

## **FACTSHEET**

**TITLE:** **CHANGE OF ZONE NO. 3411**, from AG Agricultural District and AGR Agricultural Residential District to H-4 General Commercial District and B-2 Planned Regional Business District, requested by Eiger Corporation, on property generally located southeast of the intersection of South 84<sup>th</sup> Street and Highway 2.

**STAFF RECOMMENDATION:** Approval

**ASSOCIATED REQUESTS:** Annexation No. 03002 (04-41); Annexation Agreement (04R-36); Special Permit No. 2046 (04R-37) and Use Permit No. 150 (04R-38).

**FINDINGS OF FACT:**

1. This change of zone request and the associated annexation, Planned Service Commercial special permit and use permit were heard at the same time before the Planning Commission.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.5-8, concluding that development consistent with this request has been anticipated at this location and was included as part of the original annexation agreement for Appian Way (now Prairie Lakes) on the north side of Highway 2. All of the waiver requests on the associated special permit and use permit (except the lot width to depth ratio, which was later withdrawn by the applicant) are justified, and with minor revisions to the associated site plan, the proposal complies with the Zoning Ordinance and Comprehensive Plan.
3. These applications originally appeared on the Planning Commission agenda on June 25, 2003, and were consistently deferred until January 7, 2004, at the request of the applicant. The applicant's testimony is found on p.10-12. Of considerable interest to the Commission were the Village of Cheney's long term access off of 91<sup>st</sup> Street and bicycle/pedestrian transit access issues (See Minutes, p.11-12).
4. Testimony in opposition by two property owners in Cheney is found on p.12. The issue of the opposition is the 91<sup>st</sup> Street entrance to Cheney. For the next several years, Cheney will retain an entrance into their community from Highway 2 to a realigned 91<sup>st</sup> Street and left to existing 91<sup>st</sup> Street. However, this left turn lane will eventually need to be closed for traffic safety reasons when 91<sup>st</sup> and Yankee Hill Road are connected and traffic volumes increase. The record also consists of a letter from the Cheney Community Improvement Program (p.27-28).
5. There were concerns raised by Russ Kromberg, 8201 Amber Hill Road, by email dated January 6, 2004, and the staff response is found on p.29-30.
6. On January 7, 2004, the Planning Commission agreed with the staff recommendation and voted 7-1 to recommend approval. Commissioner Pearson dissented because of the Cheney issue (See Minutes, p.14).
7. After the Planning Commission meeting, the Mayor and city staff and the applicant's agents met with representatives of Cheney to review their concerns. The applicant's agents agreed to investigate a possible alignment for a new roadway that could be constructed to intersect with the new 91<sup>st</sup> Street further south from Highway 2 when the left turn lane to Cheney closer to the Highway must be closed. Also, the Public Works Director indicated that he would allow Cheney to place an "entry" sign in the right-of-way near Highway 2.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 01/07/04  
Administrative Action: 01/07/04

**RECOMMENDATION:** Approval (7-1: Carlson, Krieser, Larson, Marvin, Sunderman, Carroll and Bills-Strand voting 'yes'; Pearson voting 'no'; Taylor absent).

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** February 23, 2004

**REVIEWED BY:** \_\_\_\_\_

**DATE:** February 23, 2004

**REFERENCE NUMBER:** FS\CC\2004\CZ.3411

# LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for January 7, 2004 PLANNING COMMISSION MEETING  
-REVISED REPORT-

**\*\*As Revised and Recommended for Approval by Planning Commission\*\***  
**\*\*January 7, 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 application.

**P.A.S.:** Annexation #03002  
**Change of Zone #3411 from AG and AGR to H-4 and B-5**  
Special Permit #2046 for Planned Service Commercial in H-4  
Use Permit #150

**PROPOSAL:** To allow 357,500 square feet of commercial and retail floor area (284,300 square feet on eight lots in B-5; 73,200 square feet on five lots in H-4).

**LOCATION:** Southeast of the intersection of South 84<sup>th</sup> Street and Highway 2.

## **WAIVER REQUESTS:**

1. Eliminate the preliminary plat process.
2. Allow a cul-de-sac in excess of 1,000'.
3. Setbacks adjacent to outlots.
4. Sidewalk along Highway 2.
5. Transfer of sewage from one drainage basin to another.
6. Lot width to depth ratio.

**LAND AREA:** Approximately 53.52 acres.

**CONCLUSION:** Development consistent with this request has been anticipated at this location and was included as part of the original annexation agreement for Appian Way (now Prairie Lakes) on the north side of Highway 2. All the waivers except the lot width to depth ratio are justified, and with minor revisions to the plan this request complies with the Zoning Ordinance and Comprehensive Plan.

**RECOMMENDATION:**

Annexation #03002

Conditional Approval

**Change of Zone #3411**

Approval

Special Permit #2046

Conditional Approval

Use Permit #150

Conditional Approval

**Waivers:**

Special Permit #2046:

- |   |          |
|---|----------|
| 1. Eliminate the preliminary plat process.                | Approval |
| 2. Allow a cul-de-sac in excess of 1,000'.                | Approval |
| 3. Setbacks adjacent to outlots.                          | Approval |
| 4. Sidewalk along Highway 2.                              | Approval |
| 5. Transfer of sewage from one drainage basin to another. | Approval |
| 6. Exceed the lot width to depth ratio.                   | Denial   |

Use Permit #150:

- |   |          |
|---|----------|
| 1. Eliminate the preliminary plat process.                | Approval |
| 2. Allow a cul-de-sac in excess of 1,000'.                | Approval |
| 3. Setbacks adjacent to outlots.                          | Approval |
| 4. Sidewalk along Highway 2.                              | Approval |
| 5. Transfer of sewage from one drainage basin to another. | Approval |

**GENERAL INFORMATION:**

**LEGAL DESCRIPTIONS:**

**Annexation #03002** - Lots 78, 79, 80, 83, 108 and 109 I.T., located in the SW 1/4 of Section 23; Lot 81 I.T., located in the NW 1/4 of Section 23; a portion of the SW 1/4 of the NW 1/4 of Section 23; a portion of the NW 1/4 of the SW 1/4 of Section 23; and a portion of the SE 1/4 of the NE 1/4 of Section 22; and adjacent rights-of-way for S. 84<sup>th</sup> Street and S. 91<sup>st</sup> Street; all located in T9N, R7E, Lancaster County, Nebraska.

**Change of Zone #3411** - See attached.

**Special Permit #2046** - See attached.

**Use Permit #150** - See attached.

**EXISTING ZONING:** AG Agriculture and AGR Agricultural Residential.

**PROPOSED ZONING:** H-4 General Commercial and B-5 Planned Regional Business

**EXISTING LAND USE:** Undeveloped.

**SURROUNDING LAND USE AND ZONING:**

North:	Regional Shopping Center	B5
South:	Agriculture, Residential	AG
East:	Residential	AG & AGR
West:	Agriculture, Residential	AG & AGR

**ASSOCIATED HISTORY: November 5, 2001** - The annexation agreement covering the land on both sides of Highway 2 at South 91<sup>st</sup> Street was approved by the City Council.

**November 5, 2001** - The preliminary plat and use permit for Appian Way (now Prairie Lakes) was approved by the City Council, north of Highway 2.

**March 26, 2001** - The Southeast Lincoln/Highway 2 Subarea Plan was approved by the City Council.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

**Page F27** - Urban Growth Tiers - This site is within the City's Future Service Limit.

**Page F95** - Bicycle and Trail Standards for Developing Areas - The Plan calls for the trail system to extend along both South 91<sup>st</sup> Street and the Omaha Public Power rail line.

**Page F156** - Subarea Planning - Southeast Lincoln/Highway 2 Subarea Plan.

**Southeast Lincoln/Highway 2 Subarea Plan:**

**Figure 2** - Designates office, service and residential transition uses for this site.

**Page 9** - Promote a Desirable Entryway - Calls for a 400' wide open space corridor along this section of Highway 2.

**Page 9** - Designates a regional shopping center at this location.

**Page 10** - Commercial transition - Within commercial areas, office and lower intensity uses along with appropriate buffer areas should be developed as a transition to adjacent residential uses.

**Page 13** - Entryway Corridor - To preserve the entryway corridor, the land use and transportation decisions are equally important as landscaping or architectural standards.

**Page 57** - The Greenprint Challenge: Implementation Principles

-Obtain reasonably constrained regulations – Maintaining a balance between the natural and human built environment is always a delicate one. Planning policy and regulatory approaches employed in achieving the Plan's Vision and Greenprint Challenge should strive to be effective, tempered, pragmatic, circumscribed, and respectful of private property rights.

-Prevent the creation of a "wall-to-wall city" through the use of green space partitions – As cities and villages expand, establishing corridors and districts of green should be part of the growth process. This often requires the advance delineation of these areas and the means for securing their on going maintenance.

-Establish effective incentives for natural resource feature preservation. Securing the long term permanence of green space is a basic dilemma in natural resources planning. The use of "green space development incentives" (e.g., setting aside non-buildable areas, creating green space preserves, density bonuses) should be a primary consideration in implementing this Plan.

