City Council Introduction: **Monday**, November 1, 2004
Public Hearing: **Monday**, November 8, 2004, at **1:30** p.m. Bill No. 04-201

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 04057,** from AG Agricultural District to R-3 Residential District, requested by Associated Engineering on behalf of Hoegemeyer Palmer Construction, on property generally located on the east side of S. 84th Street, south of Kathy Lane.

STAFF RECOMMENDATION: Approval

ASSOCIATED REQUESTS: Special Permit No. 04042, Lattimer's Addition Community Unit Plan (04R-290).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 09/15/04 and 09/29/04
Administrative Action: 09/29/04

RECOMMENDATION: Approval (8-0: Marvin, Carroll, Sunderman, Carlson, Taylor, Pearson, Larson and Bills-Strand voting 'yes'; Krieser absent).

FINDINGS OF FACT:

1. This change of zone request and the associated Lattimer's Addition Community Unit Plan were heard at the same time before the Planning Commission.

2. The purpose of this change of zone request is to allow the development of 13 single family lots under a community unit plan.

3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.4-6, concluding that, with conditions added to the associated community unit plan, the proposal is in conformance with the Comprehensive Plan and complies with the Zoning Ordinance.

4. The applicant's testimony is found on p.8-9, including requests to amend the conditions of approval on the associated community unit plan.

5. There was no testimony in opposition and there were no questions of staff by the Commission members.

6. On September 29, 2004, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval of this change of zone.

FACTSHEET PREPARED BY: Jean L. Walker **DATE**: October 25, 2004

REVIEWED BY:_____ **DATE**: October 25, 2004

REFERENCE NUMBER: FS\CC\2004\CZ.04057

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for September 15, 2004 PLANNING COMMISSION MEETING

****As Revised and Recommended for Conditional Approval by Planning Commission, September 29, 2004****

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.

P.A.S.: ***Change of Zone #04057***
Special Permit #04042, Lattimer's Addition

PROPOSAL: 13 single-family lots in a Community Unit Plan (CUP) and a change of zone from AG-Agriculture to R-3-Residential.

LOCATION: East side of S. 84th St, south of Kathy Lane

WAIVER REQUEST:
Eliminate the preliminary plat process and recreation plan

LAND AREA: 2.48 acres, more or less

CONCLUSION: With conditions this request is in conformance with the Comprehensive Plan and complies with the Zoning Ordinance.

RECOMMENDATION:	
Change of Zone	***Approval***
Special Permit	Conditional Approval
WAIVER	
Eliminate the preliminary plat process	Approval
Recreation Plan	Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 71, Irregular Tract in the NW 1/4 of Section 11, Township 9 North, Range 7 East, Lancaster County,, Nebraska

EXISTING ZONING: AG-Agriculture

EXISTING LAND USE: Undeveloped

SURROUNDING LAND USE AND ZONING:

North:	AG-Agriculture	Single-family on acreage lots
South:	AG- Agriculture	Single-family on acreage lot
South of acreage lot:	R-3- Residential	Single-family, Hi-Mark Estates
East:	AG- Agriculture	Single-family on acreage lots
West:	R-3 Residential	Undeveloped

ASSOCIATED APPLICATIONS: Change of Zone #04057

HISTORY:

Jul 1998 City Council approved Change of Zone #3125 from AG-Agricultural to R-3 Residential for HiMark Estates.

Jul 1998 City Council approved Special Permit #1423B for the HiMark Estates Community Unit Plan, which included 507 dwelling units and golf course.

March 1966 City Council approved Villa Del Ray Addition final plat for 16 acreage lots.

Apr 1992 Special Permit #1423 approved for the HiMark golf course.

COMPREHENSIVE PLAN SPECIFICATIONS:

"Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in older neighborhoods, and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods." (F-17)

"Affordable housing should be distributed throughout the region to be near job opportunities and to provide housing choices within every neighborhood." (F-18)

"Encourage mixed use redevelopment, adaptive reuse and in-fill development including residential, commercial and retail uses." (F-18)

"Interconnected networks of streets, trails and sidewalks should be designed to encourage walking and bicycling, reduce the number and length of automobile trips, conserve energy and for the convenience of the residents." (F-18)

"The street network should facilitate calm traffic conditions, provide multiple connections within and between neighborhoods, using neighborhood development aspects such as four way intersections of residential streets, and reduced block lengths." (F-19)

