

Lincoln City - Lancaster County

PLANNING COMMISSION AGENDA

PLANNING COMMISSION

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Alexis Longstreet: Office Specialist

July 13, 2022

NOTICE: The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, July 13, 2022, at 1:00 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.

The Planning Commission will be allowing testimony on agenda items by videoconferencing. For those who wish to testify by video, you must register with the Planning Department Office to participate by calling 402-441-7491 or emailing Plan@lincoln.ne.gov by 10:00 a.m. the day of the meeting. You will be asked to provide your name, address, phone number and the agenda item(s) you wish to speak on, and your position on this item. On the day of the hearing, you will receive a link via email, which will be needed to join the hearing to provide your testimony.

AGENDA

WEDNESDAY, July 13th, 2022

Approval of minutes of the regular meeting held June 22, 2022.

1. CONSENT AGENDA (Public Hearing and Administrative Action)

COMPREHENSIVE PLAN CONFORMANCE AND RELATED ITEMS:

- 1.1 COMPREHENSIVE PLAN AMENDMENT 22004, to amend the Lincoln-Lancaster County 2050 Comprehensive Plan to revise the Future Land Use Map to change an area from Industrial to Commercial and Urban Residential, on property generally located at North 27th Street and Leighton Avenue.
Page 1
Staff recommendation: Approval
Staff Planner: Andrew Thierolf, 402-441-6371, athierolf@lincoln.ne.gov
- 1.2 COMPREHENSIVE PLAN CONFORMANCE 22012, to review as to conformance with the 2050 Lincoln-Lancaster Comprehensive Plan, for "South Folsom Redevelopment Plan", a proposed guide for redevelopment activities within the Redevelopment Plan Area, including mixed use commercial and residential uses, on property generally located at southeast corner West Pioneer Boulevard and South Folsom Street.
Page 7
Staff recommendation: In Conformance with the Comprehensive Plan
Staff Planner: Ben Callahan, 402-441-6360, bcallahan@lincoln.ne.gov

ANNEXATION AND RELATED ITEMS:

- 1.3a ANNEXATION 22006, to annex approximately 8.4 acres, more or less, on property generally located at 9440 Pioneers Boulevard.
Page 15 **Staff recommendation: Conditional Approval**
Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov
- 1.3b CHANGE OF ZONE 22011, from AGR (Agricultural Residential District) to R-1 (Residential District), on property generally located at 9440 Pioneers Boulevard.
Page 15 **Staff recommendation: Approval**
Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov
- 1.3c SPECIAL PERMIT 22013, to allow for a CUP (Community Unit Plan) for up to four dwelling units, with associated waivers to private roadway design standards, setbacks, sidewalks, lots with no frontage, and storm water detention, on property generally located at 9440 Pioneers Boulevard. The Planning Commission action is final. *** **FINAL ACTION*****
Page 23 **Staff recommendation: Conditional Approval**
Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov
- 1.4 ANNEXATION 22008, to annex approximately 2.6 acres, more or less, on property generally located at Northwest 48th Street and West Vine Street.
Page 35 **Staff recommendation: Approval**
Staff Planner: George Wesselhoft, 402-441-6366, gwesselhoft@lincoln.ne.gov

TEXT AMENDMENT:

- 1.5 TEXT AMENDMENT 22005, amending Lincoln Municipal Code Section 27.67.065, pertaining to parking in the O-3 zoning district to eliminate duplicate text.
Page 41 **Staff recommendation: Approval**
Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov

SPECIAL PERMIT:

- 1.6 SPECIAL PERMIT 1423L, to amend the HiMark Community Unit Plan to allow for a second dwelling unit on a lot, on property generally located at 9635 Merion Circle. The Planning Commission action is final. *** **FINAL ACTION *****
Page 45 **Staff recommendation: Conditional Approval**
Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

STREET AND ALLEY VACATION:

- 1.7 STREET AND ALLEY VACATION 22005, to vacate the unbuilt County Road 1208 (South Street) generally located between A Street and Van Dorn Street between South 84th Street and South 98th Street, on property generally located in the Northeast ¼ of Section 35-10-7.
Page 55 **Staff recommendation: Conforms to Comprehensive Plan**
Staff Planner: George Wesselhoft, 402-441-6366, gwesselhoft@lincoln.ne.gov

USE PERMIT:

- 1.8 USE PERMIT 141B, to adjust the rear yard setback in the O-3 (Office Park District) zoning district, on property generally located at 5601 Union Hill Road.

Page 63

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

4. PUBLIC HEARING AND ADMINISTRATIVE ACTION

CHANGE OF ZONE AND RELATED ITEMS:

- 4.1a CHANGE OF ZONE 22013, from AG (Agricultural District) to R-3 (Residential District), on property generally located at 8451 Eagle Crest Road.

Page 71

Staff recommendation: Approval

Staff Planner: George Wesselhoft, 402-441-6366, gwesselhoft@lincoln.ne.gov

- 4.1b SPECIAL PERMIT 22015, to allow for a CUP (Community Unit Plan) with up to 27 dwelling units, with associated waivers, on property generally located at 8451 Eagle Crest Road. The Planning Commission action is final. *** **FINAL ACTION** ***

Page 79

Staff recommendation: Denial

Staff Planner: George Wesselhoft, 402-441-6366, gwesselhoft@lincoln.ne.gov

5. CONTINUED PUBLIC HEARING AND ADMINISTRATIVE ACTION

CHANGE OF ZONE AND RELATED ITEMS:

- 5.1a CHANGE OF ZONE 22018, from AGR (Agricultural Residential District) to O-3 (Office Park District), on property generally located at 6601 South 70th Street.

Page 101

Staff recommendation: Approval

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

- 5.1b USE PERMIT 22006, on 4.82 acres, more or less, with waivers to allow cross parking to meet minimum parking, parking in a side yard, to not require all information for a preliminary plat at time of submittal, internal light trespass, to allow a non-standard termination of a street using a non-standard cul-de-sac, and setbacks, on property generally located at 6601 South 70th Street.

Page 101

Staff recommendation: Conditional Approval

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

6. ACTION ONLY

MISCELLANEOUS:

- 6.1 MISCELLANEOUS 22010, to allow for Reasonable Accommodation, under the Fair Housing Act and Section 1.28 of the Lincoln Municipal Code, to the zoning code definition of "family" to allow fourteen unrelated persons to reside together as a family, on property generally located at 1923 B Street.

Page 115

Staff recommendation: Finding in Compliance with Requirements of Fair Housing Act with Conditions

Staff Planner: Steve Henrichsen, 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:

CHANGE OF ZONE 21024, from B-1 (Local Business District) to H-2 (Highway Business District), on property generally located at 4615 Vine Street.

PRELIMINARY PLAT 04011A, for a preliminary plat amendment to show a revised street layout, with associated waiver, on property generally located at Waterford Estates Drive and Linwood Lane.

Planning Department Staff Contacts:

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George Wesselhoft, <i>Planner</i>	402-441-6366	gwesselhoft@lincoln.ne.gov
Brian Will, <i>Planner</i>	402-441-6362	bwill@lincoln.ne.gov

The Planning Commission meeting which is broadcast live at 1:00 p.m. every other Wednesday

will be available for viewing on LNK City TV at
<https://lnktv.lincoln.ne.gov/CablecastPublicSite/watch/3?channel=1>

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The Planning Commission agenda may be accessed on the Internet at
<https://app.lincoln.ne.gov/city/plan/boards/pc/pc.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 COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Comprehensive Plan Amendment 22004 27 th & Leighton FLU Update	FINAL ACTION? No	OWNER City of Lincoln
PLANNING COMMISSION HEARING DATE July 13, 2022	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION 27 th & Leighton

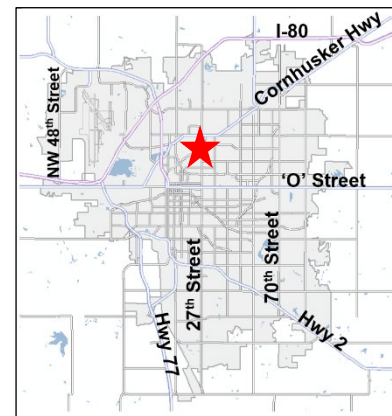
RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request to revise the Future Land Use (FLU) map near 27th & Leighton to reflect recent development interest and refine boundaries.

The primary purpose of the amendment is to remove an Industrial designation and add new Commercial and Urban Residential land to the FLU map. The parcels in the area are City-owned and were recently subject to a Use Permit and change of zone to the R-T Residential Transition zoning district. The City is planning to surplus and sell the land for redevelopment.

This amendment also includes a minor adjustment to the Public/Semi-Public boundary at an LES substation to reflect current conditions.



JUSTIFICATION FOR RECOMMENDATION

The Future Land Use map update is appropriate and aligns with proposed development plans and surrounding uses in the area.

STAFF CONTACT

Andrew Thierolf, Planning Department
(402) 441-6371, athierolf@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Comprehensive Plan allows for the Future Land Use map to be flexible and responsive to development needs and further refinements.

COMPREHENSIVE PLAN SPECIFICATIONS:

Introduction Section: Growth Framework

Land Use Plan

Figure GF.b: 2050 Future Land Use

Urban Residential. Residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. All types of housing are appropriate here, from detached single family, duplex, and missing middle, to higher density multi-family. Undeveloped areas shown as Urban Residential may also include neighborhood-scale commercial and other compatible uses that will be added to the map after approval of development plans.

Industrial. Areas where railroads, manufacturing, trucking and transportation facilities are the dominant land use, with some commercial activities.

Public and Semi-Public. Areas of public or semi-public land use and/or structures that serve the general public. Only the largest facilities are shown on the land use plan. Highways and interstates are also included in this category.

Element 1 Complete Neighborhoods and Housing:

A complete neighborhood is more than housing - great neighborhoods combine all the elements of parks, education, commercial areas, environmental resources, and housing together in one place. A complete neighborhood is one where residents have safe and convenient access to goods and services needed for daily life activities.

Policy 61: Industrial Zoning and Pipelines

Vulnerable populations include residential structures, childcare centers, retirement facilities, schools, and hospitals. Industrial zoning can pose a significant risk to adjacent properties with vulnerable populations due to the types of uses that can store, use or produce hazardous materials. Rail lines are also a concern near vulnerable populations due to the transport of hazardous materials in large quantities.

2. Land uses with vulnerable populations should not be located within 300 feet of an industrially-zoned district or heavy industrial use such as a rail line. Even if a given industrial site does not include hazardous materials at present, a hazardous use could be added in the future.
5. Continue strategic re-zonings of legacy industrial districts to less intensive commercial zoning districts when near residential uses.

ANALYSIS

1. The primary purpose of this amendment is to change an area of City-owned land from Industrial to Urban Residential and Commercial on the Future Land Use (FLU) map.
2. The City of Lincoln is proposing to surplus and sell several small parcels in this area for residential use. In advance of the sale, the City submitted a change of zone to R-T Residential Transition and a Use Permit that addresses existing site limitations and sets development expectations. The Use Permit shows primarily residential uses, with a small commercial area on the north portion of the site. The surplus, change of zone, and use permit ([CPC22008](#), [CZ22015](#), [UP22005](#)) were recommended for approval at the June 22nd Planning Commission hearing.

3. The land subject to these applications has been shown on the FLU map as Commercial or Industrial since the 1952 Comprehensive Plan. Most of these parcels were zoned as “K” Light Industrial prior to 1979 (using the City’s old zoning terminology), and I-1 Industrial following the 1979 zoning update. The parcels were changed to R-2 Residential zoning in 2009 with [CZ08074](#). The parcels were never substantially developed for industrial or residential use and have been vacant for several decades. As noted previously, the parcels are currently proposed for the R-T Residential Transition zoning district.
4. The area currently shown as Industrial on the FLU map is directly adjacent to an existing residential neighborhood, which makes it inappropriate for industrial uses. The Industrial FLU designation also does not align with the existing and proposed zoning on the site.
5. As noted in the Use Permit, the Commercial area is intended to provide adequate separation from the I-1 Industrial zoning and railroad tracks north of Leighton Ave. The Commercial area also allows for small-scale commercial uses directly adjacent to the surrounding neighborhood, which is an important element to the complete neighborhoods concept in the 2050 Comprehensive Plan.
6. This amendment will align the FLU map with the City’s intentions for the site and ensure that development is compatible with the existing residential neighborhood.
7. As part of this amendment, Planning staff reviewed the surrounding area for other FLU clean-up items. One proposed update was found: the Public/Semi-Public FLU boundary near 28th & Merrill is being adjusted to align with the existing LES substation in that location. The area is already within the P Public zoning district. This is considered a minor clean-up item to reflect current conditions.

EXISTING ZONING: R-2 Residential, P Public

EXISTING LAND USES: Vacant, LES Substation

PROPOSED AMENDMENT

Amend the 2050 Lincoln-Lancaster County Comprehensive Plan as follows:

1. Figure GF.b: 2050 Future Land Use: updates as shown on the attached figure

Prepared by

Andrew Thierolf, Planning Department
(402) 441-6371 or athierolf@lincoln.ne.gov

July 6, 2022













Applicant: David Cary, Director
Lincoln-Lancaster County Planning Department
555 S 10th Street, Suite 213
Lincoln, NE 68504

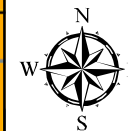
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CPA # 22004
N 27th St & Leighton Ave

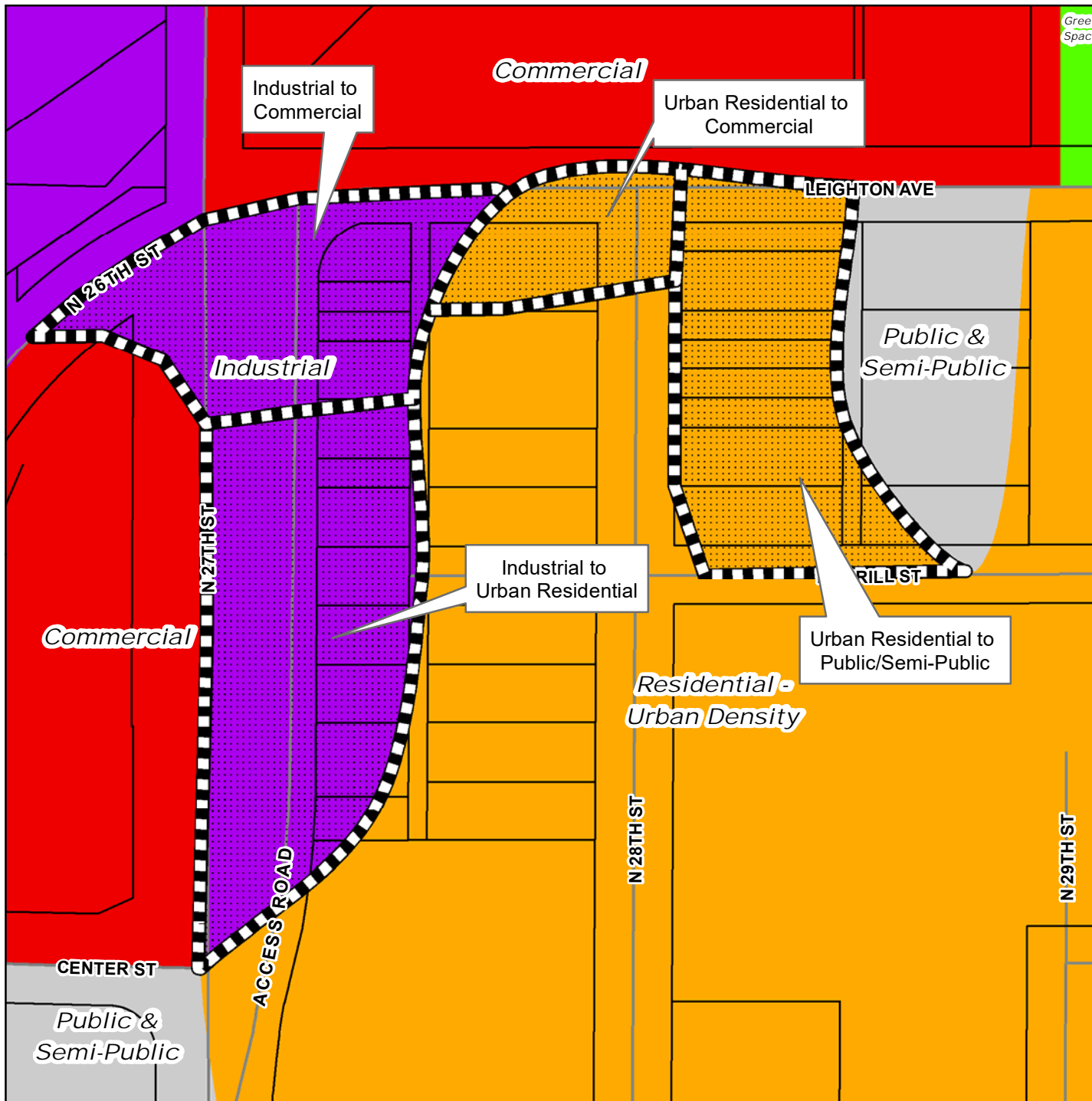
Proposed Future Land Use Changes

Legend

-  Application Areas
-  Tax Parcels
- Future Land Use**
-  AG
-  AG STREAM
-  Commercial
-  Environmental Resources
-  Green Space
-  Industrial
-  Public/Semi-Public
-  RES-LOW
-  Residential - Urban Density
-  Lakes & Streams



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(CPA22004)



MEMORANDUM

TO: File

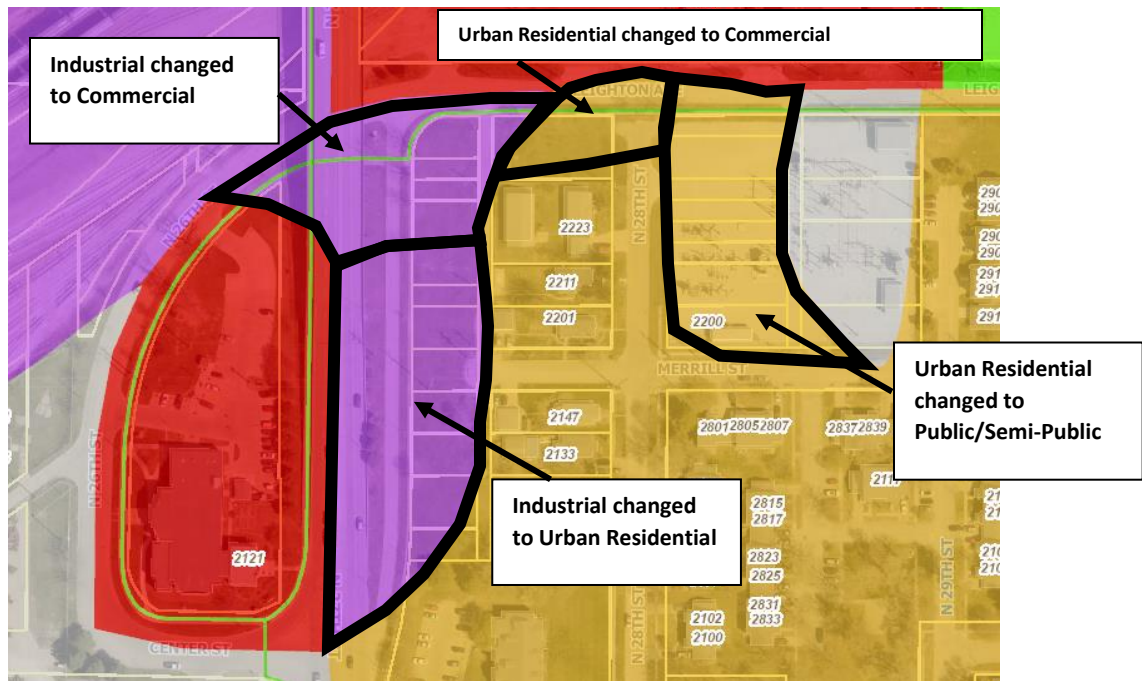
FROM: Lincoln-Lancaster County Planning Department

SUBJECT: FLU Update at 27th & Leighton

DATE: June 15, 2022

This is an application to amend the Future Land Use Plan of the Lincoln-Lancaster County 2050 Comprehensive Plan to adjust the Industrial, Commercial, and Urban Residential boundaries near 27th & Leighton. The area in question is subject to a residential use permit application (UP22005), change of zone (CZ22015), and surplus (CPC22018) that are scheduled for Planning Commission review on June 22.

Also included in this amendment is a minor clean-up to adjust the Public/Semi-Public boundary to more closely match the existing LES substation.



Lincoln City-Lancaster County Planning Department
555 S. 10th St., Rm. #213 • Lincoln NE 68508
Phone: (402) 441-7491 • Fax: (402) 441-6377

COMPREHENSIVE PLAN SPECIFICATIONS:

Introduction Section: Growth Framework

[Figure GF.b: 2050](#) - This site is shown as future Urban Residential on the 2050 Future Land Use Plan.

The Community in 2050

The following assumptions provide the framework for growth in the 2050 plan.

Lancaster County is projected to add approximately 53,000 households by 2050, with 48,000 of those new households in Lincoln (roughly 1,600 new households per year).

New growth areas will have an average gross residential density of 4.0 du/acre.

The population age 65 and above is projected to increase from 45,600 (14.2 percent of total) in 2020 to 74,900 (17 percent of total) in 2050.

Goals Section

G1: Safe, Affordable, and Accessible Housing. Lincoln and Lancaster County will support the development of safe, affordable, and accessible quality housing that meets the diverse needs of the community. PlanForward understands the ongoing need for affordable housing and supports development of 5,000 affordable units by the year 2030.

G2: Complete Neighborhoods. Lincoln and Lancaster County will support complete neighborhoods within both developing and redeveloping areas of Lincoln. A complete neighborhood is one where residents are able to get the goods and services to meet daily needs within 15 minutes of their residence including a variety of housing options, grocery stores and other commercial services, quality public schools, public open spaces and recreational facilities, affordable active transportation options, and civic amenities. Housing variety should include townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and even small lot single-family.

G3: High-Quality Workforce. Lincoln and Lancaster County will strive to remove barriers to economic stability and mobility in the community by supporting a skilled and educated workforce that is able to adapt to economic, technological, and cultural changes. A high-quality workforce benefits the entire community because it attracts quality employers and entrepreneurs, which helps to grow our population and tax base and facilitates quality of life investments across a variety of sectors, and it ensures that Lincoln and Lancaster County are well-positioned to compete in tomorrow's economy.

G4: Economic Opportunity. Lincoln and Lancaster County will have high-quality jobs in an economic environment that supports business creation, innovation, and expansion. Quality-of-life attributes, such as diverse and accessible housing, good shopping, restaurants and entertainment, quality schools and healthcare, a sense of safety, and amenities such as parks and trails are important to ensuring that skilled individuals want to remain or relocate to our community.

Policies Section

P1: Housing Affordability - Make available a safe residential dwelling for all residents.

Action Steps

1. Implement the housing and neighborhood strategies as embodied in the Affordable Housing Coordinated

Action Plan, City of Lincoln Consolidated and Annual Action Plans and subsequent housing and neighborhood plans. These plans provide the core for affordable housing and neighborhood preservation actions for public and private agencies.

2. Distribute and preserve affordable housing throughout the community to be near job opportunities and public transit and to provide housing choices within existing and developing neighborhoods.
3. Encourage public/private partnerships with housing entities such as Lincoln Housing Authority, Affordable Housing Initiatives, Habitat for Humanity, and NeighborWorks Lincoln.
4. Provide for more education of the public about affordable housing and code enforcement.
5. Promote the preservation, maintenance and renovation of existing housing and neighborhoods throughout the city, with special emphasis on low and moderate income neighborhoods.
6. Preserve the existing affordable housing stock, increase the supply of affordable owner and renter units, and add more variety in housing types.

P3: Developing Neighborhoods - Accommodate and encourage growth that aligns with PlanForward's growth scenario and provides a mix of housing options with convenient access to parks, schools, shopping, jobs, and other community resources.

Action Steps

1. Provide for an adequate supply of land and timely infrastructure improvements that meet the demands of growth.
2. Structure incentives to encourage higher densities to make greater use of the community's infrastructure.
3. Encourage new development to achieve densities greater than five dwelling units per gross acre by zoning at least 20% of residentially zoned land in developing areas to allow greater than five dwelling units per acre by right.
4. Develop new design standards or zoning tools that encourage density, optimize infrastructure costs, and help lower the overall cost of property development.
5. Implement elements of Complete Neighborhoods for Developing Areas.
6. Develop and utilize a measurement tool to evaluate neighborhoods in terms of how well they achieve PlanForward's goals for design, sustainability, and Complete Neighborhoods goals.
7. Encourage public and private investment in neighborhood infrastructure and services to support economic diversity that improves the quality of life for all residents.
8. Include housing for a variety of incomes and households throughout the community that is integrated into neighborhoods and provides appropriate transitions, scale, and context.
9. Promote mixed-income neighborhoods.
10. Preserve areas designated for multi-family, and group living housing in approved plans to support a distributed choice in affordable housing.
11. Support addition of higher density development in existing multi-family development.
14. Promote neighborhood and community design that supports healthy and active lifestyles, such as the benefits of street trees.
16. Encourage a variety of housing types including townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and small lot single-family units.

ANALYSIS

1. This is a request to review as to conformance with the 2050 Lincoln-Lancaster County Comprehensive Plan, the South Folsom Redevelopment Plan. The redevelopment area is located at the southeast corner of South Folsom Street and West Pioneers Boulevard. The plan boundary includes the recently approved Foxtail Meadows PUD which spans from West Pioneers Boulevard south to the Optimist Athletic Complex, and between South Folsom Street and U.S. Highway 77. Currently the 53.5-acre plan area consists of farmland, the existing Hope Community Church, and adjacent right-of-way.
2. The redevelopment plan includes three separate sub-phase areas for Phase 1 which include:

- a. Sub-Phase 1a: Consists of 131 units of multifamily and townhome dwellings expected to be financed using a 4% Low Income Housing Tax Credits (LIHTC) bond execution and restricted to families with incomes below 60% Area Median Income.
 - b. Sub-Phase 1b: Includes up to 35 townhome dwellings expected to be financed using a 9% LIHTC execution and restricted to families with incomes below 60% Area Median Income.
 - c. Sub-Phase 1c: Comprised of up to 29 small lot single family detached units to be financed using a combination of Nebraska Affordable Housing Trust Funds and conventional financing or Missing Middle Workforce Housing Grant Funds and conventional financing.
3. Redevelopment activities are guided by the Nebraska Community Development Law (§ 18-2101, et. seq.) which requires that the governing body must first declare the project area substandard and blighted in order to prepare a redevelopment plan. The Redevelopment Area was determined as blighted and substandard with the South Folsom Redevelopment Area Blight and Substandard Study (MISC 21014). The Study identified three “substandard” and nine “blighted” factors that show a strong presence in the Redevelopment Area. The Blight and Substandard study was approved by Planning Commission on January 19 and by City Council on February 14, 2022.
 4. The designation of blight and substandard for the redevelopment area, along with creation of this Redevelopment Plan, makes projects within the redevelopment area potentially eligible for Tax Increment Financing (TIF) that can be applied to public improvements.
 5. Redevelopment plans in general, including the South Folsom Redevelopment Plan, are intended as a guide to direct private and public resources to:
 - a. Eliminate or prevent the spread of urban blight;
 - b. Encourage urban rehabilitation;
 - c. Provide for the redevelopment of substandard and blighted areas including provisions for the prevention of the spread of blight into areas currently free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards;
 - d. Rehabilitation or conservation of substandard and blighted areas by replanning, removing congestion, providing parks, playgrounds, and other public improvements by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated and deteriorating structures;
 - e. Clear and redevelop substandard and blighted areas or portions thereof.
 6. The goal of the project is to provide new and affordable housing options in the southwest area of the city with development of both mixed-use residential and commercial space as part of the redevelopment plan. The approved PUD will allow for single family, two-family, and multifamily residential uses, along with a maximum of 15,000 square feet of commercial. The Plan details the PUD area being separated into three separate areas that will develop in three future phases. The project will make positive contributions to the continued removal of blight and substandard conditions in the redevelopment area, while adding additional affordable housing options within Lincoln.
 7. The total construction and development costs for the proposed South Folsom Redevelopment Project are estimated to be \$100 million. The final project costs will be determined at the conclusion of the completed project design. The public investment is approximately \$9.25 million. These public investments will leverage the private investments \$38,500,000. This will result in an estimated range of \$10,000,000 in Tax Increment Financing (TIF) over 15 years to help fund public improvements. Thus, for every City TIF dollar invested, there will be \$4.16 of private investment.
 8. The project is consistent with goals in the Comprehensive Plan by encouraging development within the area designated as future urban residential. The project proposes the addition of residential uses at a density compatible with the designated future land use and proposes options for affordable housing within the city limits.

9. The South Folsom Redevelopment Plan can be found on the Planning Application Tracking System, search: (CPC22012). <https://app.lincoln.ne.gov/asp/city/pats/> or at the following link: <https://ecmp.nebraska.gov/COL-PATSPAV/212/1402/CPC22012/Home/ViewDocument?id=121935879>

EXISTING ZONING: R-4, Planned Unit Development (PUD)

EXISTING LAND USES: Hope Community Church and farm ground

SURROUNDING LAND USE AND ZONING:

North: R-3 Residential	Single-family residential
South: AG Agriculture	Optimist athletic fields
East: AG Agriculture	Hwy 77, Farm ground
West: AG Agriculture	YMCA athletic fields, farm ground

APPLICATION HISTORY

February 2022 Miscellaneous #21014 for the South Folsom Redevelopment Area Blight & Substandard Determination Study was approved by the City Council.

March 2022 Annexation #21011 & Change of Zone #21055 for Foxtail Meadows Planned Unit Development was approved by the City Council. This annexed approximately 61 acres, with 47 acres changed from AG, Agriculture to R-4, PUD.

APPROXIMATE LAND AREA: 53.51

Prepared by

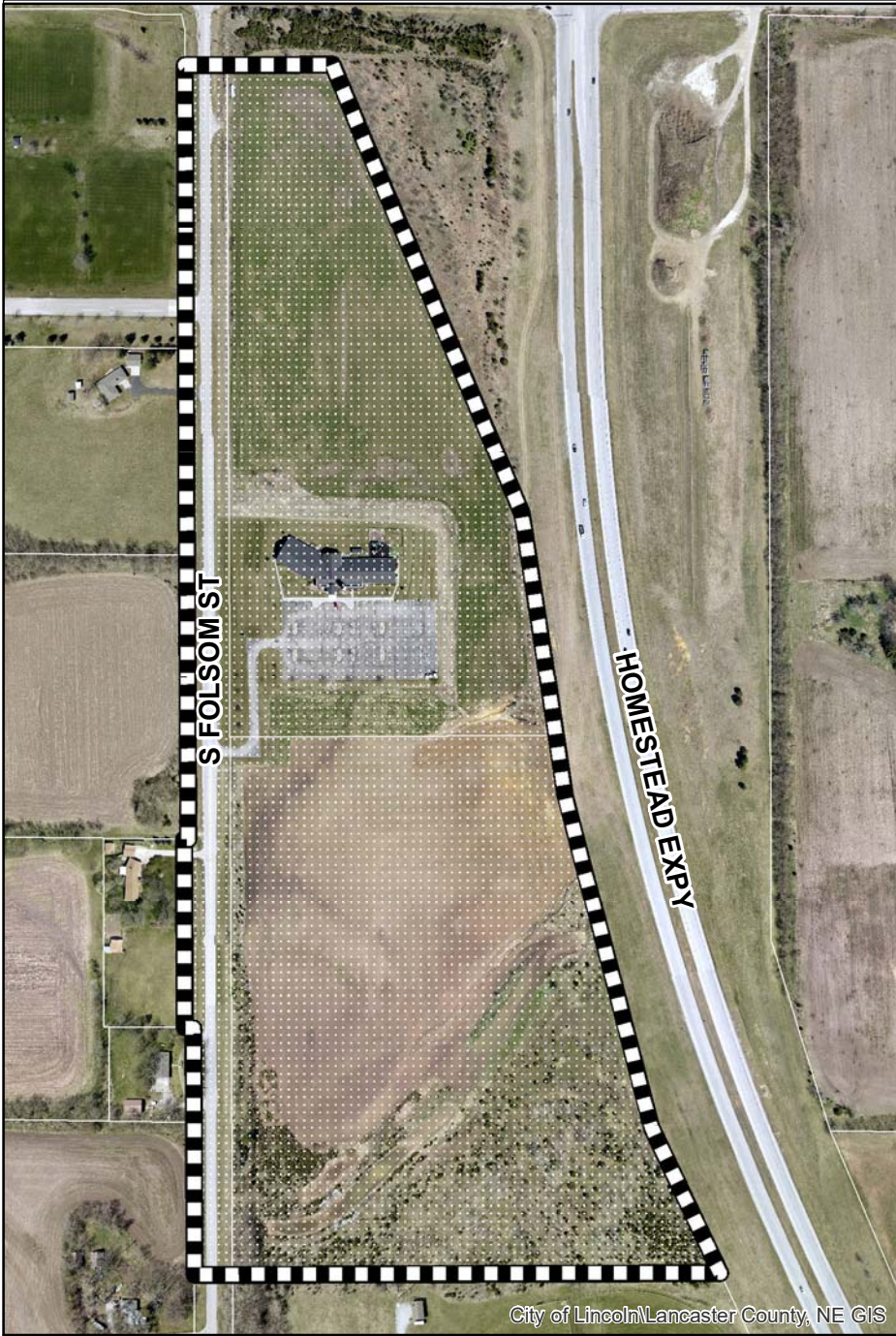
Ben Callahan, Planner
(402) 441-6360 or bcallahan@lincoln.ne.gov

Date: June 30, 2022

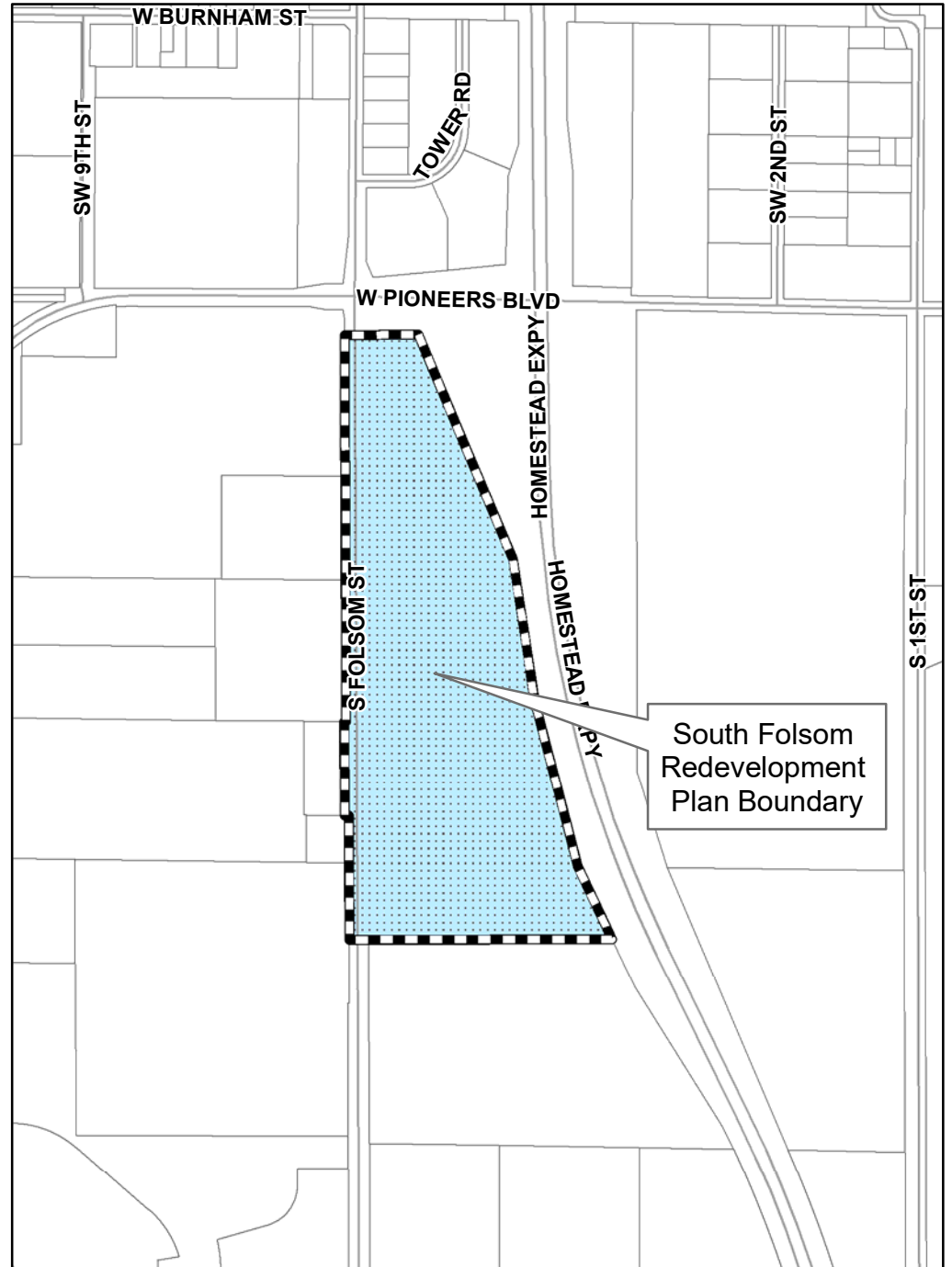
Applicant: Urban Development Department
City of Lincoln
555 S. 10th Street, Suite 205
Lincoln, NE 68508

Contact: Wynn Hjermstad
(402) 441-8211 or whjermstad@lincoln.ne.gov

<https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/CPC/22000/CPC22012 South Folsom Redevelopment Project.bmc.docx>



City of Lincoln/Lancaster County, NE GIS



Comprehensive Plan Conformance #22012

South Folsom Redevelopment Project

S Folsom St & W Pioneers Blvd



June 15, 2022

David Cary, Director
City of Lincoln-Lancaster County Planning Department
555 S. 10th
Lincoln, NE 68508

Dear David:

Enclosed is the *South Folsom Redevelopment Plan*. This is a new Redevelopment Plan generally located east of South Folsom, south of Pioneers Boulevard. The Plan addresses statutory elements required by the State of Nebraska's Community Development Law. The principal project identified is Foxtail Meadows which is a proposed mixed-use neighborhood with up to 650 affordable and workforce housing units, both rental and for homeownership. The project provides a mix of housing types including single family attached, row homes, and multi-family.

Please forward the Plan to the Planning Commission for their earliest consideration for Comprehensive Plan conformance. My understanding is that the Plan should be on the July 13, 2022 agenda.

If you have questions or need additional information, please contact me at whjermstad@lincoln.ne.gov. Thank you.

Sincerely,



Wynn S. Hjermstad, AICP
Community Development Manager

Cc: Dan Marvin, Director, Urban Development Department

enc.

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER
Annexation #22006
Change of Zone #22011

FINAL ACTION?
No (both applications)

DEVELOPER/OWNER
9440 Development, LLC

PLANNING COMMISSION HEARING DATE
July 13, 2022

RELATED APPLICATIONS
SP#22013 Thorn Addition Community
Unit Plan

PROPERTY ADDRESS/LOCATION
South 98th Street and Pioneers Blvd

**RECOMMENDATIONS: ANNEXATION #22006
CHANGE OF ZONE #22011**

**CONDITIONAL APPROVAL
APPROVAL**

BRIEF SUMMARY OF REQUEST

This is a combined staff report for two related applications associated with the Thorn Addition Community Unit Plan (CUP), located northwest of the intersection of Thorn Court and Pioneers Blvd. The first is a request for annexation, and the second is a request for rezoning from AGR to R-1. The area of the requests is approximately 8.4 acres, but the annexation also includes the adjacent right-of-way in Pioneers Blvd.

The associated Special Permit #22013 for the Thorn Addition CUP proposes an overall site layout for the development. That plan shows 4 lots for single-family dwellings. There are several waivers requested as part of the CUP and those are discussed as part of the separate review for the special permit.



JUSTIFICATION FOR RECOMMENDATION

The subject property is adjacent to the city limit, and the full range of municipal services can be provided within the next six years if annexed. A change of zone to R-1 is consistent with the Future Land Use Map and compatible with the development in the area. Both requests comply with the Zoning Ordinance and are consistent with the Comprehensive Plan.

APPLICATION CONTACT

Tim Gergen 402-477-9291 or
tim.gergen@clarkenersen.com

STAFF CONTACT

Brian Will, (402) 441-6362 or
bwill@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The site is designated for future urban density residential land uses on the Future Land Use Map, and these requests comply with the requirements of the Zoning Ordinance and Comprehensive Plan.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Introduction Section: Growth Framework

Figure GF. b: 2050 - This site is designated for future urban residential land uses on the 2050 Future Land Use Plan.

Fundamentals of Growth in Lancaster County

The City of Lincoln's present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a mix of uses and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

New commercial and industrial development should be located in Lincoln and other incorporated communities. Lincoln has ample land area and infrastructure availability for commercial and industrial development. The situation is similar in most incorporated communities in the county. Rural areas of the county do not have access to urban infrastructure, and commercial or industrial development can add significant traffic and maintenance responsibilities to county roads.

Natural and environmentally sensitive areas should be preserved within and between neighborhoods. Conservation areas and open lands should be used to define and connect different neighborhoods. The natural topography and features of the land should be preserved by new development to maintain the natural drainageways and minimize land disturbance.

Elements Section

E2: Infill Development - Existing Neighborhoods

Infill of housing in existing neighborhoods should respect the existing pattern of development. Infill redevelopment should include housing for a variety of incomes and households and should complement the character of the existing neighborhood by including appropriate transitions, scale, and context.

Examples of infill redevelopment in existing neighborhoods includes:

- Replacement of blighted and deteriorating structures.
- Conversion of single-family homes, or vacant single-family parcels, to duplexes or other low-to-moderate density options when allowed by zoning.
- Adding an accessory dwelling unit (ADU) to a single family home.
- Redevelopment of large parcels, including former school sites, church sites, and acreage homes.
- Residential conversion of small-scale legacy commercial uses.

Goals Section

G1: Safe, Affordable, and Accessible Housing. Lincoln and Lancaster County will support the development of safe, affordable, and accessible quality housing that meets the diverse needs of the community. PlanForward understands the ongoing need for affordable housing and supports development of 5,000 affordable units by the year 2030.

G2: Complete Neighborhoods. Lincoln and Lancaster County will support complete neighborhoods within both developing and redeveloping areas of Lincoln. A complete neighborhood is one where residents are able to get the goods and services to meet daily needs within 15 minutes of their residence including a variety of housing options, grocery stores and other commercial services, quality public schools, public open spaces and recreational facilities, affordable active transportation options, and civic amenities. Housing variety should include townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and even small lot single-family.

P80 - Annexation: Annexation should be utilized to provide municipal services in a fair and efficient manner.

The City of Lincoln requires that properties receiving municipal services be located within city limits. City annexation should occur before any property is provided with water, sanitary sewer, or other potential City services. In most cases this also means that annexation must occur prior to a property receiving an urban zoning designation. The City routinely annexes land at the request of a developer or landowner as part of the regular development process. This allows properties to be supplied with City services when they are needed, and the City benefits from the property taxes, utilities, and other fees that City residents pay. Some properties along the City's edge may not be interested in further development and thus will not request annexation. In some cases, it is necessary for the City to initiate annexation of adjacent properties that are already developed and require a minimal public investment to serve.

Action Steps

1. Regularly evaluate for potential annexation all property along the city's edge for which basic infrastructure is generally available or planned for in the near term. The City should annex land in Tier 1 Priorities A and B that is contiguous to city limits and generally urban in character. All land that is engulfed by the City should be annexed.
2. Provide advance notice to properties that may be subject to city-initiated annexation.
3. Properties within the Tier 1 Priority A growth area should be annexed upon approval of final plat.
4. Coordinate the provision of services for areas considered for annexation with the Capital Improvement Program.