**UTILITIES:** All utilities are available to the site.

**TRAFFIC ANALYSIS:** The individual lots will be provided access with an internal private roadway system. The Subarea Plan shows the realigned South 84<sup>th</sup> and South 91<sup>st</sup> Streets as arterial streets. Highway 2 is also classified as an arterial street. The Capital Improvements Program (C.I.P.) currently identifies road improvements in South 84<sup>th</sup> Street in 2003-2004. South 91<sup>st</sup> Street for approximately 600' south of Highway 2 is to be built by the developer. The 1.9 million square feet of commercial floor area permitted by the Appian Way annexation agreement for the land on both sides of Highway 2 generate a certain number of vehicle trips which trigger road improvements addressed in the agreement. A total of 5,283 p.m. peak hour vehicle trips were allowed by the annexation agreement, with 1,239 of those trips assigned to this development.

**ENVIRONMENTAL CONCERNS:** The revised plans show that the on-site delineated wetlands will not be retained. It is noted that mitigation is provided off-site per a plan approved by Department of the Army Permit #NE 2001-10474.

**AESTHETIC CONCERNS:** Highway 2 is a major entryway into Lincoln. Enhancing the appearance of this entryway by preserving open space and regulating land use in proximity to the highway is a key component of the subarea plan, which calls for a 400'-wide open space corridor in this area. The 400' corridor is maintained with this development.

### **ANALYSIS:**

1. These applications were first considered by the Planning Commission during the June 25, 2003 hearing. At his request, the applicant was granted a deferral until January 7, 2004. During that time the project has been revised and now includes a special permit for planned service commercial in H-4. Additionally, the change of zone request has been modified to include H-4.
2. Most all the area requested to be annexed was previously included in the annexation agreement for the Appian Way regional shopping center approved in 2001. That agreement assigns financial responsibility for public improvements including streets, sewer, and water. The part of this development not included in that agreement is approximately the south one-half of Lot 4, Block 2, and all of Lot 5, Block 2. The owner is seeking to have these lots exempted from impact fees. Staff does not support this request and it must be approved by the City Council. The owner will be required to enter into an annexation agreement with the City for those areas not covered by a previous agreement. Among the items the agreement will address are financial responsibility for impact fees and site-related improvements, if any.
3. As noted previously, the annexation agreement also established a maximum number of vehicle trips for both the north and south commercial areas (north and south of Highway 2) based upon the infrastructure improvements planned for the area. The special permit and use permit combined show a mix of land uses that generates 1,160 p.m. peak hour trips, compared to the 1,239 trips allocated for this development in the agreement.

4. This area is contiguous to the city, is within the Future Service Limit, and the proposed annexation is in conformance with the Comprehensive Plan.
5. The most significant modification to the site layout is that Amber Hill Road now terminates in a cul-de-sac at the applicant's request. Staff had previously sought to have Amber Hill Road extend through the development and intersect with South 91<sup>st</sup> Street to enhance access, connectivity and reduce pressure on arterial streets. However, after several meetings with the applicant and further review, staff has reconsidered the street layout and does not oppose the one shown. Staff found that extending the street did little to reduce the number of turning movements at the major intersections in the area, and that it also created a potential conflict due to vehicle stacking in the eastbound left turn lane on South 91<sup>st</sup> Street at the railroad crossing.
6. A request to exceed the 1,000' maximum cul-de-sac length has been requested. For the reasons noted previously, terminating the street short of South 91<sup>st</sup> Street as a cul-de-sac is acceptable. Additionally, lots at the end of the cul-de-sac can also be accessed from South 91<sup>st</sup> Street.
7. The Comprehensive Plan designates commercial, retail and transition uses for this site. The proposed uses shown on the site plan have been modified from the original plan and are in general compliance with the Plan. Previously, one concern was the transition areas along South 84<sup>th</sup> and 91<sup>st</sup> Streets, which were included to enhance compatibility with those lands adjacent to the east and west and designated for future residential land uses. The South 84<sup>th</sup> Street frontage is buffered by outlots, and the allowed uses on these lots are limited to sit-down restaurants. Along the South 91<sup>st</sup> Street frontage, the allowed uses exclude 24-hour business operations such as gas stations or convenience stores. However, the exclusion should be expanded to also include drive-thru restaurants.
8. A waiver to the setbacks for lots adjacent to outlots has been requested and is acceptable with one exception. South 87<sup>th</sup> Street is the entryway from Highway 2 into the development, and the lots on either side should maintain a 50' setback (the required front setback in both the B-5 and H-4 districts) to preserve an open space corridor into the area.

The setbacks from Highway 2 and South 91<sup>st</sup> Street are delineated by undevelopable outlots. It is the intent that these open spaces act as buffers, and that they be well landscaped and well maintained. To help ensure this is achieved, the entire frontages along South 84<sup>th</sup> and 91<sup>st</sup> Streets should be landscaped consistent with the design standard for H-4 adjacent to residential.

9. A waiver to the lot depth to width ratio is requested for Lot 4, Block 3, as the Land Subdivision Ordinance requires that lots less than 100' in width not exceed a 3:1 depth to width ratio. The stated use for this lot is mini-warehousing, and presumably the waiver is requested to accommodate the narrow lot configuration designed specifically for this use. However, for lots in office and commercial districts such as this one, the Land Subdivision Ordinance allows lots that are at least 100' wide a 5:1 depth to width ratio. Increasing the

width of this lot by 25' will eliminate the need for a waiver, and will enhance the future development potential of this lot if the mini-warehousing is ever replaced. There is no substantial justification for this waiver and it should be denied.

10. Several modifications are required for the sewer, water, and drainage and grading plan. Those changes are identified in the review from Public Works and Utilities and must be made for these applications to comply with applicable standards. Public Works also notes that the waiver request to transfer sewage from one drainage basin to another is acceptable.
11. Financial responsibility for improvements to South 84<sup>th</sup> and 91<sup>st</sup> Streets are also addressed in the annexation agreement for Appian Way. However, the plan needs to be revised to reflect the following items concerning streets:
  - A. A curb and gutter section including left-turn lanes should be shown for the full length of South 84<sup>th</sup> Street that abuts this property.
  - B. Amber Hill Road on the west side of the intersection with South 84<sup>th</sup> Street may need to be reconstructed to match the lane configuration shown on the east side of the intersection.
  - C. A dual left-turn lane no less than 175' in length should be shown in South 87<sup>th</sup> Street at the Highway 2 intersection as shown in the August 17, 2000 traffic study.
  - D. The traffic study should be revised to show the assumed trips from the identified uses in this plan and the traffic distribution of these trips at the public street intersections with the streets in this plat.
  - E. Dimensions and geometry for all internal streets must be shown to ensure compliance with Design Standards. Also, common access drives should be shown at shared property lines to minimize traffic conflicts on the road system.
  - F. The proposed driveway for Lot 4, Block 2 needs to be adjusted to be aligned with the Cheney connector intersection. A common access easement needs to be shown in Lot 4, Block 2 from the proposed driveway off of South 91<sup>st</sup> Street to Lot 5, Block 2 as direct access to South 91<sup>st</sup> from Lot 5, Block 2 will not be allowed. If a drive is to be allowed, both lots should take access to it.
12. The application includes a request to waive sidewalks along Highway 2. If granted, it is consistent with similar waivers previously granted to other commercial developments in the area including Appian Way to the north, and Pine Lake Plaza located on the west side of South 84<sup>th</sup> Street at Highway 2, as sidewalks are not desirable along the highway. However, sidewalks need to be shown along the east side of South 84<sup>th</sup> Street, the west side of South 91<sup>st</sup> Street, and along both sides of all streets internal to the development. A pedestrian sidewalk connection to the bike trail between Lots 2 and 3, Block 3, should also be shown.
13. The subarea plan identifies open space corridors along Highway 2, South 84<sup>th</sup>, and South 91<sup>st</sup> Streets. It specifically calls for a 400' open space corridor along Highway 2 - a 225' wide strip of open space for this corridor was established along the north side of Highway 2 when Appian

Way was approved. The site plan has been revised to show a 175' setback for buildings along Highway 2 as requested, thus maintaining the 400' wide corridor along the highway. For clarity, the note on the plan should be amended to state "175' Setback to Buildings and Parking".

14. The landscape plans for individual lots will be deferred until the time building permits are issued. However, at the time of final platting, street trees will be required along all the streets (public or private), and must include the type, number, and spacing of all street trees in compliance with Design Standards. Additionally, all trees and landscaping along Highway 2 will be required to be on private property.
15. A wetland area exists on the site plan, and the application indicates this site is included in a wetland study completed by Olsson Associates in 1999 that includes an off-site mitigation plan approved by Department of the Army Permit #NE 2001-10474. On the previous plan, the wetland area was to be left undisturbed and served as an open space amenity for the development. On the current plan, it has been removed and is included as part of Lots 2 and 3, Block 1, and Lot 1, Block 4. The original concept of leaving the wetland undisturbed to serve as an amenity was consistent with the Comprehensive Plan and it should continue to be shown as part of the development.
16. This development abuts one of Lincoln's major entryway corridors. Mixed use centers should contain buildings which relate to one another as an urban grouping. Other major shopping centers in Lincoln such as Lenox Village, Willowbrook, and South Pointe Pavilions have provided an architectural theme for their developments. In the previous report, staff noted that such a theme is also part of the Prairie Lakes development on the north side of Highway 2, and that an architectural theme compatible with Prairie Lakes be included with this project. One has been submitted with the revised plans that incorporates design elements consistent with Prairie Lakes, and that should serve to enhance the appearance and compatibility of this project.

