

FACTSHEET

TITLE: Letter of Appeal to Condition #1.1.4 and Condition #1.2.2 of PRELIMINARY PLAT NO. 05016, APPLE'S WAY, filed by Thomas C. Huston, on behalf of Apple's Way LLC and Uno Properties, on property generally located at South 66th Street and Highway 2.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 11/09/05
Administrative Action: 11/09/05

STAFF RECOMMENDATION: Denial of the appeal; conditional approval of the Preliminary Plat.

RECOMMENDATION: Conditional approval of the Preliminary Plat, with amendments (8-0: Krieser, Pearson, Larson, Carroll, Strand, Sunderman and Carlson voting 'yes'; Esseks voting 'no'; Taylor absent).

ASSOCIATED REQUEST: Change of Zone No. 05026A, an amendment to the Apple's Way Planned Unit Development (05-185).

1. The Apple's Way Preliminary Plat was adopted by the Planning Commission as Resolution No. PC-00960 on November 9, 2005, approving 32 residential lots in the R-1 Residential District and 10 lots in the B-2 Planned Neighborhood Business District, on property generally located at So. 66th Street and Highway 2.
2. The applicant has appealed the following conditions of approval required by Resolution No. PC-00960:
 - 1.a.iii. (Condition #1.1.4 of the staff report):

Show how the required detention capacity is maintained when the unidentified street at the southwest corner of the plat is built, while maintaining the stand of trees which the developer had reached agreement upon with the County Meadows Homeowners Association. (The underlined portion was added by the Planning Commission).

(The applicant had requested that this condition, which was a part of the original PUD approval, be deleted in its entirety. The street is intended to extend west across City land and provide access to 56th Street, which would relieve traffic through the Highway 2/56th Street/Old Cheney Road intersections. The applicant stated that the proposed road is unlikely ever to be constructed and would require revisions that would reduce his developable area. See Minutes, p.21).

- 1.b.ii. (Condition #1.2.2 of the staff report):

Revise the plan to show the right-turn lane in Highway 2 at South 66th Street as 200 feet long.

(The applicant had requested that the right-turn lane be 150 feet long as opposed to 200 feet. See Minutes, p.22)

3. The applicant had also requested a waiver of the sidewalk along the north side of McIntosh Road and McIntosh Circle, which was recommended for denial by both the staff and the Planning Commission; however, by letter dated December 1, 2005, the applicant has withdrawn this waiver request (p.4).
4. Thus, the only issues to be considered by the City Council are listed in #2 above. The Public Works memorandum concerning these two issues is found on p.34 (#3.1, #4.1 and #4.2).
3. The applicant's testimony is found on p.20-22. The Planning Commission discussion with staff is found on 22-23.
4. There was no testimony in opposition. The record consists of a letter from Robert Otte on behalf of the Country Meadows Homeowners Association, which states, in part: "...my remarks are neither an endorsement of or to be used in opposition to the project. There is still significant opposition to this development, but...I am reporting that the developer has complied with the Commitment which was necessary to any support of this project." (See, p.39-40).
5. On November 9, 2005, the Planning Commission agreed with the staff recommendation and voted 8-0 to adopt Resolution No. PC-00960, with conditions as set forth in the staff report dated October 26, 2005, with amendments as requested by the applicant, except the two listed in item #2 above (Krieser, Esseks, Pearson, Larson, Carroll, Strand, Sunderman and Carlson voting 'yes'; Taylor absent).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: December 5, 2005

REVIEWED BY: _____

DATE: December 5, 2005

REFERENCE NUMBER: FS\CC\2005\PP.05016 Apple's Way Appeal

LAW OFFICES OF
CLINE, WILLIAMS, WRIGHT, JOHNSON & OLDFATHER, L.L.P.

1900 U.S. BANK BUILDING
233 SOUTH 13TH STREET

LINCOLN, NEBRASKA 68508-2095

(402) 474-6900

FAX (402) 474-5393

www.clinewilliams.com

FREDRIC H. KAUFFMAN
DONALD F. BURT
STEPHEN E. GEHRING
KEVIN COLLERAN
L. BRUCE WRIGHT
ROBERT J. ROUTH
JAMES M. BAUSCH
DAVID R. BUNTAIN
STEPHEN H. NELSEN
MICHAEL C. MUELLER
DANIEL R. STOGSDILL
SCOTT D. KELLY
TERRY R. WITTLER
MARK A. CHRISTENSEN
RICHARD P. GARDEN, JR.
SHAWN D. RENNER
JOHN C. MILES
MARY KAY O'CONNOR
THOMAS C. HUSTON
DON R. JANSSEN
SUSAN KUBERT SAPP
KEVIN J. SCHNEIDER
ANDREW D. STROTSMAN
JILL COSSIN JENSEN
STEVEN M. DELANEY

OMAHA
ONE PACIFIC PLACE
1125 SOUTH 103RD, SUITE 320
OMAHA, NEBRASKA 68124-1090
(402) 397-1700

AURORA
1207 M STREET
P.O. BOX 510
AURORA, NEBRASKA 68818
(402) 864-8314

SCOTTSDLUFF
RAILWAY OFFICE PLAZA
115 RAILWAY STREET, SUITE A-115
SCOTTSDLUFF, NEBRASKA 69361
(308) 635-1020

JOHN C. HEWITT
JOHN L. HORAN
MICHAEL C. PALLESEN
TRACY A. OLDEMAYER
JANIS J. WINTERHOF
PAMELA EPP OLSEN
TRENT R. SIDDERS
JENNIE A. KUEHNER
ANDRE R. BARRY
TRAVIS P. O'CONNOR
DOUGLAS R. ABERLE
BRIAN J. ADAMS
STANTON N. BEEDER
LAURA R. HECCE
BREN H. CHAMBERS
AUSTIN L. MCKILLIP
TESSA P. HERMANSON

November 17, 2005

CHARLES E. WRIGHT, COUNSEL
CHARLES M. PALLESEN, JR., COUNSEL
ALAN E. PETERSON, COUNSEL
RICHARD P. JEFFRIES, COUNSEL

Ms. Joan Ross, City Clerk
City of Lincoln
County-City Building
Lincoln NE 68508

Re: Notice of Appeal of Conditions of Approval of
Preliminary Plat #05016 for Apple's Way
Our File: MCB07-RE001

CITY CLERK'S OFFICE
2005 NOV 18 PM 12:55
CITY OF LINCOLN
NEBRASKA

Dear Ms. Ross:

I represent Apple's Way, L.L.C., and Uno Properties, Inc., which were the applicants for Preliminary Plat #05016 for Apple's Way. Pursuant to Section 26.11.037 of the Lincoln Municipal Code, this letter shall serve as the notice of appeal I am filing on behalf of my clients for the conditions of approval for Preliminary Plat #05016, approved by the Planning Commission at their regularly scheduled meeting of November 9, 2005.

Specifically, I am appealing the following conditions:

1. Section 1.1.4 which provides: "Show how the required detention capacity is maintained when the unidentified street at the southwest corner of the plat is built, while maintaining the stand of trees which the developer had reached agreement upon with the Country Meadows Homeowners Association."

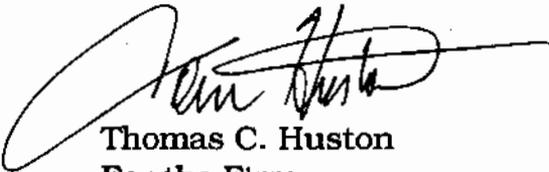
November 17, 2005

Page 2

2. Section 1.2.2 which provides: "Revise the plan to show the right-turn lane in Highway 2 at South 66th Street as 200' long."

Please let me know when the appeal would be scheduled before the City Council.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Huston", with a large, sweeping flourish extending to the right.

Thomas C. Huston
For the Firm

c: Bill Langdon
Bennie McCombs
Tim Gergen

L0670193.1

003

LAW OFFICES OF
CLINE, WILLIAMS, WRIGHT, JOHNSON & OLDFATHER, L.L.P.

FREDRICK H. KAUFFMAN
DONALD F. BURT
STEPHEN B. GERHING
KEVIN COLLEBRAN
L. BAUCE WRIGHT
ROBERT J. ROUTH
JAMES M. BAUSCH
DAVID R. BUNTAIN
STEPHEN H. NELSEN
MICHAEL C. MUELLER
DANIEL R. STOGSDILL
SCOTT D. KELLY
TERRY A. WITTLER
MARK A. CHRISTENSEN
RICHARD P. GARDEN JR.
SHAWN D. BENNER
JOHN C. MILES
MARY KAY O'CONNOR
THOMAS C. HUSTON
DON R. JANSSEN
SUSAN KUBERT SAPP
KEVIN J. SCHNEIDER
ANDREW D. STROTSMAN

1900 U.S. BANK BUILDING
233 SOUTH 13TH STREET
LINCOLN, NEBRASKA 68508-2095
(402) 474-6900
FAX (402) 474-5393
www.clinewilliams.com

OMAHA
ONE PACIFIC PLACE
1125 SOUTH 103RD SUITE 320
OMAHA NEBRASKA 68124-1090
(402) 397-1700

AURORA
1207 N STREET
P.O. BOX 510
AURORA NEBRASKA 68016
(402) 694-6314

SCOTTSDUFF
RAILWAY OFFICE PLAZA
115 RAILWAY STREET, SUITE A-115
SCOTTSDUFF, NEBRASKA 69361
(308) 635-1020

JILL GOSSIN JENSEN
STEVEN M. DELANEY
JOHN C. HEWITT
JOHN L. HORAN
MICHAEL C. PALLESEN
TRACY A. OIDEWEYER
JANIS J. WINTERHOF
PAMELA EPP OLSEN
TRENT R. SIDDEBS
JENNIE A. KUEHNER
ANDRE R. BARRY
JEFFREY E. MARK
TRAVIS P. O'GORMAN
DOUGLAS R. ABBELE
BRIAN J. ADAMS
STANTON N. BEEDER
LAURA R. HEGGE
CHARLES E. WRIGHT, COUNSEL
CHARLES M. PALLESEN JR.
ALAN E. PETERSON
RICHARD P. JEFFRIES, COUNSEL

December 1, 2005

e-mail

jwalker@ci.lincoln.ne.us

Ms. Jean Walker

Lincoln City-Lancaster County Planning Dept.

