

MEETING RECORD

Advanced public notice of the Planning Commission meeting was posted on the County-City bulletin board and the Planning Department's website. In addition, a public notice was emailed to the Lincoln Journal Star for publication on Tuesday, May 4, 2021.

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, May 12, 2021, 1:00 p.m., Hearing Room 112, on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska.

MEMBERS IN ATTENDANCE: Tom Beckius, Dick Campbell, Tracy Corr, Tracy Edgerton, and Cindy Ryman Yost; Lorenzo Ball, Deane Finnegan, Cristy Joy and Dennis Scheer absent; David Cary, Steve Henrichsen, Rachel Jones, George Wesselhoft, Geri Rorabaugh and Rhonda Haas (via broadcast) of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Hearing

Chair Corr called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

Corr stated that the public hearing on Item 4.3 – Change of Zone 04075I, Village Gardens Development, has been delayed to the May 26, 2021, Planning Commission hearing, as Commissioner Campbell has declared a conflict of interest on this matter and will recuse himself from this portion of the hearing, which results in a lack of a quorum.

Chair Corr requested a motion approving the minutes for the regular meeting held April 28, 2021.

Motion for approval of the minutes made by Campbell, seconded by Edgerton and carried 5-0: Campbell, Edgerton, Ryman Yost, Beckius and Corr voting 'yes'; Ball, Finnegan, Joy and Scheer absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

MAY 12, 2021

Members present: Campbell, Edgerton, Ryman Yost, Beckius and Corr; Ball, Finnegan, Joy and Scheer absent.

The Consent Agenda consisted of the following items: Comprehensive Plan Conformance 21011 and Change of Zone 16036B.

Item 1.1 – Comprehensive Plan Conformance 21011, was removed from the Consent Agenda for a separate hearing and action.

There were no ex-parte communications disclosed.

There were no ex-parte communications disclosed relating to site visits.

Campbell moved approval of the remaining Consent Agenda item, seconded by Ryman Yost.

Motion carried 5-0: Campbell, Edgerton, Ryman Yost, Beckius and Corr voting ‘yes’; Ball, Finnegan, Joy and Scheer absent.

COMPREHENSIVE PLAN CONFORMANCE 21011

TO REVIEW AS TO CONFORMANCE WITH THE 2040 LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN, A PROPOSED NEW MEADOWLANE SHOPPING CENTER REDEVELOPMENT PLAN, WHICH WOULD SERVE AS A GUIDE FOR THE REDEVELOPMENT ACTIVITIES WITHIN THE MEADOWLANE SHOPPING CENTER REDEVELOPMENT AREA. THE PROPOSED REDEVELOPMENT PLAN AREA CONSISTS OF 7 ACRES, MORE OR LESS, ON PROPERTY GENERALLY LOCATED AT THE NE CORNER OF 70TH AND VINE STREETS

PUBLIC HEARING:

MAY 12, 2021

Members present: Campbell, Edgerton, Ryman Yost, Beckius and Corr; Ball, Finnegan, Joy and Scheer absent.

Staff Recommendation: In Conformance with the Comprehensive Plan

There were no ex-parte communications disclosed.

There were no ex-parte communications disclosed relating to site visits.

Staff Presentation:

Dan Marvin, Urban Development Director, 555 South 10th Street, came forward and stated that this request is to review the Meadowlane Shopping Center Redevelopment Plan and its conformance with the 2040 Lincoln-Lancaster Comprehensive Plan. Marvin stated that they have had conversations with the owners of Meadowlane and they asked if the city would support a blight study for the area and the use of Tax Increment Financing (TIF) to help revitalize the shopping area. Marvin shared that the city has had some experience with this because of what was done at the Piedmont Shopping Center, which was also a neighborhood shopping area that was getting old but was still serving a vital role in the area. Marvin stated that there were substantial private investments along with some public investments in the Piedmont revitalization project. Today, a local restaurant and many of the original businesses are seeing an increase in the foot traffic to the area. Marvin stated that by using Piedmont as a

model, it was felt that Meadowlane faces many of the same retail challenges because of online purchases, but this shopping center still serve as a vital part of the neighborhood.

Marvin stated that there have been several comments on apartments going in on this site, and explained that when an overall plan, such as this, is done there is always discussion on what all the possibilities are for the area. They are not proposing apartments on this site, but there were discussions on the challenges the gas station on the corner may have and what could happen in the future, because of the grading challenges that would make it difficult to expand the stations site. The tenants of the shopping center will not be displaced, and the goal of this project is to maintain the current businesses.

Corr inquired why both parcels were included in the blight designation when they have different owners. Marvin stated there could be future challenges due to the elevation changes, environmental issues, and the additional challenges for this type of business. He stated that it is a full-service gas station, which is different from a typical station, and an integral part of the area. They are also wanting to fix the sidewalks around the station. Corr asked if the rights-of-way for Vine and 70th Streets were included. Marvin said yes. Corr inquired if some of the TIF dollars could be used to improve the intersection or the sidewalks. Marvin stated that it is common to do sidewalk repair with TIF funds and they have also used TIF for intersections and traffic signals to help move traffic. Corr inquired if a traffic study would happen because of the work being proposed at the shopping center. Marvin said no because they are not increasing the retail area. Corr inquired how the neighbors could ask for a traffic study to be done. Marvin stated it could be done as part of the redevelopment plan agreement. Corr stated that she wanted to be clear that the redevelopment agreement has no references for putting in apartments on the service station lot. Marvin said correct.

Beckius stated that there would be no change in the access points on Vine or 70th Streets and asked if that was correct. Marvin stated the access points would not be changed.

Edgerton inquired when this would be going before the Urban Design Committee. Marvin said it would be in June.

Applicant:

Ann Post, Baylor Evnen, 1248 O Street, Suite 600, came forward on behalf of the applicant, Hampton Properties. She shared that this shopping center was built around 1966, and it has continually been repaired and maintained over the years. The shopping center and the community would benefit from a significant investment in its revitalization and Hampton is willing to invest over a million dollars into this project. Some of the work needed includes the replacement of the awnings and soffits, replacing leaking roofs, resurface the aging exterior facade, replace and repair sidewalks and upgrade the lighting across the center. Post stated that a letter and an email went out to the neighbors to clarify the scope of this project and address their concerns. Post shared that the board for the Meadowlane Neighborhood Association held a meeting just last night and opened it to the neighborhood for more

discussion on the proposed project. Post stated that Hampton Properties does not plan on building any apartments on this site.

Campbell stated that he knows there are ongoing negotiations with Urban Development for this proposed project and asked if Ms. Post could specify some of the improvements that would be using TIF funds. Post stated that they would be using TIF funds on sidewalk improvements and façade upgrades.

Corr inquired if Hampton built this shopping center. **Michelle Keogh, Hampton Enterprise, 3400 Plantation**, came forward and stated that they did not. Corr inquired as to when Hampton purchased this property. Keogh stated that they are not exactly sure, but they think it is close to 40 years. She stated that Hampton did build the wing that runs east and west along the north side of the complex. Corr inquired if the sidewalks on Vine Street and 70th Street would be repaired as well as the sidewalks within the center. Keogh said yes. Corr stated that because Hampton does not own the gas station, does this mean there are no improvements planned for that site. Keogh said correct. Corr inquired if the owner of the gas station is supportive of this project. Keogh said yes. Post stated that they have made the owner aware that this project is being proposed and they have not voiced any concerns.

Campbell asked if all the space in the shopping center is full of tenants. Keogh stated there is one vacancy.

Neutral:

1. **Melissa Baker, 7125 Yosemite Drive, testified in a neutral position via Zoom teleconference**, stating that her children go to Meadowlane School and she is concerned with all the traffic in the area. Baker stated that a traffic study for the intersection needs to be done to make it safer. She stated that when driving down 70th Street there is a hill and a bump, which can make it unsafe to turn into the shopping center. She stated that there also needs to be a crosswalk at 70th and X Streets because it is unsafe for the pedestrians that cross there, and there should be a school crossing zone on 70th and Vine and X Streets for all the small children going to school.

Proponents:

1. **Chris Vacek, 8210 Dundee Drive, testified in support via Zoom teleconference**, stating that he is a commercial realtor and having general projects like this are vital to a neighborhood's success. He shared that the tenants and owners he works with would love to see this project continue. Vacek stated that he personally avoids using the station on the corner because it is harder to get in and out of with the intersection. Vacek stated that he thought apartments would be a better use on the corner.

