

FACTSHEET

TITLE: **PRELIMINARY PLAT NO. 02014, VIEW POINTE NORTH**, requested by Lyle Loth of ESP on behalf of Willard Giebenrath, consisting of 14 single family lots/dwelling units and 5 outlots, including requests to waive street trees, street lighting, landscape screens, sidewalks, cul-de-sac length, stormwater detention and block length, on property generally located at North 70th Street and Waverly Road.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 09/04/02
Administrative Action: 09/04/02

RECOMMENDATION: **Denial** (8-1: Steward, Krieser, Bills-Strand, Larson, Taylor, Carlson, Newman and Schwinn voting 'yes'; Duvall voting 'no').

STAFF RECOMMENDATION: Conditional approval.

ASSOCIATED REQUESTS: County Special Permit No. 196 and City Special Permit No. 1976, View Pointe North Community Unit Plan (02R-244).

FINDINGS OF FACT:

1. This preliminary plat and the associated County Special Permit No. 196 and City Special Permit No. 1976, View Pointe North Community Unit Plan, were heard at the same time before the Planning Commission.
2. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.4-5, concluding that the proposed plat along with the associated community unit plan, generally conforms with the Comprehensive Plan and adopted regulations.
3. The applicant's testimony is found on p.8 and 10-11.
4. Testimony in opposition is found on p.8-10, and the record consists of one letter in opposition (p.28-29) from Wayne Nielsen, who also testified in opposition. The concerns of the opposition focused upon water quality and quantity, groundwater contamination, sewage containment and the impact of acreage developments on farming enterprises.
5. The groundwater analysis by the University of Nebraska-Lincoln Institute of Agriculture and Natural Resources, Conservation and Survey Division, submitted by the applicant is found on p.24-25.
6. The Planning Commission discussion is found on p.10-12.
7. On September 4, 2002, the Planning Commission disagreed with the staff recommendation and voted 8-1 to recommend **denial** of this preliminary plat due to the pending acreage study called for in the new Comprehensive Plan and the unpredictability of water resources in this area (Duvall dissenting). See Minutes, p.11-12.
8. This application is in split jurisdiction and also requires approval by the County Board. The County Board held public hearing on October 8, 2002, and voted 5-0 to approve the preliminary plat, with amendments to the conditions of approval. The minutes of the County Board are found on p.30-32; additional information submitted to the County Board in opposition is found on p.33-37; and the County Board action notification is found on p.38. The County Board resolution has not been signed as of this date and will be submitted under separate cover.
9. Due to the Planning Commission recommendation of denial, the requirements of the Site Specific conditions of approval required to be completed prior to scheduling this application on the County Board or City Council agenda have not been completed and should be required if the County Board and City Council vote to approve this community unit plan.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: October 15, 2002

REVIEWED BY: _____

DATE: October 15, 2002

REFERENCE NUMBER: FS\CC\2002\PP.02014 View Pointe North

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.#: View Pointe North Community Unit Plan
Co Special Permit #196, City Special Permit # 1976
Preliminary Plat 02014

Date: August 21, 2002

Note: This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application.

PROPOSAL: A Community Unit Plan and Preliminary Plat to create 14 lots and 5 outlots.

WAIVER REQUEST: Waivers of subdivision requirements of street trees, street lighting, landscape screens, sidewalks, cul-de-sac length, storm water detention and block length.

LAND AREA: 257.1 acres, more or less.

CONCLUSION: This plat generally conforms with the Comprehensive Plan and adopted Regulations.

<u>RECOMMENDATION:</u>	County Special Permit #196 Conditional Approval City Special #1976 Conditional Approval <u>Preliminary Plat # 02014 Conditional Approval</u>
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GENERAL INFORMATION:

LEGAL DESCRIPTION: A portion of Lot 33 I.T., all of Lots 5, 7, and 35, located in the Section 9, T11N, R7E, in the 6th P.M., Lancaster County, Nebraska, metes and bounds description attached.

LOCATION: N. 70th Street and Waverly Road.

APPLICANT: Lyle Loth E.S.P.
601 Old Cheney Road
Lincoln, NE 68512
(402) 421-2500

OWNER: Willard Giebenrath
12605 North 70th Street
Lincoln, NE 68517
(402) 466-6811

CONTACT: Lyle Loth E.S.P.
601 Old Cheney Road
Lincoln, NE 68512
(402) 421-2500

EXISTING ZONING: AG Agricultural in split Lancaster County and Lincoln Jurisdiction.

EXISTING LAND USE: Agriculture with one dwelling.

SURROUNDING LAND USE AND ZONING:

North: Agriculture, two dwellings, zoned AG

South: Agriculture and two dwellings, zoned AG

East: Agriculture and four dwellings, zoned AG

West Agriculture and one dwelling unit, zoned AG

ASSOCIATED APPLICATIONS: County Special Permit # 196, City Special Permit # 1976 and City-County Preliminary Plat #02014 are related.

HISTORY: Changed from AA Rural and Public Use to AG Agricultural in the 1979 zoning update.

COMPREHENSIVE PLAN SPECIFICATIONS: The 2025 Plan shows this as Agriculture.

This is the Tier III urban growth area (beyond 50 years). This is in conformance with the Mayor's acreage development policy of June 11, 2002, "to allow three acre agriculture zoned "cluster" development to occur in Tier II and III areas where 80% or more of the land is set aside and no community systems are used."

UTILITIES: There is no public sewer or water available. Individual wells and waste disposal are proposed.

TOPOGRAPHY: This is the top of a hill on rolling land, draining to the northeast and southeast.

TRAFFIC ANALYSIS: Highway 77/ N 56th street, one half mile west, is a paved four lane highway. Waverly Road is a paved county road. Mill Road on the north is a county gravel road. N 70th street is a gravel county road north of Waverly Road and a paved county road south of Waverly Road.

PUBLIC SERVICE: This is in the Waverly and Raymond Rural Fire Districts, Waverly School District and Norris Public Power District.

REGIONAL ISSUES: Expansion of the acreage areas. Clustering to preserve farm land.

ENVIRONMENTAL CONCERNS: None known. The soil rating is 5.8 on a scale of 1-10 where 1-4 is prime soil. This is not prime soil. There are drainage ways through the site and a dam under construction. There is no FEMA floodplain shown. There is an existing LES power transmission line across the western portion of the parcel. A mid 1850's Mormon Trail generally followed N. 56th at this location. The Lincoln Landfill is one mile south. Sludge from the Theresa Street treatment plant is applied in this general area.

AESTHETIC CONSIDERATIONS: n/a

ALTERNATIVE USES: Continued farming or up to 12 dwellings on 20 acre parcels. 13 dwellings if a farmstead split-off is used.

ANALYSIS:

1. This request is for a Special Permit for a Community Unit Plan and a Preliminary Plat for 14 acreage residential lots and 5 outlots. A gravel or paved private street is proposed. No dwelling unit bonus is requested.
2. Individual water and sewage disposal are proposed. The lots are large enough for lagoons if percolation will not support a septic system.
3. This request is in general conformance with the Comprehensive Plan.
4. The applicant is requesting waivers to street lighting, street trees, landscape screens, and sidewalks. These waivers are consistent with the rural nature of the subdivision and the provisions of the County regulations. The area is not to be annexed by the city at this time. The existing farm land and proposed acreages provide storm water detention equivalent to the Lincoln standards.
5. The applicant is requesting a waiver of the block length along the north, south, east and west of the plat. The waivers are reasonable considering the nature and use of the land for farming, existing lake, acreages and topography. The land to the west and north is potentially developable in the future and is provided with access and a temporary turnaround. The Cul-de-sac length exceeds the 1,000 feet of the design standards, but is for a temporary turnaround for future extension, and is appropriate.
6. The density calculations (city) for the project are as follows;

257.1 acres X 0.055 dwelling per acre =		14.14 dwellings
no bonus requested	=	14 dwellings permitted
 Requested		 14 units
7. There does not appear to be any conflicting farm uses, such as feedlots, in the immediate area.
8. The County Engineers letter of June 24, 2002 notes the following;
 - 1) The typical section is incomplete. No detail on fill sections is shown. No slope for shoulder is shown.
 - 2) General Note 1 refers to Lovegrove Lane which has been changed to Emmawalter Road. Existing asphalt drive on Outlot "E" should be removed to agree with access relinquishment described in General Note 1.
 - 3) Temporary dead end requires a 22' Type III barricade.

- 4) The radius of the returns of Emmawalter Road at Waverly Road should be 50 feet.
 - 5) The culvert at Sta. 15 + 30 shall be designed for a 25 year storm and shall be designed for the entire drainage area upstream from Emmawalter Road. The pond is not a “designed” dam and has no permanent protection to keep it in place.
9. The City Public Works letter of June 28, 2002 notes;
1. Show a roadway cross section that meets design standards.
 2. Descriptions of the outlet and drainage culverts from the existing pond in Outlot “B” are illegible.
 3. The use of the existing asphalt driveway in Outlot “E” as a secondary/emergency access is in conflict with item #1 in the General Notes.
 4. The areas designated as Outlot “A” and Outlot “B” are not consistent between the Preliminary Plat site plan and the Grading and Drainage Plan.
 5. Define the boundary and purpose of Outlot “D”.
10. The Health Department notes that water is satisfactory and the lots are large enough for lagoons.
11. The applicant is not requesting a 20% bonus for farmland protection.
12. This application is in split jurisdiction and requires approval by both the City and County.

