
Lincoln City - Lancaster County

PLANNING COMMISSION AGENDA

PLANNING COMMISSION

Jeanelle R. Lust: Chair
Chris Hove: Vice-Chair
Cathy Beecham
Michael Cornelius
Tracy Corr
Maja V. Harris
Dennis Scheer
Lynn Sunderman
Ken Weber

PLANNING STAFF

David R. Cary: Acting Director
Geri Rorabaugh: Administrative Officer
Amy Huffman: Office Specialist

August 19, 2015

NOTICE: The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, August 19, 2015, at 5:30 p.m., in Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th St., Lincoln, Nebraska. For more information, call the Planning Department, (402) 441-7491.

****PLEASE NOTE:** The Planning Commission action is final action on any item with a notation of "FINAL ACTION". Any aggrieved person may appeal Final Action of the Planning Commission to the City Council or County Board by filing a Notice of Appeal with the City Clerk or County Clerk within 14 days following the action of the Planning Commission.

The Planning Commission action on all other items is a recommendation to the City Council or County Board.

AGENDA

WEDNESDAY, AUGUST 19, 2015

Approval of minutes of the regular meeting held August 5, 2015.

1. CONSENT AGENDA (Public Hearing and Administrative Action):

ANNEXATIONS AND RELATED CHANGES OF ZONE:

- | | |
|---------------|---|
| Page
01-08 | 1.1a Annexation No.15007, annexing approximately 44.78 acres, more or less, on property generally located at North 84th Street and Havelock Avenue.
Staff recommendation: Conditional Approval
Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov |
| Page
01-08 | 1.1b Change of Zone No. 15020, from Agricultural District to I-2 Industrial Park, on property generally located at 4851 North 84th Street.
Staff recommendation: Approval
Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov |
| Page
09-18 | 1.2a Annexation No. 15008, annexing approximately 4.81 acres, more or less, generally located at 70th Street and Arbor Road.
Staff recommendation: Conditional Approval
Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov |
| Page
09-18 | 1.2b Change of Zone No. 15022, from AG Agricultural District to H-3 Highway Commercial District, to allow for storage and/or contractor services on a 1-acre area, on property generally located at 70th Street and Arbor Road.
Staff recommendation: Approval
Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov |

CHANGE OF ZONE:

- Page 19-26
- 1.3 Change of Zone No. 2463E, to amend the Highpointe Planned Unit Development by changing the zoning from R-3 PUD Residential District to B-2 PUD Planned Neighborhood District, with approval of an amended development plan which proposes modifications to the Zoning Ordinance and Land Subdivision Ordinance, on property generally located at 4701 Old Cheney Road.
Staff recommendation: Conditional Approval
Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

USE PERMIT:

- Page 26-34
- 1.4 Use Permit No. 126D, an amendment to convert office space to apartments by increasing the number of multiple-family dwelling units from 195 to 297, and reducing the amount of office floor area from 225,000 to 174,000 square feet, on property generally located at Executive Woods Drive and Yankee Hill Road. ****FINAL ACTION****
Staff recommendation: Conditional Approval
Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

2. REQUESTS FOR DEFERRAL:

3. ITEMS REMOVED FROM CONSENT AGENDA (Public Hearing and Administrative Action):

3.1 _____

3.2 _____

4. CONTINUED PUBLIC HEARING AND ADMINISTRATIVE ACTION

- Page 35-62
- 4.1a Annexation No. 15006, to annex approximately 46 acres and adjacent rights-of-way, generally located at South 63rd Street and Yankee Hill Road.
Staff recommendation: Approval
Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov
- Page 35-62
- 4.1b Change of Zone No. 04075F, to amend the Village Gardens Planned Unit Development by expanding the boundary by approximately 46 acres; with a change of zone from AG Agricultural District to R-3 Residential District PUD; for a Planned Unit Development District designation of said property; and for a development plan which proposes modifications to the Zoning Ordinance and Land Subdivision Ordinance for additional single-family dwelling lots on the underlying R-3 zoned area, on property generally located at South 63rd Street and Yankee Hill Road
Staff recommendation: Conditional Approval
Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

5. PUBLIC HEARING AND ADMINISTRATIVE ACTION

- Page 63-82
- 5.1 Text Amendment No. 15009, to amend the Lancaster County zoning regulations regarding Section 13.018 "Commercial Wind Energy Conversion Systems" to revise the special permit conditions for wind turbine projects regarding decommissioning, shadow flicker, impact on environmental resources and view corridors, setbacks, noise, noise studies and other conditions.
- Staff recommendation: Approval**
- Staff Planner: Steve Henrichsen, [402-441-6374](tel:402-441-6374), shenrichsen@lincoln.ne.gov**

**AT THIS TIME, ANYONE WISHING TO SPEAK ON AN ITEM
NOT ON THE AGENDA, MAY DO SO**

Adjournment

PENDING LIST: *None*

Planning Dept. staff contacts:

Stephen Henrichsen, <i>Development Review Manager</i>	402-441-6374	....	shenrichsen@lincoln.ne.gov
David Cary, <i>Acting Director and Long Range Manager</i>	402-441-6364	....	dcary@lincoln.ne.gov
Paul Barnes, <i>Planner</i>	402-441-6372	....	pbarnes@lincoln.ne.gov
Michael Brienzo, <i>Transportation Planner</i>	402-441-6369	....	mbrienzo@lincoln.ne.gov
Tom Cajka, <i>Planner</i>	402-441-5662	....	tcajka@lincoln.ne.gov
Brandon Garrett, <i>Planner</i>	402-441-6373	....	bgarrett@lincoln.ne.gov
Stacey Groshong Hageman, <i>Planner</i>	402-441-6361	....	slhageman@lincoln.ne.gov
Brian Will, <i>Planner</i>	402-441-6362	....	bwill@lincoln.ne.gov
Kellee Van Bruggen, <i>Transportation Planner</i>	402-441-6363	....	kvanbruggen@lincoln.ne.gov
Ed Zimmer, <i>Historic Preservation Planner</i>	402-441-6360	....	ezimmer@lincoln.ne.gov

* * * * *

The Planning Commission meeting
which is broadcast live at 1:00 p.m. every other Wednesday
will be rebroadcast on Sundays at 1:00 p.m. on 5 City TV, Cable Channel 5.

* * * * *

The Planning Commission agenda may be accessed on the Internet at
<http://www.lincoln.ne.gov/city/plan/pcagenda/index.htm>

ACCOMMODATION NOTICE

The City of Lincoln complies with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 guidelines. Ensuring the public's access to and participating in public meetings is a priority for the City of Lincoln. In the event you are in need of a reasonable accommodation in order to attend or participate in a public meeting conducted by the City of Lincoln, please contact the Director of Equity and Diversity, Lincoln Commission on Human Rights, at 402 441-7624 as soon as possible before the scheduled meeting date in order to make your request.

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT
for AUGUST 19, 2015 PLANNING COMMISSION MEETING

PROJECT #: Annexation #15007
 Change of Zone No.15020

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

PROPOSAL: To annex approximately 44.78 acres and change the zoning from AG Agricultural to I-2 Industrial.

LOCATION: N. 84th Street and Havelock Avenue

LAND AREA: 44.78 acres, more or less

EXISTING ZONING: AG Agricultural

CONCLUSION: This annexation and change of zone is in conformance with the Comprehensive Plan. The property is contiguous to the City limits on the south and the change of zone to I-2 is consistent with the Future Land Use Map.

RECOMMENDATION:

Annexation	Conditional Approval
Change of Zone	Approval

PROPOSED CITY COUNCIL DISTRICT ASSIGNMENT: District #1

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 73 and 81, both Irregular Tracts, located in Section 3, Township 10 North, Range 7 East; Lancaster County, NE

EXISTING LAND USE: Vacant buildings and agricultural

SURROUNDING LAND USE AND ZONING:

North:	AG	Agricultural
South:	AG	University of Nebraska research farm
Southeast:	H-4 and AG	Lancaster County Events Center
East:	AG	Agricultural
West:	AG	Agricultural

COMPREHENSIVE PLAN SPECIFICATIONS:

Focus primarily on retention and expansion of existing businesses; attracting new businesses should also be encouraged. (p 5.1)

Seek to efficiently utilize investments in existing and future public infrastructure to advance economic development opportunities. (p.5.2)

Detailed Strategies for Commercial Infill; "Maintain or adaptively reuse existing structures." (p.5.15)

This area is shown as a Light Industrial Center in the 2040 Comprehensive Plan (p.5.17)

Light Industrial Centers are primarily for lighter manufacturing uses with some additional office and retail uses located within the center (p.5.17)

Continue the City's growth policy of contiguous urban growth; urban development will occur in areas immediately abutting the city that reflect a logical and timely extension of urban infrastructure (p.11.2)

This area is shown as Industrial in the Future Land Use Plan of the 2040 Comprehensive Plan. (P.12.3)

The ANNEXATION POLICY- page 12.14 of the 2040 Comprehensive Plan.

Annexation policy is a potentially powerful means for achieving many of the goals embodied in the Plan's Vision. Annexation is a necessary and vitally important part of the future growth and health of Lincoln. The annexation policies of the City of Lincoln include but are not limited to the following:

The provision of municipal services must coincide with the jurisdictional boundaries of the City – in short, it is not the intent of the City of Lincoln to extend utility services (most notably, but not necessarily limited to, water and sanitary sewer services) beyond the corporate limits of the City.

The extension of water and sanitary sewer services should be predicated upon annexation of the area by the City. City annexation must occur before any property is provided with water, sanitary sewer, or other potential City services.

To demonstrate the City's commitment to the urbanization of land in Tier I Priority B, the City should annex land that is contiguous to the City and generally urban in character, as well as land that is engulfed by the City. Land which is remote or otherwise removed from the limits of the City of Lincoln will not be annexed. Annually the City should review for potential annexation all property in Priority B for which basic infrastructure is generally available or planned for in the near term.

Annexation generally implies the opportunity to access all City services within a reasonable period of time.

Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (e.g., water, sanitary sewer), and may include specific or general plans for the private financing of improvements to the infrastructure supporting or contributing to the land uses in the annexed area. The annexation of large projects may be done in phases as development proceeds.

Annexation to facilitate the installation of improvements and/or possible assessment districts is appropriate if it is consistent with the annexation policies of the Plan listed above.

Plans for the provision of services within the areas considered for annexation shall be carefully coordinated with the Capital Improvements Program of the City and the County.

UTILITIES:

Water would need to be extended in N. 84th Street right-of-way from Havelock Avenue. Sanitary sewer would need to be extended in N. 84th Street right-of-way from either Havelock Avenue or Fletcher Avenue.

TRAFFIC ANALYSIS:

N. 84th Street is classified as a Principal Arterial and Havelock Avenue is classified as a Minor Arterial in the 2040 Comprehensive Plan.

PUBLIC SERVICE:

The nearest fire station is located at Fremont Street and Touzalin Avenue.

ANALYSIS:

1. This request is to annex approximately 44.78 acres and a change of zone from AG to I-2 on one acre. The land is contiguous to the City limits on the south. An annexation agreement is required with this annexation
2. The purpose of the change of zone and annexation is to allow the property owner to utilize the existing building for industrial use. The City has a policy of not changing the zoning on property from agricultural to commercial, industrial or residential unless the property is annexed.
3. The future land use plan in the 2040 Comprehensive Plan identifies this area as industrial.
4. The property owner will need to extend a sanitary sewer line to the property. The water main will not be extended until further development occurs on the site. The site has an existing well that will continue to be used for initial development. The well will be required to be inspected annually. Per LMC8.44.030 the well can be used but cannot be replaced if city water is or becomes available and is within 300 feet. Currently the nearest City water main is approximately 1,500 feet to the south from the existing building.
5. The City plans on building a 16" water main in N. 84th Street from Havelock Avenue north in the future. The project is shown in the current Capital Improvements Program (CIP), but has no anticipated date of construction. The 16" water main is a impact fee eligible improvement and the developer could be reimbursed if the water main is constructed in advance of the CIP.

6. A right turn lane in N. 84th Street at the entrance and dedication of additional right-of-way at the developer's cost is required prior to any new development of the site.
7. Prior to any further development of the site, a preliminary plat to address local streets, utilities and lot layout will be required.
8. The area of annexation is contiguous to the City limits on the south. The area of annexation is within the future service limits and Tier One Priority B as identified in the 2040 Comprehensive Plan. Tier I reflects the "Future Service Limit" where urban services and inclusion in the city limits is anticipated. In certain cases, areas in Priority B have special agreements that include some level of commitment to build future infrastructure. In this case, an annexation agreement is needed to build future infrastructure. The City and developer have agreed to a draft annexation agreement.

CONDITIONS OF APPROVAL:

Annexation #15007

Before the City Council approves the annexation:

1. The applicant signs an annexation agreement addressing the necessary infrastructure and need for a future preliminary plat.

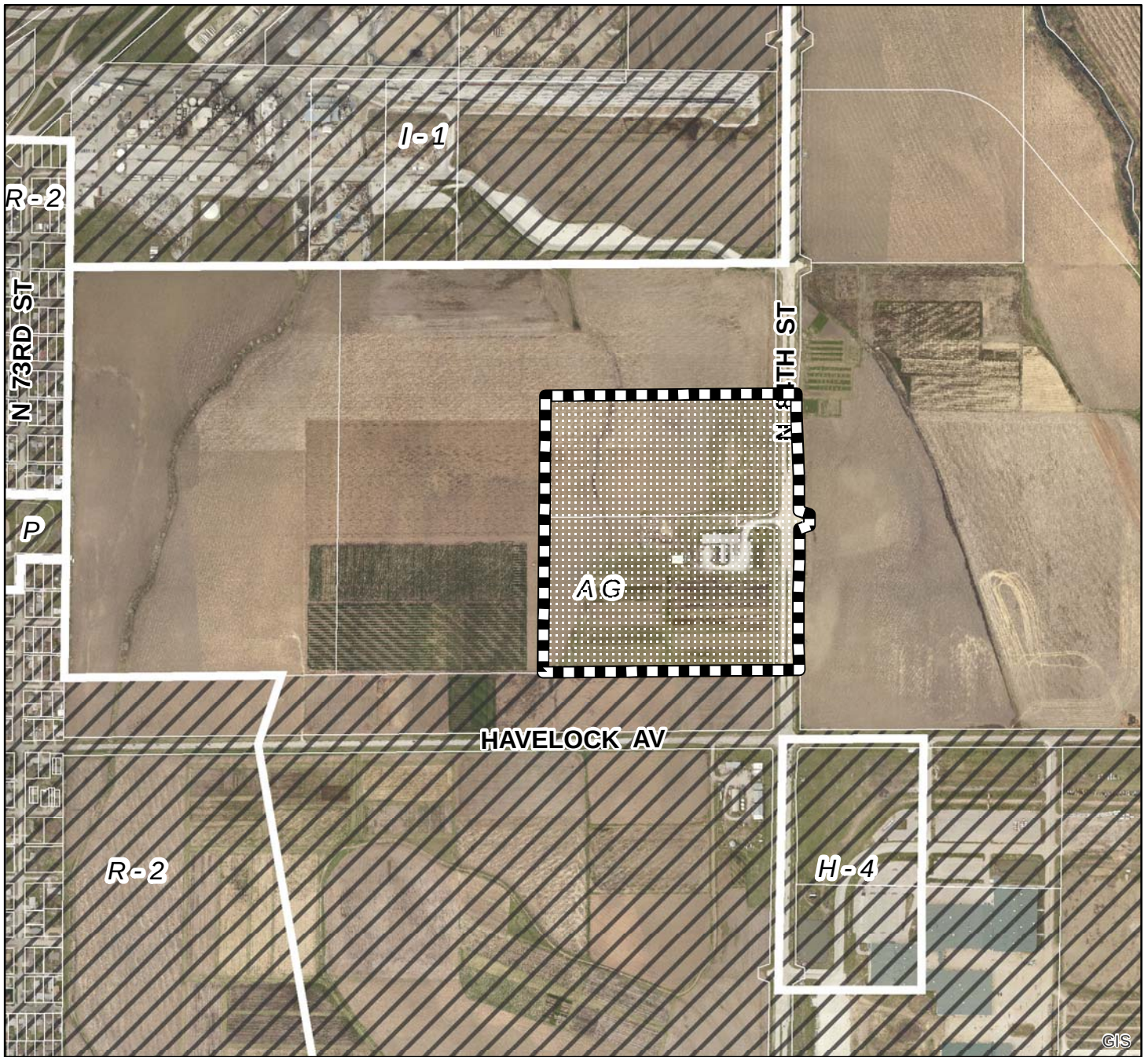
Prepared by:

Tom Cajka
Planner

DATE: August 6, 2015

APPLICANT/OWNER: Par 5 Partners
120 West Harvest Drive
Lincoln, NE 68521

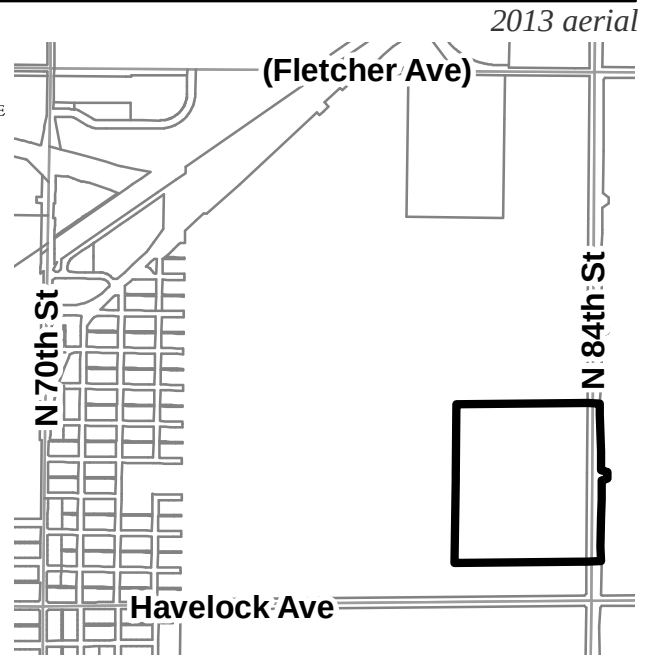
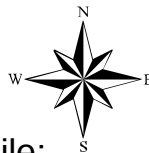
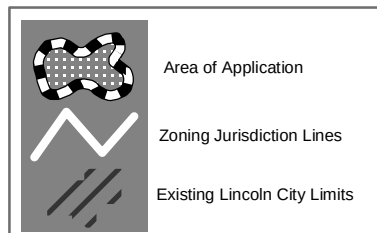
CONTACT: Fred Scarpello
1640 "L" Street Suite "D"
Lincoln, NE 68508
402-670-4081



**Annexation #: AN15007 &
Change of Zone #: CZ15020 (AG to I-2)
Great Plains Beef Test Kitchen
N 84th St & Havelock Av
Zoning:**

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential 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.03 T10N R07E



2013 aerial



WLA Consulting, Inc.
1640 L Street, Suite D
Lincoln, NE 68508

July 8, 2015

Stephen Henrichsen, Manager
City of Lincoln Planning Department
555 S 10th St, Suite 213
Lincoln, NE, 68508 USA

