



A93153

21R-566

Introduce: 12-6-21

RESOLUTION NO. A- **93153**

BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Conditional Zoning Agreement for a parcel of real property generally located east of S. 40<sup>th</sup> Street between Grainger Avenue and Yankee Hill Road which is attached hereto, marked as Attachment "A", and made a part hereof by reference, between the City of Lincoln and MBH Landholdings, LLC, Himark Land Investments, LLC, Apples Way , LLC, and Guy Lammle for the development of property generally located at 40<sup>th</sup> and Grainger and re-zoning the property from AG Agricultural District to H-4 General Commercial PUD, O-3 Office Park PUD, and R-3 Residential PUD as set forth in the Agreement, is hereby approved and the Mayor is authorized to execute the Conditional Zoning Agreement on behalf of the City.

BE IT RESOLVED that the City Clerk is directed to return one fully-executed copy of this Agreement to the Planning Department for distribution to the Property Owner.

BE IT FURTHER RESOLVED that the City Clerk is directed to file the Conditional Zoning Agreement for property generally located along the eastside of S. 40<sup>th</sup> Street between Grainger Avenue and Yankee Hill Road with the Lancaster County Register of Deeds with the recording fees to be paid in advance by the Property Owner.

See further Council Proceedings on next page.

Introduced by:

AYES: Bowers, Meginnis, Raybould, Shobe, Ward, Washington; NAYS: None; CONFLICT OF INTEREST: Beckius

Approved as to Form & Legality:

  
City Attorney

Approved this 12<sup>th</sup> day of JAN, 2022.  
  
Mayor

**ADOPTED**

JAN 10 2022

**BY CITY COUNCIL**

AMENDED 1/10/22

**21R-566**

12/20/21 Council Proceedings:

SHOBE Moved to delay action three weeks to 1/10/21.

Seconded by Meginnis & carried by the following votes: AYES: Bowers, Meginnis, Shobe, Ward; NAYS: None; ABSENT: Beckius, Raybould, Washington.

1/10/22 Council Proceedings:

RAYBOULD Moved Motion to Amend No. 1 to amend Bill No. 21R-566 introduced on December 6, 2021, by adopting the Substitute Attachment "A" attached hereto.

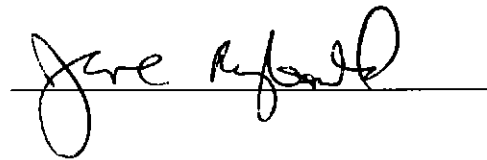
Seconded by Washington & carried by the following votes: AYES: Bowers, Meginnis, Raybould, Shobe, Ward, Washington; NAYS: None; CONFLICT OF INTEREST: Beckius.

21R-566

MOTION TO AMEND NO. 1

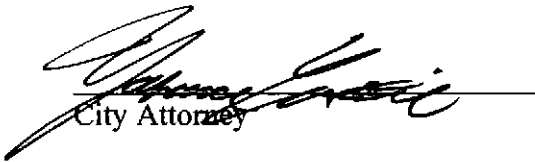
I hereby move to amend Bill No. 21R-566 introduced on December 6, 2021, by adopting the Substitute Attachment "A" attached hereto

Introduced by:



AYES: Bowers, Meginnis, Raybould, Shobe,  
Ward, Washington; NAYS: None;  
CONFLICT OF INTEREST: Beckius

Approved as to Form and Legality:

  
City Attorney

Requested by: City Law Department

Reason for Request: This Motion to Amend adopts a substitute agreement that removes the concept of a Lead Developer being responsible for the required improvements and instead makes it the responsibility of all four landowners who are parties to the agreement.

**ADOPTED**

JAN 10 2022

**BY CITY COUNCIL**

**CONDITIONAL ZONING AGREEMENT  
FOR  
40<sup>TH</sup> AND GRAINGER**

This Conditional Zoning Agreement ("Agreement") affecting a parcel of real property generally located east of S. 40<sup>th</sup> Street between Grainger Avenue and Yankee Hill Road is made and entered into as of the date of execution by the last signatory hereto as indicated below by and between the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation ("City") and **MBH LANDHOLDINGS, LLC**, a Nebraska limited liability company, **Apples Way, LLC**, a Nebraska limited liability company, **Himark Land Investments, LLC**, a Nebraska limited liability company, and **Guy Lammle** ("Developers").

**RECITALS**

1. Developers own or control four parcels of real estate legally described on Exhibit A generally located along the east side of S. 40<sup>th</sup> Street between San Mateo Lane and Yankee Hill Road, Lincoln, Nebraska. MBH Landholdings, LLC, Apples Way, LLC, and Himark Land Investments, LLC have petitioned the City for a change of zone for the Property from AG Agricultural District to R-3, H-4, and O-3 Planned Unit Development. The legal descriptions of the zoning change applications are attached as Exhibit B.
2. Approval of the change of zone will allow Developers to put the Property to a commercial use immediately adjacent to S. 40<sup>th</sup> Street with a transition to single family residential as one progresses northeast across the Property.
3. Developers agree and acknowledge that the commercial development of the Property will have a significant impact on traffic patterns in the area surrounding the Property including, but not limited to, traffic on both Yankee Hill Road and South 40<sup>th</sup> Street. In order to accommodate the impact development of the Property is likely to create, Developers enter into this agreement

with the City to facilitate the construction of a number of road improvement projects in the vicinity of the Property.

## **TERMS AND CONDITIONS**

NOW, THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. **City Approvals.** City agrees to approve Change of Zone #19031A thereby changing the zoning designation for the Property from AG to R-3 Residential District Planned Unit Development, O-3 Office Park Planned Unit Development, and H-4 Highway Commercial District Planned Unit Development as shown on Exhibit B, attached.
2. **Street Improvements.** Developers agree to design and construct the following arterial street improvements through the City's executive order construction process:
  - a. **S. 40<sup>th</sup> Street and Pine Lake Road.** Developers will design and install new striping for the westbound to southbound left turn lane at the intersection of S. 40<sup>th</sup> Street and Pine Lake Road. In addition, Developers will coordinate with the City to install a new traffic signal head for westbound traffic at said intersection. The restriping of the turn lane and installation of the additional traffic signal head shall be referred to herein collectively as the "Pine Lake Road Improvements".
  - b. **South 40<sup>th</sup> Street and Yankee Hill Road.** Developers will design and construct or install the following improvements in South 40<sup>th</sup> Street and Yankee Hill Road at the intersection of said streets. Said improvements shall be made through the City's executive order construction process. The specific improvements are as follows:

- i. Design and install new traffic lane striping for the westbound to southbound left turn lane and install the associated signal head addition
- ii. Design and install new traffic lane striping for the eastbound to northbound left turn lane and install the associated signal head addition
- iii. Design and install new traffic lane striping for the southbound to eastbound left turn lane and install the associated signal head addition
- iv. Design and construct a new westbound to northbound right turn lane with a minimum 235' allowance for storage and an additional 45' for deceleration.

The improvements described above in Subsections 2.b.i-iv. shall be collectively be referred to throughout this Agreement as the “South 40<sup>th</sup> and Yankee Hill Road Improvements”.

c. South 40<sup>th</sup> and Grainger Parkway. Developers will design and construct or install the following improvements in South 40<sup>th</sup> Street and Grainger Parkway at the intersection of said streets. Said improvements shall be made through the City's executive order construction process. The specific improvements are as follows:

- i. Design and construct a northbound to eastbound right turn lane with a minimum 80' of vehicle storage in S. 40<sup>th</sup> Street. The construction of this new turn lane shall include the relocation of the existing traffic signal pole located generally at the southeast corner of the intersection.
- ii. Design and construct those improvements necessary to create a combined traffic lane to facilitate both eastbound through movements and southbound right turn movements including, at a minimum, installing new traffic lane striping in Grainger Parkway on the west side of S. 40<sup>th</sup> Street.

- iii. Design and construct dual southbound to eastbound left turn lanes with a minimum of 220' of storage in S. 40<sup>th</sup> Street and realign the northbound through lanes to account for said left turn lanes.
- iv. Design and construct westbound right and left turn lanes and eastbound lanes in Grainger Parkway on the east side of S. 40<sup>th</sup> Street.
- v. Install new mast arms and, where necessary, new traffic signal heads for the traffic signal poles located at the southwest and southeast corners of the intersection to account for the newly constructed turn lanes in S. 40<sup>th</sup> Street at this intersection.

The improvements described above in Subsections 2.c.i-v. shall be collectively be referred to throughout this Agreement as the “South 40<sup>th</sup> and Grainger Parkway Improvements”.

- 3. The Pine Lake Road Improvements, the South 40<sup>th</sup> and Yankee Hill Road Improvements, and the South 40<sup>th</sup> and Grainger Parkway Improvements are all shown and depicted on Exhibit C, which is attached hereto.
- 4. The City and the Developers acknowledge that the costs of the South 40<sup>th</sup> and Yankee Hill Road Improvements and the South 40<sup>th</sup> and Grainger Parkway Improvements for which Developers will be requesting reimbursement from the City as described herein are expected to exceed \$100,000.00. As such, Developers agree that the construction of said improvements shall be publicly bid through the City’s Purchasing Division as a condition precedent to Developers receiving reimbursement for said improvements.
- 5. Developers acknowledge, agree to, and does hereby relinquish any access rights to Yankee Hill Road from the Property.

6. **City Reimbursement from Arterial Street Impact Fee Facilities.** Except as provided below, the Pine Lake Road Improvements, the S. 40<sup>th</sup> and Yankee Hill Road Improvements, and the S. 40<sup>th</sup> and Grainger Parkway Improvements are considered Impact Fee Facility Improvements, as that term is defined in Chapter 27.82 of the Lincoln Municipal Code. As such, the City agrees to reimburse Developers for the cost of said improvements from arterial street impact fees generated by development of the Property. In order to accomplish this, the City agrees to segregate arterial street impact fees collected by the City from development of the Property which shall hereinafter be known as the **“Impact Fee Area”** and which is depicted by the cross-hatched area on Exhibit “D” attached hereto.

- a. Agreement among Developers. Arterial street impact fees collected from the Impact Fee Area shall be used to reimburse Developers for the actual costs of designing and constructing the Pine Lake Road Improvements, the S. 40<sup>th</sup> and Yankee Hill Road Improvements, and the S. 40<sup>th</sup> and Grainger Parkway Improvements. The arterial street impact fees collected from the Impact Fee Area shall be paid to Developers on a quarterly basis by the City until Developers have been fully reimbursed the costs of designing and constructing said improvements. Developers have entered into a separate agreement dividing responsibility for payment of design professionals and actual costs of the Street Improvements detailed in paragraph 2 above. Prior to acceptance of any bid(s) for the Street Improvements, Developers shall provide to the City a copy of the separate agreement, which shall include a division of responsibility, stated as a percentage of the total cost, which each of the Developers shall be entitled to receive, as impact fees segregated from



the Impact Fee Area become available. Developers agree that they shall not be entitled to be paid any interest by the City for the costs of designing and constructing said improvements. Notwithstanding the foregoing, Developers acknowledge and agree that new mast arms and traffic signal heads are not Impact Fee Facility Improvements, and the cost of installing new mast arms and any additional traffic signal heads shall be solely the cost of Developers and shall not be reimbursed by the City from arterial street impact fees.

7. **Dedication of Right-Of-Way.** At the time of final platting or upon the earlier request by the City, Developers agree to dedicate or convey, at no cost to the City, any additional right-of-way necessary to accommodate the S. 40<sup>th</sup> and Yankee Hill Road Improvements and the S. 40<sup>th</sup> and Grainger Parkway Improvements.
8. **Notice.** Any notices required to be forwarded to a party hereto shall be deemed appropriately given or delivered if sent by registered or certified United States Mail, postage prepaid, return receipt requested, addressed or delivered personally as follows:

- (1) If to the City:

Mayor  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508

with a copy to:

City Attorney  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508

- (2) If to Developers:

MBH LANDHOLDINGS, LLC  
2627 Kendra Lane  
Lincoln, Nebraska 68512

Himark Land Investments, LLC  
7600 San Mateo Lane  
Lincoln, Nebraska 68516

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Guy Lammle  
7600 San Mateo Lane  
Lincoln, Nebraska 68516

Apples Way, LLC  
Attn: William F. Langdon  
6333 Apples Way  
Suite 115  
Lincoln, NE 68516

With a copy to:

Mark A. Hunzeker  
6333 Apples Way  
Suite 115  
Lincoln, NE 68516

Any party hereto may change its address for notification purposes by written notice to all parties hereto in the manner and method set forth within this paragraph.

9. **Binding Effect**. This Agreement shall run with the Property and be binding upon and inure to the benefit and burden of successors and assigns of the respective parties.
10. **Amendments**. This Agreement may only be amended or modified in writing signed by the parties hereto.
11. **Governing Law**. All aspects of this Agreement shall be governed by the laws of the State of Nebraska.

12. **Interpretations.** Any uncertainty or ambiguity existing herein shall not be interpreted against any party because such party prepared any portion of this Agreement but shall be interpreted according to the application of rules of interpretation of contracts generally.
13. **Authority.** The City and Developers each represent and warrant that said party has the authority to enter into this Agreement and perform the party's obligations hereunder and has taken all steps to legally exercise that authority. All necessary actions to duly approve the execution, delivery, and performance of this Agreement has been undertaken by each party and this Agreement constitutes a valid and binding agreement of the parties, enforceable in accordance with its terms.
14. **Construction.** Whenever used herein, including acknowledgments, the singular shall be construed to include the plural, the plural the singular, and the use of any gender shall be construed to include and be applicable to all genders as the context shall warrant.
15. **Relationship of Parties.** Neither the method of computation of funding or any other provisions contained in this Agreement or any acts of any party shall be deemed or construed by the City, Property Owners, or by any third person to create the relationship of partnership or of joint venture or of any association between the parties other than the contractual relationship stated in this Agreement.
16. **Recording.** This Agreement shall be recorded against the Property by the City with the Register of Deeds of Lancaster County, filing fees therefor to be paid in advance by Developers.
17. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

[SIGNATURE PAGES TO FOLLOW]

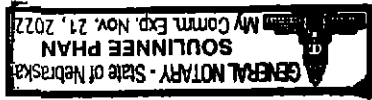
IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date and year first above written.

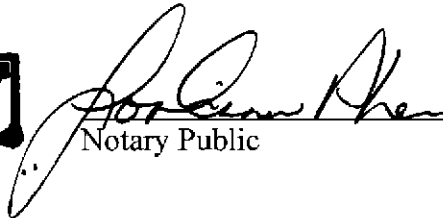
**CITY OF LINCOLN, NEBRASKA,**  
a municipal corporation

By:   
Leirion Gaylor Baird, Mayor of Lincoln

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 12 day of January, 2024, by Leirion Gaylor Baird, Mayor of the City of Lincoln, Nebraska, a municipal corporation.



  
Notary Public



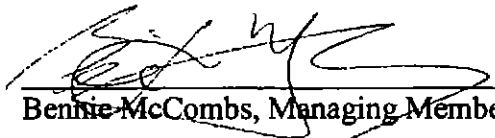






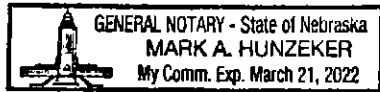


**APPLES WAY, LLC,**  
a Nebraska limited liability company

By:   
Bennie McCombs, Managing Member

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 10 day of January 2022, by Bennie McCombs, Managing Member of Apples Way, LLC, a Nebraska limited liability company on behalf of said limited liability company.



