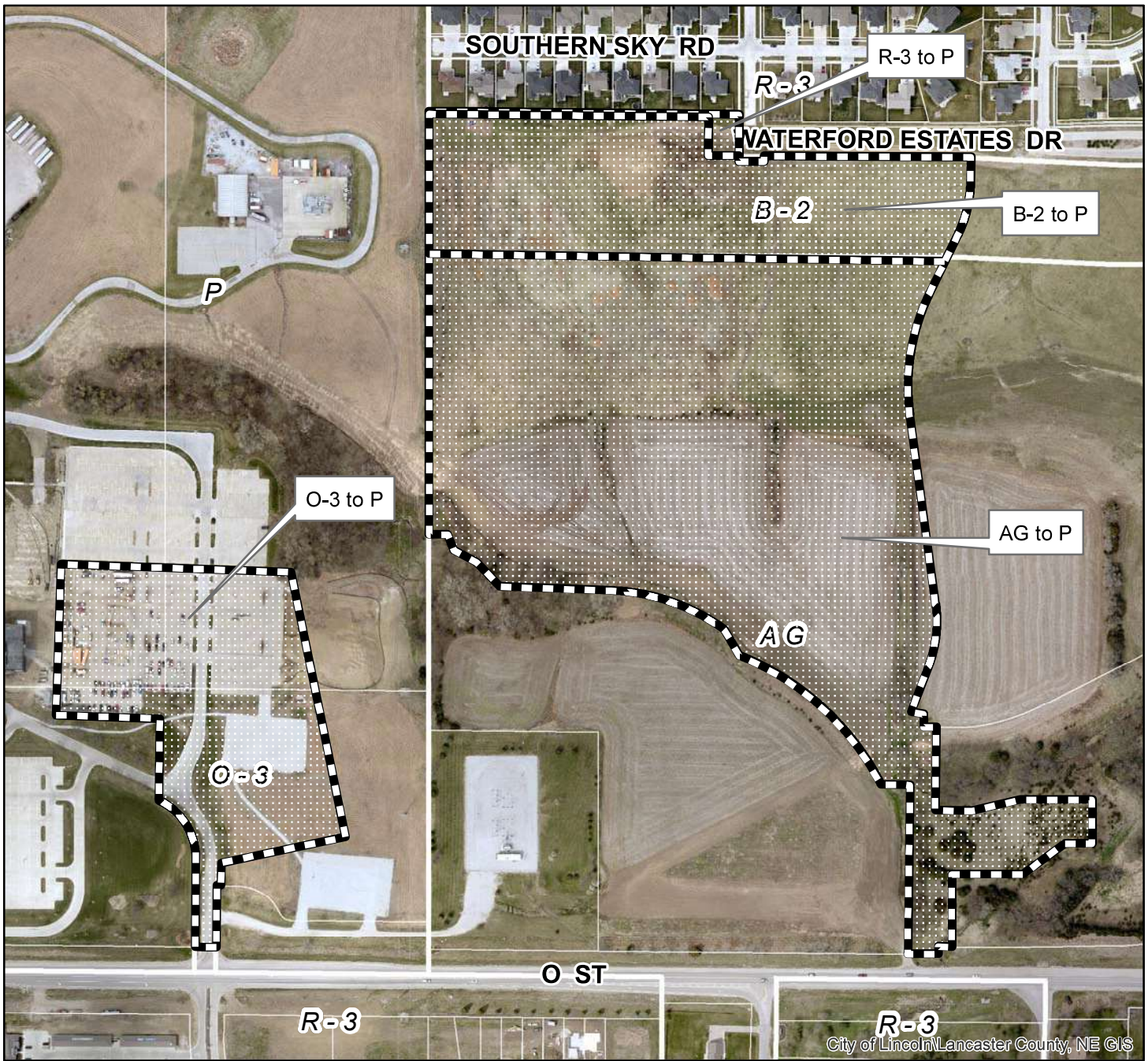
George Wesselhoft, Planner  
Date: February 3, 2022

Applicant/  
Contact: Erin Bright  
Olsson  
601 P Street, Suite 200  
Lincoln, NE 68508  
(402) 474-6311  
[ebright@olsson.com](mailto:ebright@olsson.com)

Owner: Southeast Community College  
301 S. 68<sup>th</sup> Place, Fl 5  
Lincoln, NE 68510  
(402) 437-2833  
[aepps@southeast.edu](mailto:aepps@southeast.edu)

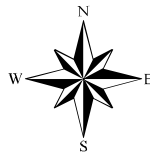
### APPLICATION HISTORY - CHANGE OF ZONE #22001

|                 |                                                                                                                                                                                                                                                       |
|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1979            | The area that is now Outlot A of Waterford Estates 26 <sup>th</sup> Addition was zoned A-A, Rural and Public Use until 1979 when the zoning was updated to AG Agricultural.                                                                           |
| March, 2005     | Preliminary Plat 04011 was approved, including part of Outlot A. This included 660 residential lots and 1 lot for a future school including the north part of the property zoned B-2 and additional development area all the way to Holdridge Street. |
| April, 2006     | Annexation 04003 was approved which included the part of the property presently zoned B-2.                                                                                                                                                            |
| April, 2006     | Change of Zone 04019 was approved which rezoned the part of the Outlot A property that is presently zoned B-2 from AG to B-2. In conjunction with this request, the submittal of the use permit for the B-2 parcels was allowed to be delayed.        |
| October, 2007   | Final Plat 07021 Waterford Estates Addition was approved and included the Outlot A property as part of a larger Outlot D, reserved for future development.                                                                                            |
| April, 2009     | UP09001, the proposed Use Permit in conjunction with CZ09008, was approved to develop 125,000 square feet of office space on the Southeast Community College campus.                                                                                  |
| May, 2009       | CZ09008 was approved changing the zoning from P Public Use District to O-3 Office Park District to allow office space development for an intended lease by another entity other than the Southeast Community College.                                 |
| November, 2010  | Final Plat 10040 Waterford Estates 3 <sup>rd</sup> Addition was approved and included the Outlot A property as part of a larger Outlot B, reserved for future development.                                                                            |
| October, 2012   | Final Plat 12053 for Waterford Estates 8 <sup>th</sup> Addition was approved and included the Outlot A property as part of Outlot E, reserved for future development.                                                                                 |
| April, 2013     | Final Plat 13020 for Waterford Estates 9 <sup>th</sup> Addition was approved and included the Outlot A property as part of Outlot C, reserved for future development.                                                                                 |
| September, 2018 | Final Plat 18054 for Waterford Estates 21 <sup>st</sup> Addition was approved and included the Outlot A property as part of Outlot B, reserved for future development.                                                                                |
| October, 2020   | Final Plat 20082 for Waterford Estates 26 <sup>th</sup> Addition was approved, platting the property as Outlot A, reserved for future development.                                                                                                    |



2020 aerial

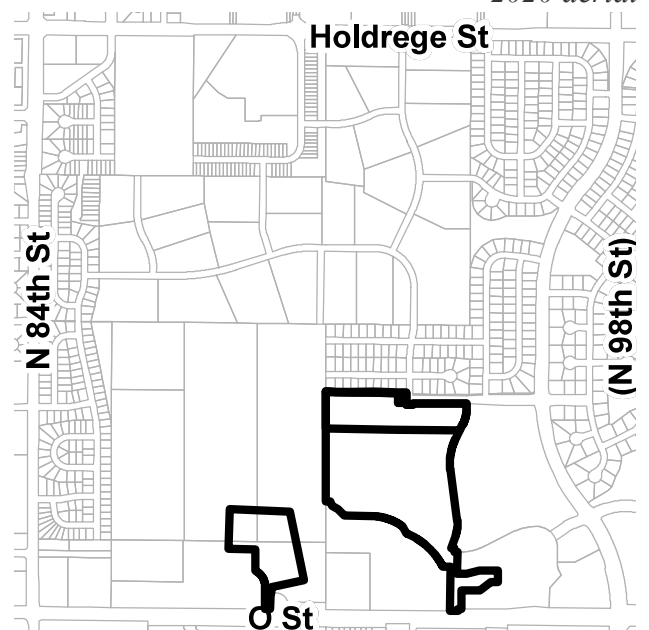
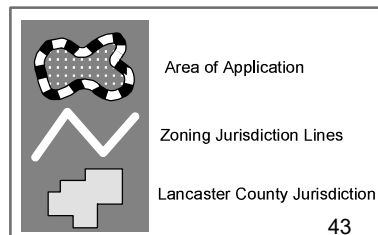
## Change of Zone #: CZ22001 Linwood La & Waterford Estates Dr



### Zoning:













|            |                                        |
|------------|----------------------------------------|
| R-1 to R-8 | Residential District                   |
| AG         | Agricultural District                  |
| AGR        | Agricultural Residential District      |
| O-1        | Office District                        |
| O-2        | Suburban Office District               |
| O-3        | Office Park District                   |
| R-T        | Residential Transition District        |
| B-1        | Local Business District                |
| B-2        | Planned Neighborhood Business District |
| B-3        | Commercial District                    |
| B-4        | Lincoln Center Business District       |
| B-5        | Planned Regional Business District     |
| H-1        | Interstate Commercial District         |
| H-2        | Highway Business District              |
| H-3        | Highway Commercial District            |
| H-4        | General Commercial District            |
| I-1        | Industrial District                    |
| I-2        | Industrial Park District               |
| I-3        | Employment Center District             |
| P          | Public Use District                    |

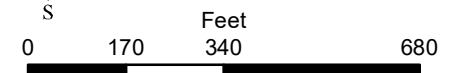
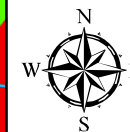
One Square Mile:  
Sec.23 T10N R07E



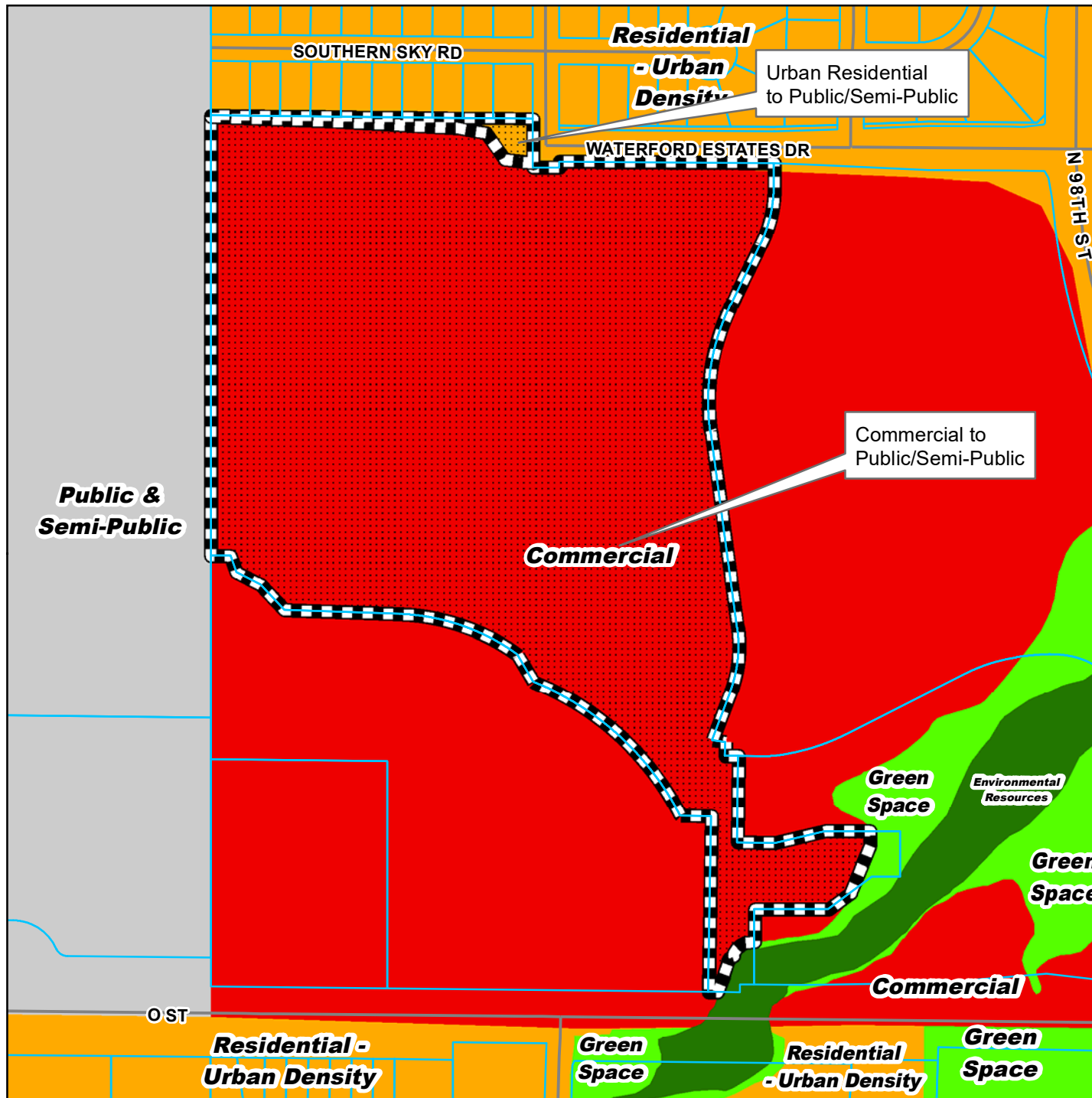
## Proposed Land Use Change

### Legend

-  Tax Parcels
-  Application Areas
- Future Land Use**
  -  AG
  -  AG STREAM
  -  Commercial
  -  Environmental Resources
  -  Green Space
  -  Industrial
  -  Public/Semi-Public
  -  RES-LOW
  -  Residential - Urban Density
  -  Lakes & Streams



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(CPA22003)





January 24, 2022

Mr. David Cary—Planning Director  
c/o George Wesselhoft  
City of Lincoln Planning Department  
555 South 10<sup>th</sup> St., Suite 213  
Lincoln, NE 68508

RE: Waterford Estates Preliminary Plat Amendment and Change of Zone  
Waterford Estates 26<sup>th</sup> Addition, Outlot A

Dear George:

On behalf of property owner and applicant, Southeast Community College, Olsson is submitting application for amendment and change of zone to the Waterford Estates Preliminary Plat including the following changes and requests:

1. Site layout updates to Waterford Estates 26<sup>th</sup> Addition, Outlot A to show a revised location of Waterford Estates Drive as a private roadway along the north property line.
2. Requested waivers: We are requesting that the 12" public water main in Waterford Estates Drive would not be required to extend along the proposed Waterford Estates Drive private roadway until the outlot reserved for future development south of Waterford Estates Drive is final platted for building construction that would require a water service.
3. Change of zone for Waterford Estates 26<sup>th</sup> Addition, Outlot A from B-2 and AG to P (Public) zoning.

Olsson has prepared site plan amendments documentation for the proposed street layout and grading associated with the Waterford Estates Drive private roadway. The intent of the proposed private roadway at Waterford Estates Drive will be to provide a private drive connection at the Southeast Community College (SCC) campus, immediately west of the Waterford Estates parcel. The private drives on the SCC campus are proposed to support long term growth of the campus and provide traffic circulation within campus and through Waterford Estates Drive which will provide a secondary connection between campus and East "O" Street, via S. 98<sup>th</sup> Street. At this time, SCC does not have any proposed uses for development within their Waterford Estates parcel, any future development on this parcel would be submitted as an administrative amendment.

The site plan amendments show a conceptual layout for a private roadway connection along the south side of the SCC parcel which would connect to adjacent development and ultimately extend further east to Boathouse Road. The conceptual layout also shows a potential connection between the south private roadway and East "O" Street, through Lot 26 IT, connecting at Anthony Lane. The layouts for these private roadways are conceptual only, Lot 26 is not within the Waterford Estates Preliminary Plat limits and is privately owned by a separate entity not associated with SCC. At this time, SCC does not have any plans for development or construction of the south private roadway and these layouts will be subject to change via future administrative amendment.

In addition to the amendment and change of zone to Waterford Estates 26<sup>th</sup> Addition, Outlot A, we are also submitting a change of zone request on portions of IT Lots 15, 16 and 19. This change of zone request from O-3 to P zoning is on the SCC main campus, immediately west of Waterford Estates. The current O-3 zoning on the SCC campus was originally re-zoned in 2009 (Ordinance 19244) for a potential tenant partnership on the campus. The conditions for that zoning change no longer exist on campus and it is appropriate for the zoning to revert back to public zoning (P).

Southeast Community College is making the following applications and requests:

1. Amendment and Change of Zone. Waterford Estates 26<sup>th</sup> Addition, Outlot A, for a total of 34.69 acres, including Parcel 1723401001000
2. Change of Zone from O-3 to P: Parcels 1723300001000, 1723300008000, 1723300009000 for a total of 7.79 acres.

Enclosed find the following documents for the above-mentioned project:

1. City Application Form Waterford Estates (Amendment and Change of Zone)
2. City Application Form: SCC Campus (Change of Zone)
3. Application fees in the amount of \$1,215.00
4. Waterford Estates Preliminary Plat: Site plan and grading plan revisions (via ProjectDox)

Olsson will submit the site plan documentation to ProjectDox upon notification from the Planning Staff. Thank you for your consideration of the above requests. If you require further information or have any questions, please do not hesitate to contact me at 402.458.5608 or [ebright@olsson.com](mailto:ebright@olsson.com).

Regards,



Erin Bright, PE  
Olsson

cc: Aaron Epps, Director of Facilities, Southeast Community College, [aepps@southeast.edu](mailto:aepps@southeast.edu)

O-3 to P Legal Description:

A portion of Irregular Tract Lots 15, 16, and 19, all located in the Southwest Quarter of Section 23, Township 10 North, Range 7 East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska, and more particular described as follows:

Commencing at the southeast corner of the Southwest Quarter of said Section 23; thence along the south section line of said Southwest Quarter, north 89 degrees 25 minutes 20 seconds west, a distance of 502.62 feet; thence north 00 degrees 34 minutes 40 seconds east, a distance of 60.00 feet to the point of beginning; thence north 89 degrees 25 minutes 20 seconds west, a distance of 50.00 feet; thence north 00 degrees 34 minutes 40 seconds east, a distance of 208.54 feet to a point on a circular curve to the left having a radius of 150.00 feet, a central angle of 65 degrees 57 minutes 05 seconds and whose chord (163.29 feet) bears north 32 degrees 23 minutes 52 seconds west; thence on the arc of said circular curve 172.66 feet; thence north 00 degrees 34 minutes 40 seconds east, a distance of 192.00 feet; thence north 88 degrees 00 minutes 50 seconds west, a distance of 245.00 feet; thence north 01 degrees 59 minutes 10 seconds east, a distance of 356.12 feet; thence south 88 degrees 00 minutes 50 seconds east, a distance of 542.14 feet; thence south 11 degrees 42 minutes 09 seconds east, a distance of 638.00 feet; thence south 78 degrees 17 minutes 51 seconds west, a distance of 299.48 feet; thence south 00 degrees 34 minutes 40 seconds west, a distance of 53.14 feet; thence north 89 degrees 25 minutes 29 seconds west, a distance of 10.00 feet; thence south 00 degrees 34 minutes 40 seconds west, a distance of 145.99 feet to the point of beginning and containing a calculated area of 339,467.83 square feet or 7.79 acres;

AG, B-2 and R-3 to P Legal Description:  
Outlot A, Waterford Estates 26th Addition

O-3 to P Legal Description:

A portion of Irregular Tract Lots 15, 16, and 19, all located in the Southwest Quarter of Section 23, Township 10 North, Range 7 East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska, and more particular described as follows:

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## LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER  
Preliminary Plat #04011A

FINAL ACTION?  
Yes

DEVELOPER/OWNER  
Southeast Community College

PLANNING COMMISSION HEARING DATE  
February 16, 2022

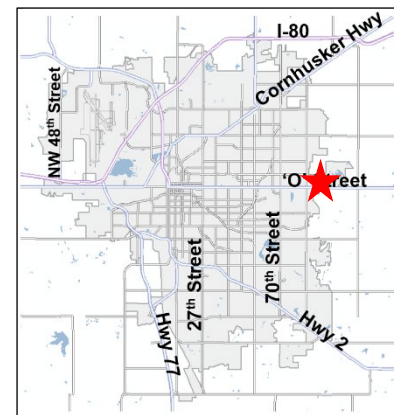
RELATED APPLICATIONS  
CZ #22001, CPA #22003

PROPERTY ADDRESS/LOCATION  
Waterford Estates Dr. and Linwood Lane

### RECOMMENDATION: CONDITIONAL APPROVAL

#### BRIEF SUMMARY OF REQUEST

This is a request to amend the preliminary plat layout for PP0411 Waterford Estates, which is located east of the Southeast Community College campus at Waterford Estates Drive and Linwood Lane. This would include private roadway connections from Waterford Estates Drive and an additional east-west private road on the south side of the property. These would provide connections to the Southwest Community College campus to the west. In addition, a proposed access to O Street is being amended by moving west so it aligns with Anthony Lane and is out of the floodway.



#### JUSTIFICATION FOR RECOMMENDATION

The preliminary plat amendment is justified to allow for the further future growth of Southeast Community College while taking into consideration the adjoining street network. The waiver to delay installation of water service along Waterford Estates Drive until needed for building construction is justified as future final platting and building permits will be required. At the time of building permit, they would be required to have water service in place.

#### APPLICATION CONTACT

Erin Bright, (402) 474-6311 or  
[ebright@olsson.com](mailto:ebright@olsson.com)

#### STAFF CONTACT

George Wesselhoft, (402) 441-6366 or  
[gwesselhoft@lincoln.ne.gov](mailto:gwesselhoft@lincoln.ne.gov)

#### COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The proposal subject to the conditions of approval is consistent with the Comprehensive Plan which recognizes the various colleges, trade schools and universities in the community and encourages planning and connectivity with surrounding neighborhoods.

#### WAIVERS

- 1) 26.23.100 Utility Installations to delay the installation of water service along the proposed Waterford Estates Drive private roadway until the Outlot A is final platting with building permit that would require water service. (Recommend Approval)

## KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

### Introduction Section: Growth Framework

[Figure GF.b: 2050](#) - This site is shown as future commercial on the 2050 Future Land Use Plan. Related CPA22003 is the Comprehensive Plan Amendment to amend the future land use from commercial and urban residential to public, semi-public to reflect the ownership and intended future uses of Southeast Community College. A very minor part of the 34.69 acres site near Waterford Estates Drive is shown as urban residential, and a small part is also designated for green space and environmental resources along O Street.

#### Land Use Plan (Existing)

- Commercial: Areas of retail, office, service and residential mixed uses. Commercial uses may vary widely in their intensity of use and impact. Individual areas designated as commercial in the land use plan may not be appropriate for every commercial zoning district.

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The City of Lincoln's present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a mix of uses, and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

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G4: Economic Opportunity. Lincoln and Lancaster County will have high-quality jobs in an economic environment that supports business creation, innovation, and expansion. Quality-of-life attributes, such as diverse and accessible housing, good shopping, restaurants and entertainment, quality schools and healthcare, a sense of safety, and amenities such as parks and trails are important to ensuring that skilled individuals want to remain or relocate to our community.

### Elements Section

E7: Community Colleges, Trade Schools, and Universities

Lincoln is home to a community college and several technical and trade schools providing a comprehensive array of higher education and vocational opportunities. These public and private facilities are dispersed throughout the community.

Lincoln has multiple institutions of higher learning, with campuses located throughout the city. These include the University of Nebraska-Lincoln (UNL campuses: Downtown and East), Nebraska Wesleyan University, Union College, Southeast Community College, Purdue University Global, and satellite campuses for Doane College and Bellevue University.

These colleges and universities are actively involved with surrounding neighborhoods and business districts. UNL has been a major partner in the Antelope Valley Project, the West Haymarket Arena development, and the Innovation Campus project on the former State Fair Park site. Wesleyan University was part of the North 48th Street/ University Place project approved in 2004. Union College took a lead role in efforts to increase mobility and improve streetscapes in the South 48th Street College View neighborhood in 2007. These institutions and others should be actively engaged in future planning efforts.

Figure E9.c: Priority Trail Projects: Priority Trail T11 (N. 84<sup>th</sup> to Stevens Creek) is identified through the property as part of the Waterford Estates segment.

## **Policies Section**

### **P44: Education**

Lancaster County has ten public school districts, the largest being Lincoln Public Schools (LPS), the only public school district in Lincoln. In addition, there are dozens of private and parochial schools in the county, with a majority located in Lincoln. Lincoln is also home to several colleges and universities, including University of Nebraska, Nebraska Wesleyan University, Union College, Southeast Community College and satellite campuses for Doane University and Bellevue University.

Action Step 6. Coordinate neighborhood revitalization and transportation plans for the surrounding areas with University of Nebraska, Nebraska Wesleyan University, Union College, and Southeast Community College.

Action Step 7. Assist educational institutions with being “good neighbors” with surrounding residential areas and ensure that neighborhoods are involved in the discussion of any zoning changes related to campus boundary updates.

## **ANALYSIS**

1. This request is for a Preliminary Plat amendment to PP04011 of Waterford Estates 26<sup>th</sup> Addition. This property is located east of the Southeast Community College Campus (SCC) generally at Waterford Estates Drive and Linwood Lane. The request is to amend the area previously shown as conceptual in PP04011 Waterford Estates to adjust the street layout and show private roadway connections for west of Waterford Estates Drive and on the south side of the property. This includes Outlot A of Waterford Estates 26<sup>th</sup> Addition which is approximately 34.69 acres.
2. The property is presently zoned AG Agricultural, B-2 Planned Neighborhood Business District, and R-3 Residential. Related CZ21001 will rezone the entire property to P Public Use District to reflect the ownership and future use by Southeast Community College. Related CPA22003 is the Comprehensive Plan Amendment to change the future land use designation from commercial and urban residential to public, semi-public to reflect the same. At this time, no specific buildings or uses are identified for the property.
3. The proposed private road connections would link the Southeast Community College campus with Waterford Estates to the east including Waterford Estates Drive and Boathouse Road. The alignment of Waterford Estates Drive connection is adjusted from the existing PP04011 preliminary plat in that the proposal is for a straight connection to the west the SCC campus instead of a curved street extension to the south.
4. The amendment also proposes to move the conceptual access to O Street by shifting it to the west to align with Anthony Lane. The property owned by SCC only has limited frontage on O Street and there is floodway, where the proposed O Street connection is presently shown in PP0411. The amendment would move it onto the property to the west which under different ownership. Development of said property would likely involve the requirement for turn lane improvements on O Street with a street connection to O Street. It is possible that this connection will not be made as the cost of the connection and turn lanes may be too high for a single development on the adjoining property. It should be noted the owner of this lot will not be required to connect to O Street, however,

and could take access to the street to the north.

5. The Nebraska Department of Transportation has no objections to the proposal. They are aware of the new access point proposed on O Street and until design geometrics are submitted as part of a Permit for the new access, it will not be reviewed beyond the conceptual level.
6. The Comprehensive Plan identifies a future bike trail that will ultimately extend from 84<sup>th</sup> Street to Stevens Creek and will extend through the south part of the property in question. An easement area will need to be provided for this bike trail in addition to the private roadway .
7. There is a Pipeline Planning Area (PPA) that includes 205 feet on each side of a natural gas pipeline along O Street. This affects only a small part of the SCC property which is an outlot not identified for future development. Most high-pressure pipelines have a planning area of approximately 150-250 feet from either side of the pipeline. Land uses with vulnerable populations such as residential dwellings, for example, should not be located with this area which is referred to as a PPA.
8. As part of the conditions of approval there will be a north-south street on the east side of the property to connect Waterford Estates Drive to the east-west street on the south side of the property. This is required due to block length. The present plan for the proposed Use Permit (UP21010) for the adjacent property to the east does not show a north-south street on the west side of their property. Therefore, it is required to be shown as part of this preliminary plat amendment. In addition, while it is outside this preliminary plat there is a condition that a future north-south private street be shown on the SCC property to the west. This is intended to provide the planning framework for future named street connection for addressing and emergency services purposes. This will be particularly important as SCC builds future separate buildings.
9. The proposal subject to conditions of approval is consistent with the Comprehensive Plan which recognizes public and educational uses including SCC and encourages planning with adjoining neighborhoods.