UTILITIES & SERVICES:

A. Sanitary Sewer: Public sanitary sewer is available either by paying a connection fee to the Firethorn Utility Corp. and connecting to the sanitary sewer system in adjacent Firethorn, or waiting for a future connection to a sewer main to be built in South 98th Street. Lancaster County has planned improvements in South 98th but the date is indeterminate. LTU does not want to disrupt a newly improved roadway and plans to construct the sewer line in South 98th Street in advance of those planned improvements. The City has \$1 Million programmed for the construction of the sewer main in 2023-2024 and anticipates it will be complete by December 2024. A sewer main must also be constructed from Thorn Court to connect to the future main in South 98th Street but there are no funds to build it at this time.

B. Water: Public water is available in Thorn Court and Pioneers Blvd.

C. Roads: Thorn Court is a local public street, access to all the lots in the CUP will be from it.

Pioneers Blvd is an arterial street is paved to county standards but has not been improved to City standards adjacent to this development. The intersection with Thorn Court is existing and no improvements should be required associated with this development.

D. Fire Protection: After annexation, fire protection will be provided by Lincoln Fire Rescue (LFR). A new fire/police station has been constructed near South 84th Street and Pioneers Blvd and will provide coverage to this development.

ANALYSIS

1. These are related requests for both annexation and a change of zone. They are associated with Special Permit #22013 which is proposing a 4-lot CUP for single-family dwellings. The annexation request seeks annexation of the entire 8.4-acre parcel along with the adjacent right-of-way in Pioneers Blvd as required by State Statute. The change of zone seeks a change of zone from AGR to R-1 for the entire parcel.
2. The area to be annexed is located within Tier I, Priority B of the Comprehensive Plan. All utilities, including public water and sewer, either exist adjacent or near the area of these requests and can be extended to serve this development, or in the case of sanitary sewer will be generally available within the next six years. The development can be served by the full range of city services.

As noted in the PlanForward 2050 Growth Framework section, Priority B areas move to Priority A upon approval of development plans. Following approval of this proposal, the 2050 Priority Growth Areas Map will be updated to show this area as Priority A.

3. The subject property is located within the Southeast Rural Fire District #1. Under State law, the District can petition for compensation from the annexing municipality for lost revenue based upon the amount of service area annexed. For voluntary annexations such as this one, any costs due to the district are to be borne by the developer. In this case however, staff has conducted the financial analysis and there should be no funds due to the District.
4. It is also the developer's responsibility to reach an agreement regarding any compensation due the Rural Water District #1 (RWD#1) as a result of the proposed annexation. The subject property lies within the boundary the RWD#1. As a result, this developer will need to demonstrate that all the property within the boundary of the proposed annexation has been released by the RWD and that there will be no additional claim of reimbursement as a result of this annexation prior to consideration of this request by the City Council.
5. The site is designated for future urban density residential land uses on the Future Land Use Map and is consistent with the associated special permit for the Thorn Addition CUP. These requests comply with the requirements of the Zoning Ordinance and Comprehensive Plan.

EXISTING LAND USE & ZONING: Residential AGR

SURROUNDING LAND USE & ZONING

North: Residential	R-1
South: Pioneers Blvd, Acreage Residential	AG
East: Residential	R-1
West: Golf Course	R-1

APPROXIMATE LAND AREA:

Annexation #22006 - Approximately 8.4 acres plus adjacent right-of-way in Pioneers Blvd.
 Change of Zone #22011 - Approximately 8.4 acres.

PROPOSED CITY COUNCIL DISTRICT ASSIGNMENT: District #2

LEGAL DESCRIPTION:

Annexation #22006: Lot 1, Firethorn 14th Addition and Outlot D, Firethorn 15th Addition, including the adjacent right-of-way in Pioneers Blvd, all located in the SE ¼ of Section 2-9-7, Lancaster County, Nebraska.
 Change of Zone #19005: Lot 1, Firethorn 14th Addition and Outlot D, Firethorn 15th Addition, all located in the SE ¼ of Section 2-9-7, Lancaster County, Nebraska.

Prepared by

 Brian Will,
 June 30, 2022
bwill@lincoln.ne.gov or 402-441-6362

Applicant/Contact: Tim Gergen
 The Clark Enersen Partners
 1010 Lincoln Mall
 Lincoln, NE 68508
 402-477-9291
 tim.gergen@clarkenersen.com

Owner: 9440 Development, LLC
 6901 Laurent Circle
 Lincoln, NE 68526
 402-560-0291
dane@whitecaslerroofing.com

CONDITIONS OF APPROVAL - ANNEXATION #22006

1. Approval of the release from the Rural Water District #1 prior to consideration by the City Council.
2. The owner will enter in an annexation agreement with the City prior to City Council approval.



City of Lincoln/Lancaster County, NE GIS

**Annexation #: AN22006, Special Permit #: SP22013 and
Change of Zone #: CZ22011 (AGR - R-1)
Thorn
S 98th St & Pioneer Blvd**




2020 aerial

Zoning:

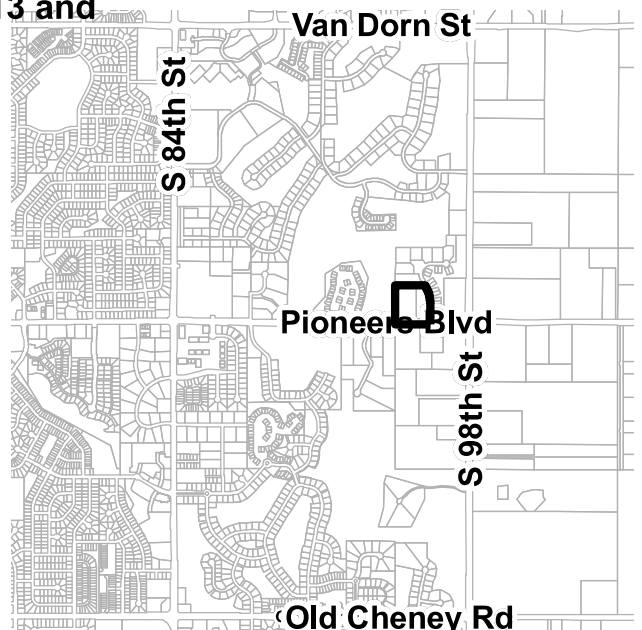
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial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

Two Square Miles:
Sec.02 T09N R07E
Sec.11 T09N R07E



	Area of Application
	Zoning Jurisdiction Lines
	Existing City Limits

20



May 26, 2022

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

RE: Thorn
Annexation; Change of Zone
Special Permit – Community Unit Plan

Dear Mr. Cary:

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

1. Application fee; \$3,421.20 (\$1,005 change of zone + \$2,416.20 special permit)
2. Application
3. Special Permit Site Plan
4. Existing Grading & Drainage Plan
5. Proposed Grading & Drainage Plan

On behalf of the Owner/Developer, 9440 Development LLC, 6901 Laurent Cir, Lincoln NE, 68526 we are requesting annexation, change of zone from AGR Agricultural Residential to R-1 Residential District and a Community Unit Plan with waivers for property located at 9440 Pioneers Blvd. This property is located at the NW corner of the intersection of Pioneers Blvd and Thorn Court. The development is proposed to be a low impact development with 4 large acreage lots that will take driveway access from the existing private street, Thorn Court. Sidewalks are requested to be waived to follow the character of the existing neighborhood and setbacks are being waived to the internal outlots for stormwater measures. To assist the city with a possible future access if the golf course redevelops; half a street right of way is being shown at the quarter-mile access point to Pioneers Blvd.

Please contact me if you have any questions or require additional information.

Sincerely,



Tim Gergen

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Special Permit #22013 Thorn Addition Community Unit Plan	FINAL ACTION? Yes	DEVELOPER/OWNER 9440 Development, LLC
PLANNING COMMISSION HEARING DATE July 13, 2022	RELATED APPLICATIONS AN#22006 and CZ#22011	PROPERTY ADDRESS/LOCATION NW of Thorn Court and Pioneers Blvd

RECOMMENDATION: CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request for a special permit for a Community Unit Plan (CUP) for up to 4 lots for single-family dwellings. The subject parcel is located northwest of the intersection of Thorn Court and Pioneers Blvd.

This application is associated with two related applications, AN#22006 and CZ#22011 which propose to both annex and re-zone the property from AGR to R-1 Residential. While this request may be approved by the Planning Commission, the associated requests require City Council approval. As a result, approval is conditioned upon the City Council’s action on the associated requests.

Several waivers are requested recognizing the existing development conditions in the area. Each waiver is discussed below in this report.

JUSTIFICATION FOR RECOMMENDATION

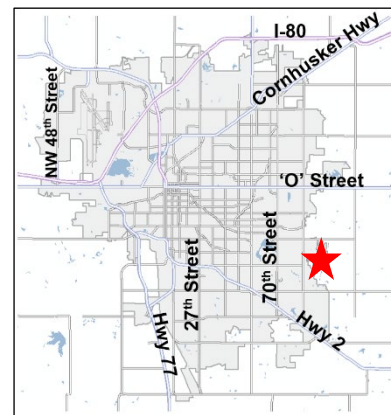
The subject property is adjacent to the city limit, and the full range of municipal services can be provided if annexed. A change of zone to R-1 is consistent with the Future Land Use Map and compatible with the development in the area. This request generally complies with the Zoning Ordinance and is consistent with the Comprehensive Plan.

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The 2050 Comprehensive Plan supports infill redevelopment, especially near existing transportation corridors and where it is compatible with surrounding uses. The proposed land use and density are consistent with surrounding development and comply with the requirements of the Zoning Ordinance.

WAIVERS

1. Subdivision Ordinance, Section 26.23.095 to waive a sidewalk. (Recommend Approval)
2. Subdivision Ordinance, Section 26.11.040 to waive storm water detention. (Recommend Denial)
3. Subdivision Ordinance, Section 26.23.140 to allow lots without frontage. (Recommend Approval)
4. Zoning Ordinance, Section 27.72.020(a) to adjust setback to 0’ next to outlots (Recommend Approval)



APPLICATION CONTACT

Tim Gergen 402-477-9291 or tim.gergen@clarkenersen.com

STAFF CONTACT

Brian Will, (402) 441-6362 or bwil@lincoln.ne.gov

COMPREHENSIVE PLAN SPECIFICATIONS:

Introduction Section: Growth Framework

Figure GF.b: 2050 - This site is designated for future Urban Density Residential land uses on the 2050 Future Land Use Plan.

Fundamentals of Growth in Lancaster County

The City of Lincoln's present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a mix of uses and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

Goals Section

G1: Safe, Affordable, and Accessible Housing. Lincoln and Lancaster County will support the development of safe, affordable, and accessible quality housing that meets the diverse needs of the community. PlanForward understands the ongoing need for affordable housing and supports development of 5,000 affordable units by the year 2030.

G2: Complete Neighborhoods. Lincoln and Lancaster County will support complete neighborhoods within both developing and redeveloping areas of Lincoln. A complete neighborhood is one where residents are able to get the goods and services to meet daily needs within 15 minutes of their residence including a variety of housing options, grocery stores and other commercial services, quality public schools, public open spaces and recreational facilities, affordable active transportation options, and civic amenities. Housing variety should include townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and even small lot single-family.

Elements Section

E1: Complete Neighborhoods and Housing

A complete neighborhood is more than housing - great neighborhoods combine all the elements of parks, education, commercial areas, environmental resources, and housing together in one place.

A complete neighborhood is one where residents have safe and convenient access to goods and services needed for daily life activities.

Figure E1.a: Strategies for Design, Sustainability and Complete Neighborhoods in Developing Areas

1. Encourage a mix of compatible land uses to develop more complete neighborhoods:
 - a. Similar uses on the same block face: residential faces residential.
 - b. Similar housing densities developed near each other: single-family and "missing middle" residential (3-12 units) scattered throughout with higher density residential (more than 12 units) near the neighborhood edge or clustered near commercial centers.
 - c. Non-residential uses, including parking lots, should be screened from residential areas.
 - d. Locate Commercial Centers so as residents can safely access essential goods and services (i.e. not located across arterial streets) and no more than a 15-minute walk from all residences.
2. Require sidewalks on both sides of all streets.
3. Encourage locations within neighborhoods to grow local food.
4. Plan for residences to be located within 1 mile to an existing or planned multi-use trail.
5. Plan for residences to be located within 1/2 mile to an existing or planned neighborhood park.
6. Integrate transit stops into developing neighborhoods and within a 1/2 mile distance from residences.
7. Encourage employment areas to be within a 15-minute walking distance to residences.
8. Plan for elementary or middle schools to be within a 15-minute walking distance to residences.
9. Encourage pedestrian orientation with parking at rear of residential and commercial uses.
10. Develop shorter block lengths to provide multiple connections across residential and commercial areas.

11. Provide pedestrian connections when maximum block lengths are exceeded.
12. Encourage shared City and School facilities (aka SPARKS).
13. Provide adequate curb space to allow for on-street parking.
14. Encourage alley access and shared driveways to reduce interruptions to pedestrians, to preserve on street parking capacity, and to reduce automobile conflict points.
15. Support preservation or restoration of natural areas, and limit stream or drainageway crossings.

Policies Section

P8: Infill and Redevelopment - Encourage infill and redevelopment in appropriate locations throughout the community in order to meet the assumption for 25% of all new dwelling units being infill.

Action Steps

1. Encourage redevelopment of aging and underutilized commercial centers, along with other large sites in existing areas such as former schools and residential acreages, to add a variety of housing types that are affordable to diverse income levels. A mix of residential and commercial uses is desirable in locations with good visibility and access, such as most existing commercial centers, but in some cases redevelopment sites are more suited for exclusively residential uses.
2. Encourage redeveloped commercial centers to incorporate a variety of medium and high-density housing affordable to diverse income levels that could serve as a transitional use to less intensive residential development and benefit from walkable access to the commercial area and transit.
4. Provide a mechanism for adjustments in older zoning districts to lot area, height, setbacks, and parking standards, similar to the provisions already available for newer districts.
5. Strive for predictability for neighborhoods and developers for residential development and redevelopment.
6. Encourage efforts to find new uses for abandoned, under-utilized or “brownfield” sites that are contaminated, through redevelopment and environmental mitigation.
7. Environmentally sensitive areas (i.e. floodplains, wetlands, native prairie) may not be appropriate for redevelopment. When redevelopment does occur, environmentally sensitive areas need to be considered and incorporated holistically as part of a redevelopment project.

ANALYSIS

1. This is a request for a special permit for a Community Unit Plan (CUP) for up to 4 dwelling units for detached single family homes. It is associated with AN#21006 and CZ#21011 which seek to annex the subject 8.4-acre parcel and re-zone it to R-1 Residential.
2. The special permit can be approved by the Planning Commission, however that action is subject to the approval of the annexation and change of zone which must be approved by the City Council.
3. For the R-1 zoning district the Design Standards allow a maximum of 3.87 dwelling units per acre in a CUP. For this site that equates to a maximum of 32 units. The site plan used shows 4 units and is well below the maximum allowed.
4. This would be considered an infill development as the land to the west (golf course), north (single-family dwelling), and east (single-family dwellings) are all developed. Access is via Thorn Court which is a paved public city street road originally built in 1999. Direct access to Pioneers Blvd is not requested nor allowed.
5. If annexed, the full range of city services can be provided. It is noted that sanitary sewer is potentially available by two means. First, after paying a connection fee to the Firethorn Utility Service Company the development would be eligible to connect to the larger Firethorn system which is pumped into the City of Lincoln’s sewer system.

Second, the owner could wait for a future connection to a sewer main to be built in South 98th Street. Lancaster County has planned improvements in South 98th but the date is indeterminate. The Lincoln Transportation and Utilities Department (LTU) does not want to disrupt a newly improved roadway and plans to construct the sewer line in South 98th Street in advance of those planned improvements. The City has \$1 million programmed for the construction of the sewer main in 2023-2024 and anticipates it will be complete by December, 2024. A sewer main must also be constructed from Thorn Court to connect to the future main in South 98th Street but there are no funds to build it at this time.

6. The applicant has requested 3 waivers to the Lincoln Municipal Code:
- a. **Subdivision Ordinance, Section 26.23.095 to waive a required sidewalk on the west side of Thorn Court.** This development is coming to an area that has been developed for many years and where there are existing conditions. Thorn Court was built consistent with the waivers approved for the larger Firethorn CUP where sidewalks, curb and gutter and even street trees were waived. The Subdivision Ordinance requires this development to install a sidewalk along that portion of Thorn Court adjacent at the time of final plat as this is a stand-alone CUP and not a part of the larger Firethorn CUP and those waivers don't carry over.

This development will function as a part of the larger Firethorn development much in the same way as the existing dwellings along Thorn Court or Pioneer Court located a few blocks to the west do. It is unfortunate that sidewalks were waived in Firethorn. It has resulted in a neighborhood that lacks anywhere for people to walk other than in the street. This doesn't provide a separated safe route for children and people with mobility challenges. However, adding a small stretch of sidewalk in a nearly one square mile neighborhood without sidewalks doesn't help the circumstances, so the waiver can be approved.
 - b. **Subdivision Ordinance, Section 26.11.040 to waive storm water detention.** LTU/Watershed Management still has corrective comments and is in discussion with the applicant. Given there are recommended changes from LTU to the grading and drainage plan as submitted, the recommendation to the waiver is for denial. The issues may be resolved between LTU and the applicant but in the meantime the requirement to make the corrections to the satisfaction of LTU Watershed Management is a recommended condition of approval.
 - c. **Subdivision Ordinance, Section 26.23.140 to allow lots without frontage to a public street or private roadway.** The site plan shows Lots 2, 3 and 4 with frontage to a public street, Lot 1 is the only one without it. It is recommended that the lot layout be revised to eliminate the 'panhandles' for Lots 2 and 3 which extend to Thorn Court. Long, narrow lot extensions such as those shown do not help create suitable lots and more often than not cause confusion over locations of lot lines. As a practical matter, long narrow lot areas such as those shown are just not useable.

If the 'panhandles' are removed, the cross-hatched area should be put into a separate outlot with a blanket common access easement granted over it. A common driveway can be built to provide access to all four lots, and the outlot and any improvements will be the common maintenance responsibility of the Thorn homeowners association. All four homes will use the common driveway so it makes sense to have the association maintain and own the driveway compared to the proposed layout with two homes owning part of the driveway.
 - d. **Zoning Ordinance, Section 27.72.020(a) to adjust setback to 0' next to Outlots A and C.** Outlots A and C are the two 30'-wide outlots adjacent to Thorn Court dedicated to stormwater and utility easements. Adjusting the setback to 0' adjacent to these outlots still results in homes being setback at least the width of the outlot, which is 30' and is the same as the front setback for the R-1 zoning district.
7. Outlot B in the southwest corner of the site plan is shown to be dedicated in the future as right-of-way. The City has determined this is the appropriate location for a future one-quarter mile access point. At such time as the Firethorn golf course redevelops this will become the one-quarter mile access point for future development on both sides of Pioneers Blvd and likely a location for a future roundabout.
8. A waiver to the setback adjacent to Outlots A and C is requested, and there are lots without frontage to a public street or private roadway. Both of these conditions result in setbacks that may not be readily apparent. For ease of interpretation and clarity at the time of building permits the setbacks for each yard on every lot should be delineated on the site plan.
9. This tract is in the Lancaster County Rural Water District #1 (RWD#1) boundary. Prior to consideration of this and the associated requests by the City Council the owner will need to provide proof of release from the RWD#1. Also, the owner is typically made responsible for any potential compensation due to the Southeast Rural Fire District (SERFD) as a result of annexation. SERFD Currently has no debt so there is no compensation due at this time, but that could change. As a result the owner will be required to enter into an annexation agreement with the City where he assumes any potential financial responsibility to SERFD.

CONDITIONS OF APPROVAL - SPECIAL PERMIT #22013

Per Section 27.63.320 this approval permits a Community Unit Plan for up to 4 dwelling units with waivers to to install a sidewalk on the west side of Thorn Court, to adjust the required setback to 0' adjacent to Outlots A & C, and to allow lots without frontage to a public street or private roadway.

Site Specific Conditions:

1. City Council approves associated requests AN#22006 and CZ#22013.
2. Before a final plat is approved the permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 2 copies with all required revisions and documents as listed below:
 - 2.1 Make the following revisions:
 - 2.1.1 Revise the site plan to show the existing right-of-way width from centerline in Pioneers Blvd adjacent to the development.
 - 2.1.2 Show the additional 10' of right-of-way dedication for a turn lane to the satisfaction of LTU.
 - 2.1.3 Correct the spelling error in the label for Outlot A.
 - 2.1.4 Remove the underlying labels and lot lines for the existing lots.
 - 2.1.5 Revise the site plan to eliminate the 'panhandles' for Lots 2 and 3 with a separate outlot or combine the driveway into an outlot with Outlots A and C.
 - 2.1.6 Label the setback for each yard on every lot.
 - 2.1.7 Revise the waiver table consistent with the format of how the waivers are listed in this report to the satisfaction of the Planning Department.
3. Before a final plat is approved provide the following documents to the Planning Department:
 - 3.1 Verification from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.
4. Final plat(s) is/are approved by the City.

If any final plat on all or a portion of the approved community unit plan is submitted five (5) years or more after the approval of the community unit plan, the city may require that a new community unit plan be submitted, pursuant to all the provisions of section 26.31.015. A new community unit plan may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the community unit plan as originally approved does not comply with the amended rules and regulations.

Before the approval of a final plat, the public streets, private roadway improvements, sidewalks, public sanitary sewer system, public water system, drainage facilities, land preparation and grading, sediment and erosions control measures, storm water detention/retention facilities, drainageway improvements, street lights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs, must be completed or provisions (bond, escrow or security agreement) to guarantee completion must be approved by the City Law Department. The improvements must be completed in conformance with adopted design

standards and within the time period specified in the Land Subdivision Ordinance. A cash contribution to the City in lieu of a bond, escrow, or security agreement may be furnished for sidewalks and street trees along major streets that have not been improved to an urban cross section. A cash contribution to the City in lieu of a bond, escrow, or security agreement may be furnished for street trees on a final plat with 10 or fewer lots.

No final plat shall be approved until the Permittee, as subdivider, enters into an agreement with the City whereby Permittee agrees:

to complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.

to complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.

to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.

to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.

to submit to the Director of Transportation and Utilities Department a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.

to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

to complete the public and private improvements shown on the Community Unit Plan.

to keep taxes and special assessments on the outlots from becoming delinquent.

to maintain the outlots on a permanent and continuous basis.

to maintain the private improvements in good order and state of repair, including the routine and reasonable preventive maintenance of the private improvements, on a permanent and continuous basis.

to recognize that there may be additional maintenance issues or costs associated with the proper functioning of storm water detention/retention facilities as they were designed and construction within the development and that these additional maintenance issues or costs are the responsibility of the Permittee.

to retain ownership of and the right of entry to the outlots in order to perform the above-described maintenance of the outlots and private improvements on a permanent and continuous basis. However, Permittee(s) may be relieved and discharged of such maintenance obligations upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:

- (1) Permittee shall not be relieved of Permittee's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans.

- (2) The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds

to pay all design, engineering, labor, material, inspection, and other improvement costs.

Standard Conditions:

5. The following conditions are applicable to all requests:
 - 5.1 Before occupying the dwelling units all development and construction shall substantially comply with the approved plans.
 - 5.2 All privately-owned improvements, including landscaping and recreational facilities, shall be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City.
 - 5.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters be in substantial compliance with the location of said items as shown on the approved site plan.
 - 5.4 The terms, conditions, and requirements of this resolution shall run with the land and be binding upon the Permittee, its successors and assigns.
 - 5.5 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 therefor to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.



City of Lincoln/Lancaster County, NE GIS

**Annexation #: AN22006, Special Permit #: SP22013 and
Change of Zone #: CZ22011 (AGR - R-1)
Thorn
S 98th St & Pioneer Blvd**

2020 aerial



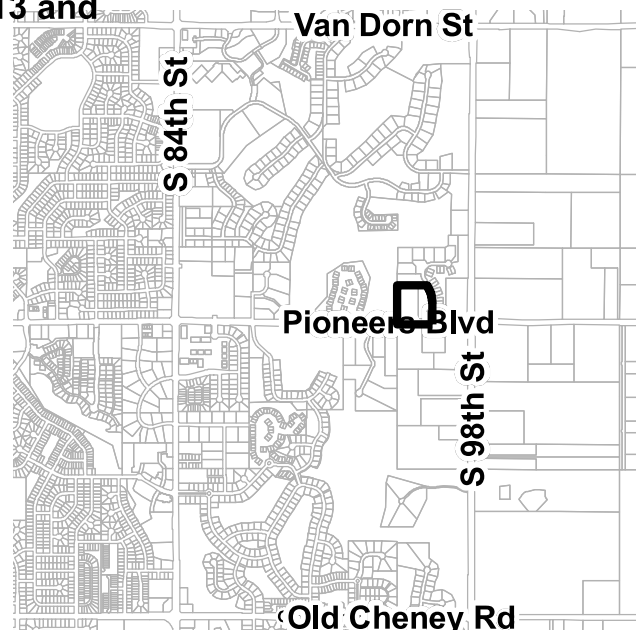
Zoning:

- 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

**Two Square Miles:
Sec.02 T09N R07E
Sec.11 T09N R07E**

Area of Application
Zoning Jurisdiction Lines
Existing City Limits

31



THORN - SPECIAL PERMIT CUP

GENERAL SITE NOTES

1. SANITARY SEWER TO BE 1" PIPE AND TO BE BUILT TO CITY OF LINCOLN SPECIFICATIONS.
2. ALL SANITARY SEWER MAINS TO BE 18" DIA.
3. ALL CURBS AND GUTTERS TO BE 18" HIGH.
4. ALL DIMENSIONS ALONG CURVES ARE CHORD DIMENSIONS.
5. BEARS NOT SHOWN ON THE SITE PLAN, BUT REFER TO CHAPTER 22.08 OF THE LINCOLN ZONING ORDINANCE, WHICH IS APPLIED TO BUILDING AND SAFETY DEPARTMENT PERMIT NOTIFICATION.
6. ALL ELEVATIONS ARE BASED ON NAVD 83.
7. DIRECT VEHICULAR ACCESS TO THORNERS BOULEVARD IS RECOMMENDED EXCEPT AS SHOWN.
8. LOT DIMENSIONS ARE APPROXIMATE AND MAY VARY AT THE TIME OF FINAL PLAT.
9. ALL OUTLOTS SHALL BE OWNED AND MAINTAINED BY EITHER THE DEVELOPER OR THE HOMEOWNERS ASSOCIATION.
10. ALL SETBACKS ARE STANDARD PER PLAT ZONING, EXCEPT AS INDICATED BY THE CLIP.
11. THE HUBS SETBACKS REQUIRE STRUCTURAL WALLS ONLY AND DOES NOT REQUIRE TOWERHISE, RAILS, DOOR SWINGS, AIRFLOW SIGNING, ETC. FROM ENCLAVING INTO THE SETBACKS.
12. THE CURRENT ZONING IS A-1R. A CHANGE OF ZONE FROM A-1R TO S-1R IS REQUESTED.

WAIVERS

SEWER CONDUIT, CHUTE & ELECTRICAL: WATER TO DESIGN STANDARDS FOR BIERBAUMS
WATER TO SETBACKS TO 4' ABUTTING OUTLOTS A & C
TITLE ZONING, CHAPTER 22.08(B)

ENGINEER & PREPARER

TRIP GARDNER
1010 LINDEN BLVD, SUITE 200
LINCOLN, NE 68502
PHONE: 402.477.8291

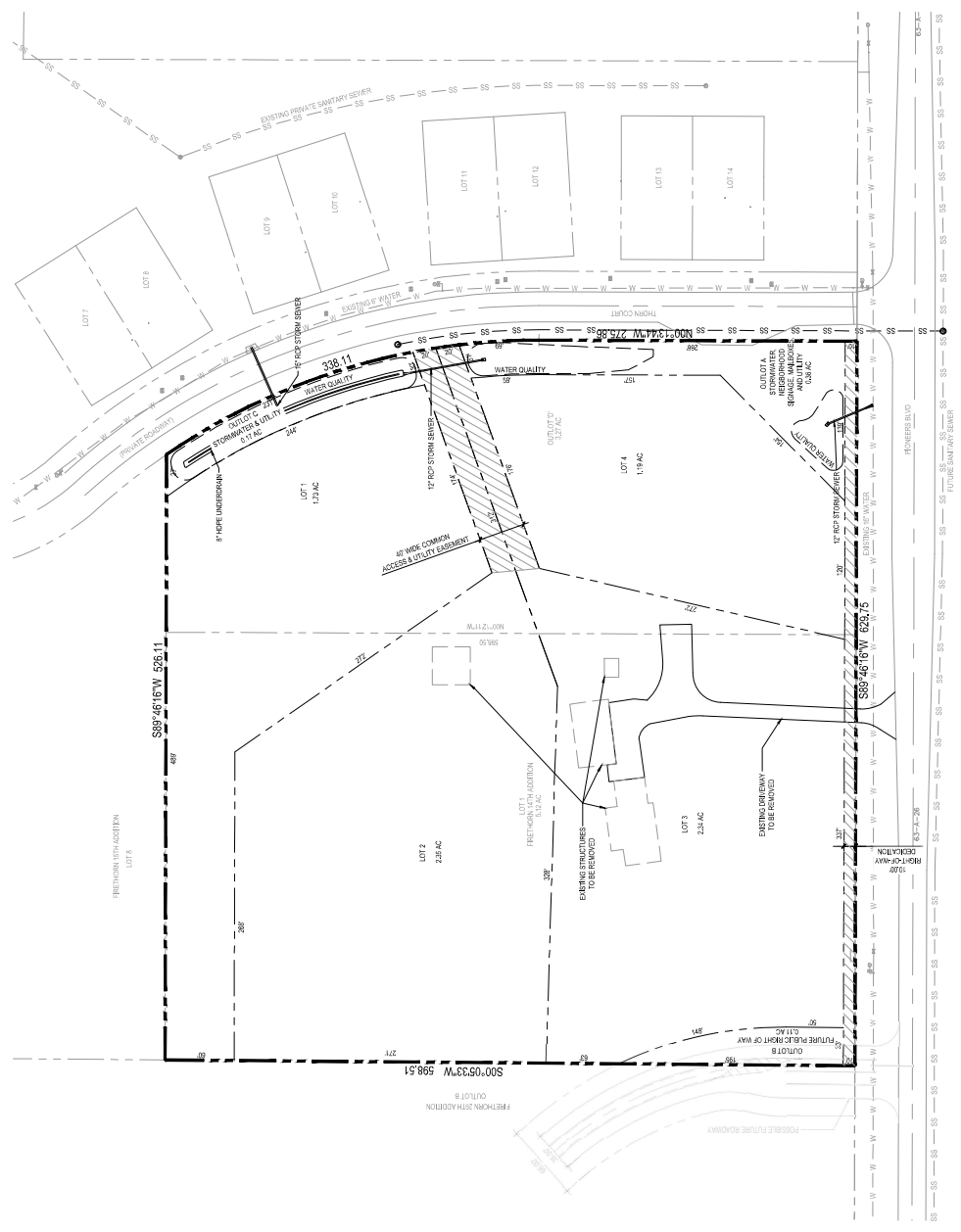
DEVELOPER/OWNER

THORNERS DEVELOPMENT LLC
8001 LAUREL CTR
LINCOLN, NE 68502

ENGINEER'S CERTIFICATE

I HEREBY CERTIFY THAT THE ENGINEER'S DESIGN AND CONSTRUCTION OF THE SANITARY SEWER SYSTEM SHOWN ON THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A REGISTERED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF NEBRASKA. THESE PLANS MEET THE REQUIREMENTS OF THE CITY OF LINCOLN'S ZONING ORDINANCE.

DATE: 05-25-2022
SIGNATURE: TRIP GARDNER
TITLE: ENGINEER - CIVIL

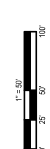


LEGAL DESCRIPTION ANNEXATION, CHANGE OF ZONE, COMMUNITY UNIT PLAN

FRITHORN 16TH ADDITION, LOT 1
FRITHORN 16TH ADDITION, OUTLOT D

LEGEND

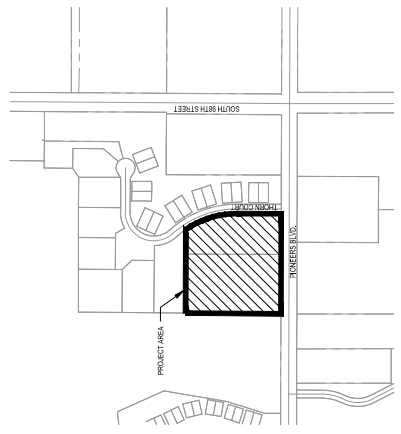
- EXISTING WATER MAIN
- EXISTING SANITARY SEWER
- PROPOSED 18\"/>
- EXISTING PROPERTY LINE
- PROPOSED 18\"/>
- PROPOSED FUTURE ACCESS EASEMENT
- ROADWAY CENTERLINE
- PROPOSED SANITARY SEWER MANHOLE
- PROPOSED HYDRANT
- EXISTING SANITARY SEWER MANHOLE
- EXISTING FIRE HYDRANT
- EXISTING INLET



SITE PLAN SCALE 1"=50'

Thorn
Special Permit Cup
9440 Pioneers Blvd
Lincoln, NE 68520
CE No.: 056-002-22

May 25, 2022



VICINITY MAP NO SCALE

May 26, 2022

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

RE: Thorn
Annexation; Change of Zone
Special Permit – Community Unit Plan

Dear Mr. Cary:

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

1. Application fee; \$3,421.20 (\$1,005 change of zone + \$2,416.20 special permit)
2. Application
3. Special Permit Site Plan
4. Existing Grading & Drainage Plan
5. Proposed Grading & Drainage Plan

On behalf of the Owner/Developer, 9440 Development LLC, 6901 Laurent Cir, Lincoln NE, 68526 we are requesting annexation, change of zone from AGR Agricultural Residential to R-1 Residential District and a Community Unit Plan with waivers for property located at 9440 Pioneers Blvd. This property is located at the NW corner of the intersection of Pioneers Blvd and Thorn Court. The development is proposed to be a low impact development with 4 large acreage lots that will take driveway access from the existing private street, Thorn Court. Sidewalks are requested to be waived to follow the character of the existing neighborhood and setbacks are being waived to the internal outlots for stormwater measures. To assist the city with a possible future access if the golf course redevelops; half a street right of way is being shown at the quarter-mile access point to Pioneers Blvd.

Please contact me if you have any questions or require additional information.

Sincerely,



Tim Gergen

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

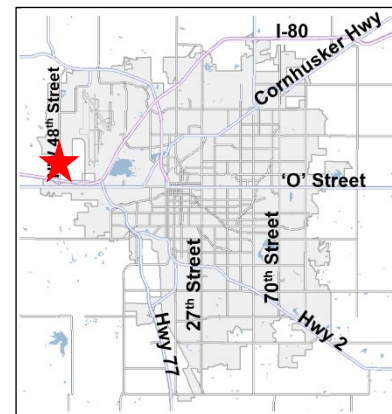
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Annexation #22008	FINAL ACTION? No	DEVELOPER N/A
PLANNING COMMISSION HEARING DATE July 13, 2022	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION NW 48 th Street and W. Vine Street

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request for the annexation of approximately 2.6 acres including portions of W. Vine Street, NW 50th and NW 52nd Streets along with adjoining right of way of NW 48th Street. The proposed annexation is located at NW 48th Street and W. Vine Street immediately south of the new Lincoln Northwest High School.



JUSTIFICATION FOR RECOMMENDATION

The property to be annexed is contiguous to the City limits on the north side. The annexation is for street right of way and as such is appropriate for annexation.

APPLICATION CONTACT

George Wesselhoft
gwesselhoft@lincoln.ne.gov
 (402) 441-6366

STAFF CONTACT

George Wesselhoft
 (402) 441-6366
gwesselhoft@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The requested annexation complies with the Comprehensive Plan as it will include necessary street right of way that will adjoin both a school site and future commercial development.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Introduction Section: Growth Framework

[Figure GF.b: 2050](#) - This site is shown as future commercial on the 2050 Future Land Use Plan.

Elements Section

E7: Community Facilities

Lincoln Public Schools - Lincoln Public Schools and the City of Lincoln actively coordinate planning activities.

Policies Section

P80: Annexation - Annexation should be utilized to provide municipal services in a fair and efficient manner.

The City of Lincoln requires that properties receiving municipal services be located within city limits. City annexation should occur before any property is provided with water, sanitary sewer, or other potential City services. In most cases this also means that annexation must occur prior to a property receiving an urban zoning designation. The City routinely annexes land at the request of a developer or landowner as part of the regular development process. This allows properties to be supplied with City services when they are needed, and the City benefits from the property taxes, utilities, and other fees that City residents pay. Some properties along the City's edge may not be interested in further development and thus will not request annexation. In some cases it is necessary for the City to initiate annexation of adjacent properties that are already developed and require a minimal public investment to serve.

Action Steps

1. Regularly evaluate for potential annexation all property along the city's edge for which basic infrastructure is generally available or planned for in the near term. The City should annex land in Tier 1 Priorities A and B that is contiguous to city limits and generally urban in character. All land that is engulfed by the City should be annexed.
2. Provide advance notice to properties that may be subject to city-initiated annexation.
3. Properties within the Tier 1 Priority A growth area should be annexed upon approval of final plat.
4. Coordinate the provision of services for areas considered for annexation with the Capital Improvement Program.

ANALYSIS

1. This request is to annex 2.6 acres on property located at approximately NW 48th Street and W. Vine Street. This annexation area includes the south half of W. Vine Street along with portions of NW 50th and NW 52nd Streets along with adjoining NW 48th Street right of way.
2. The annexation area is contiguous to the City limits on the north side which is the north half of W. Vine Street. The north half of W. Vine Street was already annexed as part of AN20003 approved by City Council in March, 2020. This included the annexation of the Lincoln Public Schools new high school site.
3. CZ07063E (I-80 West Lincoln Business Center), also approved in March, 2020, changed the zoning from AG Agriculture District and H-3 Highway Commercial District PUD to R-3 Residential District PUD for the future Lincoln Public Schools (LPS) school site on the north side of W. Vine Street. A future commercial area for up to 401,000 square feet of floor area is shown south of W. Vine Street. The latter site is still zoned AG Agricultural as the development has not proceeded yet with change of zone or final platting.
4. The proposed annexation area for W. Vine Street is consistent with CZ0706E. W Vine Street is shown to ultimately connect to NW 56th Street to the west upon future annexation and development to the west. Further, this Plan identifies a full access, signalized intersection at W Vine Street and NW 48th Street with a roundabout for internal site access to the school site to the north and future commercial to the south.

5. The annexation area and adjoining properties are within Tier 1, Priority A. Growth Tier I reflects the “Future Service Limit” where urban services and inclusion in the City limits is anticipated within the 30-year planning period. Tier I includes three Priority Areas for phasing development. Priority A is comprised of undeveloped land within the City limits, as well as areas that are not yet annexed but which have approved preliminary plans such as preliminary plats, use permits, community unit plans, or planned unit developments.
6. This annexation is consistent the Comprehensive Plan and the Final Approved Plan for the I-80 West Lincoln Business Center Planned Unit Development and will facilitate street access for the LPS site and future adjoining development.
7. The annexation of this right of way avoids the street being partly maintained by the City and County and will avoid confusion to emergency responders for whether it is inside or outside the City limits.