Prepared by:

Brian Will, AICP  
Planner  
December 23, 2003

**APPLICANT:** Eiger Corporation  
RR#1, Box 93A  
Adams, NE 68301 432-8975

**CONTACT:** Al Jambor  
HWS Consulting  
825 J Street  
Lincoln, NE 68508

**OWNER:** Andermatt, LLC  
RR#1, Box 93A  
Adams, NE 68301

**ANNEXATION NO. 03002;  
CHANGE OF ZONE NO. 3411  
USE PERMIT NO. 150  
and  
SPECIAL PERMIT NO. 2046  
FOR PLANNED SERVICE COMMERCIAL IN H-4**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 7, 2004

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

Staff recommendation: Approval of the annexation, subject to an annexation agreement; approval of the change of zone; and conditional approval of the use permit and special permit.

Ex Parte Communications: None.

Brian Will of Planning staff submitted a letter from Russ Kromberg and the staff response back to the inquiry addressing the concerns raised.

Proponents

**1. DaNay Kalkowski** appeared on behalf of **Andermatt LLC and Eiger Corp.**, the owners and developers of the property. These applications involve development of the second phase of the 84<sup>th</sup> & Hwy 2 regional commercial center. This phase is located south of Hwy 2, and north of the railroad tracks between S. 84<sup>th</sup> and S. 91<sup>st</sup> Streets. The annexation of this entire area, except for a small portion along 94<sup>th</sup> Street, was master planned along with the area north of Hwy 2 between 84<sup>th</sup> and 98<sup>th</sup> Streets as part of the conditional annexation and zoning agreement for So. 84<sup>th</sup> and Hwy 2 approved in 2001. When we did that agreement, we master planned the infrastructure for this entire area. As part of that agreement, they set out a number of peak hour trips that could be generated by the uses, and the plan proposed and the uses proposed stay well within that trip cap.

Kalkowski further testified that this development is intended to be more service oriented than the area to the north, utilizing the access and visibility from Hwy 2. It is not intended to have uses that will compete with those on the other side of the highway. The current plan shows several sit-down restaurants along 84<sup>th</sup> Street; then moving to the east there are hotel, gas station and convenience store; and then moving on to the east there are more general commercial uses and some mini-warehouse uses. The uses proposed on the east and west ends are all limited to uses that are less intense from a traffic standpoint. On those two ends, the development abuts Ambers Hills to the west and the town of Cheney to the east. There are conditions requiring that there be no intense uses, such as drive-through restaurants or 24-hour convenience store.

The site includes significant green space. The green space along 84<sup>th</sup> is significant ranging from 100' to the north to an outlot as wide as 300' as you move to the south. The owner is granting an easement for the city to locate a trail along the south of this development, which will then connect to the trail

proposed to come down the east side of 91<sup>st</sup> Street. Sidewalks will be shown along S. 84<sup>th</sup> Street, S. 91<sup>st</sup> Street, and on both sides of the internal roadways. There are two exceptions and they are seeking waiver of the sidewalks along Hwy 2 and the 87<sup>th</sup> Street entrance. The reason for those waivers is to be consistent with what was done on the north side. The rationale behind waiving those sidewalks is that this is an area where we do not want to encourage pedestrians along Highway 2.

Kalkowski then submitted proposed amendments to the conditions of approval on the use permit and special permit. She believes these amendments address the concerns and believes that the proposed amendments are acceptable to the staff.

Kalkowski advised that a neighborhood meeting was held on December 18<sup>th</sup>.

Kalkowski acknowledged that one of the major topics of discussion is the Village of Cheney's long term access off of 91<sup>st</sup> Street. That was a big issue in the subarea plan as well. Right now, the construction of S. 91<sup>st</sup> Street south of Hwy 2 is in process. That construction will stop at 600' and there is no connection—that road is not going anywhere until some point when the city is ready to build the next section that will connect Yankee Hill Road into S. 91<sup>st</sup> Street. At the time of the annexation agreement, they had discussed the potential of a full median access opening that would be just directly north of the railroad track south of the highway to ultimately provide some long term access to Cheney and to the development on the west side. The temporary solution was to construct the "Cheney connector" in the short term, which is further to the north, and that connection is being constructed as part of this project. When the applicant discussed this with Planning in bringing this proposal forward, we were informed that plans had changed and the city was no longer in favor of a full access opening further to the south. The access we have on 91<sup>st</sup> is simply a long term right-in, right-out movement. Thus there is an issue for Cheney that when 91<sup>st</sup> and Yankee Hill Road are connected, Cheney would still have to deal with their long term access issue. From this applicants' standpoint, Kalkowski stated that they are in agreement with the access Public Works is allowing at this time.

Carlson referred to bicycle/pedestrian transit access. There is a trail along the south side and this development sets up the internal sidewalk system. Now this application is moving the pedestrian access to between Lots 1 and 2. Are you considering a natural tie-in for the hotel? Kalkowski suggested that as part of the hotel construction, it may be possible to make some pedestrian connection in the future. They had the pedestrian connection moved because they don't know the user yet and that lot line may shift. Carlson pointed out that the Comprehensive Plan calls for regional shopping centers to take pedestrian/bicycle transit into consideration. Kalkowski responded, stating that, "the trail crossing will be at "91<sup>st</sup> Street, coming down and going around". As part of the construction plans for 84<sup>th</sup> Street, there is a provision for pedestrian crossing at 84<sup>th</sup> Street. The rationale was that we weren't necessarily encouraging pedestrian traffic from one side of the highway to the other. Carlson referred to SouthPointe, where there is a trail running right next to it, but it is difficult to get off that trail if you live in the neighborhood. He also referred to the Lincoln Federal parcel at 27<sup>th</sup> & Yankee Hill Road, where they have shown pedestrian motion to draw consumers in from surrounding neighborhoods. Kalkowski again responded that the whole intent of this area is not to be competing with the area to the north. But Carlson believes there is potential residential to south and west. Kalkowski then stated that they are showing sidewalks on both ends with the trail going along the south. They are also showing sidewalks on both sides of 84<sup>th</sup> Street and 91<sup>st</sup> Street along with the trail on 91<sup>st</sup> Street. Carlson reiterated that ultimately there will be residential to the south and west. Carlson wants to encourage that the applicant take into account a pedestrian transit base that may want to move into those buildings.

As far as entrance into the City, Kalkowski submitted that this development will comply with the entryway corridor set out in the subarea plan and that they have attached some design covenants as part of the use permit to show that this area will be compatible with the development to the north. The intent is to present a very nice entryway into the city.

Pearson confirmed that the sidewalk along S. 87<sup>th</sup> Street is being taken out, but the sidewalks will be going in on S. 84<sup>th</sup> Street. Kalkowski concurred. There will be sidewalks on the east side of 84<sup>th</sup> Street as part of the 84<sup>th</sup> Street construction project.

### Opposition

**1. Gayle Hanshaw, Cheney,** testified and referred to a letter he sent to the Planning Commission in October and a letter he sent to the Mayor this week. Cheney's concern is about access to Cheney. 91<sup>st</sup> Street has been their access for 135 years. There is about a 2-mile piece of Hwy 2 coming through Cheney and off to the east that still remains and they would like to preserve that. 91<sup>st</sup> Street is Cheney's front door and it is looking like the City wants to close that front door. Back in the early days of the public discussions on the shopping center, the Cheney residents truly did understand that they had an agreement that they would have a full turn intersection on 91<sup>st</sup> Street going to Hwy 2. Hanshaw has heard second-hand that there is a proposal to close that off and force the Cheney access to be someplace else. This is a real affront to the community and the folks that have lived out there all this time. They spent a lot of time providing input at public hearings early on with the Comprehensive Plan update and then the phase one of the shopping center, and they felt they had an understanding that they would be able to get in and out of Cheney. Hanshaw requested that the Planning Commission send forth the message to keep 91<sup>st</sup> Street open. There is land that can be purchased to provide for the stacking space that would be needed, and it is a doable deal.

**2. Lonnie Athey,** who owns a business in Cheney, is worried about the 91<sup>st</sup> Street entrance that was promised to be provided. But now, the residents of Cheney are hearing through the grapevine that 91<sup>st</sup> Street is going to be eliminated. The Cheney residents use that access. "Temporary" access does not fit.

### Staff questions

Marvin asked for a staff response regarding 91<sup>st</sup> Street. Dennis Bartels of Public Works stated that it has not been studied so he does not know the final design. There are some considerations that exist at the intersection. This temporary connection is approximately 600 ft. from Hwy 2, which is a terrible spot to have to put another signal or full access. Then we've got the constraint of the railroad tracks. If the railroad goes away in the future, it opens up some opportunities. At this point, we do not have any way to serve the area to the south with sewer. He is not sure whether it will be a city or county project to extend that sewer. In the subarea plan, the city guaranteed some access from Cheney to 91<sup>st</sup> Street, but he does not know whether it was site specific or the rebuilt connection that is happening now. For the foreseeable future, that rebuilt connection would provide full access to 91<sup>st</sup> Street. That intersection may be necessary to move south at 91<sup>st</sup> & Yankee Hill Road in order to design a safe and sufficient intersection that will be signalized in the future. Bartels anticipates that the first intersection south of Hwy 2 may warrant a signal, but the existing Cheney connection 600' south of the highway is not an

efficient place to put a signal so it might be desirable to move it further south. There are problems that will need to be addressed and at this point it has not been studied and it has not been addressed. He understands that Cheney would be provided full access in the subarea plan, but he cannot answer where that full access point might be in the future.