CONDITIONS FOR PRELIMINARY PLAT #02014:

Site Specific:

1. After the subdivider completes the following instructions and submits the documents and plans to the Planning Department office, the preliminary plat will be scheduled on the City Council/CountyBoard agenda: (NOTE: These documents and plans are required by ordinance or design standards.)
 - 1.1 Make the corrections requested by the County Engineer in his letter of June 24, 2002.
 - 1) The typical section is incomplete. No detail on fill sections is shown. No slope for shoulder is shown.
 - 2) General Note 1 refers to Lovegrove Lane which has been changed to Emmawalter Road. Existing asphalt drive on Outlot “E” should be removed to agree with access relinquishment described in General Note 1.

- 3) Temporary dead end requires a 22' Type III barricade.
- 4) The radius of the returns of Emmawalter Road at Waverly Road should be 50 feet.
- 5) The culvert at Sta. 15 + 30 shall be designed for a 25 year storm and shall be designed for the entire drainage area upstream from Emmawalter Road. The pond is not a "designed" dam and has no permanent protection to keep it in place.

1.2 Make the corrections requested by the Public Works Department letter of June 28, 2002.

1. Show a roadway cross section that meets design standards.
2. Descriptions of the outlet and drainage culverts from the existing pond in Outlot "B" are illegible.
3. The use of the existing asphalt driveway in Outlot "E" as a secondary/emergency access is in conflict with item #1 in the General Notes.
4. The areas designated as Outlot "A" and Outlot "B" are not consistent between the Preliminary Plat site plan and the Grading and Drainage Plan.
5. Define the boundary and purpose of Outlot "D".

1.3 Revise note # 1 to reference Emmawalter Road, not Lovegrove Lane.

1.4 Revise note # 1 to include Outlot "E" access.

1.5 Note the purpose of Outlot "E" and "D".

1.6 Show the easement for the power transmission line on the western portion of the property.

1.7 Show the "sheet of" numbers on sheet 1.

1.8 Label sheet one as the Site Plan.

1.9 Correct "contoured row crop" on sheet 2 of 4.

1.10 Add to note #12 that front yard setbacks apply to the south lot line of Lot 11 and the north lot line of Lot 12 for future street purposes.

2. The County Board/City Council approves associated requests:

2.1 County Special Permit # 196 and City Special Permit # 1976 for the Community Unit Plan.

- 2.2 A waiver to the storm water detention, sidewalk, street paving, street lights, landscape screen, and street tree requirements since the area is of larger lots, a rural nature and the subdivision will not be annexed.
- 2.3 A modification to the requirements of the land subdivision ordinance to permit a block length in excess of 1320' along the north, south, east and west perimeter of this subdivision and waiver of cul-de-sac length.

General:

3. Final Plats will be scheduled on the Planning Commission agenda after:
 - 3.1 Streets, water facilities, drainage facilities, temporary turnarounds and barricades, and street name signs have been completed.
 - 3.2 The subdivider has signed an agreement that binds the subdivider, its successors and assigns:
 - 3.2.1 To submit to the County Engineer an erosion control plan.
 - 3.2.2 To protect the remaining trees on the site during construction and development.
 - 3.2.3 To submit to lot buyers and home builders a copy of the soil analysis.
 - 3.2.4 To complete the private improvements shown on the preliminary plat.
 - 3.2.5 To maintain the outlots and private improvements on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the document or documents creating said property owners association have been reviewed and approved by the County/City Attorney and filed of record with the Register of Deeds.
 - 3.2.6 To relinquish the right of direct vehicular access to Waverly Road except for Emmawalter Road, to North 70th except for Lot 5 and O.L. "E" and to Mill Road.
 - 3.2.7 To comply with the provisions of the Land Subdivision Ordinance/Resolution regarding land preparation.

Prepared by:

Michael V. DeKalb, AICP
Planner

**COUNTY SPECIAL PERMIT NO. 196
AND CITY SPECIAL PERMIT NO. 1976,
VIEW POINTE NORTH COMMUNITY UNIT PLAN,
and
CITY/COUNTY PRELIMINARY PLAT NO. 02014,
VIEW POINTE NORTH**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 4, 2002

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

Staff recommendation: Conditional approval.

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

Proponents

1. Lyle Loth of ESP appeared on behalf of the applicant, **Willard Giebenrath** and agreed with the staff recommendation and all conditions of approval. The owner is prepared to proceed with the project as soon as possible.

Opposition

1. Julie Burns, 12909 No. 70th, testified in opposition. Her property is located directly north and her home is approximately 100 yards north of the adjoining property line for the proposed development. She has reviewed all of the information and has serious concerns regarding groundwater contamination and lack of water quality and quantity in this area. It is well documented throughout the Comprehensive Plan and the numerous related studies that serious concerns revolve around the water quality and quantity in the northern and northwest portions of the County. Salt water intrusion and groundwater contamination have been documented in northern and northwestern Lancaster County. As indicated in the National Resources GIS report, the encroachment of salt water and fresh water supplies has become cause for concern as the population has risen in this area. Salinity and irrigation water can be detrimental to agriculture by reducing yields and killing crops. Contaminated groundwater can cause serious health effects. Wildlife and agricultural crops can be poisoned by contaminated groundwater. It is important to consider the ramifications of polluted groundwater for growth patterns in this part of the county. Burns proceeded to read from the Marquardt report, which suggests that the steep slopes on these lots were indicative of presenting severe limitations for sewage lagoons. Outlot A was noted to be subject to flooding and should not have an on-site water system constructed in the soil. Burns further stated that the report from the University of Nebraska Institute of Agriculture and Natural Resources dated July 11, 2002, is less than sufficient to ease the concerns of the property owners abutting this site. The University report states clearly that the conditions in this aquifer can change within short distances based on the amount of sandstone present in the formation. Thus, Burns

submitted that there are no guarantees provided in this report. It merely provides suggestions of likelihood and possibilities. The geologist noted several times that he could make no guarantees of the existence of adequate supply of groundwater. To resolve the uncertainty, the report recommends that the developer drill test holes and/or test wells on the properties to provide some assurance of adequate water supply.

Burns noted that within 6 months of living in her home, the water began tasting bad and had bad odor. More in-depth testing resulted in high levels of salinity and manganese, which is a health concern.

Burns also believes that there is a serious concern as to adaptability of the development site for adequate sewage containment. Given the steep slope of the land, much of the runoff of the underground septic systems will filter down to the pond, permeating the groundwater within the aquifer below. She is also concerned that the pond will become a large wastewater lagoon. Who will be responsible for the safety and well-being of the homeowners? She does not believe the groundwater contamination and health effects have been sufficiently studied. The core provisions in the Comprehensive Plan are to maintain the health, safety and welfare of our community. Water is the most important and precious commodity known. It is the duty of this Commission to insure that an individual's right to develop does not interfere with the health and safety of the landowners. Every study has shown that northern Lancaster County has had limited quantity and quality drinking water. At a very minimum, this Commission should temporarily deny this application until sufficient and verified information is provided that conforms to the recommendations of the University of Nebraska. This will require test wells on each of the properties proposed. Additional information also needs to be provided to verify how septic waste will be confined and what effect it will have.

Burns urged the Commission to please consider the serious problems this development could cause to the existing community. The health, safety and welfare of her family and neighbors could be dependent on this vote.

Krieser inquired as to whether there are any irrigation wells in the area. Burns does irrigate 5 acres of her property. Her well is 150-175' deep. Rural water is a very long ways away.

2. Wayne Nielsen, 13800 No. 70th, testified in opposition. His property is located ½ mile north from this development. He and his son are involved in a farming operation. Waverly Road is paved and attracts this type of housing, resulting in acreage housing from Raymond to Waverly along this road. Acreages make farming operations more difficult. This results in added costs and inconvenience. Nielsen and his son contract with the city to spread municipal sledge. They have already been denied on two parcels, one near Waverly and one near Hwy 77, because they are too close to acreages and housing developments. This has quite an economic impact on his operation.

As far as acreages are concerned in Lancaster County, Nielsen believes that the time has well passed when you can establish any kind of agricultural livestock enterprise in Lancaster County.

Nielsen acknowledged that this development may meet all the regulations and requirements, but there are other impacts in regard to acreage developments. The average farming enterprise (such as his) supports the Waverly District 145 school system. Even the city libraries are supported from his operation. An acreage may pay for \$1500 to \$2500 in support of schools. He can only think of 4 students in the entire North Bluff precinct that are children of full farming operations that go to the Waverly school. All of the rest of the students are from acreages or other locations. Mill and Rock Creek precincts are practically identical. The county maintains the private road at no expense to the

acreage. After about 60% of the acreages are occupied, the county takes over the maintenance of that private road. This is not a business road or deeded county road. School bus service is provided at their doors—better than Lincoln. The four mile distance factor makes this mandatory.

Nielsen submitted that the so-called growth factor is not paying its way in Lincoln. Impact fees will put further pressure on acreages from people abandoning the city. There are numerous studies that support the concept that acreages receive a lot more in dollar benefits than they pay. If you keep subsidizing acreage housing in the county, everyone will want to move out there to get a free ride. The farmers support them and provide the schools.

Steward asked Nielsen to comment on his property's water quantity and quality. Nielsen stated that in that area it is "iffy". Some of this development being proposed is his uncle's old farm. There have always been some problems in that area in development of decent wells. His neighbors have had some problems in the past. His uncle had some problems when he lived there. Nielsen stated that he has a decent well ½ mile north, but on one of his farms the well is very poor.