Re: Great Plains Beef Test Kitchen and Packaging Facility
4851 No. 84th Street Lincoln, Nebraska
WLA Project No. 269-001

Dear Mr. Henrichsen:

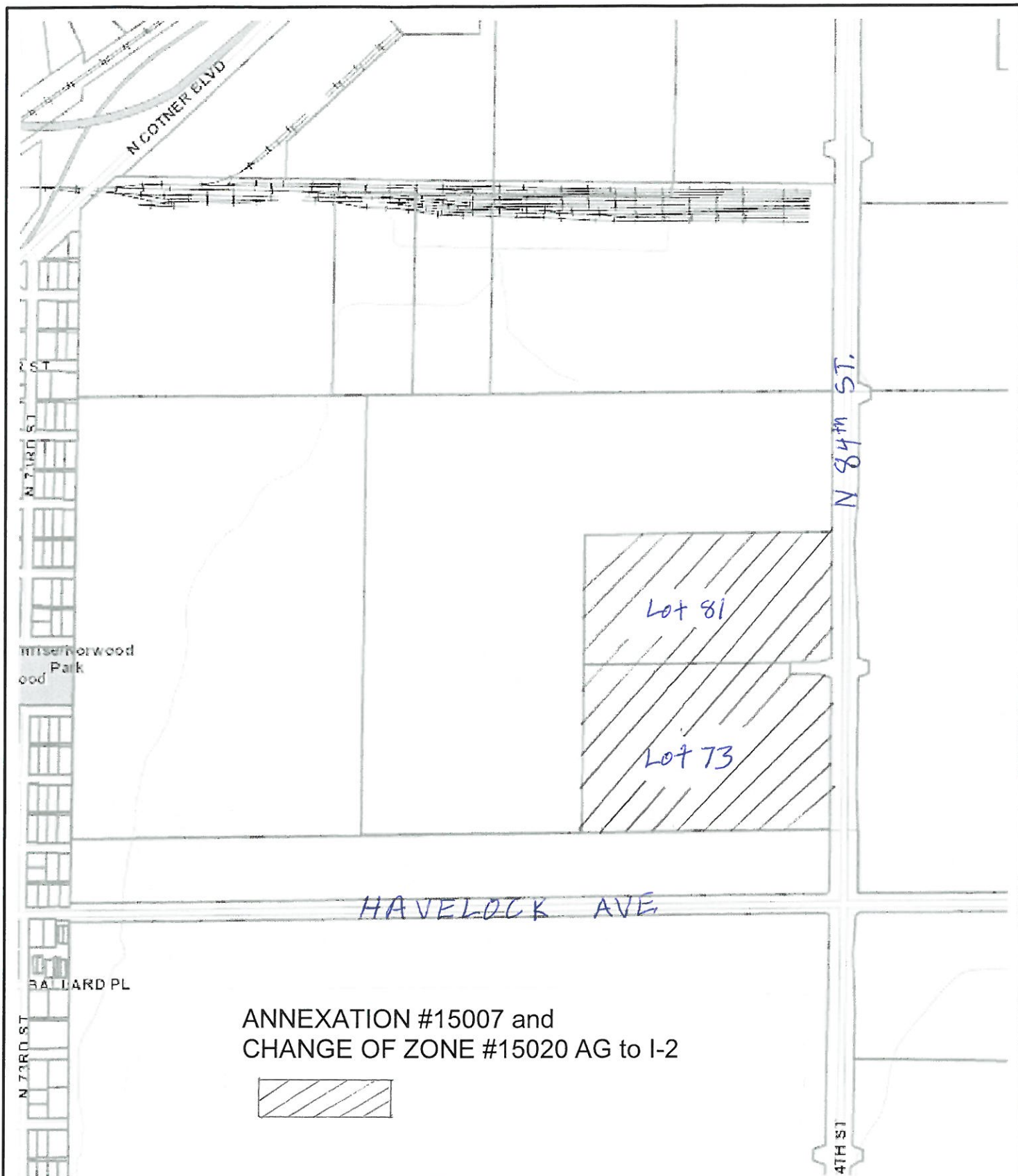
Enclosed is the City of Lincoln Planning Department Application Request Form, with the stated application fee. Also attached is the complete Annexation Checklist which provides many of the details that have been previously discussed on this redevelopment.

This project redevelops the now vacant Sun West Farms property. The existing building on the property will be remodeled to include a test kitchen and refrigerated warehouse, re-packaging and distribution facility for Great Plains Beef LLC, an affiliate of the applicant. Future uses of the property will include additional buildings for refrigerated storage, re-processing, packaging and distribution of beef products, and ancillary office facilities.

Should you have any questions, please contact me at (402) 475-8588.

Sincerely,

Fred Scarpello, P.E.



Lancaster County/City of Lincoln GIS Map



Printed: Jul 10, 2015

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 ags@lincoln.ne.gov and you will be directed to the appropriate department.

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT
for AUGUST 19, 2015 PLANNING COMMISSION MEETING

PROJECT #: Annexation #15008
 Change of Zone #15022

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

PROPOSAL: Annexation of 4.81 acres and Change of Zone of approximately one acre from AG Agricultural to H-3 Highway Commercial.

LOCATION: N. 70th Street and Arbor Road

LAND AREA: 4.81 acres, more or less

EXISTING ZONING: AG- Agricultural

CONCLUSION: This annexation and change of zone is in conformance with the Comprehensive Plan.

RECOMMENDATION:

Annexation	Conditional Approval
Change of Zone	Approval

PROPOSED CITY COUNCIL DISTRICT ASSIGNMENT: District #1

GENERAL INFORMATION:

LEGAL DESCRIPTION: A portion of Lot 59 Irregular Tract, located in the SW quarter of Section 27, Township 11 North, Range 7 East, Lancaster County, NE (see attached)

EXISTING LAND USE: Agricultural

SURROUNDING LAND USE AND ZONING:

North:	AG Agricultural	Farming
South:	H-2 Highway Commercial	Abbott Sports Complex
East:	AG Agricultural	Farming
West:	AG Agricultural	Farming

COMPREHENSIVE PLAN SPECIFICATIONS:

Focus primarily on retention and expansion of existing businesses; attracting new businesses should also be encouraged. (p 5.1)

Seek to efficiently utilize investments in existing and future public infrastructure to advance economic development opportunities. (p.5.2)

Detailed Strategies for Commercial Infill; "Maintain or adaptively reuse existing structures." (p.5.15)

Continue the City's growth policy of contiguous urban growth; urban development will occur in areas immediately abutting the city that reflect a logical and timely extension of urban infrastructure (p.11.2)

This area is shown as Industrial and Commercial in the Future Land Use Plan of the 2040 Comprehensive Plan. (P.12.3)

The ANNEXATION POLICY- page 12.14 of the 2040 Comprehensive Plan.

Annexation policy is a potentially powerful means for achieving many of the goals embodied in the Plan's Vision. Annexation is a necessary and vitally important part of the future growth and health of Lincoln. The annexation policies of the City of Lincoln include but are not limited to the following:

The provision of municipal services must coincide with the jurisdictional boundaries of the City – in short, it is not the intent of the City of Lincoln to extend utility services (most notably, but not necessarily limited to, water and sanitary sewer services) beyond the corporate limits of the City.

The extension of water and sanitary sewer services should be predicated upon annexation of the area by the City. City annexation must occur before any property is provided with water, sanitary sewer, or other potential City services.

To demonstrate the City's commitment to the urbanization of land in Tier I Priority B, the City should annex land that is contiguous to the City and generally urban in character, as well as land that is engulfed by the City. Land which is remote or otherwise removed from the limits of the City of Lincoln will not be annexed. Annually the City should review for potential annexation all property in Priority B for which basic infrastructure is generally available or planned for in the near term.

Annexation generally implies the opportunity to access all City services within a reasonable period of time.

Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (e.g., water, sanitary sewer), and may include specific or general plans for the private financing of improvements to the infrastructure supporting or contributing to the land uses in the annexed area. The annexation of large projects may be done in phases as development proceeds.

Annexation to facilitate the installation of improvements and/or possible assessment districts is appropriate if it is consistent with the annexation policies of the Plan listed above.

Plans for the provision of services within the areas considered for annexation shall be carefully coordinated with the Capital Improvements Program of the City and the County.

UTILITIES:

There is a water main and sanitary sewer main in N. 70th Street. The water and sanitary sewer would need to be extended approximately 800 feet to serve this property.

TRAFFIC ANALYSIS:

N. 70th Street and Arbor Road are classified as Minor Arterial Streets in the City of Lincoln Access Management Policy.

PUBLIC SERVICE:

The nearest fire station is generally located at N. 56th Street and Adams Street

ANALYSIS:

1. This request is to annex approximately 4.81 acres and a change of zone from AG to H-3 on one acre. The land is contiguous to the City limits on the south.
2. The purpose of the change of zone and annexation is to allow the property owner to utilize the existing building for commercial use. The City has a policy of not changing the zoning on property from agricultural to commercial, industrial or residential unless the property is annexed. Permitted uses in the H-3 zoning district include, but are not limited to, contractor services, contractor storage yards, lumber yards, mini-warehouses, enclosed disassembly operations, outdoor vehicle storage, and auto repair.
3. There are no city services to serve this site. The applicant acknowledges this and has agreed to an annexation agreement that no city services will be extended to serve this site.
4. State law requires adjacent county road rights-of-way to be annexed automatically with the adjacent property, and so this request requires a portion of Arbor Road to be annexed. Although this portion of Arbor Road will be in the city limits, the remainder of Arbor Road from N. 70th Street to the end of the road will be in the county. The County will maintain the portion of Arbor Road that is in the City under a mutual maintenance agreement between the City and County.
5. The future land use plan in the 2040 Comprehensive Plan identifies this area as commercial and the flood plain land as green space.
6. The area of annexation is contiguous to the City limits on the south. The area of annexation is within the future service limits and Tier One Priority B as identified in the 2040 Comprehensive Plan.

7. Prior to a change of zone from agricultural on the remaining annexed area, a preliminary plat to address local streets, utilities and lot layout will be required. The City does not typically approve a narrow annexation such as this one, but in this case the applicant made a request and agreed to an annexation agreement.

CONDITIONS OF APPROVAL:
Annexation #15008

Before the City Council approves the annexation:

1. The applicant signs the annexation agreement. The agreement will address the lack of City services and need for a future preliminary plat for the larger site.

Prepared by:

Tom Cajka
Planner

DATE: August 4, 2015

APPLICANT: Derek Zimmerman
1248 "O" Street Suite 600
Lincoln, NE 68508
402-475-1075

OWNER: Monte and Lisa Froehlich

CONTACT: Same as applicant

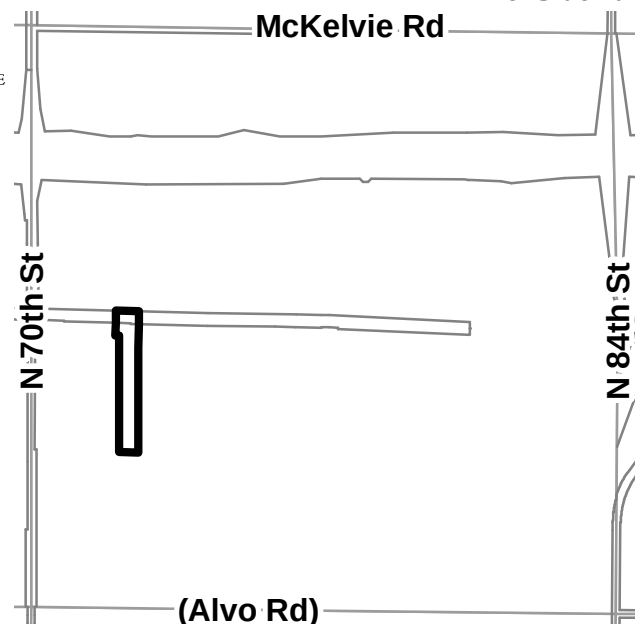
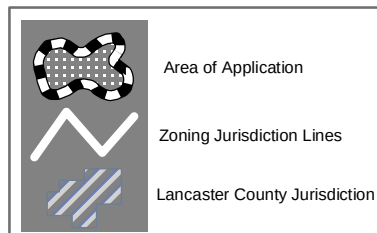
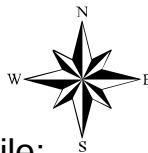


Annexation #: AN15008
N 70th St & Arbor Rd

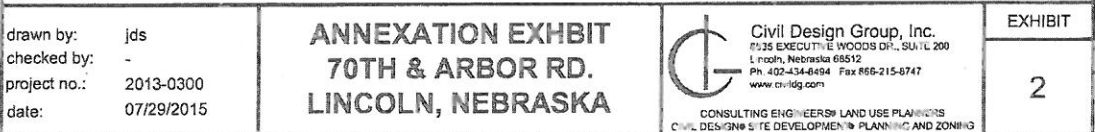
Zoning:

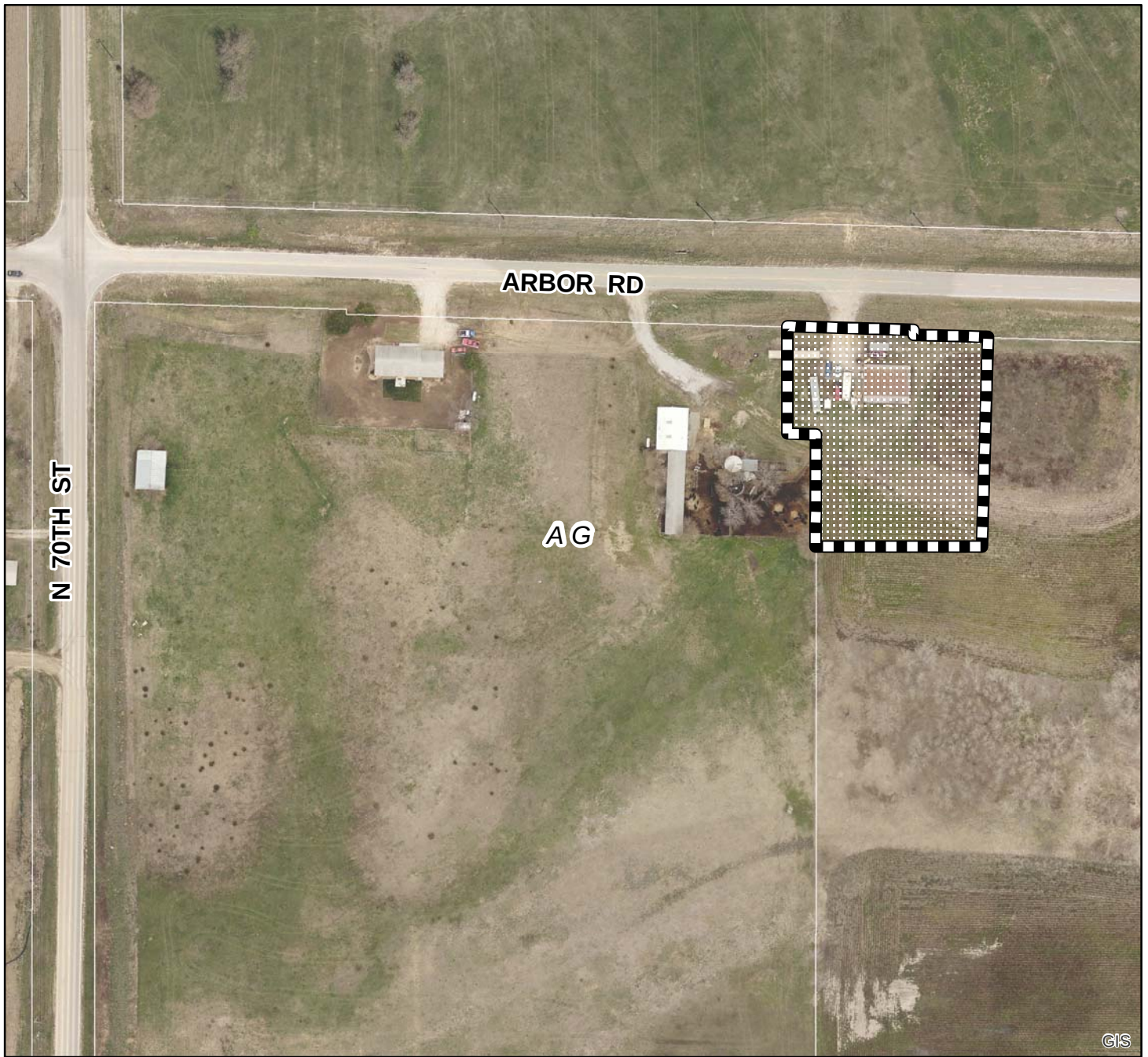
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	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.27 T11N R07E

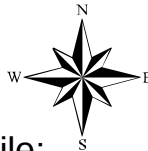


2013 aerial





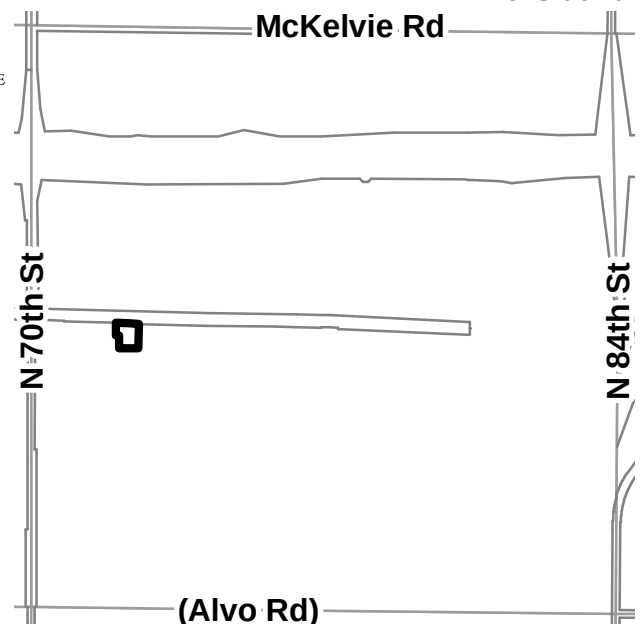
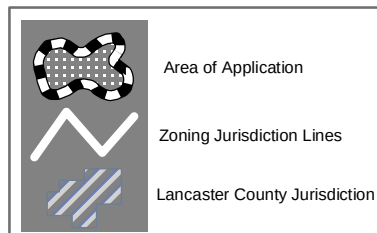
Change of Zone #: CZ15022 (AG to H-3) N 70th St & Arbor Rd