**CONDITIONS OF APPROVAL:** See attached.

**EXISTING LAND USE & ZONING:** Agriculture, Pasture; AG, B-2, R-3

**SURROUNDING LAND USE & ZONING**

North: Single Family Residential; R-3  
South: Agriculture, Undeveloped; AG, R-3  
East: Agriculture, Pasture; AG, B-2  
West: Southeast Community College; P

**APPLICATION HISTORY:** See Attached

**APPROXIMATE LAND AREA:** 34.69 acres

**LEGAL DESCRIPTION:** Outlot A, Waterford Estates 26<sup>th</sup> Addition

Prepared by

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George Wesselhoft, Planner  
Date: February 3, 2022

Applicant/  
Contact: Erin Bright  
Olsson  
601 P Street, Suite 200  
Lincoln, NE 68508  
(402) 474-6311  
[ebright@olsson.com](mailto:ebright@olsson.com)

Owner: Southeast Community College  
301 S. 68<sup>th</sup> Place, Fl 5  
Lincoln, NE 68510  
(402) 437-2833  
[aepps@southeast.edu](mailto:aepps@southeast.edu)

### **APPLICATION HISTORY - PRELIMINARY PLAT #04011A**

|                 |                                                                                                                                                                                                                                                       |
|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1979            | The area was zoned A-A, Rural and Public Use until 1979 when the zoning was updated to AG Agricultural.                                                                                                                                               |
| March, 2005     | Preliminary Plat 04011 was approved, including part of Outlot A. This included 660 residential lots and 1 lot for a future school including the north part of the property zoned B-2 and additional development area all the way to Holdridge Street. |
| April, 2006     | Annexation 04003 was approved which included the part of the property presently zoned B-2.                                                                                                                                                            |
| April, 2006     | Change of Zone 04019 was approved which rezoned the part of the Outlot A property that is presently zoned B-2 from AG to B-2. In conjunction with this request, the submittal of the use permit for the B-2 parcels was allowed to be delayed.        |
| October, 2007   | Final Plat 07021 Waterford Estates Addition was approved and included the property as part of a larger Outlot D, reserved for future development.                                                                                                     |
| November, 2010  | Final Plat 10040 Waterford Estates 3 <sup>rd</sup> Addition was approved and included the Outlot A property as part of a larger Outlot B, reserved for future development.                                                                            |
| October, 2012   | Final Plat 12053 for Waterford Estates 8 <sup>th</sup> Addition was approved and included the Outlot A property as part of Outlot E, reserved for future development.                                                                                 |
| April, 2013     | Final Plat 13020 for Waterford Estates 9 <sup>th</sup> Addition was approved and included the Outlot A property as part of Outlot C, reserved for future development.                                                                                 |
| September, 2018 | Final Plat 18054 for Waterford Estates 21 <sup>st</sup> Addition was approved and included the Outlot A property as part of Outlot B, reserved for future development.                                                                                |
| October, 2020   | Final Plat 20082 for Waterford Estates 26 <sup>th</sup> Addition was approved, platting the property as Outlot A, reserved for future development.                                                                                                    |

## CONDITIONS OF APPROVAL - PRELIMINARY PLAT #04011A

Approval of the following waivers:

1. Waiver to 26.23.100 Utility Installations to delay the installation of water service along the proposed Waterford Estates Drive private roadway until the Outlot A is final platted with building construction that would require water service.

### Site Specific Conditions:

1. The subdivider shall complete the following instructions and submits the documents and plans and 2 copies to the Planning Department office: (NOTE: These documents and plans are required by ordinance or design standards.)
  - 1.1 Revise the preliminary plat to show:
    - 1.1.1 Delete notes 12-16, 18-22, 26-30, 35-38.
    - 1.1.2 Add utility easement to 60' public access easement and water main easement shown on the north side of the property.
    - 1.1.3 Show private roadway on the adjacent land to the west to connect Waterford Estates Drive to east-west private street on the south side of property.
    - 1.1.4 Show a north-south private or public roadway on east side of property to connect Waterford Estates Drive to east-west private street on south side of property.
    - 1.1.5 Correct title of Sheet 4.
    - 1.1.6 Show 27' wide private, named roadway in 60' Public Access and Utility Easement on south side of property.
    - 1.1.7 Show conceptually how future trail will extend to the west.
    - 1.1.8 Add note for future trail that if street dedicated to the public, then additional 6 feet will be dedicated for the trail or a 6-foot pedestrian easement with a 4-foot sidewalk in the public right of way. Otherwise, if the street is to be a private road, then easement will be provided over the full width of the trail to the satisfaction of the Parks and Recreation Department.
    - 1.1.9 Change Flood Corridor Easement to Minimum Flood Corridor Easement on south side of the property.
    - 1.1.10 Update the site plan shown to the east to match UP21010 if it is approved prior to the Final Approved Plans for this preliminary plat.
    - 1.1.11 Submit corrections per LTU-Watershed 1/25/22 review comments.
    - 1.1.12 For information purposes show the Pipeline Planning Area (PPA) is 205 feet on each side of the pipeline along O Street
2. The City Council approves associated request:
  - 2.1 Comprehensive Plan Amendment #22003
  - 2.2 Change of Zone #22001
3. Final Plats will be approved by the Planning Director after:

- 3.1 The required improvements are completed or a surety is posted to guarantee the completion of the public streets, private roadway improvements, sidewalks, sanitary sewer system, water system, drainage facilities, land preparation and grading, sediment and erosions control measures, storm water detention/retention facilities, drainageway improvements, street lights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs.

The subdivider has signed an agreement that binds the subdivider, its successors and assigns:

to complete the street paving of public streets, and temporary turnarounds and barricades located at the temporary dead-end of the streets shown on the final plat within two (2) years following the approval of this final plat.

to complete the paving of private roadway, and temporary turnarounds and barricades located at the temporary dead-end of the private roadway shown on the final plat within two (2) years following the approval of this final plat.

to complete the installation of sidewalks along both sides of streets and along as shown on the final plat within four (4) years following the approval of this final plat.

to complete the public water distribution system to serve this plat within two (2) years following the approval of this final plat.

to complete the public wastewater collection system to serve this plat within two (2) years following the approval of this final plat.

to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of this final plat.

to complete the enclosed private drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of this final plat.

to complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of this final plat.

to complete the installation of public street lights along streets within this plat within two (2) years following the approval of this final plat.

to complete the installation of private street lights along the private roadways within this plat within two (2) years following the approval of this final plat.

to complete the planting of the street trees along streets within this plat within six (6) years following the approval of this final plat.

to complete the planting of the street trees along (an improved major street) as shown on the final plat within two (2) years following the approval of this final plat.

to complete the installation of the street name signs within two (2) years following the approval of this final plat.

to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.

to timely complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance which have not been waived but which inadvertently may have been omitted from the above list of required improvements.

to submit to the Director of Lincoln Transportation and Utilities a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.

to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

to complete the public and private improvements shown on the preliminary plat and Community Unit Plan and Use Permit.

to keep taxes and special assessments on the outlots from becoming delinquent.

to maintain the outlots and private improvements in a condition as near as practical to the original construction on a permanent and continuous basis.

to maintain the plants in the medians and islands on a permanent and continuous basis.

to maintain the street trees along the private roadways and landscape screens on a permanent and continuous basis.

to maintain and supervise the private facilities which have common use or benefit in a condition as near as practical to the original construction on a permanent and continuous basis, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development and that these are the responsibility of the land subdivider.

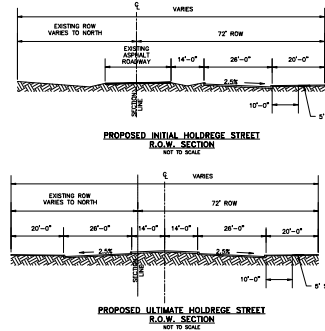
to retain ownership of and the right of entry to the outlots in order to perform the above-described maintenance of the outlots and private improvements on a permanent and continuous basis. However, Subdivider(s) may be relieved and discharged of such maintenance obligations upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:






















- (1) Subdivider shall not be relieved of Subdivider's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans.
- (2) The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

to pay all design, engineering, labor, material, inspection, and other improvement costs.

to inform all purchasers and users of land located within the 100 year floodplain that said land is located within the 100 year floodplain and that the grading of the lots and outlots shall be in conformance with the grading plan approved with the Preliminary Plat #04011A or as amended by the Director of Planning. The volume of fill material brought into each lot and outlot from outside the floodplain shall not exceed that shown on the approved grading plan accompanying the preliminary plat.





| SYMBOLS                                                                             | UNITS OF PRELIMINARY PLAT          |
|-------------------------------------------------------------------------------------|------------------------------------|
|  | EXISTING WATER MAIN                |
|  | PROPOSED WATER MAIN                |
|  | EXISTING SANITARY SEWER            |
|  | PROPOSED SANITARY SEWER            |
|  | SANITARY SEWER MANHOLE             |
|  | FIRE HYDRANT                       |
|  | WATER VALVE                        |
|  | EXISTING STORM SEWER               |
|  | PROPOSED STORM SEWER               |
|  | PROPOSED 4" SIDEWALK               |
|  | PROPOSED BOUNDARY                  |
|  | LIGHT POLE                         |
|  | UTILITY POLE/OVERHEAD TRANSMISSION |
|  | GUY WIRE                           |
|  | FENCE                              |
|  | INDIVIDUAL TREE                    |
|  | TREE MASS                          |
|  | LEAS EASEMENT (WIDTHS AS LABELED)  |
|  | PROPOSED 10' WIDE BIKE TRAIL       |
|  | TREE REMOVAL AREA                  |
|  | DELINEATED WET AREA                |

DATE \_\_\_\_\_ DANIEL A. THOMSON L.S. NO. 583

DATE \_\_\_\_\_ DANIEL A. THOMSON U.S. NO. 603

I HEREBY CERTIFY THAT THESE PLANS WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A REGISTERED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF NEBRASKA. THESE PLANS MEET THE REQUIREMENTS OF THE CITY ENGINEER'S OFFICE DESIGN REQUIREMENTS.

NAME \_\_\_\_\_ MARIO F. DALLMAD C-0045

DATE \_\_\_\_\_ WICK C. BAUMER E-PROV

THE FOREGOING PRELIMINARY PLAT WAS APPROVED BY THE LINCOLN CITY-LANCASTER COUNTY PLANNING COMMISSION ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

ATTEST: \_\_\_\_\_

ATTEST: \_\_\_\_\_

THE FOREGOING PRELIMINARY PLAT WAS APPROVED BY THE CITY COUNCIL  
RESOLUTION # \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY \_\_\_\_\_ 20\_\_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK

UNIT 10

[illegible]

| OWNERS & DEVELOPERS                                               |                                                                                                                                        |
|-------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| SWR INVESTMENTS LLC<br>445 NORTH 66TH STREET<br>LINCOLN, NE 68506 | RICHARD W. MEGGINIS<br>DANIEL H. MEGGINIS<br>THOMAS O. MEGGINIS<br>238 SOUTH 13TH STREET<br>LINCOLN, NE 68508<br>PHONE: (402) 441-5800 |
|                                                                   | RIDGE DEVELOPMENT COMPANY #<br>STAFFHVEN INC.<br>3350 FARMWELL, SUITE 100<br>LINCOLN, NE 68516<br>PHONE: (402) 436-3444                |

OLSSON ASSOCIATES  
1111 LINCOLN MALL  
LINCOLN, NE. 68501  
PHONE: 474-6311

| PRELIMINARY PLAT                                                                  |                                                                                 |                                                                                 |                                                                                |
|-----------------------------------------------------------------------------------|---------------------------------------------------------------------------------|---------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| ① $\Delta = 38^{\circ}41'36''$<br>R=1560.00<br>L=1063.60<br>T=547.73<br>C=1033.60 | ② $\Delta = 42^{\circ}28'18''$<br>R=1240.00<br>L=919.17<br>T=481.86<br>C=898.27 | ③ $\Delta = 39^{\circ}36'37''$<br>R=1360.00<br>L=940.21<br>T=489.77<br>C=921.60 | ④ $\Delta = 32^{\circ}09'28''$<br>R=885.00<br>L=384.46<br>T=197.44<br>C=379.44 |

| CENTRILINE CURVE TABLE |          |           |          |         |          |
|------------------------|----------|-----------|----------|---------|----------|
| CURVE                  | RADIUS   | DELTA     | LENGTH   | TANGENT | CHORD    |
| C1                     | 500.00   | 11°30'00" | 246.33   | 124.61  | 246.33   |
| C2                     | 1000.00  | 11°30'00" | 492.67   | 249.22  | 492.67   |
| C3                     | 1500.00  | 11°30'00" | 739.00   | 373.83  | 739.00   |
| C4                     | 2000.00  | 11°30'00" | 985.34   | 498.44  | 985.34   |
| C5                     | 2500.00  | 11°30'00" | 1231.67  | 623.05  | 1231.67  |
| C6                     | 3000.00  | 11°30'00" | 1478.00  | 747.66  | 1478.00  |
| C7                     | 3500.00  | 11°30'00" | 1724.34  | 872.27  | 1724.34  |
| C8                     | 4000.00  | 11°30'00" | 1970.67  | 996.88  | 1970.67  |
| C9                     | 4500.00  | 11°30'00" | 2217.00  | 1121.49 | 2217.00  |
| C10                    | 5000.00  | 11°30'00" | 2463.34  | 1246.10 | 2463.34  |
| C11                    | 5500.00  | 11°30'00" | 2709.67  | 1370.71 | 2709.67  |
| C12                    | 6000.00  | 11°30'00" | 2956.00  | 1495.32 | 2956.00  |
| C13                    | 6500.00  | 11°30'00" | 3202.34  | 1619.93 | 3202.34  |
| C14                    | 7000.00  | 11°30'00" | 3448.67  | 1744.54 | 3448.67  |
| C15                    | 7500.00  | 11°30'00" | 3695.00  | 1869.15 | 3695.00  |
| C16                    | 8000.00  | 11°30'00" | 3941.34  | 1993.76 | 3941.34  |
| C17                    | 8500.00  | 11°30'00" | 4187.67  | 2118.37 | 4187.67  |
| C18                    | 9000.00  | 11°30'00" | 4434.00  | 2242.98 | 4434.00  |
| C19                    | 9500.00  | 11°30'00" | 4680.34  | 2367.59 | 4680.34  |
| C20                    | 10000.00 | 11°30'00" | 4926.67  | 2492.20 | 4926.67  |
| C21                    | 10500.00 | 11°30'00" | 5173.00  | 2616.81 | 5173.00  |
| C22                    | 11000.00 | 11°30'00" | 5419.34  | 2741.42 | 5419.34  |
| C23                    | 11500.00 | 11°30'00" | 5665.67  | 2866.03 | 5665.67  |
| C24                    | 12000.00 | 11°30'00" | 5912.00  | 2990.64 | 5912.00  |
| C25                    | 12500.00 | 11°30'00" | 6158.34  | 3115.25 | 6158.34  |
| C26                    | 13000.00 | 11°30'00" | 6404.67  | 3239.86 | 6404.67  |
| C27                    | 13500.00 | 11°30'00" | 6651.00  | 3364.47 | 6651.00  |
| C28                    | 14000.00 | 11°30'00" | 6897.34  | 3489.08 | 6897.34  |
| C29                    | 14500.00 | 11°30'00" | 7143.67  | 3613.69 | 7143.67  |
| C30                    | 15000.00 | 11°30'00" | 7390.00  | 3738.30 | 7390.00  |
| C31                    | 15500.00 | 11°30'00" | 7636.34  | 3862.91 | 7636.34  |
| C32                    | 16000.00 | 11°30'00" | 7882.67  | 3987.52 | 7882.67  |
| C33                    | 16500.00 | 11°30'00" | 8129.00  | 4112.13 | 8129.00  |
| C34                    | 17000.00 | 11°30'00" | 8375.34  | 4236.74 | 8375.34  |
| C35                    | 17500.00 | 11°30'00" | 8621.67  | 4361.35 | 8621.67  |
| C36                    | 18000.00 | 11°30'00" | 8868.00  | 4485.96 | 8868.00  |
| C37                    | 18500.00 | 11°30'00" | 9114.34  | 4610.57 | 9114.34  |
| C38                    | 19000.00 | 11°30'00" | 9360.67  | 4735.18 | 9360.67  |
| C39                    | 19500.00 | 11°30'00" | 9607.00  | 4859.79 | 9607.00  |
| C40                    | 20000.00 | 11°30'00" | 9853.34  | 4984.40 | 9853.34  |
| C41                    | 20500.00 | 11°30'00" | 10099.67 | 5109.01 | 10099.67 |
| C42                    | 21000.00 | 11°30'00" | 10346.00 | 5233.62 | 10346.00 |
| C43                    | 21500.00 | 11°30'00" | 10592.34 | 5358.23 | 10592.34 |
| C44                    | 22000.00 | 11°30'00" | 10838.67 | 5482.84 | 10838.67 |
| C45                    | 22500.00 | 11°30'00" | 11085.00 | 5607.45 | 11085.00 |
| C46                    | 23000.00 | 11°30'00" | 11331.34 | 5732.06 | 11331.34 |
| C47                    | 23500.00 | 11°30'00" | 11577.67 | 5856.67 | 11577.67 |
| C48                    | 24000.00 | 11°30'00" | 11824.00 | 5981.28 | 11824.00 |
| C49                    | 24500.00 | 11°30'00" | 12070.34 | 6105.89 | 12070.34 |
| C50                    | 25000.00 | 11°30'00" | 12316.67 | 6230.50 | 12316.67 |

VICINITY MAP

[illegible]

P.O. Box 64605  
Lincoln, NE 68508  
TEL 402.474.6311 [www.denson.com](http://www.denson.com)

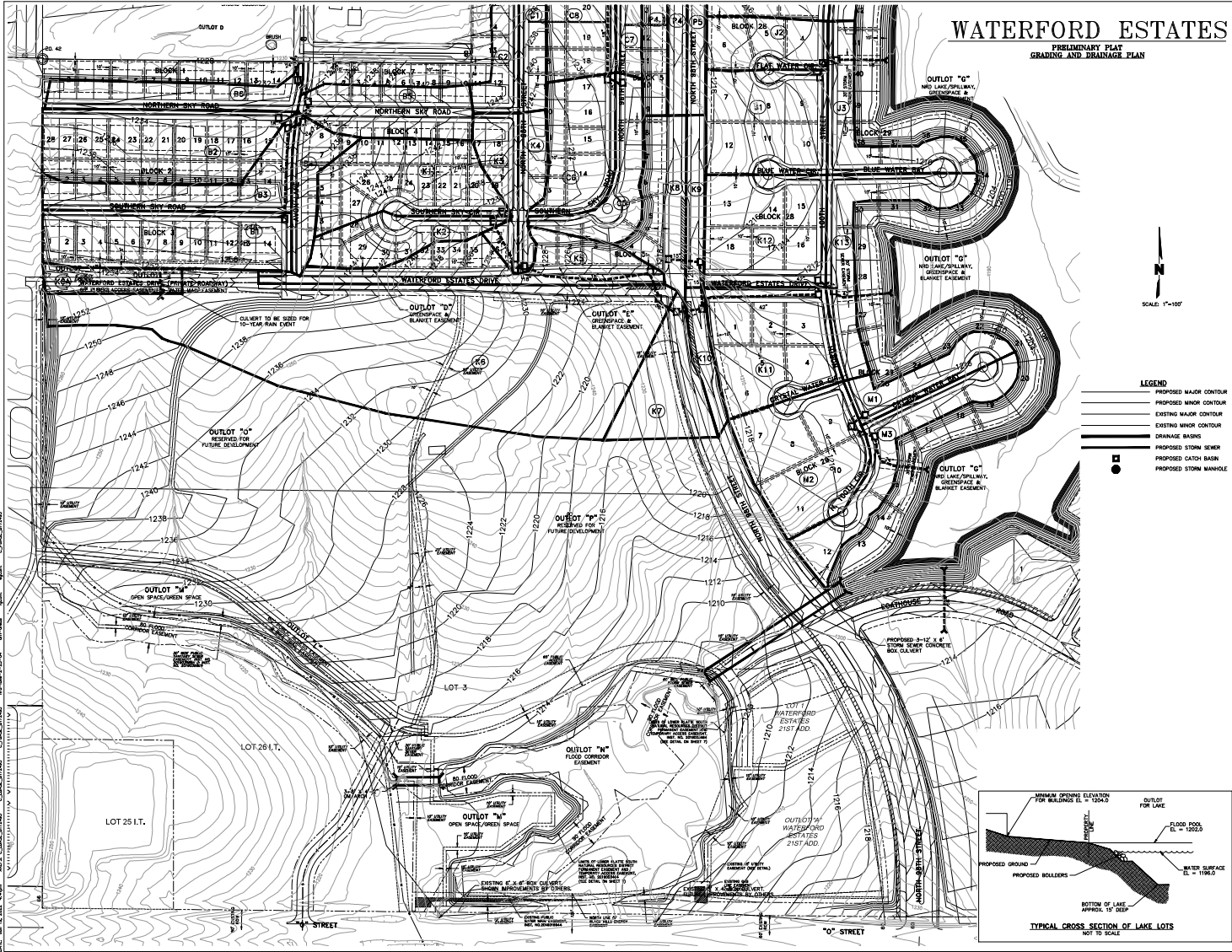
| DATE       | DESCRIPTION                |
|------------|----------------------------|
| 11/25/2012 | ADJUSTMENT AND CHANGE OF 2 |

COVER SHEET

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SHEET  
01 OF 17





**olsson**

257 S. Street, Suite 200  
Lincoln, NE 68508  
TEL: 402.474.8311 www.olson.com

**REVISIONS**

| NO. | DATE    | DESCRIPTION       |
|-----|---------|-------------------|
| 1   | 10/1/07 | ISSUED FOR PERMIT |

**GRADING AND DRAINAGE PLAN  
EAST OF 10TH STREET  
WATERFORD ESTATES  
PRELIMINARY PLAN**

**LINCOLN, NEBRASKA**

**SHEET 07 OF 17**



January 24, 2022

Mr. David Cary—Planning Director  
c/o George Wesselhoft  
City of Lincoln Planning Department  
555 South 10<sup>th</sup> St., Suite 213  
Lincoln, NE 68508

RE: Waterford Estates Preliminary Plat Amendment and Change of Zone  
Waterford Estates 26<sup>th</sup> Addition, Outlot A

Dear George:

On behalf of property owner and applicant, Southeast Community College, Olsson is submitting application for amendment and change of zone to the Waterford Estates Preliminary Plat including the following changes and requests:

1. Site layout updates to Waterford Estates 26<sup>th</sup> Addition, Outlot A to show a revised location of Waterford Estates Drive as a private roadway along the north property line.
2. Requested waivers: We are requesting that the 12" public water main in Waterford Estates Drive would not be required to extend along the proposed Waterford Estates Drive private roadway until the outlot reserved for future development south of Waterford Estates Drive is final platted for building construction that would require a water service.
3. Change of zone for Waterford Estates 26<sup>th</sup> Addition, Outlot A from B-2 and AG to P (Public) zoning.

Olsson has prepared site plan amendments documentation for the proposed street layout and grading associated with the Waterford Estates Drive private roadway. The intent of the proposed private roadway at Waterford Estates Drive will be to provide a private drive connection at the Southeast Community College (SCC) campus, immediately west of the Waterford Estates parcel. The private drives on the SCC campus are proposed to support long term growth of the campus and provide traffic circulation within campus and through Waterford Estates Drive which will provide a secondary connection between campus and East "O" Street, via S. 98<sup>th</sup> Street. At this time, SCC does not have any proposed uses for development within their Waterford Estates parcel, any future development on this parcel would be submitted as an administrative amendment.

The site plan amendments show a conceptual layout for a private roadway connection along the south side of the SCC parcel which would connect to adjacent development and ultimately extend further east to Boathouse Road. The conceptual layout also shows a potential connection between the south private roadway and East "O" Street, through Lot 26 IT, connecting at Anthony Lane. The layouts for these private roadways are conceptual only, Lot 26 is not within the Waterford Estates Preliminary Plat limits and is privately owned by a separate entity not associated with SCC. At this time, SCC does not have any plans for development or construction of the south private roadway and these layouts will be subject to change via future administrative amendment.

In addition to the amendment and change of zone to Waterford Estates 26<sup>th</sup> Addition, Outlot A, we are also submitting a change of zone request on portions of IT Lots 15, 16 and 19. This change of zone request from O-3 to P zoning is on the SCC main campus, immediately west of Waterford Estates. The current O-3 zoning on the SCC campus was originally re-zoned in 2009 (Ordinance 19244) for a potential tenant partnership on the campus. The conditions for that zoning change no longer exist on campus and it is appropriate for the zoning to revert back to public zoning (P).

Southeast Community College is making the following applications and requests:

1. Amendment and Change of Zone. Waterford Estates 26<sup>th</sup> Addition, Outlot A, for a total of 34.69 acres, including Parcel 1723401001000
2. Change of Zone from O-3 to P: Parcels 1723300001000, 1723300008000, 1723300009000 for a total of 7.79 acres.

Enclosed find the following documents for the above-mentioned project:

1. City Application Form Waterford Estates (Amendment and Change of Zone)
2. City Application Form: SCC Campus (Change of Zone)
3. Application fees in the amount of \$1,215.00
4. Waterford Estates Preliminary Plat: Site plan and grading plan revisions (via ProjectDox)

Olsson will submit the site plan documentation to ProjectDox upon notification from the Planning Staff. Thank you for your consideration of the above requests. If you require further information or have any questions, please do not hesitate to contact me at 402.458.5608 or [ebright@olsson.com](mailto:ebright@olsson.com).

Regards,



Erin Bright, PE  
Olsson

cc: Aaron Epps, Director of Facilities, Southeast Community College, [aepps@southeast.edu](mailto:aepps@southeast.edu)



## Department Review Status Report

**Project Name:** CZ22001

**Workflow Started:** 01/20/2022 11:51 AM

**Report Generated:** 01/31/2022 10:10 AM

| Cycle | Department                 | Reviewer           | Email                      | Status               | Reviewer Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Applicant Comments |
|-------|----------------------------|--------------------|----------------------------|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 1     | LTU - Engineering Services |                    |                            |                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                    |
|       | LES                        | LES Reviews        | edreviewer@les.com         | Recommend Approval   | 1/27/2022 No comments on this property. Grading within LES transmission easement on property to the west will need LES review. - TK                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                    |
|       | Development Review Manager | Stephen Henrichsen | shenrichsen@lincoln.ne.gov | Corrections Required |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                    |
|       | Street Name Review         | Terry Kathe        | tkathe@lincoln.ne.gov      | Corrections Required | If the future for this property is to develop it with habitable buildings, naming the driveway or private road would seem to have major benefits for emergency responder's ability to locate the building in the expedited manner.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                    |
|       | Planner Review             | George Wesselhoft  | gwesselhoft@lincoln.ne.gov | Corrections Required | 1) Correct title block to update and remove "Site Plan East of 100th Street" 2) Add a north-south private or public roadway on east side of property to connect Waterford Estates Drive to east-west private street on south side of property 3) Show private roadway to 27' requirement for the east-west street on the south side of the property 4) Provide street name for all streets 5) Add note for future trail that if street dedicated to the public, then additional 6 feet will be dedicated for the trail or a 6-foot pedestrian easement with a 4-foot sidewalk in the public right of way. Otherwise, if the street is to be a private road, then easement will be provided over the full width of the trail per Parks and Recreation Department |                    |
|       | LTU - Watershed Management | Mike Middendorf    | MMiddendorf@lincoln.ne.gov | Corrections Required | Relocate culvert/ profile Update contours adjust grading in minimum flood corridor                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                    |
|       | Lower Platte South NRD     | Tracy Zayac        | tzayac@lpsnrd.org          | Recommend Approval   | Future development should stay outside LPSNRD easement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                    |

## Department Review Status Report

|   |                             |                 |                           |                      |                                                                                                                                                                                                                                                                                                                                                                                                                            |  |
|---|-----------------------------|-----------------|---------------------------|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 1 | Parks and Recreation        | Sara Hartzell   | shartzell@lincoln.ne.gov  |                      | The trail is shown along the south side of the private drive in Outlot L but it is shown as ending at the T intersection with the north/south drive. This trail is planned to continue across the SCC property and connect to the 84th St Trail. This plan should show, conceptually, how the trail would continue to the west.                                                                                            |  |
|   | County Health               | Chris Schroeder | cschroeder@lincoln.ne.gov | Corrections Required | The site plan should depict the location of the natural gas pipeline north of O Street and its' accompanying pipeline planning area (PPA). The PPA is 205 feet on each side of the pipeline. In addition, the following noted should be added to the site plan. "Residential dwellings, childcare facilities, schools, retirement facilities, or healthcare facilities are not permitted with the pipeline planning area." |  |
|   | DOT - Corridors             | Todd Wicken     | todd.wicken@nebraska.gov  | Recommend Approval   | The Department has no objections to the proposed change in zoning                                                                                                                                                                                                                                                                                                                                                          |  |
|   | DOT - Planning and Projects | Craig Wacker    | craig.wacker@nebraska.gov | Recommend Approval   |                                                                                                                                                                                                                                                                                                                                                                                                                            |  |
|   | Fire Department             |                 |                           |                      |                                                                                                                                                                                                                                                                                                                                                                                                                            |  |
|   | LTU - Wastewater            | Brian Kramer    | bakramer@lincoln.ne.gov   | Recommend Approval   | sanitary service is available.                                                                                                                                                                                                                                                                                                                                                                                             |  |
|   | LTU - Water                 |                 |                           |                      |                                                                                                                                                                                                                                                                                                                                                                                                                            |  |

## LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER  
Change of Zone #20036

FINAL ACTION?  
No

DEVELOPER/OWNER  
Chance Hanshaw

PLANNING COMMISSION HEARING DATE  
February 16, 2022

RELATED APPLICATIONS  
None

PROPERTY ADDRESS/LOCATION  
8230 South 91<sup>st</sup> Street (Cheney)

### RECOMMENDATION: DENIAL

#### BRIEF SUMMARY OF REQUEST

This is a request for a change of zone from AG Agriculture to H-3 Highway Commercial for a 2.93 acre tract located at 8230 South 91<sup>st</sup> Street in Cheney. The property is currently developed with a single-family dwelling but the owner is seeking the change of zone to allow the construction of a multi-tenant commercial building for contractor services.