Re: Apple's Way Preliminary Plat #05016
Our File: MCB07-RE001

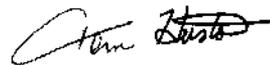
Dear Jean:

I understand that the appeal that I had filed on behalf of my client regarding the preliminary plat for Apple's Way is scheduled for introduction on December 12, with a public hearing on December 19. I am appealing two issues to the City Council regarding the conditions imposed by the Planning Commission.

This letter will serve as a waiver of condition 1.1.1, as stated in the Planning Staff Report, which requires sidewalks to be shown along both sides of McIntosh Circle and McIntosh Lane. Upon reconsideration of that issue with my client, we do not want to appeal that issue to the City Council and will comply with that condition. Our appeal to the City Council will relate to the easement area for a road in the southwest corner of the plat and the deceleration lane on Highway 2 for entry onto South 66th Street.

Please let me know if you have any questions.

Sincerely,

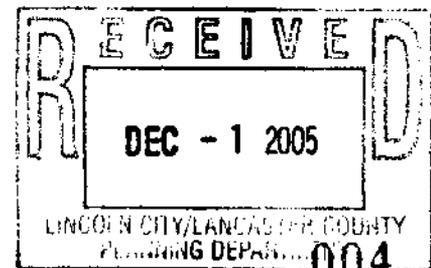


Thomas C. Huston
For the Firm

e4

c: Bill Langdon
Bennie McCombs
Peter Katt

L0671606.1



**PLANNING COMMISSION FINAL ACTION
NOTIFICATION**

TO : Mayor Coleen Seng
Lincoln City Council

FROM : Jean Walker, Planning 

DATE : November 15, 2005

RE : **Preliminary Plat No. 05016 - Apple's Way**
(South 66th Street and Highway 2)
Resolution No. PC-00960

The Lincoln City-Lancaster County Planning Commission took the following action at their regular meeting on Wednesday, November 9, 2005:

Motion made by Strand, seconded by Larson, to approve **Preliminary Plat No. 05016, Apple's Way**, with conditions, as amended, requested by Apple's Way, LLC and Uno Properties, to develop 32 residential lots in the R-1 Residential District and 10 lots in the B-2 Planned Neighborhood Business District, including waivers to allow lots that do not front on a public street or private roadway in the B-2 District; to allow lot lines not perpendicular to a street; to waive sidewalks along Highway 2; and to approve an alternate location of public sanitary sewer and water mains, on property generally located at South 66th Street and Highway 2.

Motion for approval, with conditions, as amended, carried 8-0: Krieser, Esseks, Pearson, Larson, Carroll, Strand, Sunderman and Carlson voting 'yes'; Taylor absent.

The Planning Commission action on this preliminary plat is final, unless appealed to the City Council by filing a Letter of Appeal with the City Clerk within 14 days of the date of the action by the Planning Commission.

Attachment

cc: Building & Safety
Rick Peo, City Attorney
Public Works
Tom Huston, 233 S. 13th Street, Suite 1900, 68508
Tim Gergen, Olsson Associates, 1111 Lincoln Mall, 68508
Apple's Way, LLC/UNO Properties, Inc., 1201 N Street, #102, 68508
Colonial Hills N.A. (2)
Country Meadows Homeowners Association (3)
Robert R. Otte, Attorney, P.O. Box 83439, 68501-3439
Dr. Michael Eppel, S.E. Coalition of Homeowners, 6811 S. 66th, 68516
Family Acres Assn. (2)

i:\shared\wp\jlu\2005 ccnotice.pp\pp.05016

RESOLUTION NO. PC- 00960

1 WHEREAS, Apple's Way, LLC/Uno Properties has submitted the preliminary plat
2 of Apple's Way Addition for acceptance and approval together with a request to waive the
3 requirements of the Land Subdivision Ordinance and Design Standards for Land Subdivision
4 Regulations in order to allow lots that do not front on a public street or private roadway in the B-
5 2 District, to allow lot lines not perpendicular to a street, to waive sidewalks along Highway 2, to
6 waive sidewalks along the north side of McIntosh Road and McIntosh Circle, and to approve an
7 alternate location of public sanitary sewer and water mains on property generally located at
8 South 66th Street and Highway 2; and

9 WHEREAS, the Planning Director has recommended conditional approval of said
10 preliminary plat.

11 NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster County
12 Planning Commission that the preliminary plat of Apple's Way Addition, generally located at
13 South 66th Street and Highway 2 as submitted by Apple's Way, LLC/Uno Properties is hereby
14 accepted and approved, subject to the following terms and conditions:

15 1. After the subdivider completes the following instructions and submits the
16 documents and plans and 6 copies to the Planning Department, the preliminary plat will be
17 signed by the Chair of the Planning Commission certifying approval:

18 a. Revise the preliminary plat as follows:

- 19 i. Show sidewalks along both sides of McIntosh Circle and
20 McIntosh Lane unless the subdivider's waiver request is
21 approved by the City Council.
- 22 ii. Show easements per the L.E.S. review.
- 23 iii. Show how the required detention capacity is maintained
24 when the unidentified street at the southwest corner of the
25 plat is built, while maintaining the stand of trees which the

- 1 developer had reached agreement upon with the Country
2 Meadows Homeowners Association.
- 3 iv. Label all the roads in the B-2 and R-1 zones as private
4 roadways.
- 5 v. Dimension and number all lots and add a note that all lot
6 lines are approximate.
- 7 vi. Revise the General Notes to match those on the approved
8 plan for Apple's Way PUD.
- 9 vii. Revise the landscape plan on Sheet 5 of 5 to show all the
10 required landscape screen between the B-2 and R-1
11 districts located in the B-2 district for that area located
12 south of Empire Lane. Add a note that the landscape
13 screen between the B-2 and R-1 districts located north of
14 Empire Lane shall be located to provide the best screening
15 effect due to the slope. All of the landscape screen shall
16 be maintained by the owners of the B-2 zoned land or an
17 association of such owners.
- 18 viii. Remove the designation for "Possible Sign Location" at the
19 southeast corner of the site which is outside the boundary
20 of the plat.
- 21 ix. Revise the note "175' Drive Setback" in the B-2 district to
22 read "175' Setback to Parking and Driveways."
- 23 b. Make corrections to the reasonable satisfaction of Public Works
24 and Utilities which shall be limited to:
- 25 i. Extend the sanitary sewer to Highway 2 in a location that
26 allows for the further service of upstream area north of
27 Highway 2.
- 28 ii. Revise the plan to show the right-turn lane in Highway 2 at
29 South 66th Street as 200 feet long.
- 30
- 31 2. Final Plats will be approved by the Planning Director after:
- 32 a. The required improvements are completed or a surety is posted to
33 guarantee the completion of the public streets, private roadway
34 improvements, sidewalks, sanitary sewer system, water system,
35 drainage facilities, land preparation and grading, sediment and
36 erosions control measures, storm water detention/retention
37 facilities, drainageway improvements, street lights, landscaping
38 screens, street trees, temporary turnaround and barricades, and
39 street name signs.

- 1 b. The subdivider has signed an agreement that binds the
2 subdivider, its successors and assigns:
- 3 i. to complete the street paving of public streets shown on
4 the final plat within two (2) years following the approval of
5 the final plat.
- 6 ii. to complete the paving of private roadway shown on the
7 final plat within two (2) years following the approval of this
8 final plat.
- 9 iii. to complete the installation of sidewalks as shown on the
10 final plat within four (4) years following the approval of the
11 final plat.
- 12 iv. to complete the public water distribution system to serve
13 this plat within two (2) years following the approval of the
14 final plat.
- 15 v. to complete the public wastewater collection system to
16 serve this plat within two (2) years following the approval of
17 the final plat.
- 18 vi. to complete the enclosed public drainage facilities shown
19 on the approved drainage study to serve this plat within
20 two (2) years following the approval of the final plat.
- 21 vii. to complete the enclosed private drainage facilities shown
22 on the approved drainage study to serve this plat within
23 two (2) years following the approval of the final plat.
- 24 viii. to complete land preparation including storm water
25 detention/retention facilities and open drainageway
26 improvements to serve this plat prior to the installation of
27 utilities and improvements but not more than two (2) years
28 following the approval of the final plat
- 29 ix. to complete the installation of public street lights within this
30 plat within two (2) years following the approval of the final
31 plat.
- 32 x. to complete the installation of private street lights within
33 this plat within two (2) years following the approval of the
34 final plat.
- 35 xi. to complete the planting of the street trees a within this plat
36 within four (4) years following the approval of the final plat.
- 37 xii. to complete the installation of the street name signs within
38 two (2) years following the approval of the final plat.
- 39
- 40
- 41

- 1 xvii. to continuously and regularly maintain the street trees
2 along the private roadways and landscape screens.
- 3 xviii. to comply with the provisions of the Land Preparation and
4 Grading requirements of the Land Subdivision Ordinance.
- 5 xix. to submit to the Director of Public Works a plan showing
6 proposed measures to control sedimentation and erosion
7 and the proposed method to temporarily stabilize all
8 graded land for approval.
- 9 xx. to submit to the lot buyers a copy of the soil analysis.
- 10 xxi. to protect the trees that are indicated to remain during
11 construction and development.
- 12 xxii. to relinquish the right of direct vehicular access from those
13 Lots and Outlots adjacent to Highway 2.
- 14 xxiii. to pay all design, engineering, labor, material, inspection,
15 and other improvement costs.