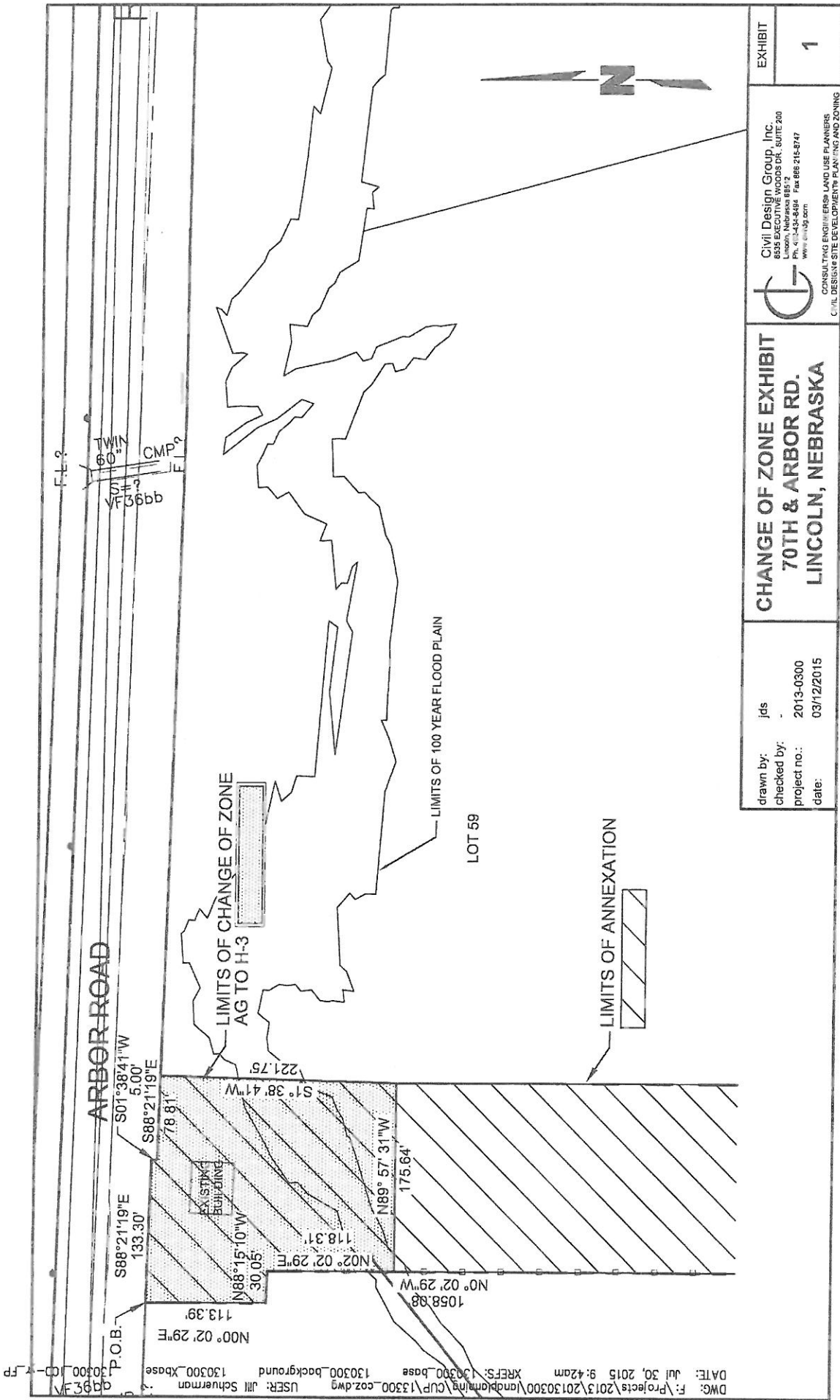
One Square Mile:
Sec.27 T11N R07E

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential 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



2013 aerial



drawn by: jds	checked by: 2013-0300	project no.: 03/12/2015	date:
Civil Design Group, Inc. 6335 EXECUTIVE WOODS DR. SUITE 200 LINCOLN, NEBRASKA 68516 PH: 402-433-8884 FAX: 402-433-8747 WWW.CIVILDESIGN.COM			
CONSULTING ENGINEERS LAND USE PLANNERS CIVIL DESIGN & SITE DEVELOPMENT PLANNING AND ZONING			
CHANGE OF ZONE EXHIBIT 70TH & ARBOR RD. LINCOLN, NEBRASKA			EXHIBIT 1

Change of Zone AG to H-2
70th & Arbor Road

A legal description of a portion of Lot 59 I.T. located in the Southwest Quarter of Section 27, Township 11 North, Range 7 East, of the Sixth P.M., Lincoln, Lancaster County Nebraska and more particularly described as follows:

Beginning at the Northwest corner of Lot 59 I.T. thence Easterly on the North line of Lot 59 I.T. and the Southerly Right-of-Way of Arbor Road and on an assumed bearing of S 88°21'19" E for a distance of 133.30'; Thence S 01°38'41" W for a distance of 5.00'; Thence S 88°21'19" E continuing on the North line of Lot 59 I.T. and the Southerly Right-of-Way of Arbor Road for a distance of 78.81'. Thence S 01°38'41" W for a distance of 221.75'; Thence N 89°57'31" W for a distance of 175.64' to a point on the Westerly lot line of Lot 59 I.T. Thence northerly to a point on the West line of Lot 59 I.T. N 02°02'29" E for a distance of 118.31'; Thence N 88°15'10" W for a distance of 30.05'; Thence N 00°02'29" E for a distance of 113.39' to the Point of Beginning and containing a calculated area of 1.01 Acres more or less.

Annexation
70TH & Arbor Road

A legal description of a portion of Lot 59 I.T. located in the Southwest Quarter of Section 27, Township 11 North, Range 7 East, of the Sixth P.M., Lincoln, Lancaster County Nebraska and more particularly described as follows:

Beginning at the Northwest corner of Lot 59 I.T. thence Easterly on the North line of Lot 59 I.T. and the Southerly Right-of-Way of Arbor Road and on an assumed bearing of S 88°21'19" E for a distance of 133.30'; Thence S 01°38'41" W for a distance of 5.00'; Thence S 88°21'19" E continuing on the North line of Lot 59 I.T. and the Southerly Right-of-Way of Arbor Road for a distance of 78.81'. Thence S 01°38'41" W for a distance of 221.75'; Thence S 00° 02'12" W for a distance of 945.05' to a point on the South line of said Lot 59 I.T., Thence in a Westerly direction on the South line of said Lot 59 I.T. on a bearing of N 88°14'16" W for a distance of 175.79 feet to the southwest corner of said Lot 59 I.T., Thence Northerly on the West line of said Lot 59 I.T. on a bearing of N 00°02'29" W for a distance of 1058.08 feet, Thence N 88°15'10" W for a distance of 30.05'; Thence N 00°02'29" E for a distance of 113.39' to the Point of Beginning and containing a calculated area of 4.81 Acres more or less.



RANDALL L. GOYETTE*
STEPHEN S. GEALY
GAIL S. PERRY
DALLAS D. JONES
JILL GRADWOHL SCHROEDER
DAVID A. DUDLEY
BRENDA S. SPILKER
MARK A. HUNZEKER
WILLIAM G. BLAKE
PETER W. KATT

WILLIAM F. AUSTIN
DARLA S. IDEUS
JARROD S. BOITNOTT
TIMOTHY E. CLARKE*
ANDREW M. LOUDON
CHRISTINA L. BALL**
JENNY L. PANKO
CAROLINE M. WESTERHOLD*
JARROD P. CROUSE
ANDREA D. SNOWDEN

DEREK C. ZIMMERMAN
PAUL T. BARTA*
COLIN A. MUES*
TORREY J. GERDES*
BRETT E. EBERT
NOAH J. HEFLIN*
STEPHEN J. SCHUTZ
THOMAS B. SHIRES*
EMILY R. MOTTO*

OF COUNSEL
W. SCOTT DAVIS
WALTER E. ZINK II
DONALD R. WITT
ROBERT T. GRIMIT

ALSO ADMITTED IN:
*IOWA
**KANSAS

July 22, 2015

Hand Delivered

Mr. David Cary
Lancaster County Planning Department
555 South 10th Street, Ste. 213
Lincoln, NE 68508

RE: Application for Change of Zone and Annexation

Dear Mr. Cary:

On behalf of Monte L. Froehlich and Lisa R. Froehlich, attached with this correspondence is the application for change of zone from AG to H-3 for the property legally described as Lots 39 and 50, Irregular tracts located in the South Half of Section 27, Township 11 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, generally located southeast of 70th and Arbor Road.

The purpose of this application is to allow for storage and/or contractor services on a one acre area of the property. To facilitate the change of zone, a portion of the property will be annexed to ensure the property being rezoned is contiguous with the City limits. It is unlikely that City services and utilities will reach this property at any point in the near future and the rezoning of a small portion of the property will provide for a limited use of the property, and the proposed use is appropriate for H-3 zoning.

If you have any questions or need additional information, do not hesitate to contact me.

Sincerely,

Derek C. Zimmerman
For the Firm
dzimmerman@baylorevnen.com

Enclosures

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT
for September 23, 2009 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No. 2463E - Highpointe Planned Unit Development (PUD).

PROPOSAL: To change the zoning from R-3 PUD to B-2 PUD for the commercial component of the PUD

LOCATION: Southwest of the intersection of South 48th Street and Old Cheney Road

LAND AREA: Approximately 1.3 acres

EXISTING ZONING: R-3 PUD **Proposed Zoning:** B-2 PUD

ADJUSTMENTS:

1. Allow the sale of alcohol for consumption on the premises when associated with a restaurant as a permitted use.
2. Adjust the parking to one space per 300 square feet of floor area for all uses in the B-2 portion of the PUD.

CONCLUSION:

This PUD has been built out for years, and was built out as designed. The small commercial component is integrated with the larger residential area which includes both apartments and single-family dwellings. Allowing the sale of alcohol in conjunction with a restaurant meets all of today's standards except for the separation from a residential zoning district since the property is currently zoned R-3 Residential. However, an exception to this requirement is not unusual in a PUD where there is often a single underlying zoning district and adequate separation to residential uses is otherwise provided.

The adjustment to the parking requirement is appropriate for the range of uses allowed in the B-2 zoning district, and acknowledges the shared parking arrangement with commercial property to the east. The amount of parking provided should be adequate given the differing peak demand times of the various uses involved. Subject to the recommended conditions of approval, this request complies with the Zoning Ordinance and is consistent with the Comprehensive Plan.

RECOMMENDATION:	Conditional Approval
------------------------	-----------------------------

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 2, Block 1, Highpointe Addition

EXISTING LAND USE: Commercial

SURROUNDING LAND USE AND ZONING:

North:	Multiple-family Residential, Commercial	R-2, B-2
South:	Multiple-family Residential	R-3
East:	Commercial	O-2
West:	Multiple-family Residential, Clubhouse	R-3

HISTORY:

Jun 1989 - CZ#2463 approving the Highpointe PUD was approved.

May 1990 - CZ#2463A was approved adding two single-family dwellings as part of the PUD.

Nov 1993 - CZ#2463B was approved allowing an expanded range of commercial uses in the commercial component of the PUD.

Jun 1994 - CZ#2463C was approved allowing parking stalls in side yard setback.

Sep 2009 - CZ#2463D was approved to allow a 50 square foot in area, 6'-tall changeable copy sign for the commercial component of the PUD.

ANALYSIS:

1. This amendment to the Highpointe PUD seeks to change the zoning over the commercial portion from R-3 PUD to B-2 PUD. As part of the change of zone to amend the PUD, two zoning adjustments are included. The first seeks to allow the sale of alcohol for consumption on the premises in conjunction with a restaurant as a permitted use. The second seeks to reduce the required parking to require one space per 300 square feet of floor area.
2. This PUD was originally approved in 1989 and included commercial floor area, along with multiple-family and single-family dwellings. There is a transition of uses from the small commercial component (located adjacent to Old Cheney Road), to apartments, to single-family dwellings which occupy approximately the south one-half of the PUD.

3. The layout of the PUD placed the apartment complex's clubhouse and garages closest to the commercial area, and provided more than 100' of separation between the nearest apartment building, and over 300' to the nearest single-family dwelling.
4. The commercial area was intended to serve the apartment complex along with the nearby residential neighborhood, but the range of allowed uses was originally limited. With the 1993 amendment, the use limitation was essentially removed by permitting a range of uses similar to the B-1 zoning district, including restaurants.
5. The sale of alcohol for consumption on the premises is a conditional use in the B-2 zoning district. In this case, it meets all the requirements of LMC 27.62.110(b), except for the door opening being more than 100' away from a residential zoning district.
6. Restaurant was allowed as a permitted use in the PUD prior to adoption of regulations pertaining to the sale of alcohol. At that time, the sale of alcohol was a permitted use and could have commenced at the restaurant without any other approval or adjustment.
7. Allowing the sale of alcohol in conjunction with a restaurant in this case meets all of today's standards, except for the separation from a residential zoning district since the commercial building is residentially zoned. However, an exception to this requirement is not unusual in a PUD where there is often a single underlying zoning district and adequate separation to residential uses is otherwise provided. The flexibility of a PUD allows for an integrated design to enhance compatibility between residential and commercial uses. There are several existing PUD's around the city which contain similar provisions such as Crown Pointe (S. 84th & Van Dorn) and The Woodlands at Yankee Hill (S. 70th & Yankee Hill).
8. The requested parking adjustment is to allow parking to be provided at the rate of 1:300 for all uses. The parking requirement for the B-2 zoning district is 1:300, but certain uses are required to provide more. A common use with a higher requirement is restaurant at 1:100.

There is one 10,800 square foot, multi-tenant building with 75 parking spaces on the subject property, which results in a ratio of one space per 144 square feet of floor area overall. In 2011 a parking agreement was executed allowing shared parking between the subject property and the adjacent O-2-zoned lot to the east, both of which have the same owner. The agreement was required by the approval of a special permit over the adjacent lot to expand a nonconforming use. The special permit allowed medical office in a portion of the building, but adjusted the amount of parking required from 1:225 to 1:300. The parking agreement acknowledged the shared parking which occurs between the two lots to accommodate times of peak demand and overflow parking.

Adjusting the parking requirement to 1:300 for all uses will accommodate the range of uses allowed in the B-2. The shared parking agreement with the neighboring lot will accommodate any overflow parking in those instances where it is necessary.

This approval changes the zoning for Lot 2, Block 1 from R-3 PUD to B-2 PUD, and allows the sale of alcohol for consumption on the premises in conjunction with a restaurant as a permitted use in the B-2 area, and adjusts the parking requirement to one space per 300 square feet of floor for all uses in the B-2 area.

CONDITIONS OF APPROVAL:

Site Specific:

1. The developer shall cause to be prepared and submitted to the Planning Department four copies of a revised final plan as listed below upon approval of the planned unit development by the City Council before receiving the sale of alcohol:
 - 1.1 Delete the "Permitted Uses in Commercial Building" notes.
 - 1.2 Add a General Note which states "Uses for the B-2 area are as per the B-2 zoning district, except the sale of alcohol for consumption on the premises in conjunction with a restaurant is a permitted use.
 - 1.3 The parking requirement for the B-2 are is one space per 300 square feet of floor area, regardless of use.
 - 1.4 Consolidate the other notes located throughout the site plan under 'General Notes'.

Standard:

2. The following conditions are applicable to all requests:
 - 2.1 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established association approved by the City Attorney.
 - 2.2 This ordinance's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 2.3 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution

approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefore to be paid in advance by the applicant. Building permits will not be issued and the sale of alcohol cannot commence unless the letter of acceptance has been filed.

3. The site plan as approved with this ordinance voids and supersedes all previously approved site plans, however all ordinance approving previous permits remain in force unless specifically amended by this ordinance.

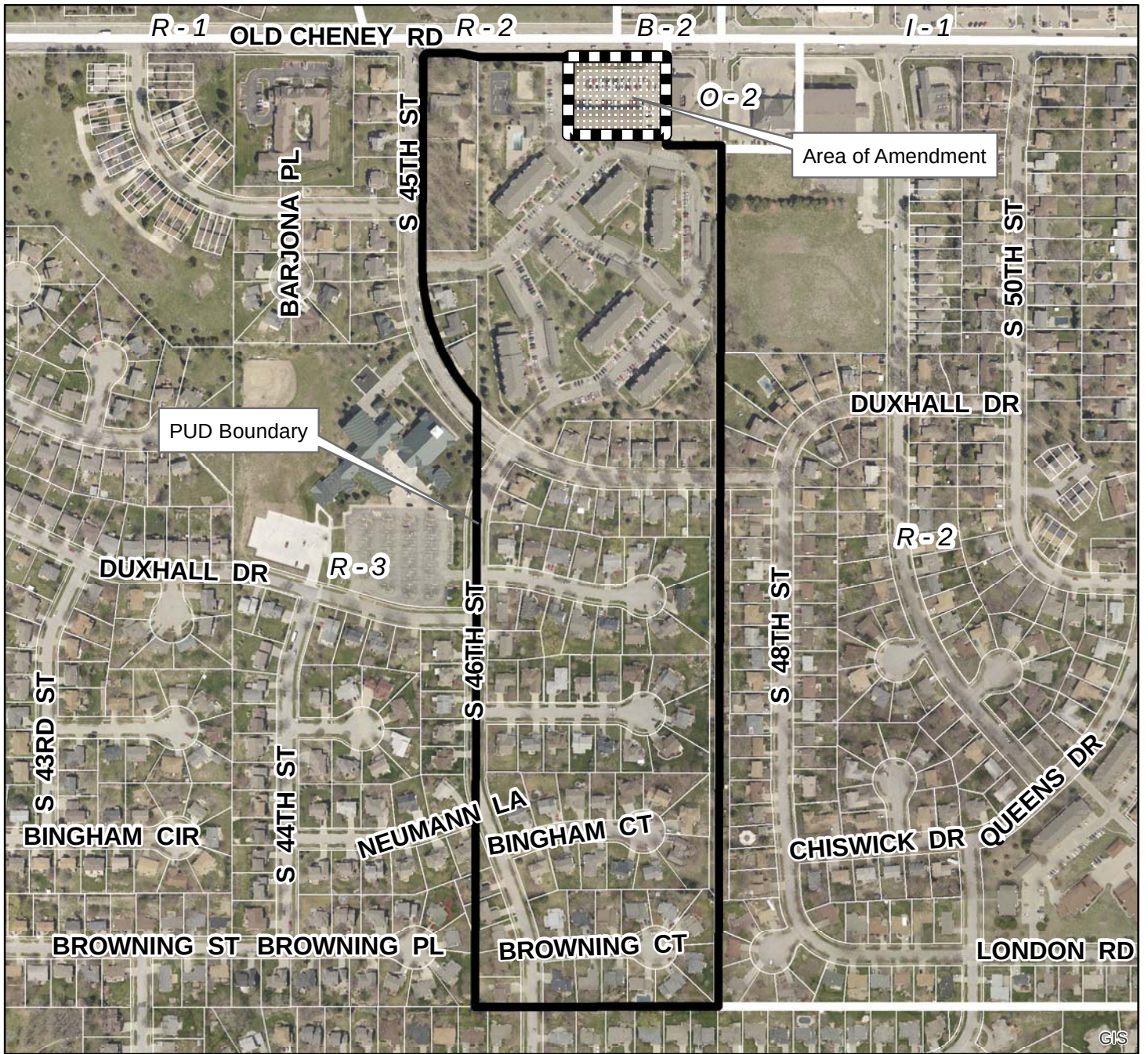
Prepared by:

Brian Will, 441-6362, bwill@lincoln.ne.gov
Planner
August 4, 2015

CONTACT: Matt Langston
601 P Street
Lincoln, NE 68508
402-474-6311

OWNER: 3 Amigos Properties, LLC
6121 South 58th Street, Suite C
Lincoln, NE 68516

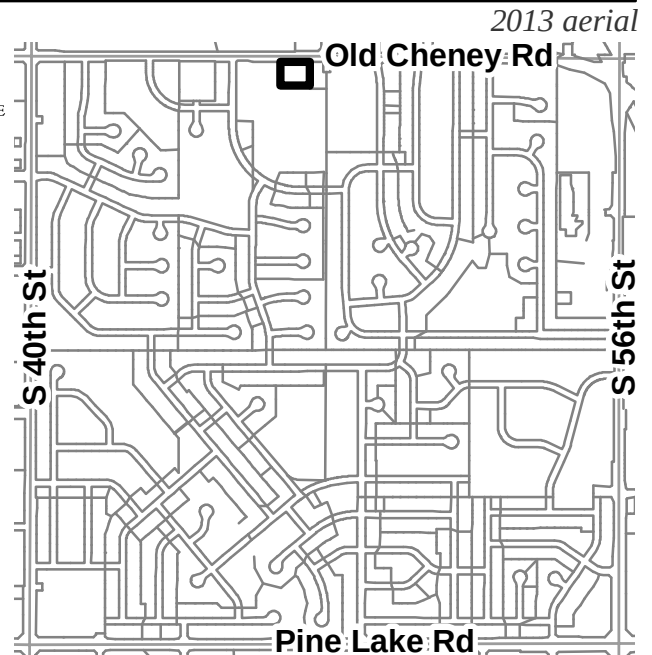
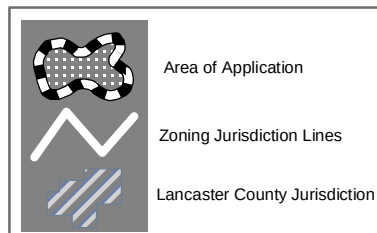
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Change of Zone #: CZ2463E
Amendment - R-3PUD to B-2PUD
Highpoint
S 48th St & Old Cheney Rd
Zoning:

R-1 to R-8 Residential District
 AG Agricultural District
 AGR Agricultural Residential 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.17 T09N R07E



2013 aerial



July 22, 2015

Brian Will
Lincoln Lancaster Planning Department
County-City Building
555 South 10th Street, Suite 213
Lincoln, NE 68508

Re: Highpointe Addition
Amendment to AA10015, CZ 2463E

Dear Brian,

On behalf of the owner, 3 Amigos Properties, LLC. We are requesting an Amendment to the Use Permit for Highpointe Addition, located at 4701 Old Cheney Road, Lincoln, Nebraska.

