

MEETING RECORD

Advanced public notice of the County Board of Zoning Appeals meeting was posted on the County-City bulletin board and the Planning Department’s website. In addition, a public notice was emailed to the Lincoln Journal Star for publication on Thursday, February 6, 2025.

NAME OF GROUP:	COUNTY BOARD OF ZONING APPEALS
DATE, TIME AND PLACE OF MEETING:	Friday, February 14, 2025, 2:30 p.m., County-City Building, City Council Chambers, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Tai Pleasant, Joe Shaw, Ed Woeppel, James Pinkerton, and Matt Warner
OTHERS IN ATTENDANCE	George Wesselhoft and Clara McCully of the Planning Department; Andrew Barness of County Attorney’s Office; and other interested parties.
STATED PURPOSE OF MEETING:	Regular County Board of Zoning Appeals Meeting

Chair Woeppel opened the meeting and acknowledged the posting of the Open Meetings Act in the room.

Woeppel then called for a motion approving the minutes of the regular meeting held August 11, 2023.

Pleasant moved approval, seconded by Woeppel, and carried 3-0: Pleasant, Woeppel, and Warner voting ‘yes’; Shaw and Pinkerton abstained.

Woeppel then called for a motion approving the minutes of the regular meeting held September 13, 2024.

Shaw moved approval, seconded by Pleasant, and carried 3-0: Shaw, Pinkerton and Woeppel voting ‘yes’; Warner and Pleasant abstained.

COUNTY BOARD OF ZONING APPEALS 25001
REQUESTED BY ROLAND MEYER, FOR A VARIANCE TO REDUCE THE MINIMUM LOT AREA REQUIREMENT FROM 20 ACRES TO 17 ACRES, ON A PROPERTY GENERALLY LOCATED AT S 148TH STREET AND HOOPER ROAD.

PUBLIC HEARING:

February 14, 2025

Members present: Pleasant, Shaw, Woepffel, Pinkerton and Warner.

There were no ex parte communications disclosed.

APPLICANT:

Ann Post, Rembolt Ludtke, 1128 Lincoln mall, on behalf of applicant, came forward and stated they are asking for a variance to reduce the minimum lot size from 20 to 17 acres. Mr. Meyer acquired this property in approximately 2007. At that time, it was part of a larger parcel, Lot Twelve, which was about thirty-eight point five acres. Approximately fifty feet were taken off the west side for the county road right of way. In 2009, NDOT came through and acquired 8.5 acres, which comes to 9 acres of real estate. The remaining area is 17.3 acres (Exhibit 1).

The portion to the south is just under thirteen acres, and the subject of today's request is the 17.3 acres (Exhibit 2). Since this area is zoned Agricultural (AG), the minimum lot size requirement in AG zoning is twenty acres. As a result, the seventeen-acre parcel does not meet this requirement, which prevents Mr. Meyer from using or selling it for any agricultural purposes, including construction of a single-family residence.

There are generally two sections of the county code that could apply to meet the minimum lot size requirement. The first, found in Section Four, allows the minimum lot size to include the right-of-way to the middle of the road, potentially adding 2.7 acres to the size to meet the twenty-acre requirement (Exhibit 3). Unfortunately, this exception only applies if the road is on a section line or quarter section line, which does not apply in this scenario.

The second possible exception is found in Section 17 of the county code, which states that if a government entity acquires right-of-way and this acquisition prevents meeting the frontage or minimum lot size requirements, the lot remains buildable despite not meeting those minimum standards. However, when NDOT acquired the property, it bisected the lot, creating two separate sections across the road that cannot be used together practically. Although these sections were assigned a single irregular tract number—specifically lot number 27—legally they are still considered one lot that exceeds the twenty-acre minimum size.

This interpretation means the code section that could typically apply seems to be ineffective in this case. The acquisition did not prevent the lot from meeting minimum legal requirements since it was still classified as one lot over twenty acres. Therefore, we are left with the seventeen-acre portion on the north side of Hooper

Road (Exhibit 4,5). This seventeen-acre parcel is arguably too small for independent farming and does not meet the minimum lot size requirements necessary for obtaining a building permit. Thus, we are here today requesting recognition of these peculiar, unusual and extraordinary circumstances, which justify the need for this variance to allow Mr. Meyer to utilize the property reasonably.

Pinkerton asked if Mr. Meyer owns the 13 acres in the southern portion as well. Post confirmed Mr. Meyer owned it at the time of the split, but not anymore.

Pinkerton asked if the appellant knew the initial lot, lot 27, was buildable before separating it into lot 31 and lot 30.