Response by the Applicant

Loth responded to the opposition, stating that early on in the game, the Health Department requested that the developer provide some additional information in the form of water samples for submittal to the UNL Conservation and Survey Division. The report that came back from the SCS did seem to satisfy them for the most part. There were no guarantees, but in this endeavor he is not sure how anyone could guarantee something of this magnitude. This application is satisfactory to the Health Dept.

With regard to the wastewater system, if the soil does percolate, most individuals would much prefer to use underground septic systems and lateral fields, but in most of Lancaster County, that luxury is not enjoyed and most do have to have sewage lagoons. That is the primary reason acreage developments are restricted in size to three acres. It would take a 3-acre lot to adequately position the lagoon to serve a home. The County Health Department and State Health Department are in favor of sewage lagoons.

With regard to the depth of the groundwater table, seepage and contamination from these septic systems, Loth believes that the problem is essentially non-existent.

Loth clarified that it is a private road and the maintenance of that private road will be borne by the developer and eventually by the homeowners association that is created for this project. The County is not obligated to take over the maintenance once the development is 60% occupied.

Steward commented that this plat layout looks very much like it is intended to be expanded, yet the applicant is getting credit for clustering. He requested the applicant to describe the logic of the platting layout. Loth indicated that the layout is largely due to topography. As far as expansion, this development is obligated to provide roadways to adjoining properties to serve other landowners' property. Originally, the plan showed the north end of the private roadway terminating in a cul-de-sac because they did not want to go to the north limit, but the regulations for this type of development require that we do provide that street access. Likewise, to the west of the property from the road, there

is a small sliver of Outlot C that connects with the roadway, the intent being to provide future access to the abutting properties to the west. Should the property to the west ever be desired for development, that could be a future road. The original intent was to cluster it and not provide any street access to any of the abutting properties.

Steward noted that the topography is quite sloping. He would have expected to see less straight line roadways.

Schwinn noted that the northeast corner of the section is subdivided into a series of flag lots. Are there existing homes on those lots? Mike DeKalb of Planning staff believes those lots are farmed today. They are pre-existing grandfathered buildable lots but do not have houses on them.

Schwinn assumes that the layout of this subdivision would allow for future sewerage. DeKalb stated that to have been part of the question put to the applicant as far as municipal sewer on this layout. We do not have build-through. If the city got there and did do sewerage, it would go up the drainageways and we would expect some reconfiguration of lots over a period of time. With regard to the street in the subdivision, DeKalb pointed out that the developer kept the two 80's in the western portion totally free. There is a new dam in existence on Outlot B.

Steward inquired whether they are at the maximum with this development under the clustering requirement. DeKalb indicated that they are at the maximum with no bonus.

Response by the Applicant

Loth pointed out that the access to Waverly Road is basically at the high point of Waverly Road. For the most part, the road traverses the ridgeline. The road where it curves to the east is passing just right below the dam of the pond. When we get into the net parcel, just to the east of the pond, again we are getting back up on the ridgeline with sloping to both sides. That is what dictated the street alignment. Loth has a problem calling 3- and 4-acre lots as clustering. His idea of clustering is putting them on ½ acre lots, but that requires a community sewer system. To satisfy the 3-acre requirement, keep the roads on the ridges and preserve as much farm ground as possible is what dictated the street pattern.

Loth pointed out that conceivably, with the amount of ground that this applicant has, they could create 13 other 20-acre lots and have 13 home sites by right without coming through the Planning Commission. With that, combined with the 14 5-acre lots in the northeast corner, there could be considerably more acreages and more potential for problems. That could all be done by right.

Public hearing was closed.

COUNTY SPECIAL PERMIT NO. 196

VIEW POINTE NORTH COMMUNITY UNIT PLAN

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 4, 2002

Steward moved to deny, seconded by Carlson.

Steward believes it is a technical stretch to say that this is in conformance with the Comprehensive Plan. We have an acreage study policy pending within the Comprehensive Plan. Although he is not in favor of holding projects hostage, he believes there is ample evidence, much discussion, a lot of consideration and some previous action from this Commission on the scarce water resources and the unpredictability of water resources in this area. This Commission has denied other projects without much more evidence than this, and in the Comprehensive Plan process, our GIS showed that the northern part of the County is not the best place for acreage development. He believes that this one is pushing the point of community responsibility.

Carlson agreed with Steward. He noted that Mr. Nielsen's comments at the Comprehensive Plan hearing continue to be important. We are creating a future situation that is going to be very difficult to deal with. Carlson also pointed out that the soil conservation division at UNL is one of the divisions on the chopping block and that would be a tremendous loss.

Schwinn stated that most generally, he is concerned that the staff did not address build-through in the staff report and part of this development is within the 3-mile zoning limit. He believes the build-through should have been addressed. Secondly, as far as water quality, Schwinn believes that "first in" gets the rights and if there is no water left, there is no water left. He can't be too concerned about it. He is sure the septic systems can be handled. His main concern is the build-through.

Motion to deny carried 8-1: Steward, Krieser, Bills-Strand, Larson, Taylor, Carlson, Newman and Schwinn voting 'yes'; Duvall voting 'no'.

CITY SPECIAL PERMIT NO. 1976

VIEW POINTE NORTH COMMUNITY UNIT PLAN

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 4, 2002

Steward moved to deny, seconded by Larson and carried 8-1: Steward, Krieser, Bills-Strand, Larson, Taylor, Carlson, Newman and Schwinn voting 'yes'; Duvall voting 'no'.

CITY/COUNTY PRELIMINARY PLAT NO. 02014,

VIEW POINTE NORTH

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 4, 2002

Steward moved to deny, seconded by Krieser and carried 8-1: Steward, Krieser, Bills-Strand, Larson, Taylor, Carlson, Newman and Schwinn voting 'yes'; Duvall voting 'no'.

VIEW POINTE NORTH

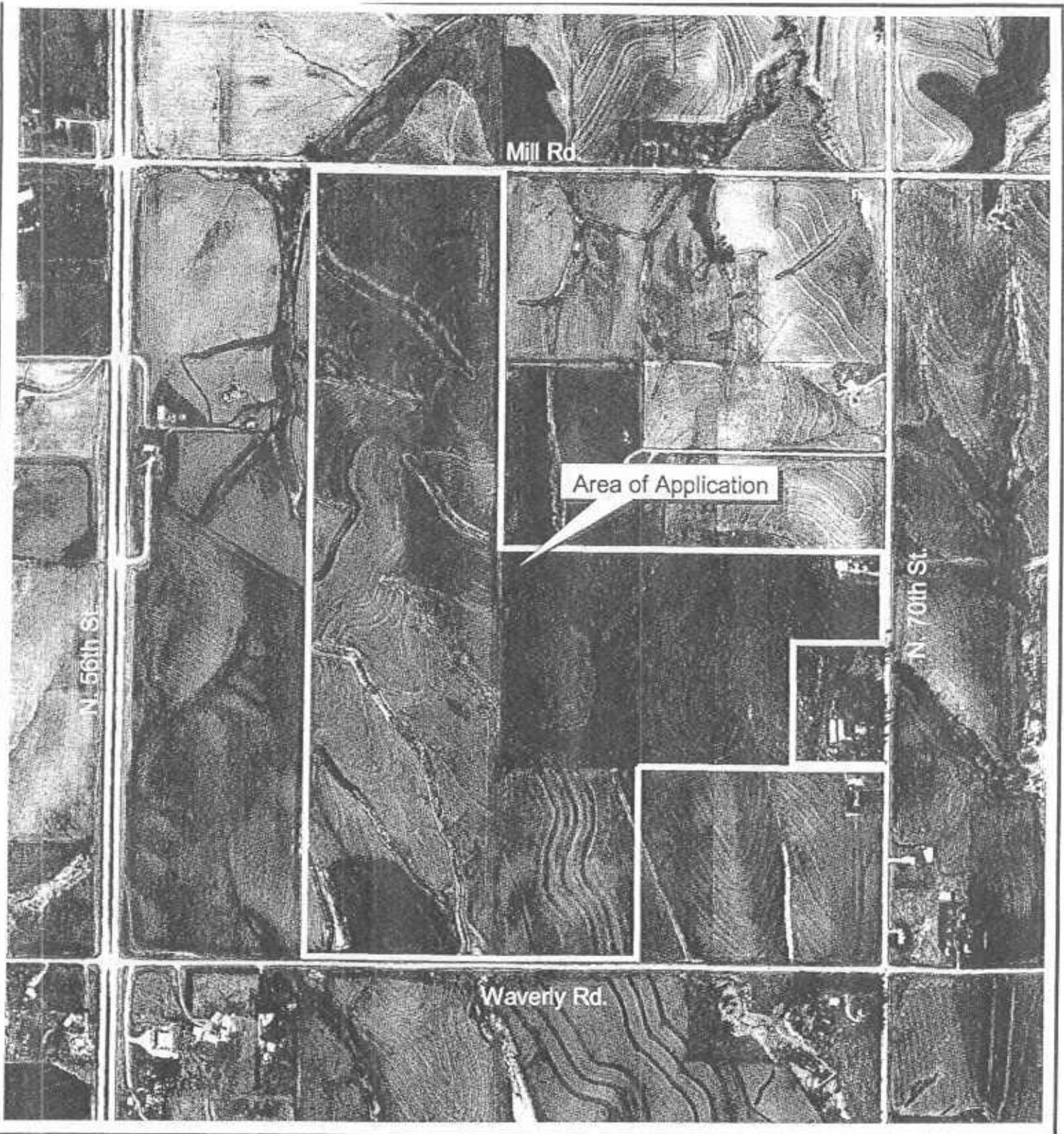
Part of section 9, T.11 N., R. 7 E. including all of Lots 5, 7, & 35, plus that portion of Lot 33 described as follows:

Beginning at the S.W. corner of said Lot 33, and extending thence N. $00^{\circ} 00' 13''$ E. on the West line of Lot 33, 1266.85 feet to the N.W. corner of said Lot 33;

Thence S. $89^{\circ} 14' 59''$ E. on the North line of said Lot 33, 950.82 feet;

Thence S. $00^{\circ} 14' 45''$ E. on a line parallel with the East line of the S. $\frac{1}{2}$ S.E. $\frac{1}{4}$ of said section 9, 1267.26 feet to a point on the South line of said Lot 33; and the north right-of-way of Waverly Road;

Thence S. $89^{\circ} 40' 37''$ W. on said South line, 956.34 feet to the point of beginning.