"Affordable housing should be distributed throughout the region to be near job opportunities and to provide housing choices within every neighborhood. Preserve existing affordable housing and promote the creation of new affordable housing throughout the community." (F-65)

"Structure incentives to encourage more efficient residential and commercial development to make greater utilization of the community's infrastructure." (F-72)

"OTHER PRINCIPAL ARTERIALS: This functional class of street serves the major portion of intercommunity and intracommunity traffic movement within the urban area and is designed to carry high traffic volumes. For other principal

arterials, the concept of service to abutting land is subordinate to serving major traffic movements. Facilities within these classification are capable of providing direct access to adjacent land but such service is to be incidental to the primary functional responsibility of moving traffic within this system.
(F-102-103)

UTILITIES: The site plan shows a proposed 6" water main and a 8" sewer main on Pinehill Lane. The proposed water and sewer would tap off of mains in S. 84th St.

TOPOGRAPHY: This area slopes gradually downhill from east to west.

TRAFFIC ANALYSIS: S. 84th St is classified as a principal arterial. The City of Lincoln Design Standards requires that intersections of local streets with major streets shall be approximately 1/4 mile apart.

PUBLIC SERVICE:
The nearest fire station is Station #12 located at S. 84th St and Van Dorn St.
Maxey elementary is the nearest school located at 5200 S. 75th St.

ALTERNATIVE USES: Leave as an acreage lot until the lot to the south can be developed at the same time as the applicant's property and access can be obtained through the lot to the south.

ANALYSIS:

1. This is a request to develop 13 single-family lots under a community unit plan with waivers to the preliminary plat process and a recreation plan. Associated request is a change of zone from AG to R-3.

2. The zoning ordinance describes the general purpose of the CUP as follows; "The purpose of this chapter is to permit and to encourage the creative design of new living areas, as distinguished from subdivisions of standard lot sizes and standard street systems, and in order to permit such creative design in buildings, open space, and their interrelationship while protecting the health, safety, and general welfare of existing and future residents of surrounding neighborhoods." It appears that the sole intent of this CUP is to allow private streets and to have lot lines go to the center of the street.

3. The City of Lincoln Design Standards states: "Intersections of local streets with major streets, where permitted, shall be approximately one quarter mile(0.4km) apart, with the intersection location dependent upon maintaining the required sight distances." Pinehill Lane would be approximately 649' from the center line of Kathy Lane and 574' from the center line of Augusta Dr. Although the proposed street does not meet the spacing requirement, it would be a right-in/out only. Public Works & Utilities Department memo states that the additional street access to S. 84th St is undesirable for the capacity and safety of S. 84th St.

4. The site plan does not show a street connection to the north. Section 26.23.030 of the Land Subdivision Ordinance states; "Where there are no adjoining subdivisions in existence at the time of subdivision review, proper projection of streets from the subdivision into adjacent land shall be provided by the subdivider."

5. A street connection to the north allows for the future development of the property without another street connection to S. 84th St.

6. When the lots to the north and south of the applicant's property develop, they would not be allowed access to S. 84th St., but would access S. 84th St from Pinehill Lane through this property. Changing the private streets to public streets would relieve the adjacent property owners of the maintenance responsibilities. The connection of private to public streets also causes maintenance problems for Public Works and other city departments responsible for maintaining improvements in the public ROW.

7. Private roads generally serve their subdivision only and does not allow for connection to abutting property. It is not desirable to have a private street connected by public streets at both ends.

8. Changing the private street to a public street with 60' ROW would allow sufficient depth for the lots. Lots on the north side of the street would be 90' deep, while lots on the south side would be 110.76' deep. The deeper lots on the south side of the street is to account for the 30' LES easement and get approximate equal building envelopes with the lots on the north side. A waiver to lot area would be required on some of the lots. Planning staff would support this waiver. (See attached alternate site plan prepared by planning staff)

9. The CUP with private streets allows a density of 6.96 dwelling units per acre in an R-3 district. The site is 2.48 acres which gives a density of 17.26. However, when the area is less than 5 acres there is a 20% reduction in the density. With the reduction the density is 13 units(17.26 - 3.25 = 13.81). With public streets, the density would change to 12 units under the current CUP provisions.

