

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 26 of the Lincoln Municipal Code (Land
 2 Subdivision) by amending Section 26.19.020 to modify the certificate of approval on final
 3 plats; amending Section 26.31.010 to modify the procedure for granting modifications of
 4 subdivision requirements and providing an appeal process therefor; and repealing Sections
 5 26.19.020 and 26.31.010 of the Lincoln Municipal Code as hitherto existing.

6 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

7 Section 1. That Section 26.19.020 of the Lincoln Municipal Code be amended
 8 to read as follows:

9 **26.19.020 Certificates and Acknowledgments on Final Plat.**

10 The final plat shall show the following:

- 11 (a) Owners' acknowledgment and offer of dedication, if any;
- 12 (b) Certificate of the surveyor;
- 13 (c) Certificate of approval by the Planning ~~Commission~~ Director and acceptance
 14 of the offer of dedication;
- 15 (d) All affidavits, certificates, acknowledgments, endorsements, dedications, and
 16 notarial seals as are required by law and the provisions of this title, shall be as approved by
 17 the City Attorney.

18 Section 2. That Section 26.31.010 of the Lincoln Municipal Code be amended
 19 to read as follows:

1 **26.31.010 Modification of Requirements.**

2 Whenever ~~the tract to be subdivided~~ a lot, tract, or parcel of land is of such unusual
3 size or shape or is surrounded by such development or unusual condition that the strict
4 application of the requirements contained in these regulations would result in actual
5 difficulties or substantial hardship or injustice, the ~~Council~~ subdivider may request a
6 modification of such requirements. Such request shall be filed with the Planning Director and
7 shall set forth the specific modification requested and all supporting reasons and
8 documentation as to why the modification should be granted, how the public welfare will be
9 preserved, and why the modification will not detract from the intent and spirit of these
10 regulations. The Director shall distribute copies of the requested modification and the
11 subdivider's statement and accompanying data to other City departments and governmental
12 agencies who are directly concerned with the proposed modification. Each department or
13 governmental agency which is directly concerned with the proposed modification shall, within
14 fifteen days from receipt of a copy of the requested modification, file with the Planning
15 Director notice of its approval of the requested modification or a report stating why the
16 modification should not be granted. Within thirty days from the filing of the request for
17 modification, the Planning Director shall notify the subdivider in writing of the recommended
18 approval or disapproval of the request. The request for modification will then be scheduled
19 on the Planning Commission agenda for public hearing and action as provided below.

20 (a) (1) If the requested modification is recommended for approval by the
21 Planning Director, the Planning Commission, after holding at least one public hearing on the
22 requested modification, may vary or modify such requirements so that the subdivider may

1 develop the ~~property~~ land in a reasonable manner, but so that at the same time, the public
2 welfare and interests of the City and surrounding area are protected and the general intent and
3 spirit of these regulations are preserved.

4 (2) Any aggrieved person or council member may appeal any action of the
5 Planning Commission to the City Council by filing a notice of appeal with the City Clerk
6 within fourteen days following the action of the Planning Commission. Upon receipt of the
7 appeal by the City Council, the Council shall hold a public hearing thereon within thirty days
8 from the date of appeal. Notice of the public hearing shall be given as provided in Section
9 26.11.036. The City Council may, after public hearing in conformity with the provisions of this
10 title, reverse or affirm, wholly or partially, or may modify the action of the Planning
11 Commission appealed from.

12 (b) If the Planning Director recommends denial of the requested modification, the
13 Planning Commission shall hold a public hearing on such request and make a report and
14 recommendation to the City Council regarding whether the modification should be granted
15 or denied and, if approved, how the public welfare will be preserved and why the
16 modification, if granted, will not detract from the intent and spirit of these regulations. The
17 findings of the Commission after public hearing shall be submitted to the City Clerk within
18 seven days from the action by the Planning Commission. After submittal of the findings of the
19 Planning Commission to the City Clerk, the City Clerk shall cause the requested modification
20 to be placed on the agenda of the City Council for approval by the City Council by resolution.
21 The City Council, after holding at least one public hearing on the requested modification, may
22 modify such requirements so that the subdivider may develop the land in a reasonable

1 manner, but so that at the same time, the public welfare and interests of the City and
2 surrounding area are protected and the general intent and spirit of these regulations are
3 preserved.

4 ~~Any such proposed modification of the requirements contained in these regulations~~
5 ~~shall first be submitted to the Planning Commission for its recommendations and report. The~~
6 ~~Planning Commission shall hold at least one public hearing before submitting its recommen-~~
7 ~~dations and report. Notice of the Commission's hearing~~ public hearings required under this
8 section shall be provided pursuant to Section 26.11.036 of this title. The minimum
9 improvements set forth in Chapter 26.27 shall be required unless specifically and individually
10 waived by the Planning Commission or City Council as provided above.

11 Section 2. That Sections 26.19.020 and 26.31.010 of the Lincoln Municipal
12 Code as hitherto existing be and the same are hereby repealed.

13 Section 3. That this ordinance shall take effect and be in force from and after
14 its passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2003:

Mayor