EXISTING LAND USE & ZONING: Undeveloped; AG

SURROUNDING LAND USE & ZONING

North: Lincoln Public Schools High School Site; R-3
South: Vacant; AG
East: Vacant; AG
West: Vacant; AG

APPROXIMATE LAND AREA: 2.60 acres

PROPOSED CITY COUNCIL DISTRICT ASSIGNMENT: District 4

LEGAL DESCRIPTION: See attached legal description

Prepared by

George Wesselhoft, Planner
Date: June 30, 2022

City Applicant/Contact: Lincoln-Lancaster County Planning Department
George Wesselhoft
555 S. 10th Street, Suite 213
Lincoln, NE 68508
(402) 441-6366
gwesselhoft@lincoln.ne.gov

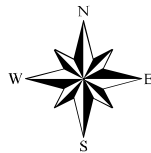
<https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/AN/22000/AN22008 West Vine Street.gjw.docx>



City of Lincoln/Lancaster County, NE GIS

2020 aerial

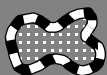


Annexation #: AN22008
West Vine Street
NW 48th St & W Vine St

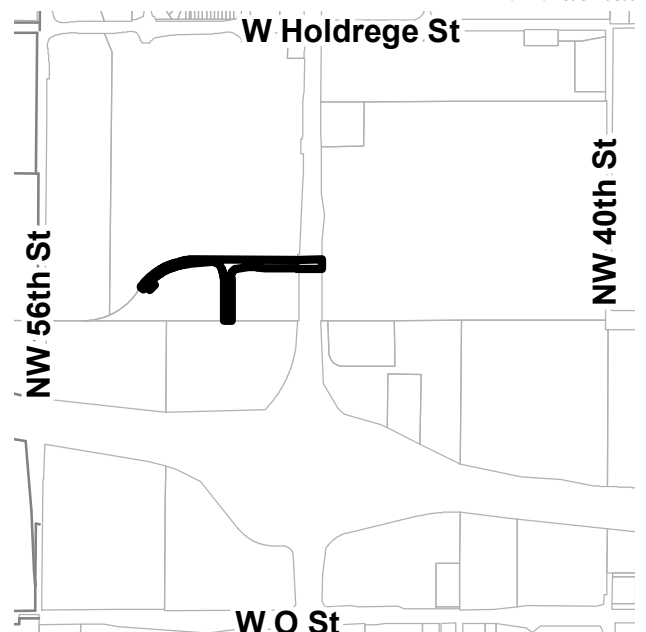


One Square Mile:
 Sec.19 T10N R06E

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

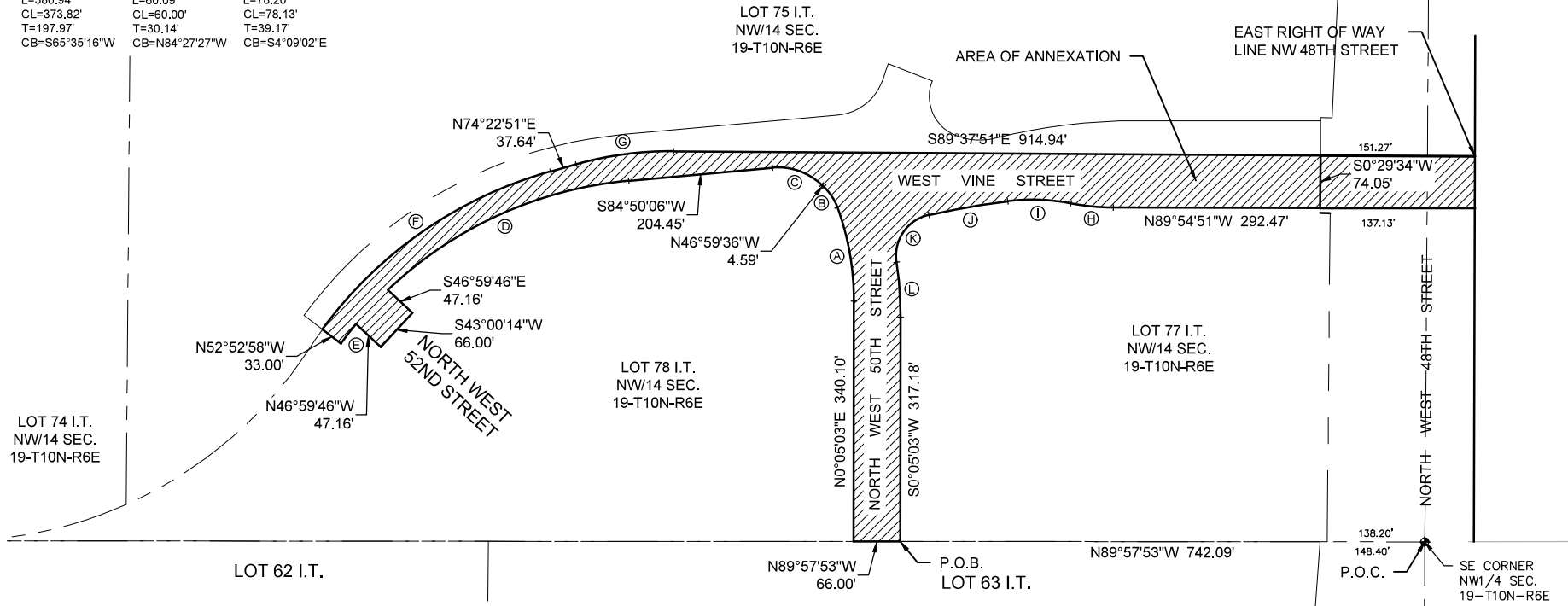
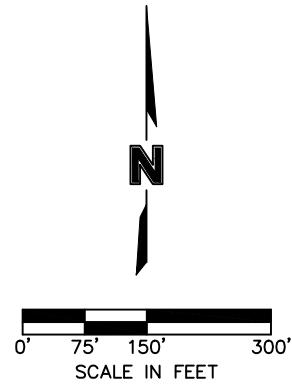
	Area of Application
	Zoning Jurisdiction Lines
	Existing City Limits



DWG: F:\2020\2001-2500\020-2236-40-Design\Survey\SRVY\Final Plots\Drawings\020-2236_80WLBC-RINGNECK-ROW-DEED.dwg
 USER: abroeker
 DATE: Jun 13, 2022 2:43pm
 XREFS:

CURVE DATA

Ⓐ Δ=20°10'30" R=384.50' L=135.39' CL=134.69' T=68.40' CB=N10°00'12"W	Ⓔ Δ=3°30'20" R=567.00' L=34.69' CL=34.69' T=17.35' CB=S37°54'53"W	Ⓛ Δ=18°06'57" R=284.50' L=89.95' CL=89.58' T=45.35' CB=N88°03'32"W
Ⓑ Δ=26°54'09" R=74.50' L=34.98' CL=34.66' T=17.82' CB=N33°32'31"W	Ⓜ Δ=38°09'59" R=600.00' L=399.68' CL=392.33' T=207.57' CB=N55°17'51"E	Ⓚ Δ=5°26'17" R=1190.50' L=112.99' CL=112.95' T=56.54' CB=S80°09'52"W
Ⓒ Δ=48°10'18" R=89.50' L=75.25' CL=73.05' T=40.01' CB=N71°04'45"W	Ⓝ Δ=15°59'18" R=500.00' L=139.52' CL=139.07' T=70.22' CB=N82°22'30"E	Ⓛ Δ=85°49'51" R=59.50' L=89.13' CL=81.03' T=55.32' CB=S34°31'48"W
Ⓣ Δ=38°29'40" R=567.00' L=380.94' CL=373.82' T=197.97' CB=S65°35'16"W	Ⓢ Δ=10°54'47" R=315.50' L=60.09' CL=60.00' T=30.14' CB=N84°27'27"W	Ⓦ Δ=8°28'11" R=529.00' L=78.20' CL=78.13' T=39.17' CB=S4°09'02"E



PROJECT NO:	020-2236
DRAWN BY:	ALB
DATE:	6/13/2022

WEST VINE STREET ANNEXATION EXHIBIT

olsson	601 P Street, Suite 200 P.O. Box 84608 Lincoln, NE 68508 TEL 402.474.6311	<table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">EXHIBIT</td> </tr> <tr> <td style="text-align: center;">B</td> </tr> </table>	EXHIBIT	B
EXHIBIT				
B				



LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Text Amendment #22005	FINAL ACTION? No
PLANNING COMMISSION HEARING DATE July 13, 2022	RELATED APPLICATIONS None

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

The proposed application is to correct a conflict in Chapter 27.67 Parking caused by a previous text amendment by removing LMC 27.67.065 Special Conditions O-3 Zoning District for parking.

JUSTIFICATION FOR RECOMMENDATION

This amendment is a clean up to clarify required parking in the O-3 District. The conditions of LMC 27.67.065 are not needed as they are duplicated in other sections of the Lincoln Zoning Regulations.

APPLICANT:

David Cary, Planning Director
Lincoln-Lancaster County Planning
Department

STAFF CONTACT

Tom Cajka, (402) 441-5662
tcajka@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The proposed text amendment is in conformance with the 2050 Comprehensive Plan.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Policies Section

P12: Economic Growth - Promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life of the community.

Action Steps

6. Explore additional opportunities for streamlining the zoning and building permitting processes.

ANALYSIS

1. This text amendment is a cleanup item. Text Amendment #21006, approved August 30, 2021, amended Figure 27.67.020 Parking Matrix to change the required parking for multiple-family dwellings from 2 per dwelling unit to one per dwelling unit. At that time a revision to Section 27.67.065 to match the revised parking matrix was not done.
2. This text amendment will remove the conflict by deleting LMC 27.67.065-Special Conditions O-3 Zoning District.

Part “a” is not needed as it is covered in the parking matrix. Part “a” requires 2 parking spaces per dwelling unit whereas the parking matrix requires one stall per dwelling unit.

3. LMC 27.67.065b to allow the City Council to adjust the location of required parking is not needed as this is repeated in Chapter 27.64 Use Permits. LMC 27.64.010I allows for the City Council to adjust the location of required parking. The O-3 zoning district requires a Use Permit, so Part “b” is also covered.
4. LMC 27.67.065c that allows the Planning Director to approve minor modifications to parking is covered in LMC 27.67.045b. So part “c” is covered as well.
5. All the conditions in LMC 27.67.065-Special Conditions O-3 Zoning District are covered in other sections of the zoning code. Therefore LMC 27.67.065 is not needed.

APPLICATION HISTORY

August 30, 2021: TX21006 was approved by the City Council.

Prepared by

Tom Cajka, Planner

Date: June 29, 2022

Applicant: David Cary, Planning Director
Lincoln-Lancaster County Planning Department

Contact: Tom Cajka, Planner
402-441-5662
tcajka@lincoln.ne.gov

<https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/TX/22000/TX22005 parking.tjc.docx>

TITLE 27 ZONING

Chapter 27.67 PARKING

27.67.065 Special Conditions; O-3 Zoning District.

In the O-3 zoning district, the following parking regulations shall apply:

- ~~a. Two parking spaces per dwelling unit, however, the City Council may reduce the parking requirement to no less than one and one-half parking spaces per dwelling unit when the application includes information justifying the reduction;~~
- ~~b. The location of required parking as set forth elsewhere in this chapter may be adjusted by the City Council;~~
- ~~c. All other parking requirements in the O-3 zoning district shall apply, except the Planning Director may approve minor modifications to parking requirements in conformance with the provisions of Section 27.67.045(b). (Ord. 20739 §8; January 28, 2019; prior Ord. 20043 §6; June 20, 2014; Ord. 17949 §2; December 17, 2001; Ord. 16958 §3; March 25, 1996; Ord. 13526 §1; January 3, 1983; Ord. 12878 §3; March 31, 1980).~~

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Special Permit #1423L - Himark Community Unit Plan	FINAL ACTION? Yes	DEVELOPER/OWNER Weaver Family Trust
PLANNING COMMISSION HEARING DATE July 13, 2022	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION 9635 Merion Circle South 98 th Street and Merion Circle

RECOMMENDATION: CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request to amend the Himark Community Unit Plan (CUP) to add a two-family dwelling on one lot. The applicant is proposing to build a second structure on the lot, but due to the floor plan/layout of the building and interior walls it is considered a dwelling.

The Himark CUP has split zoning where most of the developed residential areas are zoned R-3 Residential. The majority of the golf course along with the four lots accessed by Merion Circle are zoned AG Agricultural and have not been annexed into the City.

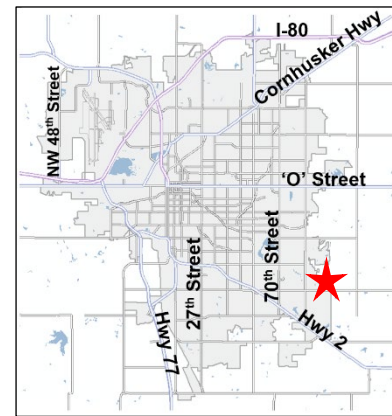
Two-family dwellings are a permitted use in all residential zoning districts and are special permitted uses in the AG and AGR zoning districts. As part of the special permit for the Himark CUP the two-family dwelling can be allowed in the AG portion of the development.

JUSTIFICATION FOR RECOMMENDATION

The allowed density requirements for the R-3 and AG are different (6.96 units per acres; 0.055 units per acre respectively) and any excess density in the R-3 is not allowed to carry over to the AG. At 163.76 acres the AG is allowed 9 dwelling units by the Design Standards. This request increases the number of dwellings in the AG to five. The proposal is consistent with the Low Density Residential designation on the Future Land Use Map of the Comprehensive Plan as applied to the Himark CUP.

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

This proposed amendment to the Himark CUP is still under the maximum allowed overall density and is consistent with the land use designation. This request complies with the Zoning Ordinance and is consistent with the Comprehensive Plan.



APPLICATION CONTACT

Mark Weaver 402-416-3869 or clippership22@gmail.com

STAFF CONTACT

Brian Will, (402) 441-6362 or bwill@lincoln.ne.gov

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Introduction Section: Growth Framework

Figure GF.b: 2050 - This site is designated for future Low Density Residential land uses on the 2050 Future Land Use Plan.

Fundamentals of Growth in Lancaster County

The City of Lincoln’s present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a mix of uses and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

Goals Section

G1: Safe, Affordable, and Accessible Housing. Lincoln and Lancaster County will support the development of safe, affordable, and accessible quality housing that meets the diverse needs of the community. PlanForward understands the ongoing need for affordable housing and supports development of 5,000 affordable units by the year 2030.

G2: Complete Neighborhoods. Lincoln and Lancaster County will support complete neighborhoods within both developing and redeveloping areas of Lincoln. A complete neighborhood is one where residents are able to get the goods and services to meet daily needs within 15 minutes of their residence including a variety of housing options, grocery stores and other commercial services, quality public schools, public open spaces and recreational facilities, affordable active transportation options, and civic amenities. Housing variety should include townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and even small lot single-family.

Elements Section

E1: Complete Neighborhoods and Housing

A complete neighborhood is more than housing - great neighborhoods combine all the elements of parks, education, commercial areas, environmental resources, and housing together in one place.

A complete neighborhood is one where residents have safe and convenient access to goods and services needed for daily life activities.

Figure E1.a: Strategies for Design, Sustainability and Complete Neighborhoods in Developing Areas

1. Encourage a mix of compatible land uses to develop more complete neighborhoods:
 - a. Similar uses on the same block face: residential faces residential.
 - b. Similar housing densities developed near each other: single-family and “missing middle” residential (3-12 units) scattered throughout with higher density residential (more than 12 units) near the neighborhood edge or clustered near commercial centers.
 - c. Non-residential uses, including parking lots, should be screened from residential areas.
 - d. Locate Commercial Centers so as residents can safely access essential goods and services (i.e. not located across arterial streets) and no more than a 15-minute walk from all residences.
2. Require sidewalks on both sides of all streets.
3. Encourage locations within neighborhoods to grow local food.
4. Plan for residences to be located within 1 mile to an existing or planned multi-use trail.
5. Plan for residences to be located within 1/2 mile to an existing or planned neighborhood park.
6. Integrate transit stops into developing neighborhoods and within a ½ mile distance from residences.
7. Encourage employment areas to be within a 15-minute walking distance to residences.
8. Plan for elementary or middle schools to be within a 15-minute walking distance to residences.
9. Encourage pedestrian orientation with parking at rear of residential and neighborhood commercial uses.
10. Develop shorter block lengths to provide multiple connections across residential and commercial areas.
11. Provide pedestrian connections when maximum block lengths are exceeded.

12. Encourage shared City and School facilities (aka SPARKS).
13. Provide adequate curb space to allow for on-street parking.
14. Encourage alley access and shared driveways to reduce interruptions to pedestrians, to preserve on street parking capacity, and to reduce automobile conflict points.
15. Support preservation or restoration of natural areas, and limit stream or drainageway crossings.

Policies Section

P1 - Housing Affordability: Make available a safe residential dwelling for all residents.

Action Steps

1. Implement the housing and neighborhood strategies as embodied in the Affordable Housing Coordinated Action Plan, City of Lincoln Consolidated and Annual Action Plans and subsequent housing and neighborhood plans. These plans provide the core for affordable housing and neighborhood preservation actions for public and private agencies.
2. Distribute and preserve affordable housing throughout the community to be near job opportunities and public transit and to provide housing choices within existing and developing neighborhoods.
3. Encourage public/private partnerships with housing entities such as Lincoln Housing Authority, Affordable Housing Initiatives, Habitat for Humanity, and NeighborWorks Lincoln.
4. Provide for more education of the public about affordable housing and code enforcement.
5. Promote the preservation, maintenance and renovation of existing housing and neighborhoods throughout the city, with special emphasis on low and moderate income neighborhoods.
6. Preserve the existing affordable housing stock, increase the supply of affordable owner and renter units, and add more variety in housing types.

ANALYSIS

1. This is a request to amend the Himark CUP to allow a two-family dwelling on a single lot at 9635 Merion Circle. The subject lot is legally described as Lot 1, Himark Estates 7th Addition but designated as Lot 52, Block 2 on the approved Himark site plan. The lot is 3.14 acres in area and developed with a single-family dwelling.
2. The Himark CUP has split zoning where the majority of the residential area/lots is zoned R-3 and annexed into the city. The remainder is zoned AG and has not been annexed. This is where the majority of the golf course is located but also includes four lots of approximately three acres each in area. These lots are accessed from South 98th Street by Merion Circle.
3. The applicant applied for a building permit to construct a second building on the lot. The permit was denied due to the layout of the structure which contained walls, rooms and facilities which made it more closely resemble a dwelling than a garage/detached accessory building. The denial noted that a two-family dwelling was not a permitted use in the AG zoning district, rather it was a special permitted use.
4. Two-family dwellings are a permitted use in all residential zoning districts but are a special permitted use in the AG and AGR. As part of the Himark CUP, the use is allowed under the special permit for the zoning overlay for the larger development.
5. The total number of units allowed in the CUP is 586 dwelling units. This includes 578 in the R-3 area and 8 in the AG area. The density allowed in each area under the Design Standards is different, and the excess density in the R-3 is not transferrable to the AG. Specifically, the density calculation is as follows:

R-3 area - 237.93 acres at 6.96 du/acre = 1,664 du's allowed by Design Standards

AG area - 163.76 acres at 0.055 du/acre = 9 du's allowed by Design Standards

Total Number of DU's Approved by the CUP - 585 (out of the 1,673 potentially allowed by Design Standards)

Total Number of DU's Currently Shown on the CUP - 403 (out of the 585 approved)

There is excess density in both the R-3 and AG areas to accommodate additional units. While the excess density in the R-3 area is not transferrable to the AG area, there is still enough excess density in the AG to accommodate the additional proposed dwelling unit. Nine units are allowed in the AG, four are shown, where this request will increase that number to five.

Mar 1979 The zoning for the area of this CUP was changed from A-A Rural and Public Use to AG Agricultural as part of the 1979 Zoning Update.

APPROXIMATE LAND AREA: 3.14 acres, more or less

LEGAL DESCRIPTION: Lot 1, Himark Estates 7th Addition.

Prepared by

Brian Will,
June 27, 2022

Applicant/Contact: Mark Weaver
 9635 Merion Circle
 Lincoln, NE 68526
 402-416-3869 or
 clippership22@gmail.com

Owner: Weaver Family Trust
 9635 Merion Circle
 Lincoln, NE 68526
 402-416-3869 or
 clippership22@gmail.com

CONDITIONS OF APPROVAL - SPECIAL PERMIT #1423L

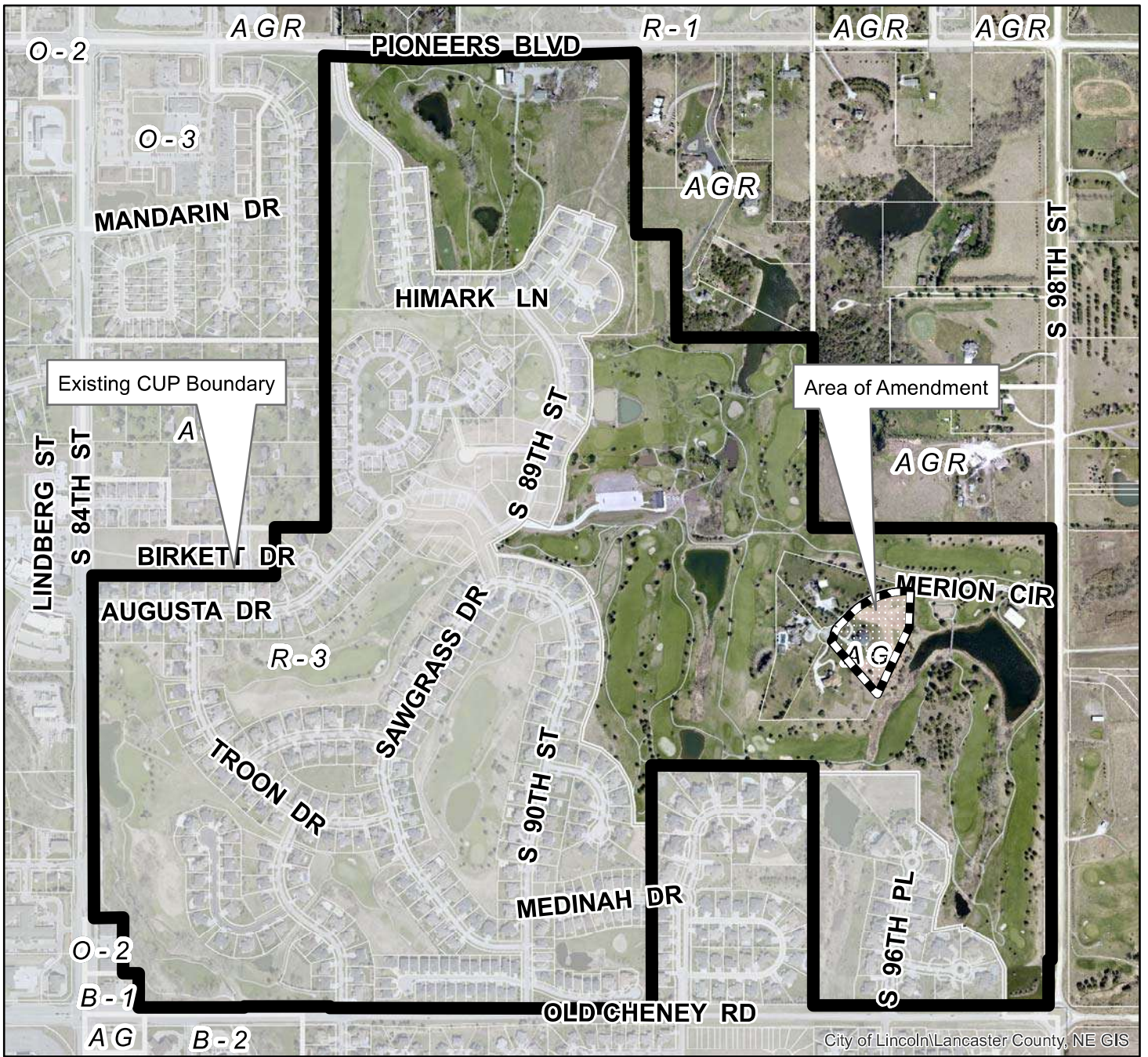
Per Section 27.63.320 this approval permits an amendment to the Himark Community Unit Plan to allow a two-family dwelling on Lot 2, Block 2 increasing the total number of units shown to 404 out of a total of 585 dwelling units allowed.

Site Specific Conditions:

1. The permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 2 copies with all required revisions and documents as listed below:
 - 1.1 Make the following revisions to the CUP site plan:
 - 1.1.1 Revise the Land Use/Density Calculation to include the additional unit allowed in the AG by revising the total number of units shown.
 - 1.1.2 Revise Note #13 to include the additional dwelling unit allowed.
 - 1.1.3 Add a note #46 which states 'Two-family dwelling allowed on Lot 52, Block 2.'
 - 1.1.4 Place a 'bubble' around Lot 52, Block 2 to delineate the area of amendment.
2. Before a building permit is approved provide the following documents to the Department of Building and Safety:
 - 2.1 Verification from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.

Standard Conditions:

3. The following conditions are applicable to all requests:
 - 3.1 Before occupying the dwelling units all development and construction shall substantially comply with the approved plans.
 - 3.2 All privately-owned improvements, including landscaping and recreational facilities, shall be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City.
 - 3.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters be in substantial compliance with the location of said items as shown on the approved site plan.
 - 3.4 The terms, conditions, and requirements of this resolution shall run with the land and be binding upon the Permittee, its successors and assigns.
 - 3.5 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 therefor to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.
 - 3.6 The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all prior resolutions approving this permit remain in full force and effect as specifically amended by this resolution.

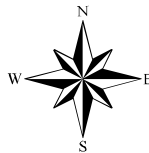


City of Lincoln/Lancaster County, NE GIS

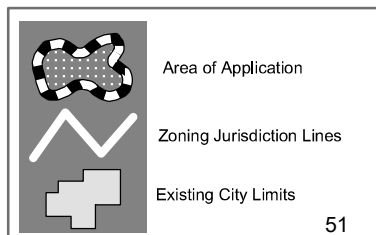
Special Permit #: SP1423L
HiMark CUP
S 98th St & Old Cheney Rd

Zoning:

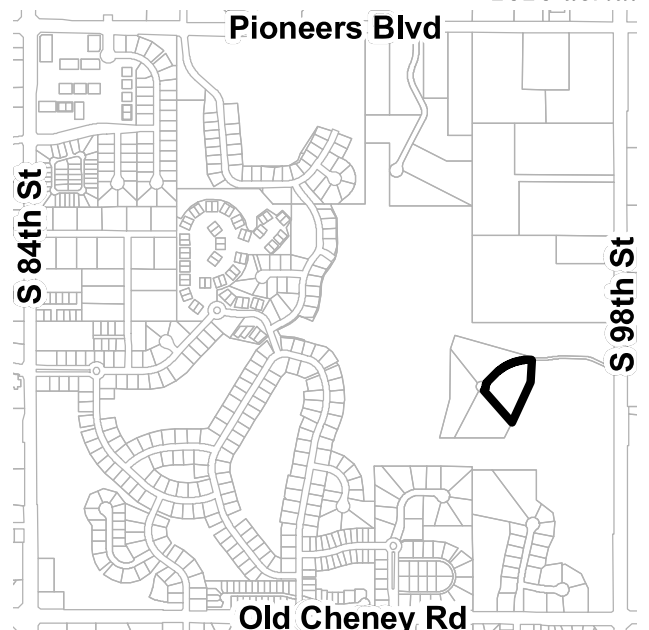
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial 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.11 T09N R07E



2020 aerial

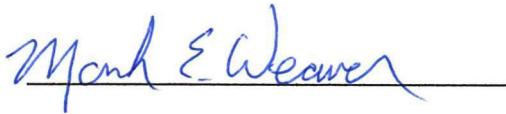


6/06/2022

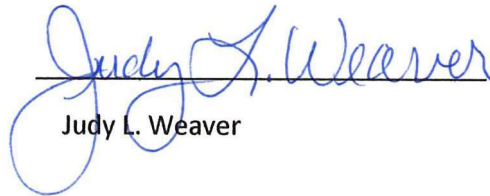
Lincoln-Lancaster Planning Dept,

Judy and I have been long time Nebraska Residence. Raising our three kids and now enjoying the nine Grandkids that come with it. We would like to add to our current Home additional Garage/Dwelling on our 3 Acres. We have submitted an application to allow our addition to be approved.

We appreciate everything Nebraska has to offer and are looking forward to spending years to come here.



Mark E. Weaver



Judy L. Weaver

9635 Merion Circle, Lincoln NE 68526

Ps. Also a winning Husker season!

5/10/22 10:10 AM

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

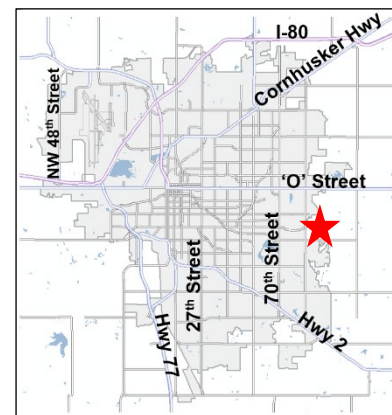
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Street and Alley Vacation #22005	FINAL ACTION? No	DEVELOPER/OWNER NA
PLANNING COMMISSION HEARING DATE July 13, 2022	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION North of Van Dorn Street between S. 98 th Street and S. 84 th Street

RECOMMENDATION: CONFORMS TO THE COMPREHENSIVE PLAN

BRIEF SUMMARY OF REQUEST

This request is to vacate right of way/easement that was established by Lancaster County in 1892. This public way was identified as Road 1208. This road was never built and has existed only on paper for 130 years. This right of way/easement is located generally north of Van Dorn Street between S. 98th and S. 84th Street. It follows the general alignment of South Street. However, what is being vacated is not needed for South Street. Future developments, including the Wandering Creek Planned Unit Development (PUD), will include a curving, non-linear South Street which does not match the 1892 right of way/easement alignment.



JUSTIFICATION FOR RECOMMENDATION

Vacation of the public right-of-way/easement will accommodate continued urban development of the area. Given the right-of-way/easement is not needed and was not generally even recognized through recent platting, it serves no purpose. It should be vacated so the land in the area can continue to be put to better use.

APPLICATION & STAFF CONTACT

George Wesselhoft, (402) 441-6366
or gwesselhoft@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

Vacation of this right of way/easement will not negatively impact the transportation system or adjacent landowners. Subject to the conditions of approval this request is in conformance with the Comprehensive Plan.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Elements Section

Transportation Element

The right of way is not shown on the Existing Functional Classification of the 2050 Long Range Transportation Plan.

Policies Section

P71: Public ROW and Access - Manage public ROW and access to balance multimodal mobility needs and protect the value of adjacent property.

ANALYSIS

1. The right of way/easement was created in 1892 by Lancaster County as Road 1208. The Road has not been shown

George Wesselhoft, Planner

Date: June 30, 2022

Applicant: David Cary, Planning Director
555 S. 10th Street, Suite 213
Lincoln, NE 68508

Contact: George Wesselhoft, Planner
555 S. 10th Street, Suite 213
Lincoln, NE 68508
(402) 441-6366
gwesselhoft@lincoln.ne.gov

[https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/SAV/22000/SAV22005 County Road 1208 \(South Street\).gju.docx](https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/SAV/22000/SAV22005 County Road 1208 (South Street).gju.docx)

CONDITIONS OF APPROVAL - STREET AND ALLEY VACATION #22005

BEFORE THE VACATION REQUEST IS SCHEDULED ON THE CITY COUNCIL AGENDA THE FOLLOWING MUST BE COMPLETED:

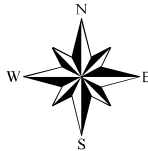
- 1.1 The provisions of Chapter 14.20 of the Lincoln Municipal Code are met.
- 1.2 Include retention of utility easements by City with deed transfer.



City of Lincoln/Lancaster County, NE GIS

2020 aerial

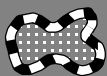


Street and Alley Vacation #: SAV22005
S 98th St & Van Dorn St

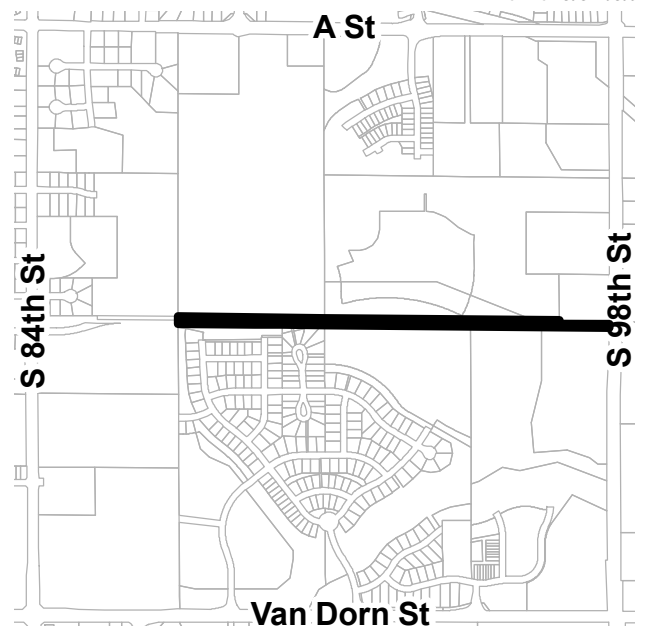


One Square Mile:
 Sec.35 T10N R07E

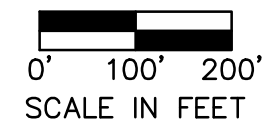
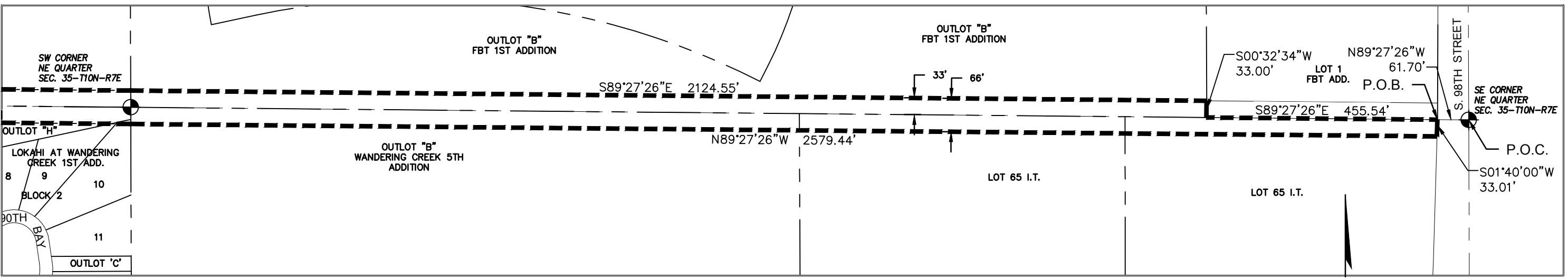
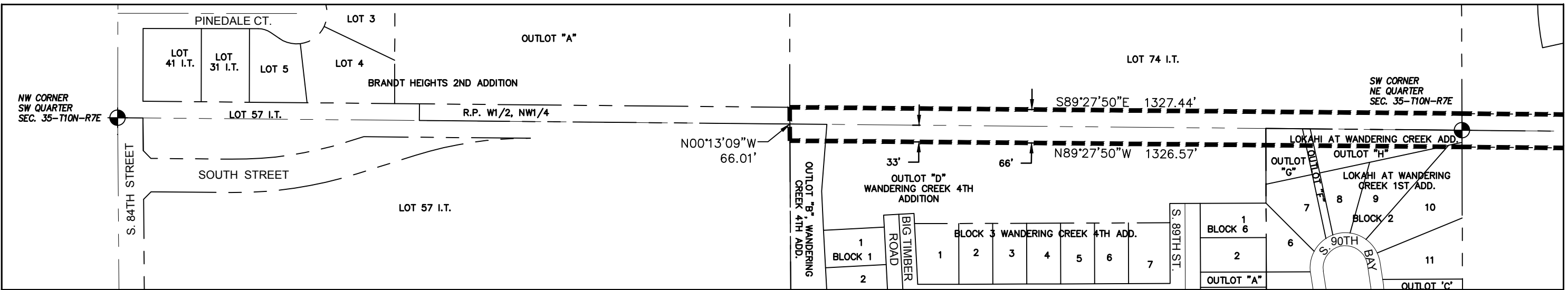
Zoning:

- 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

	Area of Application
	Zoning Jurisdiction Lines
	Lancaster County Jurisdiction
59	



DWG: F:\2021\06501-07000\021-06881\40-Design\Survey\SRVY\Final Plat\Drawings\FP_WC8A_02106881 ROW EASE RELS
 DATE: Jun 22, 2022 4:21pm XREFS: V_SR_S2-Sec35_015-2987 F17-1391_WC4AFP MICHAEL_JOHNSON_LS



PROJECT NO:	021-06881
DRAWN BY:	ALB
DATE:	6/17/2022

COUNTY ROAD VACATION SEC. 35 T10N R7E

olsson
 601 P Street, Suite 200
 P.O. Box 84608
 Lincoln, NE 68508
 TEL 402.474.6311

EXHIBIT
1

LEGAL DESCRIPTION

A TRACT OF LAND COMPOSED OF A PORTION OF LOT 65 I.T., A PORTION OF OUTLOT 'B', WANDERING CREEK 5TH ADDITION, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 10 NORTH, RANGE 7 EAST, A PORTION OF OUTLOTS 'F', 'G' AND 'H', LOKAHI AT WANDERING CREEK ADDITION, A PORTION OF LOTS 9 AND 10, BLOCK 2, LOKAHI AT WANDERING CREEK 1ST ADDITION, A PORTION OF OUTLOTS 'B' AND 'D', WANDERING CREEK 4TH ADDITION, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 10 NORTH, RANGE 7 EAST, A PORTION OF LOT 74 I.T., LOCATED IN THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 10 NORTH, RANGE 7 EAST, AND A PORTION OF OUTLOT 'B', FBT 1ST ADDITION LOCATED IN THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE, WESTERLY, ON THE SOUTH LINE OF SAID NORTHEAST QUARTER ON AN ASSUMED BEARING OF N89°27'26"W, A DISTANCE OF 61.70' TO A POINT ON THE WEST RIGHT OF WAY LINE OF SOUTH 98TH STREET, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE S01°40'00"W, ON A WEST LINE OF SAID RIGHT OF WAY, A DISTANCE OF 33.01' TO A POINT; THENCE N89°27'26"W, ON A LINE 33.00' SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 2579.44' TO A POINT ON THE WEST LINE OF SAID SOUTHEAST QUARTER, SAID LINE BEING AN EAST LINE OF SAID SOUTHWEST QUARTER; THENCE N89°27'50"W, ON A LINE 33.00' SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1326.57' TO A POINT ON THE WEST LINE OF SAID OUTLOT 'B', WANDERING CREEK 4TH ADDITION; THENCE N00°13'09"W, ON THE WEST LINE OF SAID OUTLOT 'B', WANDERING CREEK 4TH ADDITION, AND THE WEST LINE OF SAID LOT 74 I.T., A DISTANCE OF 66.01' TO A POINT; THENCE S89°27'50"E, ON A LINE BEING 33.00' NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 1327.44' TO A POINT ON THE EAST LINE OF SAID NORTHWEST QUARTER, SAID POINT BEING ON THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE S89°27'26"E, ON A LINE 33.00' NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 2,124.55' TO A POINT ON AN EAST LINE OF SAID OUTLOT 'B', FBT 1ST ADDITION, SAID POINT BEING THE SOUTHWEST CORNER OF LOT 1, FBT ADDITION; THENCE S00°32'34"W, ON AN EAST LINE OF SAID OUTLOT 'B', FBT 1ST ADDITION, A DISTANCE OF 33.00' TO A SOUTHEAST CORNER OF SAID OUTLOT 'B' FBT 1ST ADDITION, SAID POINT BEING ON THE SOUTH LINE OF SAID NORTHEAST QUARTER; THENCE S89°27'26"E, ON THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 455.54' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 242,824.69 SQUARE FEET OR 5.57 ACRES, MORE OR LESS.

JUNE 22, 2022

F:\2021\06501-07000\021-06881\40-DESIGN\SURVEY\SRVY\FINAL PLAT\ROW VACATION\ROW RELEASE WANDERING CREEK AREA .DOCX

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

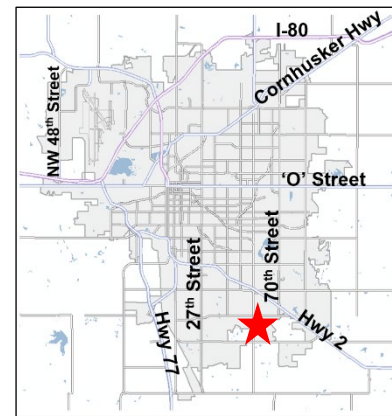
APPLICATION NUMBER Use Permit #141B	FINAL ACTION? Yes	DEVELOPER/OWNER CNS, LLC
PLANNING COMMISSION HEARING DATE July 13, 2022	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION 5601 Union Hill Road South 56 th Street and Union Hill Road

RECOMMENDATION: CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request to adjust the rear setback in the O-3 zoning district from 40' to 25'. The owner is proposing to develop an office building on a lot constrained by utility easements and slope.

A prior amendment removed the subject lot from the Thompson Creek CUP and added it to the Thompson Creek Office Park Use Permit. With this amendment the use was converted from a 38-unit apartment building to office. A planned common access driveway between this lot and the adjacent residential lots was also deleted at that time. This amendment may have intended to reduce the rear setback for this lot from 40' to 25'. This owner sought to develop the lot under that assumption, but the setback adjustment cannot be verified in the record as part of the changes and a reduced setback is not clearly delineated on the site plan.



JUSTIFICATION FOR RECOMMENDATION

In the area of the proposed reduced setback, the planned common access driveway previously shown for use by the adjacent dwellings and the formerly planned apartments was deleted. The subject lot is to be developed with a one-story office building and will be screened with a fence and landscaping. Properly screened and landscaped, a one-story office building represents no more intense land use than an apartment building with a common access driveway.

APPLICATION CONTACT

Peter Hind, 402-617-6984 or
phind@schemmer.com

STAFF CONTACT

Brian Will, 402 441-6362 or
bwill@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The lot is designated for commercial land uses on the Future Land Use Map. It was converted from apartments to office and the common access driveway at the rear was deleted at the same time it was rezoned from R-3 to O-3 and included in the Thompson Creek Office Park. O-3 zoning is designed to be located adjacent to residential land uses. This request allows the owner to develop an office building on an O-3 zoned lot.

WAIVERS

1. LMC 27.72 - Adjust the rear yard setback in O-3 Office Park from 40' to 25' - (Recommend Approval)

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Introduction Section: Growth Framework

Figure GF.b: 2050 - This site is designated for future commercial land uses on the 2050 Future Land Use Plan.

Fundamentals of Growth in Lancaster County

The City of Lincoln's present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a mix of uses, and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

Commercial Infill

Figure E3.f: Commercial Infill Design Strategies

1. Encourage additional vehicular access to an arterial street.
2. Encourage a Floor Area Ratio that exceeds to existing/previous commercial uses on the site.
3. Face existing residential uses with new residential uses rather than the backs of commercial buildings unless existing residential faces the opposite direction such as along an alley.
4. Discourage commercial driveways that interrupt the blockface of a residential street, especially when residences face the street.
5. Encourage shared driveways and interconnected parking lots where possible.
6. Orient buildings to the street, especially corners.
7. Maintain or adaptively reuse existing structures (especially historical structures) where possible.
8. Encourage a vertical mix of residential and commercial use types.
9. Encourage shared parking between land uses with different peak demand periods.
10. Maintain or enhance on-street parking resources, especially in established/historic commercial districts

Priorities Section

P2: Existing Neighborhoods - Continue our commitment to strong, diverse, and complete neighborhoods.

Action Steps

1. Promote the preservation, maintenance, and renovation of existing housing and supporting neighborhood uses throughout the City, with special emphasis on low and moderate income neighborhoods.
2. Maintain and enhance infrastructure and services, commensurate with needs, in existing neighborhoods.
3. Encourage well-designed and appropriately placed density, including within existing apartment and group living complexes and in redeveloping commercial or industrial centers, where there is land available for additional buildings or expansions. Provide flexibility to the marketplace in siting future residential development locations. This includes appropriately placed infill in prioritized Nodes and Corridors, neighborhood edges, and underutilized commercial or industrial sites.
4. Recognize that broad economic diversity within existing neighborhoods encourages reinvestment and improves quality of life for all residents while acknowledging the need for affordable housing.
5. Preserve, protect and promote the character and unique features of urban neighborhoods, including their historical and architectural elements.

ANALYSIS

1. The subject property is located at 5601 Union Hill Road, southeast of the intersection of South 56th Street and Union Hill Road. It is zoned O-3 and adjacent to O-3 zoning to the north, R-3 to the east and south, and South 56th Street on the west. This is a request to adjust the rear setback along the east line of the property from 40' to 25' to allow for development of a one-story office building.

2. This lot was originally part of the adjacent Thompson Creek Community Unit Plan and zoned R-3. The site plan showed development of a 38-unit apartment building and associated parking on the lot. A subsequent amendment in 2005 resulted in Use Permit #141A being approved which expanded the Thompson Creek Office Park use permit to include the subject lot. The amendment substituted the apartment building for a 5,000 square foot office building and removed a common access driveway at the rear of the lot. The floor area was subsequently increased to 10,000 square feet by administrative amendment.

The driveway that was eliminated was originally intended to provide joint access to the apartment building and to rear-loaded garages for the adjacent dwellings. The dwellings and their garages have since been constructed facing onto Greycliff Drive and the driveway was never built.

3. The site plan approved by UP#141A identified setbacks for the subject lot: 20' north; 20' west; 15' south; but did not specifically indicate the setback for the east (rear yard) lot line. That site plan shows a driving aisle in the rear yard, which is permitted, and appears to delineate a 25' building envelope setback line matching the existing 25' utility easement, but there was no mention of the setback adjustment in the application, staff report, nor approving resolution.
4. The owner purchased the lot and had an office building designed assuming the rear setback had been adjusted. During the review of the building permit for the office building the rear setback was questioned and it was determined it had not been adjusted by UP#141A.
5. The applicant notes that the site is constrained by an overhead utility easement at the southwest corner of the lot, and by a change in grade across the site so the placement of the building is limited. It is not evident from the record but the reduced setback matching the existing 25' utility easement which extends along the east lot line could have been intended as an offset to deleting the multi-story apartment building and the common access driveway.
6. The building permit shows the office building placed at the 25' setback to the east line and represents the rear of the building which will face the rear of the adjacent attached single-family dwellings. The applicant states that that area will be landscaped and screened according to Design Standards to buffer the building. The adjacent dwellings all have privacy fences along their rear property lines.
7. If properly screened and buffered from adjacent uses the impact of the reduced setback should not be significant. The O-3 zoning district is designed to allow development in proximity to residential uses. Both the required screening and limits on allowed uses (which typically operate during normal daily business hours) are intended to mitigate the impact. Subject to the recommended conditions of approval, this request complies with the Zoning Ordinance and Comprehensive Plan.