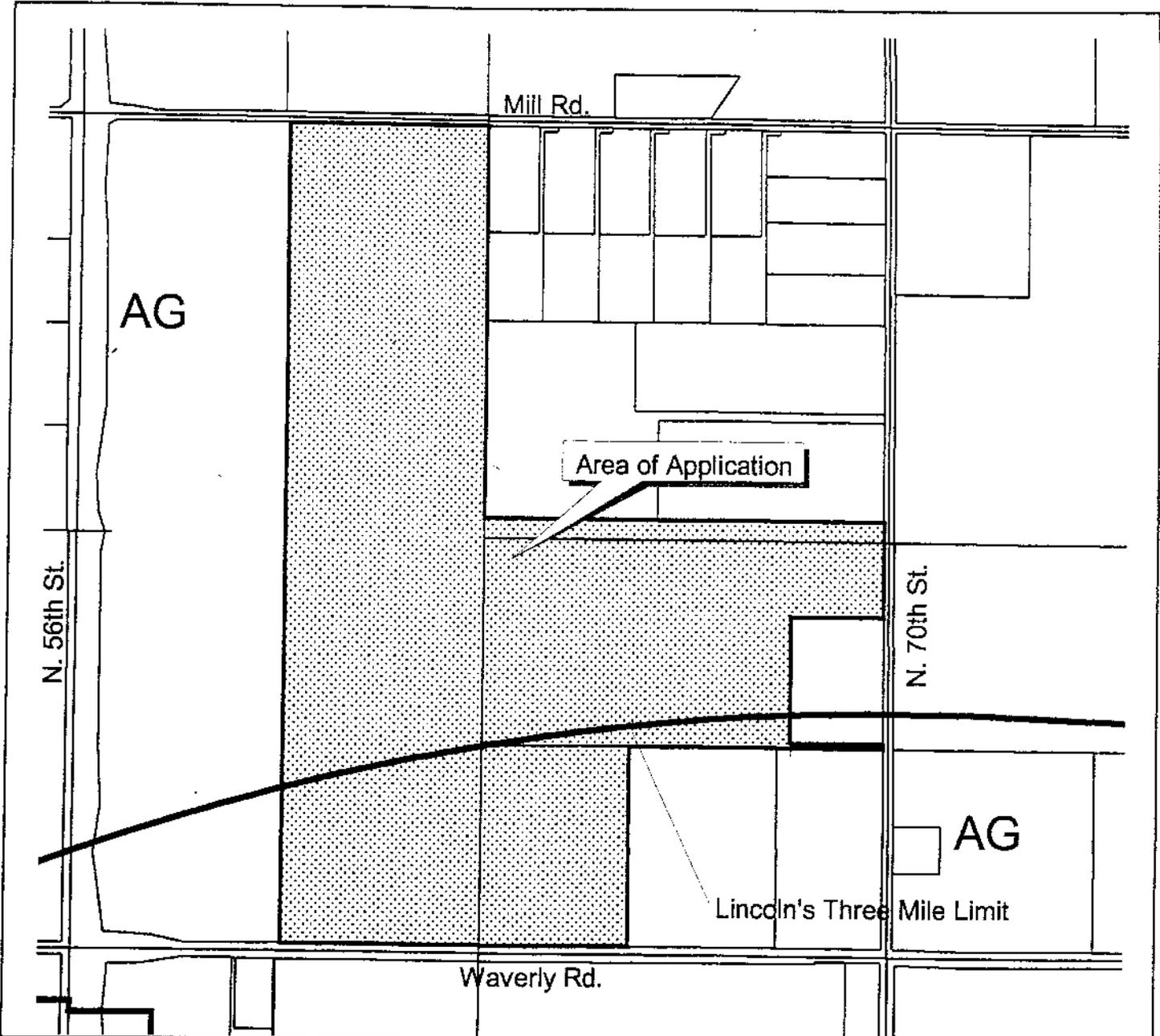
City/County Preliminary Plat #02014
County Special Permit #196
Special Permit #1976
View Pointe North
N. 70th & Waverly Rd.



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Photograph Date: 1999

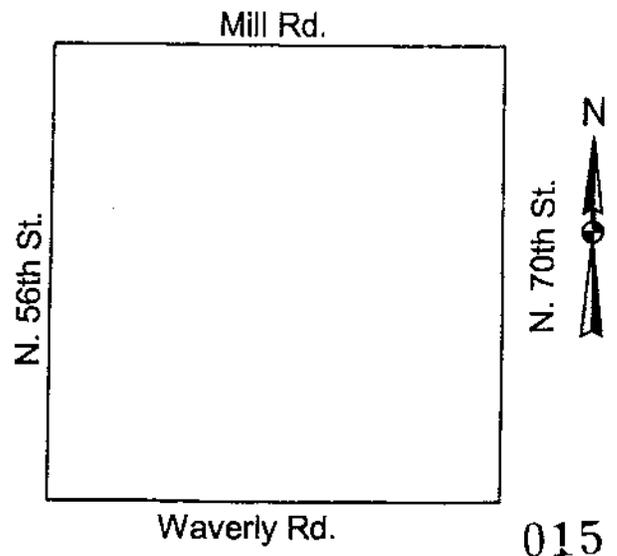
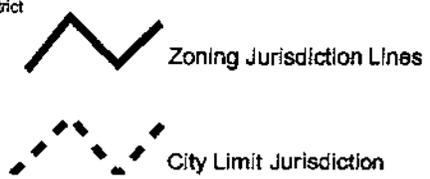
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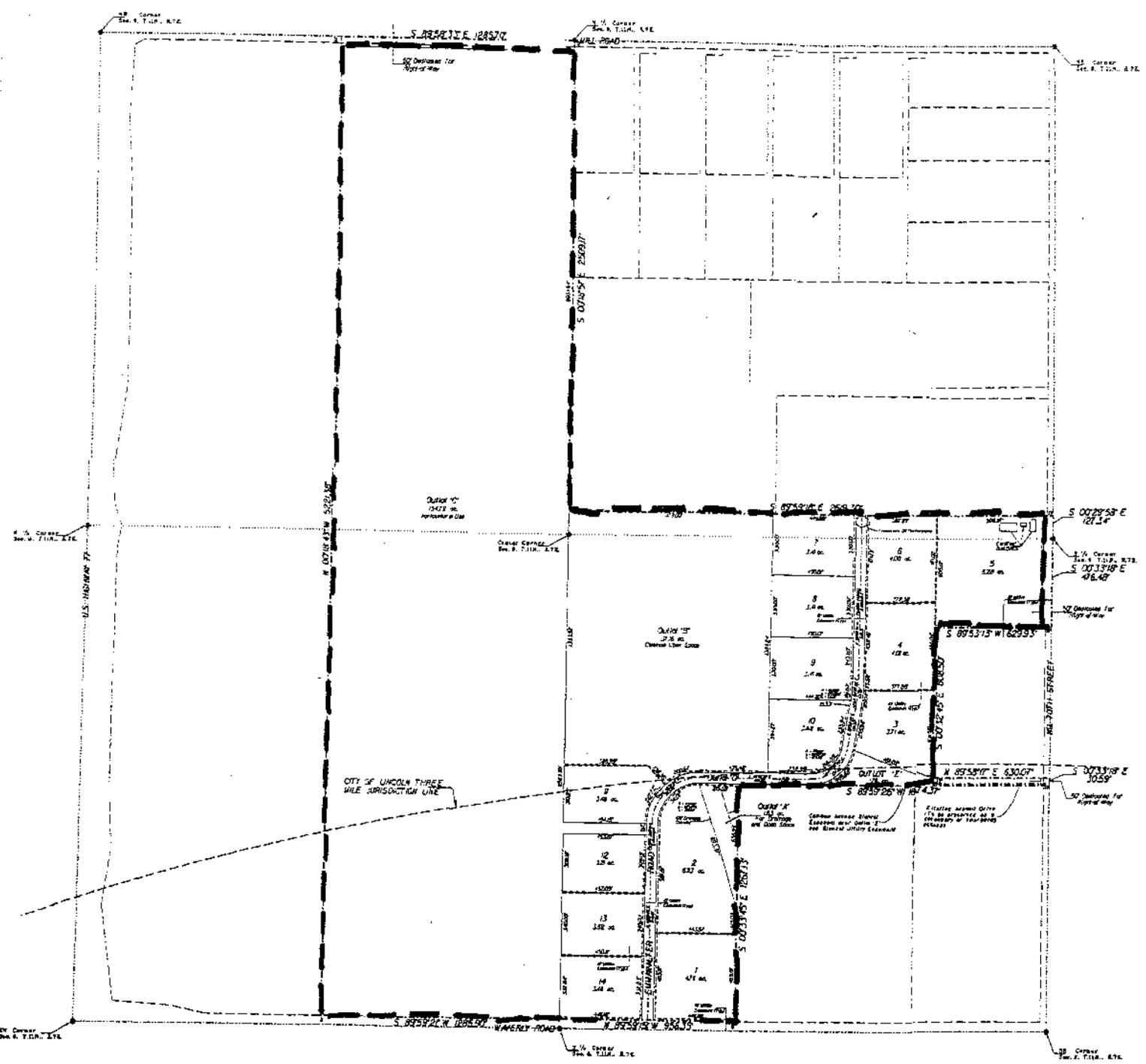
City/County Preliminary Plat #02014
County Special Permit #196
Special Permit #1976
View Pointe North
N. 70th & Waverly Rd.