Opponents:

1. **Benjamin McEntarffer, 315 Prestwick Road**, came forward and stated that he is not in opposition of the revitalizing to the shopping center, but does have issues with the use of TIF funds. He asked that the board members look into how blight is defined in the

study and staff report and what is mentioned about the sidewalks in this area. McEntarffer said that he is good with the revitalization of the retail stores, but not the addition of apartments on the site because of the increase in traffic it would bring to the area.

Applicant Rebuttal:

Corr inquired if the repair to the sidewalk in front of the gas station was included in the proposal. Post said she would need to confirm to be sure, but she thinks it was included.

Post stated she wanted to reiterate that they are not proposing any residential uses for this site or as part of the project.

Campbell asked Ms. Post if they would be requesting a traffic study. Post said no because this project is just to revitalize what is already there and would not going to increase traffic to the area.

Beckius moved to close the public hearing on these items, seconded by Campbell and carried 5-0: Campbell, Edgerton, Ryman Yost, Beckius and Corr voting 'yes'; Ball, Finnegan, Joy and Scheer absent.

COMPREHENSIVE PLAN CONFORMANCE 21011

ACTION BY PLANNING COMMISSION:

MAY 12, 2021

Beckius moved approval, seconded by Campbell.

Beckius stated neighborhood shopping centers are vital to the success of Lincoln and their neighborhoods. He stated that he is looking forward to seeing the redevelopment that Hampton has proposed, and this redevelopment plan falls well within the Comprehensive Plan and he is in support of this project.

Edgerton stated she agrees with her fellow commissioner and was glad that Director Marvin brought up the comparison with Piedmont and the changes it has brought to that neighborhood. The importance that the Piedmont Center serves for their neighborhood is a great blueprint and map for the Meadowlane neighborhood.

Campbell stated that he concurs with both of his fellow commissioners and that it is important to keep neighborhood shopping centers in place and full of tenants and this will go a long way in doing that.

Corr stated she agrees with her fellow commissioners and thinks this is a great neighborhood shopping center that is well utilized. She stated that getting a facelift is nice and it will last long into the future.

Motion carried 5-0: Campbell, Edgerton, Ryman Yost, Beckius and Corr voting ‘yes’; Ball, Finnegan, Joy and Scheer absent.

**CHANGE OF ZONE 21011
FROM AG (AGRICULTURAL DISTRICT) TO R-3 (RESIDENTIAL DISTRICT), ON PROPERTY
GENERALLY LOCATED AT 420 SOUTH 84TH STREET
AND
PRELIMINARY PLAT 21001
FOR A PRELIMINARY PLAT ENCOMPASSING APPROXIMATELY 62.7 ACRES, MORE OR LESS,
ONSISTING OF 140 RESIDENTIAL LOTS, WITH ASSOCIATED WAIVERS, ON PROPERTY
GENERALLY LOCATED AT 420 SOUTH 84TH STREET**

PUBLIC HEARING: **MAY 12, 2021**

Members present: Campbell, Edgerton, Ryman Yost, Beckius and Corr; Ball, Finnegan, Joy and Scheer absent.

Staff Recommendation: Change of Zone 21011 Conditional Approval
 Preliminary Plat 21001 Conditional Approval

There were no ex-parte communications disclosed.
There were no ex-parte communications disclosed relating to site visits.

Staff Presentation: George Wesselhoft, Planning Department, 555 South 10th Street, came forward and stated this site is the former Spirit Park Soccer Field. The request is a change of zone is from AG Agricultural District to R-3 Residential District for approximately 62.7 acers, and a small city-owned parcel of 0.09 acres near the southwest corner of the site has been included. The related preliminary plat proposes 140 residential lots with single-family detached homes. Access for the development would include several street connections to existing subdivisions including Shadow Creek to the north, White Horse to the south, and to the west to the State Farm property for future redevelopment.

Wesselhoft stated that the applicant has requested a waiver for Block 5 for the connection to Hackberry Lane, because the development does not connect to the platted right-of-way for Hackberry Lane. The applicant has said that drainage issues in the area will be a challenge to address without any adverse impact to the neighboring properties in Hillcrest Heights. Wesselhoft stated that there will be seven ways in and out of this development with this connection. Wesselhoft stated that Lincoln Fire and Rescue (LFR) does not recommend approving without the connection to Anthony Lane because the elimination of this connection will add 1.4 minutes to LFRs response time.

Campbell inquired if the road that comes off 84th Street and would connect to Andrea Lane is a city or private street. Wesselhoft said it was private.

Corr stated that there were requests from neighbors to have the construction traffic rerouted out of area, and that could not be dictated because it is a private street. Wesselhoft said correct, they are waiting for a redevelopment of that property before a public way could be established.

Beckius stated just north of Hackberry Lane there was another connection to Hillcrest Heights that had not been used when Shadow Creek developed out and inquired why that connection had not been made. **Steve Henrichsen, Planning Department, 555 South 10th Street**, came forward and stated unfortunately when Shadow Creek was approved, the right-of-way was in the middle of a floodway on the map, which was a significant drainage way, and it was agreed that it would be a significant cost to try to cross the drainage way. Henrichsen stated that they understand the waiver that is being requested to the west because of the cost to cross, but the minor drainage way to the east is not in a minimum flood corridor, a flood plain and not a floodway; it is the same type of drainage that you might have in any circumstance. Beckius asked what the response time would be as it is proposed to Boathouse Road if the connection was not made. Wesselhoft stated that 3.24 minutes would be the response time as proposed, which is within the 4-minutes of travel time goal.

Corr inquired about the meandering pedestrian walkway that is proposed for the northern edge and asked if it is required for connectivity between the two sides of this development. Wesselhoft said that it is one of the required pedestrian connections. Corr asked if it would need to be elevated due to the flood plain issues. Wesselhoft stated an engineer could better answer that question because there were some concerns with the proximity of the trail and a neighbor to the north.

Tim Zach, Lincoln Transportation & Utilities (LTU) Watershed, 555 South 10th Street, came forward and stated that the trail is elevated, and the engineers are proposing to do a detention behind that. Corr inquired if it would act like a dam. Zach said yes, like a dam or an embankment. Corr inquired if the retention area is required at that spot. Zach stated that they are required to reduce the flows that are leaving the site and this location would meet two requirements at one location.

Applicant:

DaNay Kalkowski, Seacrest and Kalkowski, 1128 Lincoln Mall, Ste. 105, came forward on behalf of Southwest Folsom Development, LLC, and stated that they are the developers of this site. This is a change of zone to an R-3, which is a typical residential zone, and preliminary plat for 140 lots. She stated that this is a challenging site because they are developing the middle of other developments, which is forcing them to deal with conditions and infrastructure that are already in place or are planned to be. Kalkowski stated that they also have a major drainage way that goes down the site that has natural and mitigated wetlands which makes crossing virtually impossible except for the south end, which is where the developer will be making an east west connection. There are large LES transmission lines that run along the east side of the development.

Kalkowski stated that the proposed preliminary plat is the result of a good faith effort to address the site challenges and accommodate the city's requests when it is feasible and practical. This plan has only single-family lots proposed to show some sensitivity to the existing acreage neighbors to the east, and residential neighbors to the north and south. The developer is working with the city on a park site that will be adjacent to the MoPac Trail. Kalkowski stated that the developer is making all the roadway connections within the site with one exception and that is the connection to Hackberry Lane to the east, which runs outside their boundaries.

At a neighborhood meeting the main concern was the size of the lots and density, which was addressed. The phasing and construction traffic were other concerns because there is a lot of construction traffic on the public roads in that area now with the Shadow Creek development. In the second phase of the proposed development, there will be a connection made to A Street, which will provide a second access point to the development. Neighbors were also concerned that this development would not push more drainage to the owners to the east, because there is a lot of drainage that runs down the back of their lots. Kalkowski stated that not making the Hackberry Lane connection may improve some of the drainage issues for these properties. She stated that neighbors are very concerned and not supportive of the Hackberry Lane connection.

Kalkowski stated that they have submitted motions to amend for both the change of zone because of the zoning agreement and for the preliminary plat to remove that requirement. She stated that they believe it is not practical to build Hackberry Lane to Anthony Lane without impacting the abutting acreages, a large price tag, and additional liability to the developer.