Marvin does not believe 84<sup>th</sup> looks like a straight shotthrough. Bartels advised that what was approved on the north side of Highway 2 as the new 84<sup>th</sup> Street is not along the old mile line, so where it crosses the highway it is going to have to curve back towards the west. We are finishing the design now and will probably have a project next summer to build 84<sup>th</sup> Street south to Amber Hill Road. There is a traffic light at 87<sup>th</sup> Street and there will be a light at 91<sup>st</sup> Street and 84<sup>th</sup> Street.

Bartels further explained that the alignment shown on the map is the right-of-way that the county purchased a number of years ago for Yankee Hill Road curving over to Hwy 2. The triangular piece of land is all right-of-way approved with the first phase of the subdivision. 91<sup>st</sup> Street will be paved with urban street approximately 600' south of Hwy 2, and then a new alignment created for the Cheney connector will be built as part of that project. Until 91<sup>st</sup> and Yankee Hill Road is extended south and west, there will be full access at that point, similar to what there is now. You come off the highway heading south, and then you will have to make a left turn, but there will be no opposing traffic.

Bills-Strand confirmed that this development and Cheney will both continue to have full access on 91<sup>st</sup> until some study of redesign is done. Bartels stated that to be true until there is final design of Yankee Hill Road and 91<sup>st</sup> Street.

Carlson noted that the access on the eastern end of Appian Way is going to create the issue. Bartels disagreed. It gives them full access right now. At a point 600' from Hwy 2, we anticipate the traffic volume might cause stacking going into Cheney. It is possible to put an intersection there, but from a traffic engineering standpoint, we don't want to guarantee people that is where it is going to be. Carlson asked whether it is the access into the shopping center that causes the limited access of the intersection. Bartels said, "no". This 91<sup>st</sup> street curves into Yankee Hill Road. He is anticipating that when Yankee Hill Road is paved from the west end of the city to the east, it will carry a large volume of traffic and there will be a large volume wanting to go through 91<sup>st</sup> & Hwy 2. It would be difficult to design two efficient intersections to keep traffic moving through those intersections.

### Response

Kalkowski reiterated that the access being shown is acceptable to the applicant.

Brian Will of Planning staff agreed with the proposed amendments to the conditions of approval, with one exception. He requested that Condition #1.1.13 of the use permit contain language such that the specific language be clarified and approved by the Director of Planning.

**ANNEXATION NO. 03002**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 7, 2004

Larson moved approval, subject to an annexation agreement, seconded by Carroll.

Pearson is not sure exactly what she has heard, but it sounds a little like the city is proposing that Cheney move their entrance to their town. She thinks that is a crime. She feels like no one is listening to Cheney and she will vote against this just because she doesn't know what else to do at this point. There is potential for the developer to continue that road and finish what they have started and that would then connect, but they are not choosing to do that.

Carlson agreed that it is troubling because we don't have an answer. However, he believes the circumstance, even with approval, is that there still is connection but we don't know what the long range solution might be. He understands Cheney's concern. What we are approving today does not mandate the closing of that intersection nor the loss of service of that intersection, but we don't have an ultimate solution and that's a shame. He will support the motion because the connection still exists in what is before the Commission.

Carroll commented that 91<sup>st</sup> Street going into Yankee Hill Road will generate large volumes of traffic in the future and it is not because of this development. It is because there is traffic coming from the west going east, and that is what is going to generate the design--not this development specifically. We cannot blame this development because there is not a solution for Cheney today. He is sorry that Cheney can't get an answer today, but he doesn't think that answer will come for a long time, based on when Yankee Hill Road is ultimately built.

Pearson again suggested that the remedy would be for this development to continue 91<sup>st</sup> Street. Carroll does not believe the design standards are there yet because the traffic volume isn't generated yet.

Bills-Strand commented that what is shown takes the Cheney entrance from 91<sup>st</sup> to about 87<sup>th</sup> & Yankee Hill Road. Larson believes this would be a better entrance to Cheney.

Motion for approval carried 7-1: Carlson, Krieser, Larson, Marvin, Sunderman, Carroll and Bills-Strand voting 'yes'; Pearson voting 'no'; Taylor absent. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 3411**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 7, 2004

Larson moved approval, seconded by Carroll and carried 7-1: Carlson, Krieser, Larson, Marvin, Sunderman, Carroll and Bills-Strand voting 'yes'; Pearson voting 'no'; Taylor absent. This is a recommendation to the City Council.

**USE PERMIT NO. 150**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 7, 2004

Larson moved to approve the staff recommendation of conditional approval, with amendments as requested by the applicant, with the additional language as requested by staff on Condition #1.1.13, seconded by Marvin and carried 7-1: Carlson, Krieser, Larson, Marvin, Sunderman, Carroll and Bills-Strand voting 'yes'; Pearson voting 'no'; Taylor absent. This is a recommendation to the City Council.

**SPECIAL PERMIT NO. 2046**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 7, 2004

Marvin moved to approve the staff recommendation of conditional approval, with the amendments as requested by the applicant, seconded by Larson and carried 7-1: Carlson, Krieser, Larson, Marvin, Sunderman, Carroll and Bills-Strand voting 'yes'; Pearson voting 'no'; Taylor absent. This is a recommendation to the City Council.

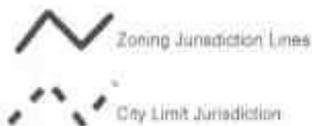


# Change of Zone #3411 S 91st St. & Hwy #2 Appian Way Regional Center

## 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-7 Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile  
Sec. 23 T09N R07E



016

**APPIAN WAY REGIONAL CENTER, PHASE 2  
SPECIAL PERMIT LEGAL DESCRIPTION  
FOR EASTERLY H-4 ZONING**

A TRACT OF LAND COMPOSED OF A PART OF LOT 78 AND ALL OF LOT 108, IRREGULAR TRACTS, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 108, SAID CORNER BEING ON THE EXISTING WESTERLY SOUTH 91ST STREET 33.00 FOOT RIGHT-OF-WAY LINE; THENCE S 00°12'37" W ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 4.62 FEET TO THE NORTHERLY YANKEE HILL ROAD RIGHT OF WAY LINE; THENCE S 44°20'31" W ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 285.77 FEET TO THE POINT OF CURVATURE OF A 1935.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST; THENCE SOUTHWESTERLY ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°58'31" AN ARC DISTANCE OF 370.66 FEET, THE CHORD OF SAID CURVE BEARS S 49°49'48" W, A DISTANCE OF 370.09 FEET; THENCE S 55°18'59" W ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 31.13 FEET TO THE FUTURE WESTERLY RIGHT OF WAY LINE OF AMBER HILL ROAD; THENCE N 24°41'05" W ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 76.15 FEET TO THE POINT OF CURVATURE OF A 283.00 FOOT RADIUS CURVE CONCAVE TO THE EAST; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 24°39'05" AN ARC DISTANCE OF 121.76 FEET, THE CHORD OF SAID CURVE BEARS N 12°21'32" W, A DISTANCE OF 120.82 FEET. THENCE N 00°02'00" W ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 109.79 FEET TO THE POINT OF CURVATURE OF A 331.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 34°18'58" AN ARC DISTANCE OF 198.25 FEET, THE CHORD OF SAID CURVE BEARS N 17°11'29" W, A DISTANCE OF 195.30 FEET TO THE SOUTHERLY LINE OF AN EXISTING LINCOLN ELECTRIC SYSTEM TRANSMISSION LINE EASEMENT RECORDED AS INSTRUMENT NUMBER 95-12607 AT THE LANCASTER COUNTY REGISTER OF DEEDS; THENCE S 89°01'14" W ALONG SAID EASEMENT LINE, A DISTANCE OF 421.42 FEET TO THE POINT OF CURVATURE OF A 1544.43 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 08°29'28" AN ARC DISTANCE OF 228.88 FEET, THE CHORD OF SAID CURVE BEARS N 49°41'49" W, A DISTANCE OF 228.67 FEET; THENCE N 54°44'21" E, A DISTANCE OF 284.85 FEET; THENCE S 57°04'22" E, A DISTANCE OF 349.77 FEET TO THE POINT OF CURVATURE OF A 369.50 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST; THENCE SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 21°15'29" AN ARC DISTANCE OF 137.09 FEET, THE CHORD OF SAID CURVE BEARS S 46°26'38" E, A DISTANCE OF 136.31 FEET; THENCE N 56°35'33" E, A DISTANCE OF 36.02 FEET; THENCE N 35°32'47" E, A DISTANCE OF 346.74 FEET TO A POINT ON THE EXISTING SOUTHERLY RIGHT OF WAY LINE OF NEBRASKA HIGHWAY NO. 2; THENCE S 51°36'51" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 463.01 FEET TO THE WESTERLY SOUTH 91ST STREET RIGHT OF WAY LINE, SAID LINE BEING LOCATED 33.00 FEET WESTERLY OF, PERPENDICULAR MEASUREMENT, AND PARALLEL WITH THE EAST LINE OF SAID SOUTHWEST QUARTER SECTION; THENCE S 00°12'24" W ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 53.68 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 377,507.26 SQUARE FEET (8.67 ACRES) MORE OR LESS.