  
Notary Public

## **EXHIBIT A**

### **The Property**

#### **MBH Holdings, LLC Property**

That portion of Lot 2, Speidel 1<sup>st</sup> Addition, located in the West Half of the Southwest Quarter (W1/2 SW1/4) of Section Twenty (20), Township Nine (9) North, Range Seven (7) East of the 6<sup>th</sup> Principal Meridian, Lincoln, Lancaster County, Nebraska being described as follows:

Commencing at the Southeast corner of Lot 2, Speidel 1<sup>st</sup> Addition, said point being on the North 50 foot right of way line for Yankee Hill Road; thence Westerly on the said North right of way line, S89°51'08"W a distance of 1,414.75 feet to the point of beginning; thence continuing on said right of way line for the next six (6) courses, Westerly, S89°51'08"W a distance of 542.53 feet; thence Northerly N0°08'52"W a distance of 10.00 feet; thence Westerly, S89°51'08"W a distance of 73.32 feet; thence Northerly, N44°57'03"W a distance of 25.45 feet to a point on the East right of way line of South 40<sup>th</sup> Street; thence Northerly on said East right of way line for the next two (2) courses), N0°05'32"E 881.68 feet; thence N0°57'12"W 187.55 feet; thence Easterly, S89°55'03"E feet, to a point on a circular curve turning in a clockwise direction having a radius of 525.00 feet, a central angle of 26°46'42", and arc lengthly of 245.37 feet; thence on said curve, having a chord of S21°32'24"W 243.14 feet to a point on a circular curve turning in a counterclockwise direction having a radius of 180.80 feet, a central angle of 83°03'09", and an arc length of 262.08 feet; thence on said curve, having a chord of S60°08'45"E 272.94 feet, to a point on a circular curve turning in clockwise direction having a radius of 417.00 feet, a central angle of 75°06'47", and an arc length of 546.67 feet; thence on said curve, having a chord of S37°25'29"E 508.36 feet; thence Southwesterly, S46°17'05"W 109.70 feet, to the point of beginning.

#### **Guy Lammle Property**

Lot 1, Speidel 1<sup>st</sup> Addition, City of Lincoln, Lancaster County, Nebraska.

## **Himark Land Investments, LLC Property**

Parcel 1: That part of the remaining portion of Lot 1 and part of Lot 2, Speidel 1<sup>st</sup> Addition further described as Parcel 2 in Lancaster County Register of Deeds Instrument No. 2020-014176 recorded April 6, 2020 more particularly described as follows:

Commencing at the Northwest Corner of Lot 1, Speidel Addition, thence Easterly on the North line of said Lot 1, S89°59'29"E a distance of 371.75 feet to the point of beginning; thence continuing Easterly on said North line for the next 3 courses, S89°59'29"E 35.21 feet; to a point on a circular curve turning in a counter clockwise direction, having a radius of 600.00 feet, a central angle of 8°01'41", and an arc length of 84.07 feet; thence on said curve, having a chord of N85°59'41"E 84.00 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 1102.02 feet, a central angle of 9°07'11", and an arc length of 175.41 feet; thence on said curve, having a chord of N77°25'15"E 175.22 feet, to the Northwest Corner of Lot 1, Speidel 1<sup>st</sup> Addition; thence Southerly on the West line of Lot 1, Speidel 1<sup>st</sup> Addition, S00°01'26"W 491.18 feet, to the Southwest Corner of said Lot 1; thence Easterly on the South line of said Lot 1, S89°58'34"E 104.35 feet; thence Northeasterly on the Southeasterly line of said Lot 1, N45°08'29"E 50.10 feet; thence Southeasterly, S36°49'24"E 470.40 feet; thence Southerly, S00°00'00"E 694.04 feet; thence Westerly, N90°00'00"W 339.25 feet; thence Northerly, N00°00'00"E 252.92 feet, thence Westerly, N89°55'03"W 372.87 feet; thence Northerly, N00°01'26"E 1229.00 feet, to the point of beginning except that part of Lot 2, Speidel 1<sup>st</sup> Addition, located in the Southwest Quarter of Section 20, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska more particularly described as follows:

Beginning in the Southeast corner of Lot 2, Speidel 1<sup>st</sup> Addition, said point being on the North 50 foot right of way line for Yankee Hill Road; thence Westerly on said North right of way line, S89°51'08"W 1414.75 feet; thence N46°17'04"E 109.70 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 417.00 feet, a central angle of 75°06'47", and an arc length of 546.67 feet; thence on said curve, having a chord of N37°25'29"W 508.36 feet, to a point on a circular curve turning in a clockwise direction, having a radius of 533.00 feet, a central angle of 29°40'14", and an arc length of 276.01 feet; thence on said curve, having a chord of N60°08'45"W 272.94 feet; thence N44°41'22"E 66.00 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 703.61 feet, a central angle of 47°09'51", and an arc length of 579.19 feet; thence on said curve, having a chord of N23°33'32"E 562.98 feet; thence N00°00'04"W 133.84 feet, to a point on a circular curve turning in a counter clockwise direction, having a radius of 1430.00 feet, a central angle of 21°01'52", and an arc length of 524.90 feet; thence on said curve, having a chord of N64°15'08"E 521.95 feet; thence S64°18'55"E 264.55 feet; thence S67°13'51"E 176.02 feet; thence N15°36'16"E 22.17 feet; thence S67°13'51"E 294.95 feet; thence N22°27'29"E 596.77 feet; thence S89°51'23"E 236.93 feet; thence S00°07'34"W 1810.65 feet to the Point of Beginning.

Parcel 2: That portion of Lot 2, Speidel 1<sup>st</sup> Addition described as Parcel 3 in Lancaster County Register of Deeds Instrument No. 2020-014176 recorded April 6, 2020 more particularly described as follows:

That part of Lot 2, Speidel Addition, located in the West Half of the Southwest Quarter of Section 20, Township 9 North, Range 7 East of the 6<sup>th</sup> Principal Meridian, Lincoln, Lancaster County, Nebraska, being described as follows: Beginning at the Northeast Corner of Lot 2, Speidel 1<sup>st</sup> Addition, thence Southerly on the East line of said Lot 2 for the next 2 courses, S00°06'56"W 392.23 feet; thence S00°07'36"W 1160.35 feet; thence Westerly, N89°48'02"W 393.06 feet; thence Southerly, S22°27'29"W 185.94 feet; thence Northwesterly, N67°13'51"W 294.95 feet; thence Southerly, S15°36'16"W 22.17 feet; thence Northwesterly, N67°13'51"W 52.74 feet; thence Southwesterly, S26°03'05"W 585.81 feet; thence Westerly, N90°00'00"W 476.27 feet; thence Northerly N00°00'00"E 694.04 feet; thence Northwesterly, N36°49'24"W 470.40 feet, to a point on the Southeasterly line of Lot 1, Speidel 1<sup>st</sup> Addition; thence Northeasterly on said Southeasterly line, N45°08'29"E 439.91 feet, to the Southeast Corner of Block 4, Cripple Creek South 10<sup>th</sup> Addition, said point being on a circular curve turning in a counter clockwise direction, having a radius of 1212.02 feet, a central angle of 45°05'00", and an arc length of 953.68 feet; thence Northeasterly on the Easterly line of said Block 4 and on said curve, having a chord of N27°37'35"E 929.27 feet, to the Southwest Corner of Block 3, Cripple Creek South 11<sup>th</sup> Addition; thence on the North line of said Lot 2, Speidel 1<sup>st</sup> Addition and the South line of Block 3, Cripple Creek South 11<sup>th</sup> Addition for the next 4 courses, Easterly, N89°52'35"E 335.04 feet, to a point on a circular curve turning in a clockwise direction, having a radius of 410.00 feet, a central angle of 41°44'22" and an arc length of 298.68 feet; thence on said curve, having a chord of Southeasterly, S69°15'15"E 292.12 feet, thence Southeasterly, S48°23'06"E 153.11 feet, to a point on a circular curve turning in a counterclockwise direction, having a radius of 520.00 feet, a central angle of 41°28'30", and an arc length of 376.41 feet, thence Southeasterly on said curve, having a chord of S69°03'57"E 368.25 feet, to the point of beginning except that part of Lot 2, Speidel 1<sup>st</sup> Addition, located in the Southwest Quarter of Section 20, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska more particularly described as follows:

Beginning in the Southeast corner of Lot 2, Speidel 1<sup>st</sup> Addition, said point being on the North 50 foot right of way line for Yankee Hill Road; thence Westerly on said North right of way line, S89°51'08"W 1414.75 feet; thence N46°17'04"E 109.70 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 417.00 feet, a central angle of 75°06'47", and an arc length of 546.67 feet; thence on said curve, having a chord of N37°25'29"W 508.36 feet, to a point on a circular curve turning in a clockwise direction, having a radius of 533.00 feet, a central angle of 29°40'14", and an arc length of 276.01 feet; thence on said curve, having a chord of N60°08'45"W 272.94 feet; thence N44°41'22"E 66.00 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 703.61 feet, a central angle of 47°09'51", and an arc length of 579.19 feet; thence on said curve,

having a chord of N23°33'32"E 562.98 feet; thence N00°00'04"W 133.84 feet, to a point on a circular curve turning in a counter clockwise direction, having a radius of 1430.00 feet, a central angle of 21°01'52", and an arc length of 524.90 feet; thence on said curve, having a chord of N64°15'08"E 521.95 feet; thence S64°18'55"E 264.55 feet; thence S67°13'51"E 176.02 feet; thence N15°36'16"E 22.17 feet; thence S67°13'51"E 294.95 feet; thence N22°27'29"E 596.77 feet; thence S89°51'23"E 236.93 feet; thence S00°07'34"W 1810.65 feet to the Point of Beginning.

### **Apples Way, LLC Property**

(Under Contract pending closing)

That part of Lot 1, Speidel Addition and that part of Lot 2, Speidel 1<sup>st</sup> Addition, located in the West Half of the Southwest Quarter of Section 20, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska, more particularly described as follows:

Commencing at the Northwest corner of Lot 1, Speidel Addition; thence Easterly on the North line of said Lot 1, S89°59'29"E 19.51 feet, to the Point of Beginning; thence continuing Easterly on said North Line, S89°59'29"E 352.24 feet; thence Southerly, S00°01'26"W 1,229.00 feet; thence Westerly, N89°55'03"W 349.64 feet, to a point on the East right of way line for South 40<sup>th</sup> Street; thence on said East right of way line for the next five (5) courses, Northerly, 00°57'12"W 596.33 feet; thence Northerly, N00°03'15"W 160.97 feet; thence Westerly, N89°58'34"W 12.28 feet; thence Northerly, N00°05'32"E 451.82 feet; thence Northeasterly, N45°03'02" 27.62 feet, to the Point of Beginning.

## EXHIBIT B

### Change of Zone Area

#### AG (Agricultural District) to R-3 (Residential District) PUD:

THAT PART OF LOT 2, SPEIDEL 1st ADDITION, LOCATED IN THE SOUTH HALF OF THE NORTHWEST QUARTER AND IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th PRINCIPAL MERIDIAN, LINCOLN, LANCASTER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9, RANGE 7 EAST, THENCE S0°07'36"W 779.90, THENCE N 89°51'23"W 236.93'; THENCE S 22°27'29"W 596.77'; THENCE N67°13'51"W 294.95'; THENCE S 15°3'16"W 22.17'; THENCE N 67°13'51"W 176.02'; THENCE N64°18'55"W 264.55', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 1430.00', A CENTRAL ANGLE OF 21°01'52" AND AN ARC LENGTH OF 524.90'; THENCE ON SAID CURVE, HAVING A CHORD OF S 64°15'08"W 521.95'; THENCE S 0°00'04"E 133.84', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 703.61', A CENTRAL ANGLE OF 47°09'51" AND AN ARC LENGTH OF 579.19'; THENCE ON SAID CURVE, HAVING A CHORD OF S23°33'32"W 562.98', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 467.00', A CENTRAL ANGLE OF 1°46'24" AND AN ARC LENGTH OF 14.45'; THENCE ON SAID CURVE, HAVING A CHORD OF N 44°25'26"W 14.45', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 147.00', A CENTRAL ANGLE OF 78°27'59" AND AN ARC LENGTH OF 201.32'; THENCE ON SAID CURVE, HAVING A CHORD OF N 04°18'15"W 185.95', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 558.00', A CENTRAL ANGLE OF 28°59'10" AND AN ARC LENGTH OF 282.29'; THENCE ON SAID CURVE, HAVING A CHORD OF N 20°26'10"E 279.29'; THENCE N 0°00'04" W 11.78'; THENCE S 89°59'56" W 62.14'; THENCE N 88°56'14" W 409.80'; THENCE N 0°01'26" E 1193.58' TO A POINT ON THE SOUTH 36' RIGHT OF WAY LINE OF SAN MATEO LANE; THENCE EASTERLY ON SAID SOUTH RIGHT OF WAY LINE, S 89°59'29"E 35.21', TO A POINT ON A CIRCULAR CURVE FOR SAID SOUTH RIGHT OF WAY LINE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 600.00', A CENTRAL ANGLE OF 8°01'41" AND AN ARC LENGTH OF 84.07'; THENCE ON SAID CURVE, HAVING A CHORD OF N85°59'41"E 84.00', TO A POINT ON A CIRCULAR CURVE ON SAID SOUTH RIGHT OF WAY LINE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 1102.02', A CENTRAL ANGLE OF 9°07'11" AND AN ARC LENGTH OF 175.41'; THENCE ON SAID CURVE, HAVING A CHORD OF N77°25'15"E 175.22'; THENCE S 00°01'26"W 491.18'; THENCE S 89°58'34"E 104.35'; THENCE N 45°08'29"E 490.01'; THENCE N 00°01'26"E 267.93', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 1212.02', A CENTRAL ANGLE OF 45°05'00" AND AN ARC LENGTH OF 953.68'; THENCE ON SAID CURVE, HAVING A CHORD OF N 27°37'35"E 929.27'; THENCE N 89°52'35"E 335.04', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 410.00', A CENTRAL ANGLE OF 41°44'22" AND AN ARC LENGTH OF 298.68'; THENCE ON SAID CURVE, HAVING A CHORD OF S 69°15'15"E 292.12'; THENCE S 48°23'06"E 153.11', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 520.00', A CENTRAL ANGLE OF 41°28'30" AND AN ARC LENGTH OF 376.41'; THENCE ON SAID CURVE, HAVING A CHORD OF S 69°03'57"E 368.25';

THENCE S00°06'56"W 392.23' TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 3,170,532.50 SQUARE FEET OR 72.79 ACRES, MORE OR LESS.

**R-3 (Residential District) to R-3 (Residential District) PUD:**

LOT 1, SPEIDEL 1st ADDITION, LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th PRINCIPAL MERIDIAN, LINCOLN, LANCASTER COUNTY, NEBRASKA. SAID TRACT CONTAINING AN AREA OF 206,575.61 SQUARE FEET OR 4.72 ACRES, MORE OR LESS.