EXISTING LAND USE & ZONING: O-3 Vacant

RELATED HISTORY:

- | | |
|----------|---|
| Apr 2005 | Use Permit #141A for the Thompson Creek Use Permit was approved to expand the boundary of the use permit to include the subject lot. It also changed the land use from apartments to office and removed the common access driveway between this lot and the adjacent residential lots. |
| Jul 2002 | Use Permit #141 for the Thompson Creek Office Park approved 114,500 sq. ft. of office space, which included 37,000 sq. ft. of live/work office space and 16 dwelling units. Special Permit #1930 approved Thompson Creek CUP with 352 dwelling units which included 38 apartment units on the subject lot. Change of Zone #3339 changed the zoning designation of the Use Permit from AG Agricultural to O-3 Office Park and to R-3 Residential for the Thompson Creek CUP. Annexation #01007 annexed the Thompson Creek development. |

SURROUNDING LAND USE & ZONING

North: Office O-3
South: Open Space R-3
East: Residential R-3
West: S. 56th St, Residential R-3

APPROXIMATE LAND AREA: Approximately 1.14 acres, more or less

LEGAL DESCRIPTION: Lot 7, Block 1, Thompson Creek Addition

Prepared by

Brian Will, Planner
bwill@lincoln.ne.gov
402-441-6362
June 28, 2022

Applicant/Contact: Peter Hind
Schemmer Associates
333 South 21st Street
Lincoln, NE 68510
phind@schemmer.com
402-617-6984

Owner: CNS, LLC
5320 South 30th Street
Lincoln, NE 685160
drspencer@chirolincoln.com
402-720-2308

CONDITIONS OF APPROVAL

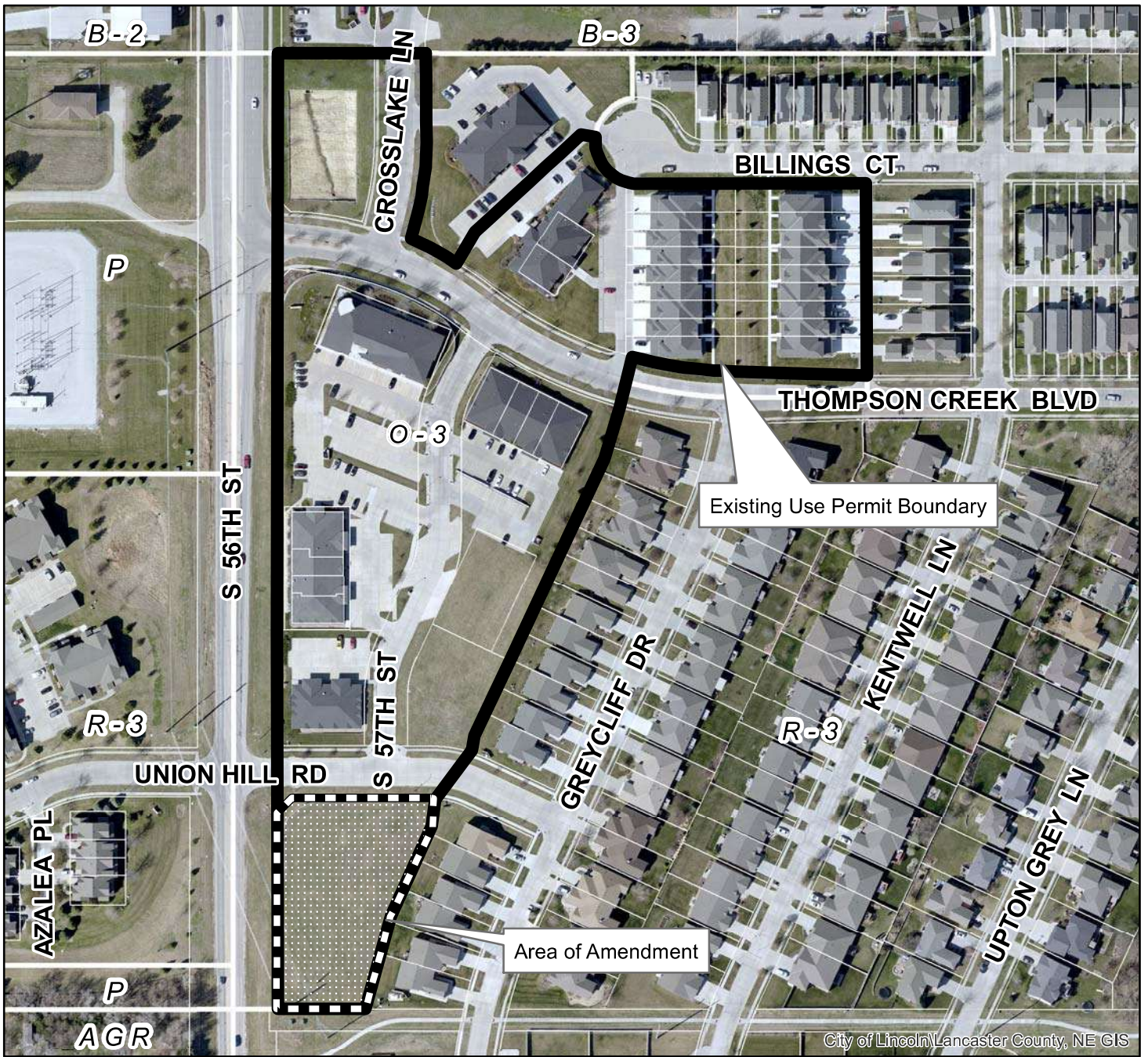
Per Chapter 27.64 this approval permits an adjustment of the rear setback from 40' to 25' for Lot 1, Block 1 on the site plan.

Site Specific Conditions:

1. The permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 2 copies with all required revisions and documents as listed below:
 - 1.1 Make the following revisions to the site plan:
 - 1.1.1 Change the colors of the proposed changes from red to black.
 - 1.1.2 Clearly delineate the boundary of the use permit.
 - 1.1.3 Add back the text from the prior amendment 'Additional Site Notes'.
 - 1.1.4 Label the subject lot as Lot 1, Block 1 and correct the designation in the land use table.
2. Before a building permit is approved provide the following documents to the Department of Building and Safety:
 - 2.1 Verification from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.

Standard Conditions:

3. The following conditions are applicable to all requests:
 - 3.1 Before occupying the office building all development and construction shall substantially comply with the approved plans.
 - 3.2 All privately-owned improvements, including landscaping and recreational facilities, shall be permanently maintained by the Permittee or an appropriately established businessowners association approved by the City.
 - 3.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters be in substantial compliance with the location of said items as shown on the approved site plan.
 - 3.4 The terms, conditions, and requirements of this resolution shall run with the land and be binding upon the Permittee, its successors and assigns.
 - 3.5 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 therefor to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.
 - 3.6 The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all prior resolutions approving this permit remain in full force and effect as specifically amended by this resolution.



City of Lincoln/Lancaster County, NE GIS

2020 aerial

Use Permit #: UP141B
Thompson Creek Office Park
S 56th St & Thompson Creek Blvd

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

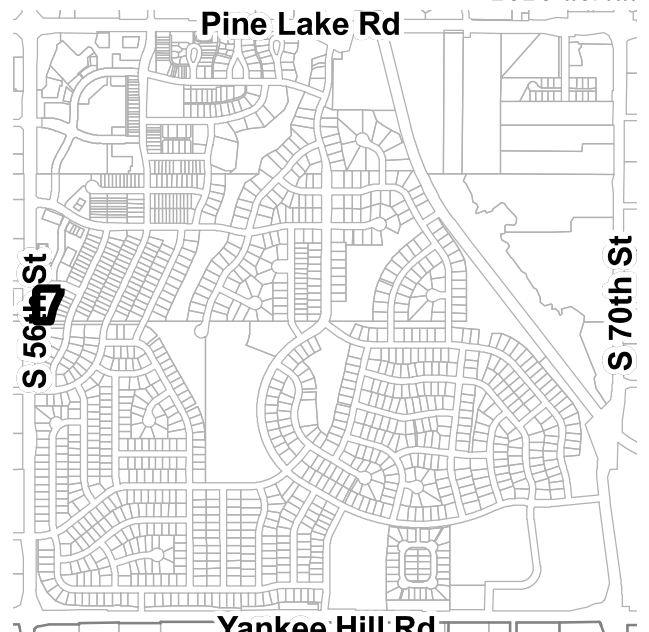
One Square Mile:
 Sec.21 T09N R07E

Area of Application

Zoning Jurisdiction Lines

Lancaster County Jurisdiction

68



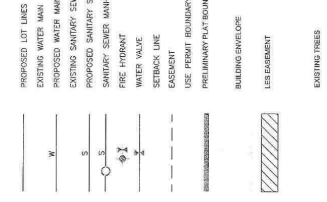
THOMPSON CREEK

ADMINISTRATIVE AMENDMENT TO USE PERMIT NO. 141B

GENERAL SITE NOTES

1. OPERATIONAL LIGHTING ALONG ALL PUBLIC STREETS SHALL BE IN ACCORDANCE WITH U.S. REGULATIONS.
2. LOT DIMENSIONS SHOWN ARE APPROXIMATE AND MAY VARY UP TO 10 FEET.
3. ALL DIMENSIONS ALONG CURVES ARE CHORD DIMENSIONS.
4. ALL ELEVATIONS ARE BASED ON NAVD 1988 DATUM.
5. THE EXISTING ZONING IS O-3.
6. ALL DEVELOPED AREAS SHALL BE IN COMPLIANCE WITH THE APPLICABLE ZONING ORDINANCE (GENERAL REGULATORY CODE, CHAPTER 144 (RULES AND REGULATIONS)).
7. ANY RELOCATION OF EXISTING U.T.S. FACILITIES WILL BE AT DEVELOPER'S EXPENSE.
8. SANITARY SEWER AND WATER LINES TO BE 8" PIPE AND 8" O.D. PIPE TO BE PUBLIC. ALL SANITARY SEWERS AND WATER MAINS TO BE PUBLIC.
9. THE DEVELOPER SHALL COORDINATE WITH THE LOCAL UTILITY PROVIDER DURING AND AFTER LAND PREPARATION AND FURTHER TO SUBMIT A COMPLETE AND DETAILED UTILITY LOCATIONS AND DEPTH RECORDING TO THE LOCAL UTILITY PROVIDER BEFORE SITE GRADING IS COMPLETE.
10. THE LAYOUT OF BUILDINGS AND INDIVIDUAL LOT LANDSCAPING WILL BE REVIEWED AT THE TIME OF FINAL PLAT. THE ACTUAL LAYOUT MAY ALSO BE REVIEWED AT THE TIME OF BUILDING PERMITS PROVIDED MAINTAINED STREET TREES TO BE REWORKED AT THE TIME OF FINAL PLAT IN COMPLIANCE WITH LMC.
11. ALL UTILITIES SHALL BE LOCATED BASED ON THE CRITICAL POINT TRIANGLE, LOCKMAN AND SOCIETY OF LANDSCAPE ARCHITECTS TO COMPLY WITH LINCOLN MUNICIPAL CODE AND DESIGN STANDARDS.
12. AS PART OF FINAL PLATING, BLANKET UTILITY AND/OR UTILITY EJECTOR SYSTEM WILL BE PROVIDED TO THE SATISFACTION OF LINCOLN ELECTRIC SYSTEM.
13. DETAILS OF ALL SIGNS, INCLUDING TYPE, LOCATION, HEIGHT AND SIZE WILL BE SUBMITTED SEPARATELY FOR REVIEW WITH THE BUILDING PERMITS DIVISION. THE ZONING REQUIREMENTS ARE NOT REQUIRED TO BE SHOWN ON THE SITE PLAN. STREET AND THOMPSON CREEK BLVD. AND CROSS-LANE LANE AND SOUTH 56TH STREET AND PARKING LOT LIGHTING, IF PROVIDED, WILL BE IN ACCORDANCE WITH THE CITY OF LINCOLN STANDARDS.
14. PARKING LOT LIGHTING, IF PROVIDED, WILL BE IN ACCORDANCE WITH THE CITY OF LINCOLN STANDARDS.
15. THE EXISTING UTILITY SYSTEMS, INCLUDING SANITARY SEWER, WATER MAINS, GAS, AND OTHER UTILITIES, SHALL BE UTILIZED TO EXTEND THE DISTANCE OF BEST MANAGEMENT PRACTICES TO BE LOCATED AT THE END OF THE USE OF LANA CHEMICALS/PERKOLATORS AND ENSURING THE PROPER STORAGE OF CHEMICALS AND/OR FUELS.
16. THE PUBLIC STREET GASEMENT ALONG SOUTH 56TH STREET IS GRANTED FOR PURPOSES OF THE PROPOSED DEVELOPMENT. THE GASEMENT SHALL BE IN ACCORDANCE WITH THE CITY OF LINCOLN STANDARDS AND APPLICABLE RELATED MUNICIPAL ORDINANCES AND LANDSCAPING.
17. BUILDINGS MAY BE CONSTRUCTED ANYWHERE WITHIN THE BUILDING ENVELOPES SHOWN.
18. EYES, OVERHANGS, WINDOW SHIMS, DOOR SHIMS, AIR CONDITIONING UNITS ETC. CAN BE CONSTRUCTED WITHIN THE BUILDING ENVELOPES SHOWN. ALL BUILDINGS SHALL BE IN ACCORDANCE WITH THE CITY OF LINCOLN STANDARDS AND APPLICABLE RELATED MUNICIPAL ORDINANCES AND LANDSCAPING.
19. BLANKET UTILITY EJECTORS ARE GRANTED OVER OUTLOTS E, F, & G. THE DEVELOPER AGREES TO GRANT A SUBSTANTIAL EJECTOR EASEMENT IN SOUTH 56TH STREET TO THE CITY OF LINCOLN. THE EJECTOR SHALL BE IN ACCORDANCE WITH THE CITY OF LINCOLN STANDARDS AND APPLICABLE RELATED MUNICIPAL ORDINANCES AND LANDSCAPING. ANY USE OF LOT F-BLOCK-1.

LEGEND



BENCH MARKS

1. NORTH 1/2 OF THE SECTION 15
2. NORTHEAST CORNER OF THE SECTION 15
3. SECTION 15
4. SECTION 15

REVISIONS (CONT'D)

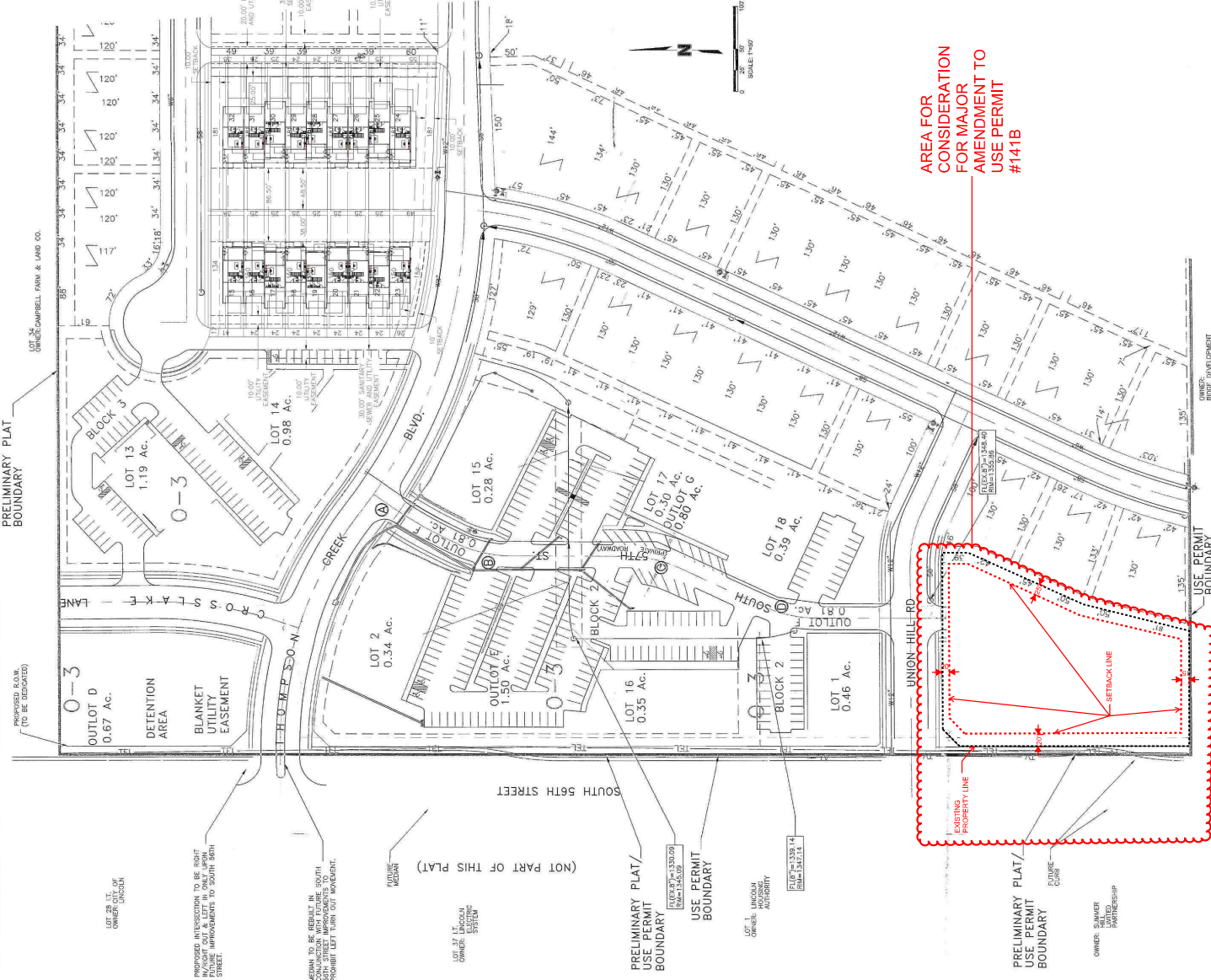
NO.	DATE	REVISION DESCRIPTION
10	08/16/2022	MAJOR AMENDMENT TO USE PERMIT #141B
9		
8		

LAND USE/PARKING

LOT/BLOCK	RESOURCES	USE	BLDG SQ. FT.	PREPARED	RECD	PROVIDED	RESIDENTIAL/ OFFICE VEH.	PRE/AMT	LOT SQ. FT.
7/1	1.12 Ac.	Commercial	10,000	1,000 SQ. FT.	34	34	-	-	49,117
7/2	0.18 Ac.	Commercial	5,000	1,000 SQ. FT.	34	34	-	-	19,879
7/2	0.34 Ac.	Commercial	10,000	1,000 SQ. FT.	34	34	-	-	14,294
16/2	0.28 Ac.	Commercial	10,000	1,000 SQ. FT.	35	35	-	-	12,218
16/2	0.35 Ac.	Commercial	10,000	1,000 SQ. FT.	35	35	-	-	15,200
17/2	0.35 Ac.	Commercial	10,000	1,000 SQ. FT.	35	35	-	-	13,140
16/2	0.39 Ac.	Commercial	10,000	1,000 SQ. FT.	35	35	-	-	16,816
16/2	0.46 Ac.	Commercial	10,000	1,000 SQ. FT.	35	35	-	-	51,285
16/2	0.39 Ac.	Commercial	10,000	1,000 SQ. FT.	35	35	-	-	42,826
16/2	0.35 Ac.	Commercial	10,000	1,000 SQ. FT.	35	35	-	-	8,112
GRAND TOTAL	7.39 Ac.	Commercial	70,000	7,000 SQ. FT.	35	35	-	-	300,796

CENTERLINE CURVE DATA

Stationing	Curve Data
0+00 to 0+100	Stationing
0+100 to 0+200	Stationing
0+200 to 0+300	Stationing
0+300 to 0+400	Stationing
0+400 to 0+500	Stationing
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AREA FOR CONSIDERATION FOR MAJOR AMENDMENT TO USE PERMIT #141B

June 16, 2022

David Cary, Planning Director
City of Lincoln NE
555 South 10th Street, Suite 213
Lincoln NE 68508

RE: Use Permit, Major Amendment (UP#141B) - 5601 Union Hill Road, Lincoln NE

Schemmer No. 08461.001

Dear Mr. Cary:

On behalf of CNS, LLC. And Dr. Spencer Brown (Owner) we are hereby requesting for the rear yard setback along the east line of Thompson Creek Addition, Block 1, Lot 7 to be reduced to 25'.

A number of recent amendments to the UP#141 for this site, indicated the setback reduction to 25'. However, the language and agreements accompanying these edits did not confirm this dimension. We are requesting a 25' setback to create a lot that can be used to its highest and best use and conform as close as possible to the listed 10,000 SF building size for the lot. As you can see, the lot is severely hindered in building placement due to an LES overhead power line easement. Additionally, access to the site from the north is limited by both geometry and existing topography.

The 25' dimension is driven by the existence of an LES easement of the same dimension on the east side – no building may be constructed in this easement. Hence the same dimensional request for the side yard setback of 25'.

Additionally, we are confirming the setbacks on the lot: 20' north and west; and 15' to the south.

Finally, the Owner will add landscaping along the east property line in accordance with LES easement procedures and policies and in compliance with City of Lincoln landscaping requirements.

We have worked with planning staff and have received positive support for this request. We ask for this amendment be passed as soon as possible.

Sincerely,

THE SCHEMMER ASSOCIATES INC.



Peter Hind, AIA, LEED AP
Shareholder | Architecture Manager

Attachments: Refence drawing for UP#141B

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

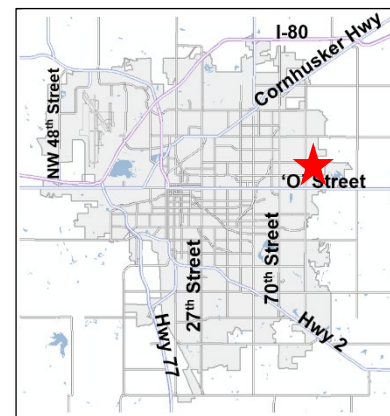
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Change of Zone #22013	FINAL ACTION? No	DEVELOPER/OWNER Peregrine Townhomes/Fellowship Church of God
PLANNING COMMISSION HEARING DATE July 13, 2022	RELATED APPLICATIONS SP22015	PROPERTY ADDRESS/LOCATION Eagle Crest Road and Holredge Street

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request for a Change of Zone from AG Agricultural to R-3 Residential over 20.83 acres located southeast of the intersection of Eagle Crest Road and Holdrege Street. The Change of Zone area includes the entire property owned by the Fellowship Church of God. This Change of Zone is being proposed along with related Special Permit 22015 to permit a Community Unit Plan (CUP) with 26 dwelling units.



JUSTIFICATION FOR RECOMMENDATION

The request is consistent with the Comprehensive Plan. The proposal continues the pattern of urban density residential along the south side of Holredge Street in this area. The property is already in the City limits with urban services available.

APPLICATION CONTACT

Nathaniel P. Burnett, (402) 484-7342 or nate@regaeng.com

STAFF CONTACT

George Wesselhoft, (402) 441-6366 or gwesselhoft@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The proposal is compatible with the Comprehensive Plan as the property is identified for urban density residential with the proposed density of the CUP at 5.2 dwelling units per acre.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Introduction Section: Growth Framework

Figure GF.b: 2050 - This site is shown as future urban density residential on the 2050 Future Land Use Plan.

Land Use Plan -

-Urban Residential. Residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. All types of housing are appropriate here, from detached single family, duplex and missing middle, to higher density multi-family. Undeveloped areas shown as Urban Residential may also include neighborhood-scale commercial and other compatible uses that will be added to the map after approval of development plans.

Fundamentals of Growth in Lancaster County

The City of Lincoln's present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a mix of uses, and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

The Community in 2050

The following assumptions provide the framework for growth in the 2050 plan.

Lancaster County is projected to add approximately 53,000 households by 2050, with 48,000 of those new households in Lincoln (roughly 1,600 new households per year).

New growth areas will have an average gross residential density of 4.0 du/acre.

Benefits of Well-Planned Growth

Continued investment within the city ensures that our existing neighborhoods and commercial areas remain vibrant and desirable locations. More "rooftops" near existing commercial areas help to support continued commercial investment.

Goals Section

G2: Complete Neighborhoods. Lincoln and Lancaster County will support complete neighborhoods within both developing and redeveloping areas of Lincoln. A complete neighborhood is one where residents are able to get the goods and services to meet daily needs within 15 minutes of their residence including a variety of housing options, grocery stores and other commercial services, quality public schools, public open spaces and recreational facilities, affordable active transportation options, and civic amenities. Housing variety should include townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and even small lot single-family.

Elements Section

E1: Complete Neighborhoods and Housing

A complete neighborhood is more than housing - great neighborhoods combine all the elements of parks, education, commercial areas, environmental resources, and housing together in one place.

A complete neighborhood is one where residents have safe and convenient access to goods and services needed for daily life activities.

Developing Neighborhoods

Developing neighborhoods should have a variety of housing types and sizes, plus commercial and employment opportunities.

Policies Section

P3: Developing Neighborhoods - Accommodate and encourage growth that aligns with PlanForward's growth scenario and provides a mix of housing options with convenient access to parks, schools, shopping, jobs, and other community resources.

P17: Predictability - Strive for predictability for neighborhoods and developers.

ANALYSIS

1. This is a request for a change of zone from AG Agricultural to R-3 Residential over 20.83 acres of land. The change of zone area includes the entire property owned by the Fellowship Church of God property at the southeast corner of Eagle Crest Road and Holdrege Street. Related SP22015 is for the south 5.17 acres of this property.
2. The change of zone is requested to allow for the related Special Permit 22015 which will permit a Community Unit Plan (CUP) that will have 26 dwelling units. The lots for these dwellings will be located on the north and south sides of Peregrine Road, a new east-west public street which will connect to the existing Peregrine Road to the East and Peregrine Court to the West. In addition, a connection will be provided to the existing N. 88th Street to the South.
3. A street connection to the north is also provided and will be extended further when the rest of the church property is developed. This area will be shown as future conceptual for purposes of the CUP but will include possible future residential lots along with the retention of a smaller property area for the existing church building.
4. Adjacent subdivisions include a mixture of acreage subdivisions and newer subdivisions established with City services. The adjacent zoning pattern is thus a similar mixture of AGR, R-3 and R-5 for the residential zoned areas along the south side of Holdrege Street. The AGR with existing acreage lots is to the south, R-5 and R-3 with apartments and townhomes is to the east, and R-3 with townhomes is to the west.
5. The proposed R-3 zoning will continue the pattern of urban residential zoning along the south side of Holdrege Street in this area. In time, even parts of the adjacent acreage subdivision could be rezoned to a similar zoning such as R-3 as these properties would develop further as planned for build through with City services extended for subdivisions of existing acreage lots.
6. The future land use map in the 2050 Comprehensive Plan designates this property for urban density residential. This includes residential areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre with all types of housing as appropriate. Therefore, the proposed change of zone is consistent with the Comprehensive Plan.

EXISTING LAND USE & ZONING: Church; AG

SURROUNDING LAND USE & ZONING

North: Church; AG

South: Rural Acreages; AGR

East: Vacant, Apartments (The 8801 CUP); R-3, R-5

West: Single Family Attached, Single Family Detached; R-3

APPLICATION HISTORY:

- | | |
|----------------|---|
| 1979 | The area was zoned A-A, Rural and Public Use until 1979 when the zoning was updated to AG Agricultural. |
| October, 1989 | The City Council approved WVR89001 to waive the surfacing requirement for a parking lot. |
| November, 2017 | This property was annexed as part of AN17016 approved by City Council. |

APPROXIMATE LAND AREA: 20.83 acres

LEGAL DESCRIPTION: Lot 24, I.T., located in the NW 1/4 of Section 23-10-7, Lincoln, Lancaster County, Nebraska

Prepared by

George Wesselhoft, Planner
Date: June 30, 2022

Owner: Fellowship Church of God
8451 Eagle Crest Road
Lincoln, NE 68505

Applicant: REGA Engineering Group, behalf of Peregrine Townhomes
601 Old Cheney Road
Suite A
Lincoln, NE 68512
(402) 484-7342

Contact: Nathaniel P. Burnett
601 Old Cheney Road
Suite A
Lincoln, NE 68512
(402) 484-7342
nate@regaeng.com

[https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/CZ/22000/CZ22013
Peregrine Townhomes.gjw.docx](https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/CZ/22000/CZ22013 Peregrine Townhomes.gjw.docx)

File No. 211134
May 25, 2022

Mr. David Cary
Director of Planning
George Wesselhoft, Planner
City of Lincoln/ Lancaster County
555 South 10th Street
Lincoln, NE 68508

RE: PEREGRINE TOWNHOMES
COMMUNITY UNIT PLAN / SPECIAL PERMIT
CHANGE OF ZONE FROM AG TO R-3
North 88th Street & Peregrine Road

Dear David,

On behalf of 8801 Peregrine Townhomes LLC, the developer, we are submitting an application for Peregrine Townhomes, a Community Unit Plan / Special Permit with a change of zone from AG to R-3. Currently, the property is owned by Fellowship Church of God. The church will be selling the proposed CUP area to the developer.

The proposed CUP Boundary includes 5.17 acres which is adjacent to R-3 Zoning to the east and west. An associated change of zone request will be over the whole church property. The neighboring property on the east side consists of the recently approved "The 8801" Community Unit Plan and includes both Apartments and single family attached units. West of the property are a combination of single family and single family attached dwelling units. To the south is Acreage Lots

The development includes 26 single family attached lots, 3 outlots for open space/detention and pedestrian connectivity. The development proposes public streets and utilities with street right-of-way.

A meeting and/or information of the development will take place and/or be given to the surrounding neighbors and neighborhood associations prior to the Planning Commission meeting.

The following waivers are being requested as follows:

1. SANITARY SEWER RUNNING OPPOSITE STREET GRADE.
(Design Standards Chapter 2.00 Section 3, 3.5)
There is a slight high point where the proposed sanitary sewer will be running opposite the proposed grade.

2. **SANITARY SEWER LOCATION**
(Design Standards Chapter 2.00 Section 3, 3.4)
The existing sanitary sewer being tied into on the east side of the property is on the north side of Peregrine Road. In discussions with the City of Lincoln Wastewater Department, it was discussed to keep the sanitary sewer location on the north side of this development since it will dead end on with this proposed project.
3. **WATER MAIN LOCATION**
(Design Standards Chapter 2.10 Section 3, 3.4)
The existing water main being tied into on the east side of the property is on the south side of Peregrine Road. We are proposing the same approach as the sanitary sewer with keeping the water main on the south side and then bringing it over to the north side on the west side of the property.
4. **REAR SETBACK FROM 20 FEET TO 15 FEET**
(Zoning Ordinance 27.72.020(a))
Due to proposed outlots for detention we are requesting a small reduction in the setbacks to ensure that the proposed residences will have sufficient buildable area.
5. **LOT AREA FROM 5,000 SQ. FT. TO 4,200 SQ. FT**
(Zoning Ordinance 27.72.020(a))
Due to proposed outlots for detention which reduced the depth of the lots, we are requesting a reduction in the lot area allow for lots on Block 2 and Block 3.

We look forward to meeting with the Planning Department and other City Departments on this application. Please do not hesitate to contact me if you have any questions, comments or concerns.

Sincerely,



Nathaniel P. Burnett, P.E.

Cc: Mitch Linder

Enclosed: Application Form
 Application Fee – CUP of \$1,451.88
 Application Fee – COZ of \$1,005.00
 CUP and COZ Description
 Waiver List
 Lot List

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

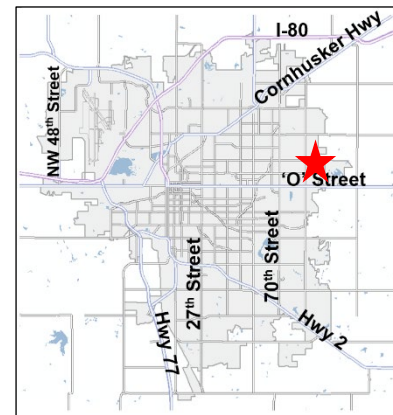
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Special Permit 22015 Peregrine Townhomes Community Unit Plan	FINAL ACTION? Yes	DEVELOPER/OWNER Peregrine Townhomes/Fellowship Church of God
PLANNING COMMISSION HEARING DATE July 13, 2022	RELATED APPLICATIONS CZ22013	PROPERTY ADDRESS/LOCATION Eagle Crest Road and Holdrege Street

RECOMMENDATION: DENIAL

BRIEF SUMMARY OF REQUEST

This is a request for a Community Unit Plan (CUP) to include 26 single family attached dwelling units on approximately 5.17 acres. The CUP is located on the south portion of the Fellowship Church of God property to the southeast of Eagle Crest Road and Holdrege Street. The property is currently zoned AG Agricultural. Related Change of Zone 22013 will rezone the CUP area along with the remainder of the Church property to R-3 Residential. Site access will be from Peregrine Road which will connect to streets to the east and west. Also, there will be a connection to N. 88th Street to the South. A future connection is shown to Eagle Crest Road south of Holdrege Street.



JUSTIFICATION FOR RECOMMENDATION

The Project is consistent with the Comprehensive Plan and the general pattern of urban residential in this area. However, the corrections needed for stormwater management design are major and resubmittal is needed before this project can move forward. Therefore, the recommendation is for denial until the plan is revised and resubmitted so that it conforms to all the requirements.

APPLICATION CONTACT

Nathaniel P. Burnett, (402) 484-7342 or nate@regaeng.com

STAFF CONTACT

George Wesselhoft, (402) 441-6366 or gwesselhoft@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The proposed land use and density are in conformance with the Comprehensive Plan, which identifies future urban density residential uses at this location. The proposed 26 dwelling units on 5.17 acres equates to a land use density of around 5 dwelling units per acre. This is consistent with the Comprehensive Plan for urban density residential.

WAIVERS

1. Design Standards Chapter 2.00 Section 3, 3.4 for sanitary sewer location. (Recommend Approval)
2. Design Standards Chapter 2.00 Section 3, 3.5 to allow sanitary sewer to run opposite the street grade. (Recommend Approval)
3. Design Standards Chapter 2.10, Section 3, 3.4 for water main to location. (Recommend Approval)
4. Zoning Ordinance 27.72.020(a) to reduce the rear yard setback from 20 feet to 15 feet for Blocks 2 and 3. (Recommend Approval)

5. Zoning Ordinance 27.72.020(a) to reduce the minimum lot area from 5,000 square feet to 4,200 square feet. (Recommend Approval).

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Introduction Section: Growth Framework

Figure GF.b: 2050 - This site is shown as future urban density residential on the 2050 Future Land Use Plan.

Land Use Plan -

-Urban Residential. Residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. All types of housing are appropriate here, from detached single family, duplex and missing middle, to higher density multi-family. Undeveloped areas shown as Urban Residential may also include neighborhood-scale commercial and other compatible uses that will be added to the map after approval of development plans.

Fundamentals of Growth in Lancaster County

The City of Lincoln’s present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a mix of uses, and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

The Community in 2050

The following assumptions provide the framework for growth in the 2050 plan.

Lancaster County is projected to add approximately 53,000 households by 2050, with 48,000 of those new households in Lincoln (roughly 1,600 new households per year).

New growth areas will have an average gross residential density of 4.0 du/acre.

Benefits of Well-Planned Growth

Continued investment within the city ensures that our existing neighborhoods and commercial areas remain vibrant and desirable locations. More “rooftops” near existing commercial areas help to support continued commercial investment.

Goals Section

G2: Complete Neighborhoods. Lincoln and Lancaster County will support complete neighborhoods within both developing and redeveloping areas of Lincoln. A complete neighborhood is one where residents are able to get the goods and services to meet daily needs within 15 minutes of their residence including a variety of housing options, grocery stores and other commercial services, quality public schools, public open spaces and recreational facilities, affordable active transportation options, and civic amenities. Housing variety should include townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and even small lot single-family.

Elements Section

E1: Complete Neighborhoods and Housing

A complete neighborhood is more than housing - great neighborhoods combine all the elements of parks, education, commercial areas, environmental resources, and housing together in one place.

A complete neighborhood is one where residents have safe and convenient access to goods and services needed for daily life activities.

Developing Neighborhoods

Developing neighborhoods should have a variety of housing types and sizes, plus commercial and employment opportunities.

Policies Section

P3: Developing Neighborhoods - Accommodate and encourage growth that aligns with PlanForward's growth scenario and provides a mix of housing options with convenient access to parks, schools, shopping, jobs, and other community resources.

Action Steps

1. Provide for an adequate supply of land and timely infrastructure improvements that meet the demands of growth.
2. Structure incentives to encourage higher densities to make greater use of the community's infrastructure.
3. Encourage new development to achieve densities greater than five dwelling units per gross acre by zoning at least 20% of residentially zoned land in developing areas to allow greater than five dwelling units per acre by right.
4. Develop new design standards or zoning tools that encourage density, optimize infrastructure costs, and help lower the overall cost of property development.
5. Implement elements of Complete Neighborhoods for Developing Areas.
6. Develop and utilize a measurement tool to evaluate neighborhoods in terms of how well they achieve PlanForward's goals for design, sustainability, and Complete Neighborhoods goals.
7. Encourage public and private investment in neighborhood infrastructure and services to support economic diversity that improves the quality of life for all residents.
8. Include housing for a variety of incomes and households throughout the community that is integrated into neighborhoods and provides appropriate transitions, scale, and context.
9. Promote mixed-income neighborhoods.
10. Preserve areas designated for multi-family, and group living housing in approved plans to support a distributed choice in affordable housing.
11. Support addition of higher density development in existing multi-family development.
14. Promote neighborhood and community design that supports healthy and active lifestyles, such as the benefits of street trees.
16. Encourage a variety of housing types including townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and small lot single-family units.

P17: Predictability - Strive for predictability for neighborhoods and developers.

Action Steps

1. Continue to make updates as needed to zoning and subdivision ordinances, along with design standards, to support economic development, complete neighborhoods, and other PlanForward initiatives.
2. Support timely and efficient implementation of the growth tiers framework through the Capitol Improvement Program and other coordinated infrastructure enhancements.

ANALYSIS

1. This is a request for a new Community Unit Plan (CUP) to permit 26 dwellings on approximately 5.17 acres. The project is to the southeast of Eagle Crest Road and Holdrege Street intersection on the south part of the existing Fellowship Church of God property. The residential units will be single family attached. The density limit for this CUP in R-3 zoning is 6.96 dwelling units per acre which in this case equates to 35 total dwelling units that would be allowable. Therefore, the proposal is under the density limit.
2. The remainder of the church property not included in the CUP area will be shown as Conceptual Layout on the

plan. A proposed connection to Eagle Crest Road is shown along with additional residential lots south of the existing church building.

3. The applicant has requested the following waivers to the Lincoln Municipal Code and to Design Standards:
 - a) Design Standards Chapter 2.00 Section 3, 3.4 for sanitary sewer location. The existing sanitary sewer being tied into on the east side of the property is on the north side of Peregrine Road. It was discussed to keep the sanitary sewer location on the north side of this development as it will terminate within this project and is justified.
 - b) Design Standards Chapter 2.00 Section 3, 3.5 to allow sanitary sewer to run opposite the street grade. There is a slight high point where the proposed sanitary sewer will be running opposite the proposed grade. This waiver is justifiable and has been approved in other projects.
 - c) Design Standards Chapter 2.10, Section 3, 3.4 for water main to location. The existing water main being tied into on the east side of the property is on the south side of Peregrine Road. The proposal for water is the same as sanitary sewer with keeping the water main on the south side and then bringing it over to the north side on the west side of the property. This is justifiable and acceptable to LTU.
 - d) Zoning Ordinance 27.72.020(a) to reduce the rear yard setback from 20 feet to 15 feet. Due to proposed detention outlots it is requested to have a small reduction in the setbacks to allow sufficient buildable area. As this reduction is minor and will not negatively affect any neighbors, it is justified.
 - e) Zoning Ordinance 27.72.020(a) to reduce the minimum lot area from 5,000 square feet to 4,200 square feet. Due to proposed outlots for detention which reduces the depth of the lots, it is requested to have a reduction in the lot area on Blocks 2 and Block 3. Lot area reductions have been approved in other CUP projects and in this case is justified.
4. Related CZ22013 is to change the zoning from AG Agricultural to R-3 Residential for the entire Church property to allow for the CUP. The R-3 zoning is consistent with the zoning pattern to the west which is also R-3 and to the east which includes both R-3 and R-5. There is existing AGR zoning to the south with the Sunrise Estates CUP, however, this acreage subdivision was previously established prior to the current availability of City services. Street connections have been provided to Sunrise Estates as adjoining areas have developed, including Waterford Estates and The 8801 CUP.
5. The future land use map identifies the property for urban density residential. This is the identified future land use for the general area on the south side of Holdrege east of the commercial area at N. 84th and extending to the east City limits beyond Waterford Estates. The proposed CUP therefore is appropriate as it will match the land use pattern in this area.
6. It should be noted that as an impact of this project the street name to the west, Peregrine Court, will need to be changed to Peregrine Road. This will need to be done at the time of final plat when the new street is platted and dedicated to the City. This will affect four dwellings east of Talon Road.
7. LTU Watershed has identified issues relative to the design of the stormwater management. These issues are major enough to not recommend this project move forward until significant corrections are made. This is the reason for the recommendation to deny. Specifically, Watershed Management recommends denial to this plan until corrections are made to the grading and drainage to meet City design standards. Multiple meetings and discussions have been had with the engineer, but no significant changes have been made to meet the grading and drainage requirements. Lot widths or the number of lots may need to be reduced or grading revised to eliminate walkout lots to meet these requirements. Assurance is needed that this development as shown can meet these requirements before it moves forward. The following must be provided before Watershed Management can recommend approval:
 - i. Maintenance access needs to be provided along the sides of the detention cell to the outlet structure. The required access is a flat 15 ft wide path along the sides and a 14 ft wide top embankment along the southern property line, but Watershed Management is supportive of reducing these down to 8 ft wide. This has been communicated to the engineer but has not been provided.
 - ii. Discrepancies between the grading plan and the drainage report need to be rectified. This may result in increased area needed for the detention pond.

- iii. There may be more detailed comments once the grading and drainage plan has been revised to address these requirements.
8. One of the conditions of approval is to include an outlot on the south side of Peregrine Road next to The 8801 development. This is next to a similar outlot that exists in the latter development. This will benefit both developments in that it will allow the two to be combined and for each development to have one dwelling unit as part of a single family attached home. The 8801 was approved first so this development needs to match the condition of The 8801 which includes the outlot for future development. It should be noted that the developer isn't being required to give this land away. They should be appropriately compensated, or they could buy the adjacent outlot in The 8801 and replat it into a buildable lot. Either way the condition provides benefit to both owners. Further, this change can be made without impacting the overall design as the lot in question is wider than the other lots.
 9. In terms of traffic impact, this proposal with the conditions of approval for the outlot on the south side of Peregrine Road includes up to 27 dwelling units. These will be townhomes that may be built over several years. This is a much different scenario than The 8801 Development to the east which included up to 728 dwelling units including townhomes and apartments. In the case of the latter project, given the larger scale and with apartments the conditions of approval included temporary barricades at Duane Lane and N. 92nd Street until the first multi-family building is occupied. In the case of this CUP, it would not be appropriate to have a similar condition because of the smaller scale of the development which by connecting all the streets will not negatively harm the nearby residents. Street connections are made all the time in developments. Blocking street connections such as N. 88th Street, in this case, would not be fair to the neighbors to the west that may have additional traffic only come and go one direction.
 10. The proposed community unit plan subject to conditions of approval is consistent with the Comprehensive Plan and will be at appropriate urban residential density.

CONDITIONS OF APPROVAL: See attached.

UTILITIES: City services including water and sanitary sewer are available. There is existing water and sanitary sewer adjacent the CUP site.

TOPOGRAPHY: The existing topography falls approximately 30 feet from the south end of the property to the north end along Holdrege Street.

TRAFFIC ANALYSIS: Holdrege Street is a minor arterial street at this location.

PUBLIC SERVICE: The nearest Lincoln Fire and Rescue Station is Station #16 at N. 98th Street and Boathouse Road.

EXISTING LAND USE & ZONING: Church; AG

SURROUNDING LAND USE & ZONING

- North: Church, Single Family Detached; AG, R-3
- South: Rural Acreages; AGR
- East: Vacant and apartments under construction (The 8801 CUP); R-3, R-5
- West: Single Family Detached, Southeast Rural Fire and Rescue Station; R-3, O-3

APPLICATION HISTORY: See Attached.

APPROXIMATE LAND AREA: 5.17 acres

LEGAL DESCRIPTION: See Attached.