Mark Palmer, Olsson Associates, 601 P Street, Suite 200, came forward and stated that there are 50 acres of local drainage in this area with no storm sewers. The flow of 20 acres does go directly behind some of the existing property lines. Palmer referenced photos of the drainage area on the proposed site (see Exhibit "1") and explained that the red shaded area on one of the photos is the 50-acre drainage area. He stated that some of the property owners have ditches for drainage in the front of their property and a stream that runs behind them. The developer can have their street draining to the north which would reduce the amount of water that is running through the back yards by about 8.8 acres. He stated that this is not an easy fix, and this area would need to be surveyed and studies to have a better understanding of where the water goes. Palmer shared the house that is located to the north is about two feet lower than the street where Hackberry Lane would be. Palmer stated that they are at around \$375,000 for culverts and grading in the area and, if the road had been built, they would connect to it, but the road was never built. There is a list of things that would need to be done to make the connection and if a surrounding property flooded, they would be liable.

Kalkowski shared that in the 90s, there was a waiver for the construction of a building that is only ten feet from the existing right of way, so there would be a significant impact to that property and the surrounding properties. They are not unsensitive to the connectivity or the response time, but with the new Fire Station in Waterford they would still be within the city's response time.

Proponents:

1. **Terry Neddenriep, 550 Anthony Lane**, came forward and stated that he currently serves as President of Hillcrest Heights Neighborhood Association, and they are in support of the development and the single-family housing. He shared that they generally support of the proposal and specifically their plans to not build the street connection to Anthony Lane, because this would cause significant water flow that would cause damage to the properties.
2. **Ryon Sullivan, 609 Anthony Lane**, came forward and stated that he is in general support of the developer's plan as proposed and is in support of not constructing Hackberry Lane. Sullivan referenced photos (see Exhibit "2") to show the location of his property in relation to the development and of the surrounding area. He shared that Hackberry Lane has been plotted for over 70 years and the surrounding area has been developed with the assumption that Hackberry Lane would never be constructed, and the area is designed like it would not exist. Sullivan stated that every time it rains, he gets a creek in the front and back of his home and the amount of rain decides how large those creeks are. He stated that he has concerns with the road going in because it would be so close to his home and even closer to their well.
3. **Billie Jo Smith, 517 Anthony Lane**, came forward and stated that she is in support of the development plan and does not want Hackberry Lane built. She stated that she lives in the house that is lower than the road and this is new information to her. Smith stated that her property would be severely impacted with any drainage issues in the area. She stated that when it rains, there is a significant amount of water that runs down the east and west sides of her property. It is very concerning that building Hackberry Lane could increase the amount of water that would need to be mitigated when it rains and who will be responsible if it continues to flood.
4. **Mary Avery, 1111 East Hillcrest Drive**, came forward and stated that she is in support of this development but does have concerns with the size of Lots 41 to 57, as proposed. Avery referenced a photo (see Exhibit "3") to show the size difference of the proposed 17 lots that are 65 feet wide. Avery stated that each of the four acreages on her side would have four houses across from them. Avery stated that while they are thankful that they are single-family lots that will be across from them they do asked that the size of those lots should be reconsidered for a better land use transition and closer to the size of lots to the north.

Opponents:

1. **John Zeleski, 346 South 89th Street**, came forward and stated that he is not in opposition of development in the area, but he does oppose the plat, as proposed. He stated that the plan does not serve the public's greater good, does not address the impact on the surrounding areas and creates an unsafe neighborhood during the site development and beyond. Specifically, in his area to the north there is only one entry and exit at the intersection of 90th and O Streets. Zeleski stated that the developer is

proposing to add 140 residences with the intent to add only 1 additional entry and exit from their development. This intersection is already congested and especially at the start and end times of Southeast Community College. He shared that most of the traffic from the new development will go to 90th and O Streets because of the traffic light. He stated that he also is concerned with the heavy construction traffic in the area because several sidewalks have not been completed and pedestrians walk in the streets.

Staff Questions:

Campbell asked when the driveway into State Farm would potentially change to a city-owned street. Wesselhoft stated that it would not be until that property owner decides that there is a different and more substantial use for that property.

Edgerton stated that she wanted to clarify the property that was being discussed that would have the increased response times of 1.2 minutes and asked if it was the property on the north side on Block 5, along Luna Court. Wesselhoft said correct. **Pat Borer, Lincoln Fire & Rescue (LFR), 1801 Q Street**, came forward and stated that they calculated a 1.4 minute difference between going through or around to the subject property. He stated that everything south of the subject property would be shorter. Edgerton asked if it was the most northern lot along Luna Court. Wesselhoft said correct. Edgerton inquired if LFR needed to respond to an emergency to the east along Anthony Lane how would they get to those properties. Borer stated that it would be with whatever street connects to O Street. Edgerton stated that with the subject property LFR would be coming up from the south instead of using Hackberry Lane. Borer said that is correct because, without that connection, they would need to use one of the other three connections that were identified.

Applicant Rebuttal:

Kalkowski stated that one of the constraints on this site is the LES transmission easement along the east side. She stated that the property line is adjacent to the acreage neighbors and then there is 20-foot separation and then another 60-foot for the LES transmission lines, so essentially there is 80 feet of separation from the acreage lots before they even start the backyard on one of their lots. That means there is already significant greenspace that will be maintained in the separation of the homes and acreage lots to the east. Kalkowski stated that they felt that was an adequate transition between the properties and the lots are not small but midsized. There have been discussions regarding the construction traffic and unfortunately if this were the next addition of Shadow Creek there would be the same amount of construction going through the neighborhood. With the second phase of this project there will be another connection to A Street and ultimately, there will be two connects to A Street.

Campbell inquired if one of the motions to amend was for the change of zone and the other is for the preliminary plat. Kalkowski said correct because the change of zone is requiring them to sign a zoning agreement that has the Hackberry Lane connection, and the city cannot require that connection under the preliminary plat because it is off their property.

Beckius moved to close the public hearing on these items, seconded by Campbell and carried 5-0: Campbell, Edgerton, Ryman Yost, Beckius and Corr voting 'yes'; Ball, Finnegan, Joy and Scheer absent.

CHANGE OF ZONE 21011

ACTION BY PLANNING COMMISSION:

MAY 12, 2021

Beckius moved approval, seconded by Campbell.

Beckius made a motion to amend the change of zone, as submitted, by the developer, seconded by Campbell.

Beckius stated that the site conforms nicely to the existing neighborhood around it, which includes both the older Hillcrest development to the east and the new development that is going on all around this site. He stated that the 6x proposed access points for the 140 units proposed seems to be sufficient for a neighborhood of this size. The emergency response time for the entire neighborhood does fall within the City of Lincoln's goal of a 4-minute response time. Beckius stated that he is unsure of the push and pull regarding Hackberry Lane, but this development has a lot of access and fully meets the emergency response time. The existing neighborhood does not want the connection and not building Hackberry Lane would not cause detriment to any party.

Campbell stated that he also supports the amendment and has more concerns for the neighbors to the east with the water situation. This development is being very sensitive to this issue and they are trying to keep the water away from the area. Campbell stated that leaving the construction of Hackberry Lane out is very important.

Edgerton stated that she agrees with her fellow commissioners and appreciates the street connectivity that has been built into this development and the developers concern for the existing neighborhoods. Edgerton stated that she is excited for the park land designation, which is very important for this area.

Corr stated that it is always challenging when there is a middle section develop after the outer neighborhoods have. She stated that there are plenty of connections in this site and she is in support of the waiver to not build Hackberry Lane. She stated that she has seen worse access to different pocket developments before and there are plenty of connections. Corr stated that she hopes this will alleviate some of the drainage issue that they are having currently. Corr encouraged LTU to check the timing of the cycles on the new streetlight that is located at 90th and O Streets.

Clerk read motion to amend into record.

I hereby move to amend Change of Zone 21011 for East of S. 84th Street, South of O Street at Spirit Park fields as follows:

CONDITIONS OF APPROVAL: The Applicant signs a zoning agreement concerning the installation of ½ of Ranch Gate Road crossing at the MoPac Trail, ~~the installation of Hackberry Lane connection to Anthony Lane,~~ and provisions for park land dedication before the City Council approves the change of zone.

Vote on amendment carried 5-0: Campbell, Edgerton, Ryman Yost, Beckius and Corr voting 'yes'; Ball, Finnegan, Joy and Scheer absent.

Main motion, as amended, carried 5-0: Campbell, Edgerton, Ryman Yost, Beckius and Corr voting 'yes'; Ball, Finnegan, Joy and Scheer absent.

PRELIMINARY PLAT 21001

ACTION BY PLANNING COMMISSION:

MAY 12, 2021

Beckius moved approval, seconded by Campbell.