Through this Amendment we are proposing to add 'on-sale alcohol' as a permitted use for restaurants at this location and a zoning change for Lot 2 Block 1 from R-3 to B-2. While restaurants are currently a permitted use, the original permit was approved prior to 1994 when alcohol sales were allowed without special designation. We believe this amendment to meet the original intent of the permit and shall update the PUD to current regulations.

Please let me know if you have any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Langston', with a long horizontal flourish extending to the right.

Matt Langston

Olsson Associates

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for August 19, 2015 PLANNING COMMISSION MEETING

PROJECT #: Use Permit No. 126D - Wilderness Woods Office Park

PROPOSAL: To reduce the amount of office square footage permitted from 225,000 to 174,000 square feet, and to increase the number of dwelling units from 195 to 297.

LOCATION: Generally located at Executive Woods Drive and Yankee Hill Road

LAND AREA: 29.41 acres more or less

EXISTING ZONING: O-3 Office Park District

CONCLUSION: Dwellings, specifically multifamily dwellings, are a permitted use in the O-3 district, and are compatible with the existing surrounding office and residential development in this area. Prior amendments have already been approved adding multiple-family dwellings in this area. This request is consistent with the Comprehensive Plan, provides a mix of uses, and is an appropriate use of land at this location.

RECOMMENDATION:	Conditional Approval
------------------------	----------------------

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 5, 6, 7, 8, 14, 15 and Outlot B, Wilderness Woods Office Park Addition, Lots 4, 5, 6 and 7, Wilderness Woods Office Park 1st Addition, Lot 1, Wilderness Woods Office Park 2nd Addition, and Lot 1 and Outlot A, Wilderness Woods Office Park 4th Addition, all located in the NW 1/4 Section 26-9-6 of the 6th P.M., Lancaster County, Nebraska

EXISTING LAND USE: Office and vacant land

SURROUNDING LAND USE AND ZONING:

R-3 Residential Zoning with a special permit for a Community Unit Plan (Wilderness Ridge Subdivision) surrounds this area on all sides. The Use Permit is surrounded by outlots consisting of ponds and golf greens used for the golf course which is part of the Wilderness Ridge Community Unit Plan.

HISTORY:

February 1998	This area was annexed per annexation #98005.
December 1999	Use Permit #126 and Change of Zone #03225 were approved to allow 275,000 square feet of office space and a change of zone from R-3 Residential to O-3 Office Park and from O-3 Office Park to R-3 Residential.
June 2000	Use Permit #126A was approved allowing a reduced setback on Lot 4 from 40' to 30', and to increase the height allowed on Lot 4 from 35' to 45'.
July 2002	Administrative Amendment #02073 approved a 10,000 square foot office building with a parking lot on Lot 1.
November 2002	Administrative Amendment #02097 revised the parking, parking lot landscaping and screening plans, and revised the General Notes.
July 2004	Use Permit #126B and Change of Zone 04048 were approved changing the zoning on an existing parking lot from O-3 to R-3, and to remove it from the O-3 district and include it with the golf course as part of the Wilderness Ridge Golf Course.
August 2011	Use Permit #126C was approved to allow 186 dwelling units and to reduce the amount of office floor area from 275,000 square feet to 225,000 square feet.
April 2014	Administrative Amendment #14013 was approved to increase the number of dwelling units to 195.

COMPREHENSIVE PLAN SPECIFICATIONS:

Pg 1.8 - This area is designated for commercial land uses on the 2040 Future Land use map.

Pg 7.2 - Distribute and preserve affordable housing throughout the community to be near job opportunities and to provide housing choices within existing and developing neighborhoods.

-Provide a wide variety of housing types and choices for an increasingly diverse and aging population.

-Provide flexibility to the marketplace in siting future residential development locations.

-Preserve areas designated for multi-family and special needs housing in approved plans to support a distributed choice in affordable housing.

Pg 7.4 - Encourage mixed use commercial centers to incorporate special needs housing where they could serve as a transitional use to less intensive residential development and benefit from walkable access to the commercial area and transit.

Pg 7.8 - Develop new design standards that encourage density, optimize infrastructure costs, and help lower the overall cost of property development.

Pg 7.9 - Good design and appropriate placement are key to successful redevelopment. Widely varying techniques are utilized to achieve redevelopment in existing neighborhoods such as the following examples:
4. Multi-family complexes identifying open areas to develop additional buildings on the existing property (resulting in a net increase in density).

-Encourage increased density of existing apartment complexes and special needs housing where there is land available for additional buildings or expansions.

UTILITIES: Existing

TRAFFIC ANALYSIS: Executive Woods Drive is a local street. Yankee Hill Road is an improved arterial street. Substituting 102 dwelling units for 51,000 square feet of office floor area is roughly equivalent in terms of traffic demand, and does not significantly increase the overall P.M. peak trip count for this use permit.

PUBLIC SERVICE: Adams Elementary School is located approximately one mile to the north. The nearest fire station is located at S. 27th Street and Old Cheney Road.

ALTERNATIVE USES: Remain zoned for future office use.

ANALYSIS:

1. This is a request to increase the number of dwelling units from 195 to 297, while simultaneously reducing the amount of office floor area from 225,000 to 174,000 square feet.
2. Apartments are a permitted use in the O-3 zoning district. Of the uses allowed in O-3, apartments are one of the lower intensity uses, and the traffic impact of the proposed apartments versus office is roughly equivalent.
3. The O-3 zoning district is intended to accommodate office, as well as other compatible and complementary commercial uses, including residential uses in the newer suburban areas of the city.
4. A similar amendment to this use permit was approved in 2011. Most if not all of those apartments have been built, and the result is a good mix of uses and housing types for the larger Wideness Ridge/Wilderness Woods development. This mix includes single-family, townhouse and multiple family dwellings, and office.

5. There were no objections from any City Departments regarding this application.
6. Required landscaping/screening, and off-street parking and pedestrian access will be reviewed at the time of building permits in compliance with the Zoning Ordinance and Design Standards.
7. This request substitutes excess office floor area for apartment units which are now in demand. The mix of uses in this area, as well as the density represented by the increased number of apartment units with this request, is encouraged by the Comprehensive Plan. If approved, this request complies with the Zoning Ordinance and Comprehensive Plan.

This approval reduces the amount of office floor area from 225,000 to 174,000 square feet, and increases the number of dwelling units from 195 to 297.

CONDITIONS OF APPROVAL:

Site Specific:

1. The developer shall submit 4 copies of the final plot plan and documents as listed below before receiving building permits.

Standard:

2. The following conditions are applicable to all requests:
 - 2.1 Before occupying the dwelling units and buildings all development and construction is to substantially comply with the approved plans.
 - 2.2 All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the owner or an appropriately established homeowners association approved by the City.
 - 2.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
 - 2.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 2.5 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing

fees therefore to be paid in advance by the applicant. Building permits will not be issued and building permits will not be issued unless the letter of acceptance has been filed.

- 2.6 The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions/ordinances approving previous permits remain in force unless specifically amended by this resolution.

Prepared by:

Brian Will, 441-6362, bwill@lincoln.ne.gov
Planner
August 4, 2015

**APPLICANT/
OWNER:**

Wilderness Woods Holdings
8525 Executive Woods Drive
Lincoln, NE 68512

CONTACT:

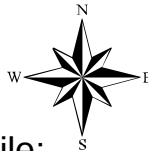
Jill Schuerman
Civil Design Group
8535 Executive Woods Drive, Suite 200
Lincoln, NE 68512

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2013 aerial

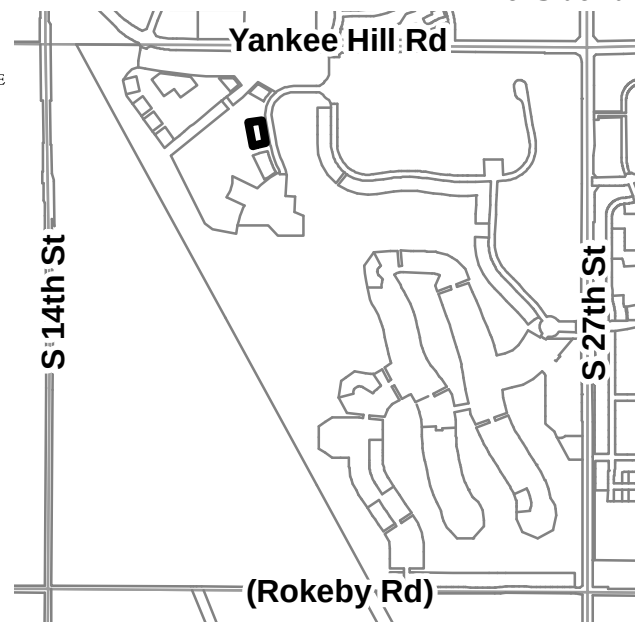
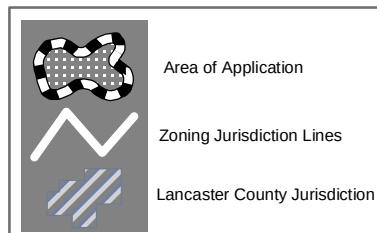
Use Permit #: UP126D
Wilderness Woods Office Park
Executive Woods Dr & Yankee Hill Rd

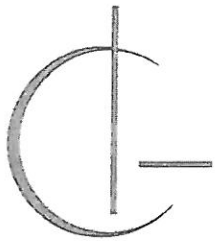


One Square Mile:
 Sec.25 T09N R06E

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential 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





Civil Design Group, Inc.

Consulting Engineers & Land Use Planners
Civil Design • Site Development • Planning & Zoning

www.civildg.com

July 21, 2015

Mr. David Cary
Acting Director of Planning
City of Lincoln /Lancaster County
555 South 10th Street, Room 213
Lincoln, NE 68508

**Re: Wilderness Woods Office Park
Executive Woods Drive & Wilderness Woods Place
CDG Project No. 2015-0141**

Dear Mr. Cary:

On behalf of Wilderness Woods Holdings, LLC we submit the above mentioned administrative amendment to Use Permit 126C for your review and approval. With this amendment we request to change Lot 3 from a 51,000 sq ft office to a 102 apartment units and associated parking. Use Permit 126C currently allows for 225,000 square feet of office space and 195 multi-family units. The 102 additional units, in place of the 51,000 square foot office on Lot 3, will bring the total dwelling units on the use permit to 297 (19 unassigned units).

The requested 102 additional units are virtually equivalent to the permitted 51,000 square feet of office space in terms of PM peak traffic, 63.53 for office, 69.46 for apartments. Therefore, we would like to continue to hold our unassigned office space to the existing 52,247 sq ft.

In conjunction with this submittal we submit:

Application for Use Permit Amendment and \$792.00 fee
Plans Uploaded via Project Dox

I hope that this letter and the plans provide you with enough information to review this Final Plat. In an effort to facilitate the review process, please call me at (402) 434-8494 if you questions.

Sincerely,

Mike Eckert

Encl

cc: Wilderness Woods Holdings, LLC

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LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for July 22, 2015 PLANNING COMMISSION MEETING

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

PROJECT #: Annexation #15006
Change of Zone #04075F - Village Gardens Planned Unit Development (PUD)

PROPOSAL: To expand the existing PUD by annexing and changing the zoning from AG to R3 PUD for approximately 46 acres of land for approximately 168 residential lots.

LOCATION: South 63rd Street and Yankee Hill Road

LAND AREA: Annexation #15006 - 45.73 acres more or less
Change of Zone #04075F - 45.73 acres more or less

EXISTING ZONING: AG Agriculture

PROPOSED ZONING: R-3 Residential (PUD)

REQUESTED WAIVERS: 1. Block length to exceed 1,320' for Blocks 22 and 23.

CONCLUSION: The proposed annexation and change of zone are generally consistent with the overall concept plan when the original PUD was approved early in 2005. The development plan was amended with the prior amendment, CZ#04075E, to include the types of single-family dwelling proposed and no other changes to the plan are necessary. The site plan shows portions of residential lots within the 221' Pipeline Planning Area (PPA) along Yankee Hill Road. The Health Department does not support dwellings in the PPA and is recommending denial. A block length waiver is also requested in the same area, but there is not any justification to support the waiver. Subject to the recommended conditions of approval, this request complies with the Zoning Ordinance and Comprehensive Plan.

RECOMMENDATION:

AN#15006

CZ#04075F from AG to R-3 PUD

Block Length Waiver (Blks 22, 23)

Approval

Conditional Approval

Denial

GENERAL INFORMATION:

LEGAL DESCRIPTION: AN#15006 - See attached legal description.
CZ#04075F - See attached legal description.

EXISTING LAND USE: Vacant, Residential

CITY COUNCIL DISTRICT: District #2

SURROUNDING LAND USE AND ZONING:

North:	Vacant	R-3, AG
South:	Acreage Residential	AGR
East:	Vacant	AG
West:	Residential	R-3

HISTORY:

Feb 2005 - CZ#04075 was approved by the City Council to allow the Village Gardens Planned Unit Development (PUD).

Dec 2007 - CZ#04075A was approved by the City Council to allow an adjustment to the applicable sign regulations and change the zoning on 2.17 acres from R3 PUD to B-3 PUD within the Village Gardens PUD.

Mar 2011 - AN#11001 and CZ#04075B were approved annexing and expanding the boundary of the Village Gardens PUD to include an additional 47 acres of land to accommodate a domiciliary care facility and additional dwelling units.

Apr 2012 - AN#12003 and CZ#04075C were approved annexing and changing the zoning from AG to R-3 PUD for approximately 40.68 acres for single-family residential development.

Apr 2012 - CZ#04075D was approved changing the zoning from AG to R-3 PUD for approximately 2 acres of land so the boundary of the PUD matched the recorded final plat of Village Meadows 3rd Addition.

Jul 2014 - AN#14003 and CZ#04075E were approved annexing and changing the zoning from AG to R-3 PUD for approximately 34 acres for single-family residential development.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page 1.8 - The Future Land Use Map designates commercial and urban residential land uses for this PUD.

Page 1.4 - Neighborhoods are friendly to pedestrians, children, bicycles, the elderly and people with disabilities.

Page 7.4 - Strategies for Neighborhoods

- Discourage residential development in areas of environmental resources such as endangered species, saline wetlands, native prairies, and in floodplain corridors.
- Encourage preservation or restoration of natural resources within or adjacent to development.
- Provide adequate spacing from pipelines and areas where hazardous chemicals could be used and stored; notify property owners and residents along the pipeline about hazards and emergency actions.
- Encourage substantial connectivity and convenient access to neighborhood services (stores, schools, parks) from residential areas.
- Create housing opportunities for residents with special needs throughout the city that are integrated into and compatible with residential neighborhoods.
- Incorporate interconnected networks of streets, transit, trails, and sidewalks with multiple connections within and between neighborhoods and commercial centers to maximize access and mobility to provide alternatives and reduce dependence upon the automobile. -Provide sidewalks on both sides of all streets, or in alternative locations as allowed through design standards or review process.

Page 7.5 - Developing Neighborhoods - Developing neighborhoods should have a variety of housing types and sizes, plus commercial and employment opportunities. Developing a pedestrian orientation of buildings and street networks that provides substantial connectivity is also a priority for developing areas.

- Provide different housing types and choices, including affordable housing, throughout each neighborhood for an increasingly diverse population.

ANALYSIS:

1. This is an amendment to the Village Gardens PUD, and is a combined request for both annexation and a change of zone from AG to R-3 PUD for approximately 46 acres of land and up to 168 residential lots.
2. The annexation of the original PUD in 2005 included an annexation agreement, and the areas subsequently annexed expanding the PUD are also subject to that agreement.
3. The area to be re-zoned to R-3 PUD is designated for a residential use district already in use within the PUD, the Neighborhood General use district. The Development Plan (attached) reflects this. No other changes to the Development Plan are proposed or necessary.
4. The revised overall plan for Village Gardens shows four phases. Phase I represents the area that was annexed, re-zoned and approved for development with the original PUD CZ#04075 in 2005. Phase II represents areas covered both by four subsequent major amendments (CZ#04075B, CZ#04075C, CZ#04075D and

CZ#04075E), and this request. Phase III represents the development in this request, and Phase IV represents areas for future development which are only conceptual neither being annexed or re-zoned at this time. The phasing plan is illustrated on Sheet 1 of 11 of the plan set.