Prepared by

George Wesselhoft, Planner
Date: June 30, 2022

Owner: Fellowship Church of God
8451 Eagle Crest Road
Lincoln, NE 68505

Applicant/
Contact REGA Engineering Group, behalf of Peregrine Townhomes
Nathaniel P. Burnett
601 Old Cheney Road
Suite A
Lincoln, NE 68512
(402) 484-7342
nate@regaeng.com

<https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/SP/22000/SP22015 Peregrine Townhomes CUP.gjw.docx>

APPLICATION HISTORY - SPECIAL PERMIT #22015

- 1979 The area was zoned A-A, Rural and Public Use until 1979 when the zoning was updated to AG Agricultural.
- October, 1989 The City Council approved WVR89001 to waive the surfacing requirement for a parking lot.
- November, 2017 This property was annexed as part of AN17016 approved by City Council.

CONDITIONS OF APPROVAL - SPECIAL PERMIT 22015

Per Section 27.63.320 this approval permits a Community Unit Plan with up to 27 single family attached residential dwelling units with the following waivers:

1. Design Standards Chapter 2.00 Section 3, 3.4 for sanitary sewer location.
2. Design Standards Chapter 2.00 Section 3, 3.5 to allow sanitary sewer to run opposite the street grade.
3. Design Standards Chapter 2.10, Section 3, 3.4 for water main to location.
4. Zoning Ordinance 27.72.020(a) to reduce the rear yard setback from 20 feet to 15 feet.
5. Zoning Ordinance 27.72.020(a) to reduce the minimum lot area from 5,000 square feet to 4,200 square feet for Blocks 2 and 3.

Site Specific Conditions:

1. Before a final plat is approved the permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 2 copies with all required revisions and documents as listed below:
 - 1.1 Make the following revisions:
 - 1.1.1 Add label "Conceptual Layout" to the remainder of the church property not in the CUP.
 - 1.1.2 Change Outlot C to 15 feet width and label as pedestrian easement.
 - 1.1.3 Change Note 1. under General Notes to 27 dwelling units.
 - 1.1.4 Change Density Table to reflect 27 dwelling units permitted within this CUP.
 - 1.1.5 Revise Lots 7 and 8, Block 3 so there is at least a 10' wide outlot to the east of Lot 8.
 - 1.1.6 Identify the corner front setback for lots which are corner lots.
 - 1.1.7 Make text size consistent throughout the plan.
 - 1.1.8 Revise Note 12. under General Notes to remove mention of any sidewalk waiver.
 - 1.1.9 Delete Note 10. under General Notes.
 - 1.1.10 Fix overlapping text in southwest area of the CUP.
 - 1.1.11 Revise grading plan to show pedestrian easement meeting ADA for sidewalk.
 - 1.1.12 Show duplex lots without a 5' side yard setback in between units.
 - 1.1.13 Remove duplex term from all lots.
 - 1.1.14 Correct developer name spelling to Mitch Linder.
 - 1.1.15 Submit revisions per LTU-Watershed Management 6/24 comments.
 - 1.1.16 Provide cross section of sidewalk between Lots 6 and 7.

- 1.1.17 Show profile information to determine grade for N. 88th Street.
- 1.1.18 Show N. 88th Street and N. 89th Street connections to Peregrine Road and call out what existing profiles at each end are in street profile information.
- 1.1.19 Add note under General Notes that developer is responsible for extension of N. 88th Street pavement to existing pavement in Sunrise Estates and removal of temporary cul de sac.
- 1.1.20 Submit CAD corrections for GIS Survey.

2. Before a final plat is approved provide the following documents to the Planning Department:

- 2.1 Verification from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.

3. Final plat(s) is/are approved by the City.

If any final plat on all or a portion of the approved community unit plan is submitted five (5) years or more after the approval of the community unit plan, the city may require that a new community unit plan be submitted, pursuant to all the provisions of section 26.31.015. A new community unit plan may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the community unit plan as originally approved does not comply with the amended rules and regulations.

Before the approval of a final plat, the public streets, private roadway improvements, sidewalks, public sanitary sewer system, public water system, drainage facilities, land preparation and grading, sediment and erosions control measures, storm water detention/retention facilities, drainageway improvements, street lights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs, must be completed or provisions (bond, escrow or security agreement) to guarantee completion must be approved by the City Law Department. The improvements must be completed in conformance with adopted design standards and within the time period specified in the Land Subdivision Ordinance. A cash contribution to the City in lieu of a bond, escrow, or security agreement may be furnished for sidewalks and street trees along major streets that have not been improved to an urban cross section. A cash contribution to the City in lieu of a bond, escrow, or security agreement may be furnished for street trees on a final plat with 10 or fewer lots.

No final plat shall be approved until the Permittee, as subdivider, enters into an agreement with the City whereby Permittee agrees:

to complete the street paving of public streets, and temporary turnarounds and barricades located at the temporary dead-end of the streets shown on the final plat within two (2) years following the approval of the final plat.

to complete the installation of sidewalks along both sides of all streets as shown on the final plat within four (4) years following the approval of the final plat.

to complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.

to complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.

to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

to complete the installation of public street lights along *streets* within this plat within two (2) years following the approval of the final plat.

to complete the planting of the street trees along all streets within this plat within six (6) years following the approval of the final plat.

to complete the planting of the landscape screen within this plat within two (2) years following the approval of the final plat.

to complete the installation of the street name signs within two (2) years following the approval of the final plat.

to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.

to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.

to submit to the Director of Lincoln Transportation and Utilities Department a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.

to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

to complete the public and private improvements shown on the Community Unit Plan.

to keep taxes and special assessments on the outlots from becoming delinquent.

to maintain the outlots on a permanent and continuous basis.

to maintain the private improvements in good order and state of repair, including the routine and reasonable preventive maintenance of the private improvements, on a permanent and continuous basis.

to maintain the plants in the medians and islands, including replacement and replanting as reasonably necessary, on a permanent and continuous basis.

to maintain the landscape screens, including replacement and replanting as reasonably necessary, on a permanent and continuous basis.

to recognize that there may be additional maintenance issues or costs associated with the proper functioning of storm water detention/retention facilities as they were designed and construction within the development and that these additional maintenance issues or costs are the responsibility of the Permittee.

to retain ownership of and the right of entry to the outlots in order to perform the above-described maintenance of the outlots and private improvements on a permanent and continuous basis. However, Permittee(s) may be relieved and discharged of such maintenance obligations upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:

- (1) Permittee shall not be relieved of Permittee's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the

installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans.

- (2) The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds

to pay all design, engineering, labor, material, inspection, and other improvement costs.

to protect the trees that are indicated to remain during construction and development.

Standard Conditions:

4. The following conditions are applicable to all requests:
 - 4.1 Before occupying the dwelling units all development and construction shall substantially comply with the approved plans.
 - 4.2 All privately-owned improvements, including landscaping and recreational facilities, shall be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City.
 - 4.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters be in substantial compliance with the location of said items as shown on the approved site plan.
 - 4.4 The terms, conditions, and requirements of this resolution shall run with the land and be binding upon 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 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 therefor to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.

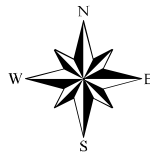


2020 aerial

**Special Permit #: SP22015
Peregrine Townhomes CUP
Eagle Crest Rd & Holdrege St**

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



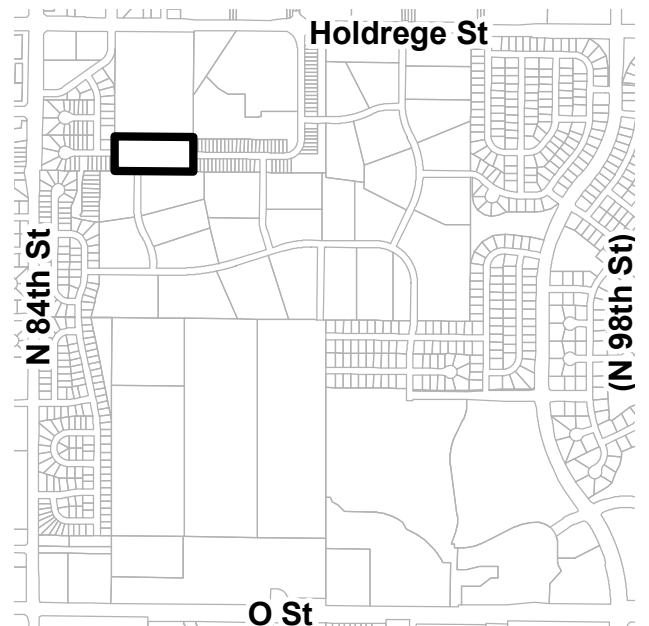
One Square Mile:
Sec.23 T10N R07E

Area of Application

Zoning Jurisdiction Lines

Lancaster County Jurisdiction

90



LEGAL DESCRIPTION:

A PARCEL OF LAND COMPOSED OF LOT 24 IRREGULAR TRACTS, ALL LOCATED IN THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 24 IRREGULAR TRACTS, THENCE NORTH ON THE WEST LINE OF SAID LOT 24 IRREGULAR TRACTS AND ON AS ASSUMED BEARING OF N 00° 10' 45" E, FOR A DISTANCE OF 313.00 FEET;
 THENCE S 89° 48' 34" E, A DISTANCE OF 714.71 FEET;
 THENCE SOUTH ON THE EAST LINE OF SAID LOT 24 IRREGULAR TRACTS, S 00° 10' 30" W, A DISTANCE OF 317.51 FEET TO THE SOUTHEAST CORNER OF SAID LOT 24 IRREGULAR TRACTS;
 THENCE WEST ON THE SOUTH LINE OF SAID LOT 24 IRREGULAR TRACTS, N 89° 26' 52" W, A DISTANCE OF 714.75 FEET TO THE **POINT OF BEGINNING** AND HAVING A CALCULATED AREA OF 225,318.67 SQUARE FEET OR 5.17 ACRES MORE OR LESS.

SURVEYOR'S CERTIFICATE:

I hereby certify that this boundary survey was made under my supervision and that I am a licensed land surveyor under the laws of the State of Nebraska.

Date _____ Jeff Boden R.L.S.#825 _____

**GENERAL NOTES
COMMUNITY UNIT PLAN**

- THIS SPECIAL PERMIT CONSISTS OF 13 SINGLE FAMILY ATTACHED DWELLING UNITS.
- ZONING IS R-3 WITH THIS C.U.P.
- THE OWNER/DEVELOPER RESERVES THE RIGHT TO BUILD ANYWHERE WITHIN THE SETBACKS AS PER R-3 ZONING DISTRICT WITH EXCEPTION OF APPROVED WAIVERS.
- DIRECT VEHICULAR ACCESS TO HOLDREGE STREET SHALL BE RELINQUISHED.
- CURVILINEAR DIMENSIONS ARE CHORD LENGTHS.
- TOPOGRAPHIC GRADING CONTOURS ARE AT NAVD 1988.
- ALL LOT LINES ARE CONCEPTUAL AND FINAL PLATS MAY SHOW DIFFERENT LOT DIMENSIONS.
- SIGNS NEED NOT BE SHOWN ON THIS SITE PLAN, BUT NEED TO BE IN COMPLIANCE WITH CHAPTER 27.69 OF THE LINCOLN ZONING ORDINANCE, AND MUST BE APPROVED BY BUILDING & SAFETY DEPARTMENT PRIOR TO INSTALLATION.
- ALL OUTLOTS SHALL BE MAINTAINED BY AN ASSOCIATION OF HOMEOWNERS.
- UTILITY EASEMENTS TO BE PROVIDED AS REQUIRED BY L.E.S..
- ALL PUBLIC STREET PAVEMENT RADII TO BE 20' AND PAVEMENT WIDTH TO BE 27' UNLESS NOTED OTHERWISE.
- SIDEWALKS SHALL BE LOCATED ON BOTH SIDES OF PUBLIC STREETS WITH EXCEPTION OF APPROVED WAIVERS. SIDEWALKS SHALL BE A MINIMUM OF 4 FEET IN WIDTH. SIDEWALKS SHALL BE A MINIMUM OF 4 INCHES THICK CONCRETE, 5 INCHES THICK AT DRIVEWAY CROSSINGS.
- SANITARY SEWER AND WATER LINES TO BE 8" AND 6" PIPE RESPECTIVELY UNLESS SHOWN OTHERWISE AND TO BE BUILT TO THE CITY OF LINCOLN SPECIFICATIONS WITH EXCEPTION OF APPROVED WAIVERS.

WAIVERS:

- SANITARY SEWER RUNNING OPPOSITE STREET GRADE. (DESIGN STANDARDS CHAPTER 2.00 SECTION 3, 3.5)
- SANITARY SEWER LOCATION. (DESIGN STANDARDS CHAPTER 2.00 SECTION 3, 3.4)
- WATER MAIN LOCATION. (DESIGN STANDARDS CHAPTER 2.10 SECTION 3, 3.4)
- REAR SETBACK FROM 20 FEET TO 15 FEET (Zoning Ordinance 27.72.020(a))
- LOT AREA FROM 5,000 SQ. FT. TO 4,200 SQ. FT. (Zoning Ordinance 27.72.020(a))

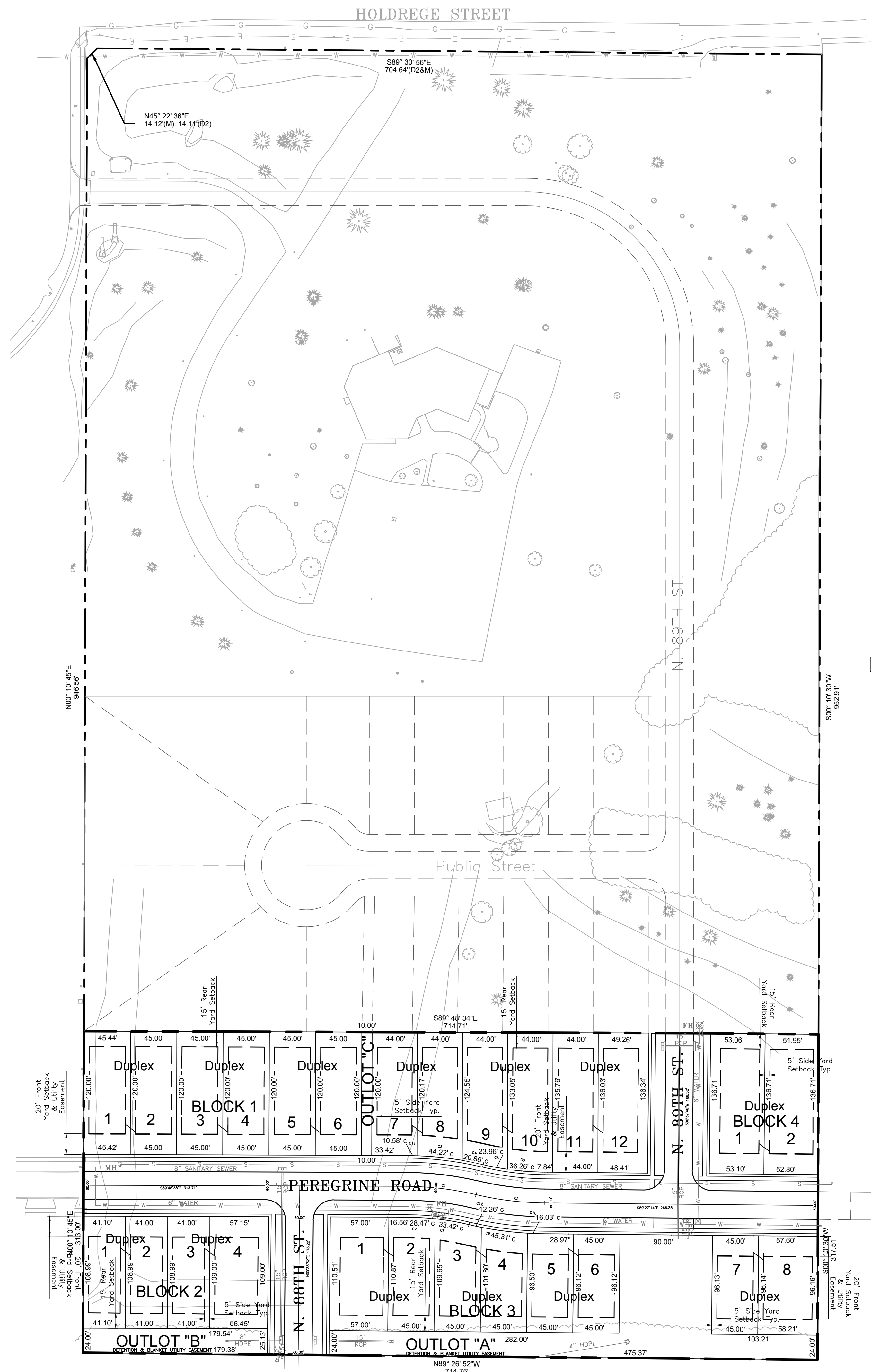
CURVE #	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	300.00'	68.82'	68.66'	N83°14'21"W	01°30'53"
C2	300.00'	66.95'	66.81'	S83°03'39"E	01°24'10"
C3	330.00'	44.26'	44.22'	N84°07'54"W	007°41'02"
C4	330.00'	20.86'	20.86'	N78°28'43"W	003°37'19"
C5	270.00'	23.97'	23.96'	S79°12'38"E	005°05'08"
C6	270.00'	36.29'	36.26'	S85°36'15"E	007°42'02"
C7	270.00'	28.49'	28.47'	N86°47'16"W	006°02'43"
C8	270.00'	33.45'	33.42'	N80°12'59"W	007°05'50"
C9	330.00'	45.35'	45.31'	N82°44'01"W	007°52'23"
C10	330.00'	16.03'	16.03'	S88°03'43"E	002°47'01"
C11	330.00'	10.58'	10.58'	N88°53'31"W	001°30'13"
C12	330.00'	12.26'	12.26'	N77°43'57"W	002°07'46"

OWNER:
FELLOWSHIP CHURCH OF GOD
8451 EAGLE CREST ROAD
LINCOLN, NE. 68505

SURVEYOR:
JEFF BODEN
REGA ENGINEERING GROUP, INC.
601 OLD CHENEY ROAD, SUITE 'A'
LINCOLN, NE 68512 (402) 484-7342

DEVELOPER:
8801 PEREGRINE TOWNHOMES, LLC
ATTN: MITCH LINDEN
6000 S. 25TH STREET
LINCOLN, NE. 68516

ENGINEER:
NATHANIEL P. BURNETT
REGA ENGINEERING GROUP, INC.
601 OLD CHENEY ROAD, SUITE 'A'
LINCOLN, NE 68512 (402) 484-7342



DENSITY:

Total Project Area 225,031 s.f.
 or 5.17 acres
 x 6.96 R-3 Zoning

35 Units allowed

35 Units allowed by Density Calculations

26 Units permitted with this Special Permit

NO.	REVISIONS		
	DESCRIPTION	DATE	BY
	CZ SUBMITAL	04/27/22	REGA
	CZ REVISED SUBMITAL	05/25/22	REGA
	CZ REVISED SUBMITAL	06/15/22	REGA

PROJECT
211134
REGA
ENGINEERING GROUP, INC.

601 OLD CHENEY RD., SUITE A
LINCOLN, NEBRASKA 68512
(402) 484.7342

- ENGINEERING
- PLANNING
- LANDSCAPE ARCHITECTURE
- LAND SURVEYING

LOT DATA:

BLOCK 1 LOT	AREA (S.F.)	AVERAGE LOT DEPTH	AVERAGE LOT WIDTH
1	5,451.55	120.00'	45.43'
2	5,400.00	120.00'	45.00'
3	5,400.00	120.00'	45.00'
4	5,400.00	120.00'	45.00'
5	5,400.00	120.00'	45.00'
6	5,400.00	120.00'	45.00'
7	5,280.80	120.08'	44.11'
8	5,361.87	122.36'	44.41'
9	5,672.26	128.80'	44.05'
10	5,938.10	134.41'	44.00'
11	5,979.44	135.90'	44.00'
12	6,651.00	136.19'	48.84'

BLOCK 2 LOT	AREA (S.F.)	AVERAGE LOT DEPTH	AVERAGE LOT WIDTH
1	4,481.39	108.99'	41.10'
2	4,468.72	108.99'	41.00'
3	4,468.82	108.99'	41.00'
4	6,190.90	109.00'	56.80'

BLOCK 3 LOT	AREA (S.F.)	AVERAGE LOT DEPTH	AVERAGE LOT WIDTH
1	6,309.22	110.69'	57.00'
2	4,981.27	110.26'	45.02'
3	4,777.62	105.73'	45.34'
4	4,438.28	99.15'	45.16'
5	4,327.27	96.31'	45.00'
6	4,325.41	96.12'	45.00'
7	4,326.05	96.14'	45.00'
8	5,565.44	96.14'	57.89'

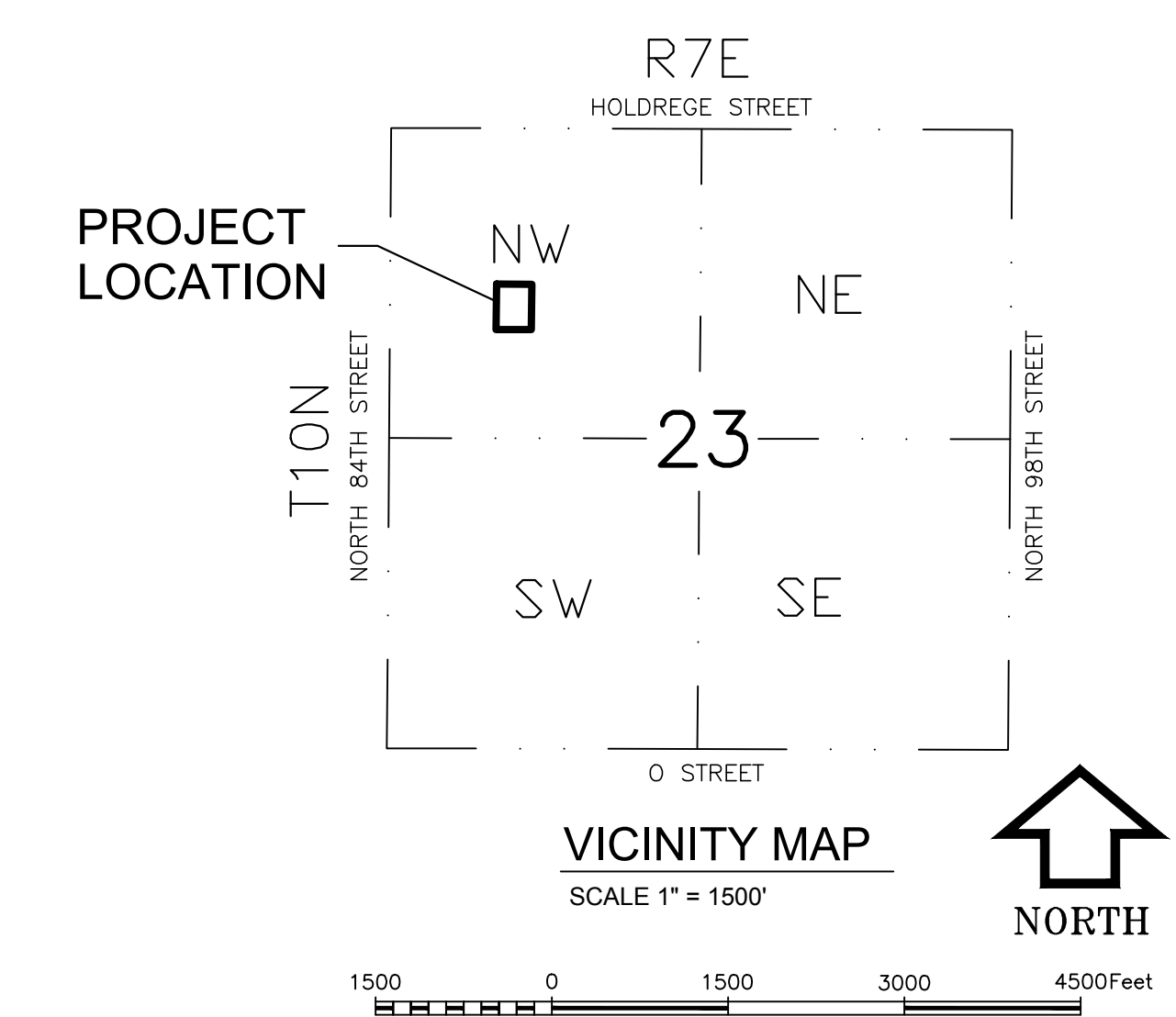
BLOCK 4 LOT	AREA (S.F.)	AVERAGE LOT DEPTH	AVERAGE LOT WIDTH
1	7,253.94	136.71'	53.00'
2	7,163.06	136.71'	52.40'
OUTLOT A	20,056.42	NA	NA
OUTLOT B	4,408.00	NA	NA
OUTLOT C	1,200.00	NA	NA

LEGEND

- BOUNDARY OF CUP
- SETBACK/BUILDING ENVELOPE
- EASEMENT
- CENTERLINE
- SECTION LINE
- ADJACENT PROPERTY LINE
- CORNER FOUND (LS 314 CAP)
- CORNER SET (5/8"x24" REBAR W/ LS825 CAP)
- SECTION CORNER
- (M) MEASURED DISTANCE
- (P) PLATTED DISTANCE

SHEET INDEX

SITE PLAN	1
UTILITY PLAN	2
PRE-DEVELOPMENT PLAN	3
POST DEVELOPMENT PLAN	4
GRADING PLAN / STREET PROFILES	5
STREET PROFILES	6



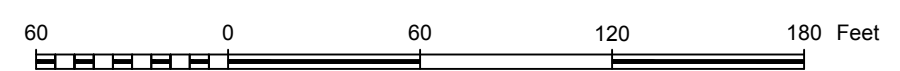
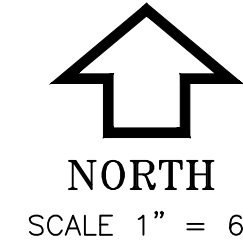
PEREGRINE TOWNHOMES
COMMUNITY UNIT PLAN / SPECIAL PERMIT # CZ22013
SITE PLAN
NORTH 88TH & PEREGRINE ROAD

DATE: 06/15/2022
 DESIGNED BY: MN
 DRAWN BY: MN
 CHECKED BY: NPB



SHEET NO.
1 of 7

HOLDREGE STREET



NO.	REVISIONS	DATE	BY
	CZ SUBMITAL	04/27/22	REGA
	CZ REVISED SUBMITAL	05/25/22	REGA
	CZ REVISED SUBMITAL	06/15/22	REGA

PROJECT
211134

REGA
ENGINEERING
GROUP, INC.

601 OLD CHENEY RD., SUITE A
LINCOLN, NEBRASKA 68512
(402) 484.7342

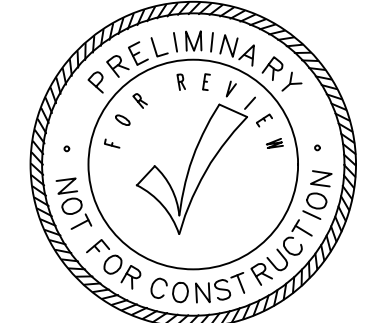
- ENGINEERING
- PLANNING
- LANDSCAPE ARCHITECTURE
- LAND SURVEYING

LEGEND

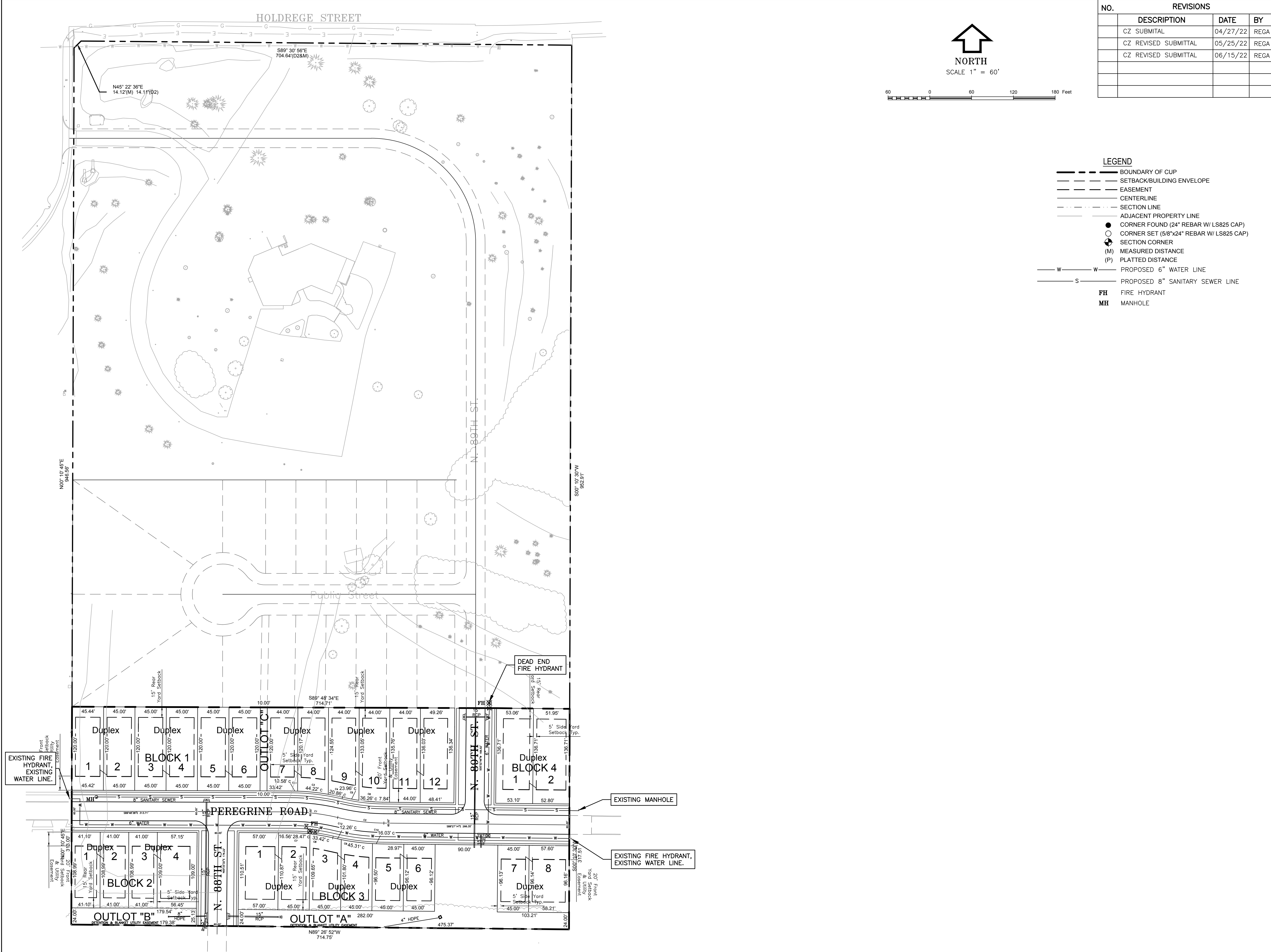
- BOUNDARY OF CUP
- - - SETBACK/BUILDING ENVELOPE
- - - EASEMENT
- - - CENTERLINE
- - - SECTION LINE
- - - ADJACENT PROPERTY LINE
- CORNER FOUND (24" REBAR W/ LS825 CAP)
- CORNER SET (5/8"x24" REBAR W/ LS825 CAP)
- ⊕ SECTION CORNER
- (M) MEASURED DISTANCE
- (P) PLATTED DISTANCE
- W PROPOSED 6" WATER LINE
- S PROPOSED 8" SANITARY SEWER LINE
- FH FIRE HYDRANT
- MH MANHOLE

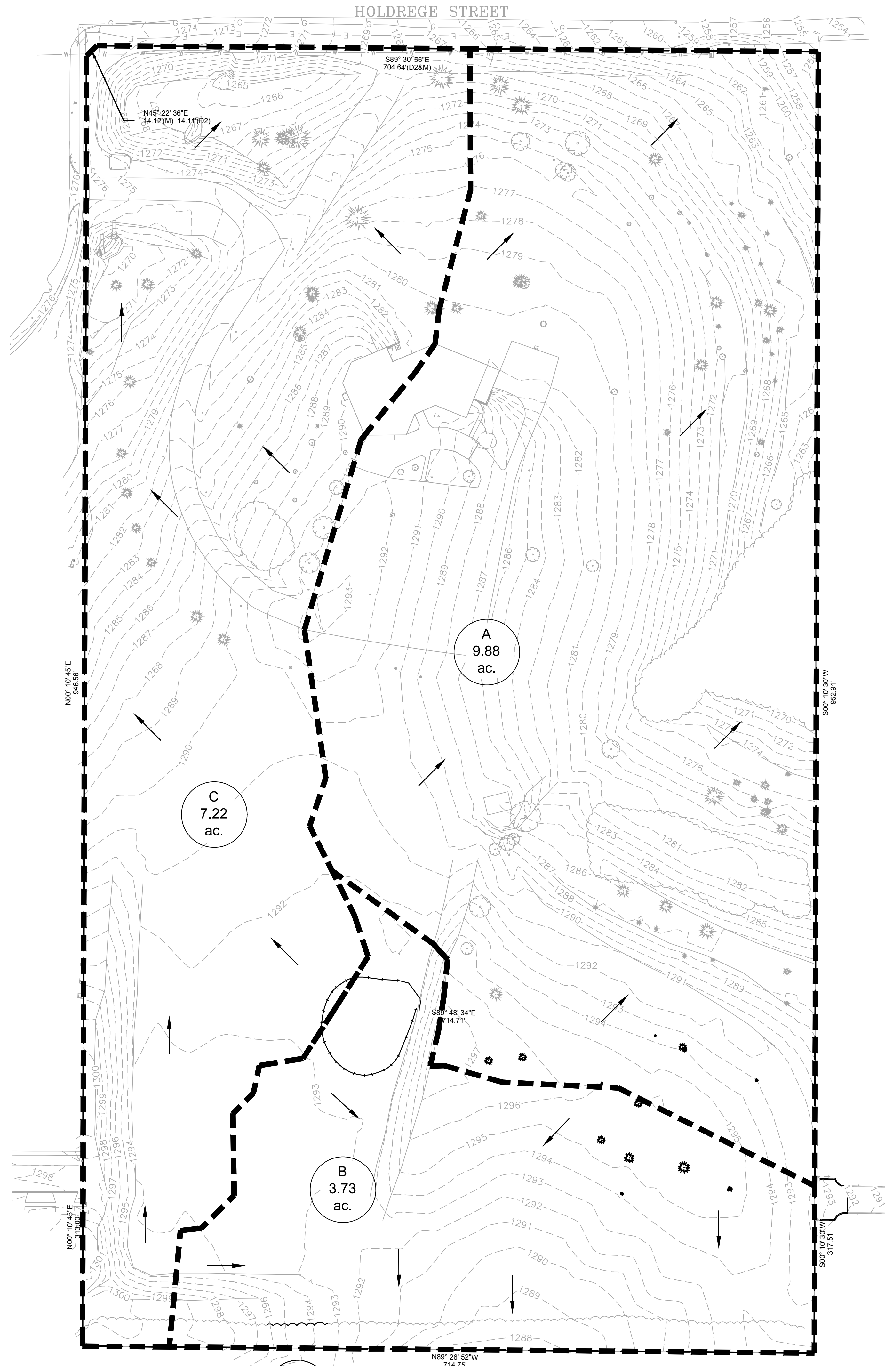
PEREGRINE TOWNHOMES
COMMUNITY UNIT PLAN / SPECIAL PERMIT # CZ22013
UTILITY PLAN
NORTH 88TH & PEREGRINE ROAD

DATE: 06/15/2022
DESIGNED BY: MN
DRAWN BY: MN
CHECKED BY: NPB

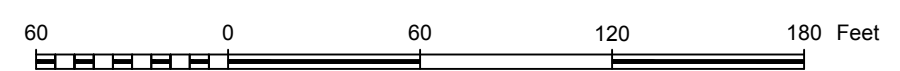


SHEET NO.
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SCALE 1" = 60'



LEGEND

- BOUNDARY OF CUP
- SETBACK/BUILDING ENVELOPE
- EASEMENT
- CENTERLINE
- SECTION LINE
- ADJACENT PROPERTY LINE
- CORNER FOUND (24" REBAR W/ LS825 CAP)
- CORNER SET (5/8"x24" REBAR W/ LS825 CAP)
- ⊕ SECTION CORNER
- (M) MEASURED DISTANCE
- (P) PLATTED DISTANCE
- WATER PATH

NO.	REVISIONS		
	DESCRIPTION	DATE	BY
	CZ SUBMITAL	04/27/22	REGA
	CZ REVISED SUBMITTAL	05/25/22	REGA
	CZ REVISED SUBMITTAL	06/15/22	REGA

PROJECT
211134

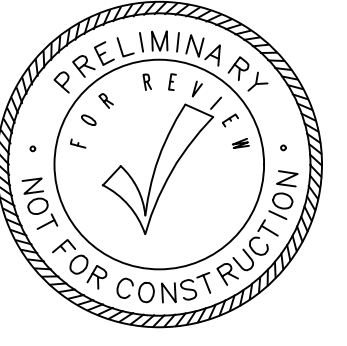
REGA
ENGINEERING GROUP, INC.

601 OLD CHENEY RD., SUITE A
LINCOLN, NEBRASKA 68512
(402) 484.7342

- ENGINEERING
- PLANNING
- LANDSCAPE ARCHITECTURE
- LAND SURVEYING

PEREGRINE TOWNHOMES
COMMUNITY UNIT PLAN / SPECIAL PERMIT # CZ22013
PRE-DEVELOPMENT PLAN
NORTH 88TH & PEREGRINE ROAD

DATE: 06/15/2022
DESIGNED BY: MN
DRAWN BY: MN
CHECKED BY: NPB



SHEET NO.
3 of 7

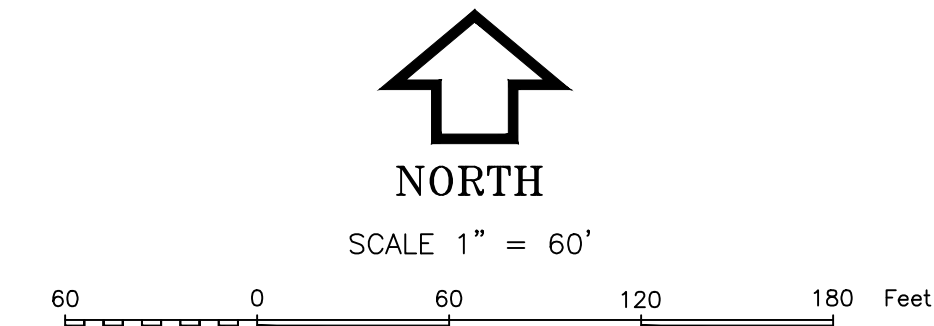
NO.	REVISIONS	DATE	BY
CZ	SUBMITAL	04/27/22	REGA
CZ	REVISED SUBMITAL	05/25/22	REGA
CZ	REVISED SUBMITAL	06/15/22	REGA

PROJECT
211134

REGA
ENGINEERING GROUP, INC.