**APPIAN WAY REGIONAL CENTER, PHASE 2  
SPECIAL PERMIT LEGAL DESCRIPTION  
FOR WESTERLY H-4 ZONING**

A TRACT OF LAND COMPOSED OF A PART OF LOTS 79, 80 AND 83, IRREGULAR TRACTS, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, AND A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF SAID LOT 79, SAID POINT BEING LOCATED ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF 84<sup>TH</sup> STREET AND 70.00 EASTERLY OF, PERPENDICULAR MEASUREMENT, THE WEST LINE OF SAID SOUTHWEST QUARTER SECTION 23; THENCE N 00°52'06" E ALONG SAID EXISTING EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 50.23 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 00°52'06" E ALONG SAID EXISTING EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 117.10 FEET TO A FUTURE CORNER OF SAID SOUTHERLY RIGHT OF WAY LINE; THENCE N 02°10'26" E ALONG SAID FUTURE EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 60.05 FEET; THENCE N 01°25'12" E ALONG SAID FUTURE EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 427.70 FEET TO THE POINT OF CURVATURE OF A 585.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE NORTHERLY ALONG SAID FUTURE EASTERLY RIGHT-OF-WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 20°45'19" AND ARC DISTANCE OF 211.91 FEET, THE CHORD OF SAID CURVE BEARS N 08°57'31" W, A DISTANCE OF 210.76 FEET; THENCE N 79°35'14" E, A DISTANCE OF 150.77 FEET TO THE POINT OF CURVATURE OF A 300.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 45°41'48" AND ARC DISTANCE OF 239.27 FEET, THE CHORD OF SAID CURVE BEARS S 77°33'52" E, A DISTANCE OF 232.98 FEET; THENCE S 54°42'58" E, A DISTANCE OF 83.46 FEET TO THE POINT OF CURVATURE OF A 300.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 54°56'08" AND ARC DISTANCE OF 287.64 FEET, THE CHORD OF SAID CURVE BEARS S 27°14'54" E, A DISTANCE OF 276.75 FEET; THENCE S 00°13'10" W, A DISTANCE OF 94.48 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 80; THENCE N 89°46'50" W, ALONG THE SOUTHERLY LINE OF SAID LOT 80, A DISTANCE OF 73.74 FEET; THENCE S 00°22'01" W, A DISTANCE OF 372.97 FEET TO THE POINT OF CURVATURE OF A 1544.43 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°37'11" AND ARC DISTANCE OF 178.44 FEET, THE CHORD OF SAID CURVE BEARS S 88°38'35" W, A DISTANCE OF 178.34 FEET; THENCE S 85°20'00" W, A DISTANCE OF 298.67 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 389,611.56 SQUARE FEET (8.94 ACRES) MORE OR LESS.

018

**APPIAN WAY REGIONAL CENTER, PHASE 2  
USE PERMIT LEGAL DESCRIPTION  
FOR B-5 ZONING**

A TRACT OF LAND COMPOSED OF A PART OF LOTS 78, 79, 80, 83, ALL OF LOT 109, IRREGULAR TRACTS, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, ALL OF LOT 81, IRREGULAR TRACT, LOCATED IN THE NORTHWEST QUARTER OF SECTION 23, A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23 AND A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 22, ALL IN TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER SECTION 23;  
THENCE S 89°52'54" E, ASSUMED BEARING, ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER SECTION A DISTANCE OF 8.32 FEET TO THE FUTURE EASTERLY RIGHT OF WAY LINE OF SOUTH 84<sup>TH</sup> STREET AND THE POINT OF BEGINNING, SAID POINT ALSO BEING THE POINT OF CURVATURE OF A 585.00 FOOT RADIUS CURVE, CONCAVE TO THE WEST;  
THENCE NORTHWESTERLY ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 5°19'51" AN ARC DISTANCE OF 54.43 FEET, THE CHORD OF SAID CURVE BEARS N 29°31'49" W, A DISTANCE OF 54.41 FEET; THENCE N 32°11'45" W ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 136.19 FEET TO THE POINT OF CURVATURE OF A 465.00 FOOT RADIUS CURVE, CONCAVE TO THE EAST; THENCE NORTHERLY ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 04°50'15" AN ARC DISTANCE OF 39.26 FEET, THE CHORD OF SAID CURVE BEARS N 29°46'38" W, A DISTANCE OF 39.25 FEET; THENCE N 62°38'30" E ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 5.00 FEET TO A POINT ON A 460.00 FOOT RADIUS CURVE, CONCAVE TO THE EAST; THENCE NORTHERLY ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 56°22'59" AN ARC DISTANCE OF 452.67 FEET, THE CHORD OF SAID CURVE BEARS N 00°49'59" E, A DISTANCE OF 434.63 FEET; THENCE N 29°01'29" E ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 39.29 FEET TO THE INTERSECTION WITH THE FUTURE SOUTHERLY NEBRASKA HIGHWAY NO. 2 RIGHT OF WAY LINE; THENCE S 58°04'03" E ALONG SAID FUTURE SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 125.63 FEET TO AN INTERSECTION OF THE EXISTING SOUTHERLY RIGHT OF WAY LINE OF NEBRASKA HIGHWAY NO. 2 AND THE EASTERLY EXISTING SOUTH 84<sup>TH</sup> STREET RIGHT OF WAY LINE; THENCE S 74°45'16" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 74.68 FEET; THENCE S 48°10'50" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 301.81 FEET; THENCE S 54°27'15" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 400.00 FEET; THENCE S 58°59'08" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 290.85 FEET TO THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION;  
THENCE S 54°27'18" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 1615.21 FEET; THENCE S 51°36'51" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 43.11 FEET; THENCE S 35°32'47" W, A DISTANCE OF 346.74 FEET; THENCE S 56°35'33" W, A DISTANCE OF 36.02 FEET TO THE POINT OF CURVATURE OF A 369.50 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 21°15'29" AN ARC DISTANCE OF 137.09 FEET, THE CHORD OF SAID CURVE BEARS N 46°26'38" W, A DISTANCE OF 136.31 FEET; THENCE N 57°04'22" W, A DISTANCE OF 349.77 FEET; THENCE S 54°44'21" W, A DISTANCE OF 284.85 FEET TO THE POINT OF CURVATURE OF A 1544.43 FOOT RADIUS

**APPIAN WAY REGIONAL CENTER, PHASE 2  
USE PERMIT LEGAL DESCRIPTION  
FOR B-5 ZONING**

CURVE, CONCAVE TO THE SOUTH; THENCE SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 08°29'28" AN ARC DISTANCE OF 228.88 FEET, THE CHORD OF SAID CURVE BEARS S 49°41'49" E, A DISTANCE OF 228.67 FEET TO A POINT ON THE SOUTHERLY LINE OF AN EXISTING LINCOLN ELECTRIC SYSTEM TRANSMISSION LINE EASEMENT RECORDED AS INSTRUMENT NUMBER 95-12607 AT THE LANCASTER COUNTY REGISTER OF DEEDS; THENCE S 89°01'14" W ALONG SAID EASEMENT LINE, A DISTANCE OF 10.53 FEET; THENCE S 59°00'27" E A DISTANCE OF 22.10 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER SECTION 23; THENCE N 89°58'00" E ALONG SAID QUARTER SECTION LINE, A DISTANCE OF 67.89 FEET; THENCE S 00°02'00" E A DISTANCE OF 146.74 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF THE OMAHA PUBLIC POWER DISTRICT'S RAILROAD LINE AND THE POINT OF CURVATURE OF A 1494.43 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH; THENCE NORTHWESTERLY ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 55°34'19" AN ARC DISTANCE OF 1449.47 FEET, THE CHORD OF SAID CURVE BEARS N 66°52'50" W, A DISTANCE OF 1393.32 FEET; THENCE S 85°20'00" W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 303.52 FEET TO THE EXISTING EASTERLY RIGHT OF WAY LINE OF 84<sup>TH</sup> STREET, SAID POINT LOCATED 70.00 EASTERLY OF, PERPENDICULAR MEASUREMENT, THE WEST LINE OF SAID SOUTHWEST QUARTER SECTION 23; THENCE N 00°52'06" E ALONG SAID EXISTING EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 50.23 FEET; THENCE N 85°20'00" E, A DISTANCE OF 298.67 FEET TO THE POINT OF CURVATURE OF A 1544.43 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°37'11" AND ARC DISTANCE OF 178.44 FEET, THE CHORD OF SAID CURVE BEARS N 88°38'35" E, A DISTANCE OF 178.34 FEET; THENCE N 00°22'01" E, A DISTANCE OF 372.97 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 80; THENCE S 89°46'50" E, ALONG THE SOUTHERLY LINE OF SAID LOT 80, A DISTANCE OF 73.74 FEET; THENCE N 00°13'10" E, A DISTANCE OF 94.48 FEET TO THE POINT OF CURVATURE OF A 300.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 54°56'08" AND ARC DISTANCE OF 287.64 FEET, THE CHORD OF SAID CURVE BEARS N 27°14'54" W, A DISTANCE OF 276.75 FEET; THENCE N 54°42'58" W, A DISTANCE OF 83.46 FEET TO THE POINT OF CURVATURE OF A 300.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 45°41'48" AND ARC DISTANCE OF 239.27 FEET, THE CHORD OF SAID CURVE BEARS N 77°33'52" W, A DISTANCE OF 232.98 FEET; THENCE S 79°35'14" W, A DISTANCE OF 150.77 FEET TO A POINT ON THE FUTURE EASTERLY RIGHT OF WAY LINE OF SOUTH 84<sup>TH</sup> STREET AND A POINT OF CURVATURE OF A 585.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE NORTHERLY ALONG SAID FUTURE EASTERLY RIGHT-OF-WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 07°31'43" AND ARC DISTANCE OF 76.87 FEET, THE CHORD OF SAID CURVE BEARS N 23°06'03" W, A DISTANCE OF 76.81 FEET TO THE SOUTH LINE OF SAID NORTHWEST QUARTER SECTION AND THE POINT OF BEGINNING, CONTAINING AN AREA OF 1,564,340.11 SQUARE FEET (35.91 ACRES) MORE OR LESS.