Post stated they came to the realization that the northern section and the southern section are completely separated by the road, but they are still legally considered one lot. The challenge is that there is no practical way to utilize both sections together. Therefore, we filed to separate them into two distinct lots. By doing this, they would at least be able to sell the property.

Shaw asked if they knew the implication of building on the lots when they filed to separate the lots.

Post stated it wasn't building on the lots that made the north part unbuildable, and the south part is zoned Industrial, which can have smaller lot sizes. When NDOT came through and purchased that ground, they did purchase it. They did pay farm ground value for it, but. The idea that purchasing that ground and having that 17 acres as part of it was not part of that, or having that 17 acres be there after unbuildable was not part of the conversation and was not something that, to our knowledge, was considered acquisition.

Woepfel asked, for the south lot that is Industrial now, when were those built? After it was sold?

Post stated she does not know. She believes they were built before it was sold but they were farm buildings, not residences, which are allowed under AG zoning. One residence is allowed per 20 acres. Farm buildings don't have the same restrictions.

The staff report addresses the exception that if the state entity takes the ROW, it creates two separate lots. There is an exemption because even though the state ROW came through and created separate and distinct sections, they were still called legally one lot and that exception didn't apply. There is not a practical way to use the sections together because they were assigned one tract number and said legally what separated those wasn't NDOT putting the road through it, it was in 2024 when

a deed was filed to create two separate lots. The crux of the issue is that it was the road that was coming through it that created two separate sections as opposed to the legal interpretation that it is one lot even though it is completely bisected by the road. Legally, since it is one lot they don't get the advantage or the same exception.

Warner stated he drives past this area frequently. The road has been there for years. They should really count to the middle of the road. Mr. Warner shouldn't be punished for road safety.

Woeppel stated exception to measuring to the middle of road seems arbitrary that it doesn't count unless it is on a section line.

STAFF QUESTIONS:

There were no staff questions

SUPPORT:

No one appeared in support.

OPPOSITION:

No one appeared in opposition.

ACTION:

Pinkerton moved approval of the variance to reduce the minimum lot area from 20 acres to 17 acres so that lot 30 is a buildable lot which would allow for a building permit on Lot 30 I.T., seconded by Shaw.

Motion carried 5-0: Pleasant, Shaw, Woeppel, Pinkerton and Warner voting 'yes'.

Motion to adjourn made by Warner, seconded by Shaw.

Motion to adjourn 5-0. Pleasant, Shaw, Woeppel, Pinkerton and Warner voting 'yes'.

There being no further business, the meeting was adjourned at 2:51 p.m.



1:4,514



DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email plan@lincoln.ne.gov and you will be directed to the appropriate department.

