



23-139  
Annexation No. 21010

Introduce: 11-20-23

ORDINANCE NO. 21538

1 AN ORDINANCE annexing and including the below described land as part of the City of  
2 Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of  
3 Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of  
4 Lincoln, Nebraska established and shown thereon.

5 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

6 Section 1. That the land legally described as follows:

7 LOT 74, IRREGULAR TRACT, AND LOT 41 IRREGULAR TRACT, LOCATED IN  
8 THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 9, RANGE 7 EAST OF  
9 THE 6<sup>TH</sup> P.M. AND THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 9,  
10 RANGE 7 EAST OF THE 6<sup>TH</sup> P.M., LINCOLN, LANCASTER COUNTY, NEBRASKA  
11

12 be and it hereby is annexed and included within the corporate limits of the City of Lincoln,  
13 Nebraska and is hereby made a part of the City of Lincoln, Nebraska for all purposes.

14 Section 2. That the "Corporate Limits Map" attached to and made a part of Ordinance No.  
15 18208, be and it is hereby amended to reflect the above extension of the corporate limits boundary  
16 of the City of Lincoln. Said map amendment is shown on Attachment "A" which is attached hereto  
17 and made a part hereof by reference.

18 Section 3. That, pursuant to the Lincoln City Charter Article IV, Section 2a; Neb. Rev.  
19 Stat. § 15-247 (Reissue 2012); and Neb. Rev. Stat. § 32-553, et seq. (Reissue 2016), the land  
20 annexed above shall be assigned to City Council District #2.

21 Section 4. This ordinance shall be published, within fifteen days after the passage hereof,  
22 in one issue of a daily or weekly newspaper of general circulation in the City, or posted on the  
23 official bulletin board of the City, located on the wall across from the City Clerk's office at 555 S.  
24 10<sup>th</sup> Street, in lieu and in place of the foregoing newspaper publication with notice of passage and

1 such posting to be given by publication one time in the official newspaper by the City Clerk. This  
2 ordinance shall take effect and be in force from and after its passage and publication or after its  
3 posting and notice of such posting given by publication as described herein and in the City Charter  
4 provided.

Introduced by:

Bum Shale

AYES: Beckius, Bowers, Carlson, Duden,  
Shobe, Washington, Weber; NAYS: None.

Approved as to Form & Legality:

*James Griffin*  
City Attorney

Approved this 13 day of December, 2023:

*Stinson Taylor Baud*  
Mayor

**PASSED**

**DEC. 11 2023**

**BY CITY COUNCIL**



## PLANNING DEPARTMENT SUMMARY REPORT

**TITLE:** Annexation 21010 -- to annex approximately 41.99 acres, more or less (NE of South 70<sup>th</sup> Street and Yankee Hill Road)

**PLANNING COMMISSION RECOMMENDATION:** Approval (9-0: Ball, Campbell, Corr, Cruz, Eddins, Joy, Rodenburg, Ryman Yost and Edgerton voting 'yes')

**APPLICANT:** Alan Baade, Baade Properties, LLC

**OPPONENTS:** None present at hearing

**STAFF RECOMMENDATION:** Conditional Approval

### **REASON FOR LEGISLATION:**

These applications were scheduled for the January 5, 2022, Planning Commission agenda. The Planning Department was recommending approval of the annexation but denial of the change of zone. The applicant requested a delay to allow time to work with the City to revise the application. The original staff report is revised based upon the review of that information.

As a result, this now is a combined request for a Comprehensive Plan amendment (CPA), annexation, and a change of zone to R-3 PUD for a mixed-use Planned Unit Development (PUD) located northeast of the intersection of South 70<sup>th</sup> Street and Yankee Hill Road. The CPA proposes to redesignate some land uses over the site, so the Future Land Use Map resembles the proposed development. The PUD proposes 250 apartment units, 95,000 square feet of mini-storage units, and 91,000 square feet of commercial floor area plus a convenience store.

The site plan designates three areas – Areas A - C. Area A allows all allowed uses in the B-2 zoning district, including mini-storage as permitted uses. Area B allows multiple-family dwelling and residential uses as per the R-5 zoning district as permitted uses. Area C allows those uses that are permitted in the R-3 zoning district.

### **DISCUSSION / FINDINGS OF FACT:**

1. On February 16, 2022, the Planning Commission held a joint public hearing on this annexation request along with associated Comprehensive Plan Amendment 22002 (Bill #23R-596) and Change of Zone 21053 (Bill #23-140). There is an associated annexation agreement (Bill #23R-595) included with this project.
2. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on pp. 5-7, concluding that for the Comprehensive Plan amendment it is noted that this future neighborhood has unique constraints as it is bounded by several obstacles that prevent ease of access, especially for pedestrians, to other nearby commercial centers. Periodically updating commercial designations on the Future Land Use map is acknowledged in the Comprehensive Plan as a way to ensure that the plan is responsive to market demands.

With respect to annexation, the City, as of July 1, 2023, has annexed the area bounded by Pine Lake to Yankee Hill Roads, and from South 70<sup>th</sup> to South 84<sup>th</sup> Streets. This property is now fully surrounded by the City and meets all the requirements for annexation.

Regarding the PUD, the major deficiencies with the original application have been addressed in that a traffic study has been submitted along with a Comprehensive Plan amendment. Additionally, some items noted during the first review have been corrected. Additional revisions are still advised, but subject to the recommended conditions of approval this request complies with the Zoning Ordinance.

3. Staff presentation can be found on pp. 21-22. Testimony on behalf of the applicant can be found on pp. 22-24. Public comments in support of this annexation request can be found on pp.31-34 and one public comment in opposition is found on p. 35. Discussion with staff and the Planning Commission can be found on pp. 25-26. Applicant rebuttal is found on p.26.

4. On February 16, 2022, the Planning Commission voted 9-0 to recommend conditional approval of Annexation 21010 (Bill #23-139) as set forth in the conditions of the staff report dated February 3, 2022. The Planning Commission also voted 9-0 to recommend approval of associated Comprehensive Plan Amendment 22002 (Bill #23R-596) and voted 9-0 to recommend conditional approval of associated Change of Zone 21053 (Bill #23-140), as set forth in the conditions of the staff report dated February 3, 2022.

**SUMMARY REPORT PREPARED BY:** Shelli Reid, Administrative Officer  
**REVIEWED BY:** David R. Cary, Director of Planning



**DATE:** November 3, 2023  
**DATE:** November 3, 2023

**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 #22002, Annexation #21010, Change of Zone #21053 - Market Pointe Planned Unit Development	FINAL ACTION? No	DEVELOPER/OWNER Alan Baade Baade Properties, LLC
PLANNING COMMISSION HEARING DATE January 5, 2022	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION South 70 <sup>th</sup> Street and Yankee Hill Road

**- REVISED REPORT -  
RECOMMENDATION: COMPREHENSIVE PLAN AMENDMENT #22002 - APPROVAL  
AN#21010 - CONDITIONAL APPROVAL  
CZ#21053 - CONDITIONAL APPROVAL**

**BRIEF SUMMARY OF REQUEST**

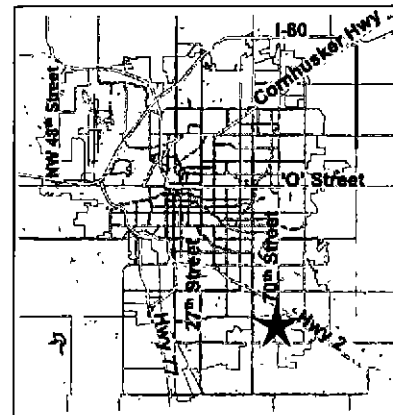
These applications were scheduled for the January 5, 2022 Planning Commission agenda. The Planning Department was recommending approval of the annexation but denial of the change of zone. The applicant requested a delay to allow time to work with the City to revise the application. The original staff report is revised based upon the review of that information. Additionally, another application, CPC#22002 has been submitted and is also reviewed as part of this revised report.

As a result this now a combined request for a Comprehensive Plan amendment (CPA), annexation, and a change of zone to R-3PUD for a mixed-use Planned Unit Development (PUD) located northeast of the intersection of South 70<sup>th</sup> Street and Yankee Hill Road. The CPA proposes to redesignate some land uses over the site so the Future Land Use Map resembles the proposed development. The PUD proposes 250 apartment units, 95,000 square feet of mini-storage units, and 91,000 square feet of commercial floor area plus a convenience store.

The site plan designates three areas - Areas A - C. Area A allows all allowed uses in the B-2 zoning district including mini-storage as permitted uses. Area B allows multiple-family dwelling and residential uses as per the R-5 zoning district as permitted uses. Area C allows those uses that are permitted in the R-3 zoning district.