#### JUSTIFICATION FOR RECOMMENDATION

The property is located near the major intersection of South 91<sup>st</sup> Street and Highway 2. It is immediately adjacent to a lot zoned I-1 Industrial where a machine shop is located. Most importantly this lot is ideally suited to provide a street connection internal to the triangular area bounded by South 91<sup>st</sup> Street, Highway 2, and First Street. Such a street connection is important to limit traffic on First Street (primarily a residential street but which has a gravel surface) should other properties in this area be granted approval to redevelop. If commercial zoning is granted to others in the area without internal streets, any new traffic it generates will be forced to use unpaved First Street and the adjacent residential properties will be negatively impacted. Re-zoning the subject parcel to H-3 is an acceptable trade-off for enhanced access and can help mitigate the impact on the residential portion of Cheney. However, the rezoning should only occur if this property establishes the needed conditions for future annexation, similar to other property in this area recently rezoned to H-3 and annexed.

#### APPLICATION CONTACT

Ann Post, 402-475-1075  
[apost@baylorevnen.com](mailto:apost@baylorevnen.com)

#### STAFF CONTACT

Brian Will, 402-441-6362  
[bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)

#### COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Comprehensive Plan designates almost all of Cheney for Urban Density Land uses, including the subject property. The few exceptions to this are those properties which have long-standing commercial uses. Rezoning AG-zoned property to commercial which is located outside the city limit is rare and discouraged by the Comprehensive Plan. However, being less than five acres in area an amendment to change the land use designation on the Future Land Use Plan is not required provided there are circumstances that justify it. The ability to extend an internal street network will help mitigate the impact of additional commercial zoning in the area and serve to benefit the residential

properties located there. A zoning agreement will help provide the needed conditions for future annexation and development in this area, similar to many other areas that are rezoned from AG to commercial.

## **KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN**

### **Introduction Section:** Growth Framework

Figure GF.b: 2050 - This site is designated for future Urban Density Residential land uses in the 2050 Future Land Use Plan.

### **Fundamentals of Growth in Lancaster County**

The City of Lincoln's present infrastructure investment should be maximized by planning for well-designed and appropriately placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a mix of uses and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

New commercial and industrial development should be located in Lincoln and other incorporated communities. Lincoln has ample land area and infrastructure availability for commercial and industrial development. The situation is similar in most incorporated communities in the county. Rural areas of the county do not have access to urban infrastructure, and commercial or industrial development can add significant traffic and maintenance responsibilities to county roads.

Natural and environmentally sensitive areas should be preserved within and between neighborhoods. Conservation areas and open lands should be used to define and connect different neighborhoods. The natural topography and features of the land should be preserved by new development to maintain the natural drainageways and minimize land disturbance.

### **The Community in 2050**

The following assumptions provide the framework for growth in the 2050 plan.

Lancaster County is projected to add approximately 53,000 households by 2050, with 48,000 of those new households in Lincoln (roughly 1,600 new households per year).

25 percent of all new dwelling units in Lincoln will be infill, meaning they will be located within the existing city. This equates to roughly 12,000 infill units over the next 30 years.

New growth areas will have an average gross residential density of 4.0 du/acre.

The population age 65 and above is projected to increase from 45,600 (14.2 percent of total) in 2020 to 74,900 (17 percent of total) in 2050.

### **Benefits of Well-Planned Growth**

Continued investment within the city ensures that our existing neighborhoods and commercial areas remain vibrant and desirable locations. More "rooftops" near existing commercial areas help to support continued commercial investment.

### **Rural Housing**

New acreage development is not encouraged in any of the Growth Tiers except for areas already platted, zoned, or designated for low density residential development.

All proposals for acreages, whether designated on the future land use map for low density residential or not, should be evaluated based on factors such as paved roads, adequate water quality and quantity, soil conditions for on-site wastewater management, availability of emergency services, agricultural productivity, land

parcelization, the pattern of existing acreages, and plans for future urban development. Applications for acreage designation on the future land use map or rezoning to AGR, if planned for on-site wells, should be accompanied by information on water quality and quantity.

## E2: Infill and Redevelopment

### **Infill and Redevelopment Approach**

PlanForward identifies the potential for 12,000 new dwelling units to be located within the existing built-out portion of the City, roughly 25 percent of the projected 48,000 new dwelling units to be built citywide by 2050.

### *Location Criteria*

Mixed Use Redevelopment Nodes and Corridors should be located based on the following criteria:

- In areas where there is a predominance of commercial or industrial zoning and/or development, focusing on non-residential areas.
- In proximity to planned or existing neighborhoods and community services, to facilitate access to existing community services or to address a deficiency by providing services such as grocery stores, childcare centers, and restaurants.
- Where there is existing or potential for good access to transit, to enhance the public transit system by making it accessible to residents and to facilitate the development of neighborhood multimodal hubs where residents can drive, bike, or walk to a transit stop, go to work, and then shop for their daily needs before they return home.
- On at least one arterial street to help provide for traffic and utility capacity and access to transit.
- Outside of areas with existing or potential industrial use to avoid conflicts with health and safety.
- In areas that minimize floodplain and other environmental impacts. Areas within the floodplain that already have buildings and fill are appropriate for redevelopment; projects that receive public assistance should meet a higher standard to preserve flood storage. This criterion encourages redevelopment while protecting sensitive environmental areas. Preservation or restoration of natural resources within or adjacent to mixed use redevelopment areas should be encouraged

### **Commercial Infill**

#### **Figure E3.f: Commercial Infill Design Strategies**

1. Encourage additional vehicular access to an arterial street.
2. Encourage a Floor Area Ratio that exceeds to existing/previous commercial uses on the site.
3. Face existing residential uses with new residential uses rather than the backs of commercial buildings unless existing residential faces the opposite direction such as along an alley.
4. Discourage commercial driveways that interrupt the blockface of a residential street, especially when residences face the street.
5. Encourage shared driveways and interconnected parking lots where possible.
6. Orient buildings to the street, especially corners.
7. Maintain or adaptively reuse existing structures (especially historical structures) where possible.
8. Encourage a vertical mix of residential and commercial use types.
9. Encourage shared parking between land uses with different peak demand periods.
10. Maintain or enhance on-street parking resources, especially in established/historic commercial districts

## P2: Existing Neighborhoods - Continue our commitment to strong, diverse, and complete neighborhoods.

### **Action Steps**

1. Promote the preservation, maintenance, and renovation of existing housing and supporting neighborhood uses throughout the City, with special emphasis on low and moderate income neighborhoods.
2. Maintain and enhance infrastructure and services, commensurate with needs, in existing neighborhoods.
3. Encourage well-designed and appropriately placed density, including within existing apartment and group living complexes and in redeveloping commercial or industrial centers, where there is land available for additional buildings or expansions. Provide flexibility to the marketplace in siting future residential development locations. This includes appropriately placed infill in prioritized Nodes and Corridors,

- neighborhood edges, and underutilized commercial or industrial sites.
4. Recognize that broad economic diversity within existing neighborhoods encourages reinvestment and improves quality of life for all residents while acknowledging the need for affordable housing.
  5. Preserve, protect and promote the character and unique features of urban neighborhoods, including their historical and architectural elements.
  6. Promote the continued use of residential dwellings and all types of buildings, to maintain the character of neighborhoods and to preserve portions of our past. Building code requirements for the rehabilitation of existing buildings should protect the safety of building occupants, while recognizing the need for flexibility that comes with rehabilitating existing buildings.
  7. Implement the housing and neighborhood strategies as embodied in the Affordable Housing Coordinated Action Plan, City of Lincoln Consolidated, Annual Action Plans, and subsequent housing and neighborhood plans. These plans provide the core for affordable housing and neighborhood preservation actions for public and private agencies.
  8. Retain and encourage a mix of housing in existing and new neighborhoods in order to provide a mix of housing types at a variety of price points.
  9. Implement elements of Complete Neighborhoods for existing neighborhoods.
  10. Develop and utilize a measurement tool to evaluate neighborhoods in terms of how well they achieve PlanForward's goals for design, sustainability, and Complete Neighborhoods goals.
  11. Encourage public and private investment in neighborhood infrastructure and services to support economic diversity that improves the quality of life for all residents.
  12. Balance expanding housing options and neighborhood character. Infill development should include housing for a variety of incomes and households and should complement the character of the existing neighborhood by including appropriate transitions, scale, and context.
  13. Preserve areas designated for multi-family and group living housing in approved plans to support a distributed choice in affordable housing.
  15. Develop and propose zoning text amendments that will allow platted, nonconforming lots to be buildable.
  17. Promote neighborhood and community design that supports healthy and active lifestyles.
  20. Examine current residential zoning districts and propose modifications to encourage 'missing middle' units (single-family attached, cottage courts, townhomes, live-work, and a variety of three- and four-plex configurations), including affordable units, to people with a range of incomes. Neighborhood edges in particular present an opportunity for missing middle housing.
  21. Encourage a variety of housing types including townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and small lot single-family units.

P14: Commercial Infill - Develop infill commercial areas to be compatible with the character of the area.

#### Action Steps

1. Implement commercial infill redevelopment principles as discussed in the Business & Economy element.
2. Maintain and encourage businesses that conveniently serve nearby residents, while ensuring compatibility with adjacent neighborhoods.
3. Avoid encroachment into existing neighborhoods during expansion of existing commercial and industrial uses and take steps to ensure expansions are in scale with the adjacent neighborhood, use appropriate screening, fulfill a demonstrated need, and do not hinder health and safety.
4. Prioritize retaining areas for continued residential development in older sections of the community by maintaining existing housing and supporting infill housing. Prior to approving the removal of housing to provide additional parking for existing centers, alternatives such as reduced parking requirements, shared parking, additional on-street parking, and/or the removal of other commercial structures should be explored. Maintain and encourage ethnically diverse commercial establishments that are beneficial to existing neighborhoods.

#### ANALYSIS

1. This is a request to re-zone a 2.93 acre parcel located at 8230 South 91<sup>st</sup> Street from AG to H-3 zoning. The property is currently developed with a single-family dwelling, but the owner is seeking the change of zone to allow the construction of a multi-tenant commercial building for contractor services.
2. The property is in Cheney, an unincorporated development adjacent to the city limit near the intersection of South

91<sup>st</sup> Street and Highway 2. Cheney was platted in the 1870's but is not annexed into the City of Lincoln. It is located within the City's 3-Mile Extraterritorial Jurisdiction so it is subject to Lincoln's zoning and subdivision regulations, but does not receive municipal services such as police/fire protection or sewer and water service.

3. Cheney is primarily a residential development but has some commercial uses. The commercial uses are primarily located either adjacent to the railroad or along Highway 2. The main streets extending through Cheney are Breagan Road and First Street. Breagan Road parallels the railroad through much of Cheney and is a buffer between the residential and the tracks.

First Street is a gravel county road from the intersection with Breagan Road to Highway 2. It bisects Cheney where the land uses south of First Street are primarily residential and the uses to the north are a mix of residential and commercial.

4. Cheney is provided sanitary sewer service by the Cheney Sanitary Improvement District (SID). The SID has collection lines throughout the development which drain to lagoons which they own located approximately one-half mile to the northeast on the other side of Highway 2. Water service is provided by Rural Water District #1.
5. The subject tract is surrounded by a mix of zoning and uses. Adjacent to the north is a single-family dwelling zoned AG; to the east are the back halves of two lots zoned AG, one used for a church and the other which is undeveloped; to the west are single-family dwellings zoned AGR; and to the south is a lot with a commercial building zoned I-1.
6. The Comprehensive Plan discourages re-zoning to intensify land use outside the city limit due to the inefficiencies of providing services. Annexation typically means properties can be provided the full range of municipal services with improvements built to City standards. This is one of the key components of the City's growth management policy. Over the years there have been multiple requests to re-zone properties beyond the city limit but most all have been denied.
7. The subject tract cannot be annexed individually at this time. Per State Statute, the City cannot annex a portion of an SID unless the property is voluntarily released from the SID. The SID has been asked by both the owner and the City to voluntarily release the tract but voted not to do so. The SID has released properties previously as was done with 8455 South 98<sup>th</sup> Street in 2000 on the north side of Highway 2. This was done at the request of the owner so that property could be annexed by the City, re-zoned and developed commercially.
8. The alternative is for the City to annex the entire SID, which is allowed under State law. However, the City has been unwilling to do so for numerous reasons, including Cheney cannot be served by gravity sewer service back to the city, and the sewer lines in Cheney are old and may not meet City standards. This potentially represents a significant expense and large maintenance responsibilities that would be assumed by the City upon annexation. In addition, under such a scenario the City would also be responsible to pay the Rural Water District #1 for each property annexed, an amount that would total in the hundreds of thousands of dollars. Maintenance of all the unimproved gravel streets would also be assumed.
9. While city water service may be feasible to extend to the area, it becomes a question of connecting substandard water lines and facilities to the City's system. The responsibility of who would pay for the needed upgrades is not known largely because little is known of the system in place. As noted a bigger issue yet is sanitary sewer. Cheney sits at the top of a hill and flows into at least three drainage basins. At this time there is no city sanitary sewer into which the entire development can drain nor that has the capacity. The ability to provide gravity-flow sanitary sewer is another key component of the growth management policy and this capability does not currently exist for Cheney. Overall the financial impact of annexation of all of Cheney would be significant to both Lincoln and potentially the homeowners involved in the conversion.
10. There are two cases in the area where the zoning was changed in recent years to allow commercial development. One is in Cheney at the intersection of First Street and Highway 2 at 9520 First Street. A zoning agreement accompanied that re-zoning to H-3 Highway Commercial (CZ#12005) which limited the development to mini storage only. At the time, the SID had limited capacity and was accepting no more customers. There was a single-family dwelling on the property at the time, and the single bathroom for the mini-storage facility was deemed to be equivalent when the dwelling was removed and so the SID agreed to the change of zone. Since then, the SID has expanded the lagoons and has excess capacity and would welcome additional users.
11. The other case is CZ#20035 at 8455 South 98<sup>th</sup> Street located northeast of 9520 First Street on the north side of Highway 2. This property was also within the SID and a former dwelling was served by it as well. This more recent

example differs from this request in that the property could be served by sanitary sewer located in the adjacent residential development to the north. It also differs in that the property was released from the SID at the request of the owner so it could be annexed by the City. A zoning agreement (attached and labeled as Res. A-92604) was required where the owner agreed to install a turn lane in South 98<sup>th</sup> Street, restrict the allowed uses, maintain the screen along Highway 2, meet the City's drainage and water quality standards, and connect to city water and sewer and pay any fees associated with annexation to the Rural Water and Fire Districts.

12. There have been repeated requests to re-zone the properties north of First Street to allow commercial uses, including this one. Staff has worked with this owner and encouraged him to engage the property owner to the north to involve a larger area. If there are more requests and any are approved, the concern is that a commercial zoning pattern will be established, and the land north of First Street will eventually be zoned commercially.
13. Most of the properties involved on the north side front onto First Street which at present is a gravel street with dwellings along the majority of the south side. Intensification of zoning north of First Street will have a negative impact on these dwellings and put additional pressure on a substandard road as these users take access to it. The goal of involving the owner to the north of the subject property was to provide enough land for development to make it feasible to create the start of an internal street network that would provide alternate access to the properties north of First Street. Both owners would have been able to take advantage of the re-zoning but also shared in the cost of the street. As other properties redevelop, the street network would be extended and help alleviate the pressure on First Street.
14. This application was originally submitted in 2020 and the applicant has worked with the City and the adjacent property owner but no agreement could be reached. Regardless, it is still important that that the internal street network be initiated and that it begin with this property. The subject tract lies at the logical point for an intersection with South 91<sup>st</sup> Street. If provisions are not made for the street with this request it will be very difficult to do so in the future, and the ability to provide for coherent redevelopment in this area will be compromised.
15. The City has prepared a draft zoning agreement (see attached Exhibit #1) which was provided to the applicant. The recommendation of this request is for approval but subject to approval of that agreement. The conditions include requiring the owner to dedicate right-of-way for the street across the north portion of the property in a location approved by the City (essentially in line with the South 91<sup>st</sup> Street intersection) built to County road standards. The applicant has indicated he is not willing to sign the agreement.

Specifically, the agreement requires the owner to: Dedicate 60' of right-of-way and then design and build a public street connection across the north edge of the property; Locate the street in a location approved by LTU; Build the street to County road standards; To extend and connect to City water and sewer at such time as they become available; Pay the contribution to the Southeast Rural Fire District #1 at the time of annexation; Gain a release from the Rural Water District #1 and pay any fees necessary to gain the release.

16. This agreement is essentially the same with respect to conditions under which CZ#20035 was approved and is not unprecedented. It will provide the basis for redevelopment in the area and help reduce additional negative impact on the residential part of Cheney. The existing development pattern east of South 91<sup>st</sup> Street on the north side of First Street does lend itself to nonresidential uses. While re-zoning to allow commercial development without annexation is rare, in this circumstance could be a reasonable tradeoff provided the necessary infrastructure is built to support it with the appropriate conditions in place.

The main point of the agreement is not to simply allow rezoning to get a street built. The agreement helps prepare the site for annexation in the future by making it more compatible for assimilation into the City and setting the conditions similar to CZ#20035 if and when the area is released by the SID. The SID has declined to release the property at this time, but that could change in the future as SID boards and circumstances change over time.

17. The Comprehensive Plan discourages rezoning land beyond the city limit which cannot be annexed and served by the full range of municipal services. The annexation agreement establishes terms and conditions similar to other properties which are annexed in anticipation of the time the subject tract can be.

The recommendation is for denial given the precedent it would establish for rezoning land for commercial uses beyond the city limit without access to the full range of municipal services. Should the City Council choose to approve this request it should be subject to the applicant entering into an annexation agreement with the City.

**CONDITIONS OF APPROVAL:** See attached.

**EXISTING LAND USE & ZONING:** Single-family Residential

AG Agriculture

**SURROUNDING LAND USE & ZONING**

|                    |     |
|--------------------|-----|
| North: Residential | AG  |
| South: Commercial  | I-1 |
| East: Vacant       | AG  |
| West: Residential  | AGR |

**APPROXIMATE LAND AREA:** Approximately 2.93 acres.

**LEGAL DESCRIPTION:** Lot 2, I.T., located in the SE 1/4 of Section 23-9-7, Lincoln, Lancaster County, Nebraska.

Prepared by

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Brian Will  
402-441-6362  
[bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)  
February 2, 2022

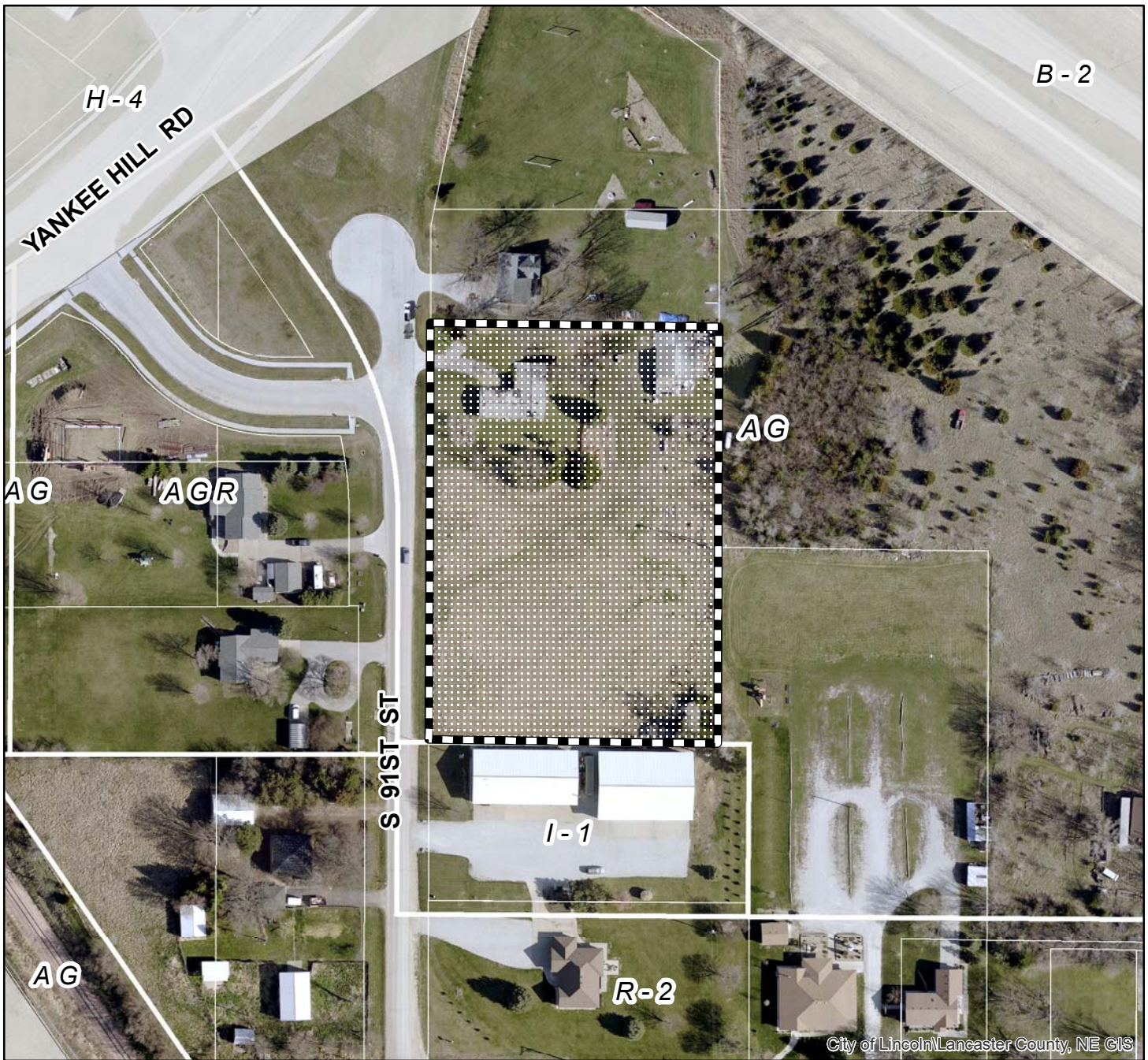
Applicant/  
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[chance4u2see@yahoo.com](mailto:chance4u2see@yahoo.com)

Contact: Ann Post  
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## CONDITIONS OF APPROVAL - CHANGE OF ZONE #20036

### Site Specific Conditions:

1. The Developer signs a zoning agreement prior to approval of this request by the City Council which includes the following conditions:
  - a. Dedicate 60' of right-of-way and then design and build a public street connection across the north edge of the property.
  - b. Locate the street in a location approved by LTU.
  - c. Build the street to County road standards.
  - d. To extend and connect to City water and sewer at such time as they become available.
  - e. Pay the contribution to the Southeast Rural Fire District #1 at the time of annexation.
  - f. Gain a release from the Rural Water District #1 and pay any fees necessary to gain the release.



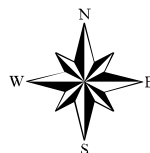
2020 aerial

**Change of Zone #: CZ20036 (AG to H-3)**  
**S 91st St & Hwy 2**

### Zoning:

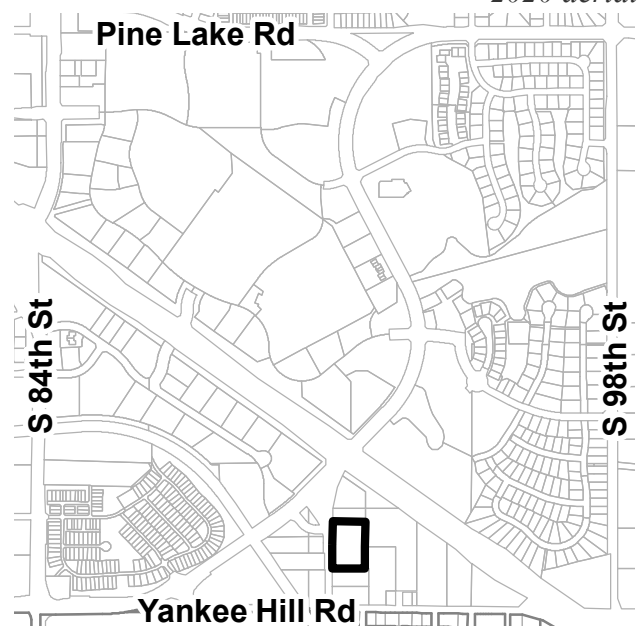
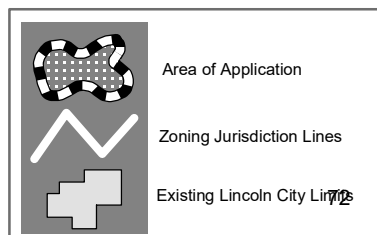
R-1 to R-8 Residential District  
 AG Agricultural District  
 AGR Agricultural Residential District  
 O-1 Office District  
 O-2 Suburban Office District  
 O-3 Office Park District  
 R-T Residential Transition District  
 B-1 Local Business District  
 B-2 Planned Neighborhood Business District  
 B-3 Commercial District  
 B-4 Lincoln Center Business District  
 B-5 Planned Regional Business District  
 H-1 Interstate Commercial District  
 H-2 Highway Business District  
 H-3 Highway Commercial District  
 H-4 General Commercial District  
 I-1 Industrial District  
 I-2 Industrial Park District  
 I-3 Employment Center District  
 P Public Use District

PDF: F:\Boards\PC\Internet\out\



One Square Mile:

Sec.23 T09N R07E

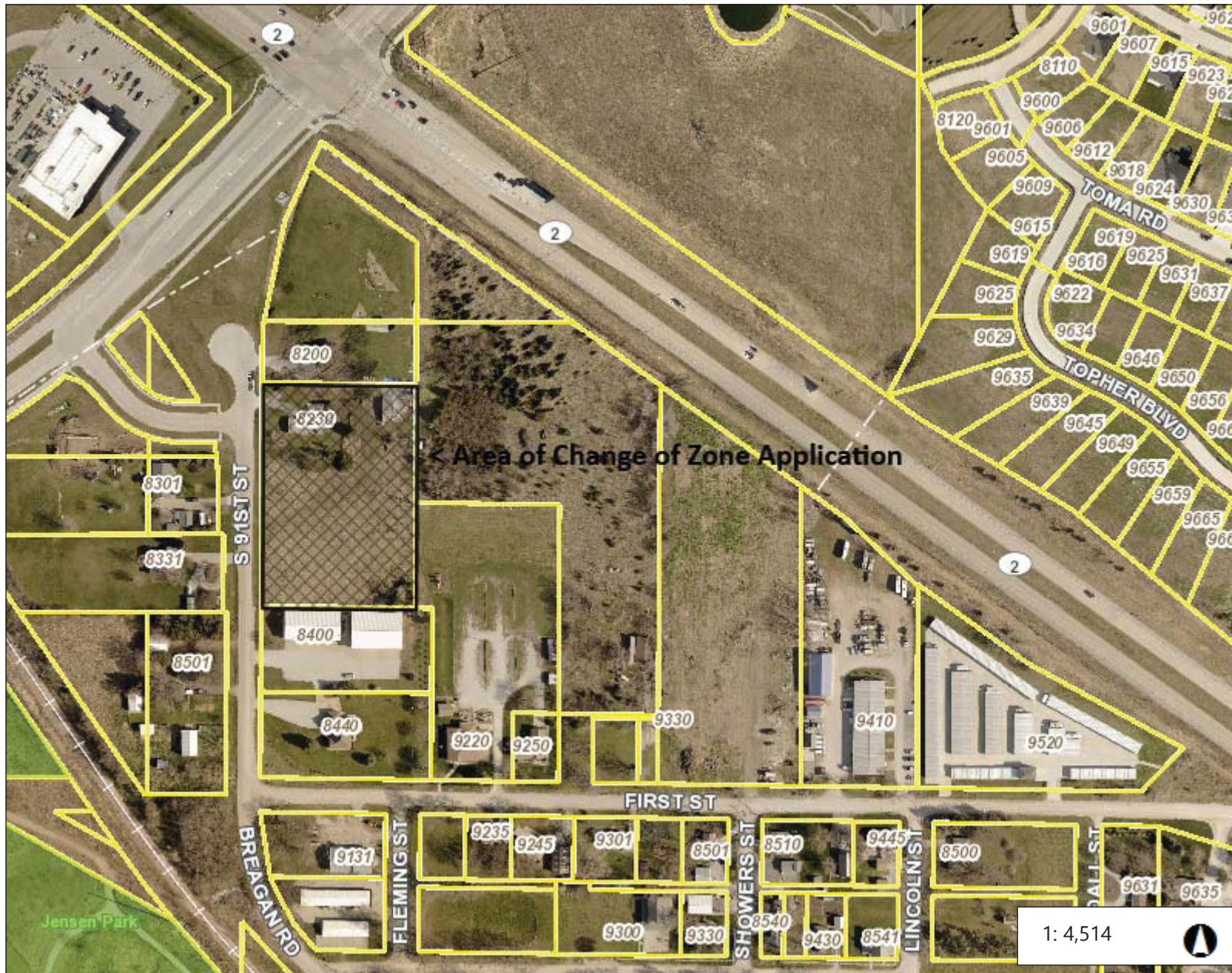




# Development Viewer

CITY OF LINCOLN - LANCASTER COUNTY, NE

## City of Lincoln / Lancaster County Planning



### Legend

- Address Labels
- Park Boundaries
- Parcels\_Aerial
- Area of Change of Zone Application

### Notes

0.1 0 0.07 0.1 Miles

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere

DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email [73 plan@lincoln.ne.gov](mailto:73 plan@lincoln.ne.gov) and you will be directed to the appropriate department.