- Zoning:**
- R-1 to R-8 Residential District
 - AG Agricultural District
 - AGR Agricultural Residential District
 - R-C Residential Conservation 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. 9 T11N R7E

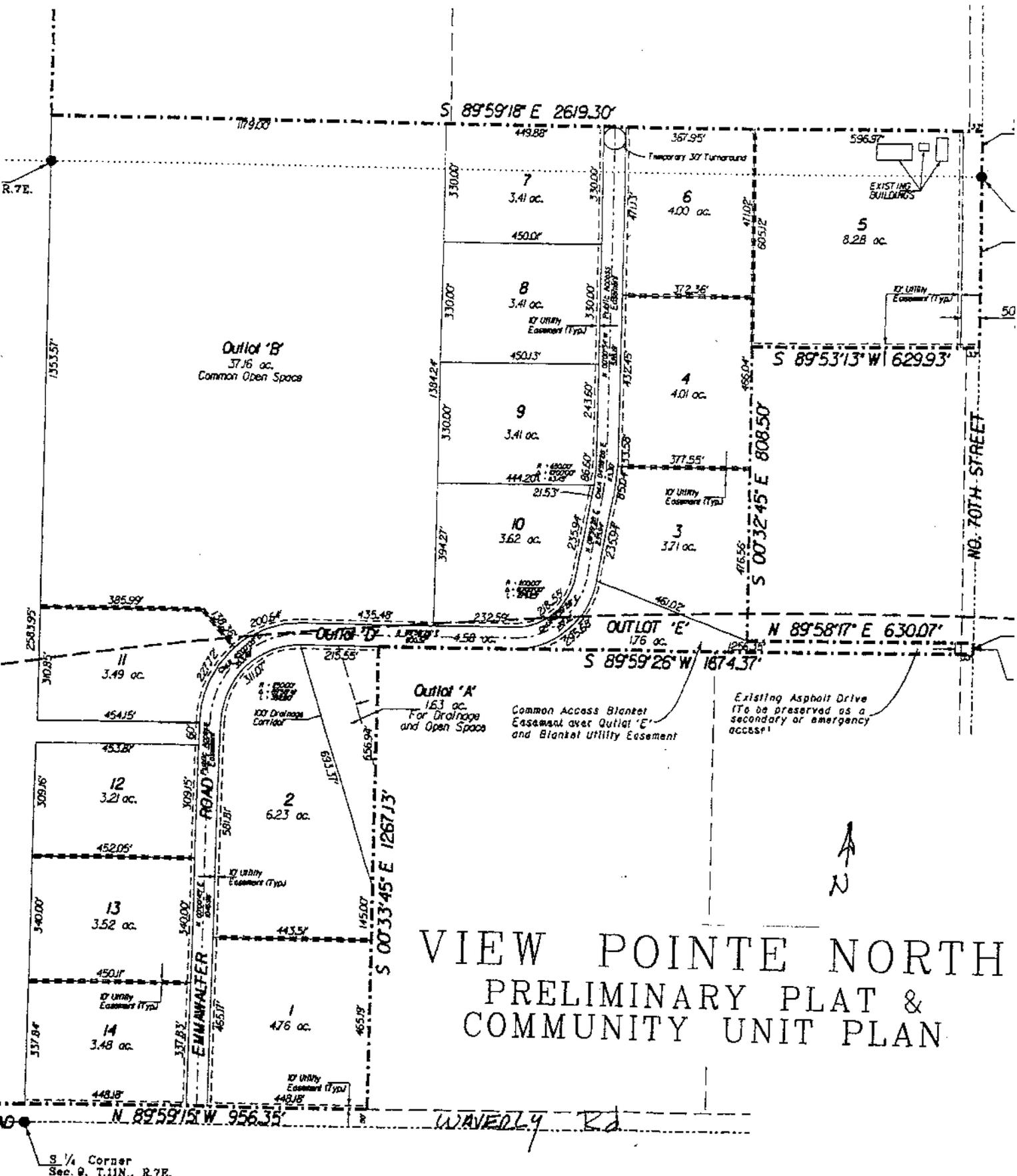


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VIEW POINTE NORTH
 PRELIMINARY PLAT &
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 PRELIMINARY PLAT &
 COMMUNITY UNIT PLAN

VIEW POINTE NORTH PRELIMINARY PLAT & COMMUNITY UNIT PLAN

GENERAL NOTES

1. Direct vehicular access to WAVERLY ROAD is hereby relinquished except at Lovegrove Lane; to No. 70th Street except for Lot 5; and to Mill Road
 2. All lots shall be served by private wells.
 3. Sewage treatment shall be provided by individual lot owners. Lagoons may be allowed and will not be prohibited by covenants. Due to soil types and slopes, lagoons or professionally engineered waste disposal may be required.
 4. Waivers are requested as follows:
 - a. Ornamental lighting.
 - b. Sidewalks.
 - c. Street Trees.
 - d. Landscape Screens.
 - e. Stormwater Detention.
 5. The contours shown are survey verified NGVD 29 elevations. One-half foot must be added to reflect NAVD 88 elevations. The County Surveyor has determined that this meets the NAVD 88 requirements within the acceptable margin of error.
 6. Grading shall extend around all temporary turnarounds and cul-de-sacs. All existing drives shall be removed.
 7. All culverts shall have a flared end section or headwall on the inlet and outlet ends.
 8. Permanent easements shall be dedicated for those culverts which extend beyond the right-of-way line.
 9. Utility easements as required Morris Public Power will be provided.
 10. All dimensions along curves shall be chord distances.
 11. All interior intersection radii shall be 30 feet.
 12. Setbacks shall conform to the following:

Front Yard	50'
Side Yard	15'
Rear Yard	50'
 13. Future Lot Owners: Be advised that this subdivision is in a rural area surrounded by farm activities and that normal and customary farming operations are not a nuisance.
- LEGAL DESCRIPTION: A portion of Lot 33, all of Lots 5, 7 & 35, located in Sec. 9, T.11N., R.7E., of the 6th P.M., Lancaster County Nebraska.
- OWNER: Willard Glebenrath
12605 North 70th St.
Lincoln, NE 68517
(402) 466-6811
- ENGINEER & SURVEYOR: ESP
601 Old Cheney Road, Suite 'A'
Lincoln, NE 68512
(402) 421-2500
- ZONING: AG
14 Lots
257.1 Acres

Lancaster

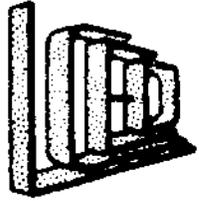
DON R. THOMAS - COUNTY ENGINEER

County

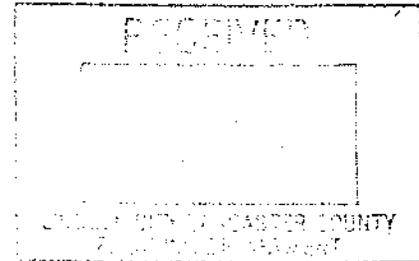
Engineering

Department

DEPUTY - LARRY V. WORRELL
COUNTY SURVEYOR



DATE: June 24, 2002
TO: Mike DeKalb
Planning Department
FROM: Larry V. Worrell
County Surveyor
SUBJECT: View Pointe North
Preliminary Plat Review



This office has reviewed subject Preliminary Plat and would offer the following comments.

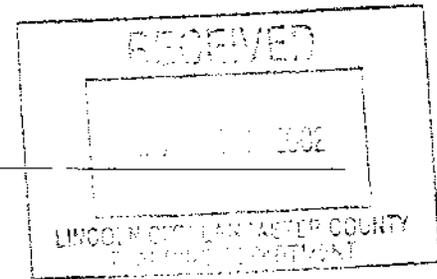
- 1) The typical section is incomplete. No detail on fill sections is shown. No slope for shoulder is shown.
- 2) General Note 1 refers to Lovegrove Lane which has been changed to Emmawalter Road. Existing asphalt drive on Outlot "E" should be removed to agree with access relinquishment described in General Note 1.
- 3) Temporary dead end requires a 22' Type III barricade.
- 4) The radius of the returns of Emmawalter Road at Waverly Road should be 50 feet.
- 5) The culvert at Sta. 15 + 30 shall be designed for a 25 year storm and shall be designed for the entire drainage area upstream from Emmawalter Road. The pond is not a "designed" dam and has no permanent protection to keep it in place.

cc: Dennis Bartels

LWW/DP/bml
View Pointe North PP2.MEM

019

M e m o r a n d u m



To: Mike DeKalb, Planning Department
From: BB
Bruce Briney, Public Works and Utilities
Subject: View Pointe North C.U.P.
Preliminary Plat #02014, Special Permit #1976, County 196
Date: June 28, 2002
cc: Roger Figard
Randy Hoskins
Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the revisions to the application for Preliminary Plat #02014, Special Permit #1976 for View Pointe North C.U.P. and has the following comments:

1. Show a roadway cross section that meets design standards.
2. Descriptions of the outlet and drainage culverts from the existing pond in Outlot "B" are illegible.
3. The use of the existing asphalt driveway in Outlot 'E' as a secondary/emergency access is in conflict with item #1 in the General Comments.
4. The areas designated as Outlot 'A' and Outlot 'B' are not consistent between the Preliminary Plat site plan and the Grading and Drainage Plan.
5. Define the boundary and purpose of Outlot 'D'.