**JUSTIFICATION FOR RECOMMENDATION**

For the Comprehensive Plan amendment it is noted that this future neighborhood has unique constraints as it is bounded by several obstacles that prevent ease of access, especially for pedestrians, to other nearby commercial centers. Periodically updating commercial designations on the Future Land Use map is acknowledged in the Comprehensive Plan as a way to ensure that the plan is responsive to market demands.



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**STAFF CONTACT**  
Brian Will, (402) 441-6362 or  
[bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)

With respect to annexation the City intends to initiate annexation of the areas outside the City limit approximately bounded by Pine Lake to Yankee Hill Roads, and from South 70<sup>th</sup> to South 84<sup>th</sup> Streets in the near future. The area is fully surrounded by the City and otherwise meets all the requirements for annexation.

Regarding the PUD, the major deficiencies have been addressed in that a traffic study has been submitted along with a Comprehensive Plan amendment. Additionally, some items noted during the first review have been corrected. Additional revisions are still advised, but subject to the recommended conditions of approval this request complies with the Zoning Ordinance.

**COMPATIBILITY WITH THE COMPREHENSIVE PLAN**

CPA#22002 revises the designated land uses to those matching the proposed site plan for the PUD. The area along Yankee Hill Road located within PPA is still designated for commercial land uses to protect sensitive uses. Mixed-use centers are encouraged in the Comprehensive Plan.

**WAIVERS:**

1. Reduce setback from east and north boundary lines to 20' - LMC Chapter 27.72 - Recommend Approval
2. Reduce internal setbacks to 0' for commercial buildings - Section 27.72.030(a) - Recommend Approval
3. Reduce internal setbacks to 0' for buildings adjacent to unbuildable outlots - Sections 27.72.020(a) and Section 27.72.030(a) - Recommend Approval.
4. Exceed 1,320' block length for Block 1 - Section 26.23.130 - Recommend Approval

**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.

## 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

### E3 - Business, Economy and Workforce

#### Commercial Center Design Strategies

8. Encourage commercial development at  $\frac{1}{4}$  or  $\frac{1}{2}$  mile between major intersections in order to create centers that are centrally-located within each square mile to facilitate easier pedestrian access and also allow for vehicular access points that meet the city's Access Management Policy.

9. Discourage "four corner commercial development" - with commercial uses at all four corners of an intersection - in order to promote walkability and ease of movement within each commercial center.

#### Neighborhood Centers

These centers typically serve the neighborhood level. Neighborhood Centers should be located approximately  $\frac{1}{2}$  mile apart, depending upon their size, scale, function and the population of the surrounding area. Future Neighborhood Centers are typically not sited on the Future Land Use map in advance but are identified as development plans are approved.

### E8 Energy and Utilities

**Floodplain Management** The overriding policy for the floodplain is a "No Adverse Impact" policy for the City and County, which means that the community has a goal of insuring that the action of one property owner does not adversely impact the flooding risk for other properties. The majority of the strategies below relate back to and support this umbrella concept. The No Adverse Impact concept is supported by the Map 1.3: Growth Tiers with Priority Areas which designates the majority of floodplain areas outside of the existing urban area as Green Space, Environmental Resources, and Agricultural Stream Corridors. This supports the opportunity to reduce the risk of flood damage to life and property and to preserve the important functions of floodplains. This concept is more explicitly supported by the Salt Creek Flood Storage Area Standards and the Flood Regulations for New Growth Areas which protect flood storage in the areas with greatest risk for impacts. While regulations to support the No Adverse Impact concept have not been fully adopted throughout the Existing Urban Area or in the County's jurisdiction, goals and strategies in this plan support minimizing impacts to the floodplain in all circumstances.



## Policies Section

### P61 - Industrial Zoning and Pipelines

Discourage residential land uses and buildings with vulnerable populations from locating near high-pressure pipelines and industrial zoning districts. Provide adequate separation between vulnerable populations and hazardous materials to protect and promote the public's health.

There are several major pipelines that travel through Lancaster County and parts of our community. Our community will continue to grow into where these high-pressure pipelines are currently located and additional pipelines will be required to support the growth of our community and the nation. Most of these new pipelines are proposed and developed by private companies. These pipelines transport large quantities of hazardous materials that can have serious public health and safety impacts to adjacent properties in the event of pipeline failure or damage. Therefore, uses with vulnerable populations including residential structures, childcare centers, retirement facilities, schools, or hospitals should not be located near pipelines. Uses that are acceptable near pipelines include residential garages, commercial and industrial uses, parking lots, open spaces or roads.

Industrial zoning can also 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.

#### **Action Steps**

1. Land uses with vulnerable populations should not be located within pipeline planning areas. For large high-pressure pipelines, pipeline planning areas are established based upon pipeline metrics or the United States Department of Transportation's Emergency Response Guidebook. Most high-pressure pipelines have a planning area of approximately 150-250 feet from either side of the pipeline.
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.
3. Do not support expansion of existing residential uses currently located within a pipeline planning area or within 300 feet of an industrial zoning district.
4. Businesses and government agencies should continue to work together on developing and updating Emergency Management Plans for dealing with accidents and emergencies.
5. Continue strategic re-zonings of legacy industrial districts to less intensive commercial zoning districts when near residential uses.

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. The requests include annexation and a change of zone for AGR to R-3PUD for up to 95,000 square feet of mini-storage, 91,000 square feet of commercial floor area and an 8-station convenience store, and 250 apartment units. The PUD Development Plan proposes adjustments to allow: In Area A all uses allowed in the B-2 zoning district; in Area B all uses allowed in the R-5 zoning district; in Area C all uses as allowed in the R-3 zoning district. There are also waiver requests to internal setbacks and to block length.
2. This request includes a new Comprehensive Plan Amendment request to revise the Future Land Use (FLU) map within the project area. The FLU amendment generally results in more Commercial land on the site and involves three specific land use changes:

- a. Approximately 8.4 acres from Green Space to Commercial
- b. Approximately 6.2 acres from Urban Residential to Commercial

3. Green Space to Commercial: The existing Green Space boundary matches the 100-year floodplain. The applicant is proposing commercial uses in portions of the existing floodplain. As discussed elsewhere in the staff report, development of the site will need to comply with the City's floodplain regulations. A grading and drainage study was submitted for review as part of the PUD. Per Policy 21, Action Step 7 of the Comprehensive Plan:

*Consider maintaining no net fill conditions for properties in the floodplain being developed or redeveloped. Maintain no net fill conditions for those properties seeking Special Permits through Planning, Tax Increment Financing, or on former City property.*

Urban density land use is appropriate here provided the applicant demonstrates floodplain management practices that result in no net fill on the site.

4. Urban Residential to Commercial: This includes a majority of the proposed commercial area within the PUD. More discussion about the creation of a new commercial center in this area is in the following analysis points. This portion of the site is currently used for agriculture and is outside the floodplain.
5. There is a significant amount of approved commercial space in the area already. In total, approximately 4.5 million square feet of approved commercial area is within a 1.5 mile radius of this site. Of that amount approximately 2.5 million square feet are approved but undeveloped.
6. In the immediate vicinity there is approximately 740,000 square feet of commercial floor approved. Across the street at the northwest corner of South 70th Street and Yankee Hill Road the Harvest Hills use permit with B-2 zoning is approved for up to 120,000 square feet of commercial floor area. At the southeast corner of the intersection The Woodlands at Yankee Hill PUD has an approved commercial center for up to 325,000 square feet of commercial floor area. Additionally, at approximately South 84th Street and Yankee Woods Drive within the same development there is another commercial center approved for up to 415,000 square feet of commercial floor area.
7. The Comprehensive Plan offers significant guidance on the location of new commercial centers. Several of the most relevant items are listed below with explanation. These are all from the Commercial Centers section of Element 3: Business, Economy, and Workforce.

- a. *Encourage commercial development at ¼ or ½ mile between major intersections in order to create centers that are centrally-located within each square mile to facilitate easier pedestrian access and also allow for vehicular access points that meet the city's Access Management Policy.*

This proposed commercial center is directly northeast of the intersection of 70<sup>th</sup> & Yankee Hill. Drainageways located to the east (and more central to the mile) would make it difficult to locate a commercial center in that location. The proposed access points will meet the city's Access Management Policy provided a deviation request is approved.

- b. *Neighborhood Centers should be located approximately ½ mile apart, depending upon their size, scale, function and the population of the surrounding area.*

The purpose of the ½ mile spacing is to create centers that are spatially distributed to allow for easy access via multiple modes of transportation, and to make sure that no specific area is "over-approved" - creating multiple underutilized centers rather than one strong center.

There are existing approved commercial centers less than ½ mile away, directly to the west (across 70<sup>th</sup> Street) and south (across Yankee Hill Road). These centers are for the most part undeveloped. The developer of this proposed site has indicated that potential tenants have been identified, so it is possible that this center will develop in the near future if approved. If any of the commercial centers in this area are not able to attract commercial uses, the Comprehensive Plan supports redevelopment of commercial areas into mixed-use or residential uses.