Dallas D. Jones  
David A. Dudley  
Brenda S. Spilker  
Timothy E. Clarke [IA]\*  
Robert S. Lannin [KS, MO]\*  
Jenny L. Panko

Caroline M. Westerhold [IA]\*  
Jarrod P. Crouse  
Jennifer S. Caswell [CO]\*  
Paul T. Barta [IA]\*  
Torrey J. Gerdes [IA]\*  
Emily R. Motto [IA]\*

Thomas B. Shires [IA]\*  
Kate Q. Martz [IA]\*  
Michael D. Reisbig [IA]\*  
Susan M. Foster  
Andrew D. Weeks  
Ann K. Post

Christopher M. Schmidt  
Jenna M. Christensen  
J. Michael Hannon  
Micah Hawker Boehnke [IA]\*

Of Counsel:  
Robert T. Grimit  
Donald R. Witt  
Walter E. Zink II  
W. Scott Davis  
Peter W. Katt  
Mark A. Hunzeker  
Randall L. Goyette [IA]\*  
Stephen S. Gealy

November 4, 2020

Lincoln Planning Department  
Director David Carey  
555 S 10<sup>th</sup> Street, Ste. 213  
Lincoln NE 68508

RE: Application for Change of Zone at 8230 S 91<sup>st</sup> Street

Director Carey:

Our firm represents Chance Hanshaw, owner of property located within the City of Lincoln's extraterritorial zoning jurisdiction at 8230 S 91<sup>st</sup> Street ("Property"), regarding his application to rezone the property from AG Agricultural District to H-3 General Commercial District.

The Property is ideally located for commercial use. It is just under three acres and close to Nebraska Highway 2, meaning quick access to both Lincoln and most of southeast Nebraska. It is surrounded by mostly one to five acre parcels that are generally vacant or used for commercial or industrial purposes, including a painting contractor to the east and an engine machine shop to the south, located on I-1 zoned property (map enclosed). The Property is served by rural water and sewer is available through Sanitary and Improvement District No. 5 of Lancaster County ("SID") which has ample capacity.

If rezoned, Mr. Hanshaw's proposal is to build contractor bays on his Property. This use will benefit from the proximity to Nebraska Highway 2 but does not require frontage on the highway. It will generate relatively low traffic volumes and have a low impact on utilities in the area.

We acknowledge the Property has not been annexed by the City of Lincoln, and the City of Lincoln has a longstanding policy of only approving commercial zoning within city limits. However, the Property is a part of the SID and the City of Lincoln has taken the position that it cannot annex a portion of the SID without annexing and providing utilities to the entire SID. Therefore, as long as the Property is within the SID the City will not annex.

The property owner, Mr. Hanshaw can only request and cannot compel the SID to release the Property from its boundaries or "detach" the Property. Mr. Hanshaw made this request at the SID's Sept. 28, 2020 board meeting. The SID refused detach Mr. Hanshaw's Property from the SID.

To summarize, Mr. Hanshaw has made every effort to have the Property annexed and has been denied. Therefore, we are proceeding with this application for a change of zone from AG to H-3.

Enclosed please find 1) a City of Lincoln Application form; 2) Site Plan, and 3) application fee in the amount of \$988.00. We appreciate your consideration of the above application. If you have any questions or need additional information please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Ann K. Post".

Ann K. Post  
For the Firm  
APost@bayloreven.com

CC: Chance Hanshaw

APO/apo

3161550

## CITY OF LINCOLN

Print Form

## Planning Department Application Request Form

Planning Department / 555 S 10th St, Ste 213 / Lincoln, NE 68508  
 Phone 402-441-7491 / Fax 402-441-6377  
 plan@lincoln.ne.gov

Date 11/4/20

|                          |                          |                | Office Use Only |        |                          |
|--------------------------|--------------------------|----------------|-----------------|--------|--------------------------|
| Application Type         |                          | Subtype        | Category        | File # | PC Final Action          |
| <input type="checkbox"/> | <input type="checkbox"/> | Change of Zone | Map             |        | <input type="checkbox"/> |

Project Name Hanshaw Change of ZoneAddress/General Location 8230 S 91st Street, Lincoln, NE 68526Legal Description Lot 2 I.T. , SW 1/4 of the SE 1/4 of Section 23, Township 9 N, Range 7 E of the 6th P.M., Lancaster County, NE  
(Attach legal if necessary.)Parcel ID Number(s) (PID) 1623400003000Number of Acres 2.93Number of lots being platted n/a  
(Not outlots)App # Being Amended n/a**THE FOLLOWING INFORMATION IS NECESSARY TO HAVE A COMPLETE APPLICATION:**

1. **LETTER** stating purpose of application. This statement should include information concerning the reason for the request(s), any associated applications, projects or other information related to the application. This letter should include a list of waivers associated with an application and justifications for those waivers. If no waivers are requested state "no waivers are requested."

2. **FEE** (View Fee Schedule) Note: Make checks payable to the City of Lincoln.

3. **SITE PLAN** The site plan shall be submitted electronically using e-plan. (View instructions on eplan submittal)

**NOTE:** See **Forms & Fees** section of Planning Department website for checklists with specific requirements for each type of project.

\*\*\* This application may be returned as incomplete if all requested information is not provided. \*\*\*

The City reserves the right to ask for additional information to process this application.

**Property Owner Name** Chance Hanshaw **Phone** (402) 805-3683

**Address** 6269 Doe Drive **Email** chance4u2see@yahoo.com

**City** Lincoln **State** Nebraska **Zip** 68516

**Applicant Name** Chance Hanshaw **Phone** (402) 805-3683

**Address** 6269 Doe Drive **Email** chance4u2see@yahoo.com

**City** Lincoln **State** Nebraska **Zip** 68516

**Contact Name** Ann K. Post **Phone** (402) 475-1075

**Address** 1248 O Street, Suite 600 **Email** apost@baylorevn.com

**City** Lincoln **State** Nebraska **Zip** 68508

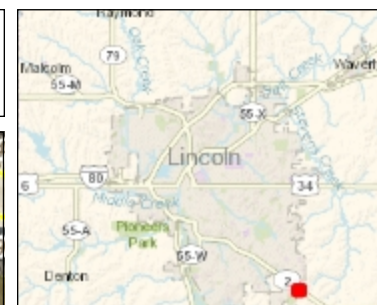
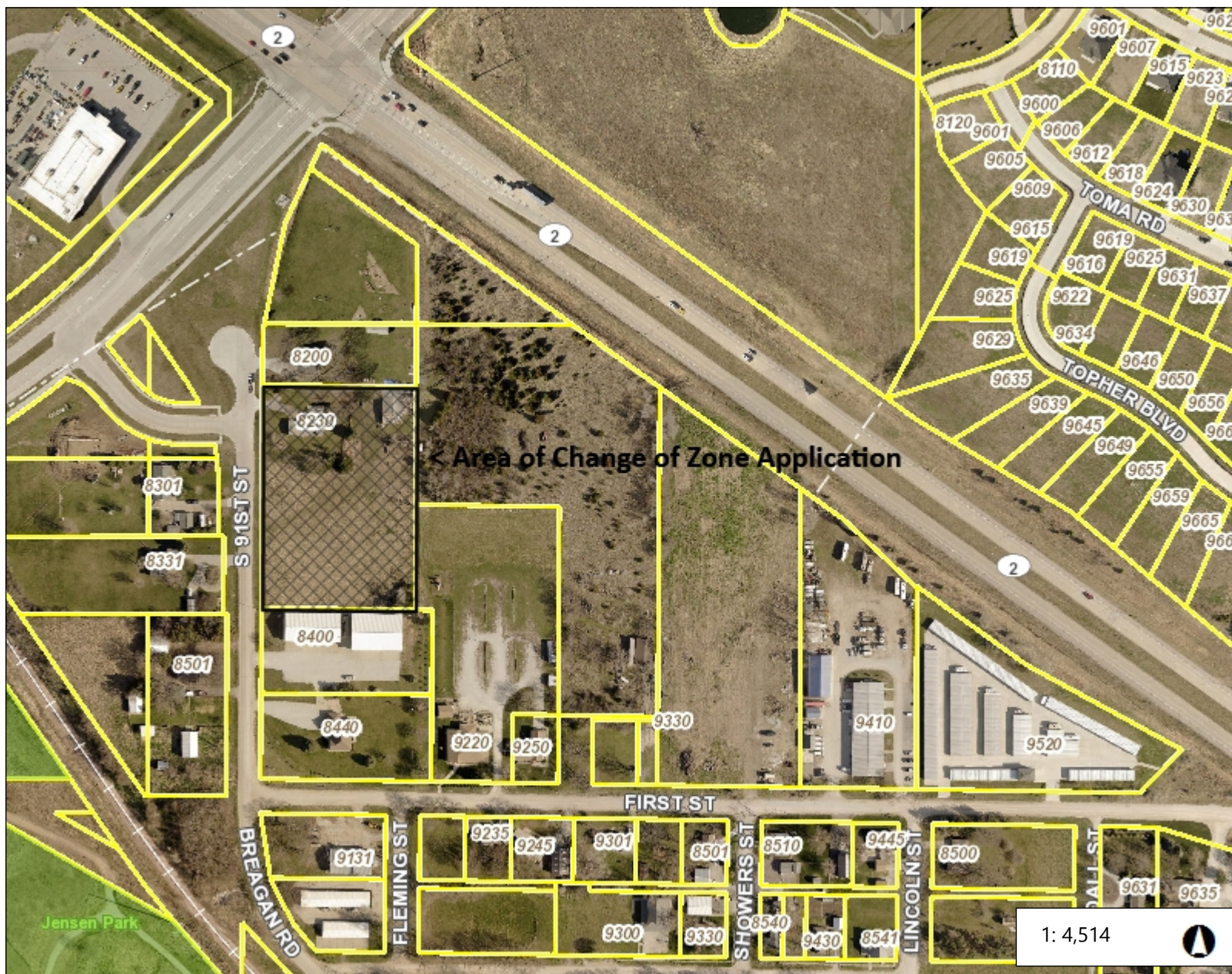
**ProjectDox Contact** Ann K. Post

**ProjectDox Email** apost@baylorevn.com

**Applicant Signature:** 

**\* Property Owner Signature:**

\* NOTE: If application is for a special permit or a use permit and the applicant is not the owner of the property, the property owner must sign the application or the applicant must attach written permission of the owner authorizing the applicant to sign on behalf of the owner. By signing this application request form or granting the applicant permission to sign on the owner's behalf, the owner hereby grants all authorized city/county personnel to access the property for purposes of review of this application.



### Legend

- Address Labels
- Park Boundaries
- Parcels\_Aerial
- Area of Change of Zone Application

1:4,514



0.1 0 0.07 0.1 Miles

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere

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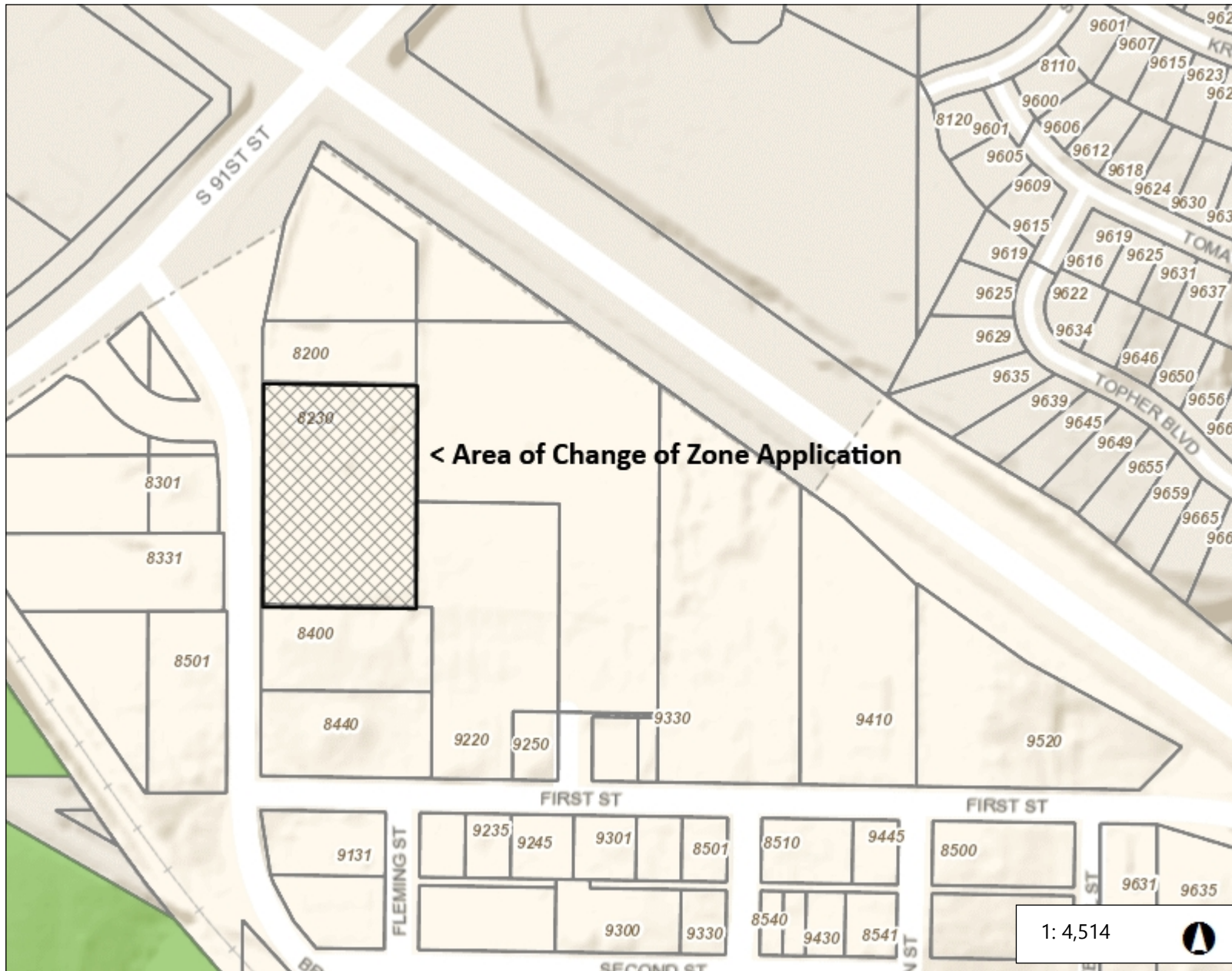
Notes



# Development Viewer

CITY OF LINCOLN - LANCASTER COUNTY, NE

## City of Lincoln / Lancaster County Planning



### Legend

- Address Labels
- Park Boundaries
- Parcels\_Street

### Notes

0.1 0 0.07 0.1 Miles

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere

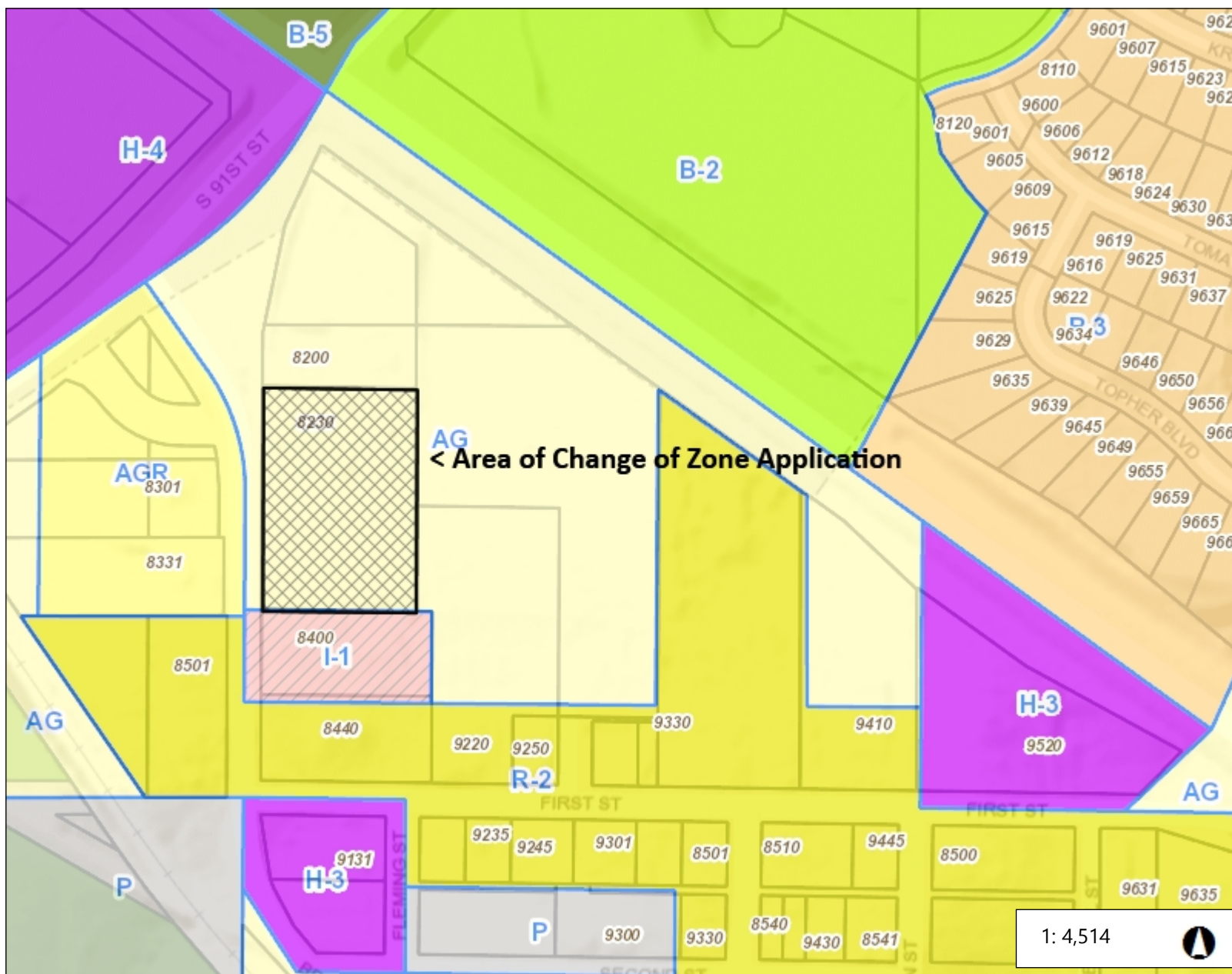
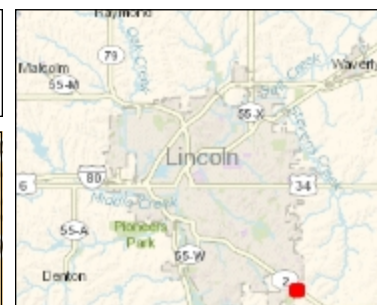
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# Development Viewer

CITY OF LINCOLN - LANCASTER COUNTY, NE

## City of Lincoln / Lancaster County Planning



### Legend

#### Address Labels

#### Zoning Boundaries & Labels

#### Lincoln Zoning

- AG Agriculture
- AGR Agricultural Residential
- R-1 Residential
- R-2 Residential
- R-3 Residential
- R-4 Residential
- R-5 Residential
- R-6 Residential
- R-7 Residential
- R-8 Residential
- R-T Residential Transition
- P Public Use
- O-1 Office
- O-2 Suburban Office
- O-3 Office Park
- B-1 Local Business
- B-2 Planned NBHD Business
- B-3 Commercial
- B-4 Lincoln Center Business
- B-5 Planned Regional Business
- H-1 Interstate Commercial
- H-2 Highway Business
- H-3 Highway Commercial

### Notes

0.1 0 0.07 0.1 Miles

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere

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## Brian Will

---

**From:** Ann K. Post <APost@bayloreven.com>  
**Sent:** Wednesday, January 12, 2022 11:57 AM  
**To:** Brian Will  
**Cc:** Kali L. Trotter  
**Subject:** Rezone at 91st and Hwy 2

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Brian –

Thanks for speaking with me on the phone today regarding this project.

As we discussed, over the past year we have worked on a larger framework for this project that included both vacation and the developer's purchase of right of way, rezoning the property, and building or dedicating some sort of access road/driveway across Hanshaw's property to accommodate anticipated future commercial development to the east. This included working with the adjacent property owner's, the Rentschler's, and purchasing surplus right of way to expand the project to a point where it could absorb the cost of building a driveway through the project. However, after months of discussion, it came to our attention that the City would require a significant amount of the Rentschler property and the right of way at issue to be dedicated/retained for a trail/bike bath.

The effect of this reduction in square footage again reduces the project to a size that we don't feel can support the infrastructure costs of the developer's installation of a street.

However, the developer is interested allowing flexibility for future development of the area. If the City could support a change of zone from AG to H3 the developer may be willing to agree to a condition that he would not develop an area reserved for a future street. There would be no easement, no dedication of right of way, no installation of a street other than a driveway for the developer's use, with the understanding at the time of future development in the area, any party wishing to install a street in the reserved area would still be required to purchase the property from the developer at its fair market commercial value. This could even look like an option agreement with the City (or County).

Please let me know if this final option is workable for the City. If not, we will move ahead with our application to rezone just Hanshaw's parcel from AG to H3 zoning.

Thanks

**Ann K. Post**  
**Partner**

Baylor Evnen, LLP  
Wells Fargo Center | 1248 O St., Ste. 600 | Lincoln, NE 68508  
P: 402.475.1075 | F: 402.475.9515  
apost@BaylorEvnen.com | [BaylorEvnen.com](http://BaylorEvnen.com)



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## **EXHIBIT #1**

### **CONDITIONAL ANNEXATION AND ZONING AGREEMENT (8230 S. 91<sup>st</sup> St. )**

This Conditional Annexation and Zoning Agreement (8230 S. 91<sup>st</sup> St.) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by and among Chance Hanshaw (“Developer”), and the City of Lincoln, Nebraska, a municipal corporation (“City”).

#### **RECITALS**

##### **I.**

Developer is the owner of Lot 2 of Irregular Tracts in the Southeast Quarter of Section 23, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska (the “Property”). The Property is known as 8230 South 91st Street, Lincoln, Nebraska 68526. The Property and Site Plan is shown on Exhibit 1.

##### **II.**

Developer has requested City to rezone the Property from AG to H-3 (CZ#20036). Approval of CZ20036 is the “Governmental Action”.

##### **III.**

City, as a condition of approving the Governmental Action desires an agreement with Developer to be assured that Developer will develop the property and required public infrastructure serving the property in a certain manner, as described in Article IV below.

##### **IV.**

Developer represents to City that, in consideration of the City approving the Governmental Action, Developer will enter into an agreement with City to develop the Property subject to the terms and conditions listed in this Agreement.

NOW, THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. City agrees to approve the Governmental Action.
2. Developer agrees, prior to application for any building permit:
  - a. To design and construct a public street connecting the intersection of South 91<sup>st</sup> street to the east boundary of the Property. Design and construction of the public street shall include dedication of public right-of-way to the City of Lincoln to accommodate the street. Dedicated right-of-way shall have a minimum width of 60 feet.
  - b. To locate the public street described in section 2.a. in the northern half of the Property at a location approved by Lincoln Transportation and Utilities.
  - c. To construct the public street described in section 2.a. in conformance with Lancaster County roadway standards
3. Developer further agrees to extend City of Lincoln municipal water and sanitary sewer in the public right-of-way adjacent to the Property at such time as it becomes available to serve the Property and upon the request of Lincoln Transportation and Utilities.
3. **Contribution for Rural Fire District.** Developer understands and acknowledges that the City's future annexation of the Property lying within the boundaries of the Southeast Rural Fire District shall not be complete except upon the City assuming and paying that portion of all outstanding obligations of the District which would otherwise constitute an obligation of the Property being annexed. The parties anticipate that the amount will be \$0. However, in the event said amount is in excess of \$0 Developer agrees to pay the City whatever amount which must be paid by the City to Southeast Rural Fire District in order for the annexation to be complete.

4. **Release from Rural Water District.** Developer understands and acknowledges that the City may not furnish water to serve any portion of the Property that lies within the boundaries of Rural Water District No. 1 Lancaster County Nebraska (“District No. 1”) without the consent and approval from District No. 1. In the event of annexation, the Property will be connected to the City’s Public water system. Therefore, Developer agrees to pay, within forty-five (45) days of demand by City, all costs needed to obtain District No. 1’s approval for the City to furnish water to the Property lying within the boundaries of District No. 1 and to provide the City satisfactory proof of such District No. 1 payment, release, and relinquishment. This provision in no way limits Developer’s ability to request release prior to annexation.

5. **Binding Effect.** This Agreement shall run with the land and be binding upon and inure to the benefit and burden of successors and assigns of the respective parties.

6. **Amendments.** This Agreement may only be amended or modified in writing signed by the parties hereto.

7. **Governing Law.** All aspects of this Agreement shall be governed by the laws of the State of Nebraska.

8. **Authority.** This Agreement has been duly executed and delivered by the parties and constitutes a legal, valid and binding obligation of each party, enforceable against the same in accordance with its terms.

9. **Recording.** This Agreement shall be recorded by the City with the Register of Deeds of Lancaster County, filing fees therefor to be paid in advance by the Developers.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date and year first above written.

**CITY OF LINCOLN, NEBRASKA,**  
a municipal corporation

By: \_\_\_\_\_  
Leirion Gaylor Baird, Mayor of Lincoln

STATE OF NEBRASKA                    )  
                                                  ) ss.  
COUNTY OF LANCASTER            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by Leirion Gaylor Baird, Mayor of the City of Lincoln, Nebraska, a municipal  
corporation.

\_\_\_\_\_  
Notary Public

**OWNER,**

By: \_\_\_\_\_  
Chance Hanshaw

STATE OF NEBRASKA                    )  
                                                  ) ss.  
COUNTY OF LANCASTER            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by Chance Hanshaw.