**AG (Agricultural District) to H-4 (General Commercial) PUD:**

THAT PART OF LOT 2, SPEIDEL 1st ADDITION, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th PRINCIPAL MERIDIAN, LINCOLN, LANCASTER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS;

BEGINNING AT THE WESTERNMOST CORNER OF OUTLOT D, CHATEAU YANKEE HILL ADDITION, A POINT ON THE NORTH 33' RIGHT OF WAY OF 44<sup>TH</sup> STREET; THENCE S44°41'22"W 66.00, TO A POINT ON THE SOUTH 33' RIGHT OF WAY OF 44<sup>TH</sup> STREET, SAID POINT BEING A POINT ON A CIRCULAR CURVE ON SAID SOUTH RIGHT OF WAY LINE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 533.00', A CENTRAL ANGLE OF 29°40'14" AND AN ARC LENGTH OF 276.01'; THENCE ON SAID CURVE, HAVING A CHORD OF S 60°08'45"E 272.94', TO A POINT ON A CIRCULAR CURVE ON SAID RIGHT OF WAY LINE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 417.00', A CENTRAL ANGLE OF 75°06'47" AND AN ARC LENGTH OF 546.67'; THENCE ON SAID CURVE, HAVING A CHORD OF S 37°25'29"E 508.36'; THENCE S46°17'05"W 109.70 TO A POINT ON THE NORTH 50' RIGHT OF WAY OF YANKEE HILL ROAD; THENCE WESTERLY ON SAID RIGHT OF WAY LINE, S89°51'08"W 542.53; THENCE NORTHERLY ON THE SAID NORTH RIGHT OF WAY LINE, N 00°08'52"W 10.00'; THENCE WESTERLY ON THE SAID NORTH RIGHT OF WAY LINE, S 89°51'08"W 73.32'; THENCE NORTHERLY ON THE SAID NORTH RIGHT OF WAY LINE, N 00°08'52"W 10.00'; THENCE WESTERLY ON THE SAID NORTH RIGHT OF WAY LINE, S 89°51'08"W 532.47'; THENCE NORTHWESTERLY ON THE NORTH RIGHT OF WAY LINE FOR YANKEE HILL ROAD AND THE EAST RIGHT OF WAY LINE FOR NORTH 40<sup>TH</sup> STREET, N 44°57'03"W 25.45'; THENCE NORTHERLY ON THE SAID EAST RIGHT OF WAY LINE, N 00°05'32"E 881.68'; THENCE NORTHERLY ON THE SAID EAST RIGHT OF WAY LINE, N 00°57'12"W 585.39'; THENCE N 89°02'48" E 356.48'; THENCE S 0°01'26" W 368.80'; THENCE S 88°56'14" E 409.80'; THENCE N 89°59'56" E 62.14'; THENCE S 0°00'04" E 11.78', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 558.00', A CENTRAL ANGLE OF 28°59'10" AND AN ARC LENGTH OF 282.29'; THENCE ON SAID CURVE, HAVING A CHORD OF S 20°26'10"W 279.29', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 147.00', A CENTRAL ANGLE OF 78°27'59" AND AN ARC LENGTH OF 201.32'; THENCE ON SAID CURVE, HAVING A CHORD OF S 04°18'15"E 185.95', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 467.00', A CENTRAL ANGLE OF 1°46'24" AND AN ARC LENGTH OF 14.45'; THENCE ON SAID CURVE, HAVING A CHORD OF S44°25'26"E 14.45', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 1,180,016.60 SQUARE FEET OR 27.09 ACRES, MORE OR LESS.

**AG (Agricultural District) to O-3 (Office Park District) PUD:**

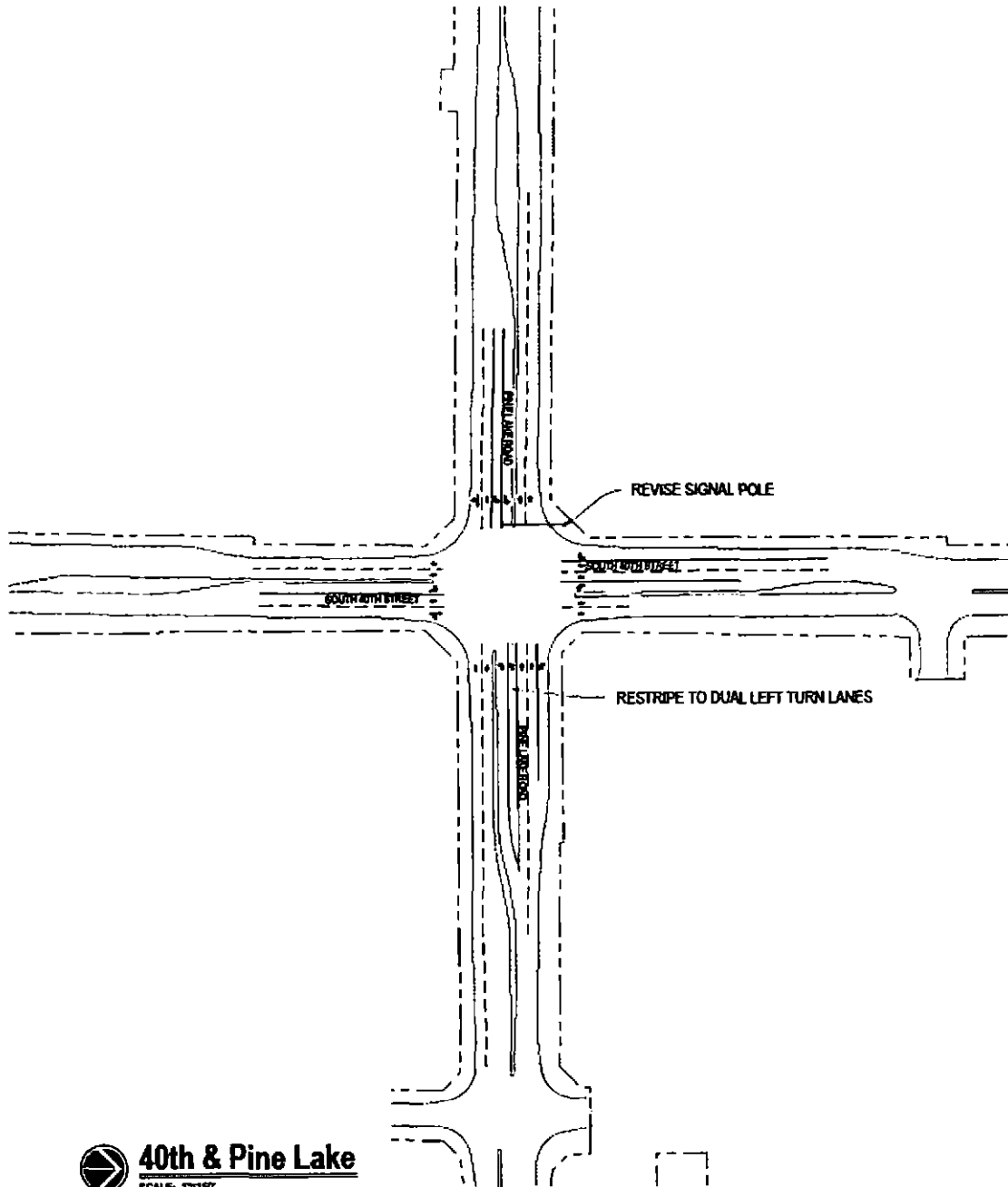
THAT PART OF LOT 2, SPEIDEL 1st ADDITION, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th PRINCIPAL MERIDIAN, LINCOLN, LANCASTER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1, SPEIDEL ADDITION, SAID POINT BEING ON THE EAST 33' RIGHT OF WAY LINE FOR SOUTH 40<sup>TH</sup> STREET; THENCE S 89°58'34"E 123.85'; THENCE S 70°47'16"E 59.48'; THENCE N 80°25'47"E 60.00'; THENCE N 62°15'42"E 53.67'; THENCE S 89°58'34"E 73.35'; THENCE S 0°01'26" W 368.80'; THENCE S 89°02'50" W 356.48' TO A POINT ON THE EAST 33' RIGHT OF WAY LINE FOR SOUTH 40<sup>TH</sup> STREET; THENCE NORTHERLY ON THE SAID EAST RIGHT OF WAY LINE, N 00°57'12"W 198.49'; THENCE NORTHERLY ON THE SAID EAST RIGHT OF WAY LINE, N 00°03'15"W 160.97'; TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 127,789.97 SQUARE FEET OR 2.93 ACRES, MORE OR LESS.



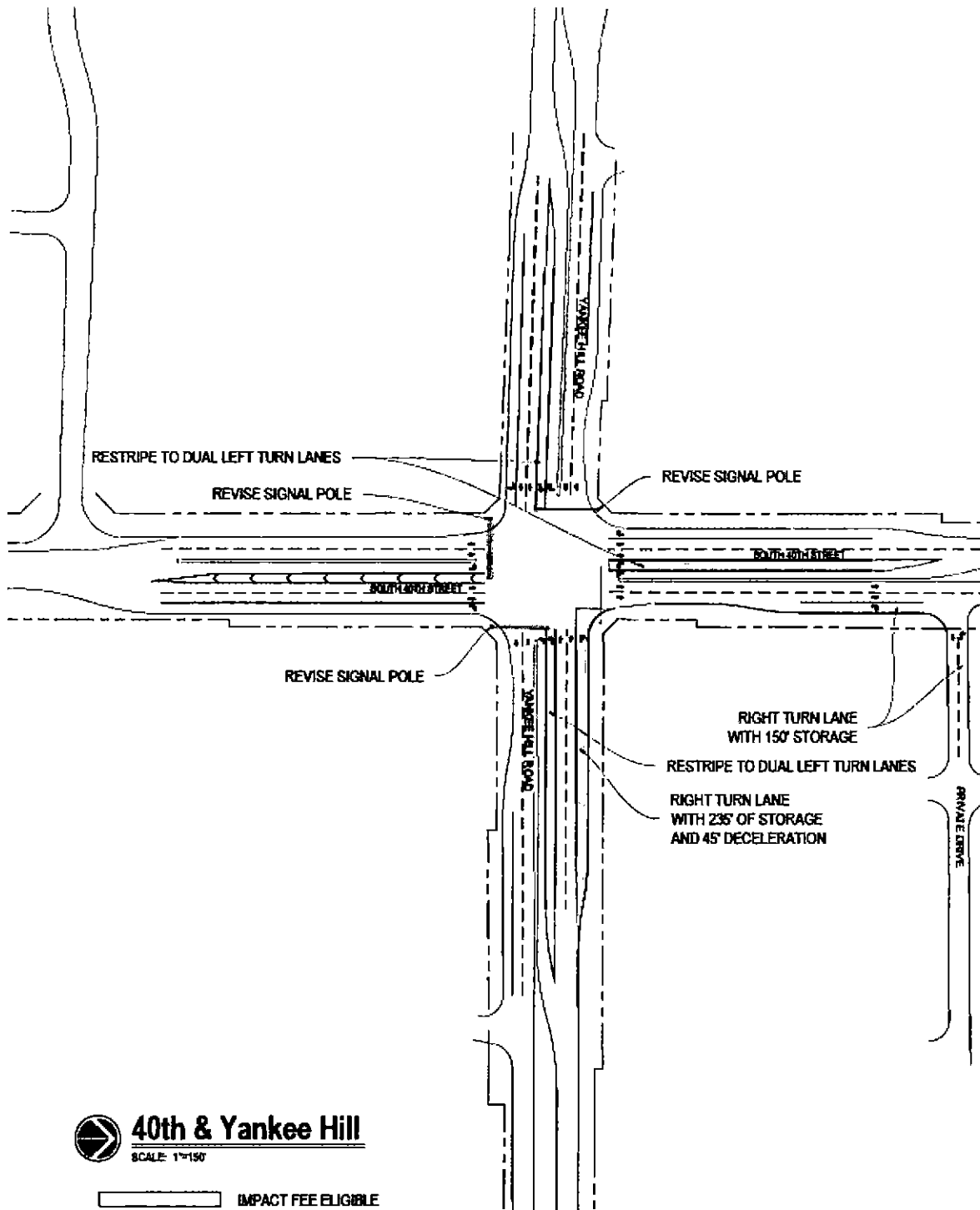
# EXHIBIT C

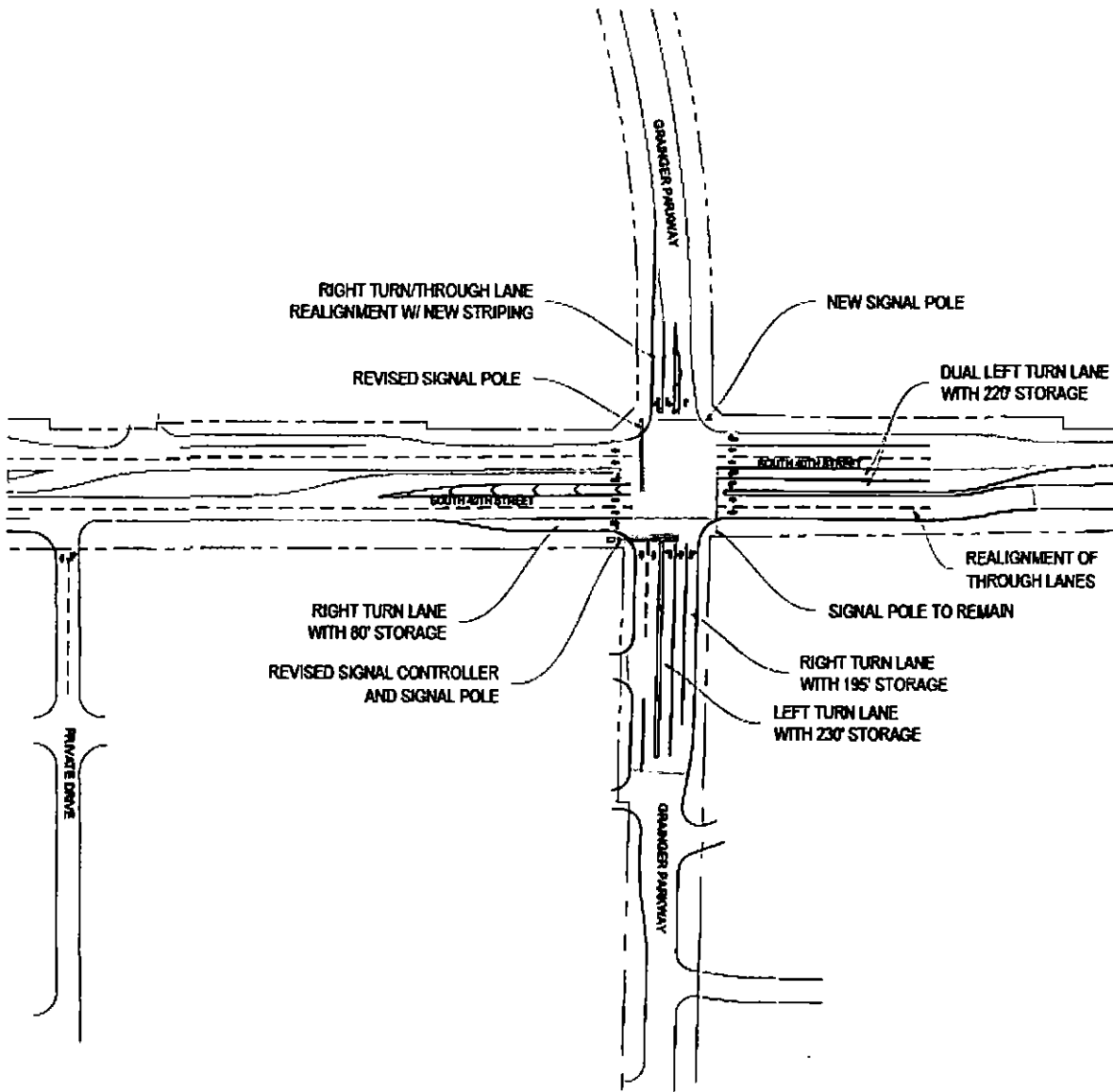
## Roadway Improvements



 **40th & Pine Lake**  
SCALE: 1"=150'

 IMPACT FEE ELIGIBLE





 **40th & Grainger Parkway**  
SCALE: 1"=150'

 IMPACT FEE ELIGIBLE

**EXHIBIT D**

# Impact Fee Area



**VOID**

**CONDITIONAL ZONING AGREEMENT  
FOR  
40<sup>TH</sup> AND GRAINGER**

This Conditional Zoning Agreement (“Agreement”) affecting a parcel of real property generally located east of S. 40<sup>th</sup> Street between Grainger Avenue and Yankee Hill Road is made and entered into as of the date of execution by the last signatory hereto as indicated below by and between the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation (“City”) and **MBH LANDHOLDINGS, LLC**, a Nebraska limited liability company, **APPLES WAY, LLC**, a Nebraska limited liability company, **HIMARK LAND INVESTMENTS, LLC**, a Nebraska limited liability company, and **Guy Lammle** (“Developers”).