- c. *Neighborhood Centers provide services and retail goods oriented to the neighborhood level, with significant pedestrian orientation and access. Residential mixed use is encouraged. Neighborhood centers are a key element of the Complete Neighborhoods concept.*

The proposed site plan includes a mix of commercial and residential uses, including a supermarket. The undeveloped area east of the proposed development is shown on the Future Land Use map as Urban Residential. This future neighborhood has unique constraints in that it is bounded by several obstacles that prevent ease of access, especially for pedestrians, to other nearby commercial centers. The west, east and south boundaries of the neighborhood are major arterial streets (70<sup>th</sup>, 84, Yankee Hill). The north boundary is the creek and railroad tracks. A commercial center in this area provides a walkable option for neighborhood residents.

- d. *Future Neighborhood Centers are typically not sited on the Future Land Use map in advance but are identified as development plans are approved.*

Updating commercial designations on the Future Land Use map is acknowledged in the Comprehensive Plan as a way to ensure that the plan is responsive to market demands.

8. The waivers as restated in this revised request are generally appropriate but are confusing to interpret and administer as proposed. It is recommended the waiver to setbacks be stated as follows:
  - a. **Setbacks** - The setbacks for Areas A and B are adjusted to 0' with the exceptions: A perimeter 20' setback (to buildings and parking) around the entire perimeter boundary of the PUD; A 20' setback (for buildings and parking) where adjacent to private roadways; A minimum 50' separation shall be maintained between any commercial and residential building.
  - b. **Block Length** - The block length waiver cannot be fully mitigated in this development due to the associated constraints. However, the lack of street connections which causes the need for the waiver can be significantly alleviated with a simple connection currently not shown on the plan. An extension of Bridle Court south behind Lot 4 and connecting with South 72<sup>nd</sup> Street will significantly enhance traffic flow through the development and increase convenience and safety for all users and residents. As it is, any traffic at the south end wishing to exit using Bridle Lane or to get to a shop on the north

end must use the driveway in front of the grocery store on Lot 4. This creates constant conflict between customers of the store who must navigate the traffic passing through the site. It is a safety and congestion issue that is easily remedied with a street connection behind Lot 4 and which reduces the magnitude of the block length waiver being requested.

9. There are corrections still needed on the plans. The significant ones are as follows:
  - a. PUD Note #3 lists the allowed uses for all three use areas. However, as stated only permitted uses would be allowed and all conditional and special permitted uses would be prohibited. The note designating uses for all three areas should be restated as follows: Area A Uses - All uses as allowed per the B-2 zoning district regulations; Area B Uses - All uses as allowed per the R-5 zoning district regulations; Area C Uses - All uses as allowed per the R-3 zoning district regulations.
  - b. All roadways within the boundary of the development need to be labeled as private roadways.
  - c. The Pipeline Planning Area needs to be delineated on all sheets including its dimension from the edge of the pipeline.
  - d. PUD Note #11 should include all the sensitive uses described by the Health Department. It should be revised to state 'Residential dwellings, childcare facilities, schools, healthcare facilities, or retirement facilities are prohibited in the Pipeline Planning Area.'
  - e. A traffic study has been submitted as is required by the Access Management Policy. It is under review but comments have not been received in time to be included in this report. As a result, this report includes a condition that the site plan will need to be revised subject to the recommendations of LTU after review and acceptance of the study.
  - f. It is noted that a deviation request has been submitted to LTU relative to the access point onto Yankee Hill Road at South 72<sup>nd</sup> Street. That access point does not comply with Access Management Policy and either the request needs to be approved or the access point removed.
  - g. It is also noted that the draft annexation agreement appears to seek reimbursement from Impact Fees for the culvert crossing of the drainage at Bridle Lane and South 70<sup>th</sup> Street. LTU notes that this is not a reimbursable expense because the crossing is not part of an impact fee facility, rather just a local street connection to a private development.
10. There is significant floodway, floodplain and minimum flood corridor on this site. A grading and drainage study was reviewed by LTU/Watershed Management and there are comments for correction.
11. The subject area is in Tier 1, Priority B of the Comprehensive Plan. It is also shown within the City's Future Service Limit and is designated for future Urban Density-Residential land uses. The development is adjacent to the city limit, and all municipal utilities and services are available to serve it.
12. This site is located within a larger area generally bounded by South 70<sup>th</sup> and South 84<sup>th</sup> Streets and by Pine Lake and Yankee Hill Roads which the City is proposing to initiate for annexation in the near future. It meets the City's Annexation Policy and there is no reason not to annex it now per the applicant's request.
13. With the revised plan an application for a Comprehensive Plan amendment was submitted. If approved, the proposed mix of uses will comply with the 2050 Comprehensive Plan.
14. As originally submitted the recommendation was for approval of the annexation but denial of the change of zone for the PUD. This recommendation for denial was in part since application was incomplete as it did not include a traffic study nor a request for Comprehensive Plan Amendment. Both were submitted subsequent and have been reviewed or are under review by the City.
15. As revised and subject to the recommended conditions of approval this request complies with the Zoning Ordinance. Subject to approval of the associated Comprehensive Plan Amendment, these requests also are consistent with the Comprehensive Plan.

**CONDITIONS OF APPROVAL:** See attached.

**EXISTING LAND USE & ZONING:** Agriculture AG Agriculture

**SURROUNDING LAND USE & ZONING**

North: Acreage Residential AGR  
South: Vacant R-3PUD  
East: Acreage Residential AGR  
West: Vacant R-3, B-2

**APPROXIMATE LAND AREA:** 41.99 acres, more or less

**LEGAL DESCRIPTION:** CPA#22002/AN#21010/CZ#21053 - Lot 74 I.T. and Lot 41 I.T., located in the SE 1/4 of Section 21-9-7 and the SW 1/4 of Section 22-9-7, Lincoln, Lancaster County, Nebraska.

Prepared by

\_\_\_\_\_  
Brian Will, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)  
February 3, 2022

**Owner/  
Applicant/  
Contact:** Alan Baade  
Baade Properties, LLC  
5500 Saltillo Road  
Roca, NE 68430  
(402)430-9609  
[alanbaade55@gmail.com](mailto:alanbaade55@gmail.com)

## CONDITIONS OF APPROVAL

### Annexation #21010

The owner will enter into an annexation agreement with the City of Lincoln prior to consideration by the City Council that addresses transportation impacts and Rural Water and Fire District reimbursement to the satisfaction of the Planning Department and LTU.

### Change of Zone #21053

Per LMC Chapter 27.60 this approval permits a Planned Unit Development for up to 91,000 square feet of commercial floor area with an 8-station convenience store floor, 95,000 square feet of mini-warehouse and 250 multiple-family dwelling units with waivers to setbacks to 0' and block length.

### 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 PUD plan set:
    - 1.1.1 Delete PUD Note #4 and as it is not necessary.
    - 1.1.2 Delete 'is adjusted from 35'' from PUD Note #6 given 55' is now the allowed height per LMC.
    - 1.1.2 Show a 20' perimeter setback inside the entire boundary of the PUD.
    - 1.1.3 Delete Waiver notes 2 and 3 and revise #1 to state: The setbacks for Areas A and B are adjusted to 0' with the exceptions: A perimeter 20' setback (to buildings and parking) around the entire perimeter boundary of the PUD; A 20' setback (for buildings and parking) where adjacent to private roadways; A minimum 50' separation shall be maintained between any commercial and residential building.
    - 1.1.4 Label all internal streets as private roadways and show the future roundabout at the intersection of Bridle Lane and South 70<sup>th</sup> Street.
    - 1.1.7 Delineate and label the Pipeline Planning Area including its dimension from the edge of the pipeline on Sheet #1 of 10.
    - 1.1.8 Revise PUD Note #11 to state 'Residential dwellings, childcare facilities, schools, healthcare facilities, or retirement facilities are prohibited in the Pipeline Planning Area.'
    - 1.1.9 Show the traffic improvements in South 70<sup>th</sup> Street and Yankee Hill Road as recommended by LTU after their review and acceptance of a traffic study.
    - 1.1.10 Remove the South 72<sup>nd</sup> Street access point onto Yankee Hill Road if the deviation request is denied by the City.
    - 1.1.11 Show Bridle Lane connected to South 72<sup>nd</sup> Street behind Lot 4.
    - 1.1.12 Modify the drainage adjacent to South 70<sup>th</sup> Street to reduce the floodplain across the site as part of the grading and drainage study or move the buildings on Lots 4 and 6 out of it.

- 1.1.13 Make other corrections and modifications per the published comments of LTU/Watershed Management of the review of the grading and drainage study dated 1/31/22.
- 1.1.14 Make other corrections and modifications per the published comments of LTU/Water Department.