5. In their review the Health Department noted the existence of a natural gas pipeline located in the Yankee Hill Road right-of-way. Using a Federal Government formula the Health Department calculated that the PPA extends 221' on either side of the pipeline. The location of the 221' hazard area is shown on Sheet 3 of 11 of the plan set and illustrates the impact upon this development.

Portions of Lots 11-19, Block 22 are within the PPA. It is likely dwellings can built on Lots 11 and 19 outside the PPA. However, that is probably not the case with Lots 12-18, as the lots are too small to accommodate dwellings built entirely outside the PPA. It could be made clear by defining building envelopes on those lots affected by the PPA, where the entire building envelope is outside the PPA.

The Health Department recommends that no habitable residential structures be located within the PPA. That means that open space, parking lots, garages, even office and commercial buildings may be located in this area, but not dwellings. An excerpt from the Joint Committee on Health and Land use regarding pipelines carrying hazardous materials is attached to this report. It describes the rationale for defining a PPA, as well as notification and planning strategies.

6. A block length waiver is requested for Blocks 7, 22 and 23. Block 7 is adjacent to a railroad track, and because of this manmade feature is an allowed exception to the 1,320' maximum block length. However, blocks 22 and 23 are not adjacent to any natural or manmade feature that prohibits a street connection to South 67th Street. The application notes the area adjacent to Block 22 may be developed commercially. However, there is nothing unique about a residential area having access to a commercial area, and that condition exists in both older and newer areas all around the city today.

Staff have discussed the importance of a limit on block length on several occasions, and that discussion has included the following:

- Encourages pedestrian activity as longer blocks discourage walking, even with pedestrian access.

- Improves public health, which is a goal of the Comprehensive Plan. It is noted that physical activity is directly correlated with access to sidewalks and trails, and that physical inactivity is directly correlated with obesity, heart disease, diabetes and premature death.

-Increasing connectivity for vehicular and pedestrian travel can reduce travel time for vehicles and pedestrians, as even small increases in auto travel add up over time.

-It can conserve energy as longer blocks take more time & use more energy.

7. Pedestrian sidewalks are also required for any block over 1,000' in length. There are several blocks where the sidewalks are required but not shown in apparent oversight, but must be added to the site plan. The grading plan also must be revised if required to ensure all pedestrian sidewalks comply the applicable ADA requirements.
8. Regarding the area adjacent to Block 22 which is noted as intended for commercial uses. That label should be expanded to include apartments. This will allow more flexibility regarding future land use, and will give potential neighbor more advance notice that either apartments or commercial development could occur on the site.
9. The U.S. Post Office notes in their review that all new addresses established as part of this review will be required to receive mail delivery in Centralized Box Units.
10. Public Works and Utilities has asked for additional information regarding the grading and drainage plans. Given that review is not complete, the recommendation for approval is subject to plans being revised to their satisfaction.
11. Minor revisions to the site plan were noted by staff, and they are also included in the recommended conditions of approval.
12. The proposed lot and street layout is consistent with the overall concept plan, and the proposed uses were already anticipated and covered by the Development Plan, and are appropriate uses of land at this location subject to the recommended conditions of approval.

CONDITIONS:

This approval annexes and changes the zoning from AG to R-3 PUD for approximately 45.73 acres of land.

Annexation #15006

1. The applicant provides proof of release from the Rural Water District #1 prior to approval by the City Council.

Change of Zone #04075F

Site Specific

1. The City Council approves associated request AN#15006.
2. Upon approval of the planned unit development by the City Council, the developer shall cause to be prepared and submitted to the Planning Department **4** copies of a revised final plot plan and development plan before receiving building permits.
 - 2.1 Update the plan to include the information resulting from the approval of CZ#04075E and subsequent administrative amendment AA#14054.
 - 2.2 Revise the lot layout for Blocks 22 and 23 to show a building envelope for Lots 12-19 so no portion of the buildable area is shown within the PPA.
 - 2.3 Label the roadways in Blocks 22 and 23 as private roadways.
 - 2.4 Show a street connection from Village Court to South 67th Street.
 - 2.5 Propose substitute street names as Village Court and Village Lane are already in use.
 - 2.6 Also provide a dimension from the Yankee Hill Road right-of-way to the 221' PPA.
 - 2.7 Label the area east of Block 22 as 'Future Apartment or Commercial Area'.
 - 2.8 Renumber blocks to include Blocks 21 and 24.
 - 2.9 Show pedestrian sidewalks in blocks in excess of 1,000' as required to the satisfaction of the Planning Department.
 - 2.10 Revise the grading and drainage plans to the satisfaction of Public Works and Utilities. Grading plan also needs to demonstrate that all pedestrian connection sidewalks comply with ADA requirements.
 - 2.11 The construction plans comply with the approved plans.
 - 2.12 Final plat(s) is/are approved by the City.
3. Final plans for CZ#04075F are submitted and approved by the City.

Standard

4. The following conditions are applicable to all requests:
 - 4.1 Before occupying the buildings all development and construction is to comply with the approved plans.
 - 4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
 - 4.3 The site plan and development plan accompanying this plan unit development shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 4.4 This ordinance's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the PUD. The City Clerk shall file a copy of the resolution approving the PUD and the letter of acceptance with the Register of Deeds, filling fees therefore to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.
5. The site plan and development plan as approved with this ordinance voids and supersedes all previously approved site plans, however all ordinance approving previous permits remain in force unless specifically amended by this ordinance.

Prepared by:

Brian Will, 441-6362, bwill@lincoln.ne.gov

Planner

July 9, 2015

OWNER:

Village Gardens Development Company, LLC
7000 South 56th Street
Lincoln, NE 68516
402.416.5750

1640 LLC
1633 Normandy Court
Lincoln, NE 68512
402-423-6811

Village Meadows, LLC
1633 Normandy Court
Lincoln, NE 68512
402-423-6811

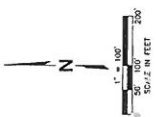
APPLICANT: 1640 LLC
1633 Normandy Court
Lincoln, NE 68512
402-423-6811

CONTACT: DaNay Kalkowski
Seacrest Kalkowski, LLC
1111 Lincoln Mall, Ste 350
Lincoln, NE 68508
402-435-6000

VILLAGE GARDENS

PHASE 2 - PLANNED UNIT DEVELOPMENT
SITE PLAN

OLSSON ASSOCIATES



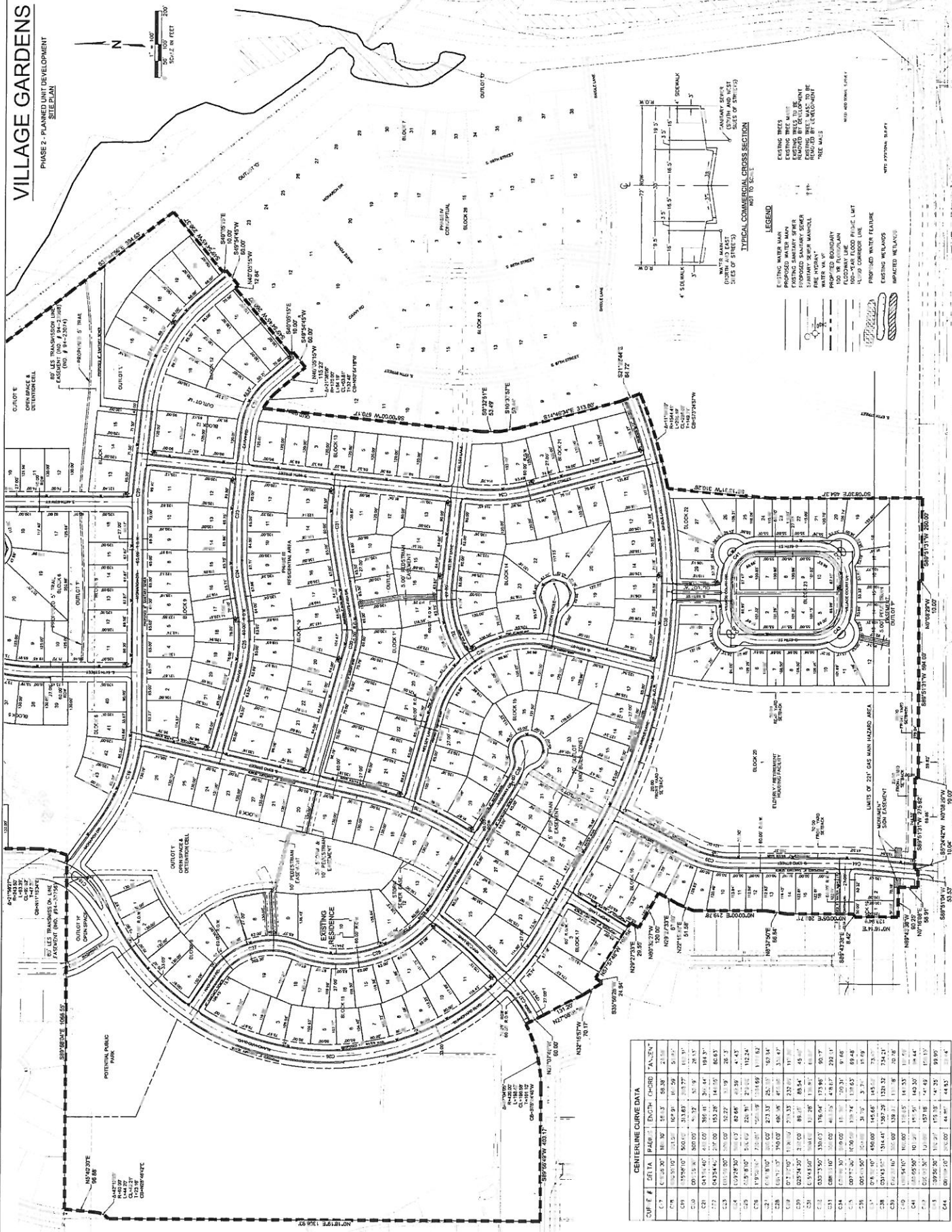
REVISIONS

2014

PHASE 2
SOUTH SITE PLAN
VILLAGE GARDENS - PHASE 2
PLANNED UNIT DEVELOPMENT

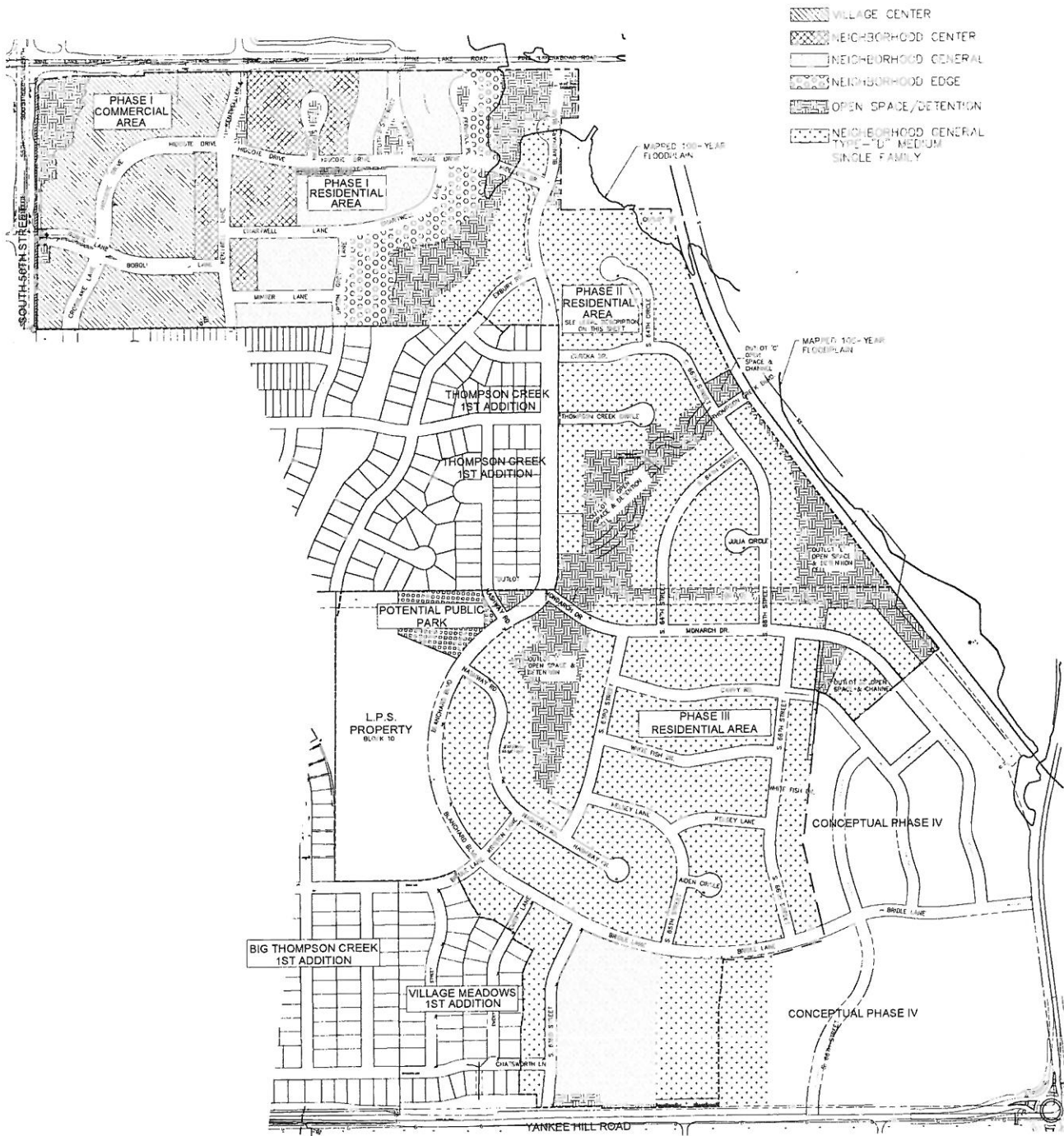
LINCOLN, NE

SHEET
3 of 11



CENTERLINE CURVE DATA									
CU#	E	DELTA	PIBB	BECH	CHORD	"ANGLE"			
C1	61.28.30"	18.30"	18.30"	18.30"	58.38"	21.50"			
C2	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C3	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C4	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C5	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C6	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C7	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C8	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C9	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C10	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C11	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C12	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C13	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C14	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C15	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C16	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C17	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C18	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C19	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C20	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C21	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C22	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C23	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C24	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C25	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C26	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C27	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C28	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C29	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C30	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C31	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C32	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C33	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C34	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C35	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C36	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C37	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C38	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C39	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C40	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C41	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C42	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C43	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			
C44	159.80.00"	50.00"	50.00"	50.00"	161.91"	16.59"			

Regulating Plan



**LEGAL DESCRIPTION
CHANGE OF ZONE AND ANNEXATION**

A TRACT OF LAND COMPOSED OF A PORTION OF OUTLOT "B", VILLAGE MEADOWS 10TH ADDITION, ALL OF OUTLOT "C", VILLAGE MEADOWS 10TH ADDITION, AND A PORTION OF LOT 90 I.T., ALL LOCATED IN THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M.; THENCE EASTERLY ON THE SOUTH LINE OF SAID SOUTHEAST QUARTER, ON AN ASSUMED BEARING OF N89°51'31"E, A DISTANCE OF 884.55' TO A POINT; THENCE N00°08'29"W, A DISTANCE OF 50.00' TO THE SOUTHWEST CORNER OF LOT 90 I.T., SAID POINT BEING ON A NORTH RIGHT-OF-WAY LINE OF YANKEE HILL ROAD, SAID POINT BEING **THE TRUE POINT OF BEGINNING**; THENCE N00°08'30"W, ON A WEST LINE OF SAID LOT 90 I.T., SAID LINE BEING A EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 10.00' TO THE SOUTHEAST CORNER OF OUTLOT "B", VILLAGE MEADOWS 9TH ADDITION; THENCE CONTINUING N00°08'30"W ON SAID LINE, A DISTANCE OF 466.08' TO A WEST CORNER OF SAID LOT 90 I.T.; THENCE N05°13'31"E, ON A WEST LINE OF SAID LOT 90 I.T., A DISTANCE OF 264.92' TO A WEST CORNER OF SAID LOT 90 I.T., SAID POINT BEING A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 00°22'10", A RADIUS OF 1,550.41', AN ARC LENGTH OF 10.00' ON A NORTH LINE OF SAID LOT 90 I.T., A CHORD LENGTH OF 10.00', A TANGENT LENGTH OF 5.00', AND A CHORD BEARING OF N88°16'15"E TO A WEST CORNER OF SAID LOT 90 I.T.; THENCE N01°54'50"W, ON A WEST LINE OF SAID LOT 90 I.T., AND ON A WEST LINE OF OUTLOT "C", VILLAGE MEADOWS 10TH ADDITION, A DISTANCE OF 66.00' TO A WEST CORNER OF SAID OUTLOT "C", SAID POINT BEING A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 00°43'11", A RADIUS OF 1,484.41', AN ARC LENGTH OF 18.65' ON A SOUTH LINE OF SAID OUTLOT "C", A CHORD LENGTH OF 18.65', A TANGENT LENGTH OF 9.32', AND A CHORD BEARING OF S88°26'46"W TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N01°11'46"W, ON A WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 126.00' TO A SOUTH CORNER OF SAID OUTLOT "C"; THENCE N90°00'00"W, ON A SOUTH LINE OF SAID OUTLOT "C", A DISTANCE OF 57.19' TO A SOUTH CORNER OF SAID OUTLOT "C"; THENCE N87°15'53"W, ON A SOUTH LINE OF SAID OUTLOT "C", A DISTANCE OF 71.43' TO A SOUTH CORNER OF SAID OUTLOT "C"; THENCE N75°36'10"W, ON A SOUTH LINE OF SAID OUTLOT "C", A DISTANCE OF 77.79' TO A SOUTH CORNER OF SAID OUTLOT "C", SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTH 66TH STREET; THENCE N14°22'13"E, ON A WEST LINE OF SAID OUTLOT "C", SAID LINE BEING THE EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 10.00' TO A SOUTH CORNER OF SAID OUTLOT "C"; THENCE N75°36'09"W, ON A SOUTH LINE OF SAID OUTLOT "C", SAID LINE BEING THE NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 60.00' TO A SOUTH CORNER OF SAID OUTLOT "C"; THENCE S14°24'17"W, ON A EAST LINE OF SAID OUTLOT "C", SAID LINE BEING THE WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 31.28' TO A SOUTH CORNER OF SAID OUTLOT "C";