**RECITALS**

1. Developers own or control four parcels of real estate legally described on Exhibit A generally located along the east side of S. 40<sup>th</sup> Street between San Mateo Lane and Yankee Hill Road, Lincoln, Nebraska. MBH Holdings (“**Lead Developer**”) has petitioned the City for a change of zone for the Property from AG Agricultural District to R-3, H-4, and O-3 Planned Unit Development and from R-3 Residential District to R-3 Planned Unit Development. The legal descriptions of the zoning change applications are attached as Exhibits B, C, and D.
2. Approval of the change of zone will allow Developers to put the Property to a commercial use immediately adjacent to S. 40<sup>th</sup> Street with a transition to single family residential as one progresses northeast across the Property.
3. Developers agree and acknowledge that the commercial development of the Property will have a significant impact on traffic patterns in the area surrounding the Property including, but not limited to, traffic on both Yankee Hill Road and South 40<sup>th</sup> Street. In order to accommodate the impact development of the Property is likely to create, Developers enter into this agreement

with the City to facilitate the construction of a number of road improvement projects in the vicinity of the Property.

## **TERMS AND CONDITIONS**

NOW, THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. **City Approvals.** City agrees to approve Change of Zone #19031A thereby changing the zoning designation for the Property from AG to R-3 Residential District Planned Unit Development, O-3 Office Park Planned Unit Development, and H-4 Highway Commercial District Planned Unit Development and from R-3 Residential District to R-3 Planned Unit Development as shown on Exhibit B, attached.
2. **Street Improvements.** Lead Developer agrees to design and construct the following arterial street improvements through the City's executive order construction process:
  - a. S. 40<sup>th</sup> Street and Pine Lake Road. Lead Developer will design and install new striping for the westbound to southbound left turn lane at the intersection of S. 40<sup>th</sup> Street and Pine Lake Road. In addition, Lead Developer will coordinate with the City to install a new traffic signal head for westbound traffic at said intersection. The restriping of the turn lane and installation of the additional traffic signal head shall be referred to herein collectively as the "Pine Lake Road Improvements".
  - b. South 40<sup>th</sup> Street and Yankee Hill Road. Lead Developer will design and construct or install the following improvements in South 40<sup>th</sup> Street and Yankee Hill Road at the intersection of said streets. Said improvements shall be made through the City's executive order construction process. The specific improvements are as follows:

- i. Design and install new traffic lane striping for the westbound to southbound left turn lane and install the associated signal head addition
- ii. Design and install new traffic lane striping for the eastbound to northbound left turn lane and install the associated signal head addition
- iii. Design and install new traffic lane striping for the southbound to eastbound left turn lane and install the associated signal head addition
- iv. Design and construct a new westbound to northbound right turn lane with a minimum 235' allowance for storage and an additional 45' for deceleration.

The improvements described above in Subsections 2.b.i-iv. shall be collectively be referred to throughout this Agreement as the “South 40<sup>th</sup> and Yankee Hill Road Improvements”.

c. South 40<sup>th</sup> and Grainger Parkway. Lead Developer will design and construct or install the following improvements in South 40<sup>th</sup> Street and Grainger Parkway at the intersection of said streets. Said improvements shall be made through the City's executive order construction process. The specific improvements are as follows:

- i. Design and construct a northbound to eastbound right turn lane with a minimum 80' of vehicle storage in S. 40<sup>th</sup> Street. The construction of this new turn lane shall include the relocation of the existing traffic signal pole located generally at the southeast corner of the intersection.
- ii. Design and construct those improvements necessary to create a combined traffic lane to facilitate both eastbound through movements and southbound right turn movements including, at a minimum, installing new traffic lane striping in Grainger Parkway on the west side of S. 40<sup>th</sup> Street.

- iii. Design and construct dual southbound to eastbound left turn lanes with a minimum of 220' of storage in S. 40<sup>th</sup> Street and realign the northbound through lanes to account for said left turn lanes.
- iv. Design and construct westbound right and left turn lanes and eastbound lanes in Grainger Parkway on the east side of S. 40<sup>th</sup> Street.
- v. Install new mast arms and, where necessary, new traffic signal heads for the traffic signal poles located at the southwest and southeast corners of the intersection to account for the newly constructed turn lanes in S. 40<sup>th</sup> Street at this intersection.

The improvements described above in Subsections 2.c.i-v. shall be collectively be referred to throughout this Agreement as the “South 40<sup>th</sup> and Grainger Parkway Improvements”.

3. The Pine Lake Road Improvements, the South 40<sup>th</sup> and Yankee Hill Road Improvements, and the South 40<sup>th</sup> and Grainger Parkway Improvements are all shown and depicted on Exhibit C, which is attached hereto.
4. The City and Lead Developer acknowledge that the costs of the South 40<sup>th</sup> and Yankee Hill Road Improvements and the South 40<sup>th</sup> and Grainger Parkway Improvements for which Developers will be requesting reimbursement from the City as described herein are expected to exceed \$100,000.00. As such, Lead Developer agrees that the construction of said improvements shall be publicly bid through the City's Purchasing Division as a condition precedent to Developers receiving reimbursement for said improvements.
5. Lead Developer acknowledges, agrees to, and does hereby relinquish any access rights to Yankee Hill Road from the Property.



6. **City Reimbursement from Arterial Street Impact Fee Facilities.** Except as provided below, the Pine Lake Road Improvements, the S. 40<sup>th</sup> and Yankee Hill Road Improvements, and the S. 40<sup>th</sup> and Grainger Parkway Improvements are considered Impact Fee Facility Improvements, as that term is defined in Chapter 27.82 of the Lincoln Municipal Code. As such, the City agrees to reimburse Developers for the cost of said improvements from arterial street impact fees generated by development of the Property. In order to accomplish this, the City agrees to segregate arterial street impact fees collected by the City from development of the Property which shall hereinafter be known as the “**Impact Fee Area**” and which is depicted by the cross-hatched area on Exhibit “D” attached hereto.

a. Agreement among Developers. Arterial street impact fees collected from the Impact Fee Area shall be used to reimburse Developers for the actual costs of designing and constructing the Pine Lake Road Improvements, the S. 40<sup>th</sup> and Yankee Hill Road Improvements, and the S. 40<sup>th</sup> and Grainger Parkway Improvements. The arterial street impact fees collected from the Impact Fee Area shall be paid to Developers on a quarterly basis by the City until Developers have been fully reimbursed the costs of designing and constructing said improvements. Developers have entered into a separate agreement dividing responsibility for payment of design professionals and actual costs of the Street Improvements detailed in paragraph 2 above. Prior to acceptance of any bid(s) for the Street Improvements, Lead Developer shall provide to the City a copy of the separate agreement, which shall include a division of responsibility, stated as a percentage of the total cost, which each of the Developers shall be entitled to receive, as impact fees segregated

from the Impact Fee Area become available. Developers agree that they shall not be entitled to be paid any interest by the City for the costs of designing and constructing said improvements. Notwithstanding the foregoing, Developers acknowledge and agree that new mast arms and traffic signal heads are not Impact Fee Facility Improvements, and the cost of installing new mast arms and any additional traffic signal heads shall be solely the cost of Developers and shall not be reimbursed by the City from arterial street impact fees.

7. **Dedication of Right-Of-Way.** At the time of final platting or upon the earlier request by the City, Developers agree to dedicate or convey, at no cost to the City, any additional right-of-way necessary to accommodate the S. 40<sup>th</sup> and Yankee Hill Road Improvements and the S. 40<sup>th</sup> and Grainger Parkway Improvements.

8. **Notice.** Any notices required to be forwarded to a party hereto shall be deemed appropriately given or delivered if sent by registered or certified United States Mail, postage prepaid, return receipt requested, addressed or delivered personally as follows:

(1) If to the City:

Mayor  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508

with a copy to:

City Attorney  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508

(2) If to Developers:

MBH LANDHOLDINGS, LLC  
2627 Kendra Lane  
Lincoln, Nebraska 68512

Himark Land Investments, LLC  
7600 San Mateo Lane  
Lincoln, Nebraska 68516

---

Guy Lammle  
7600 San Mateo Lane  
Lincoln, Nebraska 68516

Apples Way, LLC  
Attn: William F. Langdon  
6333 Apples Way  
Suite 115  
Lincoln, NE 68516

With a copy to:

Mark A. Hunzeker  
6333 Apples Way  
Suite 115  
Lincoln, NE 68516

Any party hereto may change its address for notification purposes by written notice to all parties hereto in the manner and method set forth within this paragraph.

9. **Binding Effect**. This Agreement shall run with the Property and be binding upon and inure to the benefit and burden of successors and assigns of the respective parties.
10. **Amendments**. This Agreement may only be amended or modified in writing signed by the parties hereto.
11. **Governing Law**. All aspects of this Agreement shall be governed by the laws of the State of Nebraska.

12. **Interpretations.** Any uncertainty or ambiguity existing herein shall not be interpreted against any party because such party prepared any portion of this Agreement but shall be interpreted according to the application of rules of interpretation of contracts generally.
13. **Authority.** The City and Developers each represent and warrant that said party has the authority to enter into this Agreement and perform the party's obligations hereunder and has taken all steps to legally exercise that authority. All necessary actions to duly approve the execution, delivery, and performance of this Agreement has been undertaken by each party and this Agreement constitutes a valid and binding agreement of the parties, enforceable in accordance with its terms.
14. **Construction.** Whenever used herein, including acknowledgments, the singular shall be construed to include the plural, the plural the singular, and the use of any gender shall be construed to include and be applicable to all genders as the context shall warrant.
15. **Relationship of Parties.** Neither the method of computation of funding or any other provisions contained in this Agreement or any acts of any party shall be deemed or construed by the City, Property Owners, or by any third person to create the relationship of partnership or of joint venture or of any association between the parties other than the contractual relationship stated in this Agreement.
16. **Recording.** This Agreement shall be recorded against the Property by the City with the Register of Deeds of Lancaster County, filing fees therefor to be paid in advance by Developers.
17. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date and year first above written.

**CITY OF LINCOLN, NEBRASKA,**  
a municipal corporation

By: \_\_\_\_\_  
Leirion Gaylor Baird, Mayor of Lincoln

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by Leirion Gaylor Baird, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

\_\_\_\_\_  
Notary Public

By: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2021, by \_\_\_\_\_, \_\_\_\_\_ on behalf of said  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

## **EXHIBIT A**

### **The Property**

#### **MBH Holdings, LLC Property**

That portion of Lot 2, Speidel 1<sup>st</sup> Addition, located in the West Half of the Southwest Quarter (W1/2 SW1/4) of Section Twenty (20), Township Nine (9) North, Range Seven (7) East of the 6<sup>th</sup> Principal Meridian, Lincoln, Lancaster County, Nebraska being described as follows:

Commencing at the Southeast corner of Lot 2, Speidel 1<sup>st</sup> Addition, said point being on the North 50 foot right of way line for Yankee Hill Road; thence Westerly on the said North right of way line, S89°51'08"W a distance of 1,414.75 feet to the point of beginning; thence continuing on said right of way line for the next six (6) courses, Westerly, S89°51'08"W a distance of 542.53 feet; thence Northerly N0°08'52"W a distance of 10.00 feet; thence Westerly, S89°51'08"W a distance of 73.32 feet; thence Northerly, N44°57'03"W a distance of 25.45 feet to a point on the East right of way line of South 40<sup>th</sup> Street; thence Northerly on said East right of way line for the next two (2) courses), N0°05'32"E 881.68 feet; thence N0°57'12"W 187.55 feet; thence Easterly, S89°55'03"E feet, to a point on a circular curve turning in a clockwise direction having a radius of 525.00 feet, a central angle of 26°46'42", and arc length of 245.37 feet; thence on said curve, having a chord of S21°32'24"W 243.14 feet to a point on a circular curve turning in a counterclockwise direction having a radius of 180.80 feet, a central angle of 83°03'09", and an arc length of 262.08 feet; thence on said curve, having a chord of S60°08'45"E 272.94 feet, to a point on a circular curve turning in clockwise direction having a radius of 417.00 feet, a central angle of 75°06'47", and an arc length of 546.67 feet; thence on said curve, having a chord of S37°25'29"E 508.36 feet; thence Southwesterly, S46°17'05"W 109.70 feet, to the point of beginning.

#### **Guy Lammle Property**

Lot I, Speidel 1<sup>st</sup> Addition, City of Lincoln, Lancaster County, Nebraska.



## Himark Land Investments, LLC Property

Parcel 1: That part of the remaining portion of Lot 1 and part of Lot 2, Speidel 1<sup>st</sup> Addition further described as Parcel 2 in Lancaster County Register of Deeds Instrument No. 2020-014176 recorded April 6, 2020 more particularly described as follows:

Commencing at the Northwest Corner of Lot 1, Speidel Addition, thence Easterly on the North line of said Lot 1, S89°59'29"E a distance of 371.75 feet to the point of beginning; thence continuing Easterly on said North line for the next 3 courses, S89°59'29"E 35.21 feet; to a point on a circular curve turning in a counter clockwise direction, having a radius of 600.00 feet, a central angle of 8°01'41", and an arc length of 84.07 feet; thence on said curve, having a chord of N85°59'41"E 84.00 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 1102.02 feet, a central angle of 9°07'11", and an arc length of 175.41 feet; thence on said curve, having a chord of N77°25'15"E 175.22 feet, to the Northwest Corner of Lot 1, Speidel 1<sup>st</sup> Addition; thence Southerly on the West line of Lot 1, Speidel 1<sup>st</sup> Addition, S00°01'26"W 491.18 feet, to the Southwest Corner of said Lot 1; thence Easterly on the South line of said Lot 1, S89°58'34"E 104.35 feet; thence Northeasterly on the Southeasterly line of said Lot 1, N45°08'29"E 50.10 feet; thence Southeasterly, S36°49'24"E 470.40 feet; thence Southerly, S00°00'00"E 694.04 feet; thence Westerly, N90°00'00"W 339.25 feet; thence Northerly, N00°00'00"E 252.92 feet, thence Westerly, N89°55'03"W 372.87 feet; thence Northerly, N00°01'26"E 1229.00 feet, to the point of beginning except that part of Lot 2, Speidel 1<sup>st</sup> Addition, located in the Southwest Quarter of Section 20, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska more particularly described as follows:

Beginning in the Southeast corner of Lot 2, Speidel 1<sup>st</sup> Addition, said point being on the North 50 foot right of way line for Yankee Hill Road; thence Westerly on said North right of way line, S89°51'08"W 1414.75 feet; thence N46°17'04"E 109.70 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 417.00 feet, a central angle of 75°06'47", and an arc length of 546.67 feet; thence on said curve, having a chord of N37°25'29"W 508.36 feet, to a point on a circular curve turning in a clockwise direction, having a radius of 533.00 feet, a central angle of 29°40'14", and an arc length of 276.01 feet; thence on said curve, having a chord of N60°08'45"W 272.94 feet; thence N44°41'22"E 66.00 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 703.61 feet, a central angle of 47°09'51", and an arc length of 579.19 feet; thence on said curve, having a chord of N23°33'32"E 562.98 feet; thence N00°00'04"W 133.84 feet, to a point on a circular curve turning in a counter clockwise direction, having a radius of 1430.00 feet, a central angle of 21°01'52", and an arc length of 524.90 feet; thence on said curve, having a chord of N64°15'08"E 521.95 feet; thence S64°18'55"E 264.55 feet; thence S67°13'51"E 176.02 feet; thence N15°36'16"E 22.17 feet; thence S67°13'51"E 294.95 feet; thence N22°27'29"E 596.77 feet; thence S89°51'23"E 236.93 feet; thence S00°07'34"W 1810.65 feet to the Point of Beginning.