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 planned unit development 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 planned unit development is submitted five (5) years or more after the approval of the planned unit development, the city may require that a new planned unit development be submitted, pursuant to all the provisions of section 26.31.015. A new planned unit development 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 planned unit development 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 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 planned unit development.

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 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 inform all purchasers and users of land is located within the 100 year floodplain that the grading of the lots and outlots within the 100 year floodplain shall be in conformance with the approved grading plan or as amended by the Director of Planning. The volume of fill material brought into each lot and outlot from outside the floodplain shall not exceed that shown on the approved grading plan accompanying the preliminary plat.

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

**Standard Conditions:**

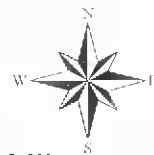
4. The following conditions are applicable to all requests:
  - 4.1 Before occupying the dwelling units or commercial buildings all development and construction shall substantially comply with the approved plans.
  - 4.2 All privately-owned improvements, including landscaping and recreational facilities, shall be permanently maintained by the Permittee or an appropriately established homeowners or business 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.



**Annexation #: AN21010 &  
 Change of Zone #: CZ21053 (AG to R-3)  
 Market Pointe  
 S 70th St & Yankee Hill Rd**

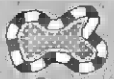


**Zoning:**

- R-1 to R-8 Residential District
- AG Agncultural 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



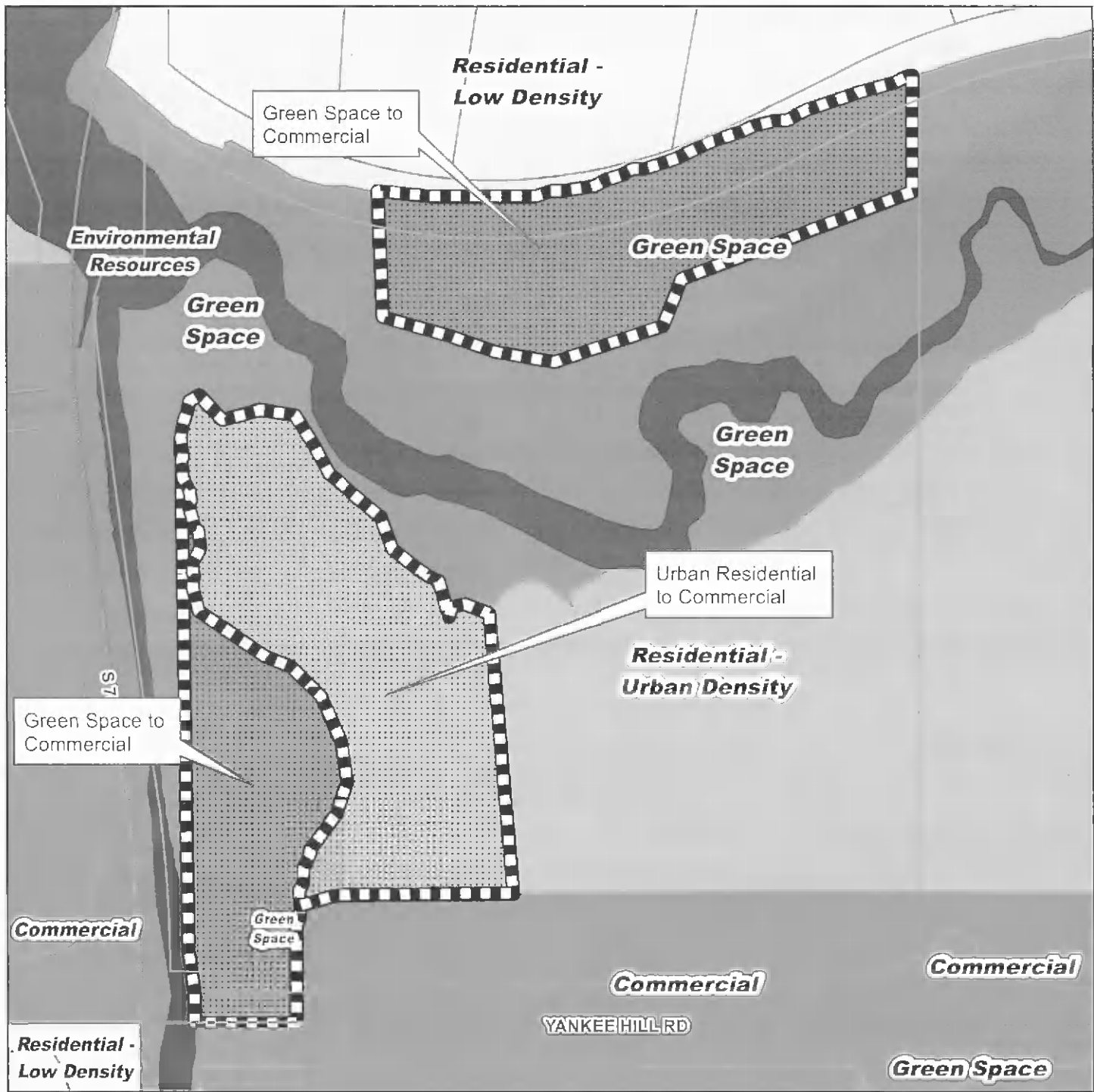
Two Square Miles:

Sec.21 T09N R07E  
 Sec.22 T09N R07E












	Area of Application
	Zoning Jurisdiction Lines
	Existing City Limits



# Proposed Land Use Change



## Legend

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



LINCOLN LANCASTER COUNTY  
 PLANNING DEPARTMENT  
 Information Technology Services  
 200 South 40th Street  
 Lincoln, Nebraska 68508  
 P: (402) 477-7700 Fax: (402) 477-3177





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January 19, 2022

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DONALD F. BURT (INACTIVE)  
STEPHEN H. NELSEN (INACTIVE)  
†ATTORNEYS ADMITTED IN COLORADO ONLY

**VIA U.S. MAIL and EMAIL: [dcary@lincoln.ne.gov](mailto:dcary@lincoln.ne.gov)**

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

Re: Submittal for the Market Pointe Planned Unit Development at South 70<sup>th</sup>  
Street and Yankee Hill Road  
Our File No.: 1687.016

Dear Mr. Cary:

On behalf of Baade Properties, LLC, I am pleased to submit this amended and restated purpose letter for a Mixed-Use Development proposed for 7230 Yankee Hill Road located at the northeast corner of South 70<sup>th</sup> Street and Yankee Hill Road in Lincoln. This purpose letter should replace the prior version dated December 8, 2022.

Alan Baade, the principal of Baade Properties, LLC, has been planning for the development of this parcel into a mixed-use center. The parcel contains approximately 42.15 acres ("Baade Property"). The submittal for Market Pointe is now more complete with the Traffic Study completed and submitted for city review as well as a draft Conditional Annexation Agreement for review by the City Departments.

To develop this site, the following land use approval steps are required:

1. **Comprehensive Plan Amendment:** The Baade Property is depicted in the "Plan Forward"- Lincoln-Lancaster County 2050 Comprehensive Plan as urban residential with a small number of commercial uses reflected in Figure GF.b. Baade Properties, LLC seeks that the Baade Property be designated as a "Neighborhood Center". Due to the development

conditions contained in and around the site, including the constraints of a railroad track on the north, the location of Beal Slough which traverses the property and the pipeline planning area located adjacent to the border with Yankee Hill Road, this Baade Property is better utilized for a Mixed-Use center combining commercial and residential uses. The Development Plan for the Community Unit Plan overlay designation contemplates a mix of uses including:

- A. **Commercial Uses:** The development plan contemplates the following commercial uses:
  - 55,000 square feet supermarket
  - 34,000 square feet of retail
  - Service Station (8 fueling positions)
  - 1,900 square foot Restaurant with drive- through
- B. **Multifamily Uses:** 250 dwelling units of an apartment development oriented towards South 70<sup>th</sup> Street; and
- C. **Storage Unit Use:** 95,000 square feet of mini-warehousing uses located on the northern portion of the property adjacent to the railroad track.

Thus, Baade Properties, LLC requests an amendment to the **Plan Forward 2050 Comprehensive Plan** to designate the Baade Property as a **“Neighborhood Center”** for commercial uses which will permit the mixed-use development contemplated by the Development Plan.

2. **Annexation:** The Baade Property is legally described as:

“Lot Seventy Four (74) in the Southwest Quarter of Section Twenty-Two (22), Township Nine (9) North, Range Seven (7) East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska.”

The site is outside the city limits of the City of Lincoln and requires annexation. Baade Properties, LLC hereby requests that the City annex the Baade Property to be included within the corporate limits of the City. This parcel is located in an area which is completely surrounded by corporate limits and essentially is an island and should be included in the corporate limits of the City of Lincoln. I understand that the City of Lincoln is independently starting the process to annex this “island” into the city limits. I have prepared a Conditional Annexation Agreement which is intended to describe the conditions for the annexation and change of zone and provide a path for these governmental approvals.