16 BE IT FURTHER RESOLVED that:

17 1. The requirement in Section 26.23.140(g) of the Lincoln Municipal Code
18 that every lot shall front upon and have access to a public street is waived for those lots located
19 in the B-2 zoning district.

20 2. The requirement in Section 26.23.140(c) of the Lincoln Municipal Code
21 that the side lot lines of any lot shall be at right angles to the street is waived for those lots
22 which do not meet this standard as shown on the preliminary plat.

23 3. The requirement in Section 26.23.095 of the Lincoln Municipal Code that
24 sidewalks be installed along all streets abutting the preliminary plat is waived along Highway 2.

25 4. The requirements in Section 3.4 of the Sanitary Sewer Design Standards
26 and in Section 3.2 of the Water Main Design Standards that sanitary sewers and water mains
27 shall be located outside of the roadway and 3.5 feet from the back of the curb are hereby
28 waived in order to allow said sanitary sewers and water mains to be located in alternate
29 locations approved by the Department of Public Works and Utilities.

DATED this 9th day of November, 2005.

ATTEST:

*/S/ Original signed by
Jon Carlson*

Chair

Approved as to Form & Legality:



Chief Assistant City Attorney

for November 9, 2005 PLANNING COMMISSION MEETING

****As Revised and Approved by Planning Commission: November 9, 2005
Resolution No. PC-00960****

P.A.S.: Preliminary Plat #05016 Apple's Way

PROPOSAL: A preliminary plat creating 32 residential lots in R-1 and 10 lots in B-2.

LOCATION: South 66thth Street and Highway 2

LAND AREA: Approximately 61.7 acres.

- WAIVERS:**
1. Lots that do not front onto a public street or private roadway in B-2.
 2. Lot lines not perpendicular to a street.
 3. Sidewalk along Highway 2
 4. Sidewalk along the north side of McIntosh Road and McIntosh Circle.
 5. Location of public sanitary sewer and water main.

CONCLUSION: Several corrections and revisions are required as noted in the conditions of approval, and that being done the plat will comply with requirements of Title 26 (Land Subdivision ordinance) provided the requested waivers are approved. The waivers are appropriate except the request to waive sidewalks in the residential area. These sidewalks are necessary to provide safe pedestrian access throughout the development, especially if the sidewalk along the south side of Highway 2 is waived. The waivers recommended for approval by staff are final action by the Planning Commission, those recommended for denial by staff are final action at City Council.

RECOMMENDATION:

Preliminary Plat #05016 Conditional Approval

Waivers:

- | | | |
|----|--|----------|
| 1. | Lots that do front onto a public street or private roadway in the B-2. | Approval |
| 2. | Lot lines not perpendicular to a street. | Approval |
| 3. | Sidewalk along Highway 2 | Approval |
| 4. | Sidewalk along the north side of McIntosh Road and McIntosh Circle. | Denial |
| 5. | Location of public sanitary sewer and water main. | Approval |

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached legal description.

EXISTING LAND USE AND ZONING: Vacant, Single-family Residential R-3, B-2

SURROUNDING LAND USE AND ZONING.

North:	Bank, Residential	AGR, O-3
South:	Vacant, Residential	AGR, R-1
East:	Residential	AGR, R-1
West:	Commercial	H-4

ASSOCIATED APPLICATION: CZ#05026A - A request for an amendment to Apple's Way PUD to allow three additional waivers.

HISTORY: June 13, 2005 - CZ#05026 Apple's Way PUD was approved for 32 single-family lots in R-3 and 10 lots in B-2. The preliminary plat was specifically not waived with the approval of the PUD.

June 13, 2005 - CPA#04010 was approved to change the land use designation from residential to commercial for the west 39 acres of this site.

July 14, 2003 - CPA#03012 to change the land use designation on this site from urban residential to open space and commercial was withdrawn. It had received a 6-0 vote for denial from the Planning Commission.

March 26, 2001 - A request to include a change in the land use designation from urban residential to commercial for this site was considered but not adopted as part of the Southeast Lincoln/Highway 2 Subarea Plan.

May 2, 1994 - CZ#2085 was denied by City Council to change the zoning of this property from AGR to R-3 and B-5.

May 8, 1979 - The zoning was changed from AA Rural and Public Use to AGR Agriculture Residential with the 1979 Zoning Update.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F23 - This site is designated as commercial and urban residential land use in the Land Use Plan.

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

Page F156 - Subarea Planning - By reference the Southeast Lincoln/Highway 2 Subarea Plan is included in the Comprehensive Plan.

UTILITIES: The site can be served by municipal water and sanitary sewer.

TOPOGRAPHY: There is a hill along the west edge of the site, with small drainage ways on either side of it flowing from northeast to southwest.

1. The preliminary plat is based upon the Apple's Way PUD approved in June, 2005. At the time the PUD was approved, the preliminary plat was not waived. This application fulfills the requirement to submit a preliminary plat prior to final plats.
2. This application includes the grading and drainage plan along with a hydrologic/hydraulic study for the site, items that were not submitted with the PUD. These items are being reviewed by Public Works and Utilities, however that review was not completed in time to be included with this report. Any deficiencies in those plans noted in the Public Works review must be corrected before the plat can be approved.
3. At the time the PUD was approved it was assumed all development would comply with the applicable requirements and design standards, and the preliminary plat is generally consistent with the approved PUD. However, information submitted as part of the preliminary plat is more detailed than what was provided for the PUD and four items that do not comply with the applicable design standards are noted as part of this application. They are as follows:
 - A. Lots that do front onto a public street or private roadway in B-2 - This waiver applies only to the commercial center in the area zoned B-2. This is a typical waiver for commercial centers where individual lots are accessed by an internal system of private drives. Common access easements are then granted over the drives and parking areas to provide for common use of those facilities.
 - B. Lot lines not perpendicular to a street - The intent of this requirement was to provide for uniform, regularly-shaped lots by making all lot lines perpendicular to the adjacent street. However, this site is unique and somewhat irregularly shaped, and the existing development constraints on this site including topography and drainage facilities dictate that some lot lines are not perpendicular to the street. The Land Subdivision ordinance requires that plats show "desirable and satisfactory lots", a requirement satisfied by this plat even though some lot lines are not perpendicular to the street.
 - C. Sidewalk along Highway 2 - A sidewalk is not desirable along Highway 2 due to traffic speed and volume, and in the past the State of Nebraska has not supported sidewalks along the highway. The sidewalk has been waived adjacent to other commercial developments along Highway 2, and this request to waive it is appropriate as well.
 - D. Sidewalk along the north side of McIntosh Road and McIntosh Circle - Assuming the sidewalk along Highway 2 is waived, it becomes all that more important that sidewalks are provided along both sides of these streets. Sidewalks along both sides of the street are required by Title 26 (Land Subdivision ordinance) to provide for basic pedestrian access and safety and there is not adequate justification to support this waiver.
 - E. Location of public sanitary sewer and water main - Sanitary sewers and water mains must be located 3.5' from the back of curb, or in a location approved by Public Works and Utilities. Public Works has approved the alternate locations for both the water and sewer lines and this waiver is appropriate.

4. The plat shows a proposed street extension from Apple's Way through Cañon to the southwest corner of the plat. The street crosses an area designated as a detention area. The street must be named, and it must be labeled as a private roadway if it is not a public street, and it must be shown how the required detention capacity can be maintained when the street is built.
5. The streets within the B-2 area are to remain private roadways, and those in the R-1 are to be public streets. The streets within the B-2 must be clearly labeled as private roadways.
6. All lots must be dimensioned and numbered. To maintain flexibility for the actual location of lot lines, a note has been added to the plans stating that the lot lines are approximate and that the exact locations will be determined at the time of final plats.
7. The notes must be revised to match those on the approved plan for Apple's Way PUD.
8. The Health Department notes concerns regarding noise and hazardous waste transported on the nearby rail line. Those advisory comments are attached.
9. Staff supports four of the five waivers requested and those can be final action at Planning Commission. The waiver not supported by staff is final action at City Council.