Parcel 2: That portion of Lot 2, Speidel 1<sup>st</sup> Addition described as Parcel 3 in Lancaster County Register of Deeds Instrument No. 2020-014176 recorded April 6, 2020 more particularly described as follows:

That part of Lot 2, Speidel Addition, located in the West Half of the Southwest Quarter of Section 20, Township 9 North, Range 7 East of the 6<sup>th</sup> Principal Meridian, Lincoln, Lancaster County, Nebraska, being described as follows: Beginning at the Northeast Corner of Lot 2, Speidel 1<sup>st</sup> Addition, thence Southerly on the East line of said Lot 2 for the next 2 courses, S00°06'56"W 392.23 feet; thence S00°07'36"W 1160.35 feet; thence Westerly, N89°48'02"W 393.06 feet; thence Southerly, S22°27'29"W 185.94 feet; thence Northwesterly, N67°13'51"W 294.95 feet; thence Southerly, S15°36'16"W 22.17 feet; thence Northwesterly, N67°13'51"W 52.74 feet; thence Southwesterly, S26°03'05"W 585.81 feet; thence Westerly, N90°00'00"W 476.27 feet; thence Northerly N00°00'00"E 694.04 feet; thence Northwesterly, N36°49'24"W 470.40 feet, to a point on the Southeasterly line of Lot 1, Speidel 1<sup>st</sup> Addition; thence Northeasterly on said Southeasterly line, N45°08'29"E 439.91 feet, to the Southeast Corner of Block 4, Cripple Creek South 10<sup>th</sup> Addition, said point being on a circular curve turning in a counter clockwise direction, having a radius of 1212.02 feet, a central angle of 45°05'00", and an arc length of 953.68 feet; thence Northeasterly on the Easterly line of said Block 4 and on said curve, having a chord of N27°37'35"E 929.27 feet, to the Southwest Corner of Block 3, Cripple Creek South 11<sup>th</sup> Addition; thence on the North line of said Lot 2, Speidel 1<sup>st</sup> Addition and the South line of Block 3, Cripple Creek South 11<sup>th</sup> Addition for the next 4 courses, Easterly, N89°52'35"E 335.04 feet, to a point on a circular curve turning in a clockwise direction, having a radius of 410.00 feet, a central angle of 41°44'22" and an arc length of 298.68 feet; thence on said curve, having a chord of Southeasterly, S69°15'15"E 292.12 feet, thence Southeasterly, S48°23'06"E 153.11 feet, to a point on a circular curve turning in a counterclockwise direction, having a radius of 520.00 feet, a central angle of 41°28'30", and an arc length of 376.41 feet, thence Southeasterly on said curve, having a chord of S69°03'57"E 368.25 feet, to the point of beginning except that part of Lot 2, Speidel 1<sup>st</sup> Addition, located in the Southwest Quarter of Section 20, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska more particularly described as follows:

Beginning in the Southeast corner of Lot 2, Speidel 1<sup>st</sup> Addition, said point being on the North 50 foot right of way line for Yankee Hill Road; thence Westerly on said North right of way line, S89°51'08"W 1414.75 feet; thence N46°17'04"E 109.70 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 417.00 feet, a central angle of 75°06'47", and an arc length of 546.67 feet; thence on said curve, having a chord of N37°25'29"W 508.36 feet, to a point on a circular curve turning in a clockwise direction, having a radius of 533.00 feet, a central angle of 29°40'14", and an arc length of 276.01 feet; thence on said curve, having a chord of N60°08'45"W 272.94 feet; thence N44°41'22"E 66.00 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 703.61 feet, a central angle of 47°09'51", and an arc length of 579.19 feet; thence on said curve,

having a chord of N23°33'32"E 562.98 feet; thence N00°00'04"W 133.84 feet, to a point on a circular curve turning in a counter clockwise direction, having a radius of 1430.00 feet, a central angle of 21°01'52", and an arc length of 524.90 feet; thence on said curve, having a chord of N64°15'08"E 521.95 feet; thence S64°18'55"E 264.55 feet; thence S67°13'51"E 176.02 feet; thence N15°36'16"E 22.17 feet; thence S67°13'51"E 294.95 feet; thence N22°27'29"E 596.77 feet; thence S89°51'23"E 236.93 feet; thence S00°07'34"W 1810.65 feet to the Point of Beginning.

### **Apples Way, LLC Property**

(Under Contract pending closing)

That part of Lot 1, Speidel Addition and that part of Lot 2, Speidel 1<sup>st</sup> Addition, located in the West Half of the Southwest Quarter of Section 20, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska, more particularly described as follows:

Commencing at the Northwest corner of Lot 1, Speidel Addition; thence Easterly on the North line of said Lot 1, S89°59'29"E 19.51 feet, to the Point of Beginning; thence continuing Easterly on said North Line, S89°59'29"E 352.24 feet; thence Southerly, S00°01'26"W 1,229.00 feet; thence Westerly, N89°55'03"W 349.64 feet, to a point on the East right of way line for South 40<sup>th</sup> Street; thence on said East right of way line for the next five (5) courses, Northerly, 00°57'12"W 596.33 feet; thence Northerly, N00°03'15"W 160.97 feet; thence Westerly, N89°58'34"W 12.28 feet; thence Northerly, N00°05'32"E 451.82 feet; thence Northeasterly, N45°03'02" 27.62 feet, to the Point of Beginning.

## EXHIBIT B

### Change of Zone Area

#### AG (Agricultural District) to R-3 (Residential District) PUD:

THAT PART OF LOT 2, SPEIDEL 1st ADDITION, LOCATED IN THE SOUTH HALF OF THE NORTHWEST QUARTER AND IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th PRINCIPAL MERIDIAN, LINCOLN, LANCASTER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9, RANGE 7 EAST, THENCE S0°07'36"W 779.90, THENCE N 89°51'23"W 236.93'; THENCE S 22°27'29"W 596.77'; THENCE N67°13'51"W 294.95'; THENCE S 15°3'16"W 22.17'; THENCE N 67°13'51"W 176.02'; THENCE N64°18'55"W 264.55', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 1430.00', A CENTRAL ANGLE OF 21°01'52" AND AN ARC LENGTH OF 524.90'; THENCE ON SAID CURVE, HAVING A CHORD OF S 64°15'08"W 521.95'; THENCE S 0°00'04"E 133.84', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 703.61', A CENTRAL ANGLE OF 47°09'51" AND AN ARC LENGTH OF 579.19'; THENCE ON SAID CURVE, HAVING A CHORD OF S23°33'32"W 562.98', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 467.00', A CENTRAL ANGLE OF 1°46'24" AND AN ARC LENGTH OF 14.45'; THENCE ON SAID CURVE, HAVING A CHORD OF N 44°25'26"W 14.45', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 147.00', A CENTRAL ANGLE OF 78°27'59" AND AN ARC LENGTH OF 201.32'; THENCE ON SAID CURVE, HAVING A CHORD OF N 04°18'15"W 185.95', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 558.00', A CENTRAL ANGLE OF 28°59'10" AND AN ARC LENGTH OF 282.29'; THENCE ON SAID CURVE, HAVING A CHORD OF N 20°26'10"E 279.29'; THENCE N 0°00'04" W 11.78'; THENCE S 89°59'56" W 62.14'; THENCE N 88°56'14" W 409.80'; THENCE N 0°01'26" E 1193.58' TO A POINT ON THE SOUTH 36' RIGHT OF WAY LINE OF SAN MATEO LANE; THENCE EASTERLY ON SAID SOUTH RIGHT OF WAY LINE, S 89°59'29"E 35.21', TO A POINT ON A CIRCULAR CURVE FOR SAID SOUTH RIGHT OF WAY LINE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 600.00', A CENTRAL ANGLE OF 8°01'41" AND AN ARC LENGTH OF 84.07'; THENCE ON SAID CURVE, HAVING A CHORD OF N85°59'41"E 84.00', TO A POINT ON A CIRCULAR CURVE ON SAID SOUTH RIGHT OF WAY LINE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 1102.02', A CENTRAL ANGLE OF 9°07'11" AND AN ARC LENGTH OF 175.41'; THENCE ON SAID CURVE, HAVING A CHORD OF N77°25'15"E 175.22'; THENCE S 00°01'26"W 491.18'; THENCE S 89°58'34"E 104.35'; THENCE N 45°08'29"E 490.01'; THENCE N 00°01'26"E 267.93', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 1212.02', A CENTRAL ANGLE OF 45°05'00" AND AN ARC LENGTH OF 953.68'; THENCE ON SAID CURVE, HAVING A CHORD OF N 27°37'35"E 929.27'; THENCE N 89°52'35"E 335.04', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 410.00', A CENTRAL ANGLE OF 41°44'22" AND AN ARC LENGTH OF 298.68'; THENCE ON SAID CURVE, HAVING A CHORD OF S 69°15'15"E 292.12'; THENCE S 48°23'06"E 153.11', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 520.00', A CENTRAL ANGLE OF 41°28'30" AND AN ARC LENGTH OF 376.41'; THENCE ON SAID CURVE, HAVING A CHORD OF S 69°03'57"E 368.25';

THENCE S00°06'56"W 392.23' TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 3,170,532.50 SQUARE FEET OR 72.79 ACRES, MORE OR LESS.

**R-3 (Residential District) to R-3 (Residential District) PUD:**

LOT 1, SPEIDEL 1st ADDITION, LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th PRINCIPAL MERIDIAN, LINCOLN, LANCASTER COUNTY, NEBRASKA. SAID TRACT CONTAINING AN AREA OF 206,575.61 SQUARE FEET OR 4.72 ACRES, MORE OR LESS.

**AG (Agricultural District) to H-4 (General Commercial) PUD:**

THAT PART OF LOT 2, SPEIDEL 1st ADDITION, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th PRINCIPAL MERIDIAN, LINCOLN, LANCASTER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS;

BEGINNING AT THE WESTERNMOST CORNER OF OUTLOT D, CHATEAU YANKEE HILL ADDITION, A POINT ON THE NORTH 33' RIGHT OF WAY OF 44<sup>TH</sup> STREET; THENCE S44°41'22"W 66.00, TO A POINT ON THE SOUTH 33' RIGHT OF WAY OF 44<sup>TH</sup> STREET, SAID POINT BEING A POINT ON A CIRCULAR CURVE ON SAID SOUTH RIGHT OF WAY LINE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 533.00', A CENTRAL ANGLE OF 29°40'14" AND AN ARC LENGTH OF 276.01'; THENCE ON SAID CURVE, HAVING A CHORD OF S 60°08'45"E 272.94', TO A POINT ON A CIRCULAR CURVE ON SAID RIGHT OF WAY LINE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 417.00', A CENTRAL ANGLE OF 75°06'47" AND AN ARC LENGTH OF 546.67'; THENCE ON SAID CURVE, HAVING A CHORD OF S 37°25'29"E 508.36'; THENCE S46°17'05"W 109.70 TO A POINT ON THE NORTH 50' RIGHT OF WAY OF YANKEE HILL ROAD; THENCE WESTERLY ON SAID RIGHT OF WAY LINE, S89°51'08"W 542.53; THENCE NORTHERLY ON THE SAID NORTH RIGHT OF WAY LINE, N 00°08'52"W 10.00'; THENCE WESTERLY ON THE SAID NORTH RIGHT OF WAY LINE, S 89°51'08"W 73.32'; THENCE NORTHERLY ON THE SAID NORTH RIGHT OF WAY LINE, N 00°08'52"W 10.00'; THENCE WESTERLY ON THE SAID NORTH RIGHT OF WAY LINE, S 89°51'08"W 532.47'; THENCE NORTHWESTERLY ON THE NORTH RIGHT OF WAY LINE FOR YANKEE HILL ROAD AND THE EAST RIGHT OF WAY LINE FOR NORTH 40<sup>TH</sup> STREET, N 44°57'03"W 25.45'; THENCE NORTHERLY ON THE SAID EAST RIGHT OF WAY LINE, N 00°05'32"E 881.68'; THENCE NORTHERLY ON THE SAID EAST RIGHT OF WAY LINE, N 00°57'12"W 585.39'; THENCE N 89°02'48" E 356.48'; THENCE S 0°01'26" W 368.80'; THENCE S 88°56'14" E 409.80'; THENCE N 89°59'56" E 62.14'; THENCE S 0°00'04" E 11.78', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 558.00', A CENTRAL ANGLE OF 28°59'10" AND AN ARC LENGTH OF 282.29'; THENCE ON SAID CURVE, HAVING A CHORD OF S 20°26'10"W 279.29', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 147.00', A CENTRAL ANGLE OF 78°27'59" AND AN ARC LENGTH OF 201.32'; THENCE ON SAID CURVE, HAVING A CHORD OF S 04°18'15"E 185.95', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 467.00', A CENTRAL ANGLE OF 1°46'24" AND AN ARC LENGTH OF 14.45'; THENCE ON SAID CURVE, HAVING A CHORD OF S44°25'26"E 14.45', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 1,180,016.60 SQUARE FEET OR 27.09 ACRES, MORE OR LESS.