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Mike DeKalb

DATE: July 18, 2002

DEPARTMENT: Planning

FROM: Jerry Hood,

ATTENTION:

DEPARTMENT: Health

CARBONS TO: Bruce Dart, Director
EH File
EH Administration

SUBJECT: View Pointe North

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the groundwater report from Scott Summerside of the Conservation and Survey Division of the University of Nebraska for View Pointe North. Indications are that there is an adequate amount of good quality water in this area for a subdivision.

This effectively removes any objection the LLCHD had for this proposed subdivision.

LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-DEPARTMENT COMMUNICATION

TO: Mike DeKalb

Also see July 18 letter
DATE: May 17, 2002

DEPARTMENT: Planning

FROM: Ron Marquart, REHS
Chris Schroeder

ATTENTION:

DEPARTMENT: Lincoln-Lancaster County
Health Department

CARBONS TO: Bruce Dart, Director
Scott E. Holmes
EH File

SUBJECT: View Pointe North
Special Permit #1976 and
Preliminary Plat #02014
(Near No. 70th and
Waverly Road)

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed and made an on-site visit of this plat.

Water Supply

There is already a private water well supplying the existing home on Lot 5 of this plat. Well construction appears to be satisfactory, however, the well for Lot 5 is located on Lot 7. Bacterial and nitrate water samples meet the requirements of a satisfactory drink supply. Nitrate is 4.3 ppm which is below the 10 ppm limit.

Groundwater Quantity and Quality

Some of this plat is within the 3-mile zone of the City of Lincoln and this jurisdiction will require a water well permit from LLCHD before drilling wells on these lots.

This property is an area where groundwater may have a high salt content. LLCHD needs specific information on the groundwater quality and quantity for this subdivision. Information submitted must include the likely impact that proposed homes may have concerning the groundwater in this area. LLCHD recommends that the developer contact the University of Nebraska conservation and Survey Division to provide comment on the quality and quantity and quantity of water in this area and the potential impact of the proposed new homes.

Onsite Wastewater Treatment

There is already a permitted wastewater treatment lagoon for the existing home on Lot 5.

Sharpsburg silty clay loam soil is present on all of the lots on this plat. This soil may not yield an acceptable percolation rate for a standard septic system. If this soil produces a failing

percolation rate, an alternative non-standard wastewater treatment system may be required. Steep slopes on these lots may present severe limitations for sewage lagoon construction.

In addition to Sharpsburg soil, Pawnee soil is present on Lots 4, 6, 7, 8 and 9. Pawnee soil will not yield a passing percolation rate for a standard septic system, has steep slopes limiting wastewater lagoon construction and may contain perched water tables 1 to 5 feet below the ground surface.

Outlot A has Sharpsburg and Nodaway silt loam soil. Nodaway soil is in low lying areas, is subject to flooding and should not have an onsite wastewater system constructed in this soil.

Lots 1, 2, 10 and Outlot A will need bore holes in the onsite construction area in addition to required percolation tests because the farm pond above these lots could influence groundwater levels.

All of the lots are more than three acres and appear to have adequate room for a dwelling, water well and onsite wastewater treatment system.

Storm Water Runoff

During construction, best management practices should be used to minimize stormwater runoff, especially soil erosion prevention methods. LLCHD recommends that the developer contact the Lower Platte South Natural Resources District for technical and potentially financial assistance to minimize stormwater pollution.

Air Pollution

During the construction process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but not limited to application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of ground cover will also be incorporated as necessary.

Provisions should be made for retaining as much tree mass as possible. Alternately, the applicant will need to plan for disposal of tree waste by burying on site, grinding, offering for firewood or hauling to the landfill. Permits for open burning of tree waste within the city limits will not be approved and applications for burning within the 3-mile zone are unlikely to be approved.



University of
Nebraska
Lincoln

Institute of Agriculture and Natural Resources

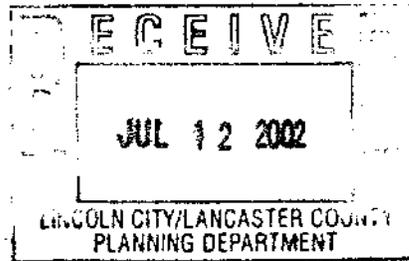
Conservation and Survey Division
113 Nebraska Hall
901 North 17th Street
Lincoln, NE 68588-0517
Telephone (402) 472-3471

Geological and Natural Resources Surveys

July 11, 2002



Mr Lyle Loth
E-S-P
601 Old Cheney Road Suite A
Lincoln, NE 68512



Dear Mr. Loth:

This fax is in response to your enquiry regarding ground water conditions in the vicinity of View Pointe North, a proposed acreage development located mainly in the SE 1/4 of section 9, Township 11N Range 7E, Lancaster County. I reviewed your fax of the water quality data from 3 domestic wells located on or near the property. Two of these wells are registered and have geologic logs available. I reviewed additional well logs and water quality data from our files for the area within about 1 mile of the property. This information indicates a good supply of relatively fresh ground water that is adequate for domestic uses. It is likely that similar conditions will be encountered if wells are constructed for domestic use on the proposed acreages.

Two of the three wells you sampled show very good water quality for this area. The data shows that the level of dissolved solids (salt) is relatively low in the ground water (with some detectable level of Nitrate-N) indicating that the immediate vicinity is a recharge area providing some fresh water to the aquifer from infiltrated precipitation and snowmelt. The third well sampled has a high level of manganese and moderate level of dissolved solids (salinity), which is about what I expected for this area, but is still adequate for household use. These wells show much better ground water quality (in terms of dissolved solids, chloride, sodium) for this development than for wells located to the west and to the south and southwest.

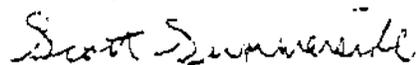
Most wells in the area obtain their water from sandstone of the Dakota Aquifer. It is an aquifer that supplies water to many wells in Lancaster County. Well logs on or near the property show sandstone thickness that varies from about 23 to 55 feet. Although no guarantee can be made for all acreage sites, sufficient quantity of water is likely to be available for individual domestic

wells of low capacity. Expected well depths on this property will be about 200 to 300 feet and depth to water in the wells will range from 75 to 175 feet depending on the position on the landscape. Conditions in this aquifer can change within short distances based on the amount of sandstone present in the formation. According to my professional opinion, it is likely that sufficient Dakota sandstone is present beneath the proposed acreages, but not a 100 percent certainty. Saline water may be present at greater depth. Saline water is known to be discharging to the land surface along the lowlands and saline wetlands along Little Salt and Salt Creeks to the south and west of your location. In order to avoid the saline water, wells should be screened in the first saturated sand or sandstone encountered during drilling that would produce an adequate supply. High capacity wells are not advised as they tend to cause an "upconing" of the denser saline water; however, this should not be a problem for the typical individual domestic well.

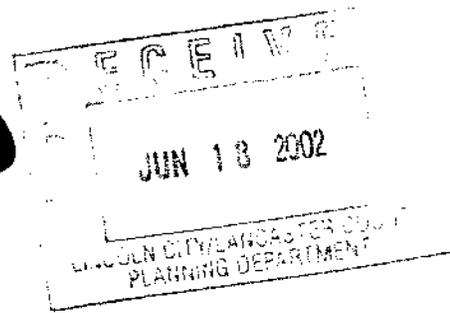
In summary, although there can be no guarantee that an adequate supply of ground water can be developed on all properties, it is likely that conditions are similar to the good water supply evident from the three acreage wells that you sampled. A solution to the small amount of uncertainty could involve the drilling of a testholes and/or test wells on the other properties prior to sale of land and beginning of home construction in order to provide some assurance of an adequate water supply.

Please let me know if I can be of any further assistance. If you have any questions or concerns, please call me at 472-7541.

Sincerely,



Scott Summerside, P.G.
Associate Geoscientist



LYLE L. LOTH, P.E./L.S.

File No. 01-0038
June 17, 2002

Suite A - 601 Old Cheney Road
Lincoln, NE 68512

Mike Dekalb
Planning Department
555 S. 10th Street
Lincoln, NE 68508

Phone (402) 421-2500
Fax (402) 421-7096
Email: lyle@espeng.com

Re: View Pointe North C.U.P., Preliminary Plat # 02014 and Special Permit #1976 and County #196

Dear Mr. Dekalb:

In response to your letter dated May 28, 2002, we have made the requested revisions and provided additional information with the following exceptions:

Item 2.12 As requested by Public Works, we have shown a continuous outlet pipe (30" CMP) that extends under the private road. The drainage between the dam and the road is picked up by a secondary culvert (24" CMP)

Item 2.15 The purpose of the access easement across Lot 3 is to take advantage of an existing asphalt lane. It is our intention that this lane would provide a secondary/emergency access. We have modified the Plat such that Outlot "E" is created with a "blanket" access easement over the entire Outlot. Maintenance of Outlots A, B, D, & E would be taken over by the Homeowner's Association.