\_\_\_\_\_  
Notary Public



A92604

21R-40

Introduce: 2-8-21

RESOLUTION NO. A- **92604**

BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Conditional Zoning Agreement and Annexation Agreement, which is attached hereto marked as Attachment "A" and made a part hereof by reference between the City of Lincoln and Roger Byrne, to annex approximately 4.84 acres and adjacent right-of-way including on the property generally located at approximately 8455 South 98<sup>th</sup> Street and re-zoning the property from AG Agricultural District to H-3 Highway Commercial District as set forth in the agreement is hereby approved and the Mayor is authorized to execute the Conditional Zoning and Annexation Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return one original fully executed copy of this Agreement to the Planning Department for distribution to the parties.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Conditional Zoning and Annexation Agreement with the Register of Deeds, filing fees to be paid in advance by Roger Byrne.

Introduced by:

Approved as to Form & Legality:

City Attorney

AYES: Bowers, Christensen, Meginnis, Raybould, Shobe, Ward, Washington;  
NAYS: None.

Approved this 4<sup>th</sup> day of MARCH, 2021:

Mayor

**ADOPTED**

**MAR 01 2021**

**BY CITY COUNCIL**

RESOLUTION NO. A- **92604**

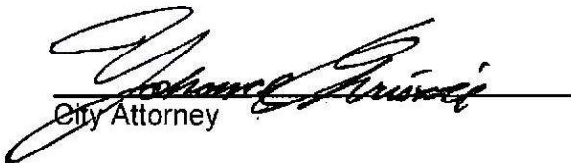
1 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

2 That the Conditional Zoning Agreement and Annexation Agreement, which is attached  
3 hereto marked as Attachment "A" and made a part hereof by reference between the City of Lincoln  
4 and Roger Byrne, to annex approximately 4.84 acres and adjacent right-of-way including on the  
5 property generally located at approximately 8455 South 98<sup>th</sup> Street and re-zoning the property  
6 from AG Agricultural District to H-3 Highway Commercial District as set forth in the agreement  
7 is hereby approved and the Mayor is authorized to execute the Conditional Zoning and  
8 Annexation Agreement on behalf of the City.

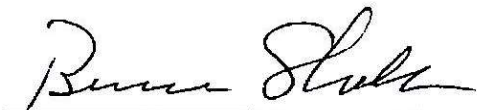
9 BE IT FURTHER RESOLVED that the City Clerk is directed to return one original fully  
10 executed copy of this Agreement to the Planning Department for distribution to the parties.

11 BE IT FURTHER RESOLVED that the City Clerk is directed to record the Conditional  
12 Zoning and Annexation Agreement with the Register of Deeds, filing fees to be paid in advance  
13 by Roger Byrne.

Approved as to Form & Legality:

  
City Attorney

Introduced by:



AYES: Bowers, Christensen, Meginnis,  
Raybould, Shobe, Ward, Washington;  
NAYS: None.

Approved this 4<sup>th</sup> day of MARCH, 2021:

  
Mayor

**ADOPTED**

**MAR 01 2021**

**BY CITY COUNCIL**

**CONDITIONAL ANNEXATION AND ZONING AGREEMENT  
(8455 S. 98<sup>th</sup> St. )**

This Conditional Annexation and Zoning Agreement (8455 S. 98<sup>th</sup> St.) is made and entered into this 70 day of January, 2021, by and among Roger Byrne ("Byrne"), and the City of Lincoln, Nebraska, a municipal corporation ("City").

**RECITALS**

**I.**

Byrne is the owner of Lot 64 of Irregular Tracts in the Southeast Quarter of Section 23, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska (the "Property"). The Property is known as 8455 South 98<sup>th</sup> Street, Lincoln, Nebraska 68526. The Property and Site Plan is shown on Exhibit 1.

**II.**

Developers have requested the City to (a) annex the Property (AN#20013) and (b) rezone the Property from AG to H-3 (CZ#20035). Annexation 20013 and CZ20035 are collectively the "Governmental Actions".

**III.**

The City as a condition of approving the Governmental Actions desires an agreement with Byrne to be assured that Byrne will develop the property and required public infrastructure serving the property in a certain manner, as described in Article IV below.

**IV.**

Developers have represented to the City that, in consideration of the City approving the Governmental Actions, Byrne would enter into an agreement with the City to develop the Property subject to the terms and conditions listed below.

NOW, THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. City agrees to approve the Governmental Actions.
2. Byrne agrees:
  - a. To connect the property to City sanitary sewer and watermain in Topher Boulevard via the property which is now legally described as Southlake 10<sup>th</sup> Addition, Outlot A.
  - b. That the property will remain as one lot and will not be subdivided.
  - c. At his own cost, Byrne shall extend a 6-inch water service line from Topher Boulevard to provide water service and fire protection to the property.
  - d. To install a fire hydrant on the property.
  - e. To install a water service meter on the property no more than 400 feet from the watermain. The parties acknowledge the water service lines may extend beyond the water service meter.
  - f. To construct right and left turn lanes on South 98<sup>th</sup> street as depicted on the site plan attached as Exhibit 1.
  - g. To dedicate right-of-way, as depicted on Exhibit 1, to accommodate future improvement of South 98th Street.
  - h. That any structure on the property shall have a building envelope defined by a 20-foot perimeter setback, except that the setback from NE Highway 2 shall

be 30 feet to preserve the screening provided by existing trees and landscaping on the Property as further described in subsection 2.i. below.

- i. Byrne shall preserve and maintain the existing tree masses that serve as screening along the southwest boundary of the property along Highway 2 and along the north boundary of the Property adjacent to the residential lots immediately adjacent to the Property. With regard to the tree screening along the north boundary of the property, Byrne shall also be responsible for filling in gaps in the tree masses, where required to effect adequate screening.
- j. That, prior to application for a building permit, Byrne will submit to the City a revised Site Plan (Exhibit 1) demonstrating all necessary grading and drainage details, including but not limited to detention and water quality, for review and approval by Lincoln Transportation and Utilities Watershed Management Division. Byrne acknowledges that no building permit shall be issued by the City without Site Plan approval by the Watershed Management Division.
- k. To limit use of the property to those Heavy Commercial Services Uses described in Lincoln Municipal Code Section 27.06.170.

3. **Contribution for Rural Fire District.** Byrne understands and acknowledges that the City's annexation of the Property lying within the boundaries of the Southeast Rural Fire District shall not be complete except upon the City assuming and paying that portion of all outstanding obligations of the District which would otherwise constitute an obligation of the Property being annexed. The parties anticipate that the amount will be \$0. However, in the event said amount is in excess of \$0 Byrne agrees to pay the City whatever amount which must be paid by the City to Southeast Rural Fire District in order for the annexation to be complete.

4. **Release from Rural Water District.** Byrne understands and acknowledges that the City may not furnish water to serve any portion of the Property that lies within the boundaries of Rural Water District No. 1 Lancaster County Nebraska ("District No. 1") without the consent and approval from District No. 1. Byrne desires that the Property be connected to the City's Public water system. Therefore, Byrne agrees to pay, within fourteen (14) days of demand by District No. 1, all the cost needed to obtain District No. 1's approval for the City to furnish water to the Property lying within the boundaries of District No. 1 and to provide the City satisfactory proof of such District No. 1 payment, release, and relinquishment.

5. **Binding Effect.** This Agreement shall run with the land and be binding upon and inure to the benefit and burden of successors and assigns of the respective parties.

6. **Amendments.** This Agreement may only be amended or modified in writing signed by the parties hereto.

7. **Governing Law.** All aspects of this Agreement shall be governed by the laws of the State of Nebraska.

8. **Authority.** This Agreement has been duly executed and delivered by the parties and constitutes a legal, valid and binding obligation of each party, enforceable against the same in accordance with its terms.

9. **Recording.** This Agreement shall be recorded by the City with the Register of Deeds of Lancaster County, filing fees therefor to be paid in advance by the Developers.

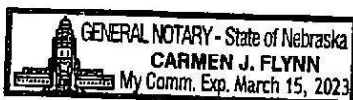
IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date and year first above written.

CITY OF LINCOLN, NEBRASKA,  
a municipal corporation

By: Leirion Gaylor Baird  
Leirion Gaylor Baird, Mayor of Lincoln

STATE OF NEBRASKA                     )  
                                                      ) ss.  
COUNTY OF LANCASTER             )

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of March, 2021, by Leirion Gaylor Baird, Mayor of the City of Lincoln, Nebraska, a municipal corporation.



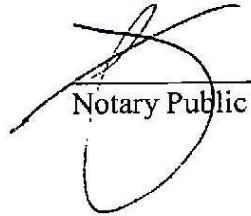
Carmen J. Flynn  
Notary Public

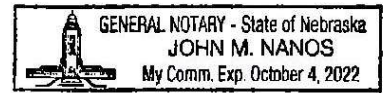
OWNER,

By: Roger L. Byrne  
Roger Byrne

STATE OF NEBRASKA                     )  
                                                      ) ss.  
COUNTY OF LANCASTER             )

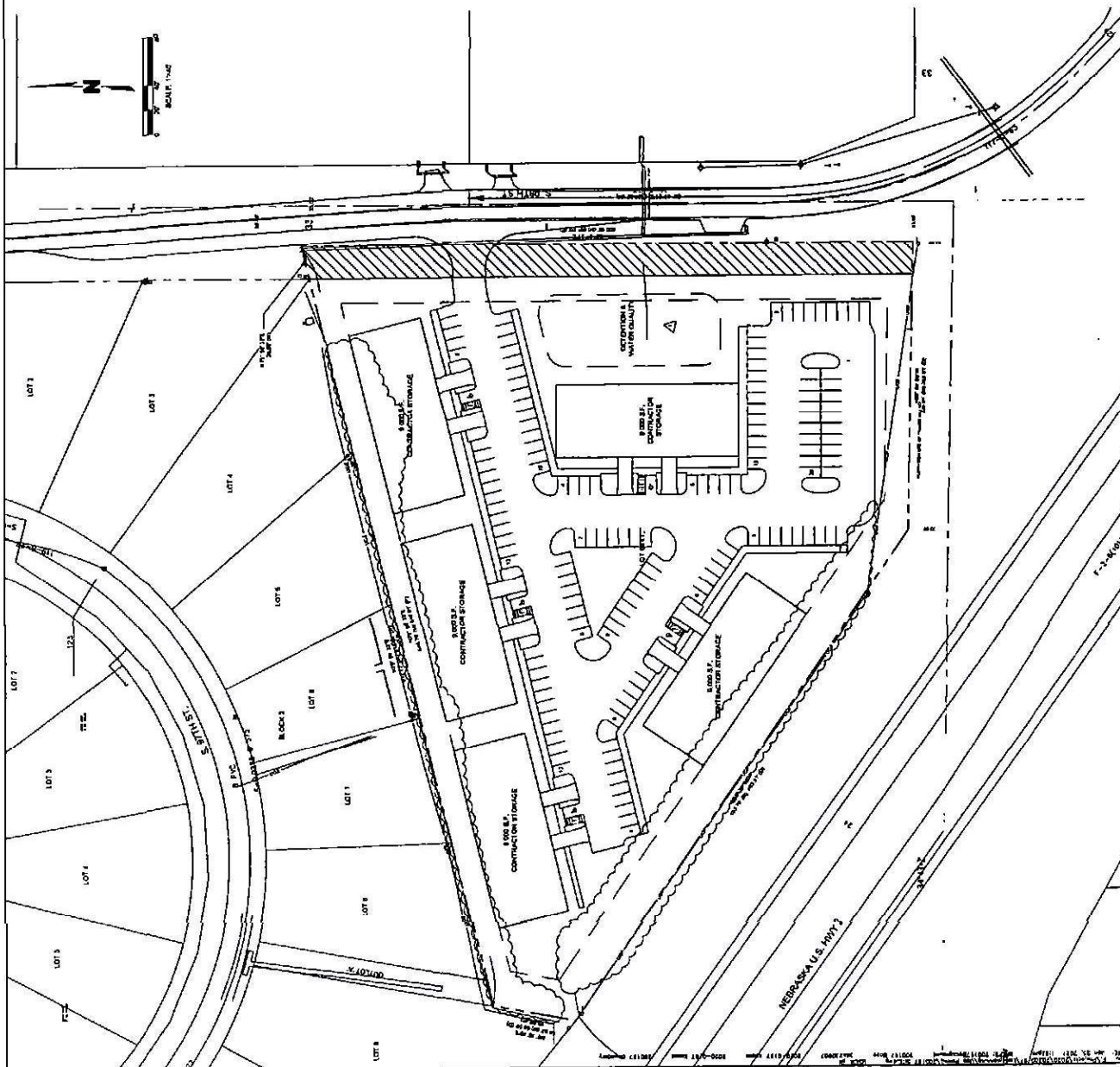
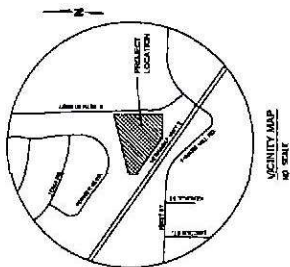
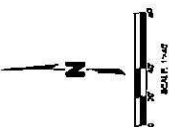
The foregoing instrument was acknowledged before me this 20 day of January, 2021, by Roger Byrne.

  
Notary Public



# 8455 PLACE

## ANNEXATION #20013 CHANGE OF ZONE #20035



### P.U.D. LEGAL DESCRIPTION

LOT 64 LOCATED IN THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 9 NORTH, RANGE 1 EAST, LINCOLN COUNTY, NEBRASKA.

### NOTES

1. THE LUTHER CHURCH IS AN, THE PROPOSED ZONING IS IN.
2. TO CONNECT THE PROPERTY TO CITY SANITARY SEWER AND WATERMAIN BY TURNER STREET AND 13TH STREET. THE PROPERTY MUST BE ADJACENT TO THE SANITARY SEWER AND WATERMAIN.
3. THAT THE PROPERTY WILL REMAIN AS ONE LOT AND WILL NOT BE SUBDIVIDED.
4. ALL EXISTING LOT, LOTTERY, A LUNCH AND DINNER SERVICE AND OTHER BUSINESS SHALL BE PROVIDED WITH SERVICES AND PROTECTION TO THE PROPERTY.
5. TO INSTALL A FIRE HYDRANT ON THE PROPERTY.
6. TO INSTALL A WATER SERVICE METER ON THE PROPERTY AND MAKE SURE IT IS SET FROM THE WATERMAIN. THE PARTIAL ACROSSAGE, THE WATER SERVICE METER MAY BE SET FROM THE WATER SERVICE METER.
7. TO LOCATE THE PROPERTY WITHIN THE CITY WITH STREET LIGHTS ACCESS.
8. TO LOCATE THE PROPERTY WITHIN THE CITY WITH STREET LIGHTS ACCESS.
9. THAT ANY STRUCTURE ON THE PROPERTY SHALL HAVE A BUILDING ENVELOPE NOTED BY A CITY ENGINEER. THE PROPERTY SHALL BE NOTED BY A CITY ENGINEER. THE PROPERTY SHALL BE NOTED BY A CITY ENGINEER.
10. THE PROPERTY SHALL BE NOTED BY A CITY ENGINEER. THE PROPERTY SHALL BE NOTED BY A CITY ENGINEER. THE PROPERTY SHALL BE NOTED BY A CITY ENGINEER.
11. THE PROPERTY SHALL BE NOTED BY A CITY ENGINEER. THE PROPERTY SHALL BE NOTED BY A CITY ENGINEER. THE PROPERTY SHALL BE NOTED BY A CITY ENGINEER.
12. THE PROPERTY SHALL BE NOTED BY A CITY ENGINEER. THE PROPERTY SHALL BE NOTED BY A CITY ENGINEER. THE PROPERTY SHALL BE NOTED BY A CITY ENGINEER.
13. TO LIMIT THE USE OF THE PROPERTY TO THOSE HEAVY COMMERCIAL SERVICES AS DESCRIBED IN LINCOLN MUNICIPAL CODE SECTION 27.06.01.

**DEVELOPER**  
MARK L. LEE  
1311 S. 24TH STREET  
LINCOLN, NE 68502

**PROPERTY OWNERS**  
CIVIL DESIGN GROUP, INC.  
1311 S. 24TH STREET  
LINCOLN, NE 68502

**ENGINEER**  
CIVIL DESIGN GROUP, INC.  
1311 S. 24TH STREET  
LINCOLN, NE 68502

**SURVEYOR**  
CIVIL DESIGN GROUP, INC.  
1311 S. 24TH STREET  
LINCOLN, NE 68502

CIVIL DESIGN GROUP, INC.  
1311 S. 24TH STREET  
LINCOLN, NE 68502  
TEL: 402.464.4444  
WWW.CIVILDESIGNGROUP.COM

| NO. | DATE     | REVISIONS         |
|-----|----------|-------------------|
| 1   | 01/11/17 | ISSUED FOR PERMIT |

ANNEXATION #20013 & CHANGE OF ZONE #20035  
8455 PLACE  
SITE PLAN  
2020

LINCOLN, NEBRASKA  
SHEET 1 OF 1



## LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER  
Text Amendment #21011

FINAL ACTION?  
No

PLANNING COMMISSION HEARING DATE  
February 16, 2022

RELATED APPLICATIONS  
None

### RECOMMENDATION: APPROVAL

#### BRIEF SUMMARY OF REQUEST

The Lancaster County Board of Commissioners requested the Planning Department to amend the Lancaster County Zoning Regulations. The proposed application is to amend Article 2 Definitions, Article 4 AG Agricultural, Article 5 AGR Agricultural Residential, Article 13 Special Permit and Article 17 Additional Height and Area Regulations of the Lancaster County Zoning Regulations. The proposed text will reformat the zoning regulations by moving some special permit uses to either a permitted use or conditional permitted use. Conditions have been added to some special permits and a few will require a separate text amendment.

The few uses requiring a separate text amendment are more complex and need input from other departments such as Lincoln-Lancaster County Health Department and Lancaster County Engineering Department.

#### JUSTIFICATION FOR RECOMMENDATION

Having conditions for all special permits will allow for consistency in reviewing each special permit application. This will ensure the applicant knows from the beginning what is required. This change may limit the ability to add conditions at the time of special permit review depending upon how specific the conditions are.

#### APPLICANT

David Cary, Planning Director

#### STAFF CONTACT

Tom Cajka, County Planner  
402-441-5662 or tcajka@lincoln.ne.gov

#### COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The proposed text amendment is compatible with the Comprehensive Plan goals of streamlining the process and striving for predictability.

#### KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Page 4.25 Policy 12 - Economic Growth: Promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life of the community.

##### Action Steps

6. Explore additional opportunities for streamlining the zoning and building permitting processes.

Page 4.31 Policy 17- Strive for predictability for neighborhoods and developers.

##### Action Steps

1. Continue to make updates as needed to zoning and subdivision ordinances, along with design standards, to support economic development, complete neighborhoods, and other PlanForward initiatives.

#### ANALYSIS

1. The main purpose of this text amendment is to reorganize Article 13 Special Permit by adding conditions for certain special permits, reclassifying certain special permits as a permitted use or conditional use, placing some on a temporary hold status and eliminating certain special permits. In addition, changes are proposed for Article 17 Additional Height and Area Regulations Section 17.003 to exceed the height regulations and Section 17.023 to allow more than one primary building on a lot.

2. Article 2-Definitions is amended to add a new definition “Private Recreational Facilities and/or Activities”. This definition will clarify what is allowed on property that does not have a dwelling. This allows a recreational use as a primary or accessory use on the property. The use is not open to the public. Uses may include, but not limited to fitness course, deer stands, boat docks, fishing piers and accessory buildings. An accessory building could have electricity, heating, air conditioning, bathroom, and sitting area, but does not qualify as a dwelling unit. Currently this is not allowed.
3. Article 17 Additional Height and Area Regulations Section 17.003 is amended to delete “place of religious assembly steeples” and add meteorological tower. Place of religious assembly steeple is allowed to exceed the height limit in Section 17.031 and therefore is not needed in 17.003. Meteorological tower is a use consistent with other uses allowed to exceed the height of the district. A meteorological tower may be constructed by someone wanting to gather data on wind.
4. Seven special permits are being removed from Article 13 Special Permit. Each special permit is discussed in more detail. The uses proposed to be removed from Article 13 are:
  - Health Care Facilities Non-Residential,
  - Cemeteries,
  - Private Recreational Activities,
  - Riding Stables and Private Stables,
  - Pet Cemeteries,
  - Sale Barns and
  - Places of Religious Assembly Steeples, Towers and Ornamental Spires.
5. A special permit for Health Care Facilities Non-Residential has never been submitted. A non-residential Health Care facility would be a hospital or medical clinic. Hospitals or clinics are most likely to be located within a town and not in the rural unincorporated area of the County. This use is not appropriate for the unincorporated area of the county.
6. A special permit for a Cemetery in the R or I District has never been submitted. Currently cemeteries in the R and I zoning district require a special permit. This use requires a sufficient amount of land and there is only small amounts of R and I district in rural Lancaster County. Cemeteries should be in AG or AGR Districts when outside incorporated towns. Cemeteries are not allowed in the B District.
7. There has been one special permit application for Private Recreational Activities. The special permit was to allow a cabin that did not meet building code for a dwelling on property in the AG Agricultural District. This proposal would change this use from a special permit to a permitted use. The name is changed to “Private Recreational Facilities and/or Activities.” This would allow accessory building(s) and/ or activities on vacant land without a dwelling.
8. There have been 2 special permits for Riding Stables and Private Stables. One was to allow two main uses on a lot and the other was due to the lot being less than 10 acres. This use is already listed as a permitted use in the AG and AGR District. The special permit was to allow an applicant to request a modification to the AG or AGR area regulations.
9. There has been one special permit application for Pet Cemeteries. This amendment proposes to move pet cemetery from special permit to conditional use in the AG and AGR district. The only condition is that the pet cemetery must contain a minimum of 5 acres.
10. There has been one special permit for a Sale Barn since 1979. That special permit was to allow for auctions of farm equipment and livestock. Due to this special permit only being used once, there does not appear to be a need for it. This use will no longer be allowed in any district.
11. There has been one special permit for Places of Religious Assembly Steeples, Towers, and Ornamental Spires to exceed the height limit. The special permit was for a meteorological tower. Meteorological tower is being added as a conditional use in the AG District. Places of Religious Assembly Steeples, Towers, and Ornamental Spires can exceed the height limit per Sections 17.003 and 17.031.

12. This text amendment also proposes to amend Article 13-Special Permit by adding conditions. Adding conditions will allow for consistency for each application. The applicant will be aware of the conditions from the beginning, rather than waiting for the Planning Commission or County Board to decide the conditions. The Planning Commission or County Board will still have the option to add conditions if appropriate. Each special permit is discussed below.

Conditions for “Academies, Private schools, or Post-Secondary Education Facilities” include requiring information on number of students, number of staff and setting number of required parking stalls.

Conditions for “Clubs” include setting minimum lot size, maximum floor area, required parking and restrictions on outdoor lighting.

Conditions for “Health Care Facilities, Residential” include establishing minimum parking and maximum number of residents per zoning district.

Conditions for “Dwellings for Members of Religious Orders” include a conversion plan, maximum number of residents per zoning district and parking.

Conditions for “Recreation Facilities” include parking, outdoor lighting and information on type of events.

Conditions for “Veterinary Facilities” include setting minimum lot size, maximum building size, and setback for outdoor areas.

13. The following seven special permits are proposed to be placed on a hold while conditions can be developed for each use. These uses can be controversial and require additional time to develop conditions. The Industrial uses would require consulting with Lincoln-Lancaster County Health Department. The uses are:

Mobile Home Courts

Campground

Industrial

Facilities for the Commercial Storage or Sale of Fertilizer or Toxic Flammable Agricultural Chemicals.

Garden Centers

Non-Commercial distillation and storage of fuel and fuel products.

Off Premises Signs

Prepared by

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Tom Cajka, Planner

Date: February 7, 2022

Applicant: David Cary, Planning Director

Contact: Tom Cajka, County Planner  
402-441-5662 or tcajka@lincoln.ne.gov

<https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/TX/21000/TX21011 County special permit.tjc.docx>

## ARTICLE 2 DEFINITIONS

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### 2.017. P.

**Paint Filter Test** shall mean a test on waste conducted in compliance with EPA Method 9095B to determine if the waste contains free liquids. (Resolution No. [R-17-0040](#), May 30, 2017)

**Parking Space shall mean a**An area, enclosed or unenclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

**Participating Property** shall mean any premises where a property owner has a contractual arrangement regarding a proposed or existing special permitted use. (Resolution No. [R-20-0037](#), July 14, 2020)

**Place of Religious Assembly shall mean a**Any use of a building or premises by a religious organization, as defined in the Nebraska Administrative Code, for religious worship, religious services, and/or religious training (Title 350, Chapter 40-Property Tax Exemption Regulations, or as may be amended from time to time by the State of Nebraska). (Resolution No. [R-17-0040](#), May 30, 2017)

**Private Electric Supplier** shall mean an electric supplier producing electricity from a privately developed renewable energy generation facility (e.g., solar facility, biogas, geothermal) that is not a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof.

**Private Recreational Facilities and/or Activities shall mean a recreational use which is the primary use or accessory use of the property by the property owner and guests, is not open to the public or intended for private club or private membership, and may include but not be limited to swimming, fishing, hunting, obstacle or fitness courses and other such activities. Such use may include an accessory building(s).**

**Private School** shall mean privately owned education and instruction facilities that meet the State of Nebraska requirements for elementary or secondary education. Private school shall not mean academies, early childhood care facilities, private colleges, or vocational schools. (Resolution No. [R-17-0040](#), May 30, 2017)

**Premises A shall mean a** tract of land consisting of one platted lot or irregular tract, or more than one platted lot or irregular tract, provided such lots or tracts are under common ownership and contiguous.

**Public Electric Supplier** shall mean a legal entity supplying, producing, or distributing electricity within the County for sale at wholesale or retail that is a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof. (Resolution No. [R-20-0037](#), July 14, 2020)

## ARTICLE 4 "AG" AGRICULTURAL DISTRICT

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### 4.003 Permitted Uses.