3. **Change of Zone:** Currently, the Baade parcel is zoned in the “AG” agricultural zoning district. The enclosed application seeks to change the zone of the parcel to the “R-3” zoning classification; and
4. **Overlay District:** In conjunction with the Change of Zone, Baade Properties, LLC seeks approval of a PUD overlay district for a “Planned Unit Development” to permit the development of the mix of uses. The PUD is intended to be controlled by the Development Plan as reflected on the Site Plan which will be uploaded for City review and processing.
5. **Waivers:** Due to the existing conditions, Baade Properties, LLC also seeks the following waivers to permit the Development Plan to be implemented:
  - A. **Setback Waiver:**
    - i) To the extent required, a waiver is requested to reduce the setback from the east boundary line to 20’ and north boundary line adjacent to the railroad track to 20’.
    - ii) For the commercial buildings, a waiver is requested for internal setbacks to 0’. Additionally, for any perimeter setback for the multifamily and mini-warehousing uses adjacent to an unbuildable outlot, we request a waiver of the setback down to 0” provided that the dimension of the outlot can substitute for the setback otherwise required.
  - B. **Block Length Waiver:** Baade Properties, LLC also seeks a waiver of the block length requirement. Brad Marshall, project engineer with Olsson, reviewed the possibility of extending 72<sup>nd</sup> Street to connect directly with Bridle Lane. However, the topography and the detention area east of the grocery store lot present obstacles to the extension of 72<sup>nd</sup> Street as requested.

The site is located at a prime location which consists of the intersection of two arterial streets as it is located Northeast of Yankee Hill Road and South 70<sup>th</sup> Street. The site has limitations and challenges, but its visibility is unmatched. On its northern border, a railroad track is located which railway has recently put back into usage by the rail company. A pipeline planning area is located on its southern edge which prohibits any residential uses. A creek bed which is characterized as a floodway and floodplain traverses the site through its northern 1/3 and along its western boundary. Consequently, the site planning has been a challenge.

David Cary  
January 19, 2022  
Page 4

The site plan submitted orients the commercial use of the PUD site plan along South 70<sup>th</sup> Street. Further, the site plan proposes to locate the multifamily site along the eastern border but complies with the spacing requirements of the Pipeline Planning Area.

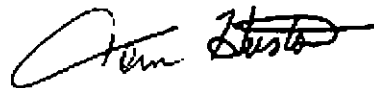
We had previously delivered and would ask that you utilize:

1. The application signed by Alan Baade for the Annexation, Change of Zone and the Planned Unit Development;
2. A check in the amount of \$5,305 comprised of \$1,005 for the Change of Zone and \$4,300 for the Planned Unit Development; and
3. Project Documents. Brandon Biba, the Project Engineer with Olsson, will be uploading the legal description and the PUD Development Plan to the City of Lincoln's ProjectDox portal.

Baade Properties, LLC has prepared the Annexation Agreement for the annexation of the property to provide a mechanism for the funding of the street improvements required in the South 70<sup>th</sup> Street right of way for the intersection with Bridle Lane which is submitted concurrent to this revised Purpose Letter.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Thomas C. Huston  
For the Firm

cc: Alan Baade (via email)



**ANNEXATION 21010, CHANGE OF ZONE 21053  
AND COMPREHENSIVE PLAN AMENDMENT 22002**

**COMPREHENSIVE PLAN AMENDMENT 22002**

**TO AMEND THE LINCOLN-LANCASTER COUNTY 2050 COMPREHENSIVE PLAN TO REVISE THE FUTURE LAND USE MAP IN MULTIPLE AREAS ON A PARCEL OF APPROXIMATELY 42.15 ACRES, BY REVISING PORTIONS OF THE WESTERN AND ORTHERN SECTIONS FROM URBAN RESIDENTIAL AND GREEN SPACE TO COMMERCIAL AT 7230 YANKEE HILL ROAD, GENERALLY LOCATED NORTHEAST OF SOUTH 70<sup>TH</sup> STREET AND YANKEE HILL ROAD**

**AND**

**ANNEXATION 21010**

**TO ANNEX APPROXIMATELY 41.99 ACRES, MORE OR LESS, ON PROPERTY GENERALLY LOCATED NORTHEAST OF SOUTH 70<sup>TH</sup> STREET AND YANKEE HILL ROAD**

**AND**

**CHANGE OF ZONE 21053**

**FROM AC (AGRICULTURAL DISTRICT) TO R-3 (RESIDENTIAL DISTRICT) PUD (PLANNED UNIT DEVELOPMENT) FOR THE MARKET POINTE PUD FOR UP TO 120,000 SQUARE FEET OF COMMERCIAL FLOOD AND UP TO 464 MULTIPLE FAMILY DWELLING UNITS WITH ADJUSTMENTS TO THE ZONING AND SUBDIVISION ORDINANCE, ON PROPERTY GENERALLY LOCATED NORTHEAST OF SOUTH 70<sup>TH</sup> STREET AND YANKEE HILL ROAD**

**PUBLIC HEARING:**

**February 16, 2022**

Members present: Ball, Campbell, Corr, Cruz, Joy, Eddins, Edgerton, Rodenburg and Ryman Yost.

The Clerk noted that the applicant requested a deferral on items 4.1a, Comprehensive Plan Amendment 22002; 4.1b, Annexation 21010 and Item 4.1c, Change of Zone 21053 – for two weeks to the regular Planning Commission hearing on March 2, 2022.

**David Cary, 555 S. 10<sup>th</sup> Street, Suite 213, Lincoln, NE** requested to rescind the previous motion for deferral since incorrect items were announced. The correct items requested for deferral are items 4.2a, Comprehensive Plan Amendment 22003; 4.2b, Change of Zone 22001 and 4.2c, Preliminary Plat 04011A.

Campbell moved to rescind his motion for a 2-week deferral for public hearing and action on Comprehensive Plan Amendment 22002, Annexation 21010 and Change of Zone 21053, seconded by Joy and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg, and Ryman Yost voting 'yes'.

**COMPREHENSIVE PLAN AMENDMENT 22002**

**TO AMEND THE LINCOLN-LANCASTER COUNTY 2050 COMPREHENSIVE PLAN TO REVISE THE FUTURE LAND USE MAP IN MULTIPLE AREAS ON A PARCEL OF APPROXIMATELY 42.15 ACRES, BY REVISING PORTIONS OF THE WESTERN AND ORTHERN SECTIONS FROM URBAN RESIDENTIAL AND GREEN SPACE TO COMMERCIAL AT 7230 YANKEE HILL ROAD, GENERALLY LOCATED NORTHEAST OF SOUTH 70<sup>TH</sup> STREET AND YANKEE HILL ROAD**

**AND**

**ANNEXATION 21010**

**TO ANNEX APPROXIMATELY 41.99 ACRES MORE OR LESS ON PROPERTY GENERALLY LOCATED NORTHEAST OF SOUTH 70<sup>TH</sup> STREET AND YANKEE HILL ROAD**

**AND**

**CHANGE OF ZONE 21053**

**FROM AC (AGRICULTURAL DISTRICT) TO R-3 (RESIDENTIAL DISTRICT) PUD (PLANNED UNIT DEVELOPMENT) FOR THE MARKET POINTE PUD FOR UP TO 120,000 SQUARE FEET OF COMMERCIAL FLOOD AND UP TO 464 MULTIPLE FAMILY DWELLING UNITS WITH ADJUSTMENTS TO THE ZONING AND SUBDIVISION ORDINANCES, ON PROPERTY GENERALLY LOCATED NORTHEAST OF SOUTH 70<sup>TH</sup> STREET AND YANKEE HILL ROAD**

**PUBLIC HEARING:**

**February 16, 2022**

Members present: Ball, Campbell, Corr, Cruz, Joy, Eddins, Edgerton, Rodenburg and Ryman Yost.

Staff Recommendation:	Comprehensive Plan Amendment	Approval
	Annexation	Conditional Approval
	Change of Zone	Conditional Approval

There were no ex-parte communications disclosed.