020

**APPIAN WAY REGIONAL CENTER, PHASE 2  
SPECIAL PERMIT LEGAL DESCRIPTION  
FOR EASTERLY H-4 ZONING**

A TRACT OF LAND COMPOSED OF A PART OF LOT 78 AND ALL OF LOT 108, IRREGULAR TRACTS, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 108, SAID CORNER BEING ON THE EXISTING WESTERLY SOUTH 91ST STREET 33.00 FOOT RIGHT-OF-WAY LINE; THENCE S 00°12'37" W ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 4.62 FEET TO THE NORTHERLY YANKEE HILL ROAD RIGHT OF WAY LINE; THENCE S 44°20'31" W ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 285.77 FEET TO THE POINT OF CURVATURE OF A 1935.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST; THENCE SOUTHWESTERLY ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°58'31" AN ARC DISTANCE OF 370.66 FEET, THE CHORD OF SAID CURVE BEARS S 49°49'48" W, A DISTANCE OF 370.09 FEET; THENCE S 55°18'59" W ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 31.13 FEET TO THE FUTURE WESTERLY RIGHT OF WAY LINE OF AMBER HILL ROAD; THENCE N 24°41'05" W ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 76.15 FEET TO THE POINT OF CURVATURE OF A 283.00 FOOT RADIUS CURVE CONCAVE TO THE EAST; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 24°39'05" AN ARC DISTANCE OF 121.76 FEET, THE CHORD OF SAID CURVE BEARS N 12°21'32" W, A DISTANCE OF 120.82 FEET. THENCE N 00°02'00" W ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 109.79 FEET TO THE POINT OF CURVATURE OF A 331.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 34°18'58" AN ARC DISTANCE OF 198.25 FEET, THE CHORD OF SAID CURVE BEARS N 17°11'29" W, A DISTANCE OF 195.30 FEET TO THE SOUTHERLY LINE OF AN EXISTING LINCOLN ELECTRIC SYSTEM TRANSMISSION LINE EASEMENT RECORDED AS INSTRUMENT NUMBER 95-12607 AT THE LANCASTER COUNTY REGISTER OF DEEDS; THENCE S 89°01'14" W ALONG SAID EASEMENT LINE, A DISTANCE OF 421.42 FEET TO THE POINT OF CURVATURE OF A 1544.43 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 08°29'28" AN ARC DISTANCE OF 228.88 FEET, THE CHORD OF SAID CURVE BEARS N 49°41'49" W, A DISTANCE OF 228.67 FEET; THENCE N 54°44'21" E, A DISTANCE OF 284.85 FEET; THENCE S 57°04'22" E, A DISTANCE OF 349.77 FEET TO THE POINT OF CURVATURE OF A 369.50 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST; THENCE SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 21°15'29" AN ARC DISTANCE OF 137.09 FEET, THE CHORD OF SAID CURVE BEARS S 46°26'38" E, A DISTANCE OF 136.31 FEET; THENCE N 56°35'33" E, A DISTANCE OF 36.02 FEET; THENCE N 35°32'47" E, A DISTANCE OF 346.74 FEET TO A POINT ON THE EXISTING SOUTHERLY RIGHT OF WAY LINE OF NEBRASKA HIGHWAY NO. 2; THENCE S 51°36'51" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 463.01 FEET TO THE WESTERLY SOUTH 91ST STREET RIGHT OF WAY LINE, SAID LINE BEING LOCATED 33.00 FEET WESTERLY OF, PERPENDICULAR MEASUREMENT, AND PARALLEL WITH THE EAST LINE OF SAID SOUTHWEST QUARTER SECTION; THENCE S 00°12'24" W ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 53.68 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 377,507.26 SQUARE FEET (8.67 ACRES) MORE OR LESS.

**APPIAN WAY REGIONAL CENTER, PHASE 2  
SPECIAL PERMIT LEGAL DESCRIPTION  
FOR WESTERLY H-4 ZONING**

A TRACT OF LAND COMPOSED OF A PART OF LOTS 79, 80 AND 83, IRREGULAR TRACTS, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, AND A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF SAID LOT 79, SAID POINT BEING LOCATED ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF 84<sup>TH</sup> STREET AND 70.00 EASTERLY OF, PERPENDICULAR MEASUREMENT, THE WEST LINE OF SAID SOUTHWEST QUARTER SECTION 23; THENCE N 00°52'06" E ALONG SAID EXISTING EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 50.23 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 00°52'06" E ALONG SAID EXISTING EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 117.10 FEET TO A FUTURE CORNER OF SAID SOUTHERLY RIGHT OF WAY LINE; THENCE N 02°10'26" E ALONG SAID FUTURE EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 60.05 FEET; THENCE N 01°25'12" E ALONG SAID FUTURE EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 427.70 FEET TO THE POINT OF CURVATURE OF A 585.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE NORTHERLY ALONG SAID FUTURE EASTERLY RIGHT-OF-WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 20°45'19" AND ARC DISTANCE OF 211.91 FEET, THE CHORD OF SAID CURVE BEARS N 08°57'31" W, A DISTANCE OF 210.76 FEET; THENCE N 79°35'14" E, A DISTANCE OF 150.77 FEET TO THE POINT OF CURVATURE OF A 300.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 45°41'48" AND ARC DISTANCE OF 239.27 FEET, THE CHORD OF SAID CURVE BEARS S 77°33'52" E, A DISTANCE OF 232.98 FEET; THENCE S 54°42'58" E, A DISTANCE OF 83.46 FEET TO THE POINT OF CURVATURE OF A 300.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 54°56'08" AND ARC DISTANCE OF 287.64 FEET, THE CHORD OF SAID CURVE BEARS S 27°14'54" E, A DISTANCE OF 276.75 FEET; THENCE S 00°13'10" W, A DISTANCE OF 94.48 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 80; THENCE N 89°46'50" W, ALONG THE SOUTHERLY LINE OF SAID LOT 80, A DISTANCE OF 73.74 FEET; THENCE S 00°22'01" W, A DISTANCE OF 372.97 FEET TO THE POINT OF CURVATURE OF A 1544.43 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°37'11" AND ARC DISTANCE OF 178.44 FEET, THE CHORD OF SAID CURVE BEARS S 88°38'35" W, A DISTANCE OF 178.34 FEET; THENCE S 85°20'00" W, A DISTANCE OF 298.67 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 389,611.56 SQUARE FEET (8.94 ACRES) MORE OR LESS.

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**APPIAN WAY REGIONAL CENTER, PHASE 2  
USE PERMIT LEGAL DESCRIPTION  
FOR B-5 ZONING**

A TRACT OF LAND COMPOSED OF A PART OF LOTS 78, 79, 80, 83, ALL OF LOT 109, IRREGULAR TRACTS, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, ALL OF LOT 81, IRREGULAR TRACT, LOCATED IN THE NORTHWEST QUARTER OF SECTION 23, A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23 AND A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 22, ALL IN TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER SECTION 23; THENCE S 89°52'54" E, ASSUMED BEARING, ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER SECTION A DISTANCE OF 8.32 FEET TO THE FUTURE EASTERLY RIGHT OF WAY LINE OF SOUTH 84<sup>TH</sup> STREET AND THE POINT OF BEGINNING, SAID POINT ALSO BEING THE POINT OF CURVATURE OF A 585.00 FOOT RADIUS CURVE, CONCAVE TO THE WEST; THENCE NORTHWESTERLY ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 5°19'51" AN ARC DISTANCE OF 54.43 FEET, THE CHORD OF SAID CURVE BEARS N 29°31'49" W, A DISTANCE OF 54.41 FEET; THENCE N 32°11'45" W ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 136.19 FEET TO THE POINT OF CURVATURE OF A 465.00 FOOT RADIUS CURVE, CONCAVE TO THE EAST; THENCE NORTHERLY ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 04°50'15" AN ARC DISTANCE OF 39.26 FEET, THE CHORD OF SAID CURVE BEARS N 29°46'38" W, A DISTANCE OF 39.25 FEET; THENCE N 62°38'30" E ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 5.00 FEET TO A POINT ON A 460.00 FOOT RADIUS CURVE, CONCAVE TO THE EAST; THENCE NORTHERLY ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 56°22'59" AN ARC DISTANCE OF 452.67 FEET, THE CHORD OF SAID CURVE BEARS N 00°49'59" E, A DISTANCE OF 434.63 FEET; THENCE N 29°01'29" E ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 39.29 FEET TO THE INTERSECTION WITH THE FUTURE SOUTHERLY NEBRASKA HIGHWAY NO. 2 RIGHT OF WAY LINE; THENCE S 58°04'03" E ALONG SAID FUTURE SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 125.63 FEET TO AN INTERSECTION OF THE EXISTING SOUTHERLY RIGHT OF WAY LINE OF NEBRASKA HIGHWAY NO. 2 AND THE EASTERLY EXISTING SOUTH 84<sup>TH</sup> STREET RIGHT OF WAY LINE; THENCE S 74°45'16" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 74.68 FEET; THENCE S 48°10'50" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 301.81 FEET; THENCE S 54°27'15" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 400.00 FEET; THENCE S 58°59'08" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 290.85 FEET TO THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION; THENCE S 54°27'18" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 1615.21 FEET; THENCE S 51°36'51" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 43.11 FEET; THENCE S 35°32'47" W, A DISTANCE OF 346.74 FEET; THENCE S 56°35'33" W, A DISTANCE OF 36.02 FEET TO THE POINT OF CURVATURE OF A 369.50 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 21°15'29" AN ARC DISTANCE OF 137.09 FEET, THE CHORD OF SAID CURVE BEARS N 46°26'38" W, A DISTANCE OF 136.31 FEET; THENCE N 57°04'22" W, A DISTANCE OF 349.77 FEET; THENCE S 54°44'21" W, A DISTANCE OF 284.85 FEET TO THE POINT OF CURVATURE OF A 1544.43 FOOT RADIUS