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- a. [Agriculture](#), except commercial feedlots;
- b. Breeding, raising, management and sale of fur-bearing animals and the produce thereof;
- c. Dog breeding establishments and kennels;
- d. Stables, riding stables and riding [academies](#);
- e. Public uses: Including but not limited to public parks, playgrounds, golf courses and recreational uses; fire stations; schools; publicly owned or operated [airports](#); and public utilities and utility distribution systems; excluding governmental landfill operations; (Approved Resolution No. 5367, August 26, 1996)
- f. [Single family dwellings](#);
- g. Places of Religious Assembly;
- h. Cable and fiber optic communication distribution systems; (Resolution No. R-01-21, April 4, 2001)
- i. [Wind energy conversion systems](#) (WECS). (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. R-08-0090, October 15, 2008)
- j. [Small Solar Facility](#); (Resolution No. [R-20-0037](#), July 14, 2020)
- k. Private Recreational Facilities and/or Activities**

### 4.005 Permitted Conditional Uses

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A [building](#) or [premises](#) may be used for the following purpose in the "AG" Agricultural [District](#), in conformance with the conditions prescribed herein:

**m. Pet Cemeteries**

- 1. Any pet cemetery established after the effective date of this title shall contain an area of five (5) acres or more.**

**n. Meteorological Tower**

- 1. The tower shall be set back a distance no less than one half the height of the structure from property lines.**
- 2. The tower shall allowed for four (4) years from the date of installation.**

### 4.007 Permitted Special Uses

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A [building](#) or [premises](#) may be used for the following purposes in the "AG" Agricultural [District](#) if a special permit for such use has been obtained in conformance with the requirements of [ARTICLE 13](#):

- a. [Academies](#), [Private Schools](#), or Post-Secondary Education Facilities; (Resolution No. [R-17-0040](#), May 30, 2017);
- b. [Recreational facilities](#);

- c. [Dwellings](#) for members of religious orders;
- d. [Broadcast Towers](#); (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. 3958, August 21, 1984);
- e. [Campgrounds](#);
- f. Veterinary facilities;
- g. [Excavation](#); (Resolution No. [R-17-0040](#), May 30, 2017);
- ~~h. Sale barns;~~
- ~~h.~~ [h. Garden centers](#);
- ~~j.~~ [i.](#) Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
- ~~k. Except as provided in Section 17.031, place of religious assembly steeples, towers and ornamental spires which exceed the maximum district height; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5408, November 19, 1996);~~
- ~~l.~~ [j.](#) Expansion of non-conforming use;
- ~~m.~~ [k.](#) Historic Preservation;
- ~~n.~~ [Pet cemeteries](#); minimum area shall be five (5) acres;
- ~~o.~~ [l.](#) [Clubs](#); (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. 3569, March 10, 1981);
- ~~p.~~ [m.](#) [Health Care Facilities, Residential](#); (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. 3569, March 10, 1981);
- ~~q.~~ [n.](#) Non-commercial distillation and storage of fuel and fuel products produced in whole or in part from agricultural products raised within the County; (Resolution No. 3501, July 29, 1980);
- ~~r.~~ [o.](#) [Mobile homes](#); (Resolution No. [R-17-0040](#), May 30, 2017);
- ~~s.~~ [p.](#) [Heritage center](#); (Resolution No. 4277, April 28, 1987);
- ~~t.~~ [q.](#) [Airfields, Commercial Agriculture Airfields and Heliports](#); (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. 5367, August 26, 1996);
- ~~u.~~ [r.](#) [Storage of agricultural conservation construction equipment](#); (Resolution No. 5367, August 26, 1996);
- ~~v.~~ [s.](#) ~~u.~~ [Race track, drag strip or motor sport facility](#); (Resolution No. R-07-0061, July 24, 2007);
- ~~w.~~ [t.](#) [Expanded home occupations](#); (Resolution No. [R-09-0076](#), September 29, 2009);
- ~~x.~~ [u.](#) [Commercial Wind Energy Conversion Systems/Turbines](#); (Resolution No. [R-11-0022](#), March 29, 2011);
- ~~y.~~ [v.](#) [Market Garden](#); (Resolution No. [R-12-0023](#), March 20, 2012);
- ~~z.~~ [w.](#) [Commercial Composting Operation](#) (Resolution No. [R-14-0007](#), Jan. 28, 2014);
- ~~aa.~~ [x.](#) [Commercial feedlot](#), if the special permit application for a Commercial Feedlot under Section 13.035(a) is received prior to March 10, 2020 (Resolution No. [R-20-0011](#), March 10, 2020); (Resolution No. [R-17-0040](#), May 30, 2017)
- ~~ab.~~ [y.](#) [Community Unit Plan](#); (Resolution No. [R-17-0040](#), May 30, 2017);
- ~~ac.~~ [Health Care Facilities Non-Residential](#); (Resolution No. [R-17-0040](#), May 30, 2017);
- ~~ad.~~ [Private Recreational Activities](#); (Resolution No. [R-17-0040](#), May 30, 2017);
- ~~ae.~~ [z.](#) [Flood Plain Construction](#); (Resolution No. [R-17-0040](#), May 30, 2017);

- ~~af.~~ **aa.** Personal Wireless Services Facility; (Resolution No. [R-17-0040](#), May 30, 2017); and
- ~~ag.~~ **ab.** Early Childhood Care Facilities; (Resolution No. [R-18-0078](#), November 20, 2018).
- ~~ah.~~ **ac.** Accessory Dwelling Unit. (Resolution No. [R-18-0094](#), December 18, 2018).
- ~~ai.~~ **ad.** Large Solar Facility. (Resolution No. [R-20-0037](#), July 14, 2020)
- ~~aj.~~ **ae.** Medium or Large Animal Feeding Operation. (Resolution No. [R-20-0011](#), March 10, 2020)

## ARTICLE 5 "AGR" AGRICULTURAL RESIDENTIAL DISTRICT

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### 5.005. Permitted Conditional Uses

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A building or premises may be used for the following purposes in the "AGR" Agricultural Residential District in conformance with the conditions prescribed herein:

**i. Pet Cemeteries**

- 1. Any pet cemetery established after the effective date of this title shall contain an area of five (5) acres or more.**

### 5.007. Permitted Special Uses

---

A building or premise may be used for the following purpose in the "AGR" Agricultural Residential District if a special permit for such use has been obtained in conformance with the requirements of [ARTICLE 13](#):

- a. Academies, Private Schools, or Post-Secondary Education Facilities; (Resolution No. [R-17-0040](#), May 30, 2017);
- b. Recreational facilities;
- c. Dwellings for members of religious orders;
- d. Broadcast towers;
- e. Excavation; (Resolution No. [R-17-0040](#), May 30, 2017);
- f. Garden centers;
- ~~g. Except as provided in Section [17.031](#), places of religious assembly steeples, towers and ornamental spires which exceed the maximum district height; (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. 5408, November 19, 1996);~~
- ~~h.~~ **g.** Community unit plans shall be permitted in conformance with the provisions of [ARTICLE 14](#);
- ~~i.~~ **h.** Expansion of non-conforming use;
- ~~j.~~ **i.** Historic preservation;
- ~~k.~~ **j.** Mobile homes; (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. [R-18-0078](#), November 20, 2018);
- ~~l.~~ **k.** Airfields, Commercial Agriculture Airfields and Heliports; (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. 5367, August 26, 1996);
- ~~m.~~ **l.** Family airfields; (Resolution No. 5367, August 26, 1996);
- ~~n.~~ **m.** Dwellings within 1,320' of the property line of a publicly owned lake property of more than thirty (30) acres in size; (Resolution No. 5428, January 22, 1997);
- ~~o.~~ **n.** Market Garden; (Resolution No. [R-12-0023](#), March 20, 2012);

- ~~p. o.~~ Clubs (Resolution No. R-17-0040, May 30, 2017);
- ~~q. —~~ Pet Cemeteries; (Resolution No. ~~R-17-0040~~, May 30, 2017);
- ~~r. p.~~ Flood Plain Construction; (Resolution No. R-17-0040, May 30, 2017);
- ~~s. q.~~ Personal Wireless Services Facility; (Resolution No. R-17-0040, May 30, 2017);
- ~~t. r.~~ Early Childhood Care Facilities. (Resolution No. R-18-0078, November 20, 2018)
- ~~u. s.~~ Small Solar Facility. (Resolution No. R-20-0037, July 14, 2020)

## ARTICLE 6 "R" RESIDENTIAL DISTRICT

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### 6.004 Permitted Conditional Regulations

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A building or premises may be used for the following purposes in the "R" Residential District in conformance with the conditions prescribed herein:

a.) Group homes:

- 1) Group homes shall comply with all parking, sign, height and area regulations of the district and all provisions of the County Building Code.
- 2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half (½) mile.
- 3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

b.) Early childhood care facilities under the following conditions:

- 1) No more than a maximum of fifteen (15) children shall be present in the facility at any time.
- 2) Such facility shall be used as the permanent residence of the licensed child care provider.
- 3) If the facility is located in a mobile home, the facility shall have a severe weather emergency action plan approved by the Health Department.

(Note: Early childhood care facilities with sixteen (16) or more children and early childhood care facilities with fifteen (15) or fewer children not meeting the specified conditions for the above permitted conditional use may be allowed upon approval of a special permit.) (Resolution No. [R-18-0078](#), November 20, 2018).

c. Mobile homes:

1. The mobile home has:

- i. No less than an eight hundred (800) square foot floor area excluding garages.
- ii. No less than an eighteen (18) foot exterior width.
- iii. A three (3) inch in twelve (12) inch pitched roof or steeper.
- iv. A non-reflective exterior siding material which is or simulates wood, stucco or masonry.
- v. A non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.
- vi. Permanent connections to permanently located utilities complying with plumbing codes and electrical codes.
- vii. A certificate stating the construction complies with the Federal Department of Housing and Urban Development's mobile home construction and safety standards.

The mobile home's longest exterior dimension is less than three (3) times the most narrow exterior dimension.

2. The towing bar and hitch, wheels and tires, and axles are removed.
3. The mobile home's exterior siding extends to the ground and is supported to withstand wind loads as set forth in the [building code](#) or the foundation forms a complete enclosure under the exterior walls. The space beneath the [mobile home](#) shall be properly ventilated.
4. The [mobile home](#) is securely and permanently attached to a permanent foundation complying with the [building code](#).
5. The mobile home's placement is inspected and complies with this resolution before the [mobile home](#) is occupied. (Resolution No. 3777, January 18, 1983).

## 6.005. Permitted Special Uses

A [building](#) or [premises](#) may be used for the following purposes in the "R" Residential [district](#) if a special permit for such use has been obtained in conformance with the requirements of [ARTICLE 13](#).

5. Expansion of non-conforming use;
6. Historical preservation;
7. Academies, Private Schools, or Post-Secondary Education Facilities; (Resolution No. R-17-0040, May 30, 2017)
- ~~8. Health Care Facilities, Non-Residential provided, however, that such [buildings](#) occupy not over forty (40) percent of the total area of the [lot](#) and will not have any serious and depreciating effect upon the value of the surrounding property and provided further, that the [buildings](#) shall be setback from all [yard lines](#) a distance of not less than one (1) foot for each foot of [building](#) height and that adequate off-street [parking space](#) will be provided; (Resolution No. R-17-0040, May 30, 2017).~~
- ~~9. Cemeteries;~~
- ~~f. d. Reserved; (Resolution No. R-17-0040, May 30, 2017).~~
- ~~g. e. Mobile home courts; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3777, January 18, 1983).~~
- ~~h. Except as provided in Section [17.031](#), places of religious assembly steeples, towers, and ornamental spires which exceed the maximum [district](#) height; (Resolution No. 5408, November 19, 1996).~~
- ~~i. f. Community unit plans;~~
- ~~j. g. Health Care Facilities, Residential; (Resolution No. R-17-0040, May 30, 2017).~~
- ~~k. h. Wind energy conversion systems over the [district](#) height; (Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982).~~
- ~~l. A [mobile home](#) on an individual [lot](#) subject to the following conditions: (Resolution No. 3777, January 18, 1983)~~
  - ~~a. The [lot](#) meets all the height and area regulations of this [district](#) except the Planning Commission may increase the yard areas. (Resolution No. R-11-0023, March 29, 2011).~~
  - ~~b. The [mobile home](#) has:~~

- ~~i. No less than an eight hundred (800) square foot floor area excluding garages.~~
- ~~ii. No less than an eighteen (18) foot exterior width.~~
- ~~iii. A three (3) inch in twelve (12) inch pitched roof or steeper.~~
- ~~iv. A non-reflective exterior siding material which is or simulates wood, stucco or masonry.~~
- ~~v. A non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.~~
- ~~vi. Permanent connections to permanently located utilities complying with plumbing codes and electrical codes.~~
- ~~vii. A certificate stating the construction complies with the Federal Department of Housing and Urban Development's mobile home construction and safety standards.~~
- ~~c. The mobile home's longest exterior dimension is less than three (3) times the most narrow exterior dimension.~~
- ~~d. The towing bar and hitch, wheels and tires, and axles are removed.~~
- ~~e. The mobile home's exterior siding extends to the ground and is supported to withstand wind loads as set forth in the building code or the foundation forms a complete enclosure under the exterior walls. The space beneath the mobile home shall be properly ventilated.~~
- ~~f. The mobile home is securely and permanently attached to a permanent foundation complying with the building code.~~
- ~~g. The mobile home's placement is inspected and complies with this resolution before the mobile home is occupied. (Resolution No. 3777, January 18, 1983).~~
- ~~m. i. Dwellings for Members of Religious Orders; (Resolution No. R-17-0040, May 30, 2017);~~
- ~~n. j. Flood Plain Construction; (Resolution No. R-17-0040, May 30, 2017);~~
- ~~o. k. Broadcast Towers; (Resolution No. R-17-0040, May 30, 2017);~~
- ~~p. l. Personal Wireless Services Facility; (Resolution No. R-17-0040, May 30, 2017); and~~
- ~~q. m. Early Childhood Care Facilities; (Resolution No. R-18-0078, November 20, 2018);~~
- ~~r. n. Small Solar Facility. (Resolution No. R-20-0037, July 14, 2020)~~

## ARTICLE 7 "B" BUSINESS DISTRICT

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### 7.005. Permitted Special Uses

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A building or premises may be used for the following purposes in the "B" Business District if a special permit for such use has been obtained in conformance with the requirements of ARTICLE 13.

- a. Expansion of non-conforming use;
- b. Historical preservation;
- c. Academies, Private Schools, or Post-Secondary Education Facilities; (Resolution No. R-17-0040, May 30, 2017)

- ~~d.~~ Health Care Facilities, Non-Residential provided, however, that such buildings occupy not over forty (40) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property and provided further, that the buildings shall be set back from all ~~yard lines~~ a distance of not less than one (1) foot for each foot of building height and that adequate off-street ~~parking space~~ will be provided; (Resolution No. ~~R-17-0040~~, May 30, 2017)
- ~~e.~~ Except as provided in Section ~~17.031~~, places of religious assembly steeples, towers and ornamental spires which exceed the maximum district height; (Resolution No. ~~R-17-0040~~, May 30, 2017; Resolution No. 5408, November 19, 1996)
- ~~f.~~ ~~d.~~ Broadcast Towers; (Resolution No. ~~R-17-0040~~, May 30, 2017)
- ~~g.~~ ~~e.~~ Health Care Facilities, Residential; (Resolution No. ~~R-17-0040~~, May 30, 2017)
- ~~h.~~ ~~f.~~ Wind energy conversion systems over the district height; (Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)
- ~~i.~~ ~~g.~~ Personal Wireless Services Facility; (Resolution No. ~~R-17-0040~~, May 30, 2017)
- ~~j.~~ ~~h.~~ Floodplain Construction; (Resolution No. ~~R-17-0040~~, May 30, 2017)
- ~~k.~~ ~~i.~~ Off-premises Signs. (Resolution No. ~~R-17-0040~~, May 30, 2017)

## ARTICLE 13 SPECIAL PERMIT

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### 13.002. Procedures

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a. An application and copies of the plot plan drawn to an accurate scale and showing all pertinent information shall be filed in writing with the Planning Department. Before the issuance of any special permit of any ~~buildings~~ or uses, the County Board shall refer the proposed application to the Planning Commission. The Planning Commission shall hold a public hearing and shall consider the effect of such proposed building or uses upon the character of the neighborhood, traffic conditions, public utility facilities, the Comprehensive Plan and other matters relating to the public health, safety and general welfare. Any action by the Planning Commission may be appealed to the County Board. An existing use of the type listed in this Chapter lawfully established on the effective date of this resolution shall be deemed to have received a special permit as herein required and shall be provided with such a permit by the Building Inspector upon request and shall not be a ~~nonconforming use~~; provided, however, that such an existing use shall require a special permit for enlargement, extension or relocation. Applications for Special Permits shall expire as provided in Section 22.019. (Resolution No. ~~R-17-0040~~, May 30, 2017)

**b. Prior to the start of the procedures provided in subsection (a) above, a text amendment shall be completed upon receipt of an application for a special permit for the following types of special permits:**

**1. Mobile Home Courts;**

**2. Campgrounds;**

**3. Industrial;**

**4. Facilities for the Commercial Storage or Sale of Fertilizer or Toxic Flammable Agricultural Chemicals;**

**5. Garden Centers;**

**6. Non-commercial distillation and storage of fuel and fuel products;**

**7. Off-premises Signs**

### **13.008. Academies, Private Schools, or Post-Secondary Education Facilities.**

a. Academies, private schools, or post-secondary education facilities may be allowed by special permit in the AG, AGR, R or B zoning districts.

b. The application for a special permit shall include the following information:

1. Number of students, time separation between classes, number of staff members on the largest shift, and limitations on hours and classes to minimize the number of persons on site at any one time.
2. Required parking shall be one space for every three (3) students allowed per class session plus one space for every employee. In those instances where two sessions of classes occur one after another, without at least one-half hour separation between sessions, the maximum number of students allowed at both sessions shall be combined in determining the amount of required parking per class session.

(Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. [R-18-0078](#), November 20, 2018).

### **13.009. Health Care Facilities, Non-Residential.**

Non-residential health care facilities may be allowed by special permit in the AG, R and B zoning districts provided, however, that such [buildings](#) occupy not over forty (40) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property and provided further, that the buildings shall be set back from all [yard lines](#) a distance of not less than one (1) foot for each foot of building height and that adequate off-street [parking space](#) will be provided. (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. [R-18-0078](#), November 20, 2018).

### **13.010. Cemeteries**

Cemeteries may be allowed by special permit in the R and I zoning ~~districts.~~

### **13.013. Mobile Home Courts**

Mobile home courts may be allowed by special permit in the R zoning [district](#) upon completion of the procedures pursuant to Section 13.002(b). (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. 3777, January 18, 1983; Resolution No. [R-18-0078](#), November 20, 2018).

### **13.014. Campground**

Campground may be allowed by special permit in the AG zoning [district](#) upon completion of the procedures pursuant to Section 13.002(b). (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. [R-18-0078](#), November 20, 2018).

### **13.015. Private Recreational Activities**

Private recreational activities including cabins and mobile homes not used as a residency may be allowed by special permit in the AG zoning [district](#). (Resolution No. [R-18-0078](#), November 20, 2018).

### **13.016. Riding Stables and Private Stables**

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Riding stables and private stables may be allowed by special permit in the AG and AGR zoning districts. (Resolution No. R 17-0040, May 30, 2017; Resolution No. R 18-0078, November 20, 2018).

### **13.020. Clubs**

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Clubs may be allowed by special permit in the AG and AGR zoning districts **under the following conditions:**

- a. The minimum lot size shall be per the zoning district.**
- b. The total floor area for all buildings used for said use shall not be more than ten thousand (10,000) square feet or twenty thousand (20,000) square feet where the lot size is twenty (20) acres or more;**
- c. No parking shall be permitted on any required yard. The application shall include applicant's estimate of the parking needs of the proposed club. Additional parking regulations, parking ingress and egress location control and buffering may be imposed.**
- d. Outdoor lighting of the outdoor recreational facility may be permitted with the following conditions:**
  - 1. No illumination source shall exceed initial output of 4050 lumens unless it is within a cutoff or full cutoff luminaire, except for luminous tube lighting such as neon, cold cathode, and fiber optic cable.**
  - 2. All fixtures greater than 4050 lumens shall be cutoff or full cutoff and mounted level in the horizontal and vertical axis with the central part of the beam directed vertically downward.**
  - 3. The installation of any mercury vapor luminaires for use as outdoor lighting is prohibited.**
  - 4. No more than 2.0 foot-candles are allowed. Foot-candle is measured on a vertical plane located at the property line of the adjacent property.**
- e. The application shall include the following information: Type of activity, expected peak use and building capacity, anticipated time of peak activity, and expected expansion of facilities. Activity shall not exceed five (5) consecutive days nor five (5) days in any calendar week. Limitation to the number of persons at any one time may be imposed as it relates to the limitations of the site, including but not limited to parking, and impacts on surrounding land uses.**

### **13.021. Health Care Facilities, Residential**

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Health Care Facilities, Residential may be allowed by special permit in the AG, AGR, R and B zoning districts **under the following conditions:**

- a. Parking shall be one (1) space for every four (4) residents and two (2) spaces for every three (3) employees on the largest shift, provided that no parking shall be permitted in the required front or side yards.**
- b. The total number of client or employee residents shall not exceed the lot area ratio below except as provided for in this section, and provided that all facilities may have up to four individuals sixty years of age or older and one family acting as the residential caretaker:**
  - 1. AG zoning district: One person for five thousand (5,000) square feet of lot area;**
  - 2. AGR zoning district: One person for three thousand (3,000) square feet of lot area;**
  - 3. R zoning district: One person per three thousand (3,000) square feet of lot area;**

- 4. B zoning district: One person per seven hundred fifty (750) square feet of lot area.**
- c. Depending on the character of the development and impacts on adjacent land uses, the Planning Commission, and if appealed, the County Board may grant an increase in the number of residents allowed in (b) above. Such increase shall not exceed fifty (50%) percent.**

(Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. [R-18-0078](#), November 20, 2018)

### **13.022. Industrial**

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Industrial ~~uses as provided in Section 9.003~~ may be allowed by special permit ~~on uses upon which the Planning Commission is required to pass under ARTICLE 9 only in the "I" Industrial District upon completion of the procedures pursuant to Section 13.002(b).~~

### **13.023. Dwellings for Members of Religious Orders**

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Dwellings for members of religious orders may be allowed by special permit in the AG, AGR and R zoning ~~districts~~ under the following conditions:

- a. If the proposed facility is for more than one dwelling, the application must include a conversion plan that details how the site can be converted to a permitted use, permitted conditional use, or permitted special use for the applicable district.**
- b. In the AG zoning district, dwellings for members of a religious order shall be on a minimum of ten (10) acres.**
- c. The maximum number of members occupying such a facility shall not exceed the following ratios between the resident and the lot area:**  
**AG district One resident per ten thousand (10,000) square feet**  
**AGR district One resident per five thousand (5,000) square feet**  
**R district One resident per three thousand (3,000) square feet**
- d. The Planning Commission may establish the parking requirements based on a determination of the parking needs and operation of the proposed use; no parking shall be permitted in any required yard.**

### **13.024. Pet Cemeteries**

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Pet cemeteries may be allowed by special permit in the AG and AGR zoning districts, provided they contain a minimum of five (5) acres.

### **13.026. Recreation Facilities**

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Recreation facilities may be allowed by special permit in the AG and AGR zoning ~~districts~~ under the following conditions:

- a. The application for such special permit shall include the following information:**
  - 1. The maximum proposed occupancy and event frequency for the recreation facility. Limits to the number of participants per event and limits to the maximum number of events over a certain time period may be imposed.**

- ### 13.027. Veterinary Facilities

- a) The minimum lot size shall be ten (10) acres.
- b) The maximum building size shall be ten thousand (10,000) square feet except that the maximum building size shall be allowed be up to twenty thousand (20,000) square feet including accessory buildings for lots twenty (20) acres or more in size.
- c) All outdoor areas shall have a setback of at least one hundred (100) feet from the nearest property line.
- d) The Planning Commission, and if appealed, the County Board may limit the number of animals allowed in any outdoor area at any one time.

### ~~13.028. Sale Barns~~

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### 13.029. Facilities for the Commercial Storage or Sale of Fertilizer or Toxic or Flammable Agricultural Chemicals

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Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals may be allowed by special permit in the AG zoning **district upon completion of the procedures pursuant to Section 13.002(b).**

(Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. [R-18-0078](#), November 20, 2018).

### ~~13.030 Places of Religious Assembly Steeples, Towers, and Ornamental Spires~~

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~~Except as provided in Section 17.031 **place of religious assembly** steeples, towers, and ornamental spires which exceed the maximum **district** height may be allowed by special permit in the AG, AGR, R, B and I zoning districts. (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. 5408, November 19, 1996; Resolution No. [R-18-0078](#), November 20, 2018).~~

### 13.033. Garden Centers

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Garden centers may be allowed by special permit in the AG and AGR zoning **districts upon completion of the procedures pursuant to Section 13.002(b).** (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. [R-18-0078](#), November 20, 2018).

### 13.034. ~~Non-commercial distillation and storage of fuel and fuel products~~

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~~Non-commercial distillation and storage of fuel and fuel products produced in whole or in part from agricultural products raised within the County may be allowed by special permit in the AG zoning **district upon completion of the procedures pursuant to Section 13.002(b).** provided that stills be set up in compliance with the requirements of National Fire Protection Association pamphlet #30, 1973 edition, in regard to handling, manufacturing, use and storage of flammable and combustible liquid. (Resolution No. 3501, July 29, 1980; Resolution No. [R-17-0040](#), **May 30, 2017** Resolution No. [R-18-0078](#), November 20, 2018).~~

### 13.045. Off-Premises Signs

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Off-premise **signs** which do not meet the siting limitations of [ARTICLE 16.07 b\)2\)3\) and 4\)](#) may be allowed by special permit in B and I zoning **districts** upon a finding that the character of the protected area shall be preserved and upon a finding that approval of the special permit provides a public benefit to the community and **upon completion of the procedures pursuant to Section 13.002(b).** (Resolution R-00-10, January 26, 2000; Resolution No. [R-17-0040](#), May 30, 2017)

### 17.003 Exceptions to Height Requirements

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Barns, chimneys, ~~**place of religious assembly, steeples,**~~ cooling towers, **meteorological tower,** elevator bulkheads, fire towers, grain elevators, and storage **structures,** monuments, ornamental towers, silos, spires, stacks, stage towers of scenery lofts, tanks, water towers, **and WECS** over the **district** height ~~authorized by conditional use or special permit, wireless towers, or necessary mechanical appurtenances~~ are exempt from the height regulations as contained herein.

SECS and WECS are permitted accessory uses associated with a primary use on the premises in all zoning districts provided they are in conformance with the provisions of Article 17 and any other applicable regulations of this Resolution and have a rated capacity of twenty-five (25) kilowatts (kW) (ac) or less.

- a. SECS and WECS that are part of the main structure shall comply with the applicable district's height, front, side, and rear yard requirements of the main structure.
- b. SECS and WECS that are not part of the main structure shall comply with the height, front, side, and rear yard requirements applicable to accessory buildings as described in Section 17.005 of this Resolution.
- c. Accessory SECS and WECS located on top of a building are exempt from the height regulations as contained herein.

(Resolution No. 3744A, October 5, 1982; Resolution R-08-0090, Approved October 15, 2008; Resolution No. R-17-0040, May 30, 2017; Resolution No. R-20-0037, July 14, 2020)

### **17.023 More than one main use**

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Where a lot or tract is used for farming or for a commercial or industrial purpose more than one (1) ~~main~~ **primary building** may be located upon the lot or tract, but only when such buildings conform to all open space requirements around the lot for the **district** in which the lot or tract is located. **A lot or tract in the AG District of twenty (20) acres or more may have one additional primary building or use but shall still be limited to one (1) single-family dwelling per lot or tract.**



## LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

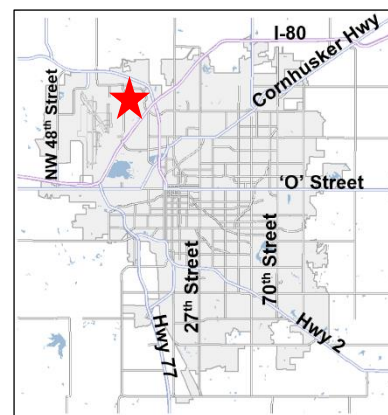
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

|                                                       |                              |                                                                               |
|-------------------------------------------------------|------------------------------|-------------------------------------------------------------------------------|
| APPLICATION NUMBER<br>Use Permit #15002B              | FINAL ACTION?<br>No          | DEVELOPER/OWNER<br>Tomasek-Novak Investments                                  |
| PLANNING COMMISSION HEARING DATE<br>February 16, 2022 | RELATED APPLICATIONS<br>None | PROPERTY ADDRESS/LOCATION<br>NW 12 <sup>th</sup> Street and W. Highland Blvd. |

### RECOMMENDATION: CONDITIONAL APPROVAL

#### BRIEF SUMMARY OF REQUEST

To expand the area of the existing use permit by 9.89 acres and add 203 multi-family dwelling units. Several waivers to setbacks are requested.



#### JUSTIFICATION FOR RECOMMENDATION

Multi-family housing is a permitted use in the O-3 district. With the conditions of approval, this expansion of an existing multi-family complex is appropriate for the site. The Comprehensive Plan discourages residential land uses near industrial zoning districts. In this case, the existing zoning already permits dwellings. The setback waivers are in keeping with similar waivers that have been supported and the rear yard reduction allows for a greater separation from the industrial zoning.

#### APPLICATION CONTACT

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#### COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Comprehensive Plan supports a variety of housing types and higher density housing in developing neighborhoods. Although residential uses are discouraged near industrial, the zoning already allows the use.

#### WAIVERS

1. Reduce the front yard setback from 30 to 20 feet along NW 12<sup>th</sup> Street for parking and buildings and along W. Highland Boulevard for parking only. (Recommend Approval)
2. Reduce the rear yard setback from 40 to 15 feet. (Recommend Approval)
3. Waive the requirement to provide additional setback for building heights above 35 feet. (Recommend Approval)

## KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

### Introduction Section: Growth Framework

[Figure GF.b: 2050](#) - This site is shown as future commercial on the 2050 Future Land Use Plan.

Commercial. Areas of retail, office, service and residential mixed uses. Commercial uses may vary widely in their intensity of use and impact. Individual areas designated as commercial in the land use plan may not be appropriate for every commercial zoning district.

### **The Community in 2050**

The following assumptions provide the framework for growth in the 2050 plan.

Lancaster County is projected to add approximately 53,000 households by 2050, with 48,000 of those new households in Lincoln (roughly 1,600 new households per year).

25 percent of all new dwelling units in Lincoln will be infill, meaning they will be located within the existing city. This equates to roughly 12,000 infill units over the next 30 years.

### Elements Section

#### **Developing Neighborhoods**

Developing neighborhoods should have a variety of housing types and sizes, plus commercial and employment opportunities.