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

**Staff Presentation:**

**Brian Will, Planning Department, 555 S. 10<sup>th</sup> Street, Lincoln, NE**, states that applications were delayed. The original applications were missing two items which prompted the recommendation of denial from the Planning Department. The traffic study and Comprehensive Action Plan were submitted. He pointed out that the proposed area along property NE 70<sup>th</sup> and Yankee Hill Road has three applications attached, CPA, AN, CZ. To maintain consistency with the plan, the proposed area is to be taken from open green to commercial and urban residential to commercial. The staff recommendation from the Planning Department is approval. His report noted that the development done in compliance with the floodplain and Watershed Management regulations would be consistent with the Comprehensive Plan. ????(please revise to clarify this sentence Flexibility in comp plan allowed reevaluation of plan as proposed. For annexation, larger area of site sits in 70<sup>th</sup> Street to 84<sup>th</sup> Street, Yankee Hill Road to Pine Lake Road, is fully surrounded and set to be reviewed for annexation in near future. This property

can be served by all municipal services and ready for development. Recommendation for annexation is for approval. The staff of Planning Department is recommending approval with conditions of PUD from AG to R3. Note that there is a deviation request for access point on Yankee Hill Road. It is his understanding that it will be approved. The plan designates three different areas, and the Planning department is supportive of all these applications. Within Area A designated for mini storage along 70<sup>th</sup> grocery/commercial; Area B apartments--up to 250 units; and Area c will eventually be residential. Subject to recommended conditions.

Campbell noted that in staff report, 'No Net Fill' along with a lower section is in the 100-year lower flood plain. How will it be offset? Will deferred this to the applicant. Campbell understands this may mean a detention basin.

Corr asked Will to show the connecting street on the map. Will pointed it out. He noted where traffic will be coming off. He pointed out the location of his concern on the map. It needs to have a good connection.

Edgerton asked about the status of the traffic study. Will noted it has been submitted to Lincoln Transportation and Utilities and is under review at this time. He believes they will want to know about possible improvements to 70<sup>th</sup> Street and turn lanes.

Campbell believes if comments come back and require turn lanes or other items, those will be handled with the building permit process. Will anticipates off-site improvements will be addressed in the annexation agreement. There will be meetings with the applicant and its representatives to discuss details. Campbell asked about 72<sup>nd</sup> Street and Yankee Hill Road and if that is anticipated to be a right-in, right-out only. Will believes so. Campbell noted there is a median at that location. Will agreed.

**Applicant:**

**Tom Houston 233 S. 19<sup>th</sup> Street, Suite 1900, Lincoln, NE,** stated that he is appearing on behalf of the applicant. Huston provided proposed text consisting of 5 motions to amend to the proposed Change of Zone. See Exhibit "1". He agrees with Will's testimony. The site is ready for development. The site is very visible to two important arterial streets. There both natural and man-made challenges to site. The railroad is located on the northern end of site and that is now active. That is why the mini storage is proposed on the north end. There is a pipeline planning area on the south side of the property. Along the western edge is Beal Slough that complicates the design. He appreciates being able to hit the reset button. He believes that there is no dispute on the Comprehensive Plan Amendment and Annexation as they are the two easier items. He wanted to address the Change of Zone and the proposed mixed-use development. The northern end of property deals with 95,000 SQFT for mini self-storage. This provides a buffer to the effects of the railroad. The east side of property is proposed for 250 multi-family units. There is a demand for additional dwelling units. The west side of 70<sup>th</sup> Street focuses on commercial development

and includes a grocery store, convenience store and fuel station. He handed out a motion to amend that addresses five issues on the conditions of approval. MTA #1 would allow parking in the pipeline planning area. He believes staff agrees with that. He wanted to get the comments on record from Dave Beyersdorf regarding MTA #5. One condition is regarding parking in the setback. They would still have to comply with screenings. Another amendment addresses the connecting street. There are floodplain and topographic challenges. They wanted to discourage cut-through traffic. The last amendment, MTA #4, relates to clarify comments specific to Watershed Management.

**Brad Marshall, Olsson Associates, 601 'P' Street, Suite 200, Lincoln, NE reviewed the** waivers. He mentions that the traffic study was submitted and in review. There is one deviation that discusses turn lanes. They will be working with LTU staff on geometrics on the 70<sup>th</sup> Street side. The Access Management Policy would dictate that connecting to an arterial roadway will require right turn lanes. Those are not being contested, just how it is done. 70<sup>th</sup> Street has railroad tracks to the north. He knows the city worked with the owner on the west side. They will work with staff. He wanted to speak to the amendment. They are asking for a reduction of setbacks. Marshall states that it is common in this zoning district to have perimeter setbacks. He pointed out building setbacks but are asking for 20-foot setbacks for the buildings. He thinks this is commonplace within commercial developments. This is a private roadway, not public. Harvest Hills across the street has a similar waiver. Wilderness Hills has private roadways as well. There are still street trees and sidewalks. The second proposed motion to amend is regarding the street connection. City staff has asked for a connection. He pointed out the drainage and detention. The last amendment is from Watershed Management as well. They tried to clarify the floodplain from a development perspective. New growth standards apply to this project and will be in compliance. One is LOMR is being requested. They are also trying to clarify that the floodplain can encroach into the commercial lots. They have done a good job to remove most of it. There was a comment regarding the driveway extending to the mini-storage units. In preliminary conversations with Watershed Management, it was suggested they downsize the storm event that the driveway can carry for the train structures. Anything over a 5-year event will go over the driveway. Watershed Management has asked to carry a 50-year event. On 70<sup>th</sup> Street and Bridle Lane, there is a triple box culvert. Watershed Management is saying the applicant needs to meet the 50-year standard. They felt they were following the guidance and then management at Watershed Management changed.

Edgerton asked about the first motion to amend. Asked if the applicant is hoping to allow parking in the setback for bigger buildings or better use of land. Marshall thinks if this was a commercial center, Planning staff would be okay with it. This isn't a gigantic commercial center. He thinks it makes more sense to utilize more of the property that has a lot of constraints. Edgerton asked if the applicant is having any problems trying to meet the required parking. Marshall responded no.

Campbell would like the applicant to go over the site of the detention basin and the street again. Marshall noted the site was selected due to the way the property was laid out. They thought from the grocery store position with the apartments to the west, they felt the traffic was going to go through north/south anyway and decided to utilize the space as green space and detention. Campbell noted with culverts underneath the driveway to the storage units and the applicant wanting to size those to a 5-year instead of a 50-year event, if that detention basin is to get the holding water that the small culverts would let through. Marshall stated they aren't trying to attenuate the drainage. They don't want to back up the water behind the driveway. There are lower flows and higher flows that can top over the driveway. Another regulation on the floodplain side, they could have been put into a situation because of the rise to the floodplain. Campbell noted the applicant could overflow the road and get some broadening while doing that. How do you anticipate handling that? Some commercial pad sites are lower. Marshall stated that right now, it is designed to go over the top. For all pad sites, the building elevations will be above minimal. Those will be set appropriately. Campbell knows the area and the three bay boxes on Pine Lake Road and Blanchard Road have helped to move the water. He can see where some of these commercial sites might have problems. There are times there is a lot of water sitting in that property. Marshall noted that 70<sup>th</sup> Street is unimproved and a box culvert that needs to be improved.

Edgerton asked about Bridle Lane and if it were to be constructed, what it would mean in terms of construction if 72<sup>nd</sup> Street connected on the back side of the building. Marshall answered that they haven't done that analysis yet. They would have to find the storage outside of the realms of the floodplain.

Eddins asked the applicant if driveway is the only way in and out of area. Marshall agreed and stated it's the result of proximity to railroad tracks.

Campbell noted the 300-foot railway corridor and the storage units on the map. He asked about the requirements of a 300-foot railway. Marshall believes it is recommended because the railway may carry hazardous materials so the types of uses in those areas are limited. He would compare it to the pipeline planning area. Campbell knows the pipeline standards. He believes they allow commercial. Marshall agreed. No housing can be built there.

**Proponents:**

No one came forward in support.

**Opposition:**

No one came forward in opposition.

**Staff Questions:**

Edgerton requested staff perspective on the applicant-requested waivers. Will responded that the first one relative to the 25-foot setback, staff does not support that. When there are driveways through developments, private roadways and public streets aren't treated different. Staff feels this should be treated like any other roadway, providing for open space, and having that setback from a roadway is typical throughout Lincoln. Planning staff is not aware of a unique circumstance in this point. The second point is for clarification. Staff has no issue with that. MTA #3 is for the street connection behind the store. Planning staff feels that connection is very important. It feels like poor planning to have no connection from the north to the site. This could have been laid out very differently. Forcing people to drive in front of a pedestrian heavy grocery store doesn't make sense. MTA #4- Watershed can address. MTA #5 was clarification--staff has no issue with that either. Will would like Tim Zach from watershed to speak to MTA #4.

**Tim Zach, Watershed Management, 555 S. 10<sup>th</sup> Street, Suite 203, Lincoln, NE**, received the memo regarding waivers yesterday. He hasn't had time to work through these. He will work with engineer and applicant.

Corr doesn't support number 4 now. Zach agreed. He does not support but could later be worked out. There hasn't been a chance to discuss these yet.

Edgerton asked if Zach sees another option regarding detention if connection was done as asked by staff. Zach says that its possible, but you may possibly lose developmental land.