Item 3.1 Predevelopment and post development Curve Numbers (CN's) have been calculated on the Grading and Drainage Plan, and indicate that the Post Development CN (7_x1.5) is less than the predevelopment CN (75.5). This supports the conclusion that the post development flow rates will not exceed predevelopment flow rates.

Item 3.2 We have provided a 100' wide Flood Corridor on Outlot "A" downstream of the pond, and no part of the lots upstream of the pond are below the calculated 100-year water elevation (1260). Therefore, we do not consider it necessary to provide minimum opening elevations on any of the lots.

Item 14. As suggested by the Lancaster County Health Department, we have contacted Scott Summerside at the UNL Conservation and Survey Division. Mr. Summerside indicated that there should be adequate quantity of groundwater to serve the

project, but he did express some concern about the water quality. He recommended that we obtain 3 samples from existing wells in the area, and have them analyzed for "Domestic Suitability". We submitted these 3 samples to the Nebraska Health Laboratory on June 13th and are waiting for the results.

Mr. Giebenrath has also requested that, in honor of his parents, we change the name of the private street to be EMMAWALTER ROAD.

We are resubmitting 16 copies of the revised plans, one copy of the soils survey, and 3 copies of the Hydraulic calculations of the predevelopment and post development discharge rates as well as the 2-year, 10-year, 25-year, 50-year and 100-year release rates from the pond.

We trust that this submittal is adequate for your review and thank you for your patience.

E-S-P, Inc.
Engineering-Surveying-Planning

A handwritten signature in black ink, appearing to read "Lyle L. Loth". The signature is written in a cursive, flowing style.

Lyle L. Loth, P.E.

COUNTY SPECIAL PERMIT NO. 196
CITY SPECIAL PERMIT NO. 1976
CITY/COUNTY PRELIMINARY PLAT NO. 02014
VIEW POINTE NORTH

Lincoln, Ne.
August 4, 2002

SUBMITTED AT PUBLIC HEARING BEFORE PLANNING COMMISSION: 9/04/02: IN OPPOSITION

To City County Planning Comm.

I'm Wayne Nielsen. My son David and I have an agriculture operation located 1/2 mile from the proposed acreage development.

The paved Waverly Road attracts this type of housing and this is resulting in acreage housing from Raymond to Waverly along this road. It will be sort of an unincorporated village all the way.

Some of our concerns are:

1. Acreages make certain farming operations more difficult. This results in added cost ^{and} inconvenience.
2. acreages would probably prevent any livestock enterprise to be located near that area.
3. The acreage development may meet all the requirements but nothing is ever mentioned about the impact in other areas that should be addressed.
4. The average farming enterprise in this part of the county supports the school system with about 15 to 20 thousand tax dollars each year. Even the city libraries receive \$425 to \$500 per year in support. Then there are all the other taxing entities.
5. An acreage may pay \$1500 to \$2500 tax dollars in support of schools.
6. In North Bluff Precinct I can only think of four children going to public schools that are from full time agriculture operations. Similar conditions would apply to Mill and Rock Creek precincts. A very high percentage of our tax dollars goes to support non-agriculture related students.
7. After certain conditions are met the county maintains their private road at no expense.
8. School bus service pickup is provided at their doors. This is better than Lincoln. The four mile distant factor makes this mandatory.
9. Apparently the so called growth factor is not paying its way in Lincoln. If Lincoln initiates impact fees, sidewalk and other bond issues this would still put more pressure for people to abandon the city. Acreages have no wheel tax, city tax and impact fees. They would get free maintained private roads, front door school bus service and probably less code and inspection requirements.

16. There have been numerous studies done to support the concept that acreages receive a lot more in dollar benefits than they pay. I'm sure the planning dept. have such studies available.
11. The requirements may have been or will be met but I have tried to list some of underlying problems of extensive acreage housing.

Thanks for your time and consideration of some of the underlying problems.

Wayne Nielsen
13800 N 70th
Lincoln Ne. 68517

467-2058

5) PUBLIC HEARINGS CONTINUED:

The Chair requested that Public Hearing Items 5B and 5C be heard together.

- B. County Special Permit 196, View Pointe North Community Unit Plan, requested by Lyle Loth of ESP on behalf of Willard Giebenrath, consisting of 14 single family lots/dwelling units and five outlots, with associated waiver requests, on property generally located at North 70th Street and Waverly Road in Lancaster County, Nebraska.
- C. County-City Preliminary Plat 02014, View Pointe North, requested by Lyle Loth of ESP on behalf of Willard Giebenrath, consisting of 14 single family lots/dwelling units and five outlots, with associated waiver requests, on property generally located at North 70th Street and Waverly Road in Lancaster County, Nebraska.

The Chair opened the public hearings and asked if anyone wished to testify in favor of the proposal.

Tom Huston, attorney representing applicant, appeared and distributed documentation consisting of the following: (Exhibit 1)

- ▶ Site map and topographical map
- ▶ Information from the Nebraska Department of Environmental Quality regarding lagoons and setback distances
- ▶ Site map noting locations of existing wells

Huston explained that the Planning Commission recommended denial of the Special Permit and Preliminary Plat, however, additional information was generated addressing their concerns. Brief discussion followed regarding compliance with the Comprehensive Plan, sanitary sewer issues relating to the ability to service 13 additional lots, the potential conflict of acreage use and agricultural use and quantity and quality of water.

Huston also noted that the applicant would be requesting a condition be added for an additional road connecting the subdivision to North 70th Street.

Submitted into the record were the following:

- ▶ Letter from Brian Johnson, Waverly Fire Chief, regarding adequate access for fire protection apparatus (Exhibit 2)
- ▶ Letter from Doug Nagel, 12505 North 27th Street, supporting the proposals (Exhibit 3)

5) **PUBLIC HEARINGS CONTINUED:**

David Johnson, Deputy County Attorney, requested County Board Factsheet for County Special Permit 196 (Exhibit 4) and County Board Factsheet for County-City Preliminary Plat 02014 (Exhibit 5) be entered into the record.

All individuals testifying in support or in opposition to the proposals were administered the oath by the County Clerk.

The following persons appeared in support of County Special Permit 196 and County-City Preliminary Plat 02014:

- ▶ Jim Nagel, 11505 North 56th Street, Lincoln, Nebraska
- ▶ Harry Muhlbach, 14605 North 56th Street, Lincoln, Nebraska

The following individuals appeared in opposition to the proposals and addressed concerns regarding water quality and quantity, type of septic system, right to farm and complaints regarding boarding facilities for dogs:

- ▶ Julie Burns, 12909 North 70th Street, Lincoln, Nebraska
- ▶ Paul Marcussen, 5705 Waverly Road, Lincoln, Nebraska (written testimony was submitted into the record (Exhibit 6))
- ▶ Howard Weigers, 12303 North 70th Street, Lincoln, Nebraska
- ▶ Wayne Nielsen, 13800 North 70th Street, Lincoln, Nebraska
- ▶ Deborah Harris, 12301 North 70th Street, Lincoln, Nebraska
- ▶ Dan Bissell, 12200 North 70th Street, Lincoln, Nebraska
- ▶ Brian Burns, 12909 North 70th Street, Lincoln, Nebraska

Extensive discussion took place regarding septic systems and water quantity and quality.

The Chair asked if anyone else wished to testify.

No one appeared and the hearing was closed.

MOTION: Campbell moved and Stevens seconded approval of County Special Permit 196 and County-City Preliminary Plat 02014 and requested the County Attorney's Office prepare a resolution to include all conditions as discussed, to request that the conditions be reviewed by the applicant, the Planning Department and the County Engineer and to place the resolution on a future agenda under "New Business" to allow the County Board to review the conditions.

5) **PUBLIC HEARINGS CONTINUED:**

General consensus to also include language in the resolution relating to the "right to farm" and the application of sludge, the right for kennels to operate, the addition of a new road and a 60 foot turn around at the end of Emma Walter Road for emergency vehicles.

ROLL CALL: Heier, Workman, Hudkins, Campbell and Stevens voted aye.
Motion carried.

D. Proposed use of Local Law Enforcement Block Grant Funds, in the amount of \$106,960, by the Lancaster County Sheriff. The funds will be used for adult drug court portable radios.

The Chair opened the public hearing and asked if anyone wished to testify in favor, in opposition or in a neutral position to the funds.

Bill Jarrett, Chief Deputy Sheriff, appeared and explained that \$49,331 of the \$106,960 would support the drug court. The remaining amount, \$57,629, would be earmarked for equipment for the Sheriff's Office.

The Chair asked if anyone else wished to testify.

No one appeared and the hearing was closed.

No action needed.

E. Issuance of Industrial Development Revenue Bonds (Plastic Companies Enterprises, Inc. Project), not to exceed \$1,300,000, pursuant to Reissue Revised Statutes of Nebraska, 1997, Sections 13-1101 et seq., as amended, the proceeds of which will be used to defray all or a portion of the cost of acquiring and installing certain equipment for the molding of plastics and related necessary and appropriate equipment and facilities located in Lancaster County, Nebraska and to be operated by Plastic Companies Enterprises, Inc. a Texas corporation, and its wholly owned subsidiaries, Geist Manufacturing, Corp. and Heinke Technology, Inc., and to discuss matters relating to the final authorization, sale and issuance of such bonds. The bonds will be a limited obligation of Lancaster County and the interest thereon will be payable solely from the revenues derived from a lease agreement.