10. Revisions to LMC Chapter 27.65 (CUP) are scheduled for public hearing at Planning Commission on September 15. Part of these revisions is to eliminate the formula for calculating density with public streets, which amounted to a density bonus if private streets were used. The density for the CUP would be calculated the same for private or public streets. If the revisions to LMC Chapter 27.65 are approved by City Council, the density would be 13 units regardless if it had public or private streets.

11. The private roadway is on a public access easement within the proposed lots. While this is not uncommon, it is not desirable. Private roadways should be on separate outlots held by the homeowner's association so that there is a clearer boundary between the quasi-public roadway and private property.

12. Although the lot area table identifies lots ranging in size from 7,285 s. f. to 11,501 s. f., this is misleading. The lot lines are shown to the center of the private roadway. If you eliminate the area within the access easement, the lots range in size from 8,450 s. f. to 5,576 s. f.

13. The applicant is requesting a waiver to the recreation plan. The City of Lincoln Design Standards states, "Adequate and appropriate recreational facilities shall be provided in the common open areas to serve the needs of the development and the anticipated occupants to fulfill the needs of occupants whether they are young, elderly, handicapped, etc. Such facilities shall be readily accessible from the dwelling units in the community unit plan." There are no

common open areas proposed within this development. The proposed development is for single-family homes on adequate size lots. The lot sizes are comparable to what is required under the R-3 district without a CUP. The Planning staff and Planning Commission have generally recommended approving this waiver in such cases.

Prepared by:

Tom Cajka
Planner

APPLICANT: Bruce Palmer, President
Hoegemeyer Palmer Construction
6301 Orchard St. #2
Lincoln, NE 68505
(402) 486-0002

OWNER: same as applicant

CONTACT: Paula Dicero
Associated Engineering
1232 High St. Suite 3
Lincoln, NE 68502
(402) 441-5795

CHANGE OF ZONE NO. 04057
and
SPECIAL PERMIT NO. 04042,
LATTIMER'S ADDITION COMMUNITY UNIT PLAN,

PUBLIC HEARING BEFORE PLANNING COMMISSION: September 15, 2004

Members present: Larson, Carroll, Marvin, Carlson, Krieser, Sunderman, Taylor and Bills-Strand; Pearson absent.

Staff recommendation: Conditional Approval.

Ex Parte Communications: None

The Clerk announced that Mark Hunzeker has requested a two-week deferral on behalf of the applicant.

Taylor moved deferral for two weeks, with continued public hearing and administrative action scheduled for September 29, 2004, seconded by Marvin and carried 8-0: Larson, Carroll, Marvin, Carlson, Krieser, Sunderman, Taylor and Bills-Strand voting 'yes'; Pearson absent.

There was no testimony.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 29, 2004

Members present: Marvin, Carroll, Sunderman, Carlson, Taylor, Pearson, Larson and Bills-Strand; Krieser absent.

Staff recommendation: Approval of the change of zone and conditional approval of the community unit plan.

Ex Parte Communications: The Chair reported that all of the Commissioners received a phone call from Mark Hunzeker on behalf of the applicant. Pearson was the only Commissioner who had not had a conversation with Mr. Hunzeker.

Tom Cajka of Planning staff submitted proposed amendments as part of the staff recommendation:

> Change Condition #1.1.1 to read: "Identify a street from Pinehill Lane to the north boundary."
>
> Add Condition #1.1.12 to read: "Change the name of Pinehill Lane. The new street name must be approved by Emergency Communications 911 Center."

Cajka also submitted an alternate conceptual site plan prepared by staff.

Proponents

1. **Mark Hunzeker** appeared on behalf of **Hoegemeyer Palmer Construction,** the applicant. The subject area is a small tract that fronts on 84th Street. This plan was prepared originally by Paula Dicero, after meeting with staff and prepared according to what she heard from the staff in those meetings. Two weeks ago, they received the staff report with a staff recommendation to redesign this project with public streets and additional access points. They again met with staff last Friday and came away with the understanding that they had a general agreement to proceed with the proposed plan which Hunzeker handed out to the Commission today. On Monday, the applicant advised that the proposal was no longer acceptable and that the applicant is going to be required to dedicate 4' of additional right-of-way on 84th Street, to use public streets and to rename Pinehill Lane.