Legend

Address Labels

Footprints2022



Exhibit 4

17.30 North
2.76 Approx. @

20.06 Ac.

N
↑
No Scale

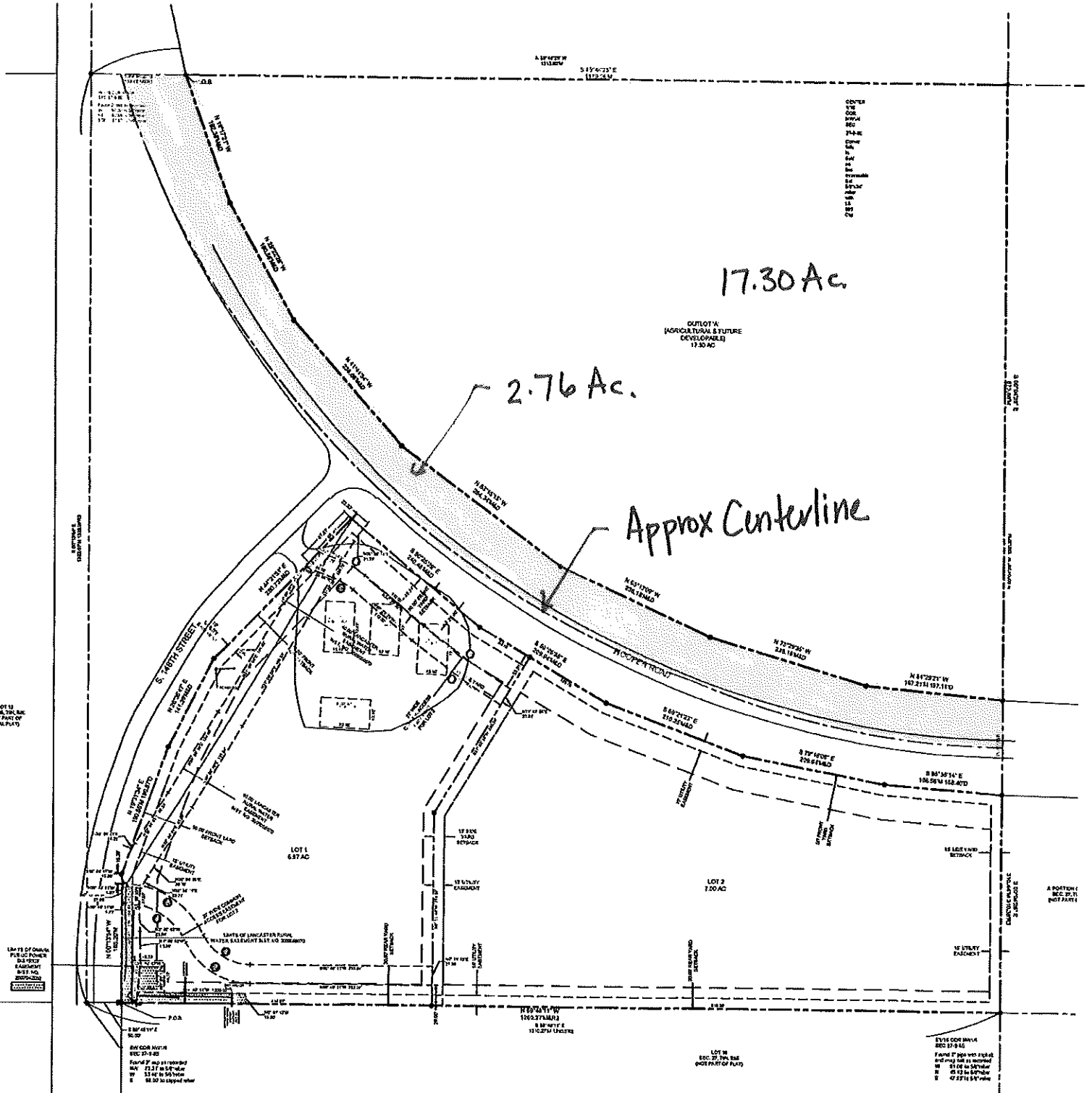


Exhibit 5

DEED OF DISTRIBUTION
BY
PERSONAL REPRESENTATIVE

LOT 11
LOT 12

NINA WITTE, ----- Personal Representative of the Estate of
CHARLES M. WITTE, ----- Deceased, GRANTOR, conveys and releases to
NINA WITTE, NANCY WILLIAMS, and MARILYN KOENIG, ----- GRANTEE,
the following described real estate (as defined in Neb. Rev. Stat. 76-201):

West Half (W $\frac{1}{2}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section Twenty-seven
(27), Township Nine (9), Range Eight (8), Lancaster County, Nebraska.

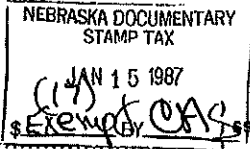
1. To Grantee, Nina Witte, a life estate interest therein;
2. To Grantee, Nancy Williams, a remainder interest in the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section Twenty-seven (27), Township Nine (9), Range Eight (8), Lancaster County, Nebraska, subject to the life estate of Nina Witte;
3. To Grantee, Marilyn Koenig, a remainder interest in the Northwest Quarter (NW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section Twenty-seven (27), Township Nine (9), Range Eight (8), Lancaster County, Nebraska, subject to the life estate of Nina Witte.

subject to easements, reservations, covenants and restrictions of record.

GRANTOR has determined that the GRANTEE is the person entitled to distribution of the real estate from said estate. GRANTOR covenants with GRANTEE that GRANTOR has legal power and lawful authority to convey and release the same.

Executed January 12 1987.

Nina Witte
Nina Witte, Personal Representative, Estate of
Charles M. Witte, Deceased



STATE OF NEBRASKA
COUNTY OF OTTOE

The foregoing instrument was acknowledged before me on January 12 1987,
by Nina Witte, Personal Representative of the Estate of
Charles M. Witte, Deceased.



Johnny J. Moran
Notary Public
My commission expires

STATE OF NEBRASKA, County of

Filed for record and entered in Nui
recorded in Deed Record Page

LAW OFFICE
DAN JACO
REGISTER OF DEEDS
1987 JAN 15 AM 11:17

\$5.50

INDEXED
MICRO-FILED
GENERAL

County Clerk
Register of Deeds

Handwritten signature

INST. NO. 87-1387

BY DISTRIBUTION

PERSONAL REPRESENTATIVE

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