THENCE N75°36'13"W, ON A SOUTH LINE OF SAID OUTLOT "C", A DISTANCE OF 90.91' TO A SOUTH CORNER OF SAID OUTLOT "C"; THENCE N74°48'32"W, ON A SOUTH LINE OF SAID OUTLOT "C", A DISTANCE OF 31.00' TO A SOUTHWEST CORNER OF SAID OUTLOT "C"; THENCE N15°14'21"E, ON A WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 129.58' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N08°57'42"E, ON A WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 56.53' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N02°05'50"E, ON A WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 41.85' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N16°49'50"W, ON A WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 53.50' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N31°34'34"W, ON A WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 54.71' TO A SOUTH CORNER OF SAID OUTLOT "C"; THENCE N59°57'04"W, ON A SOUTH LINE OF SAID OUTLOT "C", A DISTANCE OF 55.12' TO A SOUTH CORNER OF SAID OUTLOT "C"; THENCE N74°16'24"W, ON A SOUTH LINE OF SAID OUTLOT "C", A DISTANCE OF 174.98' TO A SOUTHWEST CORNER OF SAID OUTLOT "C"; THENCE N15°50'42"E, ON A WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 120.36' TO A WEST CORNER OF SAID OUTLOT "C", SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY LINE OF KELSEY LANE; THENCE S74°09'18"E, ON A NORTH LINE OF SAID OUTLOT "C", SAID LINE BEING THE SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 15.00' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N15°50'42"E, ON A WEST LINE OF SAID OUTLOT "C", SAID LINE BEING THE EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 60.00' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N74°09'18"W, ON A SOUTH LINE OF SAID OUTLOT "C", SAID LINE BEING THE NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 25.32' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N15°50'42"E, ON A WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 240.09' TO A WEST CORNER OF SAID OUTLOT "C", SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY LINE OF WHITE FISH DRIVE; THENCE S74°09'18"E, ON A NORTH LINE OF SAID OUTLOT "C", SAID LINE BEING THE SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 15.00' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N15°50'42"E, ON A WEST LINE OF SAID OUTLOT "C", SAID LINE BEING THE EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 60.00' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N74°09'18"W, ON A SOUTH LINE OF SAID OUTLOT "C", SAID LINE BEING THE NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 24.29' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N15°50'42"E, ON A WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 119.60' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N74°09'18"W, ON A SOUTH LINE OF SAID OUTLOT "C", A DISTANCE OF 12.37' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N15°50'42"E, ON A WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 120.00' TO A WEST CORNER OF SAID OUTLOT "C", SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY LINE OF CAVY ROAD; THENCE S74°09'18"E, ON A NORTH LINE OF SAID OUTLOT "C", SAID LINE BEING THE SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 29.96' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N15°50'42"E, ON A WEST LINE OF SAID OUTLOT "C", SAID LINE BEING THE EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 60.00' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N74°09'18"W, ON A SOUTH LINE OF SAID OUTLOT "C", SAID LINE BEING THE NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 15.00' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N15°50'42"E, ON A WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 115.30' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE S76°55'40"E, ON A NORTH LINE OF SAID OUTLOT "C", A DISTANCE OF

97.17' TO A NORTH CORNER OF SAID OUTLOT "C"; THENCE S78°45'02"E, ON A NORTH LINE OF SAID OUTLOT "C", A DISTANCE OF 69.96' TO A SOUTH CORNER OF SAID OUTLOT "C"; THENCE S89°20'25"E, ON A NORTH LINE OF SAID OUTLOT "C", A DISTANCE OF 31.71' TO A WEST CORNER OF SAID OUTLOT "C"; THENCE N00°01'56"E, ON A WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 142.78' TO THE NORTHWEST CORNER OF SAID OUTLOT "C", SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY LINE OF MONARCH DRIVE; THENCE S89°58'04"E, ON THE NORTH LINE OF SAID OUTLOT "C", SAID LINE BEING THE SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 25.52' TO A SOUTHWEST CORNER OF OUTLOT "B", VILLAGE MEADOWS 10TH ADDITION; THENCE N00°01'56"E, ON A WEST LINE OF SAID OUTLOT "B", SAID LINE BEING THE EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 60.00' TO A WEST CORNER OF SAID OUTLOT "B"; THENCE N89°58'04"W, ON A SOUTH LINE OF SAID OUTLOT "B", SAID LINE BEING THE NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 15.00' TO A WEST CORNER OF SAID OUTLOT "B"; THENCE N00°01'56"E, ON A WEST LINE OF SAID OUTLOT "B", AND ON A NORTHERLY EXTENSION OF SAID LINE, A DISTANCE OF 180.00' TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID OUTLOT "B", SAID POINT BEING ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 21; THENCE S89°58'04"E, ON THE NORTH LINE OF SAID OUTLOT "B", SAID LINE BEING THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 1,024.65' TO THE NORTHEAST CORNER OF SAID OUTLOT "B", SAID POINT BEING ON THE WEST RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN SANTA FE RAILROAD; THENCE S37°44'56"E, ON THE EAST LINE OF SAID OUTLOT "B", AND ON A EAST LINE OF LOT 90 I.T., SAID LINE BEING THE WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 394.63' TO A POINT; THENCE S49°54'45"W, A DISTANCE OF 236.37' TO A POINT; THENCE S40°05'15"E, A DISTANCE OF 10.00' TO A POINT; THENCE S49°54'45"W, A DISTANCE OF 60.00' TO A POINT; THENCE N40°05'15"W, A DISTANCE OF 12.84' TO A POINT; THENCE S49°54'45"W, A DISTANCE OF 260.00' TO A POINT; THENCE S40°05'15"E, A DISTANCE OF 10.00' TO A POINT; THENCE S49°54'45"W, A DISTANCE OF 60.00' TO A POINT; THENCE N40°05'15"W, A DISTANCE OF 115.23' TO A POINT OF CURVATURE FOR A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 21°38'06", A RADIUS OF 170.00', AN ARC LENGTH OF 64.19', A CHORD LENGTH OF 63.81', A TANGENT LENGTH OF 32.48', AND A CHORD BEARING OF N50°54'18"W, TO A POINT LOCATED 20.00' EAST OF A WEST LINE OF SAID LOT 90 I.T.; THENCE S06°00'00"W, ON A LINE 20.00' EAST OF AND PARALLEL WITH A WEST LINE OF SAID LOT 90 I.T., A DISTANCE OF 670.17' TO A POINT; THENCE S00°32'51"E, ON A LINE 20.00' EAST OF AND PARALLEL WITH A WEST LINE OF SAID LOT 90 I.T., A DISTANCE OF 53.49' TO A POINT; THENCE S10°37'57"E, ON A LINE 20.00' EAST OF AND PARALLEL WITH A WEST LINE OF SAID LOT 90 I.T., A DISTANCE OF 59.44' TO A POINT; THENCE S14°46'34"E, ON A LINE 20.00' EAST OF AND PARALLEL WITH A WEST LINE OF SAID LOT 90 I.T., A DISTANCE OF 313.80' TO A POINT; THENCE S21°22'44"E, ON A LINE OF 20.00' EAST OF AND PARALLEL WITH A WEST LINE OF SAID LOT 90 I.T., A DISTANCE OF 64.72' TO A POINT LOCATED 30.00' SOUTH OF A NORTH LINE OF SAID LOT 90 I.T., SAID POINT BEING A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 11°04'25", A RADIUS OF 1,544.41', AN ARC LENGTH OF 298.49' ON A LINE 30.00' SOUTH OF AND PARALLEL WITH A NORTH LINE OF SAID LOT 90 I.T., A CHORD LENGTH OF 298.02', A TANGENT LENGTH OF 149.71', AND A CHORD BEARING OF

S73°24'57"W TO A POINT; THENCE S05°13'31"W, ON A LINE 250.00' EAST OF AND PARALLEL WITH A WEST LINE OF SAID LOT 90 I.T., A DISTANCE OF 310.26' TO A POINT; THENCE S00°08'30"E, ON A LINE 250.00' EAST OF AND PARALLEL WITH A WEST LINE OF SAID LOT 90 I.T., A DISTANCE OF 464.37' TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID LOT 90 I.T., SAID POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF YANKEE HILL ROAD, SAID POINT ALSO BEING 50.00' NORTH OF THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 21; THENCE S89°51'31"W, ON THE SOUTH LINE OF SAID LOT 90 I.T., SAID LINE BEING THE NORTH LINE OF SAID RIGHT-OF-WAY, SAID LINE ALSO BEING 50.00' NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 250.00' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA 1,992,162.21 SQUARE FEET OR 45.73 ACRES, MORE OR LESS.

Wednesday, June 24, 2015
F:\Projects\015-0398\SRVY\MasterXrefs\Final Plat\Documents\015-0398_PUD-ZONE-ANNEX.doc

SEACREST & KALKOWSKI, PC, LLO

1111 LINCOLN MALL, SUITE 350
LINCOLN, NEBRASKA 68508-3910

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

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

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

June 24, 2015

HAND DELIVERY

David Cary, Interim Director
Planning Department
555 South 10th Street
Lincoln, NE 68508

RE: Amendment to Village Gardens Phase 3 PUD

Dear David:

Our office represents Village Meadows, LLC and 1640 LLC (collectively "Developers"), who own or have a contract interest in approximately 45.73 acres of property (the "Property") adjacent to the Village Gardens Planned Unit Development ("Village Gardens PUD"). A large portion of the Property is included within the conceptual "Phase 3" of the Village Gardens PUD. Developers are requesting annexation of the Property and a change of zone from AG to R-3 PUD to include the Property within the Village Gardens PUD.

Enclosed please find the following:

- a. City of Lincoln Zoning Application for Annexation;
- b. City of Lincoln Zoning Application for Change of Zone to R-3 PUD;
- c. Legal Description for Change of Zone to R-3 PUD and Annexation;
- d. PUD Site Plan;
- e. Application fees in the amount of \$3,792; and
- f. Amended Regulating Plan to replace page 5 of the Village Gardens Planned Unit Development District Development Plan.

Mark Palmer from Olsson Associates will be uploading the PUD plans to project docs once Planning Staff has created the project files and docs. We will be submitting an amendment to the Village Gardens Conditional Annexation and Zoning Agreement to include the Property under separate cover.

A portion of the Property being added to the Village Gardens PUD is located within the Pipeline Planning Area along Yankee Hill Road. An outlot has been incorporated into the plan

along the north side of Yankee Hill Road to provide a setback from the gas line that is commensurate with the setback of the single family homes along Yankee Hill Road to the west. Berming and landscaping will be added as an additional buffer within the outlot.

A portion of the Property is also located within the boundaries of Rural Water District No. 1 and will need to be released in conjunction with annexation.

Developers are requesting block length waivers for Block 7 and for Blocks 22 and 23. Block 7 abuts the railroad tracks which creates a man made barrier. Blocks 22 and 23 are proposed for a patio home development. The site is bounded to the west by one large lot that has been approved for a retirement living facility that does not contain any street connections through it, Yankee Hill Road to the south, and a future commercial area to the east. Developers will be making a pedestrian connection to the trail system to the south, but are not including a street connection to the east into the future commercial.

If you have any questions regarding the enclosed or need any additional information, please feel free to contact me or Mark.

Very truly yours,



DANAY KALKOWSKI
For the Firm

Enclosures

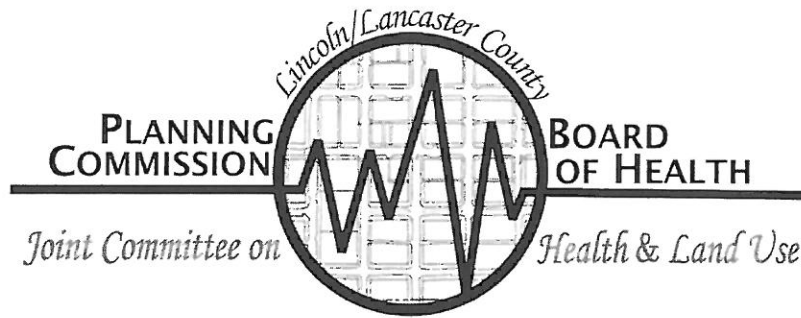
cc: Bob Benes
Village Gardens Development Company, LLC

Current Project - Agency Review Report

Agency Name	User Name	Review Cycle	Review Status	Comments	Assignment
County Health	chris schroeder	1	Recommend Denial	A high pressure natural gas pipeline is located near the centerline of Yankee Hill Road. The LLCHD calculated a pipeline planning area of 221 feet on each side of this pipeline. A pipeline planning area is the area in which the potential failure of a pipeline could have significant impact on people or property. The applicant's submitted site plan depicts lots 12-18 within the projected pipeline planning area. The LLCHD recommends not locating residential dwellings, schools, or childcare facilities within pipeline planning areas. Therefore, the LLCHD is recommending denial of this proposed development.	Individual
Development Review Manager	steve henrichsen	1	Corrections Required		Individual
Emergency Communications	Kelly Davila	1	Pending		Individual
Fire Department	Fire Department	1	Pending		First In Group
LES	les reviews	1	Recommend Approval	7/8/15- Easements will be noted on final plat. -Sarah Ryan	First In Group
Lincoln Police Department	Lincoln Police Department	1	Pending		First In Group
Planning Dept	amy huffman	1	No Review Required		Individual
Public Works - Engineering Services	Public Works - Engineering Services	1	Pending		First In Group
Public Works - Survey Check	Public Works - Survey Check	1	Pending		First In Group
Public Works - Watershed Management	ben higgins	1		Need larger sheet to review for drainage, requested from OA 7/7/15	Individual
United States Post Office	kerry kowalski	1	Recommend Approval	Recommend approval with the condition all new deliveries are established in Centralized Box Units(CBUs). All CBUs will be purchased and installed at the developers expense	First In Group

וואלפריד

Individual



Pipelines Carrying Hazardous Materials

Completed February 20, 2006

Findings

1. Many larger diameter and/or high pressure underground pipelines that carry hazardous materials exist in Lancaster County. (See "Lancaster County Pipeline" map at end of report.)
 - ✓ Data from the Federal Department of Transportation's Office of Pipeline Safety indicates that there are 308 miles of interstate or intrastate pipelines in Lancaster County. Most of these pipelines carry natural gas (methane), some carry petroleum product (gasoline or diesel), some carry propane, and one carries anhydrous ammonia. These pipelines cross the county in various locations, with a higher proportion in the eastern and southern parts of the county. As the urban area of Lincoln expands, it has grown into areas which have larger, higher pressure natural gas pipelines which serve as the source for lower pressure, small diameter lines in the community. One example of this is the Vintage Heights area.
2. Underground pipelines can pose a risk to public health and safety due to occasional breaks in the pipes, which most often occur due to being struck during digging in the pipeline easement area.
 - ✓ Data from the DOT's Office of Pipeline Safety web site indicates that in Nebraska there were six (6) incidents (releases) with interstate or intrastate transmission or distribution pipelines in 2004. Four (4) involved pipelines carrying gas and two (2) involved pipelines carrying liquid.
 - ✓ One of these incidents involved a pipeline carrying anhydrous ammonia near Blair, which resulted in the evacuation of 40 people from their homes, farms and businesses for approximately 24 hours. Fortunately, the release was not near a populated area and the wind was blowing the "right" direction. The release was caused by third-party excavation being conducted to lay underground electrical cables.

- ✓ For the three year period between 2002 and 2004, an average of 3.9 incidents per year in Nebraska resulted in releases of hazardous gases from pipelines. Over the past ten years, the trend of incidents resulting in releases appears to be increasing. Only three injuries to people occurred in the past 10 years.
3. Companies purchase easements restricting construction around pipelines.
- ✓ These easements are generally 30 to 100 feet wide (15 to 50 on either side of the pipeline to restrict buildings and construction on top of the easement. However, paving for parking lots or streets or crossing for utilities are allowed as long as adequate safety measures are taken to not disturb the gas line during construction. The pipeline in the easements is often marked to alert the public to its existence below ground.
 - ✓ The primary purposes of an easement for a pipeline is to allow access to the pipe for maintenance and protect the pipeline from damage by people, not to protect the people from who may live near the pipeline from a release of hazardous materials.
4. Federal law regulates the interstate transportation of hazardous materials in pipelines and was last changed in 2002 including:
- ✓ Increased the requirements imposed upon pipeline companies, with the goal of decreasing the risks to public health and the environment and improving safety.
 - ✓ Increased public awareness requirements, added more frequent internal inspection of the pipelines for corrosion and increased frequency of maintenance. (Please see the Appendix A titled, “Pipeline Public Awareness and Integrity Management Program Summary.”)
5. Persons or businesses in the **“High Consequence Area”** of a gas pipeline are occasionally notified of the existence of the pipeline, but there are not any regulations regarding preventing new uses from locating in this area. The High Consequence Area is based on the number of dwellings or businesses within a certain geographic area. The **“Hazard Area”** is measured regardless if there are currently buildings in the area or not, which is a more useful tool in developing areas.
- ✓ The Hazard Area can be calculated using a formula developed by the Gas Research Institute, which takes into account the pressure and diameter of the pipeline. For large diameter, high pressure pipelines the Hazard Area exceeds the mandatory easement requirements several fold. For example, the pipe in Vintage

Heights has a 12 inch diameter pipe would have a hazard area of 277 feet wide (approximately 138 feet on both sides from the center of the pipe.)

- ✓ The Hazard Area is based on a worst case scenario, which presumes there is complete cleavage of the pipeline resulting in gas under pressure being forced into the environment until it finds an ignition source. Such occurrences are rare, but have occurred in various parts of the U.S., including Bellingham, Washington and New Mexico, resulting in deaths. These events and many other pipeline spills have caused significant public debate regarding safety issues.

Goals

Strongly encourage that new development not build within the Hazard Area of high pressure underground pipelines.

By 2008, notification efforts at the local level should be increased to make residents and businesses more aware of the hazards of these pipelines and increase preparedness in case of an emergency.

Objectives

1. Inform and educate all who live along pipelines of the hazard, actions they can take to prevent pipeline releases and what to do if there is a release.

Recommendations:

- A. Require that Title Companies have buyers of existing homes sign a form at closing acknowledging that they were notified of the existence of the home being in the Hazard Area. This will require more paperwork at closing and probably too late in the process for the potential buyer to seriously consider the implications so late in the buying process, but it is better than no notification at all. Health Department staff will have to work with City Attorney to see if this provision can be required locally and how it would be implemented.
- B. Require that property owners inform potential new renters or persons leasing property of the hazard area. Again, the Health Department staff will have to work with City Attorney to see if this provision can be required locally and how it would be implemented.

People have the right to know what hazards are near where they live. Government has a responsibility to assure people are informed of such hazards. The way High

Consequence Areas are defined, many people living along pipelines would not be informed or educated if only the requirements under the Federal law are followed. People can make an informed choice of whether they want to accept the risk of living in or near an area which has a known hazard. Informed citizens are an integral part to protecting pipelines from damage. Providing people such information allows them to make an informed choice, based on sound information and their own perception of hazard and risk.