Beckius made a motion to amend to amend Preliminary Plat 21001 for East of S. 84th Street, South of O Street at Spirit Park fields as follows:

CONDITIONS OF APPROVAL:

This approval permits a preliminary plat with the following waivers:

- a) Subdivision Ordinance 26.23.130(a) to allow block lengths to exceed 1,320 feet for Blocks 1 and 5 ~~except for connection to Hackberry Lane in Hillcrest Heights.~~
- b) Design Standards ...

Site Specific Conditions:

1. The subdivider shall complete the following instructions and submits the documents and plans and 2 copies to the Planning Department office: (NOTE: These documents and plans are required by ordinance or design standards.)
 - 1.1 Revise the preliminary plat as follows:
 - 1.1.1 ~~Show connection to Hackberry Lane to the east in Hillcrest Heights and add note that developer is responsible for installation of street to Anthony Lane.~~

Seconded by Campbell.

Vote on amendment carried 5-0: Campbell, Edgerton, Ryman Yost, Beckius and Corr voting 'yes'; Ball, Finnegan, Joy and Scheer absent.

Main motion, as amended, carried 5-0: Campbell, Edgerton, Ryman Yost, Beckius and Corr voting 'yes'; Ball, Finnegan, Joy and Scheer absent.

Note: This is **FINAL ACTION** on **Preliminary Plat 21001** unless appealed by filing a letter in the Office of the City Clerk within 14 days.

TEXT AMENDMENT 21002

AMENDING LINCOLN MUNICIPAL CODE SECTIONS 27.02.090 AND 27.02.200 TO MAKE EXPLICIT THAT HOTELS OR MOTELS ARE A COMMERCIAL USE AND TO DEFINE SHORT TERM RENTAL; AMENDING SECTION 27.06.070 HOUSEHOLD LIVING USE GROUP TABLE TO ADD SHORT TERM RENTALS AS A CONDITIONAL USE IN CERTAIN DISTRICTS; AND AMENDING 27.62.040 HOUSEHOLD LIVING USE GROUP TO ADD CONDITIONS REQUIRED FOR SHORT TERM RENTALS; AND REPEALING SECTIONS 27.02.090, 27.02.200, 27.06.070, AND 27.62.040 AS HITHERTO EXISTING

PUBLIC HEARING:

MAY 12, 2021

Members present: Campbell, Edgerton, Ryman Yost, Beckius and Corr; Ball, Finnegan, Joy and Scheer absent.

Staff Recommendation: Approval

There was ex-parte communications disclosed.

Commissioner Corr stated that she had attended the Mayor's Roundtable on two different occasions and this item was presented.

Commissioner Beckius stated that he did attend the public comment meeting at Maxey Elementary School in February 2020, and a subsequent meeting in the Council Chambers at about the same time, but he was unable to recall exactly when it was.

Staff Presentation: Rachel Jones, Planning Department, 555 South 10th Street, came forward and stated that this proposal is for short-term rental zoning changes. Short-term rentals will be considered a residential land use lasting 30 days or less. Jones stated that there are related changes to zoning, licensing, taxes, and the proposed text amendment today is specific to the zoning changes. Jones stated that on April 28, 2021, the details of this text amendment was presented to the Planning Commission in a briefing.

Corr stated that the staff report mentions if an Accessory Dwelling Unit (ADU) is being used for a short-term rental then the main building cannot be used for the same use because of the 600-foot spacing and asked if it were vice versa, and the main building was used for short-term rental what would happen. Jones stated that the vice versa would be the case as well. Corr inquired if it is just implied in the language of the draft. Jones stated that it is implied and would be interpreted that way.

Ryman Yost stated that currently this would apply to all zoning except for industrial districts and asked if that was correct. Jones said yes. Ryman Yost inquired if there was any consideration to the difference between areas in the city or county that would be residential or agricultural zoning with the lot sizes. Jones stated that there are different lot sizes that can apply in the different districts and under the proposed regulations it would be measured from the property line of where the dwelling is located.

Corr stated that this is a conditional use and if the applicant does not meet all the conditions, can they apply for a waiver or are they just out of luck. Jones stated with a conditional use, if the applicant meets the conditions, then they can apply, but there is not a waiver process for a conditional use, so there would not be a way to waive the conditions.

Proponents:

No one came forward in support.

Opponents:

1. **Peter Katt, 1248 O Street, Suite 600**, came forward and stated he is in opposition to this text amendment. He stated that he had attended some of the meetings in the past and had hoped that there would be minutes because it was important information. He stated that he is a fan of short-term rentals and they should be encouraged. Katt stated that there is no reason for the 600-foot spacing between these types of rentals. He asked why the city would regulate this type of use and make it difficult for the operators. Katt stated that the State Legislature agrees that short-term rentals should be encouraged and puts restrictions on a city's ability to exercise its zoning authority.
2. **Josh Nix, 7611 Leighton Avenue**, came forward and stated that he owns three short-term rental properties. He stated that they do not want their properties ruined and they do a lot of self-regulating. Nix stated that he knows other operators that have gotten out of this type of business because they do not want to put in the work that is needed.

Edgerton asked if the proposed regulations cause any problems for his current rentals. Nix stated that he would be allowed to continue with his rentals, because he does own three that are in a row and that can only happen during the initial four-week startup time. He stated that he has revitalized a small portion of this area with what he has done to his rentals. Nix stated that the 600 feet is going to push people into the neighborhoods.

Corr asked Mr. Nix who informed him on the proposed changes because she is wanting to make sure that everyone that has an operation is informed and does not miss the 4-week permitting window. Nix stated that Ms. Jones had reached out to him after a third-party service had contacted some of the hosts. He stated that he is also trying to get the word out.

Beckius shared with Mr. Nix that there is no such thing as a small revitalization and they are thankful for the work that he has done.

3. **Stacy Manson, 1226 South 30th Street**, came forward and stated that she is an Airbnb owner and a realtor. She stated that as a realtor, this is limiting one of the three main property rights that a property owner has. When someone purchases property, they have the right to living on the property, lease the property and then, sell the property. This is concerning to her and her clients who are wanting to do something like this. She stated the 600-foot spacing takes away someone's ability to earn additional money. Manson stated if there is a problem the neighbors could call the police. When you own this type of business you are not going to want to get bad reviews because people will not want to rent from you.

Campbell stated that this would only if you were leasing a room for 30 days or less and normally when leasing a room, it would be for a semester or longer. Manson stated that they own an Airbnb in their basement and most of the stays are for a couple of days.

Ryman Yost state that there are a variety of different travelers and some of those travelers will only do certain things and then there are other travelers want more room to spread out and use some of the amenities a home could provide. She stated that this is an affordable option especially for younger travelers who could stay in a room, and further stated that renting a room helps some travelers feel safer.

4. **Jan Behn, 7300 Martell Road**, came forward and stated that she is a big Airbnb user and owns one also. She stated that when she travels with her large family an Airbnb is exactly what they look for and with the 600-foot spacing her family would not be able to be close when traveling. She stated that a lot of hotels do not allow a pet, and this would be another option for travelers with pets. Behn stated she is in opposition to the 2-person maximum per room. When a hotel room is rented there is two beds and that is automatically means four people and then you can request a rollaway bed and that would be a fifth person, and she wondered why they are limiting it two people.
5. **Chris Vacek, 8200 Dundee Drive, testified in opposition via Zoom teleconference**, stating that he is in opposition for a lot of the same reasons that have already been stated. He shared that his family loves to stay in Airbnb's when they travel and this has helped them to experience different cities in different ways. He stated that he is in opposition to the 600-foot spacing because there are times that a large family or two couples will travel together, and they want to be located close. He shared that Lincoln is not a tourist city but there is a lot of things here to do. Historically, Lincoln has had the stigma of not being a very progressive city and scared of growth, but a lot has been done lately to change that. Vascek stated that this text amendment is another way of not being progressive and the over governing for this type of rental is not needed.

6. **Jason Skold, 2627 Washington Street, testified in opposition via Zoom teleconference,** stating that they own some rentals that they are getting ready to rent soon. He stated that this will impact someone like him the most, who does not currently have a short-term rental but is considering it. He stated that it has been pointed out that someone who opposes this type of use can apply for a license and be exclusionary to that potential for people in the future in the area. Skold stated that there seems to be no real justification for taking these steps relating to short-term rentals. The staff report speaks to potential impacts that could happen and he stated he does not see the sense in making regulations on the potential.