### Policies Section

P3: Developing Neighborhoods - Accommodate and encourage growth that aligns with PlanForward's growth scenario and provides a mix of housing options with convenient access to parks, schools, shopping, jobs, and other community resources.

#### **Action Steps**

1. Provide for an adequate supply of land and timely infrastructure improvements that meet the demands of growth.
2. Structure incentives to encourage higher densities to make greater use of the community's infrastructure.
3. Encourage new development to achieve densities greater than five dwelling units per gross acre by zoning at least 20% of residentially zoned land in developing areas to allow greater than five dwelling units per acre by right.
4. Develop new design standards or zoning tools that encourage density, optimize infrastructure costs, and help lower the overall cost of property development.
5. Implement elements of Complete Neighborhoods for Developing Areas.
6. Develop and utilize a measurement tool to evaluate neighborhoods in terms of how well they achieve PlanForward's goals for design, sustainability, and Complete Neighborhoods goals.
7. Encourage public and private investment in neighborhood infrastructure and services to support economic diversity that improves the quality of life for all residents.
8. Include housing for a variety of incomes and households throughout the community that is integrated into neighborhoods and provides appropriate transitions, scale, and context.
9. Promote mixed-income neighborhoods.
10. Preserve areas designated for multi-family, and group living housing in approved plans to support a distributed choice in affordable housing.
11. Support addition of higher density development in existing multi-family development.
14. Promote neighborhood and community design that supports healthy and active lifestyles, such as the benefits of street trees.
16. Encourage a variety of housing types including townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and small lot single-family units.

P17: Predictability - Strive for predictability for neighborhoods and developers.

Action Steps

1. Continue to make updates as needed to zoning and subdivision ordinances, along with design standards, to support economic development, complete neighborhoods, and other PlanForward initiatives.
2. Support timely and efficient implementation of the growth tiers framework through the Capitol Improvement Program and other coordinated infrastructure enhancements.

P61: Industrial Zoning and Pipelines - Discourage residential land uses and buildings with vulnerable populations from locating near high-pressure pipelines and industrial zoning districts. Provide adequate separation between vulnerable populations and hazardous materials to protect and promote the public's health.

Action Steps

1. Land uses with vulnerable populations should not be located within pipeline planning areas. For large high-pressure pipelines, pipeline planning areas are established based upon pipeline metrics or the United States Department of Transportation's Emergency Response Guidebook. Most high-pressure pipelines have a planning area of approximately 150-250 feet from either side of the pipeline.
2. Land uses with vulnerable populations should not be located within 300 feet of an industrially-zoned district or heavy industrial use such as a rail line. Even if a given industrial site does not include hazardous materials at present, a hazardous use could be added in the future.
3. Do not support expansion of existing residential uses currently located within a pipeline planning area or within 300 feet of an industrial zoning district unless the pipeline is decommissioned, or downzoning is planned for the industrial area.
5. Continue strategic re-zonings of legacy industrial districts to less intensive commercial zoning districts when near residential uses.

## ANALYSIS

1. Use Permit No. 15002 for the Highland Apartments was approved in March 2015. That use permit included 120 multi-family units. Use Permit No. 15002A approved in April 2017 expanded the use permit and added 120 dwelling units for a total of 240. This is a request to further expand the apartment complex to the south to add 203 additional multi-family units for a total of 443 units. The use permit boundary would be expanded by approximately 9.89 acres to accommodate the new apartment units, for a total use permit size of 27.09 acres.
2. The site is currently zoned O-3 Office Park. The district requires that a use permit be approved prior to any development. Residential is a permitted use in the O-3 district.
3. The Comprehensive Plan discourages land uses with vulnerable populations near industrial zoning districts. There is I-2 Industrial zoning to the south. The O-3 zoning permits dwellings by right with an approved use permit so the developer already has the right to build dwellings. The goal is to locate the dwellings as far from the I-2 zoning as feasible, resulting in most of the new buildings being located close to the north property line, which is adjacent to open space for the Highlands Golf Course and therefore an appropriate use closer to the apartments.

There has been a long-standing practice of recommending a buffer (setback) between residential dwellings, childcare facilities, schools, healthcare facilities, or retirement facilities and industrial zoning. By right, industrial zoning allows the production, manufacture, distillation, and storage of toxic, radioactive, flammable, or explosive materials, including chemicals and gases, fireworks, and explosives, except fireworks that are incidental to the allowed permitted or conditional uses without the requirement of obtaining a special permit. In addition, the I-2 zoning district allows several permitted or conditional uses that specifically reference toxic or hazardous materials. Therefore, a minimum of a 300-foot buffer has been historically recommended to protect the health and safety of vulnerable populations from risks associated with industrial zoning and hazardous materials.

A condition of approval would revise the site plan to relocate the 12-plex building on the west end of the site closest to the I-2 zoning. The condition would relocate the 12-plex further north to be part of or next to the proposed 30-plex building in order to maximize the distance to the existing I-2 zoning. The existing use to the

south in the I-2 zoning is an office building. To the southwest in the I-2 district is an undeveloped lot that could be used for industrial purposes and would be closest to the 12-plex in question.

4. The density shown is less than the allowed density under O-3. The O-3 district allows multi-family dwellings at a density of one unit per 1,500 square feet of lot area. With 9.89 acres the maximum density for the expansion area is 287 units. The request is for 203 units.
5. Three waivers were previously approved that would apply to the expanded use permit. Those were a reduction in required parking from 2 stalls per unit to 1.5 stalls per unit; allow tandem parking; and increased building height from 35 to 40 feet. In September 2021, the standard height of the O-3 district was increased from 35 to 55 feet for dwellings. This use permit amendment can make use of the increased building height.

The current use permit has 570 parking stalls for 228 units (2.5 stalls per unit). The expansion area would have 562 parking stalls for 203 units (2.7 stalls per unit). The previously approved parking waiver will apply but is not needed for the proposed units.

Like the previous phases, a portion of the stalls provided are tandem stalls in addition to garage and surface stalls. The buildings include first-floor garages. Each dwelling unit that utilizes a garage also has access to a parking stall in front of the garage door. This effectively allows two parking stalls stacked in tandem for dwelling units that utilize a garage. Tandem parking can create a challenge for guest parking, as the stall in front of the garage would be used specifically by the resident of that unit. In addition, residents in a unit with two vehicles may not want to park tandem because it could create scheduling challenges to ensure that one car isn't blocked into the garage. Adequate non-tandem parking is shown to address this concern.

Several new waivers are requested for the amendment area:

*27.72.030(a) - Reduce the front yard setback from 30 feet to 20 feet and reduce the rear yard setback from 40 feet to 15 feet.*

The requested front yard setback reductions are along NW 12<sup>th</sup> Street and W. Highland Boulevard. The requested rear yard reduction is on the north side of the amendment area adjacent to the golf course. The setback reductions are justified due to the north-south width of the development area and the abutting open space for the golf course. A setback reduction next to the open space is appropriate. The rear yard setback reduction also allows several of the buildings to be slightly further away from the I-2 zoning. The front yard reduction along W. Highland Boulevard would apply to parking only, whereas the reduction along NW 12<sup>th</sup> Street would apply to both parking and buildings.

*27.72.030(a) - Waive the requirement that for each foot of building height above 35 feet, the building must be set back an additional 1 foot beyond the minimum setbacks from the side and rear lot lines.*

The potential height for the new buildings will be 55 feet in accordance with the standard of the zoning district. The applicant was encouraged to locate the buildings as far north as possible to create spacing from the I-2 zoning. The surrounding uses are other apartments, future commercial or industrial, and open space for the golf course. Therefore, there should be no negative impacts resulting from a reduced setback for taller buildings.

6. The site is identified as commercial on the Future Land Use map. The Comprehensive Plan notes that residential uses may occur in commercial areas. The site has many nearby amenities that make it appropriate for residential development. A bus route is located along NW 12<sup>th</sup> Street with stops south of the intersection at NW 12<sup>th</sup> & W. Highland Boulevard. Fredstrom Elementary is located approximately one-half mile to the north. Recreational amenities include Highlands Park next to the school, Highlands Golf Course, and the Highlands Trail along the east side of NW 12<sup>th</sup> Street.
7. NW 12<sup>th</sup> Street is a minor arterial. A condition of approval requires dedication of 10 feet of right-of-way for a right turn lane in NW 12<sup>th</sup> Street. This would meet the standard requirement for right-of-way. No access is shown to NW 12<sup>th</sup> Street for the expansion area. All access will be taken off W. Highland Boulevard. Highland Boulevard is a local street and allows multiple access points.
8. The site is within the Airport Environs District and will require an Avigation Easement with the final plat. Dwellings on the west side of the site located between the 65 and 60 DNL noise contours must incorporate

acoustical features as a condition of building permit issuance as described in Section 27.58.060. The site is also in the Airport Turning Zone. Height permits will be required at time of building permit, and the owner must file a notice of construction with the Federal Aviation Administration (FAA) per Title 14 CFR Part 77.

**CONDITIONS OF APPROVAL:** See attached.

**EXISTING LAND USE & ZONING:** Vacant; O-3 Office Park District

**SURROUNDING LAND USE & ZONING**

North: Apartments and Highlands Golf Course; O-3 and P

South: Commercial and vacant; I-2

East: Single-Family Residential; R-3

West: Lincoln Airport; P

**APPLICATION HISTORY**

|           |                                                                                                                                                                                                                                                         |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Mar. 1993 | Change of Zone No. 2738 to change the area of this expanded use permit application to O-3 Office Park district.                                                                                                                                         |
| Nov. 1995 | Preliminary Plat No. 95014 approved for Highlands Business Park.                                                                                                                                                                                        |
| Jan. 2004 | Comprehensive Plan Conformance No. 03011 approved to declare the northern portion of the use permit site as surplus.<br><br>Change of Zone No. 3425 approved to change the zoning from P to O-3 Office Park on northern portion of the use permit site. |
| Mar. 2015 | Use Permit No. 15002 approved for 120 multi-family units with a height waiver from 35 to 40 feet and decrease the required parking stalls from 2 to 1.5 stalls per dwelling unit.                                                                       |
| Apr. 2017 | Use Permit No. 15002A approved adding 120 units for a total of 240 units with previously approved waivers.                                                                                                                                              |

**APPROXIMATE LAND AREA:** 27.09 acres (expansion area is 9.89 acres)

**LEGAL DESCRIPTION (AREA ADDED):** Outlot A, Highlands Business Park 6th Addition, located in the SE 1/4 of Section 4-10-6 and Outlot B, Highlands Business Park 6th Addition located in the SE 1/4 of Section 4-10-6 and in the SW 1/4 of Section 3-10-6, Lincoln, Lancaster County, Nebraska.

Prepared by

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Rachel Christopher, AICP

Date: February 8, 2022

Applicant: Scott Osterhaus  
Olsson  
601 P Street, Suite 200  
Lincoln, NE 68508  
(402) 458-5630  
[sosterhaus@olsson.com](mailto:sosterhaus@olsson.com)

Contact: Jim Tomasek  
5649 S. 31<sup>st</sup> Street, Unit 2  
Lincoln, NE 68516

Owner: Tomasek-Novak Investments  
5649 S. 31<sup>st</sup> Street, Unit 2  
Lincoln, NE 68516

<https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/UP/15000/UP15002B Highland Apartments.rkc.docx>

## CONDITIONS OF APPROVAL - USE PERMIT #15002B

This approval permits an additional 203 dwelling units for a total of 443 dwelling units and expansion of the use permit boundary with previously approved waivers to decrease the required parking to 1.5 stalls per unit, allow tandem parking to be counted toward required parking, and new waivers to reduce the front yard setback from 30 to 20 feet along NW 12<sup>th</sup> Street for parking and buildings and along W. Highland Boulevard for parking only, and reduce the rear yard setback from 40 to 15 feet as shown on the site plan.

### Site Specific Conditions:

1. The permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 2 copies with all required revisions and documents as listed below before a final plat is approved:
  - 1.1 Revise the site plan to relocate the 12-plex building on the west end of the site to the north to be adjacent or part of the 30-plex building in order to maximize the distance to the existing I-2 zoning. These units could also be relocated to one of the other buildings as well.
  - 1.2 Submit documentation on meeting the open space requirements.
  - 1.3 Confirm that all dwellings are outside the 65 DNL noise contour.
  - 1.4 Delete the unit breakdown table as it is not necessary.
  - 1.5 Show the existing 20' wide common access easement for Outlot A, Highlands Coalition 5<sup>th</sup> Addition.
  - 1.6 Ensure the outlots are correctly lettered.
  - 1.7 Fix the overlapping text on the clubhouse building.
  - 1.8 Correct the upside-down text on the southernmost apartment building.
  - 1.9 Clarify the intention of the label for common access easement at the southernmost corner.
  - 1.10 List the waiver to additional setback for building heights above 35 feet on the site plan.
  - 1.11 Show 10 feet of right-of-way to be dedicated where necessary for a right turn lane in NW 12<sup>th</sup> Street to the satisfaction of LTU.
  - 1.12 Address the markups from Watershed Management and reevaluate the proposed detention in order to meet the requirements for the 2 year/10 year/100 year design requirements for detention design. The evaluation should include updating the outfall structure.
  - 1.13 Submit revised CAD file with a separate layer for the use permit boundary. Ensure that curve data for west boundary is correctly identified on the plans and CAD.
2. Final plat(s) is/are approved by the City.

If any final plat on all or a portion of the approved use permit is submitted five (5) years or more after the approval of the use permit, the city may require that a new use permit be submitted, pursuant to all the provisions of section 26.31.015. A new use permit may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the use permit as originally approved does not comply with the amended rules and regulations.

Before the approval of a final plat, the sidewalks, public sanitary sewer system, public water system, drainage facilities, land preparation and grading, sediment and erosions control measures, storm water

detention/retention facilities, drainageway improvements, street lights, and street trees, must be completed or provisions (bond, escrow or security agreement) to guarantee completion must be approved by the City Law Department. The improvements must be completed in conformance with adopted design standards and within the time period specified in the Land Subdivision Ordinance.

Permittee agrees:

dedication of 10 feet of right-of-way for a right turn lane in NW 12<sup>th</sup> Street.

to complete the installation of sidewalks along W. Highland Boulevard as shown on the final plat within four (4) years following the approval of the final plat.

to complete the installation of sidewalks along NW 12<sup>th</sup> Street as shown on the final plat within two (2) years following the approval of this final plat.

to complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.

to complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.

to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

to complete the enclosed private drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

to complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of the final plat

to complete the installation of public street lights within this plat within two (2) years following the approval of the final plat.

to complete the planting of the street trees along W. Highland Boulevard within this plat within six (6) years following the approval of the final plat.

to complete the installation of street trees along the west side of NW 12<sup>th</sup> Street as shown on the final plat within two (2) years following the approval of this final plat.

to complete the installation of the street name signs within two (2) years following the approval of the final plat.

to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.

to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.

to submit to the Director of Lincoln Transportation and Utilities a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.

to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

to complete the public and private improvements shown on the Use Permit.

to keep taxes and special assessments on the outlots from becoming delinquent.

to maintain the outlots and private improvements in a condition as near as practical to the original construction on a permanent and continuous basis.

to maintain and supervise the private facilities which have common use or benefit in a condition as near as practical to the original construction on a permanent and continuous basis, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development and that these are the responsibility of the land owner.

to retain ownership of and the right of entry to the outlots in order to perform the above-described maintenance of the outlots and private improvements on a permanent and continuous basis. However, Permittee(s) may be relieved and discharged of such maintenance obligations upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:

- (1) Permittee shall not be relieved of Permittee's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans.
- (2) The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds

to pay all design, engineering, labor, material, inspection, and other improvement costs.

to relinquish the right of direct vehicular access to NW 12<sup>th</sup> Street.

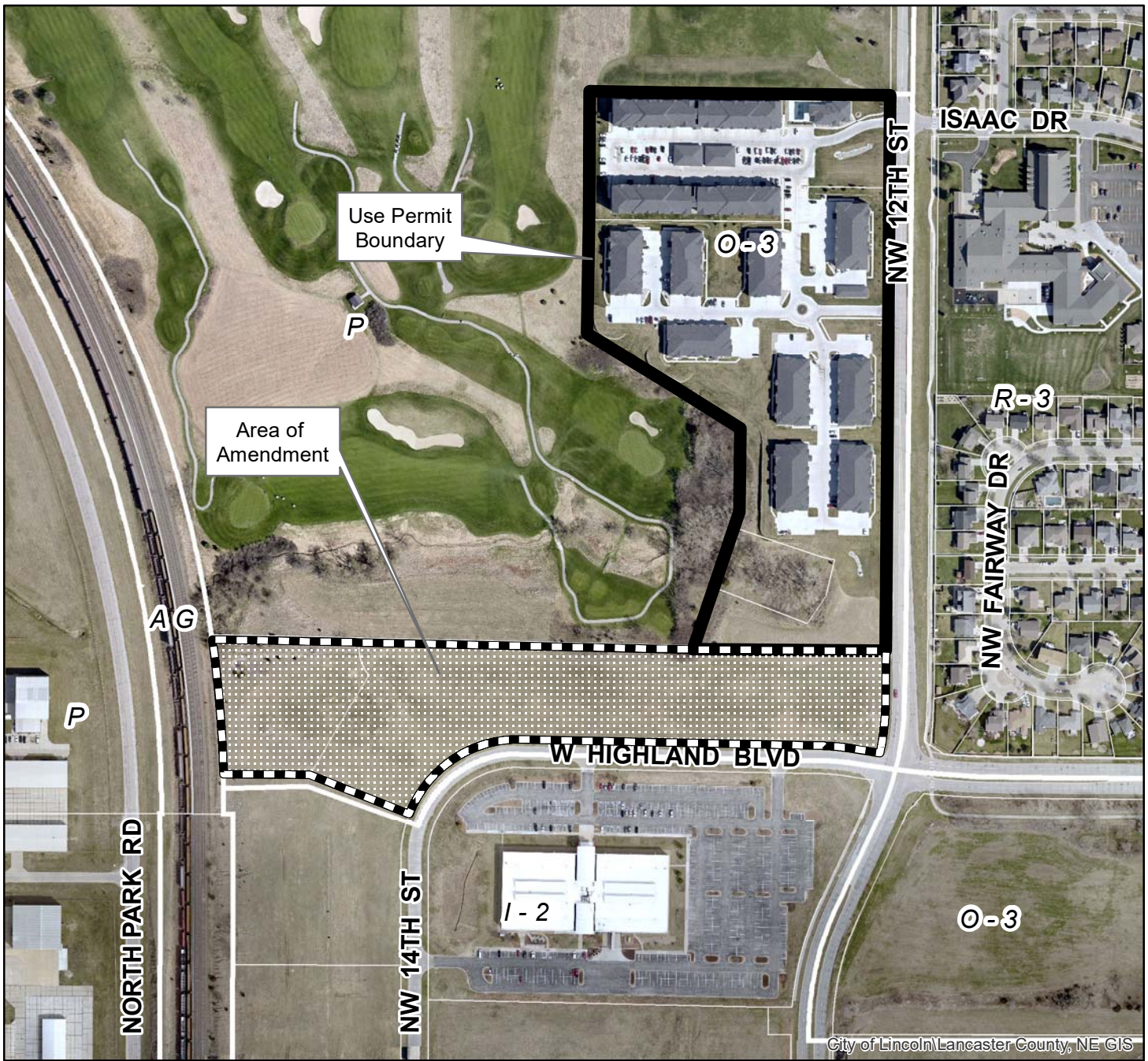
to inform all prospective purchasers and users that the land is located within the Airport Environs Noise District, that the land is subject to an aviation and noise easement granted to Lincoln Airport Authority, and that the land is potentially subject to aircraft noise levels which may affect users of the property and interfere with its use.

### **Standard Conditions:**

3. The following conditions are applicable to all requests:

- 3.1 Before occupying the dwelling units / buildings all development and construction is to substantially comply with the approved plans.
- 3.2 All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City.
- 3.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.

- 3.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 3.5 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefore to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.
- 3.6 The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions/ordinances approving previous permits remain in force unless specifically amended by this resolution.



City of Lincoln/Lancaster County, NE GIS

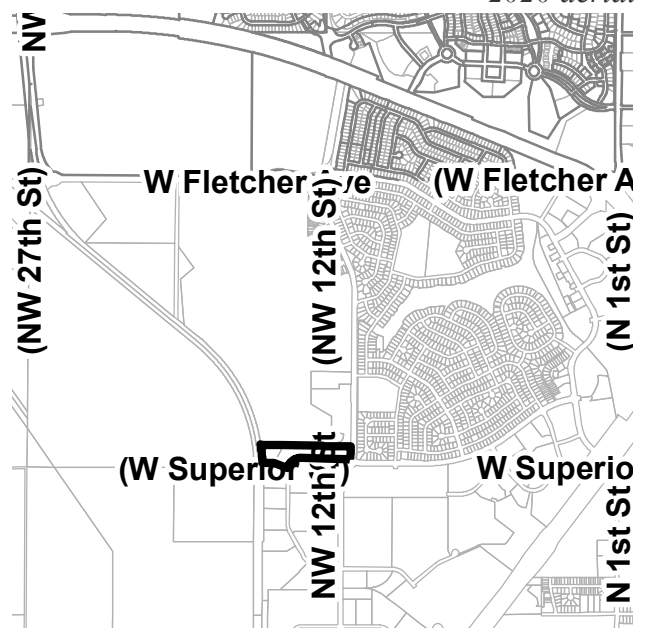
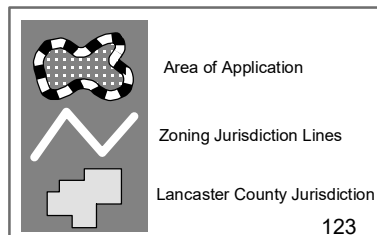
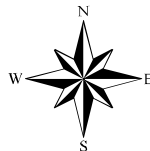
2020 aerial

# **Use Permit #: UP15002B** **Highland Apartments** **NW 12th St & W Highland Blvd**

## **Zoning:**

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Highway Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

Two Square Miles:  
 Sec.04 T10N R06E  
 Sec.03 T10N R06E



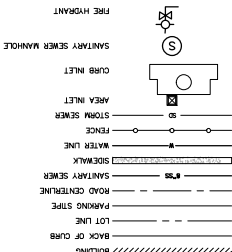
|     |   |                 |            |
|-----|---|-----------------|------------|
| (A) | D | A-57.29"        | 31.3, 15.1 |
| (B) | B | A-79.7029"      | 43.4, 49   |
| (C) | C | B-56.2024"      | 38.4, 66   |
| (D) | D | A-78.702"       | 43.4, 49   |
| (E) | E | A-75.5606"      | 46.1, 48   |
| (F) | F | R-290.00"       | 46.1, 48   |
| (G) | G | CL-69.14"       | 46.1, 48   |
| (H) | H | CL-59.90"       | 46.1, 48   |
| (I) | I | CL-125.15"      | 46.1, 48   |
| (J) | J | R-296.84, 93.3" | 46.1, 48   |
| (K) | K | A-5.5227"       | 46.1, 48   |
| (L) | L | CL-304.05"      | 46.1, 48   |
| (M) | M | CL-303.90, 92"  | 46.1, 48   |
| (N) | N | T=152.15"       | 46.1, 48   |
| (O) | O | CB=56.47, 47.4" | 46.1, 48   |

## CURVE DATA

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| 16 | ADAM | 15  | M   | ISLAM    | 10        | 1      | 1     |
| 17 | ADAM | 15  | M   | ISLAM    | 10        | 1      | 1     |
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| 19 | ADAM | 15  | M   | ISLAM    | 10        | 1      | 1     |
| 20 | ADAM | 15  | M   | ISLAM    | 10        | 1      | 1     |
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|           |   |    |    |    |    |           |
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| TOTAL     | 0 | 0  | 0  | 0  | 0  | TOTAL     |
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| 3RD FLOOR | 0 | 0  | 0  | 0  | 0  | 3RD FLOOR |
| TOTAL     | 0 | 0  | 0  | 0  | 0  | TOTAL     |
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| 3RD FLOOR | 0 | 0  | 0  | 0  | 0  | 3RD FLOOR |
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| 3RD FLOOR | 0 | 0  | 0  | 0  | 0  | 3RD FLOOR |
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| 3RD FLOOR | 0 | 0  | 0  | 0  | 0  | 3RD FLOOR |
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## NM



**LEGEND**



GENERAL NOTES

- DOWN ON THIS SITE. PLAY BALL NEED TO BE IN COMPLIANCE WITH LINCOLN ZONING ORDINANCE AND MUST BE APPROVED BY THE DEPARTMENT FOR INSTALLATION.
- CURRENTLY ZONE D-3.
- STRUCTURED ALONG THE WEST SIDE OF NW 12TH STREET.
- CESS TO NW 12TH STREET SHALL BE RELINQUISHED EXCEPT AS
- A MINIMUM 24 FEET WIDE UNLESS OTHERWISE NOTED.

## ENGINEER &amp; PREPARER

601 P STREET  
LINCOLN, NE 68508  
PHONE: (402) 474-6311

# HIGHLAND APARTMENTS

## USE PERMIT AMENDMENT

### SITE PLAN

DATE

ERS

1. REDUCE REQUIRED PARKING FROM 2 STALLS PER UNIT TO 1.5 STALLS PER UNIT.
2. ALLOW TANDEM PARKING, WITH REQUIRED PARKING SPACES STACKED FRONT-TO-BACK, ONE HEICHEL DEEP.
3. REDUCE FRONT YARD SETBACK FROM 30' TO 20' ALONG NW 12TH STREET AND W HIGHLAND BLVD.
4. REDUCE REAR YARD SETBACK FROM 40' TO 15'.

## PHASE I PARKING CALCULATIONS

- LEGAL DESCRIPTION

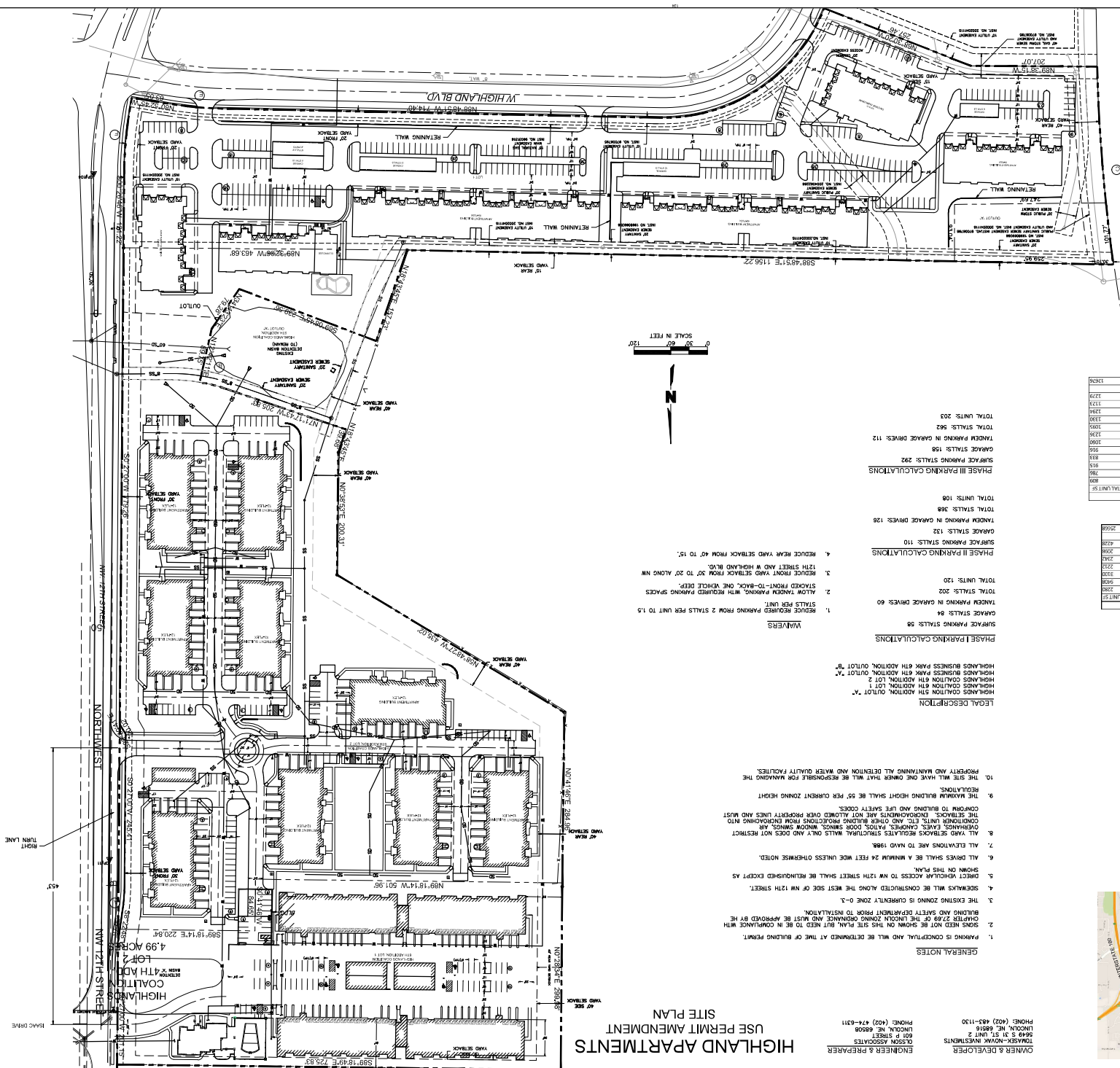
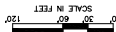
SURFACE PARKING STALLS: 110

1. REDUCE REQUIRED PARKING FROM 2 STALLS PER UNIT TO 1.5 STALLS PER UNIT.
2. ALLOW TANDEM PARKING, WITH REQUIRED PARKING SPACES STACKED FRONT-TO-BACK, ONE HEIGHT DEEP.
3. REDUCE FRONT YARD SETBACK FROM 30' TO 20' ALONG NW 12TH STREET AND W HIGHLAND BLVD.
4. REDUCE REAR YARD SETBACK FROM 40' TO 15'.