**Steve Henrichsen, Planning Department, 555 S. 10<sup>th</sup> Street, Suite 213, Lincoln, NE** clarified that Brad Marshall mentioned the Harvest Hills development relative to internal to site are driveways. They do not have setbacks but along private roadways there are 20-foot setbacks. All along the public streets are 25-foot setbacks. Harvest Hills didn't have the waiver requests that this is asking for. A 20-foot setback along public streets is very typical. He wanted to note also that the street connection for the proposed development was shown on an exhibit regarding the floodplain.

Campbell noted with Yankee Hill Road being right-in, right-out, it is very likely someone from the apartment could come in off 70<sup>th</sup> Street and must go in front of the grocery store to get to their apartment. Henrichsen point out an existing roundabout. The access point now is off the property.

Campbell noted with Yankee Hill Road being right-in, right-out only it is likely that someone from apartments will come in off 70<sup>th</sup> Street and having to go in front of the grocery store to get to their apartment. Henrichsen points out an existing roundabout.

Corr inquired where Harvest Hills is located. Steve states that it's being developed.

Corr is trying to think outside the box. If the applicant did something in front of the grocery store, would that ease some of the staff concerns about connecting 72<sup>nd</sup> Street and Bridle Lane? It could be a barrier. She doesn't know if that would be islands or something. Will stated they aren't trying to discourage access. Driving in front of a store is a bad idea. Staff is suggesting making that easier and safer. The best option is to build the street that is suggested. He doesn't believe the cut-through traffic argument is valid. Corr wondered if you could establish more of a drive aisle in the parking lot as an acceptable alternative. Will doesn't believe that changes the dynamic or the condition.

Campbell pointed out a possibility for a connection. Will stated that a roadway connection where Campbell pointed out could be problematic. He believes it is probably unlikely.

Corr noted that in the staff report under 9a talks about a PUD note and clarifying use. She doesn't see them in the site conditions. Will noted that states the language needs to be revised a little. The applicant is limiting themselves unnecessarily. Staff is suggesting modifying the language so it can be opened to a few other things.

#### **Applicant Rebuttal:**

Huston wanted to talk about the motions to amend. They would like action on the two amendments that staff agree on. They are still in discussion regarding the annexation agreement and the other conditions are still being discussed.

Campbell asked about the roadway connection being proposed by staff. He asked where detention would be if that was done. Marshall doesn't have an immediate answer. They are still working with Watershed Management. He feels they presented a plan to comply with regulations. There are still items to work through. The setbacks come into play as well. There are some challenges to this site.

Campbell noted the applicant is asking to go ahead with MTA #2 and MTA #5. Marshall believes both sides are agreed on those.

Campbell moved to close public hearing, seconded by Corr and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

#### **COMPREHENSIVE PLAN AMENDMENT 22002**

#### **ACTION BY PLANNING COMMISSION:**

Campbell moved approval, seconded by Corr.

Campbell believes there must be some solutions to the detention without sacrificing developable land. He believes the other amendments as proposed need to stay in place at this point and he would support the Planning Dept. recommendation.

Eddins noted the roundabout is there for access. She thinks people going to the storage on the north side is a little isolated. She doesn't believe that is a big deal. She believes a larger culvert is acceptable.

Corr believes the Comprehensive Plan Amendment and Annexation make sense to go forward. She is pleased the Comprehensive Plan can be amended so this property can be developed. She would support Campbell's idea on the waivers.

Rodenburg asked if the waivers would come before Planning Commission. Edgerton noted that would most likely be between the department and applicant.

Motion carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

#### **ANNEXATION 21010**

##### **ACTION BY PLANNING COMMISSION:**

Campbell moved conditional approval as set forth in the staff report dated February 3, 2022, seconded by Corr, and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost

#### **CHANGE OF ZONE 21053**

##### **ACTION BY PLANNING COMMISSION:**

Campbell moved conditional approval as set forth in the staff report dated February 3, 2022, recommending the approval of MTA #2 and MTA #5 as presented by the applicant and agreed upon by staff; seconded by Rodenburg and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost.

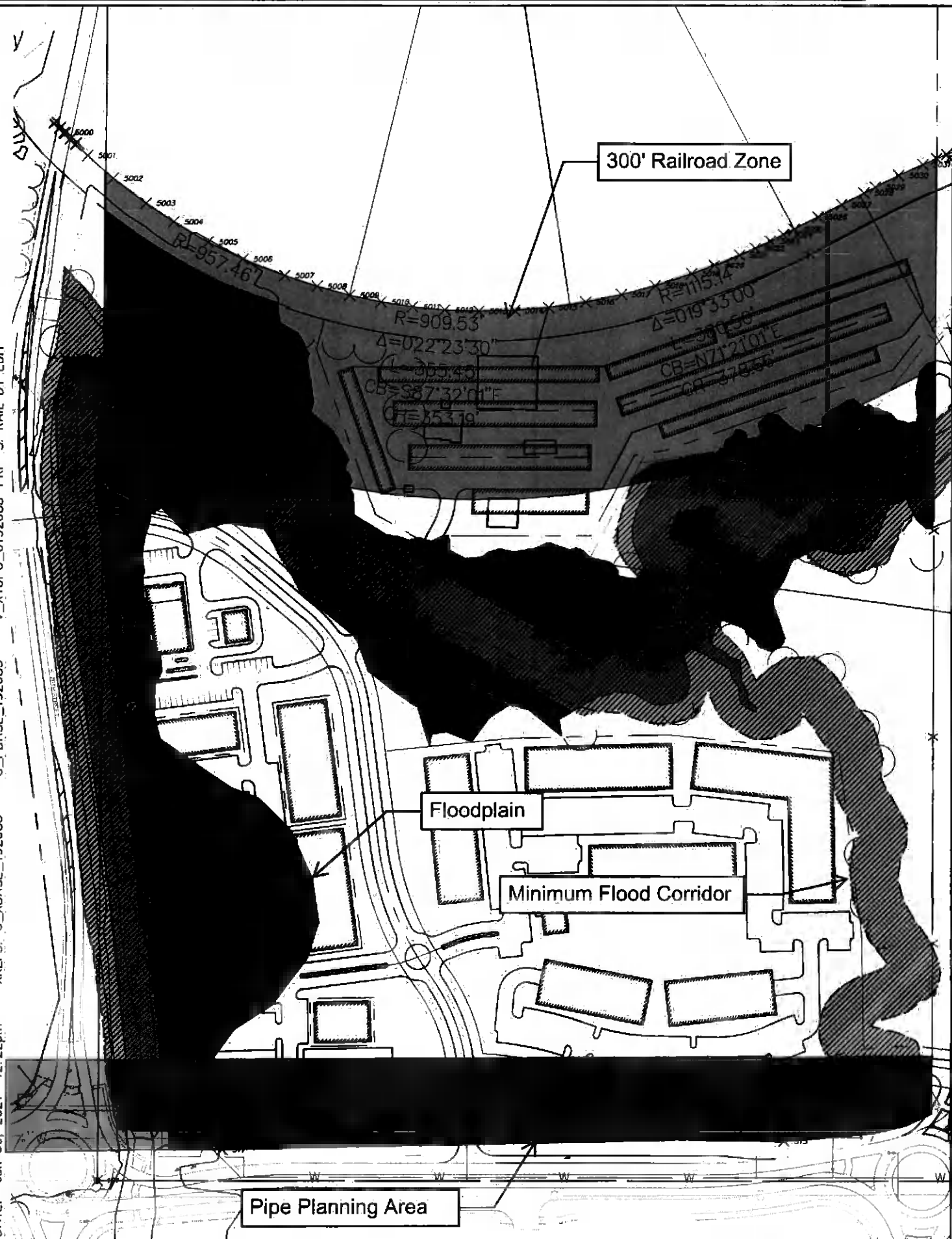


**Motion to Amend- Market Pointe PUD  
Change of Zone #21053**

The applicant, Alan Baade, hereby requests that the Conditions of Approval for Change of Zone #21053 be amended to include the following amendments with the revisions depicted as "*italicized*" font:

- **Motion to Amend #1**: Revise Condition of Approval 1.1.3 to revise Waiver Note #1 to state: Setbacks for Area A and Area B are adjusted to 0' with the following exceptions: a) A 20' setback (to buildings and parking) around the entire perimeter boundary of the PUD; b) a 20' setback (for buildings only) (*allow parking*) where adjacent to private roadways; and c) A minimum 50' separation shall be maintained between any commercial and residential building;
- **Motion to Amend #2**: Revise Condition of Approval 1.1.8 to revise Note #11 to state that Structures for residential dwellings, childcare facilities, schools, healthcare facilities or retirement facilities are prohibited in the Pipeline Planning Area. *Garages and parking for residential uses are permitted in the Pipeline Planning Area;*
- **Motion to Amend #3**: Delete Condition of Approval 1.1.11
- **Motion to Amend #4**: Delete Condition of Approval 1.1.13 and replace it with the following specific comments of LTU/Watershed:
  1. *All buildings shall be graded at least 1 foot above the Base Flood Elevation (BFE). Floodplain may encroach on non-residential lots and residential multifamily lots.*
  2. *Add the following note to the cover sheet "A floodplain development permit shall be approved prior to any grading work in the existing floodplain.*
  3. *The driveway crossing to Lot 8 must be sized to pass the 5-year event without any freeboard.*
  4. *Provide a detail on the plans of the drainage structure at the Bridle stream crossing showing elevations of the relevant storm events (10-, 50-, 100-year). Show a detail for the driveway to Lot 8 showing elevations of the 5-year storm event.*
  5. *All public streets and private roadways shall be 1 foot above 50-year event with 1 ft of freeboard.*
- **Motion to Amend #5**: Delete Condition of Approval 1.1.14 and replace it with: "Make other corrections and modifications per the published comments dated February 1, 2022 from Dave Beyersdorf of LTU/Water Systems."