Staff Questions:

Campbell stated that during the briefing it was mentioned that the staff thought that the 600-foot spacing was a good distance apart and asked what the reasoning for that was. Jones stated that she first wanted to say that the Planning Department does want to allow this type of use to occur, and they appreciate the operators that maintain their property and limit parties. The origin and reasoning behind the 600 feet was because this first started out with requiring that the dwelling be the primary residence of the person that is the host. Jones stated that requirement was eliminated partly because of feedback from operators that said it was too limiting so this really was a compromise and the spacing was a different way that it could be regulated. Jones stated that the spacing would not apply in Commercial Districts. She stated that this was a compromise between the different interest in short-term rentals and the 600 feet was a way to limit the impacts on any one area while still allowing them to occur. Campbell stated that Mr. Nix has stated that he has three short-term rentals in a row, and it does not seem to have impacted his neighborhood negatively, and further stated that he also understands when having a family get together wanting those units to be closer together. He stated that he has not heard of any problems with this type of rental and having them registered is a good idea because it would let us know where the properties are. Campbell stated that he wonders if they should not just start with that as a requirement and only go to the other requirements if they are absolutely needed. Jones noted that they are proposing the four-week period at the beginning of the licensing where current operator and have properties next to each other or not 600 feet from other short-term rentals they could still be licensed during this time and not need to meet that requirement.

Ryman Yost stated that because this is conditional and there is no waiver process, if someone were in the process of purchasing a building and the closing was not intimate to register or if someone had a duplex that they lived in with the other one a short-term rental and they decided to move out, they would only be able to rent half of their building and asked if that was correct. Jones said correct that after the four-week period they would only be able to use one of the units for the short-term rental.

Jones stated that the two person per sleeping area would be an average for the dwelling unit and other areas like a den or living room could be considered a sleeping area. There could be more than two persons in a bedroom if they are meeting the overall cap based on the number of sleeping areas. Corr asked if it was twelve. Jones stated that it would be 2 persons per

sleeping area with a maximum of 12. Ryman Yost stated that the sleeping area does not have a square footage listed. Jones said no it does not. Ryman Yost stated that if you have a large basement that is still only two persons and even if it is the entirety of the basement. **Sean Stewart, Chief Housing Inspector Building & Safety, 555 South 10th Street**, came forward and stated the two persons per sleeping area is the standard because in general a bedroom can have enough square footage for two persons. The code requirement is 70 square feet for the first person and then 50 square foot for each additional person. Stewart stated that in a 2-bedroom apartment, they would also consider the living room and part of the dining room according to the code could contribute to part of the sleeping areas. Ryman Yost asked what that means for the basement. Stewart said that it is a general guideline.

Beckius asked if this was still going to be a complaint base system. Stewart said correct. Beckius stated that Building & Safety would not be checking Airbnb.com to see what someone is advertising for the number of persons, but rather to use the complaint system to investigate. Stewart said correct and this will be more of an honor system on the licensing application side of things. The applicant will need to sign an affidavit providing information that they will not put people in areas without two means of egress, have required smoke and carbon monoxide detectors along with other requirements.

Beckius moved to close the public hearing on these items, seconded by Edgerton and carried 5-0: Campbell, Edgerton, Ryman Yost, Beckius and Corr voting 'yes'; Ball, Finnegan, Joy and Scheer absent.

TEXT AMENDMENT 21002

ACTION BY PLANNING COMMISSION:

MAY 12, 2021

Campbell moved approval, seconded by Beckius.

Campbell moved to amend Text Amendment 21002 to remove all criteria except for registration, at this time, seconded by Ryman Yost.

Campbell stated that they may be jumping ahead of themselves on this proposed amendment. He shared that he is not an Airbnb person but has friends that are, and they get to know a community better. Campbell stated that some of the requirements for this are not necessary at this point and, if there are problems starting to develop, this could come back to the commission to be amended. He stated that he would rather start out slowly and see where the short-term rentals are located throughout the community to watch their activity, before a lot of regulations are added. Campbell stated that 300-feet is a city block and maybe that is enough and maybe no separation is needed. There are things that are not known at this time, so starting with a basic registration and watch to see what is needed.

Ryman Yost stated that she wanted to clarify that the motion to remove everything except the registration and asked Commissioner Campbell if he meant the license and that they would still have a license from Building & Safety. Campbell said correct. Ryman Yost said that the rest

would be gone. Campbell said yes. Ryman Yost stated that she shares some of the concerns after hearing today's testimony on the 600-foot and the 2 persons might be a little nebulous on what that is going to be, because if we are going to go around the edges it maybe should not be in there, unless the guidelines are going to be clear.

Beckius stated that there is some value in adding some level of oversight, because this is for strictly residential areas. He shared that he is open to adjusting the 600-foot limit, to including owner occupied exemptions beyond an ADU, grouping scenarios to allow multiple users to be grouped together and is unsure of what the balance is. Beckius stated that from when this first started, there has been a huge leap in the right direction, which is evident by the turnout today. He shared that he is open to changing things, but not 100 percent sure that he is wanting to go down to just registration, at this point.

Campbell stated that not every neighborhood has a homeowner's association, but a vast majority of them do, and they can make those restrictions or determinations for their area if they are wanting to. He stated that he does not think there needs for this to be a city wide.

Corr stated that she has a huge problem with this because not all neighborhoods have a homeowner's association, which would be the core neighborhoods that could not regulate this like the outskirts could, and further stated there would then be concentrations and that is the reason for the 600-foot rule. She stated that she has a huge problem with this from the start, because for the past 14 months staff has been working on this and it drew a very large crowd of people. Corr stated that the proposed text amendment represents a compromise which took a lot of work by everyone involved and because they are okay with this draft that is why there is a smaller turnout today. She stated she understands that there are a lot of questions and that this is a peer rating that goes both ways. Corr stated that she has used Airbnb's and they are a great thing, but on the opposite perspective of that there are still concerns. Lincoln may not have a lot of tourist attractions, but it does have husker football where would be a lot of rentals and sometimes people get a little crazy with a lot of drinking and partying. Corr stated that this should be started like the ADU's were and have more regulations that can always be lessened as it moves forward. There is already 180-200 in Lincoln now and the text amendment is a good start because adjustments could be made later if some of the restrictions were not needed or needed to be modified.

Ryman Yost stated that during the briefing that was given she had not considered because a lot of the testimony heard today is that this is a significant revenue stream, but there are times when Lincoln does have a need for additional spaces for events, and further stated if there were the 600-foot spacing would people post on sites without meeting the requirements because if there is no way for them to get in are they just going to do it.

Corr stated that they might and there have been instances of this happening before with different rules. Corr stated that it cannot all be controlled but, if it is a problem, there would be recourse. Neighborhoods are hesitant because it is just a small one percent that causes problems, and it ruins it for everyone else and there is no recourse on a lot of those situations.

Corr stated with putting something in place as a protection because it is unknown how this will play out.

Motion to amend Text Amendment 21002 to remove all criteria except for the registration licensing requirement moved by Campbell, seconded by Ryman Yost and failed due to lack of majority vote 2-3: Campbell and Ryman Yost voting 'yes'; Edgerton, Beckius and Corr voting 'no'; Ball, Finnegan, Joy and Scheer absent.

Main motion carried 5-0: Campbell, Edgerton, Ryman Yost, Beckius and Corr voting 'yes'; Ball, Finnegan, Joy and Scheer absent.

Corr stated that as previously mentioned, the public hearing on Item 4.3– Change of Zone 040751, Village Gardens Development has been delayed to the May 26, 2021, Planning Commission hearing, as Commissioner Campbell has declared a conflict of interest on this matter and will recuse himself from this portion of the hearing, which results in a lack of a quorum.

David Cary, Planning Department Director, 555 South 10th Street, came forward and acknowledged Commissioner Beckius' tenure with the Planning Commission and congratulated him on his election to the City Council, and further stated that the Planning Department is looking forward to working with Commissioner Beckius at that level. Cary thanked Beckius and stated that he appreciates all the work that Beckius has done and is looking forward to working with him in the future.

Beckius thanked his colleagues that he has worked with over the years. He shared that their working together would continue, and he is looking forward to working together because they are all part of city leadership. Beckius stated that he is looking forward to having discussions with the Planning Commission, after they have voted, in the future. Beckius stated that he is looking forward to sticking around and working with these great people even more.

Chair Corr stated that anyone wishing to speak on an item not on the agenda may come forward and do so; no one came forward.

Campbell moved to adjourn the Planning Commission Meeting of May 12, 2021, seconded by Ryman Yost and carried 5-0: Campbell, Edgerton, Ryman Yost, Beckius and Corr; Ball, Finnegan, Joy and Scheer absent.