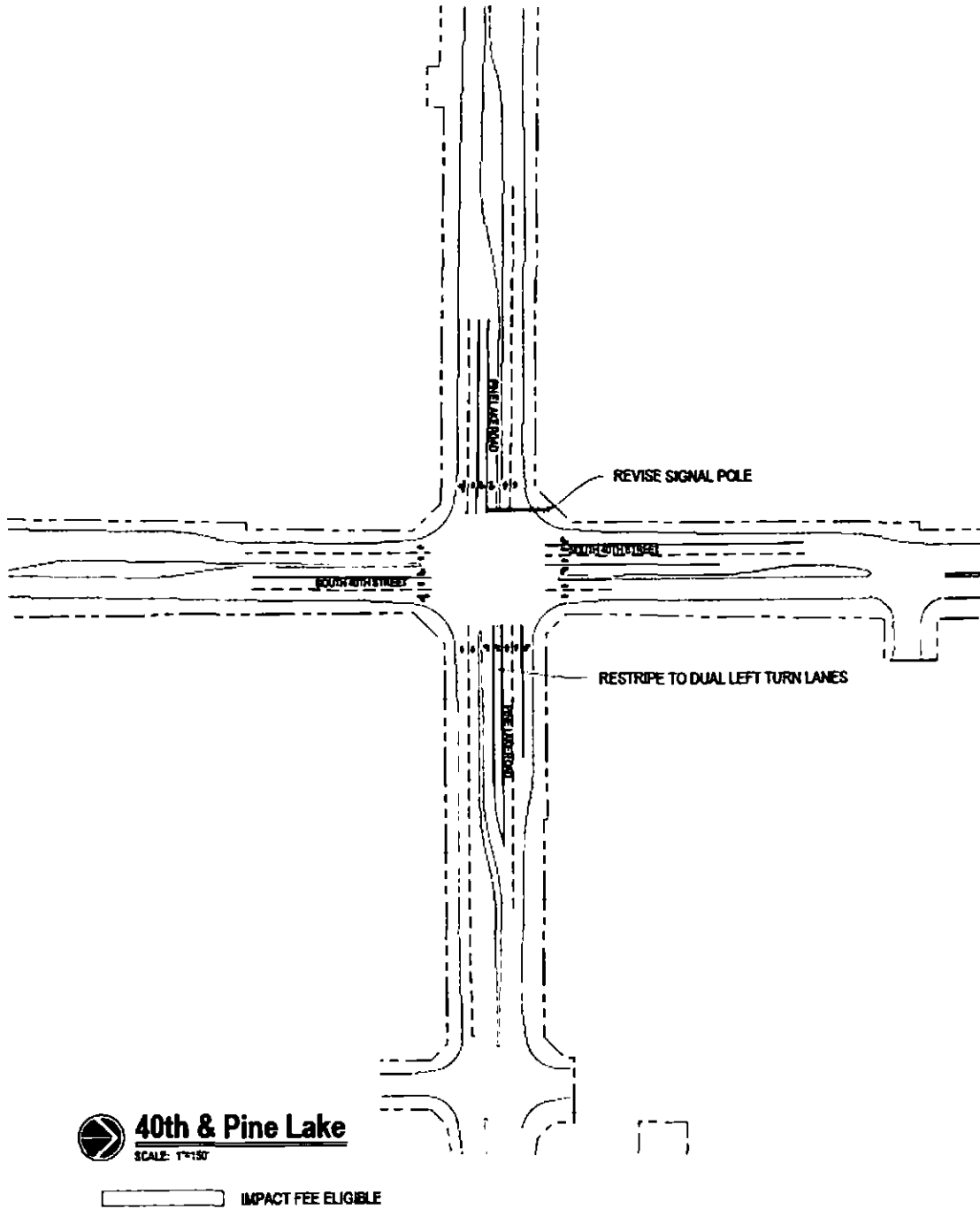
**AG (Agricultural District) to O-3 (Office Park District) PUD:**

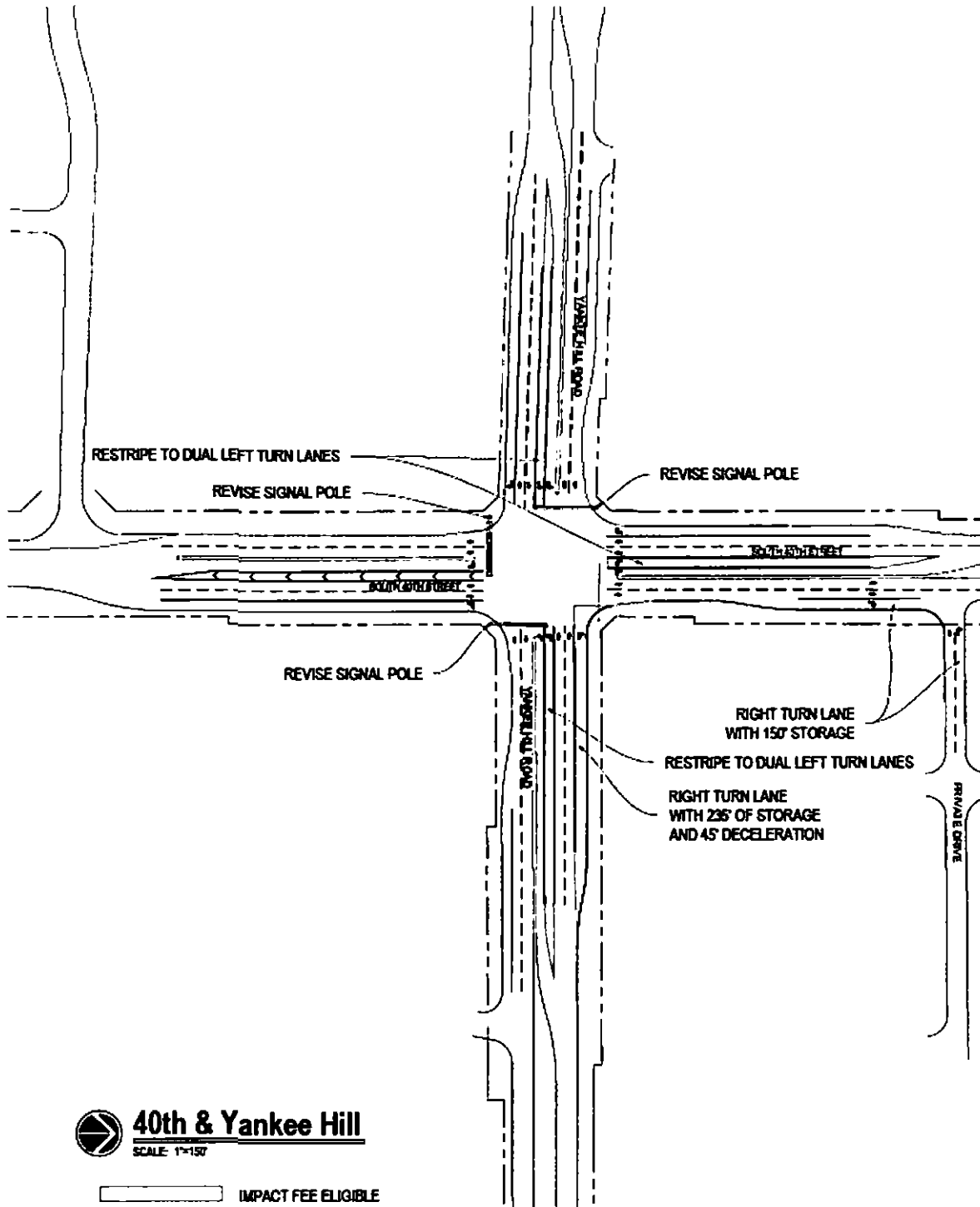
THAT PART OF LOT 2, SPEIDEL 1st ADDITION, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th PRINCIPAL MERIDIAN, LINCOLN, LANCASTER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1, SPEIDEL ADDITION, SAID POINT BEING ON THE EAST 33' RIGHT OF WAY LINE FOR SOUTH 40<sup>TH</sup> STREET; THENCE S 89°58'34"E 123.85'; THENCE S 70°47'16"E 59.48'; THENCE N 80°25'47"E 60.00'; THENCE N 62°15'42"E 53.67'; THENCE S 89°58'34"E 73.35'; THENCE S 0°01'26" W 368.80'; THENCE S 89°02'50" W 356.48' TO A POINT ON THE EAST 33' RIGHT OF WAY LINE FOR SOUTH 40<sup>TH</sup> STREET; THENCE NORTHERLY ON THE SAID EAST RIGHT OF WAY LINE, N 00°57'12"W 198.49'; THENCE NORTHERLY ON THE SAID EAST RIGHT OF WAY LINE, N 00°03'15"W 160.97'; TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 127,789.97 SQUARE FEET OR 2.93 ACRES, MORE OR LESS.

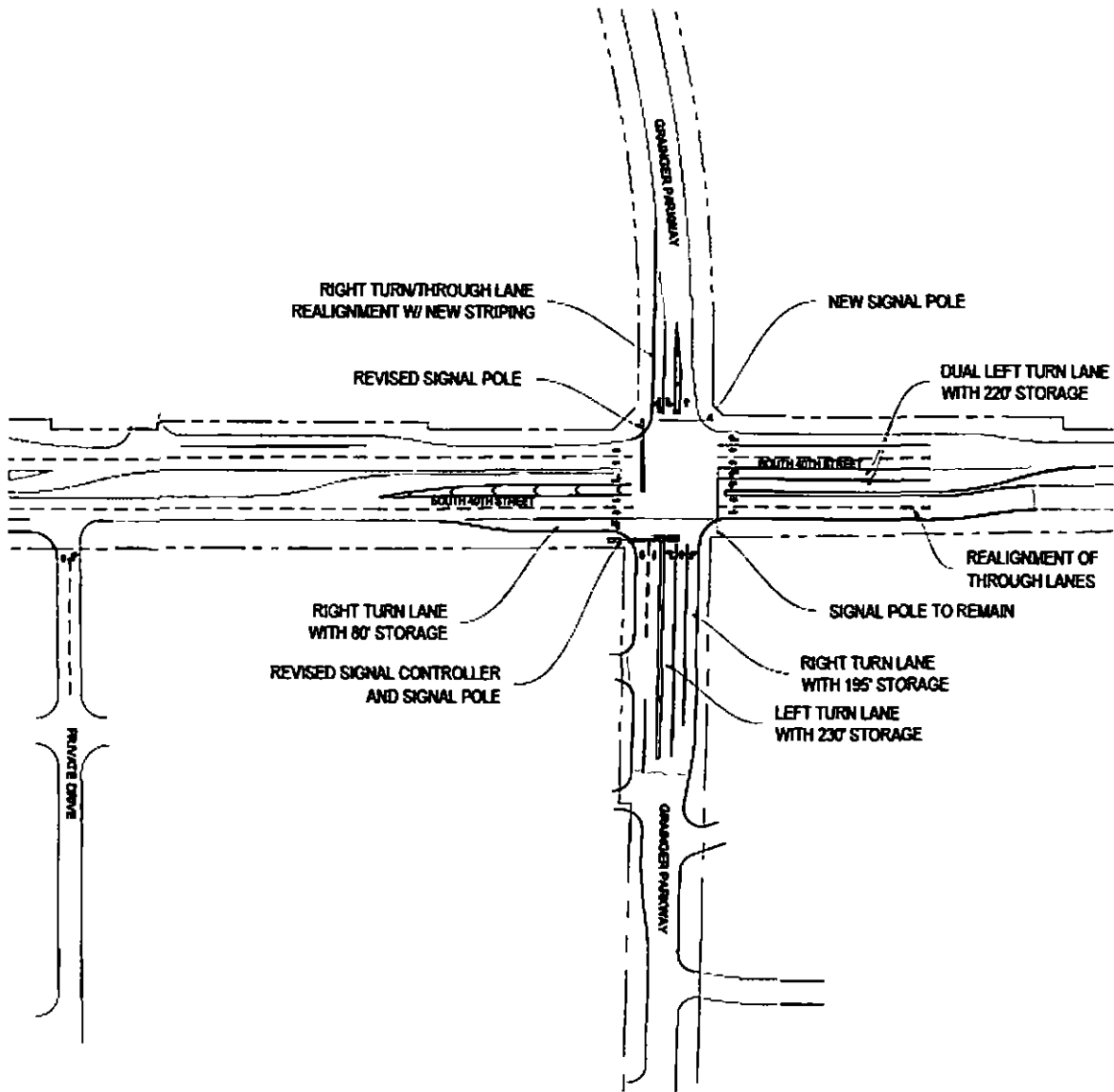
# EXHIBIT C

## Roadway Improvements









**40th & Grainger Parkway**

SCALE: 1"=150'

IMPACT FEE ELIGIBLE

**EXHIBIT D**

# Impact Fee Area





SUBSTITUTE Attachment "A"

**CONDITIONAL ZONING AGREEMENT  
FOR  
40<sup>TH</sup> AND GRAINGER**

This Conditional Zoning Agreement ("Agreement") affecting a parcel of real property generally located east of S. 40<sup>th</sup> Street between Grainger Avenue and Yankee Hill Road is made and entered into as of the date of execution by the last signatory hereto as indicated below by and between the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation ("City") and **MBH LANDHOLDINGS, LLC**, a Nebraska limited liability company, **Apples Way, LLC**, a Nebraska limited liability company, **Himark Land Investments, LLC**, a Nebraska limited liability company, and **Guy Lammle** ("Developers").

**RECITALS**

1. Developers own or control four parcels of real estate legally described on Exhibit A generally located along the east side of S. 40<sup>th</sup> Street between San Mateo Lane and Yankee Hill Road, Lincoln, Nebraska. MBH Landholdings, LLC, Apples Way, LLC, and Himark Land Investments, LLC have petitioned the City for a change of zone for the Property from AG Agricultural District to R-3, H-4, and O-3 Planned Unit Development. The legal descriptions of the zoning change applications are attached as Exhibit B.
2. Approval of the change of zone will allow Developers to put the Property to a commercial use immediately adjacent to S. 40<sup>th</sup> Street with a transition to single family residential as one progresses northeast across the Property.
3. Developers agree and acknowledge that the commercial development of the Property will have a significant impact on traffic patterns in the area surrounding the Property including, but not limited to, traffic on both Yankee Hill Road and South 40<sup>th</sup> Street. In order to accommodate the impact development of the Property is likely to create, Developers enter into this agreement

with the City to facilitate the construction of a number of road improvement projects in the vicinity of the Property.

## TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. **City Approvals.** City agrees to approve Change of Zone #19031A thereby changing the zoning designation for the Property from AG to R-3 Residential District Planned Unit Development, O-3 Office Park Planned Unit Development, and H-4 Highway Commercial District Planned Unit Development as shown on Exhibit B, attached.
2. **Street Improvements.** Developers agree to design and construct the following arterial street improvements through the City's executive order construction process:
  - a. S. 40<sup>th</sup> Street and Pine Lake Road. Developers will design and install new striping for the westbound to southbound left turn lane at the intersection of S. 40<sup>th</sup> Street and Pine Lake Road. In addition, Developers will coordinate with the City to install a new traffic signal head for westbound traffic at said intersection. The restriping of the turn lane and installation of the additional traffic signal head shall be referred to herein collectively as the "Pine Lake Road Improvements".
  - b. South 40<sup>th</sup> Street and Yankee Hill Road. Developers will design and construct or install the following improvements in South 40<sup>th</sup> Street and Yankee Hill Road at the intersection of said streets. Said improvements shall be made through the City's executive order construction process. The specific improvements are as follows:

- i. Design and install new traffic lane striping for the westbound to southbound left turn lane and install the associated signal head addition
- ii. Design and install new traffic lane striping for the eastbound to northbound left turn lane and install the associated signal head addition
- iii. Design and install new traffic lane striping for the southbound to eastbound left turn lane and install the associated signal head addition
- iv. Design and construct a new westbound to northbound right turn lane with a minimum 235' allowance for storage and an additional 45' for deceleration.

The improvements described above in Subsections 2.b.i-iv. shall be collectively be referred to throughout this Agreement as the "South 40<sup>th</sup> and Yankee Hill Road Improvements".

c. South 40<sup>th</sup> and Grainger Parkway. Developers will design and construct or install the following improvements in South 40<sup>th</sup> Street and Grainger Parkway at the intersection of said streets. Said improvements shall be made through the City's executive order construction process. The specific improvements are as follows:

- i. Design and construct a northbound to eastbound right turn lane with a minimum 80' of vehicle storage in S. 40<sup>th</sup> Street. The construction of this new turn lane shall include the relocation of the existing traffic signal pole located generally at the southeast corner of the intersection.
- ii. Design and construct those improvements necessary to create a combined traffic lane to facilitate both eastbound through movements and southbound right turn movements including, at a minimum, installing new traffic lane striping in Grainger Parkway on the west side of S. 40<sup>th</sup> Street.