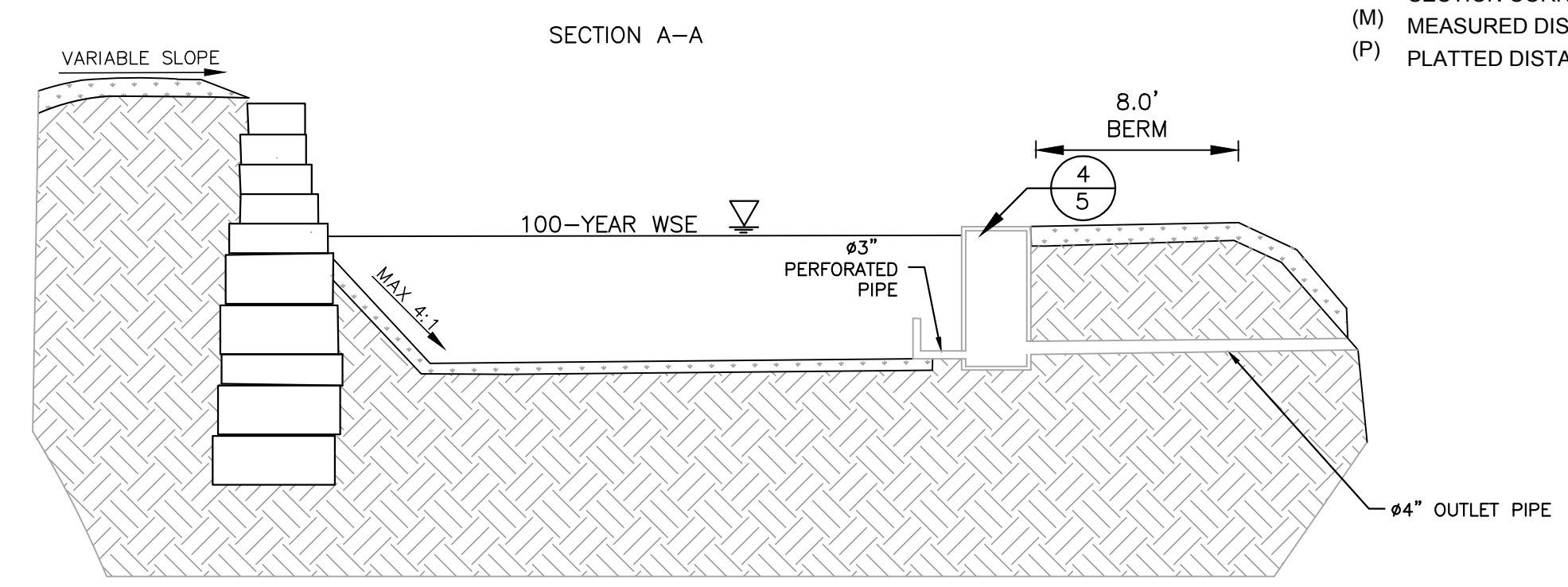
601 OLD CHENEY RD., SUITE A
LINCOLN, NEBRASKA 68512
(402) 484.7342

- ENGINEERING
- PLANNING
- LANDSCAPE ARCHITECTURE
- LAND SURVEYING



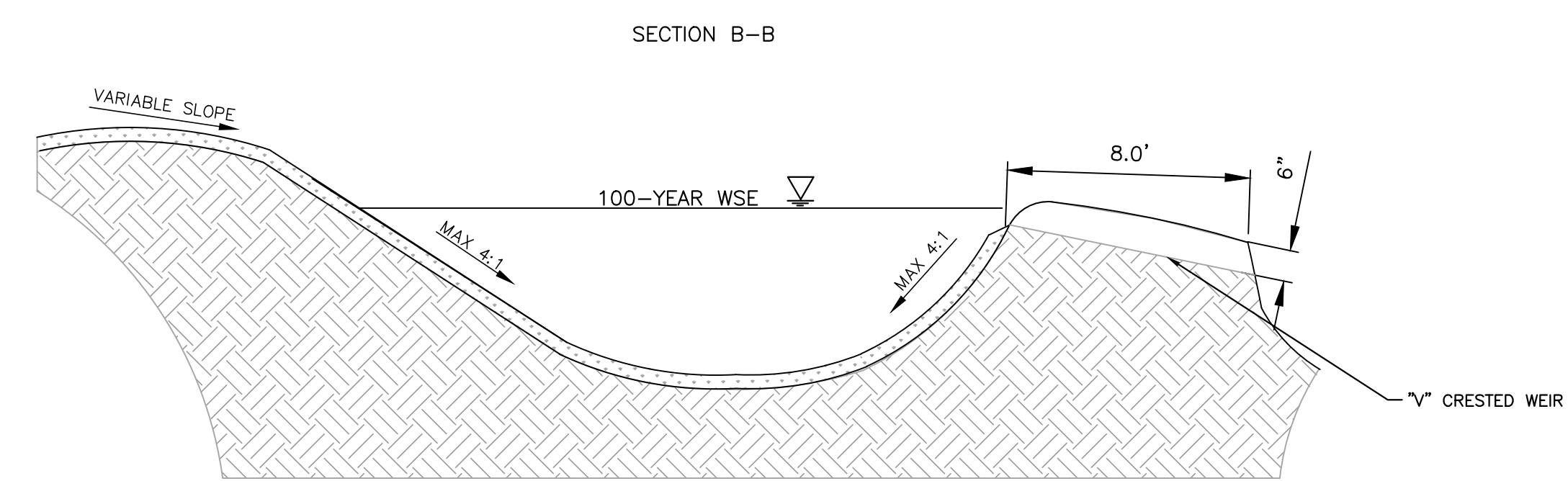
LEGEND

- BOUNDARY OF CUP
- SETBACK/BUILDING ENVELOPE
- EASEMENT
- CENTERLINE
- SECTION LINE
- ADJACENT PROPERTY LINE
- EXISTING CONTOURS
- 1295 PROPOSED CONTOURS
- DIRECTION OF FLOW
- SPOT GROUND ELEVATION
- CORNER FOUND (24" REBAR W/ LS825 CAP)
- CORNER SET (5/8"x24" REBAR W/ LS825 CAP)
- SECTION CORNER
- (M) MEASURED DISTANCE
- (P) PLATTED DISTANCE



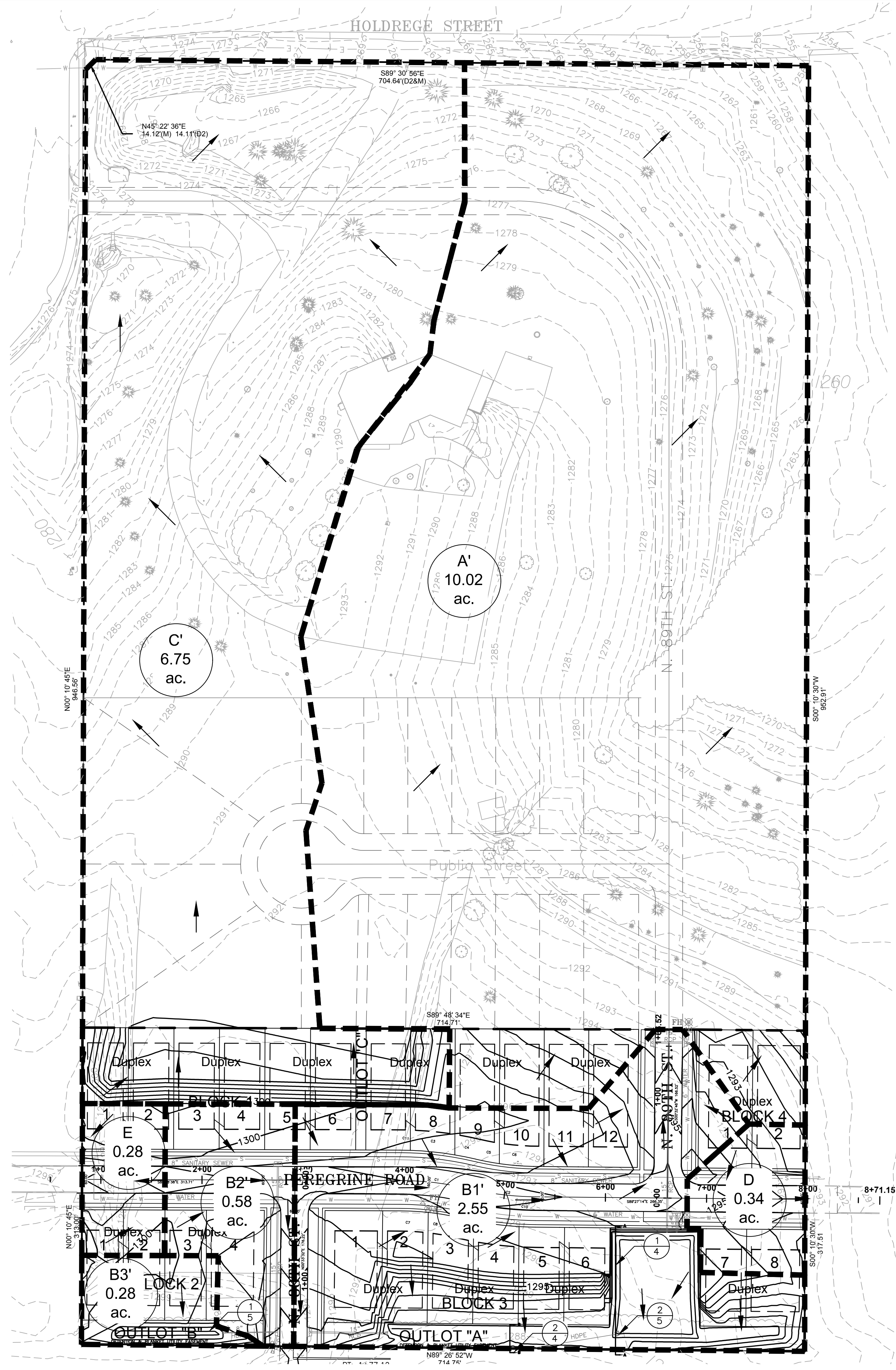
- CONTRACTOR TO USE STOCKPILED TOP SOIL FOR FINAL DRESSING. IF TOP SOIL DOESN'T EXIST OR ISN'T SUITABLE, CONTACT ENGINEER FOR AMENDING THE IN PLACE SOIL.
- CONTRACTOR TO IMPLEMENT A TEMPORARY WATERING SCHEDULE UNTIL A MINIMUM VEGETATIVE COVER OF 80% HAS BEEN ESTABLISHED.
- CONTRACTOR TO LEAVE THE FINAL GRADE THE VEGETATIVE BUFFER 1"-3" LOWER THAN ADJACENT PAVEMENT EDGE.
- PRIOR TO BACKFILL ACTIVITIES, THE SOIL MATERIAL SHALL BE REMIXED ON SITE TO ENSURE HOMOGENEOUS CONSISTENCY UNDER THE DIRECTION OF THE ENGINEER. THE BACKFILL SHALL BE PLACED IN 4 INCH LIFTS AND THOROUGHLY WETTED AND ALLOWED TO SETTLE. BACKFILL SOIL SHALL NOT BE COMPACTED. AREA SHOULD BE BACKFILLED TO APPROXIMATELY 3-4 INCHES ABOVE DESIRED FINAL GRADE TO ALLOW FOR NATURAL COMPACTION OF PERMEABLE SOILS.

1 DETENTION POND SECTION
4 NO SCALE



- CONTRACTOR TO USE STOCKPILED TOP SOIL FOR FINAL DRESSING. IF TOP SOIL DOESN'T EXIST OR ISN'T SUITABLE, CONTACT ENGINEER FOR AMENDING THE IN PLACE SOIL.
- CONTRACTOR TO IMPLEMENT A TEMPORARY WATERING SCHEDULE UNTIL A MINIMUM VEGETATIVE COVER OF 80% HAS BEEN ESTABLISHED.
- CONTRACTOR TO LEAVE THE FINAL GRADE THE VEGETATIVE BUFFER 1"-3" LOWER THAN ADJACENT PAVEMENT EDGE.
- PRIOR TO BACKFILL ACTIVITIES, THE SOIL MATERIAL SHALL BE REMIXED ON SITE TO ENSURE HOMOGENEOUS CONSISTENCY UNDER THE DIRECTION OF THE ENGINEER. THE BACKFILL SHALL BE PLACED IN 4 INCH LIFTS AND THOROUGHLY WETTED AND ALLOWED TO SETTLE. BACKFILL SOIL SHALL NOT BE COMPACTED. AREA SHOULD BE BACKFILLED TO APPROXIMATELY 3-4 INCHES ABOVE DESIRED FINAL GRADE TO ALLOW FOR NATURAL COMPACTION OF PERMEABLE SOILS.

2 DETENTION POND SECTION
4 NO SCALE



PEREGRINE TOWNHOMES
 COMMUNITY UNIT PLAN / SPECIAL PERMIT # CZ22013
 POST DEVELOPMENT PLAN
 NORTH 88TH & PEREGRINE ROAD

DATE: 06/15/2022
 DESIGNED BY: MN
 DRAWN BY: MN
 CHECKED BY: NPB



SHEET NO.
4 of 7

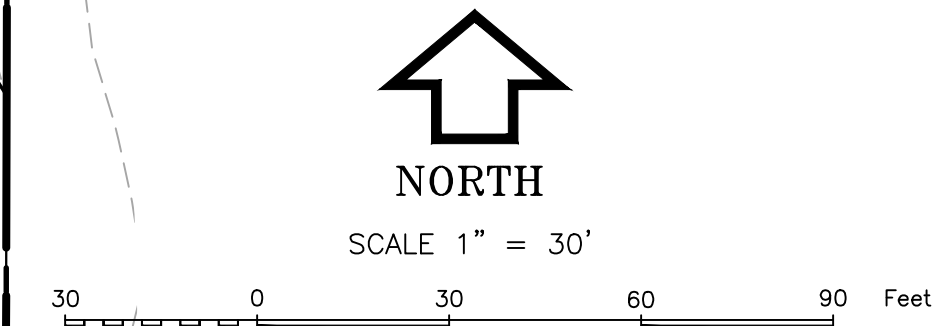
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		CZ SUBMITAL	04/27/22	REGA
		CZ REVISED SUBMITAL	05/25/22	REGA
		CZ REVISED SUBMITAL	06/15/22	REGA

PROJECT
211134

REGA
ENGINEERING GROUP, INC.

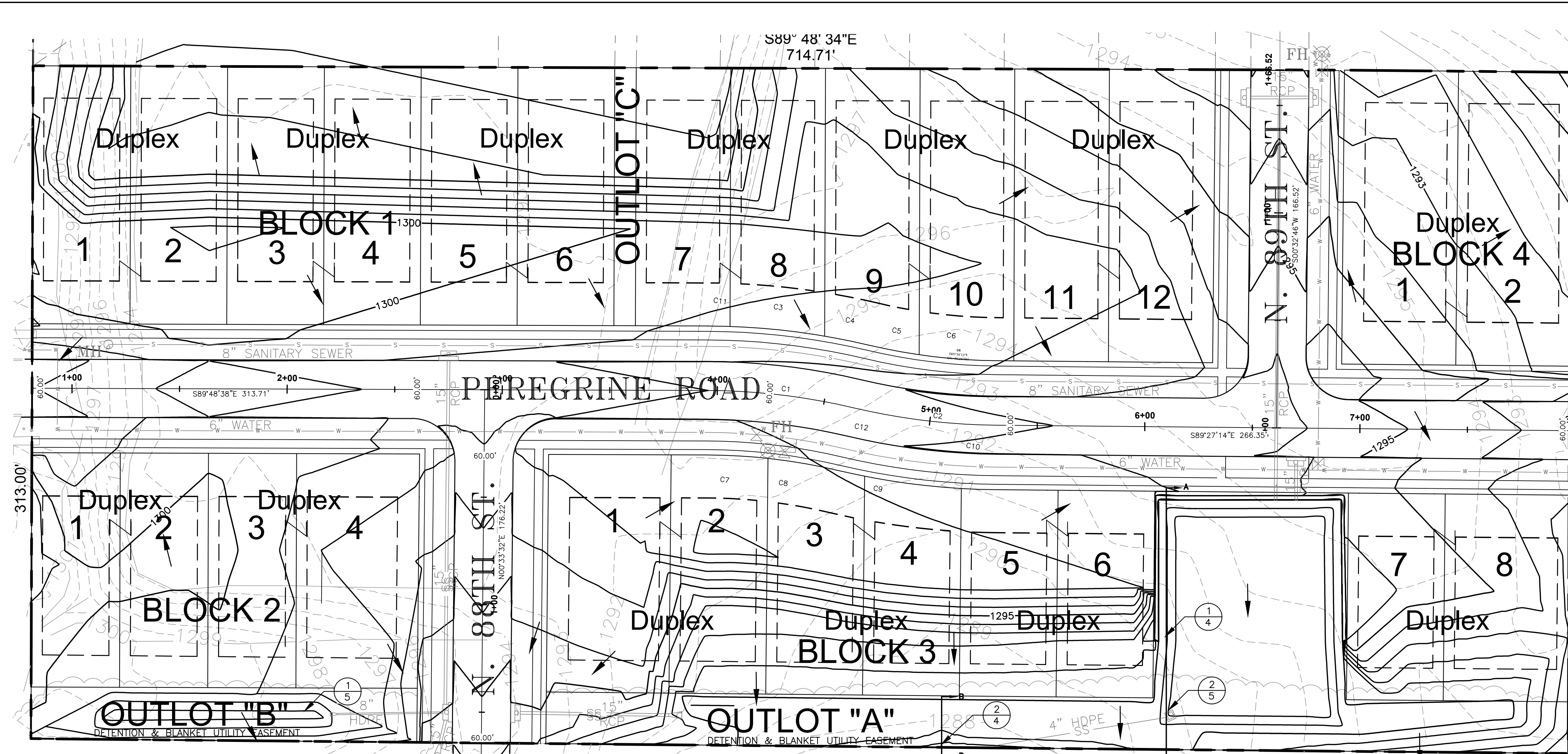
601 OLD CHENEY RD., SUITE A
LINCOLN, NEBRASKA 68512
(402) 484.7342

- ENGINEERING
- PLANNING
- LANDSCAPE ARCHITECTURE
- LAND SURVEYING



LEGEND

- BOUNDARY OF CUP
- - - SETBACK/BUILDING ENVELOPE
- - - EASEMENT
- - - CENTERLINE
- - - SECTION LINE
- - - ADJACENT PROPERTY LINE
- - - EXISTING CONTOURS
- - - 1295 PROPOSED CONTOURS
- DIRECTION OF FLOW
- SPOT GROUND ELEVATION
- CORNER FOUND (24" REBAR W/ LS825 CAP)
- CORNER SET (5/8"x24" REBAR W/ LS825 CAP)
- SECTION CORNER
- (M) MEASURED DISTANCE
- (P) PLATTED DISTANCE



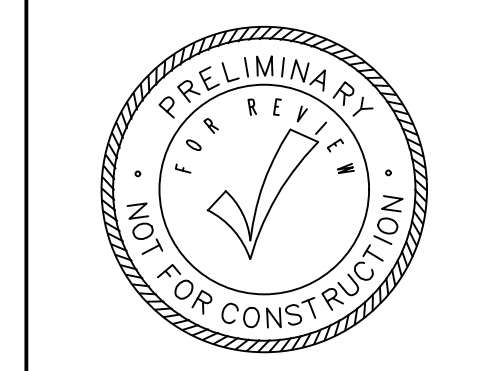
PEREGRINE TOWNHOMES
COMMUNITY UNIT PLAN / SPECIAL PERMIT # CZ22013
POST DEVELOPMENT PLAN
NORTH 88TH & PEREGRINE ROAD

MINIMUM OPENING ELEVATIONS

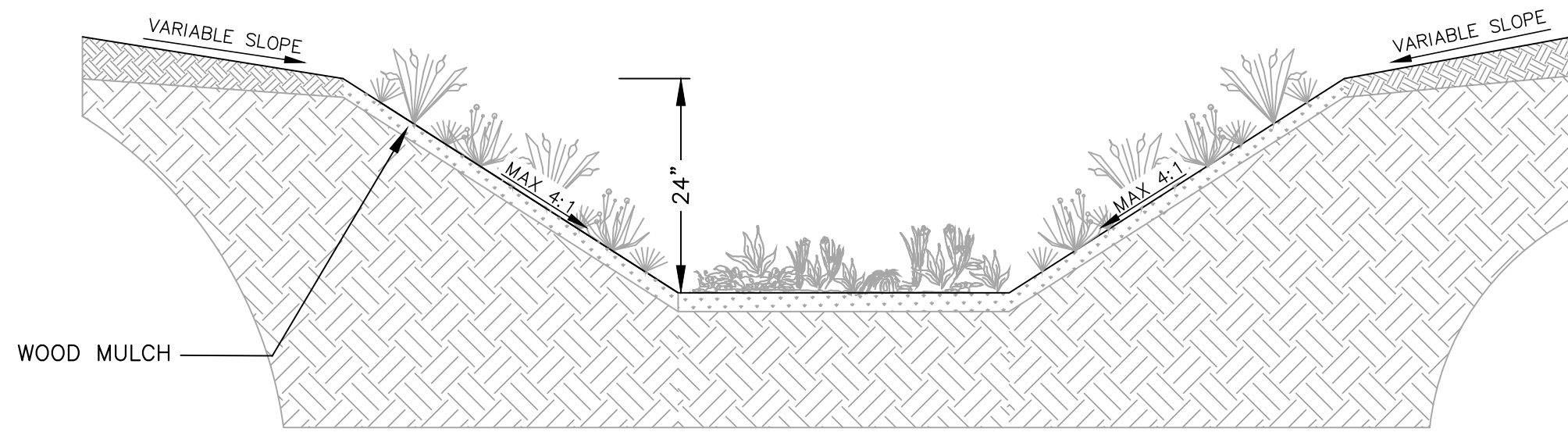
BLOCK	LOT	M.O.E. ELEV (NAVD88)
3	1-8	1291.00
2	1-4	1300.00

M.O.E. = Minimum Opening Elevation

DATE: 06/15/2022
DESIGNED BY: MN
DRAWN BY: MN
CHECKED BY: NPB

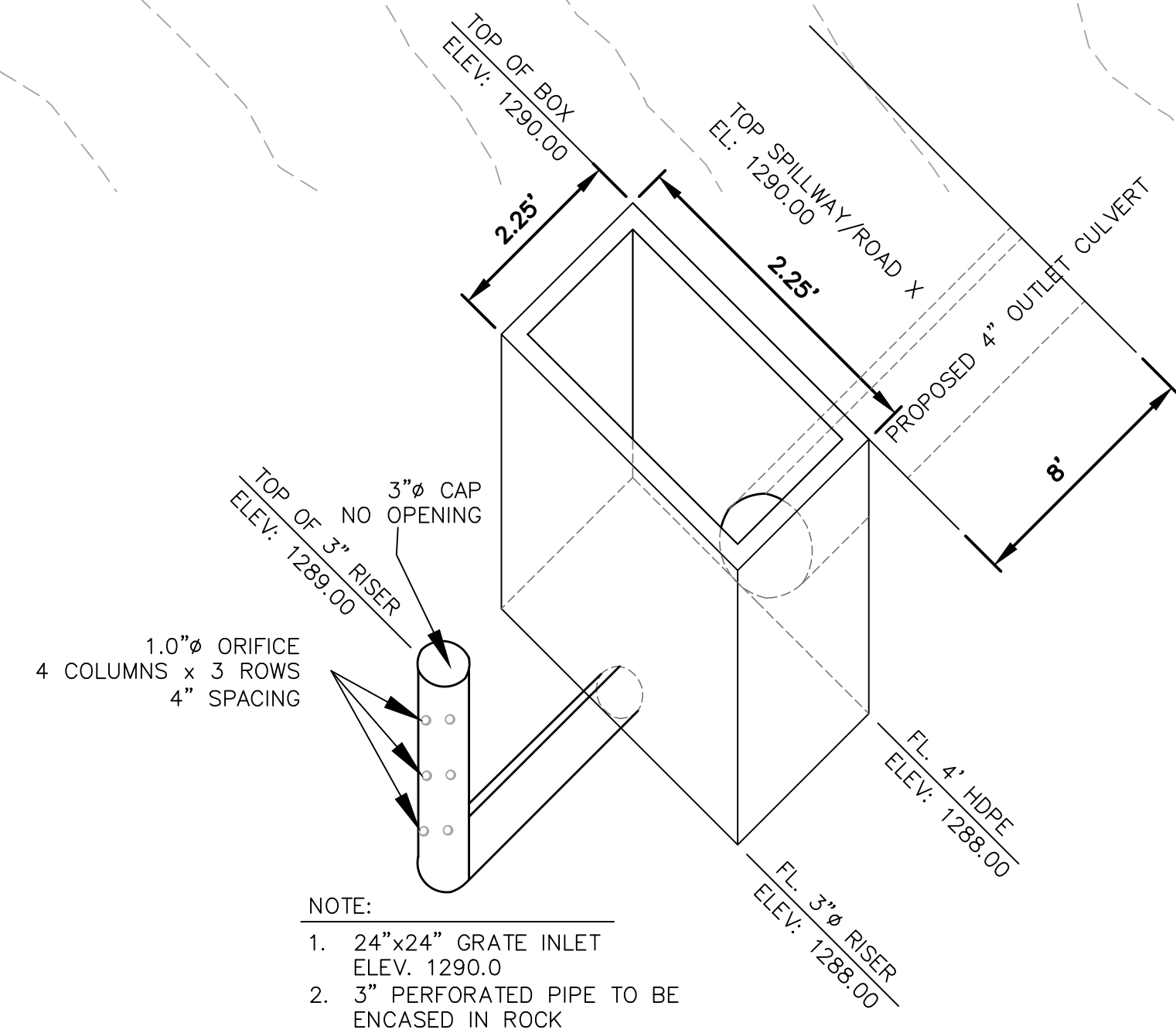


SHEET NO.
5 of 7



- CONTRACTOR TO USE STOCKPILED TOP SOIL FOR FINAL DRESSING. IF TOP SOIL DOESN'T EXIST OR ISN'T SUITABLE, CONTACT ENGINEER FOR AMENDING THE IN PLACE SOIL.
- CONTRACTOR TO IMPLEMENT A TEMPORARY WATERING SCHEDULE UNTIL A MINIMUM VEGETATIVE COVER OF 80% HAS BEEN ESTABLISHED.
- CONTRACTOR TO LEAVE THE FINAL GRADE THE VEGETATIVE BUFFER 1"-3" LOWER THAN ADJACENT PAVEMENT EDGE.
- PRIOR TO BACKFILL ACTIVITIES, THE SOIL MATERIAL SHALL BE REMIXED ON SITE TO ENSURE HOMOGENEOUS CONSISTENCY UNDER THE DIRECTION OF THE ENGINEER. THE BACKFILL SHALL BE PLACED IN 4 INCH LIFTS AND THOROUGHLY WETTED AND ALLOWED TO SETTLE. BACKFILL SOIL SHALL NOT BE COMPACTED. AREA SHOULD BE BACKFILLED TO APPROXIMATELY 3-4 INCHES ABOVE DESIRED FINAL GRADE TO ALLOW FOR NATURAL COMPACTION OF PERMEABLE SOILS.

1 EQUAL SLOPE DETENTION POND SECTION
5 NO SCALE



- NOTE:**
- 24"x24" GRATE INLET ELEV. 1290.0
 - 3" PERFORATED PIPE TO BE ENCASED IN ROCK

2 OUTLET STRUCTURE DETAIL
5 NO SCALE

NO.	REVISIONS		
	DESCRIPTION	DATE	BY
CZ	SUBMITAL	04/27/22	REGA
CZ	REVISED SUBMITAL	05/25/22	REGA
CZ	REVISED SUBMITAL	06/15/22	REGA

PROJECT
211134

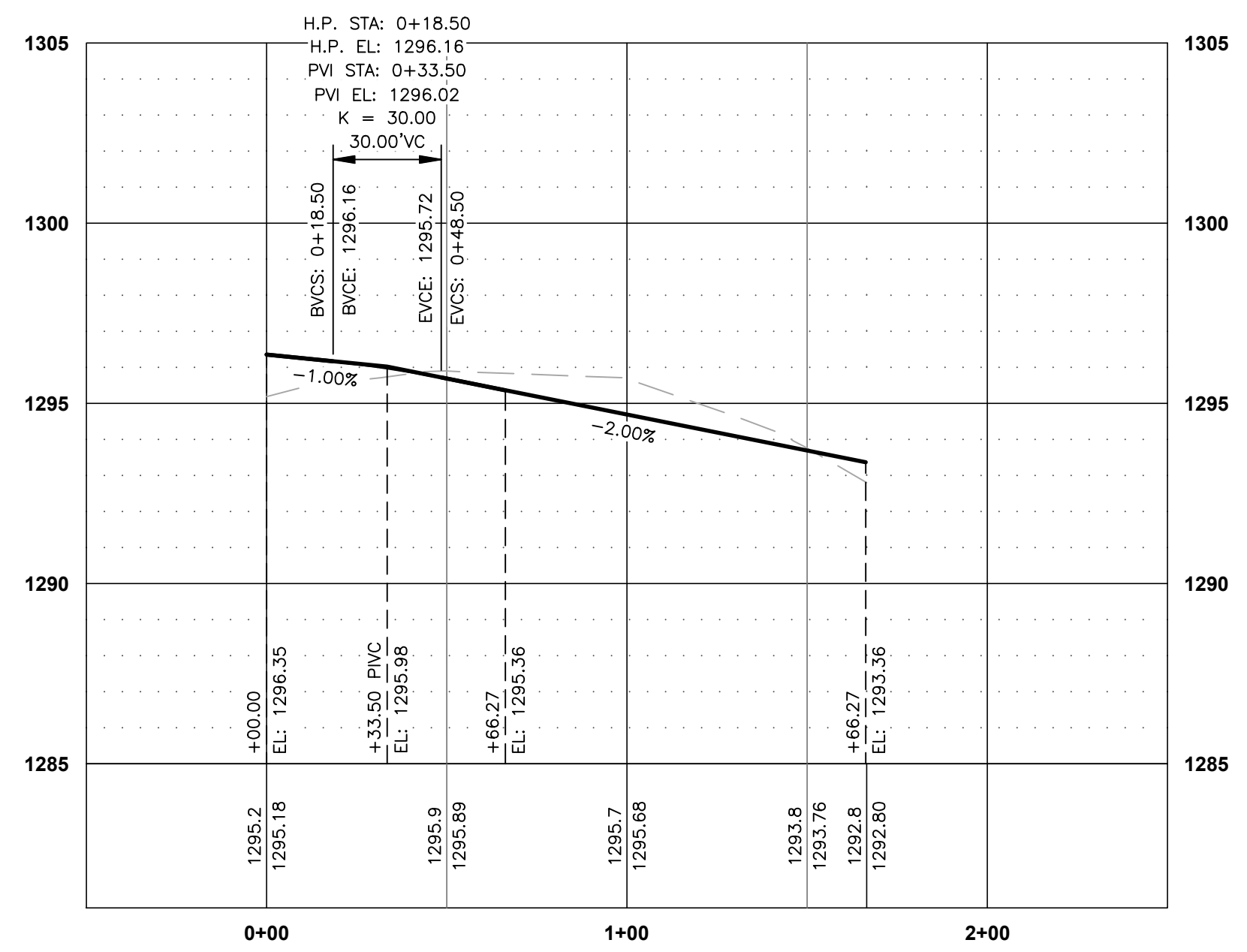
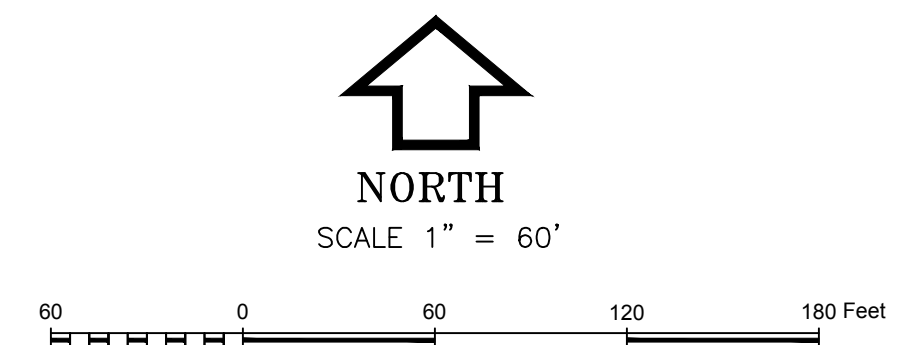
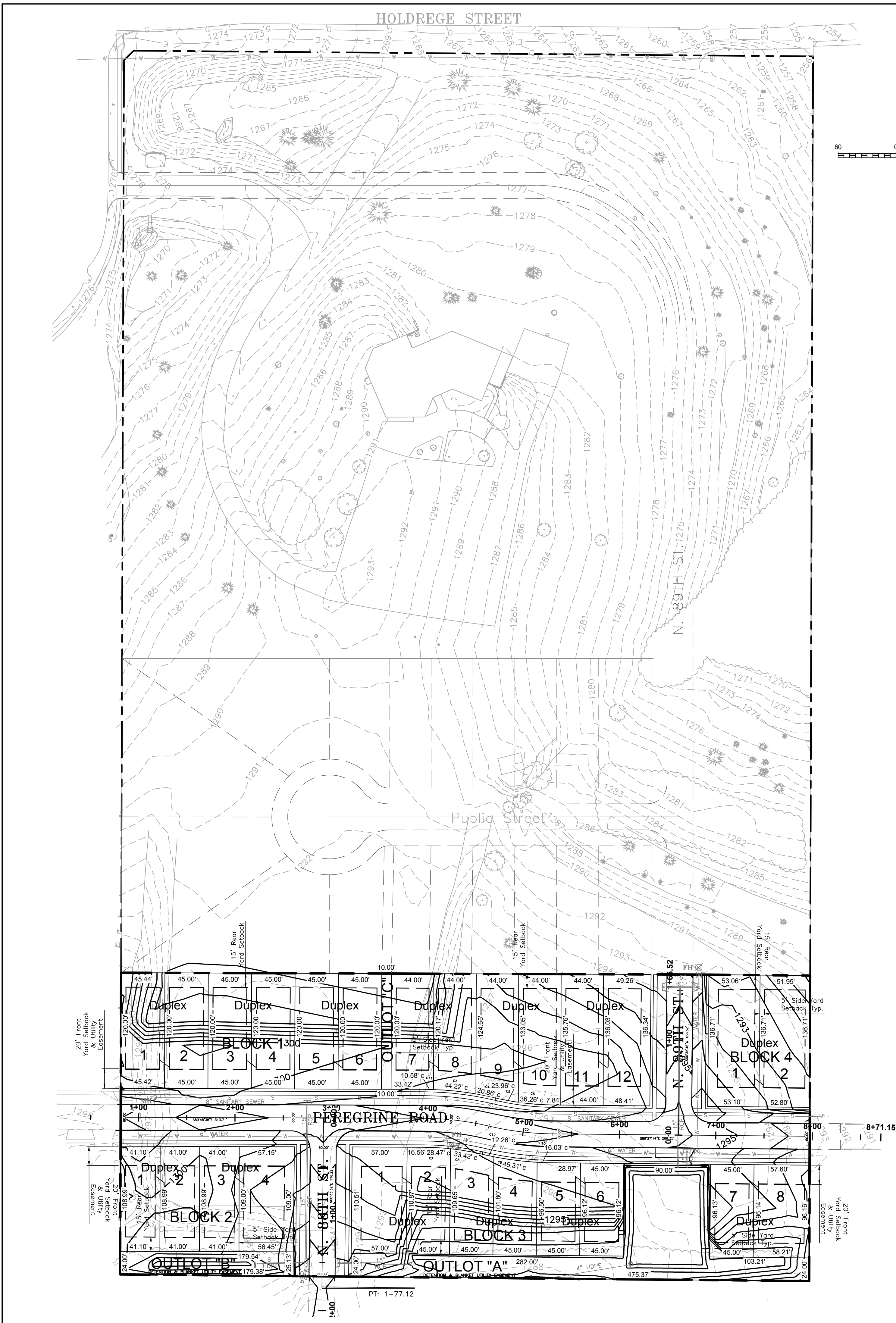
REGA
ENGINEERING GROUP, INC.

601 OLD CHENEY RD., SUITE A
LINCOLN, NEBRASKA 68512
(402) 484.7342

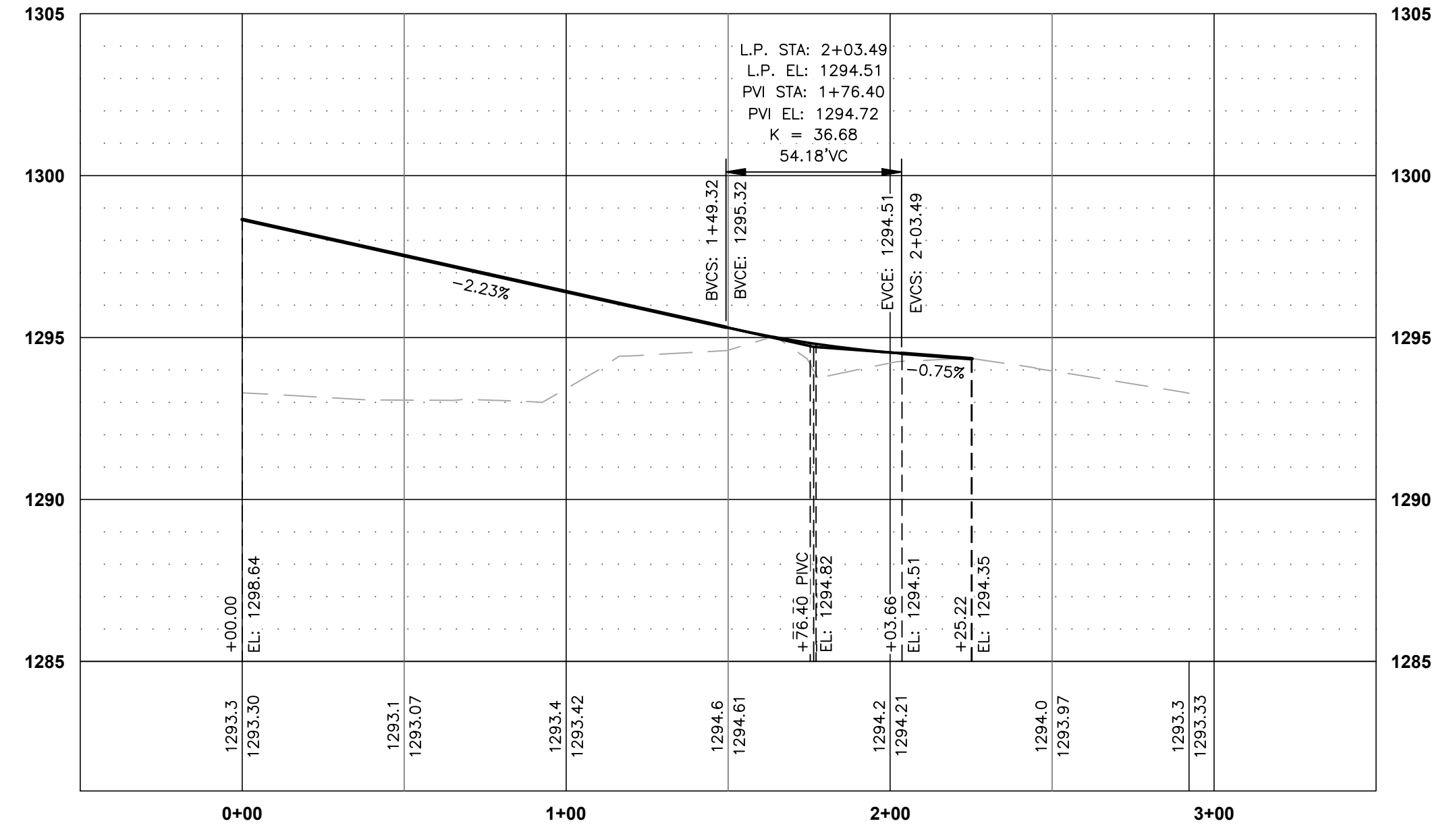
- ENGINEERING
- PLANNING
- LANDSCAPE ARCHITECTURE
- LAND SURVEYING

LEGEND

- BOUNDARY OF CUP
- SETBACK/BUILDING ENVELOPE
- EASEMENT
- CENTERLINE
- SECTION LINE
- ADJACENT PROPERTY LINE
- CORNER FOUND (LS 3/4 CAP)
- CORNER SET (5/8"x24" REBAR W/ LS825 CAP)
- ⊙ SECTION CORNER
- (M) MEASURED DISTANCE
- (P) PLATTED DISTANCE



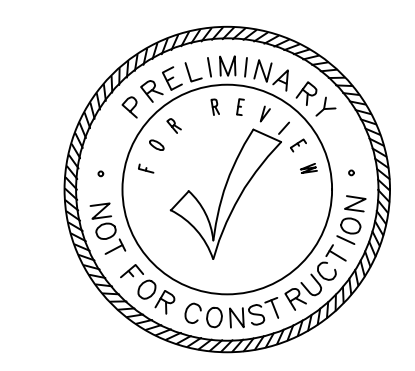
N 89TH ST. PAVING PROFILE
SCALE: HORIZONTAL 1"=50'
VERTICAL 1"=5'



N 88TH ST. PAVING PROFILE
SCALE: HORIZONTAL 1"=40'
VERTICAL 1"=4'

PEREGRINE TOWNHOMES
 COMMUNITY UNIT PLAN / SPECIAL PERMIT # CZ22013
 GRADING PLAN/STREET PROFILES
 NORTH 88TH & PEREGRINE ROAD

DATE: 06/15/2022
DESIGNED BY: MN
DRAWN BY: MN
CHECKED BY: NPB



SHEET NO.
6 of 7

File No. 211134
May 25, 2022

Mr. David Cary
Director of Planning
George Wesselhoft, Planner
City of Lincoln/ Lancaster County
555 South 10th Street
Lincoln, NE 68508

RE: PEREGRINE TOWNHOMES
COMMUNITY UNIT PLAN / SPECIAL PERMIT
CHANGE OF ZONE FROM AG TO R-3
North 88th Street & Peregrine Road

Dear David,

On behalf of 8801 Peregrine Townhomes LLC, the developer, we are submitting an application for Peregrine Townhomes, a Community Unit Plan / Special Permit with a change of zone from AG to R-3. Currently, the property is owned by Fellowship Church of God. The church will be selling the proposed CUP area to the developer.

The proposed CUP Boundary includes 5.17 acres which is adjacent to R-3 Zoning to the east and west. An associated change of zone request will be over the whole church property. The neighboring property on the east side consists of the recently approved "The 8801" Community Unit Plan and includes both Apartments and single family attached units. West of the property are a combination of single family and single family attached dwelling units. To the south is Acreage Lots

The development includes 26 single family attached lots, 3 outlots for open space/detention and pedestrian connectivity. The development proposes public streets and utilities with street right-of-way.

A meeting and/or information of the development will take place and/or be given to the surrounding neighbors and neighborhood associations prior to the Planning Commission meeting.

The following waivers are being requested as follows:

1. SANITARY SEWER RUNNING OPPOSITE STREET GRADE.
(Design Standards Chapter 2.00 Section 3, 3.5)
There is a slight high point where the proposed sanitary sewer will be running opposite the proposed grade.

2. **SANITARY SEWER LOCATION**
(Design Standards Chapter 2.00 Section 3, 3.4)
The existing sanitary sewer being tied into on the east side of the property is on the north side of Peregrine Road. In discussions with the City of Lincoln Wastewater Department, it was discussed to keep the sanitary sewer location on the north side of this development since it will dead end on with this proposed project.
3. **WATER MAIN LOCATION**
(Design Standards Chapter 2.10 Section 3, 3.4)
The existing water main being tied into on the east side of the property is on the south side of Peregrine Road. We are proposing the same approach as the sanitary sewer with keeping the water main on the south side and then bringing it over to the north side on the west side of the property.
4. **REAR SETBACK FROM 20 FEET TO 15 FEET**
(Zoning Ordinance 27.72.020(a))
Due to proposed outlots for detention we are requesting a small reduction in the setbacks to ensure that the proposed residences will have sufficient buildable area.
5. **LOT AREA FROM 5,000 SQ. FT. TO 4,200 SQ. FT**
(Zoning Ordinance 27.72.020(a))
Due to proposed outlots for detention which reduced the depth of the lots, we are requesting a reduction in the lot area allow for lots on Block 2 and Block 3.

We look forward to meeting with the Planning Department and other City Departments on this application. Please do not hesitate to contact me if you have any questions, comments or concerns.

Sincerely,



Nathaniel P. Burnett, P.E.

Cc: Mitch Linder

Enclosed: Application Form
Application Fee – CUP of \$1,451.88
Application Fee – COZ of \$1,005.00
CUP and COZ Description
Waiver List
Lot List

PEREGRINE TOWNHOMES
Community Unit Plan/Special Permit

Legal Description:

A parcel of land composed of Lot 24 Irregular Tracts, all located in the Northwest Quarter of Section 23, Township 10 North, Range 7 East of the 6th P.M., City of Lincoln, Lancaster County, Nebraska and more particularly described as follows.

BEGINNING at the Southwest corner of said Lot 24 Irregular Tracts, thence North on the West line of said Lot 24 Irregular Tracts and on as assumed bearing of N 00° 10' 45" E, for a distance of 313.00 feet;

Thence S 89° 48' 34" E, a distance of 714.71 feet;

Thence South on the East line of said Lot 24 Irregular Tracts, S 00° 10' 30" W, a distance of 317.51 feet to the Southeast corner of said Lot 24 Irregular Tracts;

Thence West on the South line of said Lot 24 Irregular Tracts, N 89° 26' 52" W, a distance of 714.75 feet to the **POINT OF BEGINNING** and having a calculated area of 225,318.67 square feet or 5.17 acres more or less.

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER
Change of Zone #22018
Use Permit #22006

FINAL ACTION?
No

DEVELOPER/OWNER
Lincoln Family Church

PLANNING COMMISSION HEARING DATE
June 22, 2022

RELATED APPLICATIONS
None

PROPERTY ADDRESS/LOCATION
6601 South 70th Street

**RECOMMENDATION: CZ#22018
UP#22006**

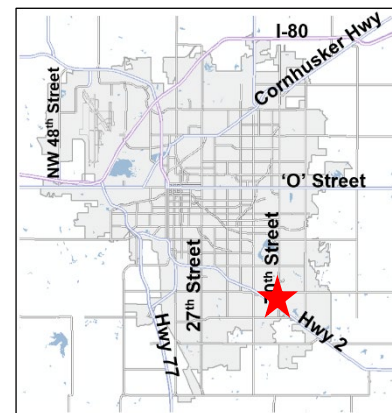
**APPROVAL
CONDITIONAL APPROVAL**

BRIEF SUMMARY OF REQUEST

This is a combined request for a Change of Zone from AGR Agricultural Residential to O-3 Office Park, and a Use Permit matching the same boundary for the lot at 6601 South 70th Street. The site is located directly across the street from the Willowbrook Shopping Center.

The site plan submitted for the use permit creates four lots and an outlot. Three of the lots are for office buildings, and the fourth is for the existing church. The outlot provides an area for stormwater detention and water quality.

Six waivers are requested which allow for a unified development but do not significantly impact surrounding properties and are appropriate.



JUSTIFICATION FOR RECOMMENDATION

The proposed O-3 zoning fits the character of the existing development to the south and east while providing a transition to the residential areas to the north and west. The O-3 district is designed to be adjacent to residential zoning and limits uses to help mitigate the impact on the adjacent residential areas.

APPLICATION CONTACT
Mike Eckert, 402-434-8494
meckert@civildg.com

STAFF CONTACT
Brian Will, 402-441-6362 or
bwill@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Comprehensive Plan historically has shown this area for future low-density residential uses. While the proposed O-3 zoning is not a residential zoning district, it is limited primarily to residential and office uses and is designed to be a transitional zoning district. In this case it provides a good transition from the adjacent residential uses to the more intensive commercial uses along South 70th Street.