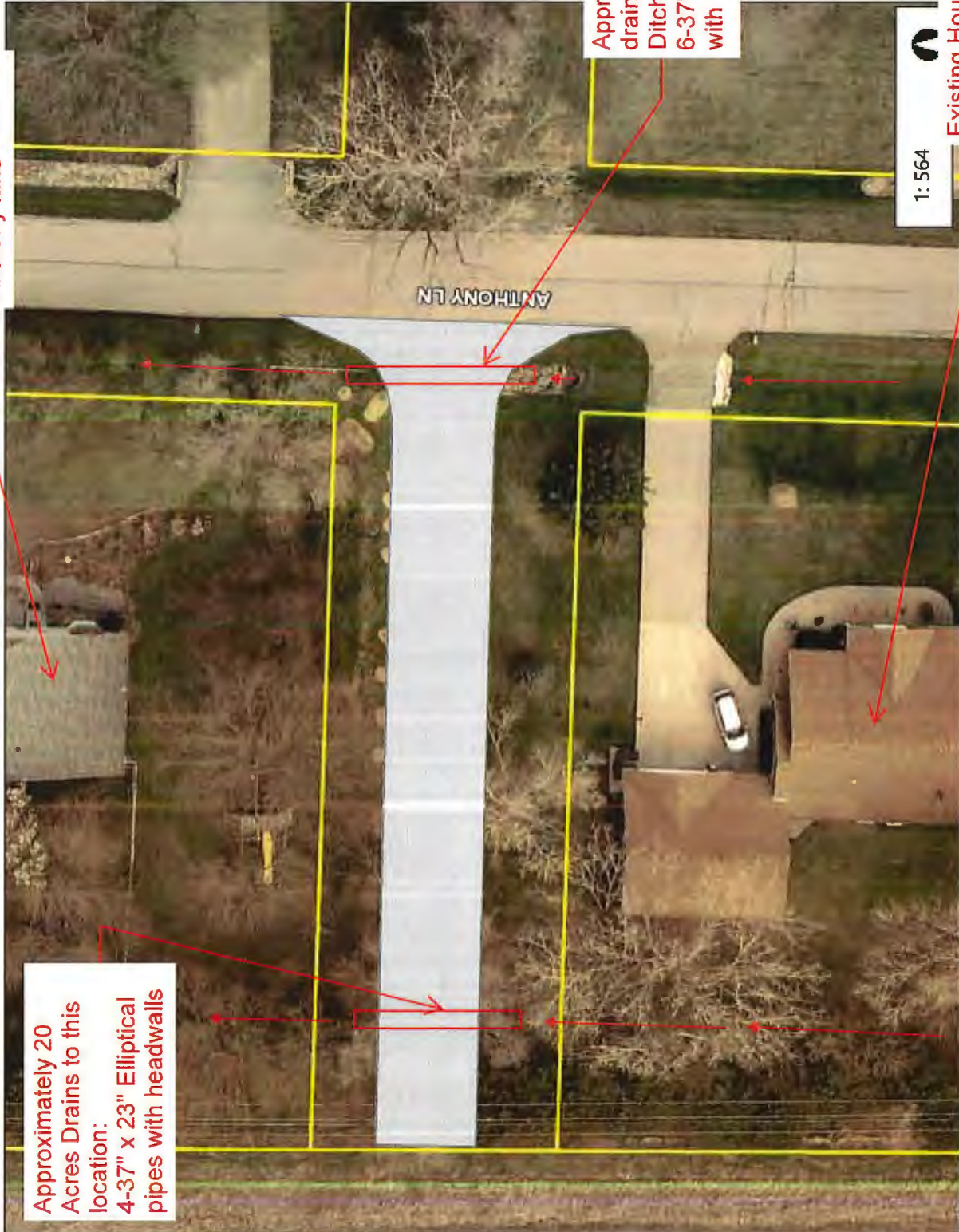
Meeting adjourned 3:58 p.m.

Note: The Planning Commission will not formally approve these minutes until their next regular meeting on Wednesday, May 26, 2021.

Existing House, approx. 2' below Anthony lane

Approximately 20 Acres Drains to this location:
4-37" x 23" Elliptical pipes with headwalls

Approximately 30 acres drains to this location.
Ditch depth approx. 2'.
6-37"x 23" Elliptical pipes with headwalls



1: 564



Natick

Existing House, approx. 1' above Anthony lane

0.0 Miles

0.01

0

0.0

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



Legend

Address Labels

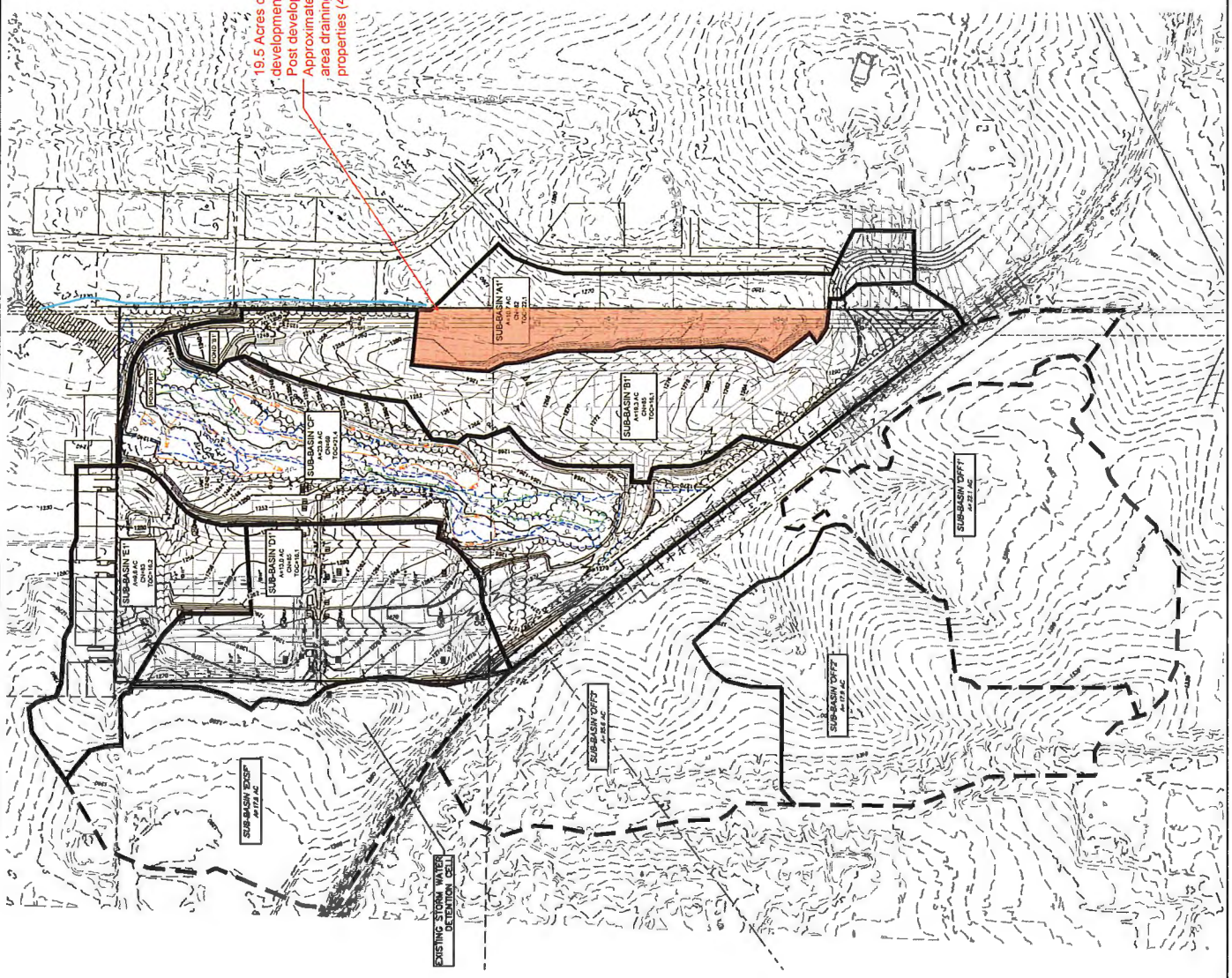
Parcels_Aerial



HIDDEN HILLS
PRELIMINARY PLAT
POST-DEVELOPMENT DRAINAGE PLAN



19.5 Acres draining Pre
development, 10.7 Acres
Post development
Approximately 8.8 Ac Less
area draining to the adjacent
properties (45% reduction)