CONDITIONS:

Site Specific:

1. After the subdivider completes the following instructions and submits the documents and plans and 6 copies to the Planning Department, the preliminary plat will be signed by the Chair of the Planning Commission certifying approval: (NOTE: These documents and plans are required by ordinance or design standards.)
 - 1.1 Revise the preliminary plat as follows:
 - 1.1.1 Show sidewalks along both sides of McIntosh Circle and McIntosh Lane unless the subdivider's waiver request is approved by the City Council.
 - 1.1.2 Show easements per the L.E.S. review.
 - ~~1.1.3 Provide a name for the unidentified street at the southwest corner of the plat and label it as a private roadway if it is not a public street. (**Per Planning Commission at the request of the applicant: 11/09/05**)~~
 - 1.1.4 Show how the required detention capacity is maintained when the unidentified street at the southwest corner of the plat is built, while maintaining the stand of trees which the developer had reached agreement upon with the Country Meadows Homeowners Association. (**Per Planning Commission, 11/09/05**)
 - 1.1.5 Label all the roads in the B-2 and R-1 zones as private roadways. (**Per Planning Commission, at the request of the applicant, 11/09/05**)

- 1.1.6 Dimension and number all lots and add a note that all lot lines are approximate. (**Per Planning Commission, at the request of the applicant, 11/09/05**)
- 1.1.7 Revise the General Notes to match those on the approved plan for Apple's Way PUD.
- 1.1.8 Revise the landscape plan on Sheet 5 of 5 to show all the required landscape screen between the B-2 and R-1 located in the B-2 for that area located south of Empire Lane. Add a note that the landscape screen between the B-2 and R-1 located north of Empire Lane shall be located to provide the best screening effect due to the slope. All of the landscape screen shall be maintained by the owners of the B-2 zoned land or an association of such owners. (**Per Planning Commission, at the request of the applicant, 11/09/05**)
- 1.1.9 Remove the designation for "Possible Sign Location" at the southeast corner of the site which is outside the boundary of the plat.
- 1.1.10 Revise the note "175' Drive Setback" in the B-2 to read "175' Setback to Parking and Driveways."
- 1.2 Make corrections to the reasonable satisfaction of Public Works and Utilities, which shall be limited to:
 - 1.2.1 Extend the sanitary sewer to Highway 2 in a location that allows for the further service of upstream area north of Highway 2.
 - 1.2.2 Revise the plan to show the right-turn lane in Highway 2 at South 66th Street as 150' 200' long in accordance with the approved Planned Unit Development.

(Per Planning Commission at the request of the applicant; however, Planning Commission amended 150' to 200' in Condition #1.2.2: 11/09/05**)**

General:

- 2. Final Plats will be approved by the Planning Director after:
 - 2.1 The required improvements are completed or a surety is posted to guarantee the completion of the public streets, private roadway improvements, sidewalks, sanitary sewer system, water system, drainage facilities, land preparation and grading, sediment and erosions control measures, storm water detention/retention facilities, drainageway improvements, streetlights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs.
 - 2.2 The subdivider has signed an agreement that binds the subdivider, its successors and assigns:
 - 2.2.1 to complete the street paving of public streets shown on the final plat within two (2) years following the approval of the final plat.

- 2.2.2 to complete the paving of private roadway shown on the final plat within two (2) years following the approval of this final plat.
- 2.2.3 to complete the installation of sidewalks as shown on the final plat within four (4) years following the approval of the final plat.
- 2.2.4 to complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.
- 2.2.5 to complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.
- 2.2.6 to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.
- 2.2.7 to complete the enclosed private drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.
- 2.2.8 to complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of the final plat
- 2.2.9 to complete the installation of public street lights within this plat within two (2) years following the approval of the final plat.
- 2.2.10 to complete the installation of private street lights within this plat within two (2) years following the approval of the final plat.
- 2.2.11 to complete the planting of the street trees a within this plat within four (4) years following the approval of the final plat.
- 2.2.12 to complete the installation of the street name signs within two (2) years following the approval of the final plat.
- 2.2.13 to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.
- 2.2.14 to complete the public and private improvements shown on the preliminary plat.

- 2.2.15 to retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on a permanent and continuous basis and to maintain the plants in the medians and islands on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the private improvements have been satisfactorily installed and the documents creating the association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.
- 2.2.16 to properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the land owner.
- 2.2.17 to continuously and regularly maintain the street trees along the private roadways and landscape screens.
- 2.2.18 to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
- 2.2.19 to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.
- 2.2.20 to submit to the lot buyers a copy of the soil analysis.
- 2.2.21 to protect the trees that are indicated to remain during construction and development.
- 2.2.22 to relinquish the right of direct vehicular access from those adjacent to Highway 2.
- 2.2.23 to pay all design, engineering, labor, material, inspection, and other improvement costs.

- 3. The waivers to the design standards to allow lots that do not front onto a public street or private roadway, lot lines not perpendicular to a street, sidewalk along Highway 2, location of public sanitary sewer and water main are hereby approved.

Prepared by:
Brian Will, 441-6362, bwill@lincoln.ne.gov
Planner
October 26, 2005

Applicant

Owner: Apple's Way, L.L.C./Uno Properties
1201 N Street Suite 102
Lincoln, NE 68506
435.0011

Contact: Tim Gergen
Olsson Associates
1111 Lincoln Mall
Lincoln, NE 68508
474.6311

CHANGE OF ZONE NO. 05026A,
AMENDMENT TO THE APPLE'S WAY
PLANNED UNIT DEVELOPMENT,
and
PRELIMINARY PLAT NO. 054016,
APPLE'S WAY

PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 9, 2005

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

Staff recommendation: Conditional approval.

Ex Parte Communications: None

Additional information submitted for the record: Brian Will of Planning staff submitted a letter from Robert Otte on behalf of the Country Meadows Neighborhood Association, stating the position of the surrounding homeowners in the area.

Proponents

1. Tom Huston appeared on behalf of **Apple's Way LLC and UNO Properties, Inc.**, the applicants for the PUD which was heard before this Commission and approved by the City Council in June of 2005. When the original PUD application was filed, it was a concept plan and they had not yet completed the engineering and did not request a waiver of the preliminary plat. The engineering has now been completed and these amendments to the PUD are for setback adjustments and height restriction and the preliminary plat has been submitted for consideration.

Huston referred to the letter from the County Meadows Homeowners Association and advised that the applicants have been working with the neighborhood association to honor the previous commitments made on the PUD. They have attempted to embody those commitments through the preliminary plat and final plat and restrictive covenants. The discussions with the neighborhood since the public hearings last spring have been very productive and they have made a lot of progress in completing the commitments to the neighbors.

Huston submitted proposed amendments to the conditions of approval on the amendment to the PUD and he believes staff is in agreement:

~~1.1.2 Show a 50' setback in the B-2 adjacent to the AGR and R-1.~~

1.1.3 Revise the General Notes Note 34 to be consistent with the approved plan for Change of Zone No. 05026, Apple's Way PUD reflect that the height of the building does not exceed 40' except the maximum allowed height is increased to 52' to accommodate architectural features.

Condition #1.1.2 needs to be deleted because it conflicts with Condition #2. The revisions to Condition #1.1.3 deal with the height issue. There is one commercial user whose building has an architectural feature that will exceed the 40' height limitation. It is a front facade architectural feature and the balance of the development will comply with the height limitations.

Huston also submitted proposed amendments to the preliminary plat:

- ~~1.1.3. Provide a name for the unidentified street at the southwest corner of the plat and label it as a private roadway if it is not a public street.~~
 - ~~1.1.4 Show how the required detention capacity is maintained with the unidentified street at the southwest corner of the plat is built.~~
 - 1.1.5 Label all the roads in the B-2 and R-1 zones as private roadways.
 - 1.1.6 Dimension and number all lots and add a note that all lot lines are approximate.
 - 1.1.8 Revise the landscape plan on Sheet 5 of 5 to show all the required landscape screen between the B-2 and R-1 located in the B-2 for that area located south of Empire Lane. Add a note that the landscape screen between the B-2 and R-1 located north of Empire Lane shall be located to provide the best screening effect due to the slope. All of the landscape screen shall be maintained by the owners of the B-2 zoned land or an association of such owners.
- 1.2 Make corrections to the reasonable satisfaction of Public Works and Utilities, which shall be limited to:
- 1.2.1 Extend the sanitary sewer to Highway 2 in a location that allows for the further service of upstream area north of Highway 2.
 - 1.2.2 Revise the plan to show the right-turn lane in Highway 2 at South 66th Street as 150' long in accordance with the approved Planned Unit Development.

Huston stated that he understands that the Planning Commission does not have the authority to waive the sidewalk located north of McIntosh Road, and that will be taken up with the City Council. (***Editorial Note:*** The staff is recommending denial of this waiver).

With regard to the deletion of Conditions #1.1.3 and #1.1.4, Huston pointed out that the City Council had asked the applicant to dedicate an easement for a possible road location at the southeast corner of the property during the debate on the original PUD. It was the developer's proposal 18 months ago to make a connecting road from Highway 2 to 56th Street, but multiple issues arose, i.e. potential railroad track crossing; potential problems with wetlands; floodplain development that would have required construction of a bridge; the potential connecting point to S. 56th Street was where a current house is located. That potential road connection became too problematic so they ceased discussion and the City Council voted to require at least the dedication of an easement. Consequently, the developer did dedicate the easement, but they did not try to engineer it around the detention cell, which is going to be the least of the concerns if and when this road is constructed. Therefore, Huston requested that Conditions #1.1.3 and #1.1.4 be deleted.

The proposed amendment to Condition #1.1.8 has to do with the landscape screen. All of the landscape screen south of Empire Lane (east/west road in residential area) will be located on the B-2 zoning. Huston proposed an amendment so that the landscape screen located north of Empire Lane

is allowed to be relocated because there is a huge grade differential. He believes they have this worked out with staff.

With regard to the proposed Condition #1.2.2 (the right-turn lane in Highway 2 at South 66th Street being 150' long), during the approval of the original PUD, the developer had offered to construct a deceleration lane on Highway 2 to connect to S. 66th Street, which was part of their commitment to the neighborhood. Staff had wanted to increase that right-turn lane to 200'. Huston submitted that even if the design standard has changed in the meantime, a 150' deceleration lane was approved with the original PUD and the 200' length should not be made a requirement of this plat.