**APPIAN WAY REGIONAL CENTER, PHASE 2  
USE PERMIT LEGAL DESCRIPTION  
FOR B-5 ZONING**

CURVE, CONCAVE TO THE SOUTH; THENCE SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 08°29'28" AN ARC DISTANCE OF 228.88 FEET, THE CHORD OF SAID CURVE BEARS S 49°41'49" E, A DISTANCE OF 228.67 FEET TO A POINT ON THE SOUTHERLY LINE OF AN EXISTING LINCOLN ELECTRIC SYSTEM TRANSMISSION LINE EASEMENT RECORDED AS INSTRUMENT NUMBER 95-12607 AT THE LANCASTER COUNTY REGISTER OF DEEDS; THENCE S 89°01'14" W ALONG SAID EASEMENT LINE, A DISTANCE OF 10.53 FEET; THENCE S 59°00'27" E A DISTANCE OF 22.10 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER SECTION 23; THENCE N 89°58'00" E ALONG SAID QUARTER SECTION LINE, A DISTANCE OF 67.89 FEET; THENCE S 00°02'00" E A DISTANCE OF 146.74 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF THE OMAHA PUBLIC POWER DISTRICT'S RAILROAD LINE AND THE POINT OF CURVATURE OF A 1494.43 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH; THENCE NORTHWESTERLY ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 55°34'19" AN ARC DISTANCE OF 1449.47 FEET, THE CHORD OF SAID CURVE BEARS N 66°52'50" W, A DISTANCE OF 1393.32 FEET; THENCE S 85°20'00" W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 303.52 FEET TO THE EXISTING EASTERLY RIGHT OF WAY LINE OF 84<sup>TH</sup> STREET, SAID POINT LOCATED 70.00 EASTERLY OF, PERPENDICULAR MEASUREMENT, THE WEST LINE OF SAID SOUTHWEST QUARTER SECTION 23; THENCE N 00°52'06" E ALONG SAID EXISTING EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 50.23 FEET; THENCE N 85°20'00" E, A DISTANCE OF 298.67 FEET TO THE POINT OF CURVATURE OF A 1544.43 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°37'11" AND ARC DISTANCE OF 178.44 FEET, THE CHORD OF SAID CURVE BEARS N 88°38'35" E, A DISTANCE OF 178.34 FEET; THENCE N 00°22'01" E, A DISTANCE OF 372.97 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 80; THENCE S 89°46'50" E, ALONG THE SOUTHERLY LINE OF SAID LOT 80, A DISTANCE OF 73.74 FEET; THENCE N 00°13'10" E, A DISTANCE OF 94.48 FEET TO THE POINT OF CURVATURE OF A 300.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 54°56'08" AND ARC DISTANCE OF 287.64 FEET, THE CHORD OF SAID CURVE BEARS N 27°14'54" W, A DISTANCE OF 276.75 FEET; THENCE N 54°42'58" W, A DISTANCE OF 83.46 FEET TO THE POINT OF CURVATURE OF A 300.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 45°41'48" AND ARC DISTANCE OF 239.27 FEET, THE CHORD OF SAID CURVE BEARS N 77°33'52" W, A DISTANCE OF 232.98 FEET; THENCE S 79°35'14" W, A DISTANCE OF 150.77 FEET TO A POINT ON THE FUTURE EASTERLY RIGHT OF WAY LINE OF SOUTH 84<sup>TH</sup> STREET AND A POINT OF CURVATURE OF A 585.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE NORTHERLY ALONG SAID FUTURE EASTERLY RIGHT-OF-WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 07°31'43" AND ARC DISTANCE OF 76.87 FEET, THE CHORD OF SAID CURVE BEARS N 23°06'03" W, A DISTANCE OF 76.81 FEET TO THE SOUTH LINE OF SAID NORTHWEST QUARTER SECTION AND THE POINT OF BEGINNING, CONTAINING AN AREA OF 1,564,340.11 SQUARE FEET (35.91 ACRES) MORE OR LESS.

# SEACREST & KALKOWSKI, P.C.

1111 LINCOLN MALL, SUITE 350  
LINCOLN, NEBRASKA 68508-3905

TELEPHONE (402) 435-6000  
FACSIMILE (402) 435-6100

KENT SEACREST  
E-MAIL: kent@sk-law.com

DANAY KALKOWSKI  
E-MAIL: danay@sk-law.com

December 10, 2003

## HAND DELIVERY

Marvin Krout  
Planning Director  
County-City Building  
555 South 10<sup>th</sup>  
Lincoln, NE 68508

DEC 11 2003

RE: Resubmittal for Phase 2 of Appian Way Regional Center  
South of Highway 2 (South 84<sup>th</sup> Street to South 91<sup>st</sup> Street)  
Change of Zone to B-5 and H-4, Use Permit, Special Permit and Annexation

Dear Marvin:

On behalf of Andermatt L.L.C. and Eiger Corp. we are hereby resubmitting plans for the area south of Highway 2 and north of the railroad tracts between South 84<sup>th</sup> Street and South 91<sup>st</sup> Street ("Property"). Andermatt and Eiger are either the owner of or have a contract interest in all of the Property. Several changes have been made to the plans originally submitted by HWS which necessitate a new review. Eiger is requesting that the Property be rezoned from AG to B-5 and H-4. A Use Permit is requested for that portion of the Property rezoned B-5 and a Special Permit for Planned Service Commercial is requested for that portion of the Property rezoned H-4.

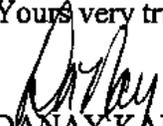
Eiger is requesting annexation of the Property. All of the Property except for Lots 108 and 109 I.T., located in Section 23, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska (the "Lots") abutting South 91<sup>st</sup> Street was included within the Conditional Annexation and Zoning Agreement for S. 84<sup>th</sup> & Highway 2 ("Annexation Agreement"). The Annexation Agreement contained a P.M. Peak Hour Net Commercial Vehicle Trip cap of 1,239 trips for the property located south of Highway 2 ("South Trip Cap"). Eiger is proposing that the Lots be included within the "South Area" identified in the Annexation Agreement subject to the South Trip Cap. By means of this letter, Eiger is requesting a determination from the Impact Fee Administrator that if the Lots are included within the South Area subject to the South Trip Cap, they will not be subject to the imposition of the arterial street impact fee if development stays within the cap. The Lots would, however, remain subject to the imposition of wastewater, water distribution and water system impact fees. Once this determination is made, an annexation agreement can be prepared for the Lots that make it subject to the South Trip Cap and outline an additional right turn lane necessitated by the development of the property.

Enclosed please find the following:

1. City of Lincoln Zoning Application for Changes of Zone, Use Permit and Special Permit
2. Additional application fee of \$585 for the Special Permit
3. 21 copies (7 sheets) of the Use Permit and Special Permit plans

We have ordered an ownership certificate for the Property and will provide it to you within the next week. If you have any questions regarding the above, please call me.

Yours very truly,

  
DANAY KALKOWSKI  
For the Firm

Enclosure

cc: Tom Huston  
Kelvin Korver  
Michaela Hansen  
Rick Peo  
Steve Henrichsen

DEC 11 2003

DaNay Kalkowski, Kelvin Korver,  
BOARD OF DIRECTORS

Al Jambor

(p.87 - Cont'd Public Hearing - 11/12/03)

**President:**  
Gayle Hanshaw  
423-4448

**Vice-president:**  
Louise Athey  
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**Community Liter P/U  
& meeting signs:**  
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**Civil Defense:**  
Bob Swift  
421-3021

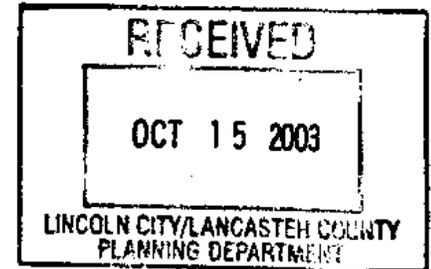
**Newsletter:**  
Mavis Gammel  
421-6531

# C H E N E Y

## Community Improvement Program

October 13, 2003

Jean Walker  
Lincoln-Lancaster County Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508



Re: Appian Way Regional Center - Phase II

Dear Jean,

The Cheney CIP is in support of this latest phase of development. We do, though, have some questions and/or concerns. The current proposal for the reconstruction of 91<sup>st</sup> Street South of Highway 2 appears to have changed

from what had been agreed to at the public hearings held at the Berean Church in 2001.