NOTE: SEE PLAN SHEET 1001 FOR
EXISTING CELL STREET IMPROVEMENTS

EXISTENTIAL LEGEND	
---	RIGHT-OF-WAY
---	SECTION LINE
---	IMPROVED ISLANDS
---	TREE MASSES
---	STORM SEWER
---	STORM SEWER UNDERGROUND
---	POWER UNDERGROUND
---	WATER MAIN
---	SEWER MAIN
---	WIRE POLE
---	POWER POLY/STAY WIRE

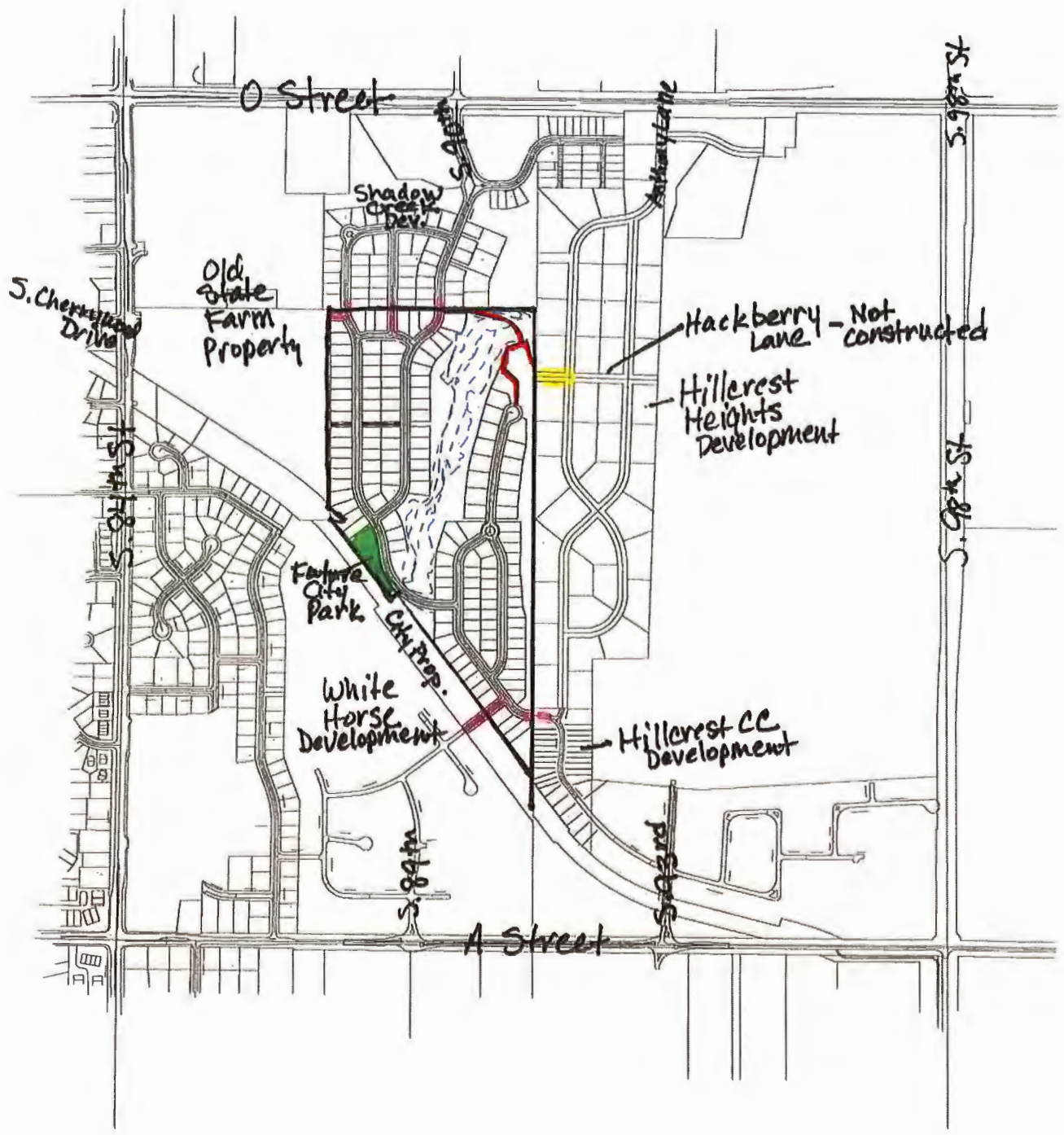
GRADING LEGEND	
---	PROPOSED DRAINAGE AREA
---	LIMITS OF PRELIMINARY PLAT
---	PROPOSED MAJOR CONTOUR
---	EXISTING MAJOR CONTOUR
---	PROPOSED MINOR CONTOUR
---	EXISTING MINOR CONTOUR

NO.	DATE	REVISIONS
1	2021	PRELIMINARY PLAT

801 P Street, Suite 200
Lincoln, NE 68503
TEL: 402.474.6311 WWW.OSISSON.COM



Fire Station



O Street

S. Cherrywood Drive

Old State Farm Property

Shadow Creek Dev.