Esseks inquired about the enhanced screening to offset the reduction in the rear setback. Huston explained that the design standards require a 60% screen between the commercial and residential, and their commitment to the neighborhood is to make a 100% screen, to the extent possible. The landscape screen will go beyond and exceed the required design standard. It will cover the entire border. Huston did not know how high and thick it might be. Tim Gergen of Olsson Associates advised that the screen would be 100% thick and you will not be able to see through it. The trees will be 8-10 feet high and the shrubs would be 2-3 feet in height.

Pearson noted that the road connection is shown through the proposed detention area. What is the thinking? Was there no other place to put the detention? Huston stated that the issue arose just prior to the public hearing before the City Council on the original PUD and the developer agreed to dedicate the easement. The detention could be moved, but there is probably a limitation on how many places that easement could be located. The only way that road connection could be built (if the other problems are resolved) would be to rework or relocate the detention facility where it would have to be spanned with a bridge, and that would be difficult. The discussion with the City Council was that the city did not want to have to condemn the necessary right-of-way for a street connection, if the connection is ever built. At this point, the developer is willing to dedicate that easement.

It was clarified that the connection off the roundabout to the Trade Center will be made. Pearson recalled discussions about a gate going into Country Meadows. Huston stated that the resolution of that issue turned out better than they could have hoped for. It is a one-way traffic circle – the traffic going to the west will have ability to proceed to the west so that Country Meadows will have access to the circle, but it is designed and will be constructed to prevent traffic going the opposite direction. This is a much better result than a private access gate.

Carlson questioned the addition of “reasonable” satisfaction in Condition #1.2. What is “reasonable”? Huston explained that they just don't want it to be a blank check. That is why he is asking to specify the requirements and that is why he incorporated the requirements that were in the Public Works comments into the conditions.

There was no testimony in opposition.

Staff questions

Carroll asked staff to respond to the proposed amendments. Brian Will stated that generally, the staff is in agreement with the amendments proposed by the applicant, except the removal of Condition #1.1.4 on the preliminary plat, which deletes the detention capacity relative to the street connection to the southwest corner.

Carroll inquired about the deletion of the requirement to show the 50' setback in the B-2 adjacent to the AGR and R-1 in Condition #1.1.2 on the PUD. Will advised that it is shown as 30' on the plan so this condition is no longer necessary.

Person inquired whether there have been other places where the height has been increased. Applicant pointed to one example, i.e. West Gate Bank in this immediate vicinity had a height exception, but it was in conjunction with a CUP as opposed to a PUD. It was to allow the architectural feature on that building.

With regard to the deletion of Condition #1.1.4, Ray Hill of Planning staff stated that it is the staff's concern that if they do not design the roadway through the detention system, there may be difficulty in finding a location on the site for the detention that would be required. They are not being required to build the road at this time. All we are saying is that the plan should show how it would be constructed if the road would be required. In doing so, the community has the assurance that the detention would then be taken care of if the road was ever required. If we don't have the design to show the road constructed through the area and the impact it would have on the detention facility, we have no idea where the additional land would come from for that detention.

Dennis Bartels of Public Works also recalled that when the City Council required an easement, he interpreted that as meaning it would be a practical location for the street. The fill it would take to put the road in is probably below the bottom of the detention and it showed an area for mitigation of wetlands. If they show the grading plan to eliminate the potential fill and mitigate the wetlands elsewhere, then the easement is probably acceptable. He assumes the City Council was looking for a practical location and the practical way would be to do it with fill. If they show the fill and provide detention over and above the area that could potentially be occupied by fill and showed their wetland mitigation out from under that fill, Public Works would be satisfied. As shown, it is not practical.

Carroll inquired about the request to change the length of the right-turn lane from 200' to 150'. Bartels recalled that the 150' was also something added by the City Council without any reaction from Public Works. If Public Works was building the turn lane on a 55 mph highway such as Highway 2, they would build it at 200 to 250 feet. Public Works did not have opportunity to react at Council, but Bartels is now responding that the 150' was too short for the speed. While building it, it should be built at the right length to maximize the deceleration and protection for the right turn lane. The extra length is not for storage of the cars but extra room to reduce the travel speed to make the turn.

Response by the Applicant

Huston renewed his request to delete Conditions #1.1.3 and #1.1.4, because they have complied with the request of the City Council. He believes that there is .001 percent probability that that street connection would ever be made and he does not believe it should be necessary to engineer this site to compensate for that potential. Even to make this connection it would have to cross city-owned park land, which raises more issues to ever build a street on it. It seems silly to require redesign of this site for that .001 percent probability that that street connection would ever be made.

As far as the 150 versus 200 right turn lane, Huston stated that he was told that the design standard had changed from June, when the PUD was approved, until now to require 200' as opposed to 150'. This developer complied with the design standard back in June. If that design standard changed, that is not this developer's responsibility. He believes there are good reasons to stick with the agreement made at the City Council level.

With regard to the deletion of Condition #1.1.4, Strand noted that Public Works does not want a bridge, but the developer will need a lot more room for detention. Huston said they would have to redesign the entire site. The detention cell is sized appropriately for the commercial areas. If they have to relocate that detention, even if the road is ever built, they would have to start from scratch.

Pearson suggested that it is disingenuous to show an easement that can't be built. And they have to have detention. Huston reiterated that Jon Camp did not want to have the city in the position of foreclosing the possibility of having that road constructed. Pearson wondered whether there is no other place to put an easement that follows the request of the City Council in a more realistic way. Gergen responded that they did a thorough design investigation of this connection because they thought this would be a great advantage to the city and to the site, but after doing the investigation, they are left with very strict guidelines on how to cross the railroad. There is a sight distance that must be retained and there is a bridge on the railroad tracks that they want to avoid. They would have to build a substantial bridge structure across Beal Slough. There is an existing house on London Road that would have to match up with the existing London Road intersection, which would cause the taking of that house. Other than that, they would have to go through the Country Meadows outlot and another property to make that connection.

Huston also pointed out that there is a very nice existing tree stand in the detention cell. They created an island in the middle of the detention cell because of the crop of cottonwoods they wanted to save to help keep as much of the natural vegetation to screen Country Meadows. The developer made the commitment to Country Meadows to retain the existing tree stand as much as possible. Huston does not believe the street will ever be built. It seems ludicrous to design the entire site for the remote possibility of that road connection.

Huston also clarified that the railroad is not active. However, OPPD wants to keep it open because they use it as a bidding tool right now. That contract gets rebid in the next three years. It allows them to bid against each other. It was active three years ago. Esseks commented that the railroad line may be closed in the future and there may be opportunity to get access to the other side. Huston stated that they did go down that path in their negotiations with OPPD, but they were not enamored with the idea. They want to keep that line active. It would be next to impossible to get state approval for that railroad crossing. NDOR does not grant new railroad crossings anymore. OPPD states that the railroad line is to remain active for their bidding on coal contracts. It is possible that it could be active in the future.

Strand wondered about removing the island to increase the detention if the road were ever to go through. Huston was hesitant to remove the island because of the agreement with the neighbors. Carlson believes that the City is only asking that they show how the street could be built. Gergen stated that he is not 100% satisfied that removing the island and the trees would meet the capacity for that roadway. He believes they would have to revise the site plan.

Huston explained that the developer did not spend any more time considering that design issue because they don't think it will ever happen.

Bartels advised that the 200' is not a design standard but more of a design practice. When a developer is designing public arterial streets, they are supposed to consult with the Public Works

Department. Public Works had determined that 150' was too short on a higher speed arterial street. The 150' was not addressed by Public Works at the time of the approval by the City Council. Huston stated that the developer imposed the condition on themselves during the City Council debate. Bartels suggested that Public Works will probably ask for a longer lane if Public Works has to pay the difference between whatever Public Works wants and the 150'. However, Public Works thought this development should pay for it. Bartels took the position that Public Works will have a longer lane built, no matter who pays for the extra 50-100 feet.

CHANGE OF ZONE NO. 05026A

ACTION BY PLANNING COMMISSION:

November 9, 2005

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

PRELIMINARY PLAT NO. 05016

ACTION BY PLANNING COMMISSION:

November 9, 2005

Strand moved to approve the staff recommendation of conditional approval, with the amendments requested by the applicant, seconded by Larson.

Pearson moved to amend Condition #1.2.2 to change 150' to 200', seconded by Esseks. Pearson believes it is too early in the game to do 150'. Motion carried 8-0: Krieser, Esseks, Pearson, Larson, Carroll, Strand, Sunderman and Carlson voting 'yes'; Taylor absent.

Carroll moved to amend to retain Condition #1.1.4, seconded by Esseks. Carroll believes it is just too big of a facility for that site and that is why they are having the detention and access problems, and that is why the City Council asked for the access road to be established. They have got to design the road the way it should be, even though it might not be built. They should have to show it because that is what the City Council wanted and that is what they agreed upon.

Strand commented that this development crosses a lot of land. Why does the detention all have to be just on this site and not the park land and the Beal Slough area? Carroll believes that means they would be sending water to someone else. The idea of the detention pond is that this site retains its own detention. They used up all of the area because of what they are building. They should retain their water and not send it somewhere else.

Pearson agreed with Carroll. Her concern is that there are a lot of trees back there and that is one of the things so great about this property. If we require them to do this, she is afraid they will remove trees. She would hate to have the unintended consequence that they take out the trees. If the community decides to spend an enormous amount of money on this bridge, with a lot of people together, i.e. parks, the railroad, Country Meadows, etc., maybe there is some sort of land sharing down the road.

Larson thinks the possibility of building that road is so remote and the complications are so high.

Esseks is concerned that the railroad will close down and access to the west will become very desirable and we won't be prepared for it.