Historically, this is what has transpired. The developer of the shopping center originally proposed to the County Engineer that a diagonal road be constructed from 87<sup>th</sup> and Yankee Hill Road to 91<sup>st</sup> and Highway 2. And, for the 91<sup>st</sup> and Highway 2 intersection be rebuilt to align with this new road. The existing 91<sup>st</sup> Street coming into Cheney was to be abandoned to a point South of Highway 2 where a new connector road would be built to link 91<sup>st</sup> Street to this new diagonal road. The County Engineer proceeded with acquiring the right of way

Then, early in 2001, at the public hearings held at the Berean Church, City Planning initially proposed and presented prepared plans showing that the community of Cheney would lose access from Highway 2 at 91<sup>st</sup> Street. The plans were to allow only right in and right out turns, thus, requiring everyone coming into Cheney to go to 84<sup>th</sup> and Yankee Hill Road, then come East on Yankee Hill Road and Northeast on the diagonal to be able to turn right to get to 91<sup>st</sup> Street. Considerable opposition and frustration was expressed about this affront to the citizens of Cheney. In response to the question of why, Planning responded that there was not sufficient room to provide for the necessary stacking of vehicles that would potentially be wanting to turn left at this new 91<sup>st</sup> Street connector. Hearing this, the question was then asked as to what observations had been made as to traffic counts, etc. The response then was that the City of Lincoln did not have the money to pay for an independent study. At that point, the developer, Kelvin Korver, offered to contract with the firm of Hoskins, Western and Sonderegger (HWS) to perform a study, for which he would pay for. Mr. Korver did report at the next public hearing that HWS did conclude there would be ample room to provide the necessary stacking for a full right turn and left turn access to and from Highway 2 at 91<sup>st</sup> Street. The intersection would be approximately 760 feet South of Highway 2. This was agreed to by all parties.

Then, in June 2003, plans with drawings for Phase II of the shopping center were received. This proposed connector road (see sheet 2 of the Phase II drawings) and it's intersection with the new diagonal road is now being shown much farther to the North at approximately where Planning proposed it to be originally. That location provides for a rather short distance of stacking. The question of why it has been moved was answered with a statement that additional right of way would need to be acquired in order to build the intersection at the 700+ foot mark and there wasn't money to do that.

Of course, the question begs as to how can there now be sufficient stacking space when there wasn't in the beginning seeing as how the intersection would be approximately where Planning originally proposed it to be? We contend there is not sufficient stacking space in the current proposal to permit safe stacking of all of the cars, trucks and school buses that will be coming into Cheney.

The absence of a traffic signal light at the current intersection of 91<sup>st</sup> Street and Highway 2 continues to be a concern. This concern has been expressed to the Planning Department and Public Works on several occasions. There have since been a fatality accident, at least one severe injury accident as well as several other fender bender accidents since the shopping center/officially open in March 2003. The weather has been warm enough since then that frosted windows, snow, etc., has not yet been a factor in any of those accidents, however, Winter weather will be here right soon now! And, rain, albeit not overly plentiful this Summer, presents similar visibility problems. Further compounding the visibility problems for those drivers entering onto Highway 2, as well as the increased traffic turning left (North) off of Highway 2 to go to the Heart Hospital and the stores in the shopping center, is the location of the sun at this time of year. It is extremely difficult to look directly into the sun and still be able to see oncoming traffic coming from the East.

Another matter the CIP wishes to seek approval for is the placement of a "Welcome To Cheney" sign. It is our understanding that the triangle of land bounded by the Rentschler property to the East, the new diagonal to the West, and, the Cheney Connection to the South will become surplus. We would like to place such a sign somewhere in that triangle of land.

It was during the City Council meeting at which final approval of Phase I for the shopping center was granted that then Council member Seng mentioned something about preserving our community identity. We feel a properly placed "Welcome To Cheney" sign would greatly aid in preserving our identity and give residents of the community added pride. The CIP would fund such a sign.

So, with this letter, the Cheney CIP Board of Directors do request three things of the Planning Commission: 1) to amend the Phase II plans of the 84th Street and Highway 2 shopping center by moving the "Cheney Connection" intersection to the South of where it is currently proposed so as to allow for sufficient stacking at such a time as the new diagonal road is built and anticipated out of the area traffic is using the diagonal to get to the shopping center; 2) to request the installation and activation of a traffic signal light, yet this Fall, at the 91st Street and Highway 2 intersection; and, 3) to specifically set out an area in the afore mentioned triangle of land for the purpose of the Cheney CIP erecting a "Welcome To Cheney" sign.

Please forward this letter to the Planning Commissioners and any other appropriate parties.

We sincerely thank you for your consideration and attention to these matters.



Gayle Hanshaw, President  
Cheney Community Improvement Program  
9420 Third Street  
Cheney, NE 68526

phone: (work) 472-7639 (home) 423-4448  
e-mail: VGHanshaw@aol.com

cc. Cheney CIP Directors



Brian J Will

01/06/2004 04:47 PM

(P:209 - Public Hearing - 1/07/04)

To: russwins@iwon.com

cc: Marvin S Krout/Notes@Notes, Ray F Hill/Notes@Notes, Jean L Walker/Notes@Notes

Subject: Re: Annex property generally located at S. 84th Street and Highway 2.



Mr. Kromberg,

The Planning Department is in receipt of your e-mail regarding the Appian Way Phase II development, and I would like to offer to following responses to the questions you raised.

1. 40' height limit - This project proposes to change the zoning to H-4 and B-5. The height limit in the H-4 district is 35', and the height limit in the B-5 district is 40'. As there were no height waivers requested, no building in this development is allowed exceed 40' in height.
2. Sewer to serve Amber Hills - The Amber Hills development is in a different drainage area and cannot be served by the sewer line being extended to serve this development. This development will be served by an existing sewer main being extended south from the shopping center on the north side of Highway 2. It is my understanding that Amber Hills will need to be served by extending a different sewer main west of this area. For more information regarding sewer service in this area, please contact Dennis Bartels, Public Works and Utilities, at 441-7595.
3. Street Lights - Street lights are required along all public and private streets, and they all must comply with the City of Lincoln Street Lighting Design Standards. Typically, street lights are required at intersections and every 200' midblock and are intended to illuminate the street for vehicles and pedestrians. Any reduction in the required number or intensity of street lights is a waiver to the Design Standards and must be approved by the City Council. The Lincoln Electric System is responsible for reviewing and approving street lighting plans, and they may be reached at 475-4211 if you have additional questions.
4. Sidewalks along South 84th Street - The City is responsible for constructing that portion of South 84th Street adjacent to this project when it is improved, and the plans include sidewalks on both sides of the street. Additionally, three outlots located along the west boundary of the development provide open space/buffer areas ranging from approximately 100' to 300' in width.
5. Fast-food/drive-thru restaurants are prohibited on those lots at the east and west ends of the development adjacent to South 84th and South 91st Streets. However, they would be allowed on Lots 1, 2 and 3, Block 2, which are internal to the development. A land use table is part of the plan under review and identifies specific uses for all the lots within this development. I can make a copy of this table available to you if you want more information.

If you any questions or need any additional information, please do not hesitate to contact me either by e-mail or my phone number listed below.

Brian Will  
Lincoln/Lancaster County Planning Department  
555 South 10th Street  
Lincoln, NE 68508  
(402) 441-6362  
Ray F Hill



Ray F Hill

01/06/2004 10:17 AM

To: Brian J Will/Notes@Notes

cc: Marvin S Krout/Notes@Notes

Subject: Re: Annex property generally located at S. 84th Street and Highway 2.



Jean L Walker



Jean L Walker  
01/06/2004 09:27 AM

To: Danay@sk-law.com, Brian J Will/Notes@Notes, Marvin S  
Krout/Notes@Notes, Ray F Hill/Notes@Notes, russwins@iwon.com  
cc:  
Subject: Annex property generally located at S. 84th Street and Highway 2.

Dear Mr. Kromberg:

Thank you for submitting your comments regarding Annexation No. 03002, Change of Zone No. 3411, Special Permit No. 2046 and Use Permit No. 150, which have now become part of the official record on these applications. A copy will be submitted to the Planning Commission members at the beginning of the public hearing tomorrow, Wednesday, January 7th. The Commission meeting begins at 1:00 p.m., however, these applications are later on the agenda.

--Jean Walker, Administrative Officer  
City-County Planning Department  
441-6365

--- Forwarded by Jean L Walker/Notes on 01/06/2004 09:26 AM ---



"Russ Kromberg"  
<russwins@iwon.com  
>

01/06/2004 08:39 AM  
Please respond to  
russwins

To: plan@ci.lincoln.ne.us  
cc:  
Subject: Annex property generally located at S. 84th Street and Highway 2.

In response to the request to annex the property located on the southeast corner of 84th and Hwy 2, I would like to state that I am not against this annexation but I would like to bring up some of my concerns as an acreage owner adjacent to the west of this development's located in the Amber Hill Estates.

- 1) I am against any buildings being over 40 feet in height.
- 2) I would like the sewer system designed so that if needed in the future the Amber Hills residents could hook into it if we are annexed into the city.
- 3) Street lights. The lights on the north part of Hwy 2 look nice during the day but at night they put out too much horizontal light. The lights need to be directed downward more.
- 4) Sidewalks along the east side of 84th street along with a buffer zone of trees and shrubs.
- 5) No restaurants that operate 24 hours a day and no drive thru restaurants.

Thanks,

Russ Kromberg

8201 Amber Hill Rd.

030