Hackberry Lane - Not constructed

Hillcrest Heights Development

Future City Park

White Horse Development

Hillcrest CC Development

A Street

S. 98th St

S. 98th St

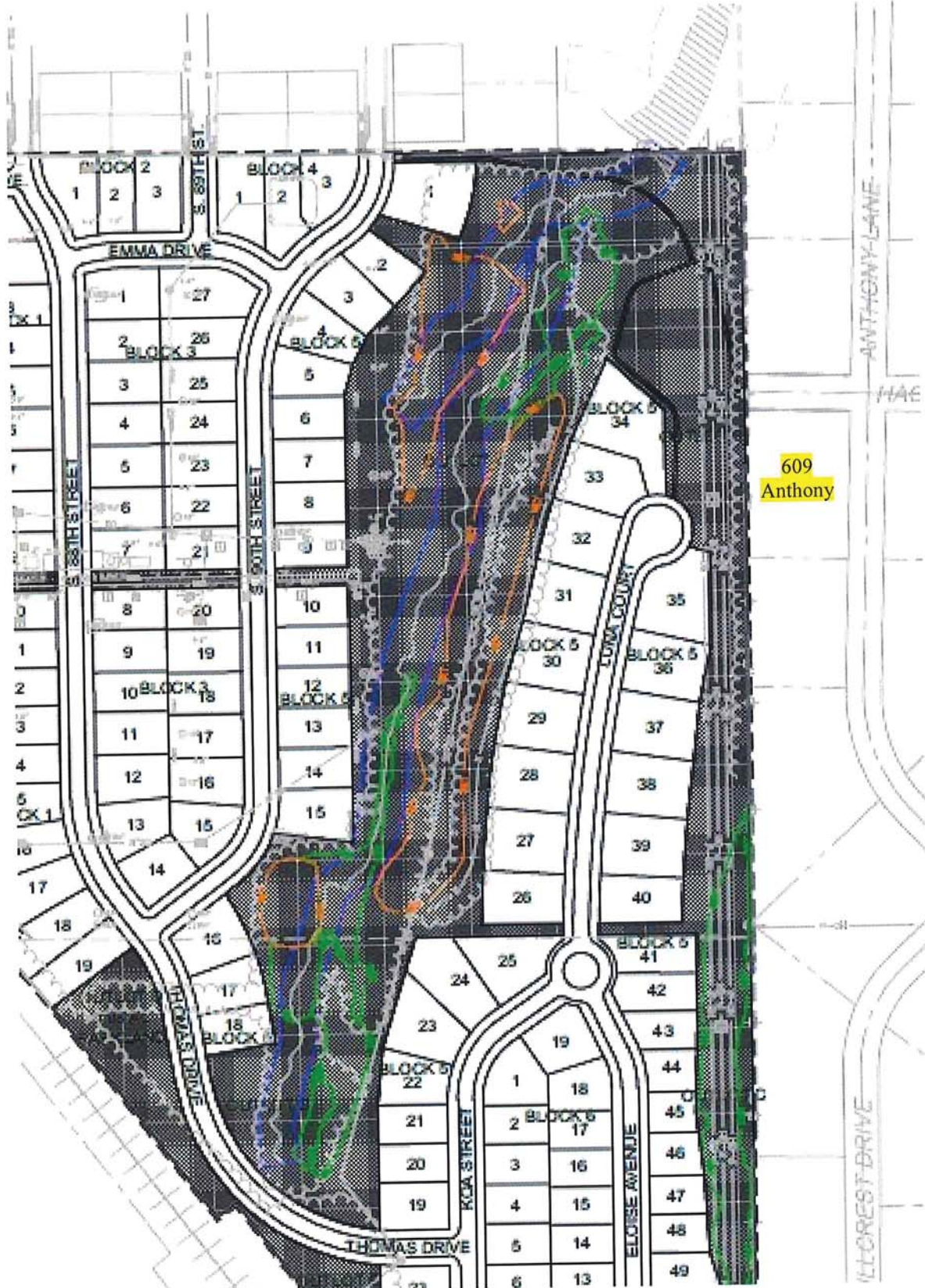
S. 98th St

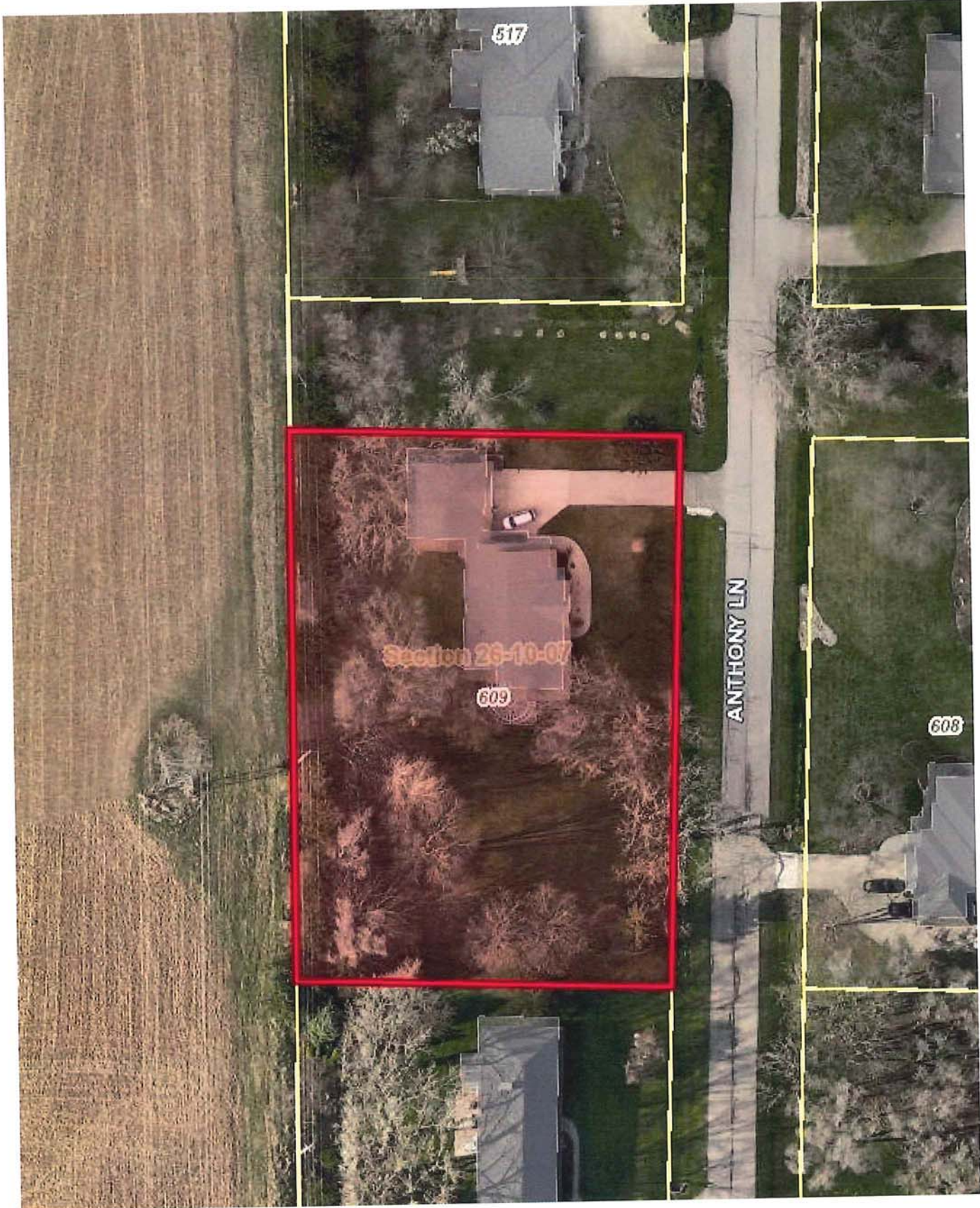
S. 99th St

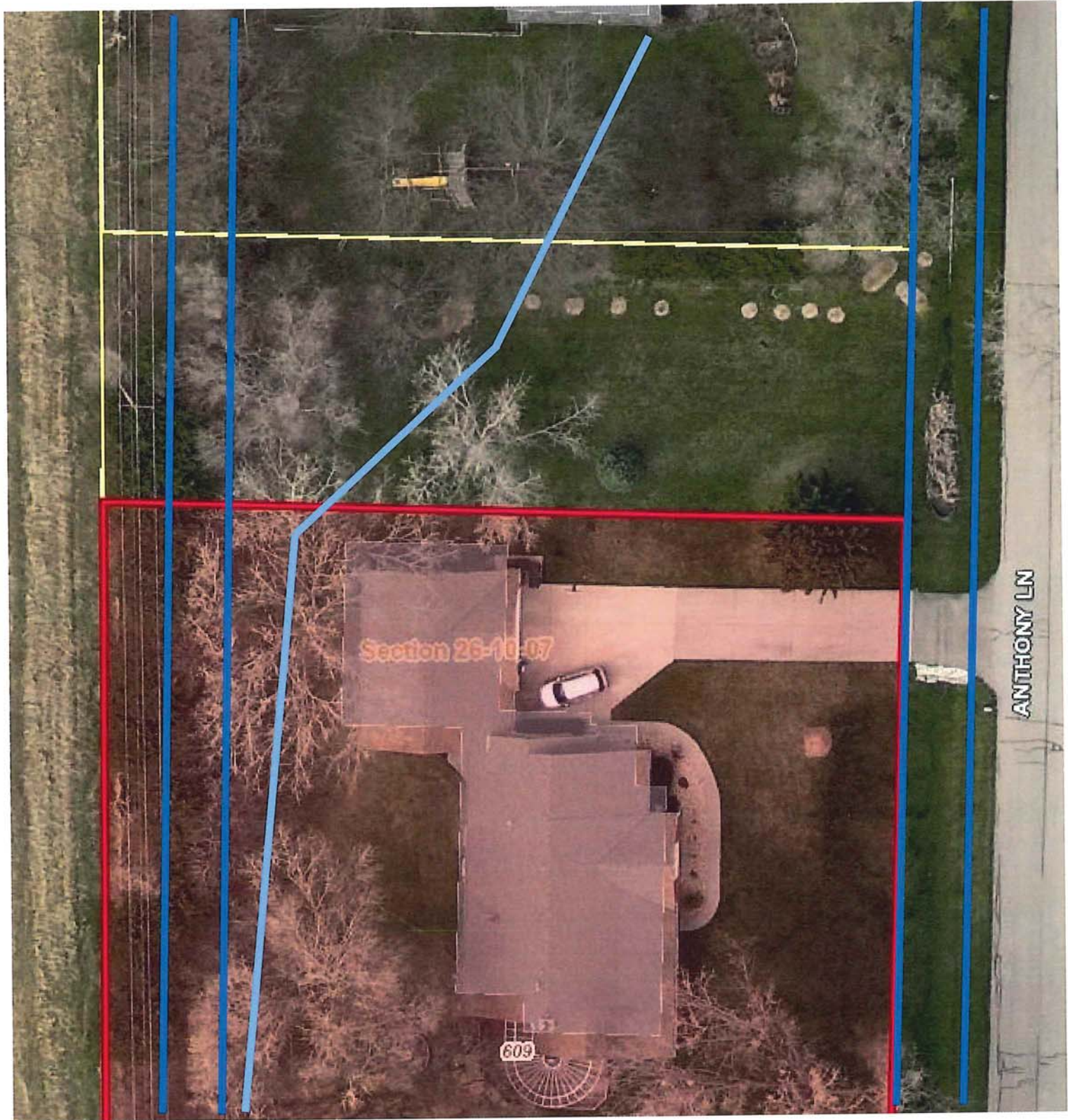
S. 99th St



HIDDEN HILLS PRELIMINARY PLAT COVER SHEET







Section 26-10-07

609

ANTHONY LN