Pearson wondered whether it is possible that these trees are in jeopardy by this decision. Larson

believes that they would take out the island and maybe some of the other trees. Carlson does not believe we can say that one implies the other. Esseks believes it sets a bad precedent to waive the design standards to save the trees. Carroll pointed out that the applicant had made a promise to the homeowners to save the trees so they will lose another commercial lot versus taking out the trees. There is other land available to increase the size of the detention pond. They have land that they can use for detention. They do not have to threaten to take the trees out. We should stay with the design standards that are best for the site.

Pearson requested that the motion be amended to add language to Condition #1.1.4, "while maintaining the stand of trees which the developer had reached agreement upon with the Country Meadows Homeowners Association". Carroll agreed.

Carroll wondered whether the Planning Commission could require that the detention pond be in the setback. Ray Hill suggested that if the Commission is concerned about the trees, a motion could be made that they save the trees based upon the commitment to the neighbors. If they have agreement with the neighbors to retain the trees, then they need to address that with the neighbors. A detention pond may be located in the setback.

Strand stated that she will not support this amendment because there is a lot of land – you've got Beal Slough wetlands running right through there. For this street to go through, even if it is abandoned and we can make it a bike trail, you've got to be able to cross a bike trail and you've got to be able to get through Beal Slough and through a residential area, and she doesn't think it is going to happen. We are asking a lot for something that is very impractical to ever occur.

Motion to retain Condition #1.1.4 and to add the language to retain the trees carried 5-3: Krieser, Pearson, Larson, Carroll and Carlson voting 'yes'; Esseks, Strand and Sunderman voting 'no'; Taylor absent.

Main motion for conditional approval, as amended, carried 8-0: Krieser, Esseks, Pearson, Larson, Carroll, Strand, Sunderman and Carlson voting 'yes'; Taylor absent. The action on the preliminary plat is final action, unless appealed to the City Council. The waiver of sidewalks along the north side of McIntosh Road and McIntosh Circle will be forwarded to the City Council for public hearing and action.

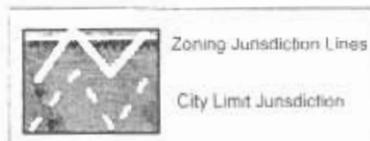


2005 aerial

**Preliminary Plat #05016 &
Change of Zone #05026A
Apple's Way
S 63rd St & Highway 2
Zoning:**

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservator 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. 16 T09N R07E



October 27, 2005

Mr. Brian Will
Planning Department, City of Lincoln
County-City Building
555 So. 10th Street
Lincoln, NE 68508

RE: Apple's Way PUD / Preliminary Plat
OA Project No. 2002-1220

Dear Mr. Will:

Below are the descriptions for the need of the requested waivers for the above referenced project.

Waivers to the PUD:

1. **Waive front yard setback to 0' in the B-2 PUD Zone with the exception of along Hwy 2, then the setbacks shall be 175' for drives and 200' for buildings.**

This waiver is being requested to allow the most flexibility with building and parking placement in regards to the internal roadway system. Apple's Way development would like the flexibility to create a downtown urban setting abutting the roadway system to encourage pedestrian movement. Therefore an internal front yard setback reduction is being asked.

2. **Waive rear yard setback to 30' abutting a residential district in the B-2 PUD Zone.**

Due to the placement of the entrance road to the site the reduction of the rear yard setback is necessitated to accommodate a realistic building envelope for the lots on the east side of the entrance. A 50' setback will be maintained in this area through the use of a 20' landscape easement placed on the abutting residential zoning. These are large residential lots to begin with and will allow the residential lots to utilize and enjoy the setback green space area rather than having it be located on the wrong side of the fence. A 100% landscape screen will be provided on the lot line together with maintaining the large hill to fully screen and more than adequately separate the commercial and residential uses.

3. **Waive height restriction to 52' for buildings that exceed 100,000 square feet in floor area.**

This waiver is being requested to accommodate a large front parapet peak at the entrance of the proposed Lowe's building. The peak is a standard prototypical

entrance of the store.

Mr. Brian Will
October 27, 2005
Page 2

Waivers to the Preliminary Plat:

1. **Waive requirement for lots to front public or private street and lot lines to be perpendicular to the street.**

Due to the triangular shape of the site it is not efficient to have the lot in the northwest corner of the site with a roadway network system for its access. Also due to the irregular shape of the site and curved roadways the lot lines are most efficient if they are not perpendicular to the street.

2. **Waive sidewalk requirement along Highway #2 for both the residential and commercial areas and the north side of McIntosh Road and McIntosh Circle.**

Since there are currently no sidewalks built or planned for along Highway #2 we are asking to continue this City policy and waive the sidewalks in Apples Way as well. The adjoining Country Meadows neighborhood does not have any sidewalks. The waiver of sidewalks on the north side of McIntosh Road and Circle is in keeping with the character of the existing neighborhood. Further, no residential lot will be more than 30' from a sidewalk connection by crossing to the south side of the road. Finally, the elimination of this sidewalk will be replaced with a walking path along and on the south side of the ponds that are to maintained as a commons. A walking path in this area would have more value to the residents than a sidewalk on the north side of the connection road.

3. **Waive requirement for location of public sanitary sewer and public water main.**

Due to the likeliness of Highway #2 being widened in the future we are requesting the water main to parallel our commercial pavement and residential street network to avoid the possibility of the water main to be under pavement if Highway #2 is to be widened. The sanitary sewer does not follow a street network system due to the existing stub-out and irregularity of the lot layout as described in the waivers described above. The water main and sanitary sewer will be in easements dedicated to the city and are agreeable to Public Works.

Sincerely,

Tim Gergen, PE

cc: Bennie McCombs
Tom Huston
Peter Katt



OLSSON ASSOCIATES
ENGINEERS • PLANNERS • SCIENTISTS • SURVEYORS

October 19, 2005

Mr. Brian Will
Planning Department, City of Lincoln
County-City Building
555 So. 10th Street
Lincoln, NE 68508

RE: Apple's Way PUD / Preliminary Plat
OA Project No. 2002-1220

Dear Mr. Will:

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

1. Application for a Waiver to the PUD
2. Application fee (\$500)
3. Cover Sheet – 1 copy

On behalf of the Owner/Developer, Apple's Way, L.L.C. and Uno Properties, Inc., 1201 N Street, Suite 102, Lincoln, NE 68508, we are requesting an amendment to the Planned Unit Development (PUD) on the property shown on the enclosed site plan, all located in the north half of Section 16, Township 9 North, Range 7 East, City of Lincoln, Lancaster County, Nebraska (approximately 61.7 acres). We expect to be scheduled on the Planning Commission Agenda for the 9th of November simultaneously with the Apple's Way Preliminary Plat hearing.

We are requesting the following waivers to the PUD:

1. Waive front yard setback to 0' in the B-2 PUD Zone with the exception of along Hwy 2, then the setbacks shall be 175' for drives and 200' for buildings.
2. Waive rear yard setback to 30' abutting a residential district in the B-2 PUD Zone.
3. Waive height restriction to 52' for buildings that exceed 100,000 square feet in floor area.

031

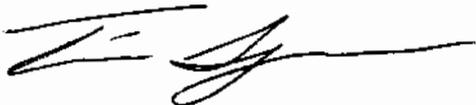
Mr. Brian Will
October 19, 2005
Page 2

In addition, we would like to clarify and re-state the waivers to the submitted Preliminary Plat to the following:

1. Waive requirement for lots to front public or private street and lot lines to be perpendicular to the street.
2. Waive sidewalk requirement along Highway #2 for both the residential and commercial areas and the north side of McIntosh Road and McIntosh Circle.
3. Waive requirement for location of public sanitary sewer and public water main.

It is our intention to have the Amendment to the PUD and the Preliminary Plat proceed concurrently to avoid two separate public hearings. Please let us know the public hearing schedule for these two submittals.

Sincerely,



Tim Gergen, PE

Enclosures

cc: Bennie McCombs
Tom Huston
Peter Katt
Rob Otte

DEVELOPER

APPLE'S WAY LLC
UNO PROPERTIES, INC.
1201 N STREET, SUITE 102
LINCOLN, NE 68508
PHONE: 435-0000

ENGINEER & PREPARER

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

PRELIMINARY PLAT LEGAL DESCRIPTION

REMAINING PORTION OF OUTLOT "E", COUNTRY MEADOWS, AND LOTS 36, 88, 123, 155 AND 156 IRREGULAR TRACTS, ALL LOCATED IN THE NORTH HALF OF SECTION 16. TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th P.M., LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 123; THENCE ON THE NORTH LINE OF SAID LOT 123, ON AN ASSIGNED BEARING OF N 89°57'28"E, A DISTANCE OF 50.78'; THENCE ON THE SOUTHERLY RIGHT OF WAY LINE OF NEBRASKA HIGHWAY #2, FOR THE NEXT THIRTEEN (13) COURSES; S 48°25'20"E 359.86'; THENCE S 59°21'17"E 330.85'; THENCE S 54°33'46"E 70.04'; THENCE S 35°30'08"W 90.51'; THENCE S 54°32'44"E 230.00'; THENCE S 65°06'38"E 315.35'; THENCE N 35°20'01"E 32.94'; THENCE S 54°36'32"E 267.53'; THENCE S 54°29'46"E 618.68'; THENCE S 54°29'48"E 307.34'; THENCE S 47°32'08"E 110.81'; THENCE S 62°59'47"E 90.95'; THENCE S 54°31'20"E 482.57', TO A POINT OF INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF SOUTH 66th STREET, SAID POINT BEING THE EASTERLY MOST POINT OF SAID REMAINING PORTION OF OUTLOT "E"; THENCE ON THE EASTERLY LINE OF SAID OUTLOT "E" AND THE NORTHERLY RIGHT OF WAY LINE OF SOUTH 66th STREET FOR THE NEXT THREE (3) COURSES; THENCE S 0°05'02"W 10.53'; THENCE S 35°06'21"W 127.02', TO A POINT ON CIRCULAR CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 513.12' AND A CENTRAL ANGLE OF 0°13'28"; THENCE ON THE CHORD OF SAID CURVE, S 34°54'22"W 2.01', TO THE SOUTHEAST CORNER OF SAID OUTLOT "E"; THENCE ON THE SOUTH LINE OF SAID OUTLOT "E", N 89°58'34"W 733.95'; THENCE ON THE SOUTH LINE OF SAID LOT 36, N 89°56'43"W 500.47'; THENCE ON THE SOUTH LINE OF SAID LOTS 88 AND 155, N 89°55'11"W 1125.77', TO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT 88; THENCE ON SAID SOUTHWESTERLY LINE, N 37°44'12"W 316.98', TO A POINT ON THE WEST LINE OF SAID LOT 88; THENCE ON THE WEST LINE OF SAID LOTS, 88 AND 123, N 0°01'47"W 1712.95', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 61.70 ACRES, MORE OR LESS.