### PHASE III PARKING CALCULATIONS

- GARAGE STALLS: 158  
TANDEM PARKING IN GARAGE DRIVES: 112

## TOTAL UNITS: 203





January 19, 2022

Mr. David Cary  
Planning Director  
Planning Department  
555 South 10<sup>th</sup> St., Suite 213  
Lincoln, NE 68508

Re: Highland Apartments  
NW 12<sup>th</sup> Street & West Highlands Blvd  
Use Permit Amendment  
Olsson Project No. 019-4016

Dear Mr. Cary,

We are submitting this application for an amendment for a Use Permit for the Highland Apartments development on behalf of Tomasek Novak Investments, the owner of this project.

The existing Highland Apartments Use Permit is being proposed to include an additional 9.89 acres to the south of the existing Use Permit boundary, for multiple-family dwellings (apartments) in the existing zoned O-3 area.

The site plan includes two (2) 60-plex apartment buildings, one (1) 30-plex apartment building, two (2) 12-plex apartment buildings and one (1) 29-plex apartment building that also includes the clubhouse for a total of 203 dwelling units on 9.89 acres.

All current waivers shall be extended to the amendment area. Please note that previously approved height waiver is no longer required since a recent text amendment increased the height in the O-3 district for dwellings from 35 to 55 feet. New requested waivers include the following.

1. We request a waiver to the residential setbacks in the O-3 to 20' front yard setbacks, and 15' rear yard setbacks as shown on the site plan. Those areas are shown in the amendment area only and are adjacent to the NW 12<sup>th</sup> Street ROW and West Highlands Blvd for the 20' front yard reduction and adjacent to the open space of the golf course for the 15' rear yard reduction. We feel that a setback reduction is justified due to the shallow north south depth of the amended area in addition to the grading challenges of this site. If a setback reduction is not granted the resulting area north of W. Highlands Blvd. would be restricted to the point that the two 60-plex units would likely not fit with the required parking and the grading challenges of the site.

2. We request a waiver to remove the requirement that for every 1 foot above 35' height the building must be set back an additional 1' beyond the minimum setbacks for the side yard and rear lot lines.

Enclosed find the following documents for the above-mentioned project:

1. City Application Form
2. Application fees in the amount of \$1,661.52

Plans and other supporting documents will be submitted to ProjectDox upon notification from the planning staff.

Feel free to give me a call if you have any questions or need any additional information.

Scott Osterhaus

Enclosures

CC: File

*F:\2019\4001-4500\019-4016\20-Management\Communication\LCary 2022-01-19.docx*

(Letter Recipient)  
Page 3  
(Date)



## LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

**APPLICATION NUMBER**

Miscellaneous #22001

*Bishop Heights Shopping Center Environs  
Redevelopment Area Blight & Substandard  
Determination Study*

**FINAL ACTION?**

No

**PLANNING COMMISSION HEARING DATE**

February 16, 2022

**RELATED APPLICATIONS**

None

**PROPERTY ADDRESS/LOCATION**

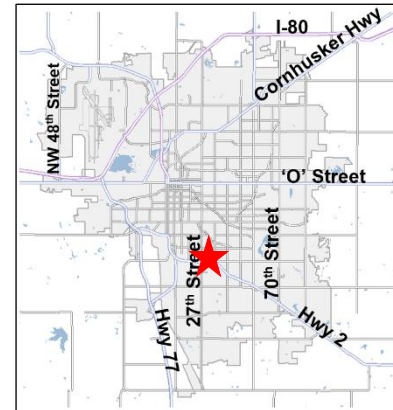
Generally at the northeast corner of  
Nebraska Highway 2 and S 27<sup>th</sup> Street.

### RECOMMENDATION: FINDING OF SUBSTANDARD AND BLIGHTED CONDITIONS

#### BRIEF SUMMARY OF REQUEST

Bishop Heights Shopping Center Environs Redevelopment Area is generally bounded by Nebraska Highway 2, South 27<sup>th</sup> Street, Rock Island Trail, and Kucera Drive. The study area includes properties within the existing Bishop Heights Shopping Center and one existing single-family home located on the north side of the area along Kucera Drive.

This request is to determine whether the area qualifies as substandard and blighted within the definition set forth in the Nebraska Community Development Law, Nebraska Revised Statute 18-2103.



#### JUSTIFICATION FOR RECOMMENDATION

The Bishop Heights Shopping Center Environs Redevelopment Area qualifies as substandard and blighted within the definition set forth in the Nebraska Community Development Law, NEB REV STAT '18-2103, as determined by the Bishop Heights Shopping Center Environs Redevelopment Area Blight and Substandard Determination Study. The Substandard and Blight Determination Study is consistent with the redevelopment and revitalization activities identified in Lincoln-Lancaster County 2050 Comprehensive Plan.

Nebraska Community Development Law, NEB REV STAT '18-2109 requires the Planning Commission to review whether an area is substandard and blighted. A recommendation of the Planning Commission is required to be provided to the City Council prior to a redevelopment area being declared blighted and substandard.

#### APPLICATION CONTACT

Dan Marvin, (402) 441-7126 or  
[dmarvin@lincoln.ne.gov](mailto:dmarvin@lincoln.ne.gov)

#### STAFF CONTACT

Benjamin Callahan, (402) 441-6360 or  
[bcallahan@lincoln.ne.gov](mailto:bcallahan@lincoln.ne.gov)

#### COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Comprehensive Plan encourages new development and utilizing blight studies to facilitate redevelopment and infill within the city. Blight studies are identified as part of the strategy to facilitate infill development and revitalization.

## KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

### Introduction Section: Growth Framework

Figure GF.b: 2050 - This site is shown as future Commercial on the 2050 Future Land Use Plan.

Land Use Plan - Commercial land uses include areas of retail, office, service and residential mixed uses. Commercial uses may vary widely in their intensity of use and impact. Individual areas designated as commercial in the land use plan may not be appropriate for every commercial zoning district.

### Elements Section

#### E2: Infill and Redevelopment

##### **Infill and Redevelopment Approach**

PlanForward identifies the potential for 12,000 new dwelling units to be located within the existing built-out portion of the City, roughly 25 percent of the projected 48,000 new dwelling units to be built citywide by 2050.

##### **Mixed Use Redevelopment Nodes and Corridors**

The City's primary strategy for residential infill and redevelopment outside of the Greater Downtown is to encourage the redevelopment and reuse of sites and buildings in underutilized commercial and industrial areas.

##### *Location Criteria*

Mixed Use Redevelopment Nodes and Corridors should be located based on the following criteria:

- In areas where there is a predominance of commercial or industrial zoning and/or development, focusing on non-residential areas.
- In proximity to planned or existing neighborhoods and community services, to facilitate access to existing community services or to address a deficiency by providing services such as grocery stores, childcare centers, and restaurants.
- Where there is existing or potential for good access to transit, to enhance the public transit system by making it accessible to residents and to facilitate the development of neighborhood multimodal hubs where residents can drive, bike, or walk to a transit stop, go to work, and then shop for their daily needs before they return home.
- On at least one arterial street to help provide for traffic and utility capacity and access to transit.
- Outside of areas with existing or potential industrial use to avoid conflicts with health and safety.
- In areas that minimize floodplain and other environmental impacts. Areas within the floodplain that already have buildings and fill are appropriate for redevelopment; projects that receive public assistance should meet a higher standard to preserve flood storage. This criterion encourages redevelopment while protecting sensitive environmental areas. Preservation or restoration of natural resources within or adjacent to mixed use redevelopment areas should be encouraged.

#### E3: Business, Economy, and Workforce

##### **Commercial Infill**

##### **Figure E3.f: Commercial Infill Design Strategies**

1. Encourage additional vehicular access to an arterial street.
2. Encourage a Floor Area Ratio that exceeds to existing/previous commercial uses on the site.
3. Face existing residential uses with new residential uses rather than the backs of commercial buildings unless existing residential faces the opposite direction such as along an alley.
4. Discourage commercial driveways that interrupt the blockface of a residential street, especially when residences face the street.
5. Encourage shared driveways and interconnected parking lots where possible.

6. Orient buildings to the street, especially corners.
7. Maintain or adaptively reuse existing structures (especially historical structures) where possible.
8. Encourage a vertical mix of residential and commercial use types.
9. Encourage shared parking between land uses with different peak demand periods.
10. Maintain or enhance on-street parking resources, especially in established/historic commercial districts

## **Policies Section**

**P8: Infill and Redevelopment** - Encourage infill and redevelopment in appropriate locations throughout the community in order to meet the assumption for 25% of all new dwelling units being infill.

Infill projects should target existing underdeveloped or redeveloping areas in order to remove blighted conditions and more efficiently utilize existing infrastructure.

### **Action Steps**

1. Encourage redevelopment of aging and underutilized commercial centers, along with other large sites in existing areas such as former schools and residential acreages, to add a variety of housing types that are affordable to diverse income levels. A mix of residential and commercial uses is desirable in locations with good visibility and access, such as most existing commercial centers, but in some cases redevelopment sites are more suited for exclusively residential uses.
2. Encourage redeveloped commercial centers to incorporate a variety of medium and high-density housing affordable to diverse income levels that could serve as a transitional use to less intensive residential development and benefit from walkable access to the commercial area and transit.
4. Provide a mechanism for adjustments in older zoning districts to lot area, height, setbacks, and parking standards, similar to the provisions already available for newer districts.
5. Strive for predictability for neighborhoods and developers for residential development and redevelopment.
6. Encourage efforts to find new uses for abandoned, under-utilized or “brownfield” sites that are contaminated, through redevelopment and environmental mitigation.
7. Environmentally sensitive areas (i.e. floodplains, wetlands, native prairie) may not be appropriate for redevelopment. When redevelopment does occur, environmentally sensitive areas need to be considered and incorporated holistically as part of a redevelopment project.

**P14: Commercial Infill** - Develop infill commercial areas to be compatible with the character of the area.

### **Action Steps**

1. Implement commercial infill redevelopment principles as discussed in the Business & Economy element.
2. Maintain and encourage businesses that conveniently serve nearby residents, while ensuring compatibility with adjacent neighborhoods.
3. Avoid encroachment into existing neighborhoods during expansion of existing commercial and industrial uses, and take steps to ensure expansions are in scale with the adjacent neighborhood, use appropriate screening, fulfill a demonstrated need, and do not hinder health and safety.
4. Prioritize retaining areas for continued residential development in older sections of the community by maintaining existing housing and supporting infill housing. Prior to approving the removal of housing to provide additional parking for existing centers, alternatives such as reduced parking requirements, shared parking, additional on-street parking, and/or the removal of other commercial structures should be explored. Maintain and encourage ethnically diverse commercial establishments that are beneficial to existing neighborhoods.

## **ANALYSIS**

1. This is a request to determine whether the Bishop Heights Shopping Center Environs Area should or should not be declared substandard and blighted per ' 18-2103 (11) Nebraska Revised Statutes. After an area is declared substandard and blighted, the City may proceed with the preparation and approval of a Redevelopment Plan.

Redevelopment activities may include utilizing Tax Increment Financing (TIF) from private development to pay for public infrastructure and improvements. A total of 8 Parcels and 15 acres are within this request. All 15 acres are in the City of Lincoln. Comprehensive Plan conformity must be found by each of the respective jurisdictions.

2. A consultant conducted the study for the developer to determine whether or not there was a presence of substandard or blighting conditions in the study area per ' 18-2103 (11) Nebraska Revised Statutes. The proposed conservation easement will protect floodplain conveyance and storage, and in some cases protect other natural features such as wetlands, drainageways and woodlands.
3. The area comprises 15 acres. According to the land use categories identified in the Blight Study, approximately 92.7% is in commercial use, 2% of the land is in single family residential use, and 5.3% is developed as street or highway right-of-way.
4. All of the land within the study area is inside the City of Lincoln corporate limits.
5. The Urban Development Department requests the determination study be reviewed by the Planning Commission for conformance with the Comprehensive Plan.
6. A **substandard** area is defined in the Nebraska Revised Statutes as containing a predominance of buildings or improvements with at least one of four conditions present:
  1. Dilapidation/deterioration
  2. Age or obsolescence
  3. Inadequate provision for ventilation, light, air, sanitation or open spaces
  4. a) High density of population and overcrowding; or  
b) The existence of conditions which endanger life or property by fire and other causes; or  
c) Any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, and is detrimental to the public health, safety, morals or welfare.
7. According to the Blight Study, the area qualifies as **substandard** because all of the four factors were found to have a strong presence in the study area.
  - A) Dilapidation, deterioration, age or obsolescence of structures is evident in that more than 50% (4 out of 6) total structures were found to be deteriorated including (3 out of 5) commercial/industrial structures and 16.7% (1 of 1) residential structures are in deteriorated or deteriorating condition. (Page 21).
  - B) Based on field evaluation 100% (6 out of 6) of structures are over 40 years of age. (Page 21).
  - C) Based on field evaluation conducted by the consultant, 63% (4 out of 6) of parcels have minor to major excessive debris which could pose a threat to human health, and lack of public infrastructure means no public sewer or water service is available. (Page 22).
  - D) Based on field evaluation conducted by the consultant found sanitary sewer mains in the Redevelopment Area as being in poor condition, and area water mains in good condition.
8. A **blighted** area is defined in the Nebraska Revised Statutes as having the presence of one or more of the twelve following conditions:
  1. A substantial number of deteriorated or deteriorating structures;
  2. Existence of defective or inadequate street layout;
  3. Faulty lot layout in relation to size, adequacy, accessibility or usefulness;
  4. Insanitary or unsafe conditions;
  5. Deterioration of site or other improvements;
  6. Diversity of ownership;
  7. Tax or special assessment delinquency exceeding the fair value of the land;
  8. Defective or unusual conditions of title;
  9. Improper subdivision or obsolete platting;
  10. The existence of conditions which endanger life or property by fire or other causes;

11. Any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations or constitutes an economic or social liability;
12. Is detrimental to the public health, safety, morals, or welfare in its present condition and use; and in which there is at least one of the following conditions:
  - a) Unemployment in the designated blighted area is at least one hundred twenty percent of the state or national average;
  - b) The average age of the residential or commercial units in the area is at least 40 years;
  - c) More than half of the plotted and subdivided property in the area is unimproved land that has been within the City for 40 years and has remained unimproved during that time;
  - d) The per capita income of the designated blighted area is lower than the average per capita income of the city or City in which the area is designated; or
  - e) The area has had either stable or decreasing population based on the last two decennial censuses.
9. The study found the following eight **blighting** factors to be present to a strong extent in the study area:
  - A) A substantial number of deteriorated or deteriorating structures (Page 27).
  - B) Faulty lot layout in relation to size, adequacy, accessibility or usefulness. (Page 30)
  - C) Insanitary or unsafe conditions (Page 31).
  - D) Deterioration of site improvements (Page 32).
  - E) Improper subdivision or obsolete platting (Page 34).
  - F) Conditions which endanger life or property by fire and other causes (Page 35).
  - G) Other environmental and blighting factors (Page 36).
  - H) The average estimated age of residential or commercial units in the area is over 40 years (Page 27).
10. The study finds there is at least a reasonable distribution of all four factors that constitute an area as substandard within the study area, and out of 12 possible factors that constitute an area blighted, 8 are strongly present in the area. Therefore it is the conclusion of the study that sufficient conditions and factors meet the criteria of substandard and blight as evidenced in the Blight Study. These factors present a serious barrier to the planned and coordinated development of the area, have created an environment that negatively impacts private sector investment in the area, and serve as a detriment to the overall healthy economic growth and physical development of the community.
11. The Blight & Substandard Determination Study is on file with the Urban Development Department and the Planning Department. It can also be found on the Planning Application Tracking System, search: MISC22001. [lincoln.ne.gov | Planning Application Tracking System](http://lincoln.ne.gov/PlanningApplicationTrackingSystem)

**EXISTING LAND USE & ZONING:** The existing land uses within the Bishop Heights Shopping Center Environs Redevelopment Area are comprised of primary commercial uses, with much of the commercial space currently vacant, and includes one single-family residential use.

#### **SURROUNDING LAND USE & ZONING**

|        |                                               |                |
|--------|-----------------------------------------------|----------------|
| North: | Single-Family & Multifamily Residential       | R-1 & R-6      |
| South: | Highway 2 / Star City Shores / Residential    | P-Public & R-1 |
| East:  | Rock Island Trail / Single-Family Residential | R-1            |
| West:  | Single-Family Residential                     | R-1            |

**APPROXIMATE LAND AREA: 15 Acres**

Prepared by

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Benjamin Callahan, Planner

Date: February 3, 2022

Applicant: Dan Marvin, Director  
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<https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/MISC/22000/MISC22001 Bishop Heights Redevelopment Area Blight & Substandard Study.bmc.docx>



City of Lincoln/Lancaster County, NE GIS

2020 aerial



**Miscellaneous #22001**  
**Bishop Heights Shopping Center Environs Redevelopment Area**  
**Blight and Substandard Determination Study**

m:\plan\arcview\AgendaDrawingBlight Or Redevelopment Area.mxd  
 (MISC22001)

# BLIGHT & SUBSTANDARD DETERMINATION STUDY

## *EXECUTIVE SUMMARY*

### Purpose of Study

The purpose of this **Blight and Substandard Determination Study** is to apply the criteria set forth in the **Nebraska Community Development Law, Section 18-2103**, to the designated **Bishop Heights Shopping Center Environs Redevelopment Area** in the City of Lincoln, Nebraska. The results of this **Study** will assist the City in declaring the **Redevelopment Area** as both **blighted and substandard**.

### Location

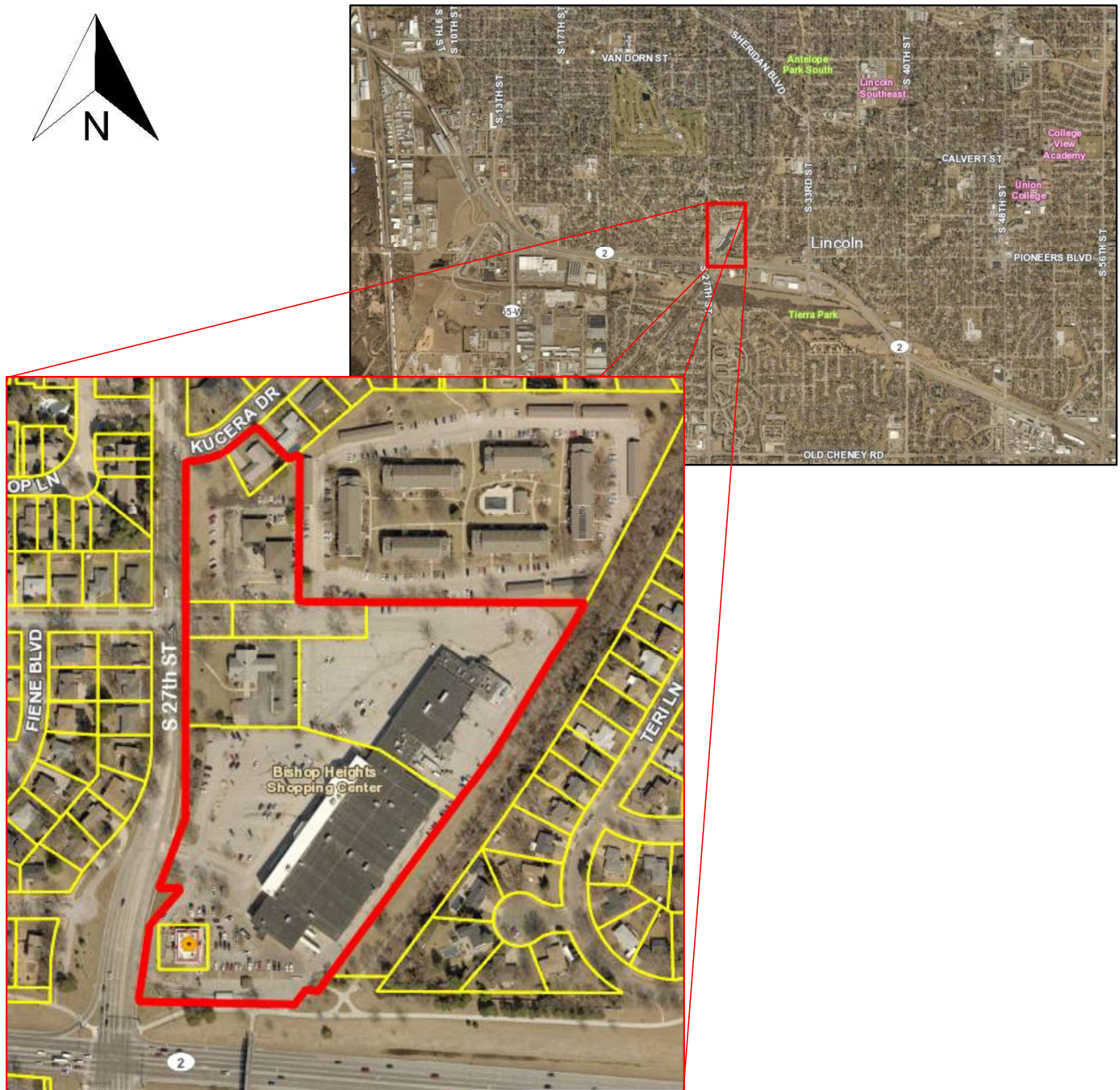
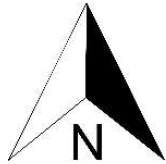
The referenced **Bishop Heights Shopping Center Environs Redevelopment Area**, in the City of Lincoln, Nebraska, includes the following **Property IDs and Legal Descriptions** on file with the Lancaster County Assessor's Office:

1. **1606303035000**. BISHOP HEIGHTS, BLOCK 1, LOT 35.
2. **1606303036000**. BISHOP HEIGHTS, BLOCK 1, LOT 36-38, & ADJ TRACT BLOCK 5 LOT 7 BEING PT W150' LYING N OF N LINE WOODS BLVD.
3. **1606314001000**. BISHOP HEIGHTS, BLOCK 5, LOT 1-2, & TRACT ADJ IN LOT 7 (BEING 150' X 200').
4. **1606314004000**. BISHOP HEIGHTS, BLOCK 5, LOT 7 (BEING 80' X 300' & BEING AN EXTENSION OF WOODS BLVD.
5. **1606314005000**. BISHOP HEIGHTS, BLOCK 5, LOT 7, SW PT (BEING 100' ON E & W & 100' ON N & S).
6. **1606314005I01**. ARBY'S FAST FOOD BUILDING: LOCATED ON BISHOP HEIGHTS BLOCK 5 TRACT IN SW PART LOT 7 (BEING 100' ON E & W AND 110' ON N & S).
7. **1606314006000**. BISHOP HEIGHTS, BLOCK 5, LOT 3-6, & S PT LOT 7 EX 110' BY 100' TRACT IN SW PT & PT VAC PIONEERS BLVD ADJ IN S & IT LOT 68 NW 7-9-7 EX E30' (DESCRIBED AS PARCEL 2, SUB PERMIT #2388).
8. **1606314008000**. BISHOP HEIGHTS, BLOCK 5, LOT 7, CENTER PT LYING S OF LINE EXTENDING E TO RR FROM NE CORNER WOODS BLVD & BEING 549.05' ON E & 280' ON W (DESC AS PARCEL II IN INST #1998-42585).

The **Redevelopment Area** is located in south Lincoln, generally bounded by South 27<sup>th</sup> Street (west), State Highway 2 (south), Rock Island Trail (east) and Kucera Drive (north). **Illustration 1, Context Map, Page 2**, identifies the location of the **Area** in relation to the City of Lincoln. The **Redevelopment Area** encompasses the entirety of the Bishop Heights Shopping Center, as well as adjacent properties northwest of the Shopping Center. The **Area** equals an estimated **15 acres** and is primarily composed of commercial structures, including the vacant Shopko building, restaurants and bank buildings, in addition to one residential structure in the northern portion of the **Area**.

# CONTEXT MAP – ILLUSTRATION 1

## BISHOP HEIGHTS SHOPPING CENTER ENVIRONS REDEVELOPMENT AREA LINCOLN, NEBRASKA



**HANNA:KEELAN ASSOCIATES, P.C.**  
**COMMUNITY PLANNING & RESEARCH**

\* Lincoln, Nebraska \* 402.464.5383 \*

### LEGEND

REDEVELOPMENT AREA

City of Lincoln, Nebraska  
Blight & Substandard Determination Study  
Bishop Heights Shopping Center Environs Redevelopment Area

This **blight and substandard evaluation** included a detailed **Structural/Site Conditions Survey of six structures and associated parcels**, conversations with City of Lincoln Staff and a review of available reports and documents containing information which could substantiate the existence of **blight and substandard conditions**.

### ***SUBSTANDARD AREA***

As set forth in the Nebraska legislation, a **substandard area** shall mean one in which there is a predominance of buildings or improvements, whether nonresidential or residential in character, which by reason of the presence of the following factors:

1. Dilapidated/deterioration;
2. Age or obsolescence;
3. Inadequate provision for ventilation, light, air, sanitation or open spaces;
4.
  - (a) High density of population and overcrowding; or
  - (b) The existence of conditions which endanger life or property by fire and other causes; or
  - (c) Any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, and is detrimental to the public health, safety, morals or welfare.

### ***BLIGHTED AREA***

As set forth in the Section 18-2103 (11) Nebraska Revised Statutes (Cumulative Supplement 1994), a **blighted area** shall mean "an area, which by reason of the presence of the following factors:

1. A substantial number of deteriorated or deteriorating structures;
2. The advanced age and associated condition of structures;
3. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
4. Insanitary or unsafe conditions due to the age, small diameter of water mains;
5. Deterioration of site or other improvements;
6. Diversity of ownership;
7. Tax or special assessment delinquency exceeding the fair value of the land;
8. Defective or unusual conditions of title;
9. Improper subdivision or obsolete platting;

10. The existence of conditions which endanger life or property by fire or other causes;
11. Any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations or constitutes an economic or social liability; and
12. Is detrimental to the public health, safety, morals or welfare in its present condition and use; and in which there is at least one or more of the following conditions exists;
  1. Unemployment in the study or designated blighted area is at least one hundred twenty percent of the state or national average;
  2. The average age of the residential or commercial units in the area is at least 40 years;
  3. More than half of the plotted and subdivided property in an area is unimproved land that has been within the City for 40 years and has remained unimproved during that time;
  4. The per capita income of the study or designated blighted area is lower than the average per capita income of the City or Village in which the area is designated; or
  5. The area has had either stable or decreasing population based on the last two decennial censuses."

While it may be concluded the mere presence of a majority of the stated **Factors** may be sufficient to make a finding of **blight and substandard**, this evaluation was made on the basis that existing **Blight and Substandard Factors** must be present to an extent which would lead reasonable persons to conclude public intervention is appropriate or necessary to assist with any development or redevelopment activities. Secondly, the distribution of **Blight and Substandard Factors** throughout the **Bishop Heights Shopping Center Environs Redevelopment Area** must be reasonably distributed so basically good areas are not arbitrarily found to be blighted simply because of proximity to areas which are **blighted and substandard**.