Hunzeker believes that there are two issues. First of all, it is unfair to require this property owner to dedicate four feet of additional right-of-way along 84th St. The city recently redesigned 84th to be a four-lane facility with wide medians for the professed purpose of widening the street in the future to the inside rather than to the outside. The city did not have enough right-of-way and it acquired new right-of-way within the last year all the way up and down 84th Street. There is 56' on the east side from centerline and the requirement is to dedicate an additional 4' because the design standards say 60' for arterial streets. If the city really needed 60', this property should have had 4' taken during the condemnation process. As it is, this will be the only property that has dedicated 60' from centerline for any purpose along that street. In addition, the applicant was told five minutes before this meeting that if the applicant does not want to dedicate this right-of-way, it will require a waiver and will require republishing.

Hunzeker indicated that he is very frustrated. Due to the additional two-week delay to re-advertise a waiver, the applicant is willing to grant an easement for that 4'. Hunzeker suggested that Condition #1.1.3 be amended to read, ".....Dedicate an <u>easement for an</u> additional 4 feet along S. 84th Street."

Hunzeker stated that the more important issue is the issue of public versus private streets. The applicant has shown private streets in this plat because this is a fairly narrow parcel with 104' deep lots on the north side of the street and 104'-105 ' deep lots on the south. The building envelopes are narrow. There is an LES easement along the south side that takes up the rear 30' of each of the lots. By requiring this development to dedicate an additional 10' of right-of-way, this development will lose an additional 10' on South 85th Street, which means that each of those six lots on the north side loses a little under 2' of width. They will lose 5' on each side along either side of Pinehill Lane, which shortens up the building envelopes on each side by 5'. The same occurs on S. 85th, narrowing down each of the four lots on the east side of 85th by over 1' and on the west side by 2.5' each. This causes some real design problems. Hunzeker then showed photographs of the type of homes that the developer intends to build.

Hunzeker also advised that public streets will cause additional difficulties, even if they would go back through this process and waste two weeks to get front yard waivers on all of the public streets in order to push those buildings out. The placement of sidewalks within a public street will result in pushing the garages back, reducing the interior space of these homes. This project redevelops an acreage, which is supposed to be encouraged. Hunzeker requested that Condition #1.1.2 be deleted.

As far a renaming Pinehill Lane, Hunzeker pointed out that we already have Pine Lake Court, Pine Tree Lane, Pine Dale Avenue and Pine Wood Lane, so he does not understand why Pinehill Lane causes confusion. If this condition is imposed, the street will simply be named "Up Hill Road".

Hunzeker clarified that they will agree to put the sidewalks four feet from the private streets.

There was no testimony in opposition.

There were no staff questions.

CHANGE OF ZONE NO. 04057
ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 29, 2004

Taylor moved approval, seconded by Carlson and carried 8-0: Marvin, Carroll, Sunderman, Carlson, Taylor, Pearson, Larson and Bills-Strand voting 'yes'; Krieser absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 04042
ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 29, 2004

Taylor moved to approve the staff recommendation of conditional approval, with the amendments requested by Mark Hunzeker, including an amendment to show the sidewalks four feet from the roadway, seconded by Larson. This amends the conditions as follows:

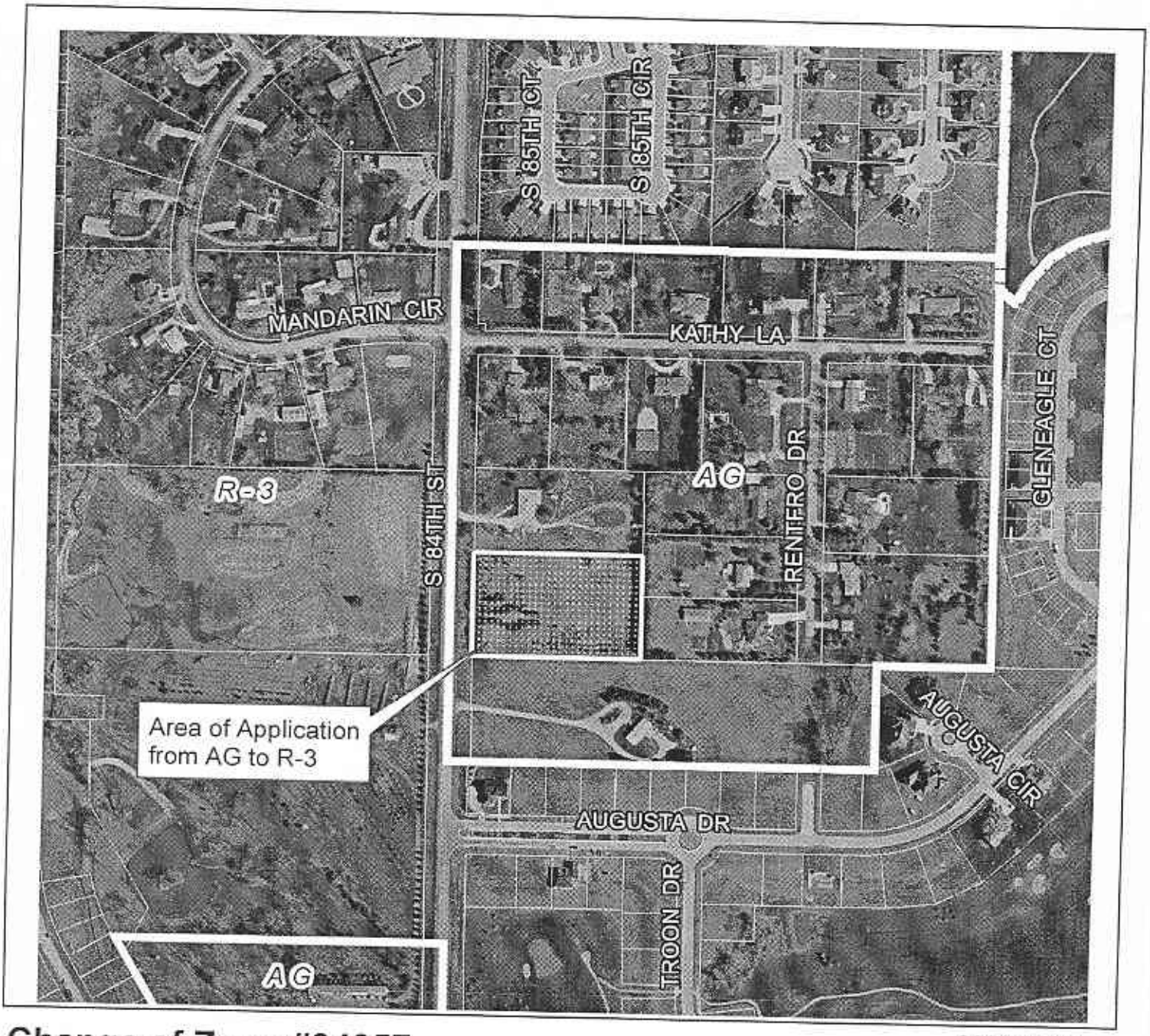
1.1.1 ~~Relocate S. 85th street to the east and extend it to the north boundary~~. Identify a street from Pinehill Lane to the north boundary.

~~1.1.2 Change the private streets to public streets.~~

1.1.3 Correct the right-of-way on S. 84th St. The existing right-of-way is 56 feet. Dedicate ~~an additional~~ 4 ft. easement along S. 84th St. Show sidewalks located 4' from the roadway.

~~1.1.12 Change the name of Pinehill Lane. The new street name must be approved by Emergency Communications 911 Center.~~

Motion for conditional approval, with amendments, carried 8-0: Marvin, Carroll, Sunderman, Carlson, Taylor, Pearson, Larson and Bills-Strand voting 'yes'; Krieser absent. This is a recommendation to the City Council.



Change of Zone #04057
S. 84th & Kathy Lane

2002 aerial

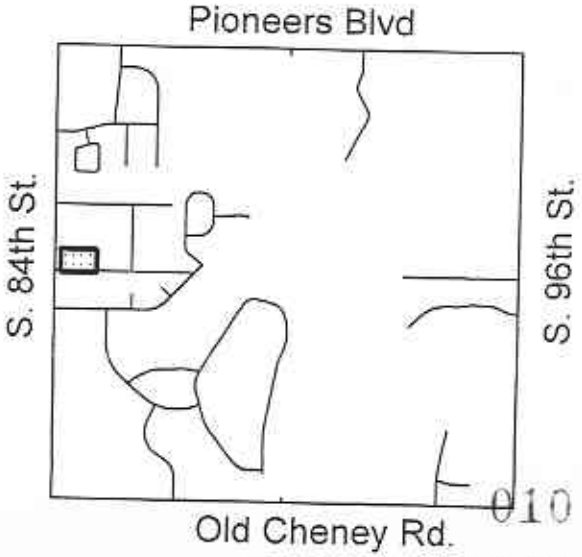
Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Convervation 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. 11 T9N R7E