DWG: F:\2019\2501-3000\019-2683\40-Design\Exhibits\2021-04-15\_Site Plan Exhibit.dwg USER: bbartek  
DATE: Jun 09, 2021 12:22pm XREFS: C\_XBASE\_192683 C\_PBASE\_192683 V\_XTOPO\_0192683-PRP-S: RAIL DT EDIT



PROJECT NO: 019-2683  
DRAWN BY: BPS  
DATE: 6.9.21

# SITE EXHIBIT



601 P Street, Suite 200  
P.O. Box 84600  
Lincoln, NE 68508  
TEL 402.474.6311

DATE: 10/15/2011 11:58 AM  
PROJECT: MARKET POINTE PUD  
SHEET: 4 OF 10  
SCALE: AS SHOWN  
DRAWN BY: J. HARRIS  
CHECKED BY: J. HARRIS  
DATE: 10/15/2011 11:58 AM  
PROJECT: MARKET POINTE PUD  
SHEET: 4 OF 10  
SCALE: AS SHOWN  
DRAWN BY: J. HARRIS  
CHECKED BY: J. HARRIS



**MARKET POINTE PUD**  
**R-3 PLANNED UNIT DEVELOPMENT**  
**GRADING PLAN**



LOWEST FLOOR ELEVATION	
LOT	ELEVATION
1	1241.88
BLOCK A	-307.66
BLOCK B	-307.66
2	1240.09
3	1238.71
4	1238.34
5	1238.01
6	1237.33
7	1237.06
8	1237.06
9	1237.71

- GRADING LEGEND**
- PROPOSED STONE SEALER
  - PROPOSED STORM SEWER
  - PROPOSED DRAINAGE BASIN
  - PROPOSED WALKWAY CONTOUR
  - PROPOSED SLOPE CONTOUR
  - EXISTING MAJOR CONTOUR
  - EXISTING MINOR CONTOUR
  - RIGHT-OF-WAY
  - PROPERTY LINE
  - ROADWAY CENTERLINE
  - STORM STRUCTURE
  - WATER QUALITY
  - DRAINAGE AREA LABEL
  - WET FLOOD CONTROL
  - 100-YR FLOODPLAIN
  - FLOODWAY
  - PROPOSED 100-YR FLOODPLAIN

**olsson**  
 10100 15th Street, Suite 100  
 Denver, CO 80202  
 Tel: 303.733.1111  
 www.olsson.com

DATE: \_\_\_\_\_  
 SHEET: 4 OF 10

GRADING PLAN  
 MARKET POINTE PUD  
 R-3 PLANNED UNIT DEVELOPMENT

PROJECT: MARKET POINTE PUD  
 SHEET: 4 OF 10

**Brenda J. Thomas**

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**From:** OpenForms <noreply@openforms.com>  
**Sent:** Wednesday, January 5, 2022 7:25 PM  
**To:** Brenda J. Thomas  
**Subject:** PC Public Record Comment  
**Attachments:** SubmissionReceipt-PlanningCommissionPublicRecordComment-322.pdf



**PC Public Record Comment**

Name: Joshua Malousek  
Email: joshuamalousek@hotmail.com  
Home Address: 6740 Monarch Drive  
Application Number or Project Name:  
Application # CZ21053  
Your Position on the Application:  
In Support  
Comments:  
I am in support on the application for this to be developed commercially  
as outlined

## PLANNING

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**From:** OpenForms <noreply@openforms.com>  
**Sent:** Wednesday, January 5, 2022 7:42 PM  
**To:** Brenda J. Thomas  
**Subject:** PC Public Record Comment  
**Attachments:** SubmissionReceipt-PlanningCommissionPublicRecordComment-323.pdf



### PC Public Record Comment

Name: Cameron Duba  
Email: cduba@robseeco.com  
Home Address: 6725 monarch dr

Application Number or Project Name:  
CZ21053

Your Position on the Application:

In Support

Comments:

I am in support on the application for this to be developed commercially as outlined!

## PLANNING

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**From:** Stacy Clouse <stacyclouse@gmail.com>  
**Sent:** Sunday, January 2, 2022 3:11 PM  
**To:** Planning  
**Subject:** 70th & Yankee Hill Development

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good Afternoon,

I reside at 9502 S 71<sup>st</sup> St and I'm writing this letter in support of allowing commercial property and a grocery store at the NE corner of 70<sup>th</sup> and Yankee Hill. I feel using this land for this use would be of much greater value to the community surrounding this area than more housing. As a High School moves into the community, it will be important for us to have more amenities, such as grocery, in close proximity. Currently, I have to cross HWY 2 in order to get to a full service grocery store making necessary trips to put food on the table a hassle. I am happy to speak more to this topic and can be reached at 402.450.3333.

Stacy Clouse

## PLANNING

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**From:** OpenForms <noreply@openforms.com>  
**Sent:** Sunday, January 2, 2022 2:45 PM  
**To:** Brenda J. Thomas  
**Subject:** PC Public Record Comment  
**Attachments:** SubmissionReceipt-PlanningCommissionPublicRecordComment-318.pdf



### PC Public Record Comment

**Name:** Blake Pittack  
**Email:** blake.blakebuilders@gmail.com  
**Home Address:** 6833 Monarch Dr

**Application Number or Project Name:**  
NE corner of 70th and Yankee Hill Rd  
**Your Position on the Application:**

In Support

**Comments:**

Our family neighborhood is in strong support of a commercial development for retail, grocery and restaurants. The housing in this area has continued to increase and it's time for more retail and grocery options for the expanded area of SE Lincoln. Please consider changing this zoning for our neighborhood(s) in SE Lincoln.

## PLANNING

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**From:** OpenForms <noreply@openforms.com>  
**Sent:** Monday, January 3, 2022 8:39 AM  
**To:** Brenda J. Thomas  
**Subject:** PC Public Record Comment  
**Attachments:** SubmissionReceipt-PlanningCommissionPublicRecordComment-319.pdf



### PC Public Record Comment

Name: Amanda Knight  
Email: alpayne87@gmail.com  
Home Address: 9420 Fairbanks Dr, Lincoln NE  
Application Number or Project Name:  
Annexation 21010 and CZ 21053  
Your Position on the Application:  
In Opposition

Comments:

As a resident located SE of the 70th & Yankee Hill roundabout, I'd like to see some mixed use, commercial development in that area. A neighborhood grocery store and some retail/restaurants would really add to that area. While I'm in support of additional housing to help with Lincoln's housing shortage, I'd also like to see some commercial development approved for that area as well.



**ORDINANCE NO. 21538**

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**AN ORDINANCE** Annexation 21010 - Application of Baade Properties, LLC, to annex approximately 41.99 acres, more or less, on property generally located northeast of South 70 Street and Yankee Hill Road. (Related Items: 23-139, 23-140, 23R-595, 23R-596)

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**Read First Time** November 20, 2023  
**Read Second Time** December 4, 2023  
**Read Third Time** December 11, 2023  
**Passed** December 11, 2023  
**Published in** Lincoln Journal Star  
**on** December 22, 2023

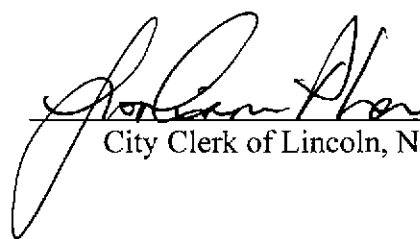
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**CERTIFICATE**

State of Nebraska     )  
                                  ) ss  
County of Lancaster )

I, the undersigned, City Clerk of the City of Lincoln, Nebraska, do hereby certify that the within ordinance is the original Ordinance No. 21538 as passed by the City Council of said City, as indicated above, and as approved by the Mayor of said City and as the same appears of record in my office and is now in my charge remaining as City Clerk aforesaid.

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of the City of Lincoln, Nebraska this 13<sup>th</sup> day of December, 2023.

  
City Clerk of Lincoln, Nebraska