2. Increase awareness of pipelines prior to new construction within the Hazard Area.

Recommendations:

- A. In new developments, developers should avoid the Hazard Area as much as possible. For example, homes and businesses should be located out of the area as much as possible. Redesigning a site to place yards, parking or garages in the Hazard Area is preferable to having residences or businesses located in this potentially harmful area. Active recreation areas which would regularly draw large groups of people, such as playgrounds and baseball/soccer fields should not be placed in the Hazard Area as well.
 - B. Maps should be developed clearly outlining the Hazard Area and shared with developers on request or as part of the review process. While these maps are public information, there is concern by some that if this information was too easily available it could be used by those wanting to rupture the pipe on purpose.
 - C. The Health Department and Planning Department staff should be aware of these hazard areas and note them in reports to decision makers. Developers are encouraged to follow these recommendations.
 - D. The Planning Department and City Attorney should ensure that covenants in new subdivisions include notification of the location of a hazard area within the subdivision. This will aid in notifying builders or owners prior the construction of their house, since most new lot buyers read the covenants prior to building.
3. Work more closely with the pipeline companies to determine what additional Integrity Management Program (IMP) activities (enhanced safety measures) could be employed along high pressure, large diameter pipelines in Lancaster County.

Recommendations:

- A. Health Department staff should initiate contact with pipeline companies to discuss collaborative local efforts. Pipeline companies naturally want to reduce their

liabilities and do not want to injure anyone or damage the environment. Enhancing IMP activities would be in line with enhanced public awareness activities. It would exceed Federal requirements and, in essence be an enhanced IMP.

Q:\CP\Health\BOHPC Overall Final Report 2006.wpd

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for August 19, 2015, PLANNING COMMISSION MEETING

PROJECT #: Text Amendment No. 15009

PROPOSAL: Amend the County zoning regulations, Section 13.018, Commercial Wind Energy Conversion Systems, to revise the special permit conditions for wind turbine projects regarding decommissioning, shadow flicker, impact on environmental resources and view corridors, setbacks, noise, noise studies and other conditions.

CONCLUSION: The goal of the changes is to allow alternative energy development in the County but also stress providing for the protection of nearby property owners. Large commercial wind turbine projects have successfully located in other counties in Nebraska. However, the land use characteristics in Lancaster County are not like most other counties in Nebraska. There is significant residential development on smaller lots scattered throughout Lancaster County. In addition, wind turbines which are generally less than 275 in height in other counties, now could range up from 400 to 500 feet or more in height. So while wind energy is a worthy goal, the impact on adjacent properties could be substantial. The requested amendments permit commercial wind turbines in Lancaster County while addressing the potential negative impacts on adjacent properties.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

HISTORY:

Mar 2011 Commercial Wind Energy Conversion Systems are included as a specially permitted use in the AG Agricultural District by the County Board through TX11003.

Jan 2015 TX14014 submitted by Volkswind USA was withdrawn prior to Planning Commission public hearing.

Spring 2015 The Lincoln/ Lancaster County Planning Department & Lincoln/ Lancaster County Health Department hosted a series of meetings with a Working Group to help staff revise the current regulations regarding Commercial Wind Energy projects. The Working Group of 12 people included persons with various viewpoints and interests, including industry representatives, environmental interests along with landowners and residents of various

viewpoints about wind turbines. The Working Group was joined by 8 members from Gage County who are working on the same topic.

COMPREHENSIVE PLAN SPECIFICATIONS:

Lincoln and Lancaster County: One Community

Lincoln and Lancaster County contain a rich mosaic of households, living in a variety of urban and rural settings. But we share a common bond and work cooperatively to promote future growth that offers new opportunities for living and working while conserving our local environmental and cultural resources for future generations. (Page 1.2)

The importance of building sustainable communities — communities that conserve and efficiently utilize our economic, social, and environmental resources so that the welfare of future generations is not compromised – has long been recognized. This concept has grown in importance with increased understanding of the limits to energy supplies and community resources, the likelihood that energy costs will continue to increase in the future, the climatic impacts of energy consumption, and the impacts on the physical and economic health of the community. LPlan 2040 describes a community that values natural and human resources, supports advances in technology, and encourages development that improves the health and quality of life of all citizens. (Page 1.4)

Vision and Plan: Environmental Stewardship and Sustainability

Efforts are made to attract new and expanding industries that serve the emerging market for more sustainable products and services. (page 1.5)

Guiding Principles:

The 400-foot State Capitol is the key historic, architectural, and geographic landmark of the city and surrounding countryside. Views to the Capitol are highly valued by the people of Lancaster County and the State of Nebraska and should be protected and enjoyed for generations.

Major entryways to Lincoln including Interstate 80 and its exits (especially I-180), Highways 77 and 34 from the north, Cornhusker Highway from the east and from the Airport on the west, O Street from the east and west, Homestead Expressway/Highway 77/Rosa Parks Way from the southwest and west, and Highway 2 from the southeast, should be studied, protected, and enhanced to create and express community pride. (Page 4.6)

Energy and Utilities: Energy Guiding Principles

Promote renewable energy sources.

Energy and Utilities: Strategies for Renewable Energy:

- *Continue to encourage and expand wind and solar access to buildings and other land uses.*
- *Incorporate the use of alternative fuels into local government and institutional operations.*
- *Incorporate the use of alternative fuels when feasible.* (Page 11.6)

ANALYSIS:

History

1. The original text of the Special Permit conditions of approval for Commercial Wind Energy Conversion Systems (CWECS) was developed by County staff in 2011. At that time a wind developer was interested in siting these structures in Lancaster County, although no applicant stepped forward with proposed text for the Special Permit. County staff developed conditions that addressed issues regarding operations and potential impact on adjacent properties. These conditions were developed by reviewing the regulations in other counties and municipalities around the country, as well as the scientific information available at the time. As understanding of these machines has progressed over the past four years, and after an wind developer requested an additional review of the information available, it became apparent that these conditions are in need of review and updating.
2. In summary, the requested changes would:
 - a. alter the way the setback to dwellings is measured,
 - b. change the noise requirement thresholds and outline noise monitoring requirements,
 - c. provide for protection for properties which do not yet have a dwelling on them but may be substantially impacted by wind turbines, and
 - d. allow for CWECS that are being developed as part of a larger plan for a wind farm to be included in a single special permit area provided they are separated only by public right-of-way.
3. The goal of the Working Group process was to develop a text amendment that permits commercial wind energy projects provided there is adequate protection of adjacent property owners and residents. Six meetings were held between March 12th and May 21st, 2015 at the Roca Community Center or the Cortland Community Center in Gage County. The communities of Cortland and Roca graciously donated the use of their space for the meetings. The meetings were open to the public and typically 30 to 40 people attended. At the end of each meeting there was an open comment period for the general public. All of the information and presentations from the Working Group process is available on the Planning website at: <http://www.lincoln.ne.gov/city/plan/dev/wind/index.htm>

4. The first five meetings focused on sharing information about wind energy. Topics ranged from the economic benefits of wind energy to health and noise impacts. Staff prepared a discussion draft which was released in early May and was reviewed page by page with Working Group members at the final meeting.
5. The next draft of the text was released on June 8th, 2015. The public was encouraged to provide comments on this draft. Over 40 unique comments were received from the public which are included at the end of this report. The Audubon Society also submitted one comment from over 70 of it's members which is included as well.
6. After reviewing all the comments, the draft was revised for the Planning Commission public hearing and was released on July 9th, 2015. Comments received as of August 4th, 2015 are included at the end of the report as well.

Proposed Text

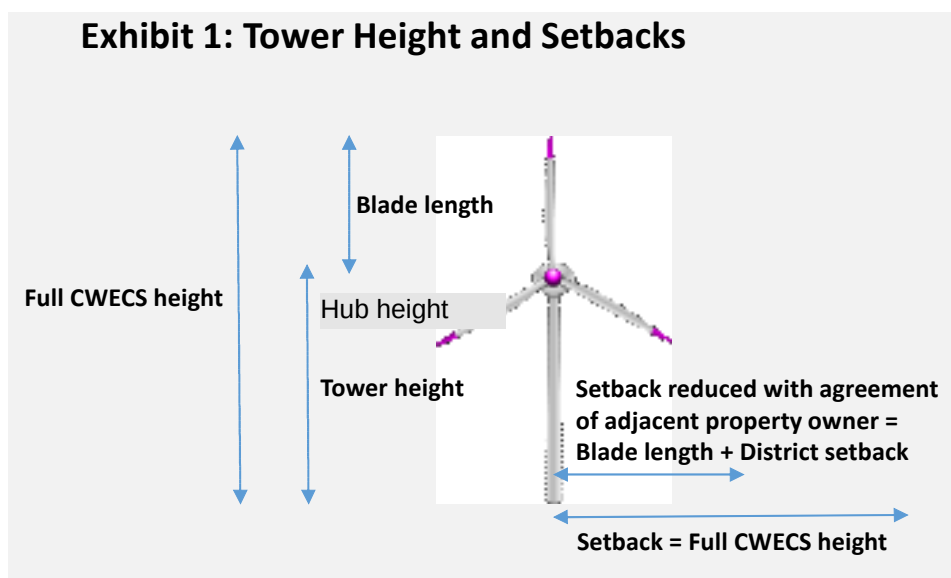
7. The proposed changes have different standards in some cases between participating and non-participating properties. A "participating" property has "entered into a contractual agreement with the CWECS owner/operator." A contractual agreement may be in the form of a lease, easement, or letter of agreement signed by the legal owners of the property. This does not necessarily mean the property must be within the area of the special permit, but may have a separate agreement with the property owner.
8. There currently are no noise regulations in the County jurisdiction, although noise is mentioned in the conditions for Airfield, dwellings within 1320' of a public lake, race track and drag strip, and CWECS. Airfields and dwellings near a lake do not mention specific noise standards, only that noise should be considered. Race tracks and drag strip have specific requirements based upon the pre-construction Noise Pollution Levels and allowing noise levels to exceed this baseline by 10 dB between 10 am and 6 pm, and 6 dB between 6 pm and 10 am, but in no case to exceed 81 dBA. (Note: dB or decibels is a measure of loudness of sound. dBA, decibels measured on the "A" scale, is often used because it approximates how the human ear responds to noise at moderate levels.)
9. Current standards in the County Zoning Resolution require the wind turbine to be rated at 35 dBA. There are currently no commercial wind turbines that are rated at 35 dBA. The majority are rated between 95 and 110 dBA. This means that currently a wind turbine could not be located in Lancaster County. Additionally, the value of the noise rating at the turbine is not as important as the experience of noise by residents in the area. This reference to the rating of the machine is recommended to be removed.
10. Typical noise emitted by common sources is reported differently by different sources of the information. The following is a sampling of typical noise levels as

compiled from those reported by Temple University Department of Civil/Environmental Engineering, the Noise Pollution Clearing House, Center for Human Performance & Health, Ontario, Canada, the US Environmental Protection Agency, and the 3M Occupational Health and Environmental Safety Division.

Just audible to most people	10 dBA
Quiet Rural Area	30 dBA
Quiet whisper at 3 ft	30 dBA
Ambient noise in a wilderness area	35 dBA
Rural Residential	39 dBA
Agricultural Crop Land	44 dBA
Typical living room in a quiet house	35 - 45 dBA.
Quiet neighborhood in an urban setting	40 - 45 dBA
Refrigerator	40 to 45 dBA
Wooded residential area	50 dBA
Window air conditioner	50 dBA
A quiet conversation	55 - 65 dBA
An air conditioning unit at 100'	60 dBA
Vacuum cleaner	80 dBA
Blender	90 dBA
Motorized lawn mower	105 dBA

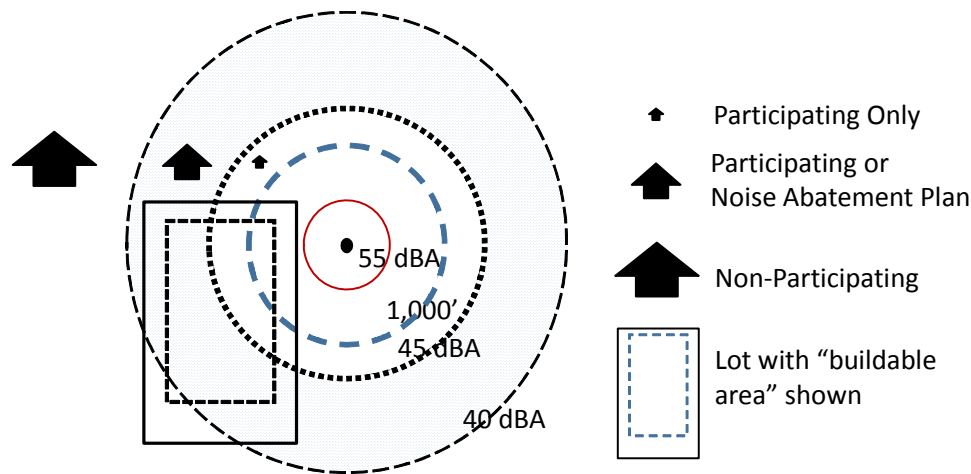
In addition to the perceived “loudness” of noise, it is important to understand that sound also has qualitative aspects and can be more disruptive to people when it is irregular, has higher or lower pitch, or has an impulsive character.

11. The turbine height is defined as the hub height plus the rotor radius.



12. The following exhibit is for the review of setbacks and noise on non-participating lots.

Exhibit 2: Noise Contours and 1,000 foot Setback Affect on Unbuilt Lot.



Wind Turbine (center) with noise contours and 1,000 foot setback from dwellings shown. Lot with "buildable area" (area within the required district setbacks) demonstrates there is only a small area in the lower left corner that would remain outside the noise and 1,000 foot setback.

13. The Lincoln/ Lancaster County Health Department basis for recommendations regarding noise and noise monitoring are found in the attached document. The Health Department notes that these "recommendations are based on the most recent research and review reports cited on the next pages. Of particular importance to the updated recommendations were findings in studies published in late 2014 and early 2015. These studies expanded and improved the knowledge on the potential health risk posed by wind turbine noise, the percentage of people exposed to wind turbine noise that will be annoyed or extremely annoyed, and found that self-reported annoyance was statistically significantly associated with sleep disturbance, and human physiological responses of stress levels (as measured by cortisol) and increased blood pressure (directly measured in exposed individuals)."
14. The following pages review the various aspects of CWECS and the recommendations regarding the County zoning:

Review Topic	Action Recommended for Text Amendment
Economic Implications for land owners & County	
There are many positive economic benefits of wind turbines. Leaseholder receive substantial monthly income over a long period of time. Construction brings work and spending within the County as well as long term employment for a few employees to monitor the turbines. The owner of a wind energy generation facility must pay a nameplate capacity tax equal to the total nameplate capacity of the commissioned wind energy generation facility multiplied by a tax rate of \$3,518 per megawatt. In Custer County, a facility with 50 turbines, this amounted to \$280,000 per year divided among the various tax jurisdictions in the county. The state does not retain any of the proceeds for administration.	No specific text. (Lancaster County and its residents will benefit by permitting commercial wind energy projects if there is adequate protection of adjacent property owners and residents.)
Processing of Multiple Turbines over a Large Area	
Currently, for a large project with 40 or 50 or more turbines, the special permit rules could require 20 or more separate special permit applications. This would make processing difficult. The proposed text allows turbines in one project, but which are separated from one another only by the presence of public right-of-way may be combined into one special permit application. When a CWECS special permit covers multiple premises, the lease or easement holder may sign the application rather than the lot owner.	New proposed text: <u>(a) In cases where CWECS wind turbines are part of a unified plan, parcels which are separated from one another only by the presence of public right-of-way may be combined into one special permit application. When a special permit covers multiple premises, the lease or easement holder may sign the application rather than the lot owner.</u>
Applicable codes	
CWECS must meet all applicable electrical, building utility tie in codes and other local, State and Federal rules and regulations.	Delete previous text (e). It is not necessary to note that CWECS must all applicable electrical, building codes and other local, State and Federal rules and regulations.

Review Topic	Action Recommended for Text Amendment
Color, Finish and Lighting	
Most ordinances have some standard prohibition against turbines being used for advertising or bright colors to attract attention. Additional text is proposed to state that there shall be no advertising, logo, and that each turbine shall have onsite a name plate which contains contact information of the operator. Concern was expressed about flashing lights on top of a turbine. Any structure above 200 feet tall must be reviewed by the Federal Aviation Administration for obstruction analysis. The FAA, and other relevant Federal agencies, make a determination if the structure impacts private or commercial airspace. If it is determined the project constitutes no-hazard to air navigation, it will also analyze the project as a whole and provide its recommended lighting requirements. Prescribed lighting is typically a slow blinking red light. In addition, newer technology is in development with radar-activated lighting, which detect aircraft presence and thus vary the lighting according to the need.	Proposed revised text: <u>(b) Turbines shall meet all FAA requirements, including but not limited to lighting and radar interference issues. Strobe lighting shall be avoided if alternative lighting is allowed. Color and finish shall be white, gray or another non-obtrusive, non-reflective finish. There shall be no advertising, logo, or other symbols painted on the turbine other than those required by the FAA or other governing body. Each turbine shall have onsite a name plate which is clearly legible from the public right-of-way and contains contact information of the operator of the wind facility</u>
Decommissioning of wind towers	
A decommissioning plan already requires removal of structures and restoration of land, as well as a requirement to post bonds that will assure the restoration work is accomplished. In a review of other jurisdictions, the requirements varies widely. Decommissioning plans are also often a part of the private lease agreements entered into with land owners. The revisions continue to require decommissioning plans for the removal of the tower itself but adding that four feet of soil is required between the ground level and cement base. Also add allowing up to one year before requiring removal to allow time for consideration of options after turbines cease operation. Removal of the access roads on private property would be left to the developer and property owners. Some property owners may wish to retain the access roads on private property.	Proposed revised text: <u>(c) Each application shall have a decommissioning plan outlining the means, procedures and cost of removing the turbine(s) and all related supporting infrastructure and a bond or equivalent enforceable resource to guarantee removal and restoration upon discontinuance, decommissioning or abandonment. Each tower shall be removed within one year of decommissioning or revocation of the special permit. Upon removal of the tower, there shall be four feet of soil between the ground level and former tower's cement base.</u>

Review Topic	Action Recommended for Text Amendment
Shadow Flicker	
Shadow flicker is the phenomenon caused by the moving shadow of the wind turbine blades moving over a point. The area where flicker is experienced moves as the sun's position relative to the ground changes throughout the day and season to season. It would be at the peak in winter months. One change to the July 9th draft is to address what happens if a turbine violates this standard on a dwelling unit constructed after the turbine is approved. In this case, the turbine becomes a non-conforming, but can remain subject to the zoning regulations for non-conforming uses.	New text proposed: <u>(d) Any proposed turbine which is within half mile of any non-participating dwelling shall provide shadow flicker modeling data showing the expected effect of shadow flicker on non-participating properties. Shadow flicker shall not fall upon any non-participating dwelling, or other building which is occupied by humans, for more than 30 minutes in any one day, nor a total of 30 hours per any calendar year. If shadow flicker exceeds these limits, measures shall be taken to reduce the effects of shadow flicker on buildings, which may include shutting the turbine down during periods of shadow flicker. If a turbine violates this standard on a non-participating dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.</u>
Environmental implications	
There is no significant impact on air or water resources. Footprint of any one turbine on land is relatively small. The University of Nebraska and the Nebraska Game and Parks Commission have developed a Nebraska Wind and Wildlife map which identifies the relative sensitivity of biological populations in Nebraska. Lancaster County is shown as an area of low sensitivity, however there are biologically unique areas within Lancaster associated with the Eastern Saline Wetlands which should be protected. Wind turbines do result in bird deaths, but it is relatively less nationally compared to cars, buildings, power lines, communication towers, agricultural chemicals and cats.	New text proposed: <u>(e) Construction and operation shall not adversely impact identified State or Federal threatened or endangered species such as saline wetlands, or rare natural resources such as native prairie and grasslands.</u>