- iii. Design and construct dual southbound to eastbound left turn lanes with a minimum of 220' of storage in S. 40<sup>th</sup> Street and realign the northbound through lanes to account for said left turn lanes.
- iv. Design and construct westbound right and left turn lanes and eastbound lanes in Grainger Parkway on the east side of S. 40<sup>th</sup> Street.
- v. Install new mast arms and, where necessary, new traffic signal heads for the traffic signal poles located at the southwest and southeast corners of the intersection to account for the newly constructed turn lanes in S. 40<sup>th</sup> Street at this intersection.

The improvements described above in Subsections 2.c.i-v. shall be collectively be referred to throughout this Agreement as the “South 40<sup>th</sup> and Grainger Parkway Improvements”.

3. The Pine Lake Road Improvements, the South 40<sup>th</sup> and Yankee Hill Road Improvements, and the South 40<sup>th</sup> and Grainger Parkway Improvements are all shown and depicted on Exhibit C, which is attached hereto.
4. The City and the Developers acknowledge that the costs of the South 40<sup>th</sup> and Yankee Hill Road Improvements and the South 40<sup>th</sup> and Grainger Parkway Improvements for which Developers will be requesting reimbursement from the City as described herein are expected to exceed \$100,000.00. As such, Developers agree that the construction of said improvements shall be publicly bid through the City’s Purchasing Division as a condition precedent to Developers receiving reimbursement for said improvements.
5. Developers acknowledge, agree to, and does hereby relinquish any access rights to Yankee Hill Road from the Property.

6. **City Reimbursement from Arterial Street Impact Fee Facilities.** Except as provided below, the Pine Lake Road Improvements, the S. 40<sup>th</sup> and Yankee Hill Road Improvements, and the S. 40<sup>th</sup> and Grainger Parkway Improvements are considered Impact Fee Facility Improvements, as that term is defined in Chapter 27.82 of the Lincoln Municipal Code. As such, the City agrees to reimburse Developers for the cost of said improvements from arterial street impact fees generated by development of the Property. In order to accomplish this, the City agrees to segregate arterial street impact fees collected by the City from development of the Property which shall hereinafter be known as the “**Impact Fee Area**” and which is depicted by the cross-hatched area on Exhibit “D” attached hereto.

- a. **Agreement among Developers.** Arterial street impact fees collected from the Impact Fee Area shall be used to reimburse Developers for the actual costs of designing and constructing the Pine Lake Road Improvements, the S. 40<sup>th</sup> and Yankee Hill Road Improvements, and the S. 40<sup>th</sup> and Grainger Parkway Improvements. The arterial street impact fees collected from the Impact Fee Area shall be paid to Developers on a quarterly basis by the City until Developers have been fully reimbursed the costs of designing and constructing said improvements. Developers have entered into a separate agreement dividing responsibility for payment of design professionals and actual costs of the Street Improvements detailed in paragraph 2 above. Prior to acceptance of any bid(s) for the Street Improvements, Developers shall provide to the City a copy of the separate agreement, which shall include a division of responsibility, stated as a percentage of the total cost, which each of the Developers shall be entitled to receive, as impact fees segregated from

the Impact Fee Area become available. Developers agree that they shall not be entitled to be paid any interest by the City for the costs of designing and constructing said improvements. Notwithstanding the foregoing, Developers acknowledge and agree that new mast arms and traffic signal heads are not Impact Fee Facility Improvements, and the cost of installing new mast arms and any additional traffic signal heads shall be solely the cost of Developers and shall not be reimbursed by the City from arterial street impact fees.

7. **Dedication of Right-Of-Way.** At the time of final platting or upon the earlier request by the City, Developers agree to dedicate or convey, at no cost to the City, any additional right-of-way necessary to accommodate the S. 40<sup>th</sup> and Yankee Hill Road Improvements and the S. 40<sup>th</sup> and Grainger Parkway Improvements.
8. **Notice.** Any notices required to be forwarded to a party hereto shall be deemed appropriately given or delivered if sent by registered or certified United States Mail, postage prepaid, return receipt requested, addressed or delivered personally as follows:

- (1) If to the City:

Mayor  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508

with a copy to:

City Attorney  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508

- (2) If to Developers:

MBH LANDHOLDINGS, LLC  
2627 Kendra Lane  
Lincoln, Nebraska 68512



Himark Land Investments, LLC  
7600 San Mateo Lane  
Lincoln, Nebraska 68516

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Guy Lammle  
7600 San Mateo Lane  
Lincoln, Nebraska 68516

Apples Way, LLC  
Attn: William F. Langdon  
6333 Apples Way  
Suite 115  
Lincoln, NE 68516

With a copy to:

Mark A. Hunzeker  
6333 Apples Way  
Suite 115  
Lincoln, NE 68516

Any party hereto may change its address for notification purposes by written notice to all parties hereto in the manner and method set forth within this paragraph.

9. **Binding Effect.** This Agreement shall run with the Property and be binding upon and inure to the benefit and burden of successors and assigns of the respective parties.
10. **Amendments.** This Agreement may only be amended or modified in writing signed by the parties hereto.
11. **Governing Law.** All aspects of this Agreement shall be governed by the laws of the State of Nebraska.

12. **Interpretations.** Any uncertainty or ambiguity existing herein shall not be interpreted against any party because such party prepared any portion of this Agreement but shall be interpreted according to the application of rules of interpretation of contracts generally.
13. **Authority.** The City and Developers each represent and warrant that said party has the authority to enter into this Agreement and perform the party's obligations hereunder and has taken all steps to legally exercise that authority. All necessary actions to duly approve the execution, delivery, and performance of this Agreement has been undertaken by each party and this Agreement constitutes a valid and binding agreement of the parties, enforceable in accordance with its terms.
14. **Construction.** Whenever used herein, including acknowledgments, the singular shall be construed to include the plural, the plural the singular, and the use of any gender shall be construed to include and be applicable to all genders as the context shall warrant.
15. **Relationship of Parties.** Neither the method of computation of funding or any other provisions contained in this Agreement or any acts of any party shall be deemed or construed by the City, Property Owners, or by any third person to create the relationship of partnership or of joint venture or of any association between the parties other than the contractual relationship stated in this Agreement.
16. **Recording.** This Agreement shall be recorded against the Property by the City with the Register of Deeds of Lancaster County, filing fees therefor to be paid in advance by Developers.
17. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

[SIGNATURE PAGES TO FOLLOW]

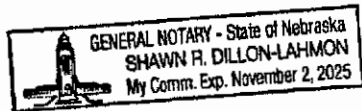


**MBH LANDHOLDINGS, LLC,**  
a Nebraska limited liability company

By: Timothy Pieper  
Timothy Pieper, Managing Member

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

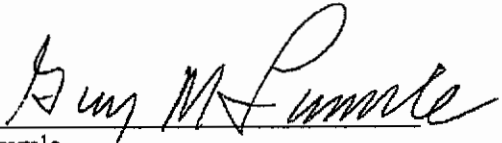
The foregoing instrument was acknowledged before me this 10 day of January, 2022, by Timothy Pieper, Managing Member of MBH Landholdings, LLC, a Nebraska limited liability company on behalf of said limited liability company.



Shawn R Dillon Lahmon  
Notary Public



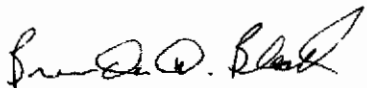
GUY LAMMLE,  
in his personal capacity

  
\_\_\_\_\_  
Guy Lammlé

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 10 day of January, 2022, by Guy Lammlé, in his personal capacity.



  
\_\_\_\_\_  
Notary Public





**EXHIBIT A**

**The Property**

**MBH Holdings, LLC Property**

That portion of Lot 2, Speidel 1<sup>st</sup> Addition, located in the West Half of the Southwest Quarter (W1/2 SW1/4) of Section Twenty (20), Township Nine (9) North, Range Seven (7) East of the 6<sup>th</sup> Principal Meridian, Lincoln, Lancaster County, Nebraska being described as follows:

Commencing at the Southeast corner of Lot 2, Speidel 1<sup>st</sup> Addition, said point being on the North 50 foot right of way line for Yankee Hill Road; thence Westerly on the said North right of way line, S89°51'08"W a distance of 1,414.75 feet to the point of beginning; thence continuing on said right of way line for the next six (6) courses, Westerly, S89°51'08"W a distance of 542.53 feet; thence Northerly N0°08'52"W a distance of 10.00 feet; thence Westerly, S89°51'08"W a distance of 73.32 feet; thence Northerly, N44°57'03"W a distance of 25.45 feet to a point on the East right of way line of South 40<sup>th</sup> Street; thence Northerly on said East right of way line for the next two (2) courses), N0°05'32"E 881.68 feet; thence N0°57'12"W 187.55 feet; thence Easterly, S89°55'03"E feet, to a point on a circular curve turning in a clockwise direction having a radius of 525.00 feet, a central angle of 26°46'42", and arc length of 245.37 feet; thence on said curve, having a chord of S21°32'24"W 243.14 feet to a point on a circular curve turning in a counterclockwise direction having a radius of 180.80 feet, a central angle of 83°03'09", and an arc length of 262.08 feet; thence on said curve, having a chord of S60°08'45"E 272.94 feet, to a point on a circular curve turning in clockwise direction having a radius of 417.00 feet, a central angle of 75°06'47", and an arc length of 546.67 feet; thence on said curve, having a chord of S37°25'29"E 508.36 feet; thence Southwesterly, S46°17'05"W 109.70 feet, to the point of beginning.

*16/ Speidel*

**Guy Lammle Property**

Lot 1, Speidel 1<sup>st</sup> Addition, City of Lincoln, Lancaster County, Nebraska.

## Himark Land Investments, LLC Property

Parcel 1: That part of the remaining portion of Lot 1 and part of Lot 2, Speidel 1<sup>st</sup> Addition further described as Parcel 2 in Lancaster County Register of Deeds Instrument No. 2020-014176 recorded April 6, 2020 more particularly described as follows:

Commencing at the Northwest Corner of Lot 1, Speidel Addition, thence Easterly on the North line of said Lot 1, S89°59'29"E a distance of 371.75 feet to the point of beginning; thence continuing Easterly on said North line for the next 3 courses, S89°59'29"E 35.21 feet; to a point on a circular curve turning in a counter clockwise direction, having a radius of 600.00 feet, a central angle of 8°01'41", and an arc length of 84.07 feet; thence on said curve, having a chord of N85°59'41"E 84.00 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 1102.02 feet, a central angle of 9°07'11", and an arc length of 175.41 feet; thence on said curve, having a chord of N77°25'15"E 175.22 feet, to the Northwest Corner of Lot 1, Speidel 1<sup>st</sup> Addition; thence Southerly on the West line of Lot 1, Speidel 1<sup>st</sup> Addition, S00°01'26"W 491.18 feet, to the Southwest Corner of said Lot 1; thence Easterly on the South line of said Lot 1, S89°58'34"E 104.35 feet; thence Northeasterly on the Southeasterly line of said Lot 1, N45°08'29"E 50.10 feet; thence Southeasterly, S36°49'24"E 470.40 feet; thence Southerly, S00°00'00"E 694.04 feet; thence Westerly, N90°00'00"W 339.25 feet; thence Northerly, N00°00'00"E 252.92 feet, thence Westerly, N89°55'03"W 372.87 feet; thence Northerly, N00°01'26"E 1229.00 feet, to the point of beginning except that part of Lot 2, Speidel 1<sup>st</sup> Addition, located in the Southwest Quarter of Section 20, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska more particularly described as follows:

Beginning in the Southeast corner of Lot 2, Speidel 1<sup>st</sup> Addition, said point being on the North 50 foot right of way line for Yankee Hill Road; thence Westerly on said North right of way line, S89°51'08"W 1414.75 feet; thence N46°17'04"E 109.70 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 417.00 feet, a central angle of 75°06'47", and an arc length of 546.67 feet; thence on said curve, having a chord of N37°25'29"W 508.36 feet, to a point on a circular curve turning in a clockwise direction, having a radius of 533.00 feet, a central angle of 29°40'14", and an arc length of 276.01 feet; thence on said curve, having a chord of N60°08'45"W 272.94 feet; thence N44°41'22"E 66.00 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 703.61 feet, a central angle of 47°09'51", and an arc length of 579.19 feet; thence on said curve, having a chord of N23°33'32"E 562.98 feet; thence N00°00'04"W 133.84 feet, to a point on a circular curve turning in a counter clockwise direction, having a radius of 1430.00 feet, a central angle of 21°01'52", and an arc length of 524.90 feet; thence on said curve, having a chord of N64°15'08"E 521.95 feet; thence S64°18'55"E 264.55 feet; thence S67°13'51"E 176.02 feet; thence N15°36'16"E 22.17 feet; thence S67°13'51"E 294.95 feet; thence N22°27'29"E 596.77 feet; thence S89°51'23"E 236.93 feet; thence S00°07'34"W 1810.65 feet to the Point of Beginning.

Parcel 2: That portion of Lot 2, Speidel 1<sup>st</sup> Addition described as Parcel 3 in Lancaster County Register of Deeds Instrument No. 2020-014176 recorded April 6, 2020 more particularly described as follows:

That part of Lot 2, Speidel Addition, located in the West Half of the Southwest Quarter of Section 20, Township 9 North, Range 7 East of the 6<sup>th</sup> Principal Meridian, Lincoln, Lancaster County, Nebraska, being described as follows: Beginning at the Northeast Corner of Lot 2, Speidel 1<sup>st</sup> Addition, thence Southerly on the East line of said Lot 2 for the next 2 courses, S00°06'56"W 392.23 feet; thence S00°07'36"W 1160.35 feet; thence Westerly, N89°48'02"W 393.06 feet; thence Southerly, S22°27'29"W 185.94 feet; thence Northwesterly, N67°13'51"W 294.95 feet; thence Southerly, S15°36'16"W 22.17 feet; thence Northwesterly, N67°13'51"W 52.74 feet; thence Southwesterly, S26°03'05"W 585.81 feet; thence Westerly, N90°00'00"W 476.27 feet; thence Northerly N00°00'00"E 694.04 feet; thence Northwesterly, N36°49'24"W 470.40 feet, to a point on the Southeasterly line of Lot 1, Speidel 1<sup>st</sup> Addition; thence Northeasterly on said Southeasterly line, N45°08'29"E 439.91 feet, to the Southeast Corner of Block 4, Cripple Creek South 10<sup>th</sup> Addition, said point being on a circular curve turning in a counter clockwise direction, having a radius of 1212.02 feet, a central angle of 45°05'00", and an arc length of 953.68 feet; thence Northeasterly on the Easterly line of said Block 4 and on said curve, having a chord of N27°37'35"E 929.27 feet, to the Southwest Corner of Block 3, Cripple Creek South 11<sup>th</sup> Addition; thence on the North line of said Lot 2, Speidel 1<sup>st</sup> Addition and the South line of Block 3, Cripple Creek South 11<sup>th</sup> Addition for the next 4 courses, Easterly, N89°52'35"E 335.04 feet, to a point on a circular curve turning in a clockwise direction, having a radius of 410.00 feet, a central angle of 41°44'22" and an arc length of 298.68 feet; thence on said curve, having a chord of Southeasterly, S69°15'15"E 292.12 feet, thence Southeasterly, S48°23'06"E 153.11 feet, to a point on a circular curve turning in a counterclockwise direction, having a radius of 520.00 feet, a central angle of 41°28'30", and an arc length of 376.41 feet, thence Southeasterly on said curve, having a chord of S69°03'57"E 368.25 feet, to the point of beginning except that part of Lot 2, Speidel 1<sup>st</sup> Addition, located in the Southwest Quarter of Section 20, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska more particularly described as follows:

Beginning in the Southeast corner of Lot 2, Speidel 1<sup>st</sup> Addition, said point being on the North 50 foot right of way line for Yankee Hill Road; thence Westerly on said North right of way line, S89°51'08"W 1414.75 feet; thence N46°17'04"E 109.70 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 417.00 feet, a central angle of 75°06'47", and an arc length of 546.67 feet; thence on said curve, having a chord of N37°25'29"W 508.36 feet, to a point on a circular curve turning in a clockwise direction, having a radius of 533.00 feet, a central angle of 29°40'14", and an arc length of 276.01 feet; thence on said curve, having a chord of N60°08'45"W 272.94 feet; thence N44°41'22"E 66.00 feet, to a point on a circular curve turning in a counter clockwise direction having a radius of 703.61 feet, a central angle of 47°09'51", and an arc length of 579.19 feet; thence on said curve,

having a chord of N23°33'32"E 562.98 feet; thence N00°00'04"W 133.84 feet, to a point on a circular curve turning in a counter clockwise direction, having a radius of 1430.00 feet, a central angle of 21°01'52", and an arc length of 524.90 feet; thence on said curve, having a chord of N64°15'08"E 521.95 feet; thence S64°18'55"E 264.55 feet; thence S67°13'51"E 176.02 feet; thence N15°36'16"E 22.17 feet; thence S67°13'51"E 294.95 feet; thence N22°27'29"E 596.77 feet; thence S89°51'23"E 236.93 feet; thence S00°07'34"W 1810.65 feet to the Point of Beginning.