WAIVERS

1. LMC 26.15.020 - To waive preliminary plat information - (Recommend Approval)
2. LMC 26.67.030 - To allow parking in a side yard except when adjacent to residential - (Recommend Approval)
3. LMC 27.72 - Adjust the front yard setback from 20' to 15' - (Recommend Approval)
4. LMC 27.67.030 - To allow cross-parking among lots to meet minimum requirements - (Recommend Approval)
5. Design Standard 3.3.3 - To allow non-standard termination of a roadway - (Approval)
6. Design Standard 3.7.2 - To allow a non-standard cul-de-sac with no curbs - (Approval)
7. Design Standard 3.100 Sec. 9 - To exceed light trespass across internal lot lines - (Approval)

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Introduction Section: Growth Framework

Figure GF.b: 2050 - This site is designated for future low-density residential uses on the 2050 Future Land Use Plan.

Fundamentals of Growth in Lancaster County

The City of Lincoln’s present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a mix of uses, and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

Goals Section

G2: Complete Neighborhoods. Lincoln and Lancaster County will support complete neighborhoods within both developing and redeveloping areas of Lincoln. A complete neighborhood is one where residents are able to get the goods and services to meet daily needs within 15 minutes of their residence including a variety of housing options, grocery stores and other commercial services, quality public schools, public open spaces and recreational facilities, affordable active transportation options, and civic amenities. Housing variety should include townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and even small lot single-family.

Elements Section

E2: Infill and Redevelopment

Infill and Redevelopment Approach

PlanForward identifies the potential for 12,000 new dwelling units to be located within the existing built-out portion of the City, roughly 25 percent of the projected 48,000 new dwelling units to be built citywide by 2050.

Neighborhood Edges

Neighborhood edges present an opportunity for missing middle housing, which can help expand affordable housing options and overall housing choice in the community. Missing middle housing includes “house-scale” buildings that provide typically 3 to 12 units and fit in with the character of single-family neighborhoods.

Criteria to consider when locating and designing neighborhood edge redevelopment should include:

- Provide direct or adjacent access to an arterial street to minimize traffic impacts on neighborhood streets.
- In some cases a transition zone may be needed when creating higher-density redevelopment adjacent to lower density neighborhoods.
- Target legacy commercial sites and abandoned, vacant, or blighted parcels for new missing middle housing.
- Consider the character of adjacent built environment in both the design and location of buildings.

Existing Neighborhoods

Infill of housing in existing neighborhoods should respect the existing pattern of development. Infill redevelopment should include housing for a variety of incomes and households and should complement the character of the existing neighborhood by including appropriate transitions, scale, and context.

Commercial Infill

Figure E3.f: Commercial Infill Design Strategies

1. Encourage additional vehicular access to an arterial street.
2. Encourage a Floor Area Ratio that exceeds to existing/previous commercial uses on the site.
3. Face existing residential uses with new residential uses rather than the backs of commercial buildings unless existing residential faces the opposite direction such as along an alley.
4. Discourage commercial driveways that interrupt the blockface of a residential street, especially when residences face the street.
5. Encourage shared driveways and interconnected parking lots where possible.
6. Orient buildings to the street, especially corners.
7. Maintain or adaptively reuse existing structures (especially historical structures) where possible.
8. Encourage a vertical mix of residential and commercial use types.
9. Encourage shared parking between land uses with different peak demand periods.
10. Maintain or enhance on-street parking resources, especially in established/historic commercial districts

Priorities Section

P2: Existing Neighborhoods - Continue our commitment to strong, diverse, and complete neighborhoods.

Action Steps

1. Promote the preservation, maintenance, and renovation of existing housing and supporting neighborhood uses throughout the City, with special emphasis on low and moderate income neighborhoods.
2. Maintain and enhance infrastructure and services, commensurate with needs, in existing neighborhoods.
3. Encourage well-designed and appropriately placed density, including within existing apartment and group living complexes and in redeveloping commercial or industrial centers, where there is land available for additional buildings or expansions. Provide flexibility to the marketplace in siting future residential development locations. This includes appropriately placed infill in prioritized Nodes and Corridors, neighborhood edges, and underutilized commercial or industrial sites.
4. Recognize that broad economic diversity within existing neighborhoods encourages reinvestment and improves quality of life for all residents while acknowledging the need for affordable housing.
5. Preserve, protect and promote the character and unique features of urban neighborhoods, including their historical and architectural elements.
6. Promote the continued use of residential dwellings and all types of buildings, to maintain the character of neighborhoods and to preserve portions of our past. Building code requirements for the rehabilitation of existing buildings should protect the safety of building occupants, while recognizing the need for flexibility that comes with rehabilitating existing buildings.

ANALYSIS

1. These requests seek a change of zone from AGR to O-3 along with a Use Permit for up to 28,650 square feet of office floor area and a 9,850 square foot church. The tract is 4.82 acres in area and surrounded by residential uses and AGR zoning to the north and west, commercial uses zoned H-4 to the south, and South 70th Street on the east with the Willowbrook Shopping Center which is zoned B-2 beyond that.
2. The use permit creates 4 lots and an outlot. Three of the lots are for office buildings, the fourth is for the existing church, and the outlot provides for detention and water quality improvements. The plan anticipates cross-parking among the various users to meet the minimum parking requirements. Lots 3 and 4 are the two that primarily would use this provision, where the largest office building and the church would at times share parking.
3. Several waivers were requested with the Use Permit, they are as follows:
 - a. LMC 26.15.020 - To waive preliminary plat information - This adjustment is supported, but not as stated. An adjustment to allow this information to be submitted later by an administrative amendment is acceptable, but not a waiver to submitting the information altogether. Therefore, requirement that the

information be provided is not waived, rather the timing of its submission is adjusted to allow it to be submitted later and approved by administrative amendment prior to final plat and building permits.

- b. LMC 26.67.030 - To allow parking in a side yard except when adjacent to residential - This allows parking in the side yard where those side yards exist internal to the development. Parking in a side yard adjacent to residential is still prohibited in keeping with the intent of the O-3 district.
 - c. LMC 27.72 - Adjust the front setback from 20' to 15' - The front setback for the O-3 district is 20' and it is maintained throughout the development with one exception. Additional right-of-way is provided for the termination of Marcus Road, and as a technical matter the yard adjacent to the new right-of-way is a front yard. The adjustment to 15' still provides a separation in excess of 48' to the west property line, 8' more than the required 40' rear setback for the O-3.
 - d. LMC 27.67.030 - To allow cross-parking among lots to meet minimum requirements - The provision primarily affects Lots 3 and 4, the two largest users in the development. Neither have the required parking on their own lot to support the floor area shown, but with cross-parking the minimum standards are achieved. Given the nonconcurrent parking demands of the two users - office use is primarily 7 a.m. to 6 p.m. Monday through Friday and the church is typically evening and weekends - only the amount of parking needed will be built and allows for a more efficient use of the site.
 - e. Design Standard 3.3.3 - To allow non-standard termination of a roadway - Initially, the extension of Marcus Road to South 70th Street was the preferred alternative and its design was investigated. After review City staff concluded that such a roadway design would not meet design standards given the amount of curvature required and concluded that termination of the roadway was appropriate. Instead of a typical cul-de-sac an abbreviated hammerhead design is shown. City staff including LFR have concluded it provides adequate space for a turnaround.
 - f. Design Standard 3.7.2 - To allow a non-standard cul-de-sac with no curbs - This matches the existing design of Marcus Road and is appropriate.
 - g. Design Standard 3.100 Sec. 9 - To exceed light trespass across internal lot lines - This will allow light trespass across lot lines internal to the development and is typical of unified developments such as this. It does not extend to the perimeter of the development however, where light trespass must still be contained per the Lighting Design Standards.
4. Access to the site is provided by a single existing driveway now serving the church. Anticipating that this access point would remain into the future a right-of-way stub was dedicated when South 70th Street was improved to a four-lane arterial street facility several years ago. Lincoln Transportation and Utilities (LTU) has determined that these stubs are often no longer needed, and in this case recommends that it be vacated. After vacation the land can be purchased by the owner and made part of the development.
 5. Marcus Road is currently a temporary dead-end street which abuts the west edge of the subject property. It was anticipated that Marcus Road would likely be extended to South 70th Street whenever the church property redeveloped. During the review of several redevelopment options of the site including this one it was determined that the street extension was not desirable. It would require an 'S' curve design over a span of less than 350' and LTU determined it would not be a good a road design and recommended against the connection.

It is noted that with the permanent termination of Marcus Road it will require renaming the street consistent with the requirements of Subdivision Ordinance. Permanent dead-end streets are named Place, Court, Bay or Circle. As a condition of approval of this use permit the developer will be required to apply to the City for the street name change which requires City Council approval. If approved, the Department of Building and Safety then notifies the five property owners east of the intersection of Anns Court and Marcus Road that their addresses will be changed.

6. A right-turn lane in South 70th Street will be necessary per the Access Management Policy due to the intensification of the land use. The turn lane can be accommodated without the dedication of additional right-of-way. There is 120' of right-of-way in South 70th Street now, and due to its design where the roadway was off-set to the east the new turn lane along with a relocated sidewalk and all required separation can be accommodated. The site plan needs to be updated to reflect the revised design based upon the cross-section prepared by Civil Design Group.

CONDITIONS OF APPROVAL - USE PERMIT #22006

This approval permits 28,650 square feet of office floor area and a church (or 16,800 square foot office use) for a total of 46,850 square feet of commercial floor area with waivers to allow preliminary plat information to be approved by separate administrative amendment, allow parking in a side yard except when adjacent to residential, adjust the front setback from 20' to 15' as shown on the site plan, to allow cross-parking among lots to meet minimum requirements, to allow non-standard termination of a roadway, to allow a non-standard cul-de-sac with no curbs, and to exceed light trespass across internal lot lines.

Site Specific Conditions:

1. The City Council approves associated request:
 - 1.1 Change of Zone #22018
2. The permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 2 copies with all required revisions and documents as listed below before a final plat is approved:
 - 2.1 Delete Notes #7,11 and 16 as they are either redundant or not necessary.
 - 2.2 In several locations on the site plan there is overlapping text to be corrected.
 - 2.3 Provide the dimension for the paving at its termination.
 - 2.4 Revise the site plan to show the required turn lane and relocated sidewalk with all dimensions consistent with Design Standards.
 - 2.5 Remove the parking and drive aisle from the southeast corner of the new right-of-way dedication.
 - 2.6 Update the waiver table to reflect the waivers requested.
 - 2.7 Add a note which states 'Prior to approval of a final plat the applicant will make application to the City requesting a street name change for Marcus Road. The street name change request shall be decided by the City Council.'
 - 2.8 Modify Note #19 to state 'Developer shall petition to vacate the right-of-way stub into the property along South 70th Street. The right-of-way stub must be vacated prior to approving a final plat for any office lot.'
 - 2.9 Modify Note #20 to state 'Setbacks area as per the O-3 zoning district except as shown.'
3. Final plat(s) is/are approved by the City.

If any final plat on all or a portion of the approved use permit is submitted five (5) years or more after the approval of the use permit, the city may require that a new use permit be submitted, pursuant to all the provisions of section 26.31.015. A new use permit may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the use permit as originally approved does not comply with the amended rules and regulations.

Before the approval of a final plat, the public streets, private roadway improvements, sidewalks, public sanitary sewer system, public water system, drainage facilities, land preparation and grading, sediment and erosions control measures, storm water detention/retention facilities, drainageway improvements, street lights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs, must be completed or provisions (bond, escrow or security agreement) to guarantee completion must be approved by the City Law Department. The improvements must be completed in conformance with adopted design

standards and within the time period specified in the Land Subdivision Ordinance. **A cash contribution to the City in lieu of a bond, escrow, or security agreement may be furnished for sidewalks and street trees along major streets that have not been improved to an urban cross section. A cash contribution to the City in lieu of a bond, escrow, or security agreement may be furnished for street trees on a final plat with 10 or fewer lots.**

Permittee agrees:

to complete the installation of sidewalks along an improved major street as shown on the final plat within two (2) years following the approval of this final plat.

to complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.

to complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.

to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

to complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of the final plat

to complete the installation of street trees along South 70th Street as shown on the final plat within two (2) years following the approval of this final plat.

to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.

to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.

to submit to the Director of Lincoln Transportation and Utilities a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.

to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

to complete the public and private improvements shown on the Use Permit.

to keep taxes and special assessments on the outlots from becoming delinquent.

to maintain the outlots and private improvements in a condition as near as practical to the original construction on a permanent and continuous basis.

to maintain and supervise the private facilities which have common use or benefit in a condition as near as practical to the original construction on a permanent and continuous basis, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development and that these are the responsibility of the land owner.

to retain ownership of and the right of entry to the outlots in order to perform the above-described maintenance of the outlots and private improvements on a permanent and continuous basis. However,

Permittee(s) may be relieved and discharged of such maintenance obligations upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:

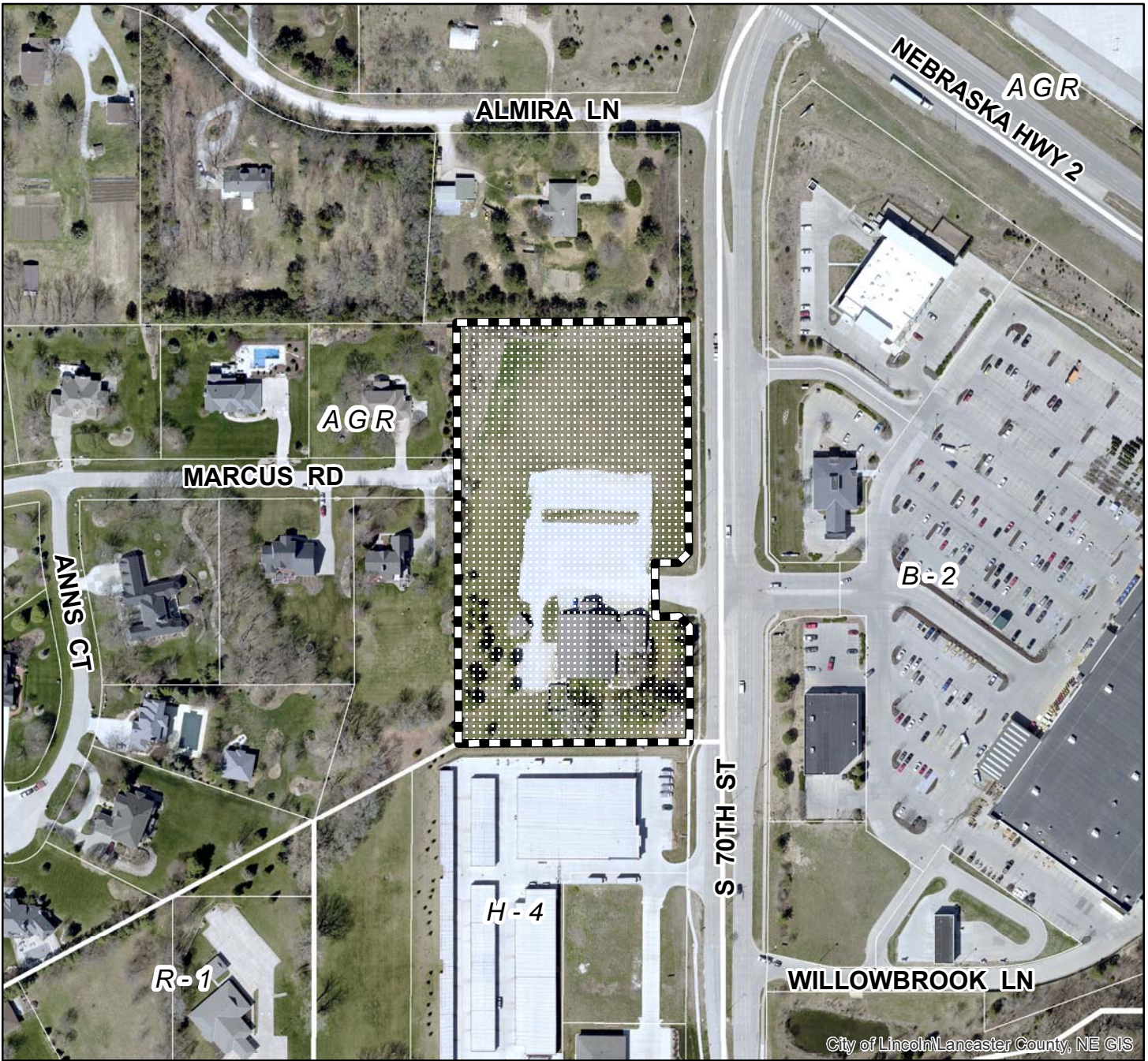
- (1) Permittee shall not be relieved of Permittee's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans.
- (2) The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds

to pay all design, engineering, labor, material, inspection, and other improvement costs.

to relinquish the right of direct vehicular access to South 70th Street except as shown.

Standard Conditions:

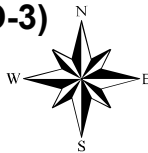
4. The following conditions are applicable to all requests:
 - 4.1 Before occupying the dwelling units / buildings all development and construction is to substantially comply with the approved plans.
 - 4.2 All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City.
 - 4.3 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.
 - 4.4 This resolution'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 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 unless the letter of acceptance has been filed.



City of Lincoln/Lancaster County, NE GIS

2020 aerial

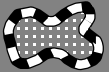


**Change of Zone #: CZ22018 (AGR to O-3)
and Use Permit #: UP22006
S 70th St & Hwy 2**

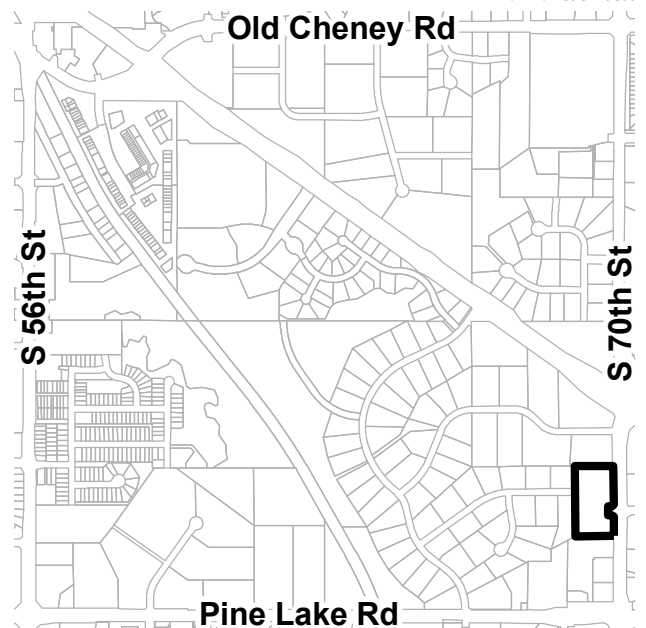


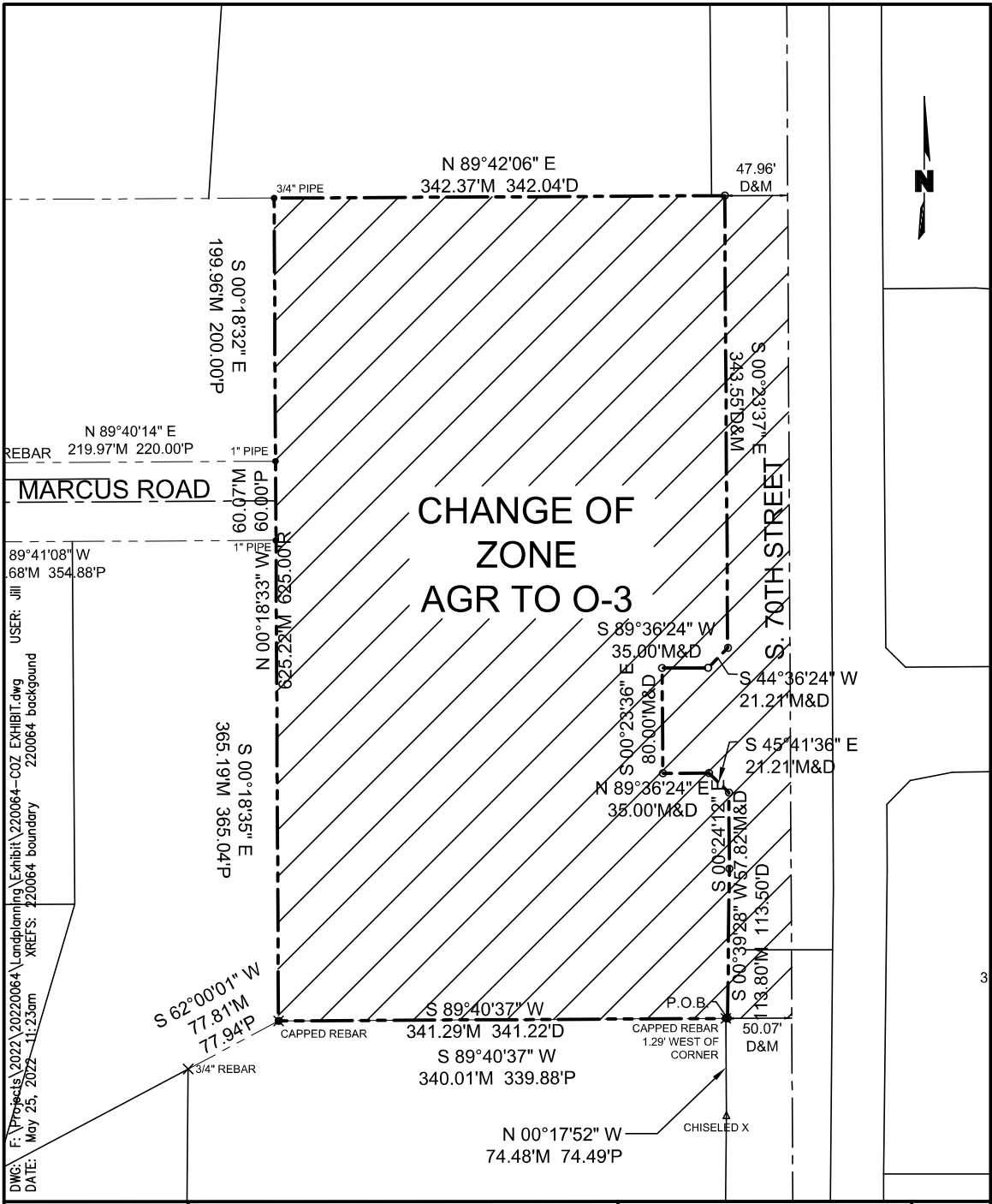
**One Square Mile:
Sec.16 T09N R07E**

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

	Area of Application
	Zoning Jurisdiction Lines
	Lancaster County Jurisdiction
109	





DWG: F:\Projects\2022\20220064\LandPlanning\Exhibit\220064-C07 EXHIBIT.dwg
 DATE: May 25, 2022 11:25am
 USER: Jill
 XREFS: 220064 boundary 220064 background

drawn by: jds
 checked by: -
 project no.: 2022-0064
 date: 05/22/2022

CHANGE OF ZONE EXHIBIT
6601 S. 70TH STREET
LINCOLN, NEBRASKA


Civil Design Group, Inc.
 8535 EXECUTIVE WOODS, DR., SUITE 200
 Lincoln, Nebraska 68512
 Ph: 402-434-8494 Fax: 866-215-8747
 www.civildg.com

CONSULTING ENGINEERS • LAND USE PLANNERS
 CIVIL DESIGN • SITE DEVELOPMENT • PLANNING AND ZONING

EXHIBIT
1

CHANGE OF ZONE LEGAL

A survey of Lot 162 Irregular Tracts, located in the Southeast Quarter of Section 16, Township 9 North, Range 7 East, of the 6th P.M., Lincoln, Lancaster County, Nebraska and more particularly described as follows:

Referring to the Southeast Corner of the Southeast Quarter of said Section 16;
Thence North, on the East Line of the Southeast Quarter, on an assumed bearing of N 00°17'09" W for a distance of 720.55'; Thence S 89°42'51" W for a distance of 48.78' to the Southeast Corner of Lot 162 Irregular Tracts, said point being on the Westerly Right-of-way Line of S. 70th Street, said point also being the Point of Beginning:
Thence S 89°40'37" W, on the South Line of Lot 162 Irregular Tracts, for a distance of 341.29' to the Southwest Corner of said Lot 162; Thence N 00°18'33" W, on the West Line of Lot 162 Irregular Tracts, for a distance of 625.22' to the Northwest Corner of said Lot 162; Thence N 89°42'06" E, on the North Line of Lot 162 Irregular Tracts, for a distance of 342.37' to the Northeast Corner of said Lot 162, said point being on the Westerly Right-of-way Line of S. 70th Street;
Thence Southerly, on the Easterly Line of Line of Lot 162 Irregular Tracts and on the Westerly Right-of-way Line of S. 70th Street, the following 8 courses:
Thence S 00°23'37" E for a distance of 343.55';
Thence S 44°36'24" W for a distance of 21.21';
Thence S 89°36'24" W for a distance of 35.00';
Thence S 00°23'36" E for a distance of 80.00';
Thence N 89°36'24" E for a distance of 35.00';
Thence S 45°41'36" E for a distance of 21.21';
Thence S 00°24'12" E for a distance of 57.82';
Thence S 00°39'28" W for a distance of 113.80' to the Point of Beginning, and having a calculated area of 4.82 acres more or less.

Subject to any and all easements and restrictions of record.

AND

The adjacent Right-of-Way of N. 70th Street.



Civil Design Group, Inc.

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

May 25, 2022

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

Re: Use Permit Application and request for Change of Zone from AGR to O-3 on 4.82 acres of land located at 6601 S. 70th Street. CDG Project 2022-0064.

Dear Mr. Cary:

On behalf of Brad Alderman we submit the enclosed application for an O-3 Use Permit and associated change of zone from AGR to O-3 on 4.82 acres of land at 6601 S. 70th Street. The proposed use permit would contain the existing 9,850 sq ft church on the property and permit the addition of 28,650 sq ft of office space.

In discussion with the neighbors to the west and city staff, we are proposing the permanent termination of Marcus Road as it abuts this property from the west. The ROW needed to terminate the roadway to that satisfaction of the City of Lincoln will be granted with subsequent final plats.

We are requesting the following waivers:

1. To Title 26-Section 26.15.020, to waive the information on or accompanying a preliminary plat. This request is based on the desire to finalize these items after the change of zone is approved to allow for the transfer of land to the applicant.
2. To Title 27-Section 27.67.030 to allow parking in the required side yards except when abutting a residential district and to allow cross parking between the church lots and office lots. This is common waiver for the non-concurrent parking demands of this property due to the existing church on-site.
3. To Title 27-Section 27.72, to adjust the front setback from 20' to 15'
4. To Title 27-Section 27.67.030, to allow cross-parking among lots to meet minimum requirements, this a common waiver for projects containing uses that have opposing parking demands, i.e. churches and offices.
5. To Design Standards 3.3.3, for cul-de sacs, to allow for non-standard termination of a roadway, this will allow for let intrusion on the subject property in terminating Marcus Rd ROW.

6. To Design Standards 3.7.2, for curbs, to provide for the alternative termination of Marcus Rd without curbs to match the existing paving style on Marcus Rd.
7. To Design Standards 3.100 Section 9, to allow light trespass across internal lot lines, this allow platting of church lot and the office lots be a hammer-head style turn-around for EMS vehicles.
8. To Title 27-Section 27.72.030, to reduce the setback abutting the future dedication of Marcus Rd ROW to be 15. This is requested as we dedicating ROW to terminate ROW and would like to reduce the setback to better accommodate the site parking and drive aisles on the site plan.

With this application we submit the following items:

Application for a Change of Zone and Use Permit
Change of Zone Fee of \$1,005.00
Use Permit Fee of \$1,814.76
Site plan sheet, uploaded via Project Dox

I hope that this letter in conjunction with the site plan assists you in reviewing this application. Please feel free to call me at (402) 434-8494 so that I can address any questions you may have.

Sincerely,



Mike Eckert, AICP

cc: Brad Alderman
Epic Church

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

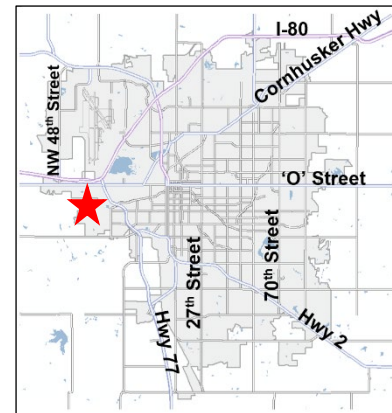
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Miscellaneous #22010	FINAL ACTION? No	DEVELOPER/OWNER Oxford House Inc./ JDB Properties LLC
PLANNING COMMISSION HEARING DATE June 22, 2022	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION 1923 B Street

RECOMMENDATION: Finding of compliance with requirements of Fair Housing Act with conditions

BRIEF SUMMARY OF REQUEST

A request for reasonable accommodation under Chapter 1.28 of the Lincoln Municipal Code, the Nebraska Fair Housing Act (Neb. Rev. Stat. 20-301 etc.) and the Federal Fair Housing Act (FHA) (Title VIII of the Civil Rights Act of 1968, as amended) to make an accommodation the definition of family as provided in Chapter 27.02.070 to include fourteen unrelated individuals with disabilities to reside in the dwelling known as the Oxford House- Lyoncrest at 1923 B Street. If approved, the accommodation will allow fourteen individuals with disabilities to reside in a single family dwelling. If the accommodation were not approved, the use with fourteen persons could be defined as a group home which is a conditional use. However, this location doesn't meet the conditions for a group home per Chapter 27.62.050 (b).



JUSTIFICATION FOR RECOMMENDATION

The FHA requires City make reasonable accommodations to the zoning code when the requested accommodation will ensure equal opportunity to individuals with disabilities to live in the neighborhood they choose. Requests for accommodation are not reasonable when the accommodation imposes on City an undue financial or administrative burden. The applicant has demonstrated it is entitled to a reasonable accommodation under the FHA and City has not, at this time, identified evidence that the accommodation is unreasonable.

APPLICATION CONTACT

Steven G Polin
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Washington, DC 20015
(202) 331- 5848

STAFF CONTACT

Stephen Henrichsen, (402) 441-6374
shenrichsen@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Comprehensive Plan encourages a variety of housing types within a neighborhood. In order to ensure a mix of housing types, but with compatible within a neighborhood, the zoning ordinance establishes conditions and requirements for different housing types such as group homes or transitional living facilities. This request would make an accommodation to those regulations to permit this use to be treated as a family.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Goals Section

G1: Safe, Affordable, and Accessible Housing. Lincoln and Lancaster County will support the development of safe, affordable, and accessible quality housing that meets the diverse needs of the community. PlanForward understands the ongoing need for affordable housing and supports development of 5,000 affordable units by the year 2030.

G2: Complete Neighborhoods. Lincoln and Lancaster County will support complete neighborhoods within both developing and redeveloping areas of Lincoln. A complete neighborhood is one where residents are able to get the goods and services to meet daily needs within 15 minutes of their residence including a variety of housing options, grocery stores and other commercial services, quality public schools, public open spaces and recreational facilities, affordable active transportation options, and civic amenities. Housing variety should include townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and even small lot single-family.

Figure E1.b: Strategies for Design, Sustainability and Complete Neighborhoods in Existing Areas

1. Encourage a mix of compatible land uses to develop more complete neighborhoods:
 - a. Similar uses on the same block face: residential faces residential.
 - b. Similar housing densities developed near each other: single-family and “missing middle” residential (3-12 units) scattered throughout with higher density residential (more than 12 units) near the neighborhood edge or clustered near commercial centers.
 - c. Non-residential uses, including parking lots, should be screened from residential areas.
 - d. Locate mixed-use centers so as residents can safely access essential goods and services (i.e. not located across arterial streets) and no more than a 15-minute walk from all residences.
 - e. Support existing Commercial Centers and encourage inclusion of essential goods and services.
 - f. Infill and redevelopment projects should meet or exceed Neighborhood or Commercial Design Standards.

Existing Neighborhoods

The diversity of architecture, housing types and sizes are central to what make existing neighborhoods great places to live. New construction should continue the architectural variety, but in a manner that is sensitive to the existing neighborhoods.

Infill and redevelopment is supported and must respect the street pattern, block sizes, and development standards of the area, such as parking at the rear and porches, windows, and doors on the front street side.

The City’s primary strategy for residential infill and redevelopment outside of the Greater Downtown is to encourage the redevelopment and reuse of sites and buildings in commercial areas in order to create new mixed use centers that are compatible and complementary to adjacent neighborhoods.

Modest opportunities for redevelopment may also be appropriate along “neighborhood edges.” Neighborhood edges include arterial streets and transition zones between lower density residential and commercial areas.

Policies Section

P1: Housing Affordability - Make available a safe residential dwelling for all residents.

Action Steps

1. Implement the housing and neighborhood strategies as embodied in the Affordable Housing Coordinated Action Plan, City of Lincoln Consolidated and Annual Action Plans and subsequent housing and neighborhood plans. These plans provide the core for affordable housing and neighborhood preservation actions for public and private agencies.
2. Distribute and preserve affordable housing throughout the community to be near job opportunities and public transit and to provide housing choices within existing and developing neighborhoods.
3. Encourage public/private partnerships with housing entities such as Lincoln Housing Authority, Affordable Housing Initiatives, Habitat for Humanity, and NeighborWorks Lincoln.
4. Provide for more education of the public about affordable housing and code enforcement.
5. Promote the preservation, maintenance and renovation of existing housing and neighborhoods throughout the city, with special emphasis on low and moderate income neighborhoods.
6. Preserve the existing affordable housing stock, increase the supply of affordable owner and renter units, and add more variety in housing types.

P2: Existing Neighborhoods - Continue our commitment to strong, diverse, and complete neighborhoods.

Action Steps

1. Promote the preservation, maintenance, and renovation of existing housing and supporting neighborhood uses throughout the City, with special emphasis on low and moderate income neighborhoods.
3. Encourage well-designed and appropriately placed density, including within existing apartment and group living complexes and in redeveloping commercial or industrial centers, where there is land available for additional buildings or expansions. Provide flexibility to the marketplace in siting future residential development locations. This includes appropriately placed infill in prioritized Nodes and Corridors, neighborhood edges, and underutilized commercial or industrial sites.
4. Recognize that broad economic diversity within existing neighborhoods encourages reinvestment and improves quality of life for all residents while acknowledging the need for affordable housing.
5. Preserve, protect and promote the character and unique features of urban neighborhoods, including their historical and architectural elements.
6. Promote the continued use of residential dwellings and all types of buildings, to maintain the character of neighborhoods and to preserve portions of our past. Building code requirements for the rehabilitation of existing buildings should protect the safety of building occupants, while recognizing the need for flexibility that comes with rehabilitating existing buildings.
7. Implement the housing and neighborhood strategies as embodied in the Affordable Housing Coordinated Action Plan, City of Lincoln Consolidated, Annual Action Plans, and subsequent housing and neighborhood plans. These plans provide the core for affordable housing and neighborhood preservation actions for public and private agencies.
8. Retain and encourage a mix of housing in existing and new neighborhoods in order to provide a mix of housing types at a variety of price points.
11. Encourage public and private investment in neighborhood infrastructure and services to support economic diversity that improves the quality of life for all residents.
12. Balance expanding housing options and neighborhood character. Infill development should include housing for a variety of incomes and households and should complement the character of the existing neighborhood by including appropriate transitions, scale, and context.
13. Preserve areas designated for multi-family and group living housing in approved plans to support a distributed choice in affordable housing.
20. Examine current residential zoning districts and propose modifications to encourage ‘missing middle’ units (single-family attached, cottage courts, townhomes, live-work, and a variety of three- and four-plex configurations), including affordable units, to people with a range of incomes. Neighborhood edges in particular present an opportunity for missing middle housing.
21. Encourage a variety of housing types including townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and small lot single-family units.

FACTS, LAW, AND ANALYSIS

1. This is a request for the Oxford House- Lyoncrest at 1923 B Street. This is a single family detached house zoned R-2 Residential. The applicant is seeking an accommodation to the definition of “family” to include up to 14 residents with disabilities at this location. The letter from the attorney for Oxford House- Lyoncrest states that Oxford House is a “self run, self supported residence for persons recovering from alcoholism and substance abuse...” He notes the Oxford House concept “provides an opportunity for recovering alcoholics and substances abusers to maintain their sobriety in a supportive living environment that does not require the provision of treatment or counseling services.” He also notes that “Oxford House, Inc. the national organization, assists in establishing housing for recovering addicts and alcoholics that is financially self-supported, democratically run ... there is no paid staff, counseling or therapy, or house manager involved in the operation of the house.”
2. JDB Properties LLC purchased this house in December 2021. The Assessor’s Office lists this house as five bedrooms with 3,202 square feet of living space on three levels and 1,416 square feet in the basement.
3. The applicant’s position appears in the attached application materials and letter from legal counsel.
4. The Lincoln Municipal Code (LMC) defines in 27.02.070 (F) a family as:

‘Family One or more persons immediately related by blood, marriage, or adoption and living as a single housekeeping unit in a dwelling shall constitute a family. A family may include, in addition, not more than two persons who are unrelated for the purpose of this title. The following persons shall be considered related for the purpose of this title:

- a. A person residing with a family for the purpose of adoption;
- b. Not more than six persons under nineteen years of age, residing in a foster home licensed or approved by the State of Nebraska;
- c. Not more than four persons nineteen years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the state or its delegate;
- d. Any person who is living with a family at the direction of a court.”

5. Under the FHA, it is unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability. 42 U.S.C. § 3604(f)(1).

The FHA defines a person with a disability as any 1) individual with a physical or mental impairment that substantially limits one or more major life activities; 2) individual with a record of such impairment; or 3) individual who is regarded as having such an impairment. 42 U.S.C. § 3602(h).

6. It is well established that individuals recovering from drug or alcohol addiction are disabled under the FHA. *United States v. Southern Management Corp.*, 955 F.2d 914, 917–23 (4th Cir.1992); *Elliott v. City of Athens*, 960 F.2d 975, 977 n. 2 (11th Cir.1992), cert. denied, 506 U.S. 940, 113 S.Ct. 376, 121 L.Ed.2d 287 (1972); *Oxford House, Inc. v. Township of Cherry Hill*, 799 F.Supp. 450, 458–60 (D.N.J.1992); *United States v. Borough of Audubon*, NJ, 797 F.Supp. 353, 358–59 (D.N.J.1991).

7. The FHA requires Cities make reasonable accommodations to rules, policies, laws, and practices to afford people with disabilities and equal opportunity to live in a dwelling. 42 U.S.C. § 3604(f)(3)(B)

8. LMC 27.02.050 (D) then defines a disability as:

“**Disability** or handicap shall mean, with respect to a person:

- a. A physical or mental impairment which substantially limits one or more of such person’s major life activities;
- b. A record of having such an impairment; or
- c. Being regarded as having such an impairment.”

Disability shall not include current, illegal use of or addiction to a controlled substance as defined by state law.

9. If the reasonable accommodation request were denied, then when more than three unrelated persons live together, one residential option is a group home. This is defined in 27.02.080 (G) as:

“**Group Home** Group home shall mean a building or structure licensed or approved by the State or an appropriate agency, if required, used as any one of the following:

- a. A facility in which more than three but less than sixteen disabled persons who are unrelated by blood, marriage, or adoption reside while receiving therapy or counseling, but not nursing care;
- b. A facility engaged in the service of exercising 24-hour daily care, supervision, custody, or control over more than three but less than sixteen children, for compensation or hire in lieu of the care or supervision normally exercised by parents in their own home.”

10. Group Homes are allowed in residential zoning districts as a conditional use. LMC 27.62.050 (b) states:

“Group homes are allowed in the AG, AGR, R-T and all residential zoning districts under the following conditions:

1. Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.
2. The distance between the proposed use and any existing group home measured from lot line to lot line is not less than:
 - i. One-half mile in the AG, AGR, R-1, R-2, R-3 and R-T zoning districts;
 - ii. 1,200 feet in the R-4, R-5, R-6, R-7 and R-8 zoning districts.”

11. In the case of 1923 B Street, it does not meet the spacing requirement of the R-2 Zoning district. So, this is not an option. The attorney for the residents at 1923 B Street states they are not engaged in therapy or counseling, a component of the “group home” definition under LMC 27.02.080. The applicant has not met with staff to see if there are any other options. Their request is for reasonable accommodation to the family definition.

Reasonable Accommodation Process & Findings

12. The Lincoln Municipal Code in Chapter 1.28.020 provides the process for a person with a disability, or entity on their behalf, to request the City Council make reasonable accommodations to laws such as building codes, fire or safety codes, or zoning code to allow those individuals with disabilities to enjoy equal opportunity to use of a dwelling. The Planning Commission is the “Reviewing Authority” for reasonable accommodation requests involving the zoning code. The Commission must hold a public hearing on the request and make a recommendation to City Council.

1.28.020 Applicability.

“A request for reasonable accommodation may be made by any person with a disability or handicap, as defined in the Acts, or by an entity acting on behalf of a person or persons with disabilities or handicaps to provide or secure equal opportunity to use and enjoy a dwelling and/or otherwise receive services or participate in programs or activities provided by the City when the application of a City of Lincoln building code, fire or safety code, zoning law or other land use regulation, policy or practice acts as a barrier to such equal opportunities. The provisions of this chapter do not apply to the City’s Bureau of Fire Prevention’s application of any code or regulation adopted by the State Fire Marshal pursuant to its delegated authority from the State Fire Marshal. As defined in the Acts, a person with a disability or handicap is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities; anyone who is regarded as having such impairment; or anyone who has a record of such impairment.

A request for reasonable accommodation may include a modification or exception to rules, standards and practices when such modification or exception is necessary to eliminate regulatory barriers and provide a person with a disability or handicap with equal opportunity to use and enjoy a dwelling and/or to otherwise receive services or participate in programs or activities provided by the City. Requests for reasonable accommodation shall be made in the manner prescribed by Section [1.28.030](#).”

13. The history of prior reasonable accommodation requests is summarized below. Three requests were withdrawn, three were denied and only one was approved. Enactment of section 1.28 was spurred by federal litigation and denial of certain requests appearing below resulted in an adverse federal court judgment against the City.

14. Chapter 1.28 provides 8 factors for the City Council to consider when evaluating a request for reasonable accommodation. The Planning Commission role is to make a recommendation on these findings. This report will review each factor with commentary in *italics*.

1.28.050 Decision.

“Upon receiving the report from the Reviewing Authority or upon failure of the Reviewing Authority to timely submit its report, the City Council after public hearing shall take final action upon the application and may grant,

grant with modifications, or deny the request for reasonable accommodation consistent with the Acts and based upon the following findings:

1. Whether the housing which is the subject of the request will be used by an individual or a group of individuals considered disabled or handicapped under the Acts.

The residents of the house are disabled under the FHA because they are in recovery from addiction to alcohol or other substances.

2. Whether the accommodation requested is financially, therapeutically, or otherwise necessary to make specific housing available to the individual or group of individuals with a disability or handicap under the Acts.

The applicant describes the necessity of communal sober living in their application materials.

3. Whether there are alternative reasonable accommodations available that would provide an equivalent level of benefit.

City staff, at this time, has not explored whether there is an alternative reasonable accommodation available that would provide an equal level of benefit.

4. Whether alternative accommodations would be suitable based on the circumstances of this particular case.

The reasonable accommodation request identifies the circumstances and necessity of the accommodation under the circumstances. City staff have not explored whether an alternative accommodation would be suitable.

5. If applicable, whether the requested reasonable accommodation would be consistent with the Comprehensive Plan land use designation of the property which is the subject of the reasonable accommodation request, and with the general purpose and intent of the zoning district in which the use is located.

The Comprehensive Plan designates this area as Urban Residential. The Comprehensive Plan encourages a variety of housing types in neighborhoods. This specific request wouldn't be contrary to the Plan.

6. Whether the requested reasonable accommodation substantially affects the physical attributes of the property.

No changes are proposed, but the approval doesn't limit the owner to making changes to alter the house in the future. The house at 1923 B Street has five bedrooms and two bathrooms. It is a 2 and ½ story house with a total of 3,202 square feet on the three floors and 1,416 square feet in the basement. No information was provided on how fourteen people would be accommodated in a five bedroom house. The Building and Safety Department advises that 14-person occupancy would not exceed building code maximum occupancy for the dwelling.