Memorandum

To: Brian Will, Planning Department

From: Chad Blahak, Public Works and Utilities

Subject: Apple's Way Preliminary Plat #PP05016

Date: October 18, 2005

cc: Randy Hoskins

Engineering Services has reviewed the submitted plans for the Apple's Way preliminary plat, located south and west of Highway 2 between Old Cheney Road and South 66th Street and has the following comments:

Sanitary Sewer – The following comments need to be addressed.

(1.1) The sanitary sewer needs to be extended to Hwy #2 in a location that allows for the future service of the upstream area north of Hwy #2. The grades on the north side of Hwy #2 must be taken into consideration.

Water Mains – The water system is satisfactory.

Grading and Drainage – The following comments need to be addressed.

(3.1) The grading and drainage plan is unsatisfactory. The grading for the roadway that connects to Apple's Way and extends through the proposed detention cell to the west needs to be shown with this plat and will be required as part of the grading certification for construction of the public utilities. This grading will affect the proposed detention significantly. The revised drainage study needs to be provided to the satisfaction of Public Works showing that all detention requirements are met with the road grading.

Streets/Paving – The following comments need to be addressed.

(4.1) The proposed road connecting from Apple's Way to the west property line needs to be shown on these plans. A street grade profile needs to be provided to the satisfaction of Public Works.

(4.2) The proposed 150' right turn lane shown in Hwy #2 at South 66th Street is unsatisfactory. The plans need to be revised to show the right turn lane as 200' long in accordance city design practice.



Status of Review: Approved

Reviewed By

ANY

Comments:

Status of Review: Active

Reviewed By 911

ANY

Comments:

Status of Review: Approved

Reviewed By Alltel

ANY

Comments:

Status of Review: Active

Reviewed By Building & Safety

ANY

Comments:

Status of Review: Approved

Reviewed By Building & Safety

10/17/2005 3:17:47 PM

BOB FIEDLER

Comments: approved

Status of Review: Approved

Reviewed By Fire Department

10/18/2005 2:48:53 PM

ANY

Comments: Upon review of Preliminary Plat # PP05016, we have no objections from the perspective of our department.

Reviewed By Health Department

ANY

Comments: LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION

TO: Brian Will DATE: October 25, 2005

DEPARTMENT: Planning FROM: Chris Schroeder
ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: Apple's Way
EH Administration PP #05016

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the proposed development with the following noted:

The LLCHD notes that a rail line is located approximately 600 feet from the proposed residential development. The LLCHD does have concerns relative to noise pollution and the possibility of hazardous materials incidents involving trains with residential populations in relative close proximity.

The LLCHD advises that noise pollution can be an issue when locating commercial uses adjacent to residential zoning.

Lincoln Municipal Code (LMC) 8.24 Noise Control Ordinance does address noise pollution by regulating source sound levels based upon the receiving land-use category or zoning. However, the LLCHD does have case history involving residential uses and abutting commercial uses in which the commercial source does comply with LMC 8.24, but the residential receptors still perceive the noise pollution as a nuisance. The LLCHD strongly advises the applicant to become familiar with LMC 8.24. The LLCHD advises against locating loading docks, trash compactors, etc. adjacent to residential zoning. Therefore, creative site design should be utilized to locate potential sources of noise pollution as far as possible from residential zoning.

All wind and water erosion must be controlled during construction. The Lower Platte South Natural Resources District should be contacted for guidance in this matter.

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

Part of the proposed development is located within the Country Meadows Wellhead Protection Area. Best management practices (BMP) should be utilized to decrease the risk of groundwater contamination. For example, being conscientious regarding the use of lawn chemicals/ fertilizers and ensuring the proper the storage of chemicals and/or fuels.

036

Status of Review: Active

Reviewed By Lincoln Electric System ANY

Comments:

Status of Review: Active

Reviewed By Lincoln Police Department ANY

Comments:

Status of Review: Active

Reviewed By Nebraska Department of Roads ANY

Comments:

Status of Review: Approved

10/18/2005 1:46:44 PM

Reviewed By Parks & Recreation ANY

- Comments:
1. Please contact the forestry department at 441-7036 for the assignment of street trees.
 2. All outlot areas to be maintained by the developer and/or future homeowners association.
 3. The park serving this area is Pine Lake Park.
-

Status of Review: Routed

Reviewed By Planning Department SARA HARTZELL

Comments:

Status of Review: Complete

Reviewed By Planning Department RAY HILL

Comments:

Status of Review: Active

Reviewed By Planning Department BRIAN WILL

Comments:

Status of Review: Active

Reviewed By Public Utilities - Wastewater

ANY

Comments:

Status of Review: Active

Reviewed By Public Works - Development Services

ANY

Comments:

Status of Review: Active

Reviewed By Public Works - Long Range Planning

ANY

Comments:

Status of Review: Active

Reviewed By Public Works - Watershed Management

ANY

Comments:

Status of Review: Active

Reviewed By School District

ANY

Comments:

Status of Review: Active

Reviewed By US Post Office

ANY

Comments:

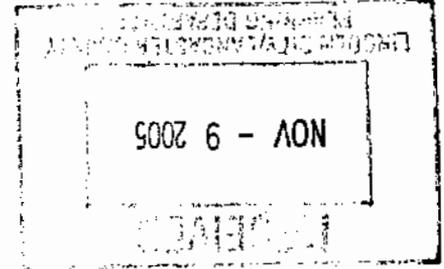
W. MICHAEL MORROW
TERRANCE A. POPPE
ROBERT R. OTTE
DAVID W. WATERMEIER
TIMOTHY C. PHILLIPS
JOEL G. LONOWSKI
JOSEPH E. DALTON
KELLY N. TOLLEFSEN
SCOTT E. TOLLEFSEN
NICHOLAS M. FROESCHL

**MORROW, POPPE, OTTE,
WATERMEIER & PHILLIPS, P.C.**
Attorneys at Law · A Limited Liability Organization

TELEPHONE: (402) 474-1731
FACSIMILE: (402) 474-5020

LOCATION:
201 N. 8th Street, Suite 300
Lincoln, Nebraska 68508
MAILING ADDRESS:
P.O. Box 83499
Lincoln, Nebraska 68501-3499
E-MAIL ADDRESS:
info@morrowpoppelaw.com
WEBSITE:
www.morrowpoppelaw.com

November 9, 2005



Mary Bills-Strand, Chair
And Members of the Lincoln City/Lancaster County
Planning Commission
555 South 10th Street
Lincoln, Nebraska 68508

HAND DELIVERED

RE: Apples Way Planned Unit Development
Country Meadows Home Owner Association
Comprehensive Plan Amendment 04010
Change of Zone 05026
Meeting of November 9, 2005

Dear Chairperson Bills-Strand and Members of the Lincoln City/Lancaster County Planning Commission:

As you may recall, I represent Country Meadows Homeowners Association with regard to the above-referenced matter. Over the course of the last few months, I have been charged as the representative of the Board of the Country Meadows Homeowners Association to work with the developer as their project has advanced.

The Association first wants to express its sincere appreciation to the Commission and the Members of the Planning Staff in making sure that the Association has understood all of the intricacies of this project.

It is still fair to say that there may not be a clear consensus by the homeowners in the Association as to whether the Association should stand in support of or opposition to the current plan. However, as I have stated before, it is very clear that any support of the project by the Association residents is absolutely dependent upon the developer's promises to the Association embodied in the written Commitment that was originally presented to the City Council and their willingness to cooperate with the Association on issues that were not specifically spelled out in that Commitment.

Mary Bills-Strand, Chair
And Members of the Lincoln City/Lancaster County
Page 2
November 9, 2005

At this point I can, as the representative of the Board of Directors of the Country Meadows Homeowners Association say that the developer appears to have honored the terms of the Commitment and has agreed to certain changes, some incidental and some significant, in the plan as it has been developed over the course of time. The developer has been willing to work with the Association in a number of ways, and I think we have found and resolved several issues that were included in the original commitment and that came up as the plans were refined for submission.

Again, my remarks are neither an endorsement of or to be used in opposition to the project. There is still significant opposition to this development, but on behalf of the Association I am reporting that the developer has complied with the Commitment which was necessary to any support of this project.