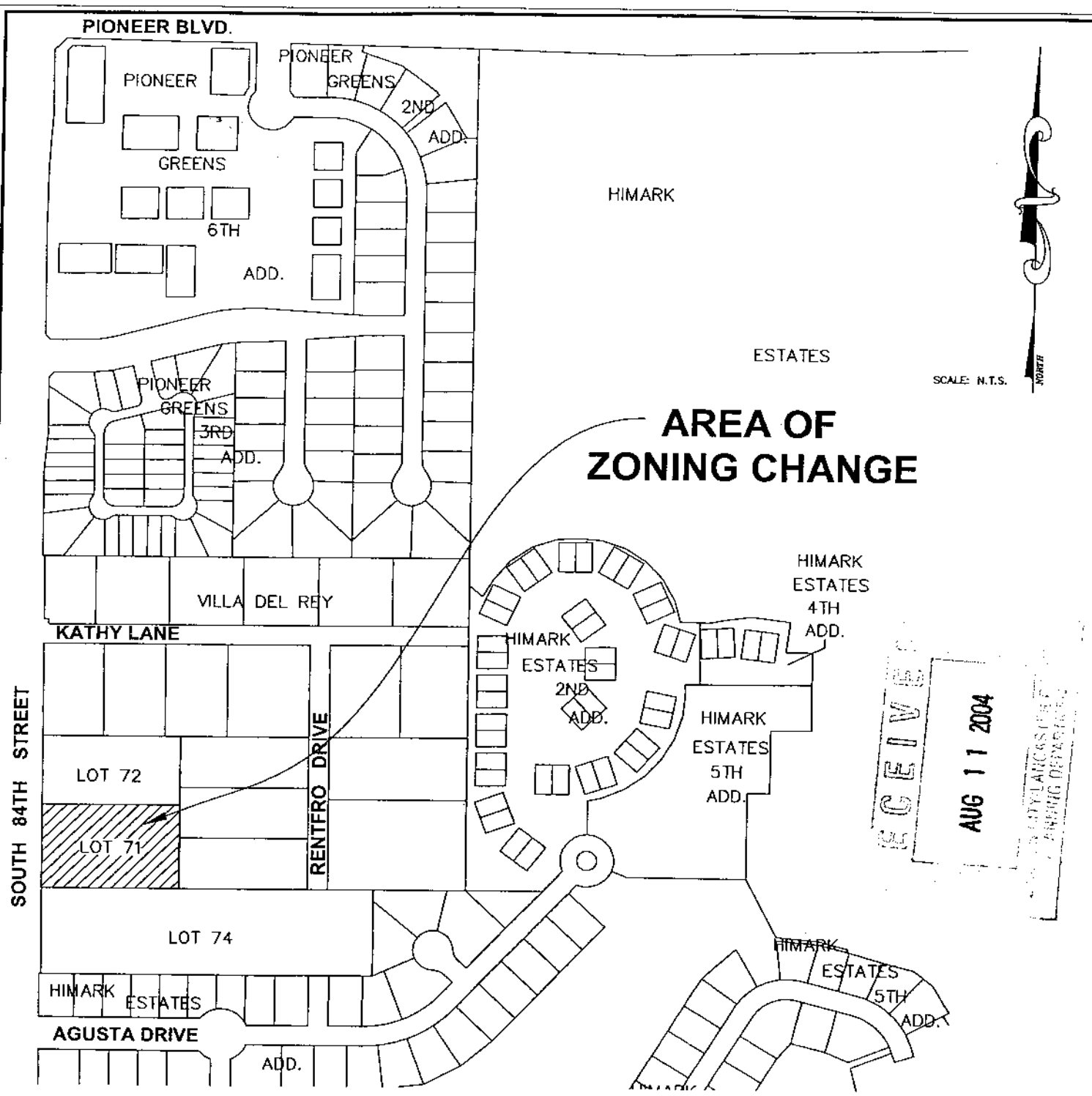
Zoning Jurisdiction Lines

City Limit Jurisdiction



m:\plan\arcview\04_cz\cz04057

Lincoln City - Lancaster County Planning De



LEGAL DESCRIPTION

LOT 71, LOCATED IN THE NORTHWEST CORNER OF SECTION 11, TOWNSHIP 9 NORTH RANGE 7 EAST OF THE 6TH PRINCIPAL MERIDIAN, LINCOLN, LANCASTER, NEBRASKA AND IS MORE FULLY DESCRIBED AS FOLLOWS:

REFERRING TO THE WEST QUARTER CORNER OF SAID SECTION 11; THENCE ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER ON AN ASSUMED BEARING OF S89°50'28"E, 50.00 FEET TO THE POINT OF BEGINNING; THENCE N00°12'39"W, 258.56 FEET; THENCE N89°51'25"E, 416.74 FEET; THENCE S00°15'15"E, 260.76 FEET; THENCE N89°50'28"W, 416.34 FEET TO THE POINT OF BEGINNING AND CONTAINING 13 LOTS, AND AN AREA OF 108,079 SQUARE FEET, 2.48 ACRES, MORE OR LESS.

SHEET NO.	NO.	DATE	REVISION
1			

PROJ. NO: 15666
DATE: 08-09-2004
DESIGN BY: PSD
DRAWN BY: PSD
CHECKED BY: PSD

LATTIMER'S ADDITION

ZONING EXHIBIT

CHANGE OF ZONE FROM AG TO R-3

LINCOLN, NEBRASKA

ASSOCIATED ENGINEERING AND SURVEYING
1232 High Street, Suite 3
Lincoln, NE 68502
Phone: 402.441.5790
Fax: 402.441.5791

Associated Engineering And Surveying

1235 High Street – Suite 3
Lincoln, Nebraska, 68502

July 29, 2004

Brian Will
Lincoln-Lancaster County Planning Department
555 South 10th Street – Suite 213
Lincoln, Nebraska, 68508

RE: **Lattimer's Addition CUP & Special Permit**
AE&S Job # 15866

Dear Mr. Will:

On behalf of Hoegemeyer Palmer Construction, we are submitting an application for Lattimer's Addition CUP & Special Permit. Total area of this plat is 2.45 acres. It contains 13 single-family lots. The property is zoned R-3.

This plat reflects the proposed build out of South 84th Street. There is a ten foot bike path proposed along the East Side of South 84th Street. Because of the Center Island in this build out, a right in/ right out intersection is proposed for the intersection of Pinehill Lane.

Private roadways, public utilities, and sidewalks are inside of a 60-foot access and utility easement, which centers on Pinehill Lane. This easement consist of the southern thirty feet of lots 1 through 7, Block 1 and the northern thirty feet of lots 1 & 2, Block 2, and 1 through 4, Block 3. The 60-foot access and utility easement which centers on South 85th Street consist of the eastern thirty feet of Lot 2, Block 2 and the western thirty feet of Lot 1, Block 3.

Ornamental street lighting is private and will adhere to LES and City of Lincoln standards for Streetlights.

OWNER / DEVELOPER:
Hoegemeyer Palmer Construction
Bruce Palmer
1210 South 47th Street1232
Lincoln, Nebraska 68506
(402) 486-0002

AUTHORIZED AGENT:
Associated Engineering & Surveying
Tom Medhi / Paula Dicero
High Street – Suite 3
Lincoln, NE 68502
(402) 441-5790

July 29, 2004

The following owners hold interest and /or property adjacent to Sterling Hills Addition:

Harold T. & Rebecca J. Cast
4831 Mandarin Circle
Lincoln, NE 68516

Robert H. & Marjorie E. Birkett
5000 S. 84th Street
Lincoln, NE 68516

Daniel J. & Jeanette M. Krog
4601 Rentfro Drive
Lincoln, NE 68526

Paul H. & Nancy M. & Grace H. Morris
4800 S. 84th Street
Lincoln, NE 68526

Hampton Enterprises
1660 S. 70th Street – Suite 203
Lincoln, NE 68506

Samuel D. & Judith A. Shutts
5001 Rentfro Drive
Lincoln, NE 68526

Donna Brubaker
4546 Rentfro Drive
Lincoln, NE 68526

Enclosed are the following documents as submittal for the above referenced CUP / Special Permit:

24 copies - Cover Sheet / Site Plan

8 copies - Grading & Drainage Plan

1 site plan reduced to 81/2" X 11" Sheet

2 copies - Soils Report

3 copies - Drainage Report

1 CUP / Special Permit Application

1 CUP / Special Permit Submittal Requirements Checklist

1 Check in the amount of $575.00 (CUP Special Permit Application Fee)

1 Certificate of Ownership Certificate

Sincerely,

Paula Dicero

Paula S. Dicero
Branch Manager