The property is in the Mount Emerald Local Landmark Historic District. The purpose of the district is to preserve, protect and enhance the structures within the district. The regulations focus on the structures themselves and don't specifically address land use.

7. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City.

City has identified no financial or administrative hardship resulting from this particular accommodation. Activity at this address was reviewed by the Lincoln Police Department. They had no concern. They noted there has only been one call for service this year to this address and that was for a medical transport.

8. Whether the requested reasonable accommodation would require a fundamental alteration to the zoning, building, fire, or safety codes of the City.

Although a proliferation of communal living dwellings in a concentrated area may perhaps result in a fundamental alteration to certain residential zones, this accommodation, on its own, will not.

“In granting a request for reasonable accommodation, the City may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would be consistent with the Acts and the findings required above.”

Conclusion:

Applicant is entitled, under Lincoln Municipal Code and the Federal Fair Housing Act to make application to City of Lincoln for a reasonable accommodation to the definition of “family” under LMC Title 27 to allow up to 14 unrelated individuals with a disability to reside as a family at 1923 B Street. Applicant has demonstrated individuals residing at 1923 B Street are disabled under the FHA. Applicant asserts that the accommodation is financially and therapeutically necessary. Unless City can demonstrate an undue financial or administrative burden or a fundamental alteration of the zoning code resulting from the reasonable accommodation requested, the request should be approved.

EXISTING LAND USE & ZONING: Single family detached house and R-2 Residential zoning

SURROUNDING LAND USE & ZONING

North: Single and two family dwelling units; R-2
 South: Primarily Single and two family dwelling units R-2
 East: Primarily single family dwelling units R-2
 West: Primarily single family with some multi-family units R-2

REASONABLE ACCOMMODATION APPLICATION HISTORY (does not include any legal cases or determinations)

Application Number	Action Date	Council Action	Location	Applicant	Staff Recomm.	PC Recomm.	Planning Dept. Notes
MISC05011	N/A	N/A	3912 S. 20 th Street	Developmental Services of Nebraska	Withdrawn	N/A	Request to allow 4 residents with developmental disabilities in a residential home.
MISC05012	8/19/05	Approved (CC)	4000 Lindsey Circle	Developmental Services of Nebraska	Not noted	Planning Commission Recommended Approval	Allow 4 residents with developmentally disabilities under a group home not meeting the spacing.

MISC05013	N/A	N/A	2440 SW 18 th Street	Developmental Services of Nebraska	Withdrawn	N/A	Allow 4 residents with developmental disabilities in a residential home.
MISC05017	11/14/05	Denied 5-2	424 N. Coddington Avenue	Developmental Services of Nebraska	Conditional Approval	Denial - found applicant had not sufficiently demonstrated financial and therapeutic necessity and recommended denial.	Staff recommended withdrawing neighboring application to allow spacing and application to be met as a group home.
MISC05018	11/14/05	Denied	1661 Timber Ridge Road	Developmental Services of Nebraska	Approval	Denial - found applicant had not sufficiently demonstrated financial and therapeutic necessity and recommended denial.	Allow 4 residents with developmental disabilities in a residential home.
MISC05019	11/14/05	Denied	5516 Hunts Drive	Developmental Services of Nebraska	Approval	Denial	Same circumstances as MISC05018.
MISC05020	N/A	Withdrawn	416 N. Coddington Avenue	Developmental Services of Nebraska	Conditional Approval	N/A	Same circumstances as prior two applications. Withdrawn by the applicant at PC hearing.

APPROXIMATE LAND AREA: 11,280 square feet, (62.5 feet by 180.5 feet)

LEGAL DESCRIPTION: Lot 43 and the western 12.5 feet of Lot 42, Mount Emerald, Lincoln, Nebraska

Prepared by

Stephen Henrichsen, Development Review Manager

Date: June 15, 2022

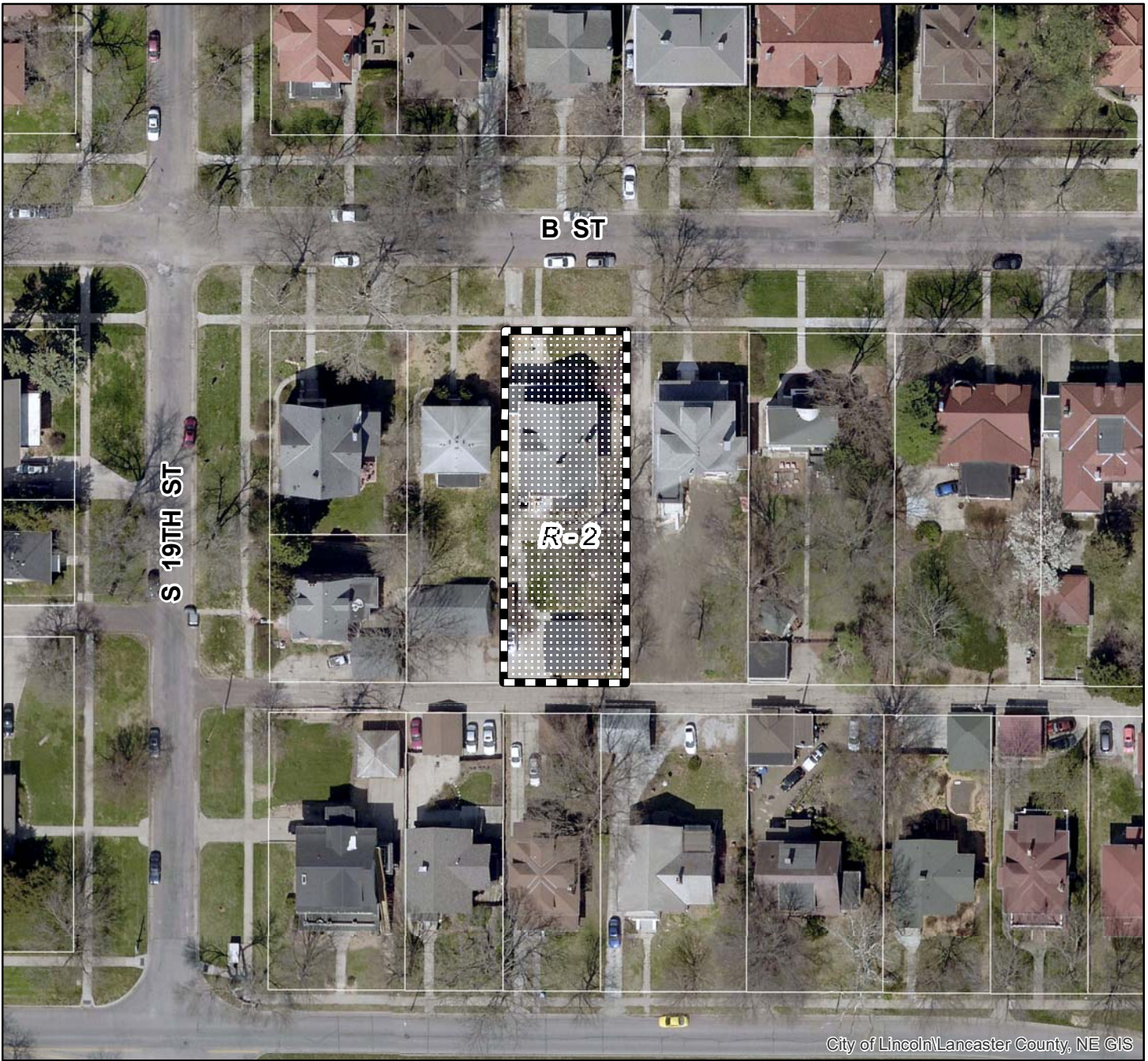
Applicant/
Contact: Steve G Polin

Owner: JDB Properties LLC
1923 B Street
Lincoln, NE 68502

**FINDING OF COMPLIANCE WITH REQUIREMENTS OF FAIR HOUSING ACT WITH CONDITIONS -
MISCELLANEOUS #22010**

Per the Fair Housing Act, the City agrees to permit Oxford House- Lyoncrest to have fourteen unrelated persons to reside as a single family provided that all residents have a disability and operate as Oxford House-Lyoncrest. The Oxford House-Lyoncrest approval is subject to the following conditions:

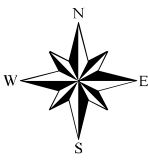
- a. Applicant shall notify Planning Director if dwelling ceases to be used as sober-living home where, at all times, all residents are in recovery from alcohol or other substance abuse.
- b. Reasonable accommodation is granted only to 1923 B Street, and only to "Oxford House-Lyoncrest." Reasonable accommodation is granted only as to this address and this operator for the purposes of sober-living, is not transferable, and does not run with the land.



City of Lincoln/Lancaster County, NE GIS

2020 aerial




Miscellaneous #: MISC22010
S 19th St & B St



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.25 T10N R06E

	Area of Application
	Zoning Jurisdiction Lines
	Lancaster County Jurisdiction
124	



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May 19, 2022

SENT VIA ELECTRONIC MEANS AND FIRST CLASS MAIL

Sean Stewart
Chief Housing Inspector
City of Lincoln
555 South 10th Street, Suite 203
Lincoln, NE 68508

RE: Federal Fair Housing Act
Oxford House-Lyoncrest
1923 B Street
CT220201

Dear Mr. Stewart:

I am General Counsel for Oxford House, Inc. I am responding to the inquiries you have made concerning the use of 1923 B Street as an Oxford House, a self run, self supported residence for persons in recovery from alcoholism and substance abuse that it is violation of the City of Lincoln's zoning code for having more than three (3)unrelated persons residing in it. As persons in recovery from alcoholism and substance, the residents of Oxford House-Lyoncrest are protected class under the Federal Fair Housing Act, 42 U.S.C. §3601, et seq. Therefore, on behalf of the Oxford House-Lyoncrest residents, Oxford House, Inc. and the owner of the property, I am making a reasonable accommodation request pursuant to the Federal Fair Housing Act, 42 U.S.C. § 3604(f)(3)(B), to the City of Lincoln by requesting the following: that the City treat the use of Oxford House as the functional equivalent of a family; that the City treat the use of Oxford House-Lyoncrest as a single family use; and, that the City grant a waiver on the limitations of the maximum number of unrelated persons who can reside together as a family under the City's definition of family.

In order to assist the City in granting Oxford House, Inc.'s reasonable accommodation request, please consider the following explanation of the Oxford House concept, as well as the Federal Fair Housing Act as it applies to Oxford House and its residents.

Based on the information provided me, it is the position of the City that the City is classifying Oxford House-Lyoncrest as something other than a single family use. . The Courts have consistently treated the use of a single-family residence by Oxford House and its residents as the functional equivalent of a family.

Sean Stewart
May 19, 2022

The Lincoln Municipal Code defines family as follows:

"Family:

One or more persons immediately related by blood, marriage or adoption and living as a single housekeeping unit in a dwelling shall constitute a family. A family may include, in addition, not more than two (2) persons who are unrelated for the purpose of this title:

A person residing with a family for the purpose of adoption;

Not more than six (6) persons under 16 years of age, residing in a foster home licensed as such by the State of Nebraska;

Not more than four (4) persons 16 years of age or older residing with a family for the purpose of receiving foster care;

Any person who is living with a family at the direction of a court.

I. THE OXFORD HOUSE CONCEPT

Oxford Houses provide an opportunity for recovering alcoholics and substances abusers to maintain their sobriety in a supportive living environment that does not require the provision of treatment or counseling services.

Oxford House-Lyoncrest provides safe and sober housing for persons in recovery from alcoholism and substance abuse. Oxford House-Lyoncrest will accommodate up to fourteen (14) residents. In this regard, Oxford House, Inc., the national organization, assists in establishing housing for recovering addicts and alcoholics that is financially self-supported, democratically run, and immediately expels anyone who uses drugs or alcohol, inside or outside the house. There is no paid staff, counseling, therapy, or house manager involved in the operation of the house. In Oxford House, the group behaves like any family and makes group decisions based on democratic procedures. Oxford House is nothing more than a single-family residence.

Oxford House residents are encouraged to rent single-family dwellings located in good neighborhoods. This means Oxford Houses are usually located in areas zoned for single-family dwellings.

Oxford Houses are not substance abuse centers, halfway houses, shelters nor community care facilities. There is no treatment, counseling, therapy, or any type of health care service provided.

Sean Stewart
May 19, 2022

Oxford Houses are not licensed by the State of Nebraska, nor are they required to be licensed. In an Oxford House, as opposed to a halfway house, residents live there by choice. There is no house manager, paid staff or other type of institutional personnel involved in the supervision or management of the house. All decisions relating to the functioning of an Oxford House are made democratically. An Oxford House manages its own finances and has its own bank account. Oxford Houses are not halfway houses, nor are they a substitute for halfway houses.

Oxford Houses are neither rooming nor boarding houses. The residents of Oxford House rent the entire premises rather than a single room. All residents have access to the entire house and all of the household facilities, and live in the house as any other group of unrelated persons functioning as a single housekeeping unit. The residents of the house share all household responsibilities, including financial responsibility for the rent and utilities, which they pay out of a single household checking account. They also share in the cooking, shopping, cleaning and general care of the premises. The residents live together purposefully to create a "family" atmosphere, where the residents share all aspects of domestic life. There are no individual locks on the doors of the bedrooms. There is no staff, paid or otherwise, living in the house or overseeing the house, and no treatment or professional services provided at the premises. Oxford House, Inc. plays no role, whatsoever, in how the house functions.

Physically, the house is no different from any other single-family home in the neighborhood. It is simply a single-family dwelling that is being rented by a group of individuals. The lease is between the landlord and the residents of Oxford House-Lyoncrest. Oxford House-Lyoncrest is in effect, an unincorporated association composed of the residents who reside there. Thus, there is a direct landlord-tenant relationship between the actual residents of the premises and the landlord. As the lease clearly indicates, there are no other persons or organizations, other than the residents who are living in the house, responsible for paying the rent or utilities for this rental property.

More important, there is no third party making any decisions regarding the way these houses operate, who resides in the house or how the houses are to be run. On the contrary, the residents themselves make all of these decisions. Moreover, there is no owner or operator at the premises who makes decisions regarding who lives in the premises and how the premises would function. Further, all of the household expenses, including rent, utilities and basic household supplies, are paid for only by the residents. The payments are all equal, regardless of the size of the room, since each resident is leasing the entire house, not just a room. The landlord is paid one monthly check for rent, which reflects the rent for the entire house. Finally, if there is a vacancy, the residents decide whether to fill it, and if so, the identity of the new occupant.

Not only is there no "operator" making decisions regarding the running of the premises, but rather the owner has absolutely nothing to do with the identity of the new individuals residing at the house, or how long the individuals stay at the house (other than simply establishing the lease for the

Sean Stewart
May 19, 2022

entire property). All of these decisions are made exclusively by the tenants who are renting the premises.

For the same reasons asserted, we submit that the use of Oxford House-Lyoncrest, (which is based on the same model of self-run, self-supported shared living as an intentional "family") is likewise not a community care center, rooming or boarding house, group home or halfway-house under any applicable definition. *See Oxford House - Evergreen v. City of Plainfield*, 769 F. Supp. 1329 (D. N.J. 1991)(Oxford House is not a halfway house. Residents share more than "household responsibilities" and meals. The residents make all house decisions in a democratic fashion. But even more important, the support they lend each other is therapeutic, in the same manner as that of a well-functioning family. The relationship is not analogous to that between residents of a boarding house).¹

Oxford House residents are considered to be the "functional equivalent" of a family for several reasons. First, all the residents have access to the entire house. Second, all the residents participate equally in the housekeeping functions of the house, i.e. house chores and house finances. Each resident, however, is responsible for her own food and cooking. Third is the quality of the relationship among the residents. The emotional and mutual support and bonding given Oxford House residents in support of their recovery from drug addiction and alcoholism is the equivalent of the type of love and support received in a traditional family. Finally, the living arrangement is not

¹Also, *See Oxford House, Inc., et al. v. Township of Cherry Hill*, 799 F. Supp. 450 , 452 (D.N.J. 1992), wherein the Court stated:

Oxford Houses are not health care facilities, rehabilitation centers, or supervised halfway houses. They are simply residential dwellings rented by a group of individuals who are recovering from alcoholism and drug addiction . . . No professional treatment, therapy, or paid staff is provided. Unlike a boarding house, where a proprietor is responsible to run and operate the premises, at Oxford House, the residents are responsible for their own food and care as well as for running the home. Because the house must be self-supporting, each of the residents needs a source of income to pay his or her fair share of the expenses.

See, United States v. Borough of Audubon, 797 F. Supp 353, *aff'd* 968 F.2d 14 (3d Cir. 1992)(Oxford Houses are not health care facilities, rehabilitation centers, or supervised halfway houses. Unlike those facilities, no professional treatment or paid staff are provided. Instead, such houses are simply residential dwellings that are rented by a group of individuals who are recovering from alcoholism or drug addiction.). The Court also held that Oxford House residents are handicapped under the Federal Fair Housing Act, and that the residents drug and/or alcohol addictions did substantially impair one or more of their major life activities.

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based upon a profit motive. It has been found that individuals who decide to live in programs such as that offered by Oxford House-Lyoncrest are allowed to engage in the process of recovery from alcoholism and substance abuse at their own pace, which enhances their ability to advance and succeed in the recovery process. By living with other persons who are in recovery, the residents should never have to face an alcoholic's or addict's deadliest enemy: loneliness and isolation. It is necessary that 1923 B Street be able to have a maximum of fourteen (14) residents in order for the residents to ameliorate the effects of the diseases of alcohol and drug addiction. *Schwarz v. City of Treasure Island*, 544 F.3d 1201, 1227 (11th Cir. Fla. 2008).

In addition, residents live in an Oxford House-Lyoncrest by choice. The choice is usually motivated by the individual's desire not to relapse into drug and/or alcohol use again after that individual has "bottomed out," i.e., lost jobs, home or family. It is also motivated by the desire that one must change their lifestyle, the manner in which they conduct their affairs, and the need to become a responsible, productive member of society. The final factor in determining that Oxford House-Lyoncrest residents are the "functional equivalent" of a family is the fact that there is no limit as to how long a resident can stay in Oxford House-Lyoncrest. Conceivably, an individual can stay in Oxford House-Lyoncrest for a lifetime if he/she does not relapse. The Surgeon General of the United States has recognized the Oxford House model as a leading example of "Recovery Housing." *Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health*. 2016.; <https://addiction.surgeongeneral.gov/>. In order to assist the City in granting Oxford House, Inc.'s reasonable accommodation request, please consider the following explanation of the Oxford House concept, as well as the Federal Fair Housing Act as it applies to Oxford House and its residents.

The residents of Oxford House are considered "handicapped" under the 1988 amendments to the Federal Fair Housing Act (FFHA). See 42 U.S.C. 3600 et seq. Recovering addicts and alcoholics are specifically included within the definition of "handicapped individual." See, 42 U.S.C. 3602(h) and 24 C.F.R. 100.201(a)(2). See, also, *City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725(1995). The Fair Housing Act was amended to include handicapped individuals within its parameters, and to guarantee the ability of these individuals to live in the residence of their choice within the community. *Tsombanidis v. City of West Haven*, 180 F.Supp. 2d 262, 282 (D. Conn. 2001), *aff'd in part, rev'd in part*, 352 F.3d 565 (2d Cir. 2003); *Oxford House - Evergreen v. City of Plainfield, supra*. (noting that residents of an Oxford House in Plainfield, New Jersey "are part of a nationally recognized program which, through peer pressure and strict conditions of abstinence, successfully maintains freedom from addiction and improves the lives and opportunities of its participants."); *Oxford House, Inc. v. Township of Cherry Hill*, 799 F. Supp. 450, 454 (D.N.J. 1992)("There is a shortage of adequate housing in New Jersey for recovering substance abusers and alcoholics. Interfering with the use of the aforementioned residences as Oxford Houses and forcing the residents to leave would be extremely detrimental to their recovery and would substantially increase the likelihood of relapse"). As recovering alcoholics and addicts who cannot presently live independently or with their natural families, Oxford House residents are individuals with handicaps within the meaning of the Fair Housing Act. *City of Plainfield*, at 1342.

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II. REASONABLE ACCOMMODATION REQUEST TO BE TREATED AS A FAMILY

Under the FFHA, it is a discriminatory housing practice to refuse to make "a reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford [a handicapped] person equal opportunity to use and enjoy a dwelling." 42 U.S.C. § 3604(f)(3)(B); *Groome Resources, Ltd. v. Parish of Jefferson*, 234 F.3d 192 (5th Cir. 2000) *Smith & Lee Assocs. v. City of Taylor*, 102 F.3d 781, 790 (6th Cir. 1996); *Wisconsin Correctional Serv. v. City of Milwaukee*, 173 F. Supp. 2d 842 (E.D. Wisc. 2001); *Oconomowoc Residential Programs, Inc. v. City of Milwaukee*, 300 F.3d 775, 787 (7th Cir. 2002); *ReMed Recovery Care Centers v. Township of Willistown*, 36 F. Supp. 2d 676, 683 (E.D. Pa. 1999); *Tsombanidis v. City of W. Haven*, 180 F. Supp. 2d 262, 283, *rev'd other grounds*, 352 F.3d 565180 (2nd Cir. 2003).

Under Fair Housing Amendments Act of 1988, the City may not act to prevent those with handicaps from living in recovery housing within its boundaries. A reasonable accommodation in this instance would be for the City to accept the residents of Oxford House as the functional equivalent of a family and waive the limitation on the number of unrelated persons who may reside together under the City's zoning code, and apply all code provisions in the same manner as it applies to single family dwellings for single family purposes. In other words, Oxford House is seeking to be treated as a family under the express terms of the City's definition of family. *See, Oxford House, Inc. v. City of Baton Rouge*, 932 F. Supp. 2d 683, 693 (M.D. La. 2013)(finding that the proposed use of the Oxford Houses is similar to the uses already permitted by the zoning, and that it is reasonable to treat the uses as a family).

The reasonable accommodation requirement of the Fair Housing Act draws no distinction between "rules," "policies," and "practices" that are embodied in zoning ordinances and those that emanate from other sources. All are subject to the "reasonable accommodation" requirement. Thus, when a municipality refuses to make a reasonable accommodation in its zoning "rules," "policies," or "practices," and such an accommodation may be necessary to afford handicapped persons an equal opportunity to use and enjoy a dwelling, it violates the reasonable accommodation provision of the act, 42 U.S.C. 3604(f)(3)(B). *See United States v. Village of Marshall*, 787 F. Supp. 872, 877 (W.D. Wis. 1991)(Congress in enacting the Fair Housing Amendments Act "anticipated that there were rules and regulations encompassing zoning regulations and governmental decisions about land use")

The Courts have interpreted reasonable accommodation in cases involving zoning ordinances to mean that a municipality must change, waive or modify a rule that is generally applicable to everyone so as to make its burden less onerous on the person with disabilities. *Township of Cherry Hill* at 465, n. 25. *See, Casa Marie, Inc. v. Superior Court of Puerto Rico for the District of Arecibo*, 752 F. Supp. 1152, 1169 (D.P.R.1990), *rev'd on other grounds*, 988 F.2d 252 (1st Cir. 1993)(noting that a court hearing a reasonable accommodation claim under the Fair Housing Act may "adjudge whether compliance with the zoning ordinances may be 'waived'"); *Horizon House Development*

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Services v. Township of Upper Southampton, 804 F.Supp. 683, 699-700 (E.D. Pa. 1992), *aff'd mem.*, 995 F.2d 217 (3d Cir. 1993)("affirmative steps are required to change rules or practices if they are necessary to allow a person with a disability to live in a community"). A request for a reasonable accommodation may even encompass as request for non enforcement of a zoning ordinance. *Proviso Association of Retarded Citizens v. Village of Westchester*, 914 F. Supp 1555, 1561-62 (N. D. Ill. 1996); *Tsombanidis, supra*.

One of the purposes of the reasonable accommodations provision is to address individual needs and respond to individual circumstances. In this regard, courts have held that municipalities that municipalities must change, waive, or make exception to their zoning rules to afford people with disabilities the same access to housing as those who are without disabilities. *Town of Babylon*, 819 F. Supp. at 1192; *Horizon House*, 804 F. Supp. at 699; *Township of Cherry Hill* 799 F. Supp. at 461-63; *Village of Marshall*, 787 F. Supp at 878; *Commonwealth of Puerto Rico*, 764 F. Supp. at 224; *Tsombanidis, supra*.

The Fair Housing Act places an affirmative duty on the municipality to accommodate the needs of persons with disabilities. The Act demands that local governments such as the City of Lincoln change the manner in which its zoning ordinances are applied to afford the disabled the same opportunity to housing as those who are not disabled. *City of Plainfield*, 769 F. Supp. at 1344 (accommodation reasonable where it "would not cause undue financial burden to the City").

Permitting Oxford House to exist would not significantly compromise the policies reflected in any of the land use ordinances that the City would apply or enforce. Nor is there any significant evidence that such an accommodation would significantly compromise the City's legitimate interests in the protecting the residential character of the surrounding neighborhood. The City of Lincoln is not being asked to build housing; rather, it is being requested to remove an obstacle to housing. *See, Town of Babylon, supra; Huntington Branch, NAACP v. Town of Huntington*, 844 F.2d 926, 936 (2d Cir), *aff'd* 488 U.S. 15 (1988).

If need be, Oxford House can demonstrate that the proposed accommodation is reasonable, for the Fair Housing Act requires a showing that the accommodation "may be necessary to afford [handicapped] person[s] equal opportunity to use and enjoy a dwelling." 42 U.S.C. 3604(f)(3)(B). *See, Parish of Jefferson v. Allied Health Care, Inc.*, 1992 U.S. Dist. Lexis 9124 (E.D. La.)(The proper inquiry on a request for a reasonable accommodation is the number of unrelated persons who can reside together is to reasonableness of the request.) If the City classifies Oxford House as something other than a single family use, it is actually enforcing its definition of family in its zoning ordinance by utilizing more stringent requirements on groups of unrelated disabled individuals wishing to live together in a rental property than on individuals related by blood or marriage. *Parish of Jefferson, supra* (zoning ordinance limiting the number of unrelated persons residing together as a family to four found to be in violation of the Fair Housing Act since it has the effect of discriminating against groups of handicapped persons by unnecessarily restricting their ability to live

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in residences of their choice in the community.) *Tsombanidis v. City of West Haven*, 180 F. Supp. 2d 262 (D.Conn. 2003) (stringent enforcement of the City's three person rule has a greater adverse impact on disabled persons than non-disabled persons). *Oxford House, Inc. v. City of Baton Rouge*, 932 F. Supp. 2d 683 at 691 (request to be treated as a family is reasonable.)

Reasonable accommodation requests are necessary to achieve an opportunity for the disabled residents of Oxford House to live in a residential area of the City of Lincoln. *Schwarz v. City of Treasure Island*, 544 F.3d 1201, 1226 (11th Cir. 2008)(Section 3604(f)(3)(B)(requires only accommodations necessary to ameliorate the effect of the plaintiff's disability so that the resident may compete equally with the non-disabled in the housing market.) Absent the group-home setting, the individual residents of the plaintiffs' programs would not be able to live in a supportive environment in a residential area, let alone a single-family residential area. *See also Oconomowoc Residential Prog.*, 300 F.3d at 784 ("When a zoning authority refuses to reasonably accommodate these small group living facilities, it denies disabled persons an equal opportunity to live in the community of their choice."); *Sharpvisions, Inc. v. Borough of Plum*, 475 F. Supp. 2d 514, 524-25 (W.D. Pa. 2007) (holding that request for accommodation to definition of "family" was necessary for a resident "to enjoy the housing of his or her choice"). *Groome Resources, Ltd. supra*; *Oxford House, Inc. v. City of Baton Rouge*, 932 F. Supp. 2d 683 at 693(residency in Oxford House has been shown to ameliorate the effects of alcoholism and drug addiction).. *See also, Oxford House, Inc. v. Browning*, 266 F. Supp. 3d 896, 915 (M.D. La. 2017)(The residents of Oxford House comport themselves like a family and does not require additional fire safety requirements).

The Oxford House residents are individuals who are handicapped by alcoholism or drug abuse. It can demonstrate that the ability of recovering alcoholics and drug addicts to live in a supportive drug free environment in a quiet residential area is critical to their recovery as enhances the recovery process.²

²Other programs similar to Oxford House have successfully demonstrated the need of recovering individuals to reside in quiet residential areas in order to enhance the recovery process. *See Borough of Audubon*, 797 F. Supp at 360 ("Based on the testimony, we find that the OH-Vassar residents' addictions substantially limit their ability to live independently and to live with their families. Accordingly, we find that the residents are "handicapped" under the Act, and are entitled thereby to the protections of the Act. We do not think that the list of major life activities set forth in the regulation was meant to be all-inclusive. Even if it were, the residents would still satisfy the definition because their inability to live independently constitutes a substantial limitation on their ability to 'care for themselves.'"); *City of Plainfield*, 769 F. Supp at 1339-40. ("In addition to losing their residence, which may in itself be an irreparable injury, plaintiffs would also lose the benefit of their therapeutic and supportive living environment, and may relapse. . . For a non-handicapped individual, the disintegration of a family unit is traumatic for recovering alcoholics and drug addicts, it may be devastating.")

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The residents of Oxford House are individuals who are handicapped by alcoholism or drug abuse and who cannot live independently without the risk of relapse. They cannot live with their families, friends or in the neighborhoods that contributed to their use of drugs and alcohol. Oxford House can demonstrate that the ability of recovering alcoholics and drug addicts to live in a supportive drug free environment in a quiet residential area is critical to their recovery since they are not able to live independently at this time without the fear of relapse. These individuals are more likely to need a living arrangement such as provided by Oxford House, wherein groups of unrelated individuals reside together in a residential neighborhood for mutual support during the recovery process so as to prevent the possibility of resumption of the use of drugs and/or alcohol. This type of living arrangement provides the tools to the residents to enable them at a future time to be a sober responsible, productive member of society. *Township of Cherry Hill*, 799 F. Supp. at 450. "When that home is also a therapeutic environment critical to maintaining continued recovery from alcohol or drug addiction, eviction is life threatening. Depriving such individuals of housing, or evicting them, would constitute irrational discrimination that may seriously jeopardize their continued recovery." *See City of Plainfield*, 769 F. Supp at 1345.

Each resident of Oxford House is a recovering alcoholic and/or substance abuser. The Oxford House residents' status as persons in recovery from alcoholism and/or substance abuse limits one or more major life activities as that term is defined under both the Fair Housing Act, 42 U.S.C. § 3602(h), and the Americans with Disabilities Act, 42 U.S.C. § 12102(2). Major life activities have been limited because they are unable to live independently without the fear of relapse; that they need to live in a structured sober living environment; their inability to reside with their families or significant others leads to the risk of relapse; their lack of knowledge and ability to live without the use of drugs and alcohol; the lack of a stable living environment; the possibility of becoming homeless or incarcerated; and, the need to be surrounded with other women who are learning to live productively without the use of drugs or alcohol. *See, Oxford House, Inc. v. City of Baton Rouge*, 932 F. Supp. 2d 683, 689 (M.D. La. 2013); *Reg'l Econ. Cmty. Action Program v. City of Middletown*, 294 F.3d 35, 47-48 (2d Cir. 2002); *McKivitz v. Twp. of Stowe*, 769 F. Supp. 2d 803, 821-822 (W.D. Pa. 2010).

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It is our desire to work with the City to allow Oxford House to provide quality sober housing in the City. If, however, the City seek to interfere with the opening of the Oxford House, we will not hesitate to take appropriate legal action to insure that housing is not denied to a persons who need safe and sober housing.

Please do not hesitate to contact me at 202-390-0238 to discuss.

Sincerely yours,



Steven G. Polin

cc: Oxford House, Inc.

Oxford House Lyoncrest Residential Lease

BY THIS AGREEMENT, made and entered into on 20 January 2022 between JDBproperties LLC, herein referred to as Lessor and Oxford House Lyoncrest, herein referred to as Lessee. Lessor leases to Lessee the premises situated at 1923 B St. Lincoln, NE 68502 for a term of Three (3) years to commence on 1 February 2022 and to end on 31 January 2025 at 12 o'clock PM.

1. Rent. Lessee agrees to pay, without demand to Lessor as rent for the demised premises the sum of Three thousand one hundred dollars (\$3,100) per month in advance on the 1st of each calendar month beginning 1 March 2022 at such place as the Lessor may designate.

2. Security Deposit. Lessee will pay Lessor Zero (\$0.00) on execution of this lease and authorizes Lessor to keep it on deposit as a security deposit, receipt of which is acknowledged by Lessor, as security for the faithful performance by Lessee of the terms hereof, to be returned to Lessee, without interest, on the full and faithful performance by the Lessee of the provisions hereof.

Lessor understands, despite no deposit being collected, that they are still responsible for any damages, above normal wear and tear of the property and can be charged for the repair or replacement of said damages upon end or termination of the lease.

3. Quiet Enjoyment. Lessor covenants that on paying the rent and performing the covenants herein contained, Lessee shall peacefully and quietly have, hold, and enjoy the demised premises for the agreed term.

4. Use of Premises. The demised premises shall be used and occupied by Lessee exclusively as a private single family residence, and neither the premises nor any part thereof shall be used at any time during the term of this lease by the Lessee for the purpose of carrying on any business, profession, or trade of any kind, or for any purpose other than as a private single family residence in accordance with the concept and system of operations of an Oxford House as described in the attachment entitled "Oxford House and Landlords: The Legal and Policy Reasons Underlying Oxford House Leases" and acknowledge that both Lessor and Lessee have read the attachment. Lessee shall comply with all the sanitary laws, ordinances, rules and orders of appropriate governmental authorities, affecting the cleanliness, occupancy, and preservation of the demised premises, and the sidewalks connected thereto, during the term of this lease.

5. Condition of Premises. Lessee stipulates that he has examined the demised premises, including the grounds and all building and improvement, and that they are, at the time of this lease, in good order, repair, and a safe, clean, and tenantable condition.

6. Assignment and Subletting. Without the prior written consent of Lessor, Lessee shall not assign this lease, or sublet or grant any concession or license to use premises or any part thereof. Consent by Lessor to one assignment, subletting, concession, or license shall not be deemed to be consent to any subsequent

assignment, subletting, concession, or license. An assignment, subletting, concession, or license without the prior written consent of Lessor, or an assignment or subletting by operation of law, shall be void and shall, a Lessor's option terminate this lease.

7. Alterations and Improvements. Lessee shall make no alterations to the buildings on the demised premises or construct any building or make other improvements on the demised premises without the prior written consent of Lessor. All alterations, changes, and improvements built, constructed, or placed on the demised premises by Lessee, with the exception of fixtures removable without damage to the premises and movable personal property, shall, unless otherwise provided by written agreement between Lessor and Lessee, be the property of Lessor and remain on the demised premises at the expiration or sooner termination of this lease.

8. Damage to Premises. If the demised premises, or any part thereof, shall be partially damaged by fire or other casualty not due to Lessee's negligence or willful act or that of his employee, family, agent, or visitor, the premises shall be promptly repaired by Lessor and there shall be an abatement of rent corresponding with the time during which, and the extent to which, the leased premises may have been untenable; but, if the leased premises shall be damaged other than by Lessee's negligence or willful act or that of his employee, family, agent or visitor to the extent that Lessor shall decide not to rebuild or repair, the term of this lease shall end and the rent shall be prorated up to the time of the damage.

9. Dangerous Materials. Lessee shall not keep or have on the leased premises any article or thing of a dangerous, inflammable, or explosive character that might unreasonable increase the danger of fire on the leased premises or that might be considered hazardous or extra hazardous by any responsible insurance company.

10. Utilities. Lessee shall be responsible for arranging for and paying for all utility services required on the premises. Including trash

11. Right of Inspection. Lessor and his agents shall have the right at all reasonable times during the term of this lease and any renewal thereof to enter the demised premises for the purpose of inspecting the premises and all building and improvements thereon.

12. Maintenance and Repair. Lessee will keep and maintain the leased premises and appurtenances in good and sanitary condition and repair during the term of this lease and any renewal thereof and pay for any repair up to one hundred dollars (\$100). In particular, Lessee shall keep the fixtures in the house or on or about the leased premises in good order and repair; keep the furnace clean, keep the electric bills in order; keep the walks free from dirt and debris; and shall make all required repairs to plumbing, range, heating, apparatus and electric and gas fixtures whenever damage thereto shall have resulted from Lessee's misuse, waste, or neglect or that of his employee, family, agent, or visitor. Major maintenance and repair of the lease premises, not due to lessee's misuse, waste or neglect or that of his employee, family, agent or visitor shall be the responsibility of Lessor or his assigns. Major expenditures shall include any expenditure over one hundred dollars (\$100) for plumbing, electrical or appliances needing repair not caused by the Lessee's

neglect, misuse, or waste. Lessee is responsible for landscape upkeep, mowing, and snow removal. Lessee agrees that no signs shall be placed or painting done on or about the leased premises by Lessee or at his direction without the prior written consent of Lessor.

13. Animals. Lessee shall keep no domestic or other animals on or about the leased premises.

14. Display of Signs/Sale of Premises. During the last 30 days of this lease, Lessor or his agent shall have the privilege of displaying the usual "For Sale" or "For Rent" or "Vacancy" signs on the demised premises and of showing the property to prospective purchasers or tenants and may sell premises with 90-day-notice to Lessee. Upon the purchase of premises by another individual or entity this lease shall become void 90 days following the transfer of title to the demised premises.

15. Subordination of Lease. This lease and Lessee's leasehold interest hereunder are and shall be subject, subordinate, and inferior to any liens or encumbrances now or hereafter placed on the demised premises by Lessor, all advances made under any such liens or encumbrances, the interest payable on any such liens or encumbrances, and any and all renewals or extensions of such liens or encumbrances.

16. Holdover by Lessee. Should Lessee remain in possession of the demised premises with the consent of Lessor after the natural expiration of this lease, a new month-to-month tenancy shall be created between Lessor and lessee which shall be subject to all the terms and conditions hereof but shall be terminated on thirty (30) days' written notice served by either Lessor or Lessee on the other party.

17. Surrender of Premises. At the expiration of the lease term, Lessee shall quit and surrender the premises hereby demised in as good state and condition as they were at the commencement of this lease, reasonable use and wear thereof and damages by the elements excepted.

18. Default. If any default is made in the payment of rent, or any part thereof, at the times hereinbefore specified, or if any default is made in performance of or compliance with any other term or condition hereof, the lease, at the option of Lessor, shall terminate and be forfeited, and Lessor may re-enter the premises and remove all persons there from. Lessee shall be given written notice of any default or breach, and termination and forfeiture of the lease shall not result if, within 10 days of receipt of such notice, Lessee has to correct the default or breach or has taken action reasonable likely to affect such correction within a reasonable time.

19. Abandonment. If at any time during the term of this lease Lessee abandons the demised premises or any part thereof, Lessor may, at his option enter the demised premises by any means without being liable for any prosecution therefore, and without becoming liable to Lessee for damages or for any payment of any kind whatever, and may, at his discretion, as agent for Lessee, relet the demised premises, or any part thereof, for the whole or any part of the then unexpired term, and may receive and collect all rent payable by virtue of such reletting, and at Lessor's option hold Lessee liable for any difference between the rent that would have been payable under this lease during the balance of the unexpired term, if this lease had continued in force, and the net rent for such period realized by Lessor by means of such reletting. If

Landlords

The Legal and Policy Reasons Underlying Oxford House Group Leases

In 1988, Congress established the requirements that every State in the country establish a revolving fund to help start houses based on the Oxford House model (P.L. 100-690). Since that time, Oxford House, Inc., has organized a national headquarters to help individuals throughout the United States open Oxford Houses. The purpose of this paper is to assist new groups, landlords, rental agents and local officials understand how Oxford House leases residential single-family houses in good neighborhoods.

In 1975, Oxford House leases were pathfinders in the landlord-tenant arena. Today, they have become the norm for the thirty-nine states and two hundred-nineteen cities in which Oxford House operates. The leases are exactly the same as a lease to a single family but with certain important distinctions.

Who Signs the Lease

The signatory of the lease is the individual Oxford House; for example, Oxford House - Main Street. The effect of this commitment by the group to the landlord is important because of the nature of Oxford House and the application of local landlord-tenant laws.

Oxford House works because an individual resident who returns to using alcohol or drugs—in or outside of the house—must be immediately expelled from the house. If the individual is a signatory to the lease the immediate eviction becomes difficult, if not impossible, because of local landlord-tenant rights. In many jurisdictions it takes up to ninety days to evict a tenant even for non-payment of rent. Since no individual is a signatory to a Oxford House lease, the relapsing individual who is being evicted has no legal rights to delay his or her departure. There is no way to accomplish this result without the signature on the lease being in the name of the particular Oxford House group.

The landlord gets additional benefit from this type of agreement. The landlord deals with duly constituted officers of the group and can expect accountability for all matters concerning the occupancy. Individuals come and go, but officers will always be duly authorized to act for the group. Moreover, the landlord does not have to worry about the accountability of particular individuals. He or she is dealing with an established organization that, of necessity, takes pride in preservation of its good name and reputation.

Who is Responsible

The particular group house is responsible to the landlord. An important part of why Oxford House has been so successful is that accountability and responsibility is placed on the recovering individuals themselves. As a group they behave responsibly and out of the "group responsibility" individuals develop a new responsible lifestyle free of alcohol and drug use.

Oxford House, Inc., plays an important part in making certain that individual groups behave responsibly through the use of the "Charter" mechanism. Each individual group is given an Oxford House Charter which makes it a part of the network of Oxford House recovery houses. That charter carries with it certain privileges; for example, the individual house is (1) brought under the tax exempt status of Oxford House, Inc. (2) given support and education about the operation of self-run, self-supported recovery houses, (3) provided assistance in filling vacancies and enforcing sobriety and financial responsibility and (4) monitored to assure quality control. It becomes important to every house that it keep its charter.

Oxford House, Inc., monitors the activities of each house in a number of ways. It has on-site support by dedicated members of Alcoholics Anonymous and Narcotics Anonymous. Individuals active in those programs have the Oxford House toll-free telephone number and call Oxford House headquarters if a

particular house is not strictly carrying out its responsibilities under its charter. Getting sober and staying sober is serious business for these recovering individuals and their dedication to helping others achieve sobriety is unsurpassed.

Oxford House, Inc., keeps in touch with the members of each house on a regular basis. This involves weekly reports, periodic phone calls and the maintenance of continuous contact to keep track of vacancies and assure financial responsibility. It also enforces the Oxford House system of operations.

Oxford House, Inc., does not guarantee payments of rent. That would defeat the whole principle of establishing a system that teaches recovering individuals themselves to be responsible. However, it does the next best thing by utilizing and enforcing its charter concept. Unlike the normal group house situation, for which there is no assurance of quality control, the Oxford House concept provides the landlord with the assurance of a dedicated partner in making certain that every Oxford House in the country is run in a responsible manner.

Zoning

Oxford Houses are considered single family residences for purposes of zoning. This has always been true in practice and since March 12, 1989, the effective date of the 1988 Amendments to the Federal Fair Housing Act, it has been a matter of law. Those amendments make it unlawful for any jurisdiction to discriminate against congregate living for the disabled. Recovering alcoholics and drug addicts are within the scope of the term "disabled". Therefore, Oxford Houses are not subject to zoning laws regulating the number of unrelated individuals who may live in a single-family dwelling. An Oxford House is not a treatment facility. It is simply an alcohol and drug free living environment which provides an opportunity for recovering individuals to live as a family unit focused on the need to change their individual lifestyle to one absolutely free of alcohol and drug use.

Oxford House, Inc., will legally defend any claim of zoning violation made by localities still unfamiliar with the Federal Fair Housing Act.

For more Information

The Fair Housing Amendments Act of 1988 and Group Homes for the Handicapped

Judicial Enforcement of Fair Housing Amendments