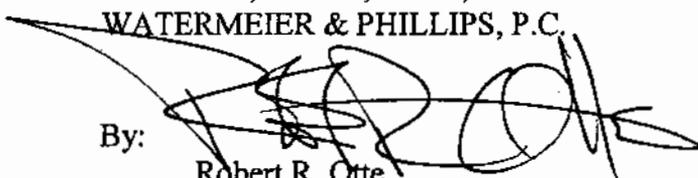
Finally, the commitments made by the developer does not end with your approval of this project. They have an ongoing effort to cooperate with the Country Meadows Neighborhood Association all the way through the final plat process, and I have no reason to think they will not act accordingly.

On behalf of the Board and the Association, I want you to know they appreciate your consideration.

Sincerely,

MORROW, POPPE, OTTE,
WATERMEIER & PHILLIPS, P.C.

By:


Robert R. Otte

RRO/bc
c Country Meadows Homeowners Association
c/o Royce Mueller
c County Meadows Homeowners Association Board of Directors
c Thomas C. Huston
c William E. Langdon, Jr.
c Peter W. Katt



**CITY OF LINCOLN
NEBRASKA**

MAYOR COLEEN J. SENG

lincoln.ne.gov

Lincoln-Lancaster County
Planning Department
Marvin S. Krout, Director

Jon Carlson, Chair
City-County Planning Commission
555 South 10th Street
Suite 213
Lincoln, Nebraska 68508
402-441-7491
fax: 402-441-6377

November 14, 2005

Olsson Associates
Tim Gergen
1111 Lincoln Mall
Lincoln, NE 68508

Re: Preliminary Plat No. 05016
APPLE'S WAY

Dear Mr. Gergen:

At its regular meeting on Wednesday, **November 9, 2005**, the Lincoln-Lancaster County Planning Commission, by **Resolution # PC-00960**, granted approval to your preliminary plat, **Apple's Way**, located in the general vicinity of **S. 66th St. and Highway 2.**, subject to the following conditions:

Site Specific:

1. After the subdivider completes the following instructions and submits the documents and plans and 6 copies to the Planning Department, the preliminary plat will be signed by the Chair of the Planning Commission certifying approval: (NOTE: These documents and plans are required by ordinance or design standards.)

1.1 Revise the preliminary plat as follows:

1.1.1 Show sidewalks along both sides of McIntosh Circle and McIntosh Lane unless the subdivider's waiver request is approved by the City Council.

1.1.2 Show easements per the L.E.S. review.

~~1.1.3 Provide a name for the unidentified street at the southwest corner of the plat and label it as a private roadway if it is not a public street. (**Per Planning Commission at the request of the applicant: 11/09/05**)~~

1.1.4 Show how the required detention capacity is maintained when the unidentified street at the southwest corner of the plat is built, while maintaining the stand of trees which the developer had reached agreement upon with the Country Meadows Homeowners Association. (**Per Planning Commission, 11/09/05**)

- 1.1.5 Label all the roads in the B-2 and R-1 zones as private roadways. **(**Per Planning Commission, at the request of the applicant, 11/09/05**)**
- 1.1.6 Dimension and number all lots and add a note that all lot lines are approximate. **(**Per Planning Commission, at the request of the applicant, 11/09/05**)**
- 1.1.7 Revise the General Notes to match those on the approved plan for Apple's Way PUD.
- 1.1.8 Revise the landscape plan on Sheet 5 of 5 to show all the required landscape screen between the B-2 and R-1 located in the B-2 for that area located south of Empire Lane. Add a note that the landscape screen between the B-2 and R-1 located north of Empire Lane shall be located to provide the best screening effect due to the slope. All of the landscape screen shall be maintained by the owners of the B-2 zoned land or an association of such owners. **(**Per Planning Commission, at the request of the applicant, 11/09/05**)**
- 1.1.9 Remove the designation for "Possible Sign Location" at the southeast corner of the site which is outside the boundary of the plat.
- 1.1.10 Revise the note "175' Drive Setback" in the B-2 to read "175' Setback to Parking and Driveways."
- 1.2 Make corrections to the reasonable satisfaction of Public Works and Utilities, which shall be limited to:
 - 1.2.1 Extend the sanitary sewer to Highway 2 in a location that allows for the further service of upstream area north of Highway 2.
 - 1.2.2 Revise the plan to show the right-turn lane in Highway 2 at South 66th Street as 150' 200' long in accordance with the approved Planned Unit Development.

(Per Planning Commission at the request of the applicant; however, Planning Commission amended 150' to 200' in Condition #1.2.2: 11/09/05**)**

General:

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

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

- 2.2.1 to complete the street paving of public streets shown on the final plat within two (2) years following the approval of the final plat.
- 2.2.2 to complete the paving of private roadway shown on the final plat within two (2) years following the approval of this final plat.
- 2.2.3 to complete the installation of sidewalks as shown on the final plat within four (4) years following the approval of the final plat.
- 2.2.4 to complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.
- 2.2.5 to complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.
- 2.2.6 to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.
- 2.2.7 to complete the enclosed private drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.
- 2.2.8 to complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of the final plat
- 2.2.9 to complete the installation of public street lights within this plat within two (2) years following the approval of the final plat.
- 2.2.10 to complete the installation of private street lights within this plat within two (2) years following the approval of the final plat.
- 2.2.11 to complete the planting of the street trees a within this plat within four (4) years following the approval of the final plat.
- 2.2.12 to complete the installation of the street name signs within two (2) years following the approval of the final plat.
- 2.2.13 to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.
- 2.2.14 to complete the public and private improvements shown on the preliminary plat.
- 2.2.15 to retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on a permanent and continuous basis and to maintain the plants in the medians and islands on a permanent and

continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the private improvements have been satisfactorily installed and the documents creating the association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

- 2.2.16 to properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the land owner.
- 2.2.17 to continuously and regularly maintain the street trees along the private roadways and landscape screens.
- 2.2.18 to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
- 2.2.19 to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.
- 2.2.20 to submit to the lot buyers a copy of the soil analysis.
- 2.2.21 to protect the trees that are indicated to remain during construction and development.
- 2.2.22 to relinquish the right of direct vehicular access from those adjacent to Highway 2.
- 2.2.23 to pay all design, engineering, labor, material, inspection, and other improvement costs.

3. The waivers to the design standards to allow lots that do not front onto a public street or private roadway, lot lines not perpendicular to a street, sidewalk along Highway 2, location of public sanitary sewer and water main are hereby approved.

You have authority to proceed with the plans and specifications for the installation of the required improvements except street lighting and street name signs 15 days after the Planning Commission's approval of the preliminary plat, unless the decision is appealed to the City Council.

Before you begin to grade or disturb any land one acre or greater in area:

The Lower Platte South NRD must have approved a drainage and grading plan including stormwater management, erosion, and sediment control. Contact J. B. Dixon at 476-2729 or jbixon@lpsnrd.org for questions regarding the plans.

Before you begin to install the improvements:

A licensed surveyor or engineer must certify that the grading has been completed in conformance with the grading shown on the approved preliminary plat, drainage study, and final street grades. Address questions to Gary Lacy at 441-4957 or glacy@lincoln.ne.gov.

and

An executive order (E.O.) authorized by the Mayor is required before public streets, public water, public sanitary sewer, public storm drainage, and public ornamental street lighting can be installed or constructed. Contact Charles Baker at 441-7838 or cbaker@lincoln.ne.gov in the Public Works & Utilities Department regarding the E.O. process. A bond, escrow, or security agreement approved by the City Law Department guaranteeing the completion of improvements will be required prior to the Mayor approving the E.O. If an E.O. has not been approved for the specific minimum improvement or the other required improvements not requiring an E.O. have not been completed then a bond, escrow, or security agreement approved by the City Law Department guaranteeing the completion of improvements will be required.

If a final plat is submitted five (5) years or more after the effective date of the preliminary plat, the City may require that a new preliminary plat be submitted. A new preliminary plat may be required if the subdivision ordinance or the design standards have been amended.

You may appeal the action of the Planning Commission to the City Council by filing a notice of appeal with the City Clerk. The appeal is to be filed within 14 days following the action by the Planning Commission.

Submit an ownership certificate indicating the record owner or owners of the property included within the boundaries of the final plat when submitting a final plat.

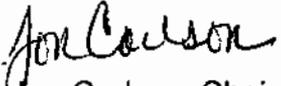
The Subdivision Ordinance requires that there be no liens of taxes against the land being final platted and that all special assessment installment payments be current. A form is available at the Planning Department and on the Planning Department website that must be signed by the County Treasurer verifying that there are no liens of taxes and verifying that the special assessment installment payments are current.

We are committed to working with you as we proceed through your development review. Before installing or constructing the improvements or should you have questions on:

public streets and utilities; contact Charles Baker at 441-7838 or cbaker@lincoln.ne.gov
street lights; contact Larry Kathol, L.E.S. at 467-7642 or lkathol@les.com
sidewalks; contact Harry Kroos at 441-8405 or hkroos@lincoln.ne.gov
street trees; contact Steve Nosal or Steve Schwab at 441-7035 or forestrv@lincoln.ne.gov
street name signs; Marty Meyer at 441-6093 or mmever@lincoln.ne.gov

Should you have questions please contact Brian Will at 441-6362 or bwill@lincoln.ne.gov.

Sincerely,



Jon Carlson, Chair
City-County Planning Commission

cc: Owner
Public Works - Dennis Bartels
LES
Alltel Communications Co.
Cablevision
Fire Department
Police Department
Health Department
Parks and Recreation
Urban Development
Lincoln Public Schools
County Engineers
File



F:\FILES\PLANNING\PC\PP\PPL\05000\PPL05016.tm.wppd.wpp