Review Topic	Action Recommended for Text Amendment
Ice Throw	
Ice throw is the phenomenon of ice, which builds up on turbine blades during particular meteorological conditions, being “thrown” from the blades as they turn or being blown from the blades as they are stationary. Most modern turbines are able to detect vibration of turbine blades that can be caused by a build-up of ice and are programmed to shut down in such conditions in order to address safety issues and to protect equipment from damage. Turbine condition monitoring (for example, torque and vibration sensing) will detect changes to the performance of the blades by damage or by ice accumulation and shut them down. In addition, the change to the shape of blade from ice changes the lift and thus the performance of the machine, in relation to its “ice-free” state, and this would also be detected. While safety is the top priority, such measures are also in the interest of machine longevity as operating with ice loads would add to torque loads, mechanical wear, reduced performance, etc.” The minimum setback of 1,000 feet provides sufficient space from all dwellings to protect from many of the impacts of the turbines.	No specific text. (New turbines are better designed to minimize and monitor ice on the blades. In addition, setbacks to the property line and right-of-way are substantial so no separate setback for ice throw is proposed.)
Important view corridors	
Concern was expressed about wind turbines blocking the view to the State Capitol. Also concern about views from the Homestead National Monument (in Gage Co.), Nine Mile Prairie or Spring Creek prairie. There were opinions for and against having wind turbines along entryways into Lincoln. Some stated that they didn’t want their personal view from their house diminished by views of turbines. However, views from personal property can be altered by an adjoining property owner erecting accessory buildings or antennas or planting trees on their own property, though these would not be near the size of a wind turbine.	New text proposed: <u>(f) No turbine shall obstruct or impair an identified view corridor or scenic vista of public value, as mapped on the Capitol View Corridors map in the Lincoln/Lancaster County Comprehensive Plan. The views from prominent environmental areas, such as Nine Mile Prairie and Spring Creek Prairie, shall also be protected from adverse visual or noise impacts. Any application which, upon initial review, poses a possible impact to these views will be required to be relocated or provide view shed mapping, and visual simulations from key observation points for review.</u>

Review Topic	Action Recommended for Text Amendment
Setback to Dwelling	
Current language requires a 1,000 foot setback to the property line of existing dwellings not associated with the project. The large variation in lot sizes in the AG district means some dwellings may sit on a large parcel with the dwelling at the far end while others are on a smaller parcel with the dwelling close to the property line. Measuring to the dwelling is a more consistent method. A setback of specific distance does not take into account differences in height of the turbines. For example, the visual impact of a 260 foot turbine is different than a 475 foot turbine. So many communities have include both a minimum setback and a setback based on height and used the greater distance. The increased distance reduces the visual impact, shadow flicker impact and the risk of ice throw. While distance does reduce noise, the primary measure for noise should be a noise standard which is addressed separately. The setback assists in noise reduction, but it will only be pertinent for noise reduction where the ambient background noise might be higher already, such as along a highway. The noise standard will be the primary measure for addressing any noise impacts. This setback is necessary for circumstances where there is not an existing dwelling on the adjacent non-participating property. If the adjacent lot is primarily for residential use (less than 10 acres) then the setback to the vacant lot should be larger. Ten acres was chosen as the dividing line between residential and farm lots. Lots of 10 acres or more can be created without a final plat because they are considered agricultural in use.	New text proposed: <u>(g) Setbacks to the turbine base:</u> <u>1) For a non-participating lot of less than 10 acres, the setback shall be 1,000 feet or 3 times the turbine height (hub height plus the rotor radius), whichever is greater, measured to the property line.</u> <u>2) For non-participating lot of 10 acres or greater, when there is a dwelling unit on the lot, the setback shall be 1,000 feet or 3 times the turbine height, whichever is greater, measured to the closest exterior wall of the dwelling unit.</u> <u>3) For participating dwelling units, the setback shall be 1,000 feet to the closest exterior wall of the dwelling.</u>

Review Topic	Action Recommended for Text Amendment
Setback to Right of Way	
The purpose of this requirement is to provide for a “worst case scenario” of a tower falling over as a tree does when felled. In general towers are highly unlikely to fall over in this manner, and when failures have occurred they rather occur as a collapse of the tower. There are over 45,000 turbines in the U. S. and there are less than a dozen incidents of a complete collapse event, according to industry experts. The setback of the full turbine height is recommended by the County Engineer to be maintained when adjacent to public right-of-way in order to assure public safety and clear passage of traffic.	New text proposed: <u>(g) Setbacks to the turbine base:</u> <u>4) The setback to any public right-of-way or private roadway shall be no less than the turbine height.</u>
Setback to Special Permit Boundary	
In addition to the setbacks for streets or to lots with adjacent dwellings, the proposed text includes a standard setback along the perimeter of the special permit. This setback would apply to properties without a dwelling unit.	<u>(g) Setbacks to the turbine base:</u> <u>5) Setbacks to the external boundary of the special permit area shall be no less than the turbine height, except that the owner of the adjacent property may sign an agreement allowing that setback to be reduced to the rotor radius plus the setback of the zoning district.</u>
Impact on property value of adjacent land	
There is considerable debate about the impact of wind turbine projects on adjacent land values. There are so many factors that go into the value of a house and land that it is difficult to isolate individual elements. Certainly not everyone wants to live near to a wind turbine, so the number of potential buyers would be significantly reduced for small acreage lots. Particularly in an area with many available lots or homes, some buyers will not want a lot nearer to a wind turbine. Many acreage owners specifically moved onto an acreage to be further from the urban environment. However, even in a rural area, adjacent owners have the right to run machinery, build large accessory buildings that obstruct views and conduct farm operations late at night. So an acreage lot doesn't guarantee a quiet setting and unobstructed views.	Wind turbines can have more of an impact on the enjoyment and market for small acreage lots when compared to large farm parcels. Thus, the setback to a nonparticipating residential acreage lot under 10 acres should be larger than the setback to a farm property of more than 10 acres.

Review Topic	Action Recommended for Text Amendment
Impact on development and subdivisions	
It is possible that a non-participating vacant parcel could be significantly impacted by the noise of the turbines and fall within the turbine setbacks. The owner of the vacant parcel could still legally build on their lot, but the enjoyment of the parcel, particularly a smaller parcel could be reduced. The proposed text would require that lots, which because of the location of a CWECS are left with little land outside of the CWECS setbacks or the noise impact area, must be part of a contractual agreement with the CWECS owner/operator. There should be a standard that for vacant farm lots over 10 acres so that the area of the lot outside of the noise contours and setbacks is substantial. This will allow the owner of vacant land to have some choices in location on which to build a house outside of the setbacks and noise contours if they wish.	New text proposed: <u>(h) Any single turbine shall not impact a non-participating lot, (vacant or occupied; of any size), to the extent that, because of the location of turbine, the lot owner is left with less than 3 acres of land outside of the CWECS setbacks or the noise impact area in Section (l) below, unless they are part of an agreement with the CWECS owner/operator.</u>
Emergency Response to turbine fire	
Some have suggested banning crops under turbines due to potential for lightning strikes and fires. This would significantly reduce the cropland area around a turbine. The risk of lightning strike and crop fire is not significantly more than other lightning strikes to warrant the significant increase in cost of wind turbines and resulting loss of crop land.	No specific text necessary (Local volunteer fire departments and wind turbine operators should meet to discuss plan for if a turbine caught fire.)

Review Topic	Action Recommended for Text Amendment
Noise	
Noise from wind turbines has been shown to be a significant concern and source of investigation. Recent research papers and studies on wind turbine noise and potential health impacts indicate that noise from wind turbines causes annoyance which can lead to sleep disturbance. In considering how to establish wind turbine noise level limits for dwellings, the Lincoln/Lancaster County Health Department (LLCHD) only considered potential negative public health impacts. In addition, the LLCHD believes that all persons should be afforded, regardless of lease agreements, the same level of public health protection. See attached report from Health Department on noise studies and noise recommendations. One change to the July 9th draft is to address what happens if a turbine violates this standard on a dwelling unit constructed after the turbine is approved. In this case, the turbine becomes a non-conforming, but can remain subject to the zoning regulations for non-conforming uses.	<u>New text proposed:</u> <u>(l) Noise: No CWECS or combination of CWECS turbine(s) shall be located as to cause an exceedance of the following as measured at the closest exterior wall of any dwelling located on the property. If a turbine violates a noise standard on a dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.</u> <u>For both participating and nonparticipating properties:</u> <u>(1) From the hours of 7 am to 10 pm:</u> <u>* Forty (40) dBA maximum 10 minute Leq or;</u> <u>* Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 15 hour period.</u> <u>(2) From the hours of 10 pm to 7 am:</u> <u>* Thirty-seven (37) dBA maximum 10 minute Leq or</u> <u>* Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 9 hour period.</u>

Review Topic	Action Recommended for Text Amendment
Noise Studies & Monitoring	
The purpose of noise studies is to provide data that will be used to assess potential public health impacts and compliance with the noise limits established in the county resolution.	<u>New text proposed:</u> <u>(j) A professional pre-construction noise study shall be conducted which includes all property with a dwelling within one mile of a tower support base. The protocol and methodology for such studies shall be submitted to the Lincoln-Lancaster County Health Department for review and approval. Such studies shall include noise modeling for all four seasons and include typical and worst case scenarios for noise propagation. The complete results and full study report shall be submitted to the Lincoln-Lancaster County Health Department for review.</u> <u>(k) Prior to the commencement of construction of any turbine, pre-construction noise monitoring may be conducted to determine ambient sound levels in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department.</u>
Public road improvements needed for construction	
In some jurisdictions, wind developers have rebuilt bridges, roads and intersections, under government supervision, in order to carrying the required loads during CWECS construction. This was the experience in Gage County where the developer worked in advance with government officials on the routing of construction equipment and necessary improvements. After the towers are built, the impact on the roads is minimal.	<u>New text proposed:</u> <u>(l) Prior to the commencement of construction of any turbine, the applicant shall enter into an agreement with the County Engineer regarding use of County roads during construction.</u>

Review Topic	Action Recommended for Text Amendment
Noise Complaints	
The Building and Safety Department is the primary zoning enforcement agency. The County Board can revoke any special permit if the conditions of approval are not being met. Building and Safety often relies upon complaints received from the public to determine when investigative action needs to take place and possible enforcement action taken. In some cases, permit holders must make annual reports to Building and Safety providing specific information on the operation and activities of the permit site. The proposed process for handling noise complaints is to forward them to the Board for their consideration. The Board would then decide if noise monitoring is necessary.	<u>New text proposed:</u> <u>(m) At the discretion of the County Board, post-construction noise level measurements may be required to be performed in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department.</u> <u>(n) All noise complaints regarding the operation of any CWECS shall be referred to the County Board. The County Board shall determine if noise monitoring shall be required to determine whether a violation has occurred.</u>
Interference	
A CWECS must not interfere with established radio or microwave signals. Most wind projects hire a company which maintains a database to report on potential impact of the project on any non-federal government microwave systems. In addition, projects provide their layout to the United States Department of Commerce – National Telecommunications and Information Administration, for review by appropriate federal agencies to identify any concerns regarding blockage of radio transmissions.	No specific text. (No need for local regulations since this concern is handled at federal level.)
County Liability for approval of wind turbines	
The County Attorney's Office determined that was no case law that would indicate a cause of action would exist against a County for issuance of a special permit for a wind turbine site that has a later accident. Additionally, the Political Subdivision Tort Claims Act enumerates an exemption to political subdivision liability if the claim is based on "the issuance, denial, suspension, or revocation of or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, or order." In the event the County was ever named in the type of law suit mentioned, this would undoubtedly be raised as a defense.	No specific text necessary.

15. Volkswind USA, was the applicant of the first proposed amendment in September 2014 to the Commercial Wind Energy regulations. Their application, Text Amendment #14014, was withdrawn in February 2015 prior to the Planning Commission public hearing. Volkswind has submitted alternative language to the proposal in this Text Amendment #15009. The alternative is attached.

Conclusion:

Given the amount of acreage development within Lancaster County, it will be difficult to meet the proposed regulations and still have a large scale wind operation. While wind energy is a goal of the Comprehensive Plan, it does not mean that should come at the cost to adjacent non-participating property owners. Lancaster County has numerous residents on smaller lots enjoying a quality of life in a rural setting. The "rural lifestyle" does come with noise and odors from agricultural operations. It also comes with large outbuildings and farm machinery. But none of these aspects of rural life compare to the potential impacts of a 250 to 500 foot wind turbine.

The changes to Section 13.018 provide for protection of the health, safety and welfare of the community while providing for the opportunity for the development of alternative energy in Lancaster County.

Prepared by

Stephen Henrichsen, Development Review Manager
Lincoln/ Lancaster County Planning Department
555 S. 10th Street, Suite 213
Lincoln, NE 68508

DATE: July 30, 2015

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13.018 Commercial Wind Energy Conversion System (CWECS).

A Commercial Wind Energy Conversion System (CWECS) may be allowed in the AG District by special permit under the conditions listed below:

(a) In cases where CWECS wind turbines are part of a unified plan, parcels which are separated from one another only by the presence of public right-of-way may be combined into one special permit application. When a special permit covers multiple premises, the lease or easement holder may sign the application rather than the lot owner.

~~(a) Each CWECS machine shall be no less than 1,000 feet from any property line of a dwelling unit not associated with the project.~~

~~(b) The distance from all external boundary lot lines and/or right-of-way lines of the special permit to any tower support base of the CWECS shall be equal to the height of the tower plus the rotor radius.~~

~~© Each CWECS machine, including all equipment, shall have a sound emission rating of no more than 35 dBA. Noise levels caused from the CWECS turbine(s) shall not exceed 35 dBA at the property line of any dwellings within a one mile radius of a CWECS turbine. A noise study, incorporating both A and C weighted noise impacts on property within one mile may be required. Noise rating shall conform to International Electrotechnical Commission (IEC) standards unless otherwise directed by a government agency.~~

~~(d) (b) Turbines shall meet all FAA requirements, including but not limited to lighting and radar interference issues. Strobe lighting shall be avoided if alternative lighting is allowed. Color and finish shall be white, gray or another non-obtrusive, non-reflective finish. There shall be no advertising, logo, or other symbols painted on the turbine other than those required by the FAA or other governing body. Each turbine shall have onsite a name plate which is clearly legible from the public right-of-way and contains contact information of the operator of the wind facility.~~

~~(e) All applicable electrical, building, utility tie-in codes and other government regulations shall apply.~~

~~(f) The distance from any tower base of a CWECS to any tower support base of another CWECS under other ownership shall be spaced a minimum of five (5) rotor diameters distance figured by the size of the largest rotor.~~

~~(g) © Each application shall have a decommissioning plan outlining the means, procedures and cost of removing the turbine(s) and all related supporting infrastructure and a bond or equivalent enforceable resource to guarantee removal and restoration upon discontinuance, decommissioning or abandonment. Each tower shall be removed within one year of decommissioning or revocation of the special permit. Upon removal of the tower, there shall be four feet of soil between the ground level and former tower's cement base.~~

~~(h) Said CWECS shall meet all Federal, State and local rules and regulations.~~

(d) Any proposed turbine which is within half mile of any non-participating dwelling shall provide shadow flicker modeling data showing the expected effect of shadow flicker on non-participating properties. Shadow flicker shall not fall upon any non-participating dwelling, or other building which is occupied by humans, for more than 30 minutes in any one day, nor a total of 30 hours per any calendar year. If shadow flicker exceeds these limits, measures shall be taken to reduce the effects of shadow flicker on buildings, which may include shutting the turbine down during periods of shadow flicker. If a turbine violates this standard on a non-participating dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.

(e) Construction and operation shall not adversely impact identified State or Federal threatened or endangered species such as saline wetlands, or rare natural resources such as native prairie and grasslands.

(f) No turbine shall obstruct or impair an identified view corridor or scenic vista of public value, as mapped on the Capitol View Corridors map in the Lincoln/ Lancaster County Comprehensive Plan. The views from prominent environmental areas, such as Nine Mile Prairie and Spring Creek Prairie, shall also be protected from adverse visual or noise impacts. Any application which, upon initial review, poses a possible impact to these views will be required to be relocated or provide view shed mapping, and visual simulations from key observation points for review.

(g) Setbacks to the turbine base:

- 1) For a non-participating lot of less than 10 acres, the setback shall be 1,000 feet or 3 times the turbine height (hub height plus the rotor radius), whichever is greater, measured to the property line.
- 2) For non-participating lot of 10 acres or greater, when there is a dwelling unit on the lot, the setback shall be 1,000 feet or 3 times the turbine height, whichever is greater, measured to the closest exterior wall of the dwelling unit.
- 3) For participating dwelling units, the setback shall be 1,000 feet to the closest exterior wall of the dwelling.
- 4) The setback to any public right-of-way or private roadway shall be no less than the turbine height.
- 5) Setbacks to the external boundary of the special permit area shall be no less than the turbine height, except that the owner of the adjacent property may sign an agreement allowing that setback to be reduced to the rotor radius plus the setback of the zoning district.

(h) Any single turbine shall not impact a non-participating lot, (vacant or occupied; of any size), to the extent that, because of the location of turbine, the lot owner is left with less than 3 acres of land outside of the CWECS setbacks or the noise impact area in Section (i) below, unless they are part of an agreement with the CWECS owner/operator.

(l) Noise: No CWECS or combination of CWECS turbine(s) shall be located as to cause an exceedance of the following as measured at the closest exterior wall of any dwelling located on the property. If a turbine violates a noise standard on a dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use. For both participating and nonparticipating properties:

(1) From the hours of 7 am to 10 pm:

- o Forty (40) dBA maximum 10 minute Leq or;
- o Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 15 hour period.

(2) From the hours of 10 pm to 7 am:

- o Thirty-seven (37) dBA maximum 10 minute Leq or;
- o Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 9 hour period.

(j) A professional pre-construction noise study shall be conducted which includes all property with a dwelling within one mile of a tower support base. The protocol and methodology for such studies shall be submitted to the Lincoln-Lancaster County Health Department for review and approval. Such studies shall include noise modeling for all four seasons and include typical and worst case scenarios for noise propagation. The complete results and full study report shall be submitted to the Lincoln-Lancaster County Health Department for review.

(k) Prior to the commencement of construction of any turbine, pre-construction noise monitoring may be conducted to determine ambient sound levels in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department.

(l) Prior to the commencement of construction of any turbine, the applicant shall enter into an agreement with the County Engineer regarding use of County roads during construction.

(m) At the discretion of the County Board, post-construction noise level measurements may be required to be performed in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department.

(n) All noise complaints regarding the operation of any CWECS shall be referred to the County Board. The County Board shall determine if noise monitoring shall be required to determine whether a violation has occurred.