October 8, 2002
Agenda
Item 5B

October 7, 2002

Brian & Julie Burns
12909 N. 70th Street
Lincoln, NE 68517
(402) 325-0974

FILED

OCT 7 2002

LANCASTER COUNTY CLERK

Lancaster County Board of Commissioners
555 South 10th Street
Lincoln, NE 68508

****Letter & Attachments sent via facsimile(402) 441-8728*** 5 pages**

RE: County Special Permit #196, View Pointe North Community Unit Plan

Dear Mr. Chairman and Members of the Board:

I will be attending the Board Meeting currently set for October 8, 2002 at 1:30, to voice my opposition and discuss my concerns regarding the above matter. I apologize for the lateness of this letter, however; I just received additional information concerning this matter and felt it necessary to provide copies to each board member prior to tomorrow's meeting.

Enclosed please find copies of the letters I received from Mr. Glenn Johnson of the Lower Platte South Natural Resources District and Mr. Jeffrey Johnson, Professional Geologist at Olsson Associates. Both of these gentlemen address and validate several of my concerns regarding the potential effect this proposed development will have on the quality and quantity of water in this specific area.

Thank you for your kind consideration and I will look forward to visiting with each of you at tomorrow's meeting.

My kind regards,



Julie Burns

JSB/lml

Enc.

LOWER PLATTE SOUTH
NATURAL RESOURCES DISTRICT



3125 Portia St., Box 83581, Lincoln NE 68501-3581
(402) 476-2729 • FAX (402) 476-6454
www.lpsnrd.org

October 7, 2002

Brian & Julie Burns
12909 N. 70th Street
Lincoln, NE 68517

Dear Brian & Julie:

This letter is being prepared to provide information to you and others regarding water resource issues and the availability of drinking water for the homes of the proposed View Pointe North Community Unit development located near 70th Street and Waverly Road and for the existing area residents.

The proposed Development is located in an area of Lancaster County where both the quantity and quality of drinking water is relatively unknown. Geologically at the development site, there is silty wind blown material (Loess) setting on a generally thick sequence of glacial till material consisting of clays, sands and gravels. Below this is bedrock, which is the Dakota Formation that consists of shales and sandstones. This Dakota Formation is the primary source of drinking water in this area. The glacial till material may also serve as a secondary source of drinking water, but only if a thick saturated sand lens is present.

The Dakota Formation covers a large portion of eastern Nebraska and in many areas is the only source of drinking water. The sandstone lenses vary in thickness but generally serve as a good material in which to set a water well. The sandstones of the Dakota however, are notoriously known for their variability in both water quality and quantity. In one area, the sandstones may yield less than 5 gallons per minute of water and have a water quality that is unsuitable for drinking (salty water) while a few hundred feet away yield several hundred gallons per minute of water and have a quality very suitable for drinking. It is also known that the water quality for a given aquifer can change with time if the water withdrawal from the aquifer is too great. Initially the water quality may be suitable for drinking but become "salty" if the aquifer is stressed by too much pumping. Irrigation wells drilled into the Dakota have been known to become more "salty" over time if they are pumped to hard. For these reasons it is almost impossible to make a determination as to how the proposed development would affect the local water resources, how it may affect any existing water wells in or around the proposed development area, or even if the local water resources could support such a development. Only by conducting a localized aquifer test study, with the installation of monitoring wells, could any insight be gained to help answer these questions.

The glacial till material may provide a source of water, however, the quality of the water could be questionable for drinking. Water found in a sand lens present in the glacial till may have elevated nitrate concentrations or other minerals that could make it unsuitable for drinking. Also, a well set in the sand lens may be more susceptible to going dry during a drought period. The nature of glacial till is even more variable than the Dakota Formation therefore the presence of a sand lens that could provide water could only be determined by drilling a test hole. For these reasons, a water well would probably only be set in this formation as a last resort and only if drinkable water could not be found in the Dakota Formation.

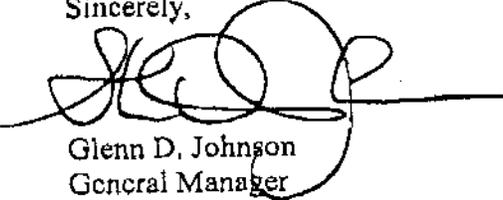
Available literature on local water resources is limited. Most available maps, water quality and quantity data, and literature provided by our office, other State agencies or the University of Nebraska Conservation and Survey Division, are more generalized, cover much larger areas and don't get down to the localized level of detail that is needed to answer the question on the availability of drinking water for this development and its neighbors. This is also true of many other areas of Lancaster County.

The state statutes on groundwater give a right to each landowner to reasonable use of the groundwater underlying the property, subject to a sharing with other users in times of shortages. Unless the proposed wells violate a spacing requirement of either the State of Nebraska or the Natural Resources District's groundwater management area, or are regulated by City or County zoning, the property owner has the right to install a well.

We appreciate the concerns that you and your neighbors have about the uncertainty of any impact this proposed development may have on the quality and/or quantity of groundwater in your area. Your situation is made more difficult due to the lack of a rural water system as an alternative source of water in the event of future problems.

If you have any additional questions or wish to discuss this matter further, please do not hesitate to contact Gregg Brettmann or myself at (402) 476-2729.

Sincerely,



Glenn D. Johnson
General Manager



OLSON ASSOCIATES
ENGINEERS • PLANNERS • SCIENTISTS • SURVEYORS

4 October 2002

Ms. Julie Shipman Burns
12909 North 70th Street
Lincoln, NE 68517

Re: Ground Water Quality and Quantity
Section 9 T11N, R7E
Lancaster County, Nebraska
OA Project No. 2-2002-0853

Dear Ms. Burns:

Olson Associates has reviewed the publicly available ground water quality and quantity data (federal, state, and local data bases) for the above referenced site. We have also reviewed the University of Nebraska-Lincoln Conservation and Survey Division (UNL CSD) correspondence to Mr. Lyle Loth, and Lincoln-Lancaster County Health Department correspondence. The following is a summary of our findings and our opinion on ground water conditions in this area.

The subject land area is on the western fringe of what is locally referred to as the Waverly aquifer (including Dakota Group sediments and overlying Quaternary deposits). Water quality within the Waverly aquifer is generally acceptable to good, and water quantity can be sufficient enough to support high capacity wells (e.g. for irrigation).

Immediately to the west of the subject land area, water quality and quantity rapidly deteriorate, and in some locations fresh water suitable for drinking is unavailable. Where fresh water occurs, it is in extremely thin layers (several feet thick overlying saline waters) and only accessible through low yield wells (approximately 10 gallons per minute). Over-pumping of these fresh water zones can result in salt water intrusion into the wells.

In our professional opinion, insufficient data is currently available to determine both the location of this site to the Waverly aquifer, and availability and sustain ability of fresh water in this area for a concentrated use such as an acreage development. Thus, we conclude that your concerns regarding an acreage development and resulting water conditions are valid.

We concur with the UNL CSD suggestion of additional test hole drilling. We would further stipulate that aquifer pump testing (at a rate simulating the development and continuing until equilibrium conditions are obtained) be performed and water quality analysis (13 parameter analysis through Nebraska Health and Human Services laboratory or other qualified laboratory) occur following aquifer pumping.

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Ms. Julie Shipman Burns
4 October 2002
Page Two

Please note that this level of testing is only a "snap shot" of the aquifer conditions, and interpretations of this data by qualified professional geologists is needed. In addition, for areas such as this with questionable water conditions, the conditions can rapidly change over time (e.g. drought or new users in the area whether low-yield users such as domestic or high yield such as irrigators (if suitable)). Thus, until the actual aquifer stresses (i.e. the platted domestic wells) are applied, the actual water conditions may be unknown and can further change with surrounding land use.

If you have any questions concerning this information please contact me at 474-6311.

Sincerely,



Jeffrey S. Johnson, Ph.D., P.G.
Vice President

Professional Geologist #G0061

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Lancaster County Clerk

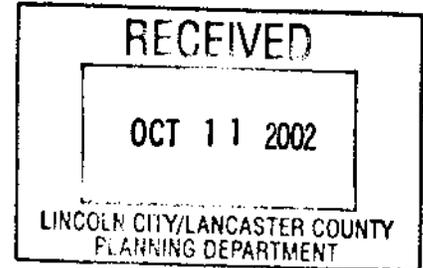
COUNTY-CITY BUILDING
555 SOUTH 10TH STREET
LINCOLN, NE 68508-2803

(402) 441-7481
FAX (402) 441-8728



BRUCE MEDCALF
CLERK

TRISH OWEN
DEPUTY CLERK



October 9, 2002

Jean Walker
Planning
County-City Building
Lincoln, NE 68502

Dear Jean:

The Lancaster County Board of Commissioners took the following action at their regular meeting on Tuesday, October 8, 2002:

Campbell moved and Stevens seconded approval of County Special Permit 196 and County-City Preliminary Plat 02014 and requested the County Attorney's Office prepare a resolution to include all conditions as discussed, to request that the conditions be reviewed by the applicant, the Planning Department and the County Engineer and to place the resolution under "New Business" to allow the County Board to review the conditions. Heier, Workman, Hudkins, Campbell and Stevens voted aye. Motion carried.

Respectfully,

A handwritten signature in cursive script that reads "Bruce Medcalf".

Bruce Medcalf
County Clerk

xc: Mike DeKalb, Planning
Lyle Loth, ESP, 601 Old Cheney Road., #A, Lincoln, NE 68512
Wayne Nielsen, 13800 N. 70th Street, Lincoln, NE 68517
Julie Burns, 12909 N. 70th Street, Lincoln, NE 68517

If you would like to see any additional testimony regarding this item, please contact the County Clerk's Office at 441-7481 for a copy of the minutes.