### **Apples Way, LLC Property**

(Under Contract pending closing)

That part of Lot 1, Speidel Addition and that part of Lot 2, Speidel 1<sup>st</sup> Addition, located in the West Half of the Southwest Quarter of Section 20, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska, more particularly described as follows:

Commencing at the Northwest corner of Lot 1, Speidel Addition; thence Easterly on the North line of said Lot 1, S89°59'29"E 19.51 feet, to the Point of Beginning; thence continuing Easterly on said North Line, S89°59'29"E 352.24 feet; thence Southerly, S00°01'26"W 1,229.00 feet; thence Westerly, N89°55'03"W 349.64 feet, to a point on the East right of way line for South 40<sup>th</sup> Street; thence on said East right of way line for the next five (5) courses, Northerly, 00°57'12"W 596.33 feet; thence Northerly, N00°03'15"W 160.97 feet; thence Westerly, N89°58'34"W 12.28 feet; thence Northerly, N00°05'32"E 451.82 feet; thence Northeasterly, N45°03'02" 27.62 feet, to the Point of Beginning.

## EXHIBIT B

### Change of Zone Area

#### AG (Agricultural District) to R-3 (Residential District) PUD:

THAT PART OF LOT 2, SPEIDEL 1st ADDITION, LOCATED IN THE SOUTH HALF OF THE NORTHWEST QUARTER AND IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th PRINCIPAL MERIDIAN, LINCOLN, LANCASTER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9, RANGE 7 EAST, THENCE S0°07'36"W 779.90, THENCE N 89°51'23"W 236.93'; THENCE S 22°27'29"W 596.77'; THENCE N67°13'51"W 294.95'; THENCE S 15°3'16"W 22.17'; THENCE N 67°13'51"W 176.02'; THENCE N64°18'55"W 264.55', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 1430.00', A CENTRAL ANGLE OF 21°01'52" AND AN ARC LENGTH OF 524.90'; THENCE ON SAID CURVE, HAVING A CHORD OF S 64°15'08"W 521.95'; THENCE S 0°00'04"E 133.84', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 703.61', A CENTRAL ANGLE OF 47°09'51" AND AN ARC LENGTH OF 579.19'; THENCE ON SAID CURVE, HAVING A CHORD OF S23°33'32"W 562.98', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 467.00', A CENTRAL ANGLE OF 1°46'24" AND AN ARC LENGTH OF 14.45'; THENCE ON SAID CURVE, HAVING A CHORD OF N 44°25'26"W 14.45', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 147.00', A CENTRAL ANGLE OF 78°27'59" AND AN ARC LENGTH OF 201.32'; THENCE ON SAID CURVE, HAVING A CHORD OF N 04°18'15"W 185.95', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 558.00', A CENTRAL ANGLE OF 28°59'10" AND AN ARC LENGTH OF 282.29'; THENCE ON SAID CURVE, HAVING A CHORD OF N 20°26'10"E 279.29'; THENCE N 0°00'04" W 11.78'; THENCE S 89°59'56" W 62.14'; THENCE N 88°56'14" W 409.80'; THENCE N 0°01'26" E 1193.58' TO A POINT ON THE SOUTH 36' RIGHT OF WAY LINE OF SAN MATEO LANE; THENCE EASTERLY ON SAID SOUTH RIGHT OF WAY LINE, S 89°59'29"E 35.21', TO A POINT ON A CIRCULAR CURVE FOR SAID SOUTH RIGHT OF WAY LINE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 600.00', A CENTRAL ANGLE OF 8°01'41" AND AN ARC LENGTH OF 84.07'; THENCE ON SAID CURVE, HAVING A CHORD OF N85°59'41"E 84.00', TO A POINT ON A CIRCULAR CURVE ON SAID SOUTH RIGHT OF WAY LINE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 1102.02', A CENTRAL ANGLE OF 9°07'11" AND AN ARC LENGTH OF 175.41'; THENCE ON SAID CURVE, HAVING A CHORD OF N77°25'15"E 175.22'; THENCE S 00°01'26"W 491.18'; THENCE S 89°58'34"E 104.35'; THENCE N 45°08'29"E 490.01'; THENCE N 00°01'26"E 267.93', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 1212.02', A CENTRAL ANGLE OF 45°05'00" AND AN ARC LENGTH OF 953.68'; THENCE ON SAID CURVE, HAVING A CHORD OF N 27°37'35"E 929.27'; THENCE N 89°52'35"E 335.04', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 410.00', A CENTRAL ANGLE OF 41°44'22" AND AN ARC LENGTH OF 298.68'; THENCE ON SAID CURVE, HAVING A CHORD OF S 69°15'15"E 292.12'; THENCE S 48°23'06"E 153.11', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 520.00', A CENTRAL ANGLE OF 41°28'30" AND AN ARC LENGTH OF 376.41'; THENCE ON SAID CURVE, HAVING A CHORD OF S 69°03'57"E 368.25';

THENCE S00°06'56"W 392.23' TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 3,170,532.50 SQUARE FEET OR 72.79 ACRES, MORE OR LESS.

**R-3 (Residential District) to R-3 (Residential District) PUD:**

LOT 1, SPEIDEL 1st ADDITION, LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th PRINCIPAL MERIDIAN, LINCOLN, LANCASTER COUNTY, NEBRASKA. SAID TRACT CONTAINING AN AREA OF 206,575.61 SQUARE FEET OR 4.72 ACRES, MORE OR LESS.

**AG (Agricultural District) to H-4 (General Commercial) PUD:**

THAT PART OF LOT 2, SPEIDEL 1st ADDITION, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th PRINCIPAL MERIDIAN, LINCOLN, LANCASTER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS;

BEGINNING AT THE WESTERNMOST CORNER OF OUTLOT D, CHATEAU YANKEE HILL ADDITION, A POINT ON THE NORTH 33' RIGHT OF WAY OF 44<sup>TH</sup> STREET; THENCE S44°41'22"W 66.00, TO A POINT ON THE SOUTH 33' RIGHT OF WAY OF 44<sup>TH</sup> STREET, SAID POINT BEING A POINT ON A CIRCULAR CURVE ON SAID SOUTH RIGHT OF WAY LINE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 533.00', A CENTRAL ANGLE OF 29°40'14" AND AN ARC LENGTH OF 276.01'; THENCE ON SAID CURVE, HAVING A CHORD OF S 60°08'45"E 272.94', TO A POINT ON A CIRCULAR CURVE ON SAID RIGHT OF WAY LINE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 417.00', A CENTRAL ANGLE OF 75°06'47" AND AN ARC LENGTH OF 546.67'; THENCE ON SAID CURVE, HAVING A CHORD OF S 37°25'29"E 508.36'; THENCE S46°17'05"W 109.70 TO A POINT ON THE NORTH 50' RIGHT OF WAY OF YANKEE HILL ROAD; THENCE WESTERLY ON SAID RIGHT OF WAY LINE, S89°51'08"W 542.53; THENCE NORTHERLY ON THE SAID NORTH RIGHT OF WAY LINE, N 00°08'52"W 10.00'; THENCE WESTERLY ON THE SAID NORTH RIGHT OF WAY LINE, S 89°51'08"W 73.32'; THENCE NORTHERLY ON THE SAID NORTH RIGHT OF WAY LINE, N 00°08'52"W 10.00'; THENCE WESTERLY ON THE SAID NORTH RIGHT OF WAY LINE, S 89°51'08"W 532.47'; THENCE NORTHWESTERLY ON THE NORTH RIGHT OF WAY LINE FOR YANKEE HILL ROAD AND THE EAST RIGHT OF WAY LINE FOR NORTH 40<sup>TH</sup> STREET, N 44°57'03"W 25.45'; THENCE NORTHERLY ON THE SAID EAST RIGHT OF WAY LINE, N 00°05'32"E 881.68'; THENCE NORTHERLY ON THE SAID EAST RIGHT OF WAY LINE, N 00°57'12"W 585.39'; THENCE N 89°02'48" E 356.48'; THENCE S 0°01'26" W 368.80'; THENCE S 88°56'14" E 409.80'; THENCE N 89°59'56" E 62.14'; THENCE S 0°00'04" E 11.78', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 558.00', A CENTRAL ANGLE OF 28°59'10" AND AN ARC LENGTH OF 282.29'; THENCE ON SAID CURVE, HAVING A CHORD OF S 20°26'10"W 279.29', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 147.00', A CENTRAL ANGLE OF 78°27'59" AND AN ARC LENGTH OF 201.32'; THENCE ON SAID CURVE, HAVING A CHORD OF S 04°18'15"E 185.95', TO A POINT ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 467.00', A CENTRAL ANGLE OF 1°46'24" AND AN ARC LENGTH OF 14.45'; THENCE ON SAID CURVE, HAVING A CHORD OF S44°25'26"E 14.45', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 1,180,016.60 SQUARE FEET OR 27.09 ACRES, MORE OR LESS.

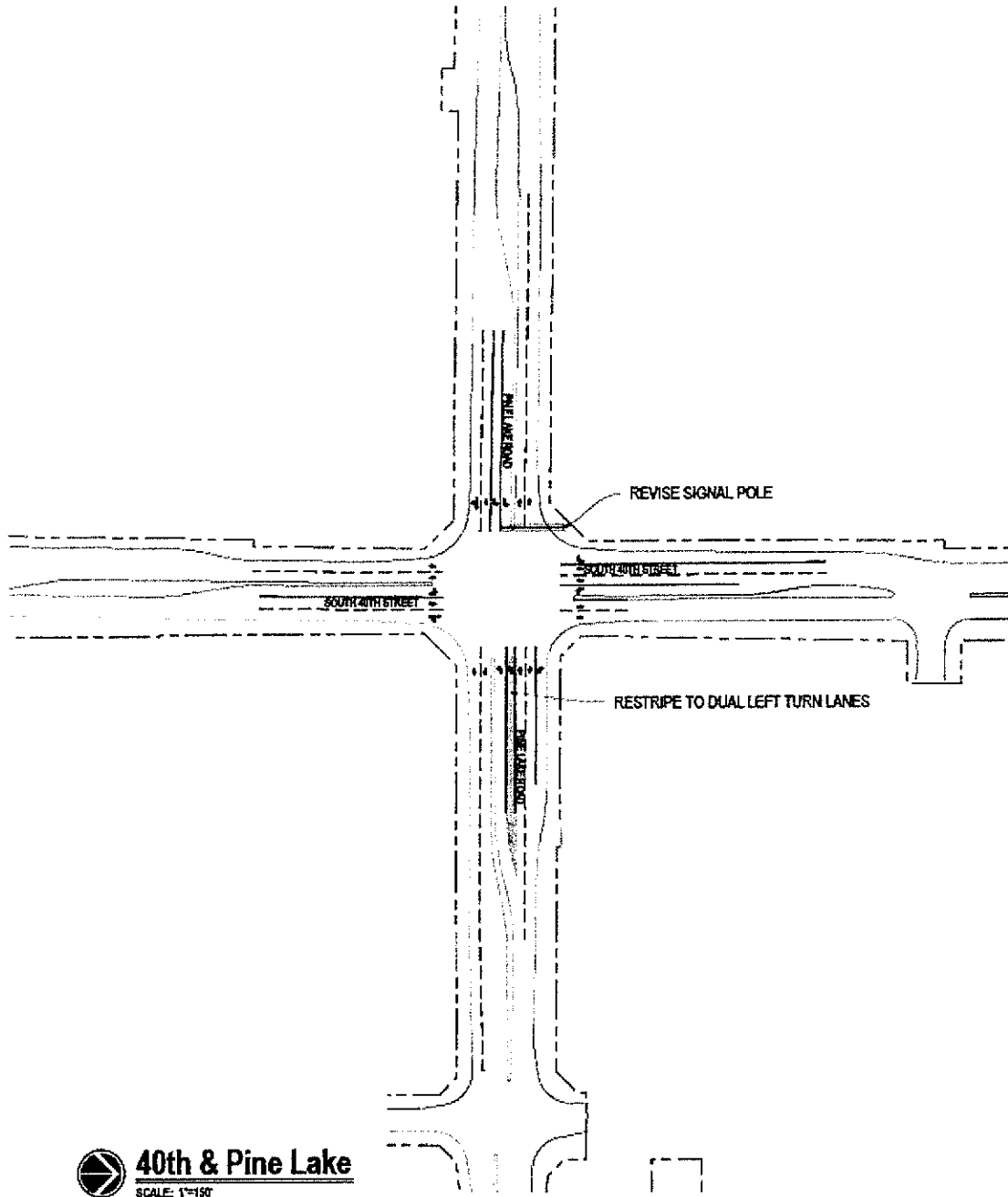
**AG (Agricultural District) to O-3 (Office Park District) PUD:**

THAT PART OF LOT 2, SPEIDEL 1st ADDITION, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th PRINCIPAL MERIDIAN, LINCOLN, LANCASTER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1, SPEIDEL ADDITION, SAID POINT BEING ON THE EAST 33' RIGHT OF WAY LINE FOR SOUTH 40<sup>TH</sup> STREET; THENCE S 89°58'34"E 123.85'; THENCE S 70°47'16"E 59.48'; THENCE N 80°25'47"E 60.00'; THENCE N 62°15'42"E 53.67'; THENCE S 89°58'34"E 73.35'; THENCE S 0°01'26" W 368.80'; THENCE S 89°02'50" W 356.48' TO A POINT ON THE EAST 33' RIGHT OF WAY LINE FOR SOUTH 40<sup>TH</sup> STREET; THENCE NORTHERLY ON THE SAID EAST RIGHT OF WAY LINE, N 00°57'12"W 198.49'; THENCE NORTHERLY ON THE SAID EAST RIGHT OF WAY LINE, N 00°03'15"W 160.97'; TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 127,789.97 SQUARE FEET OR 2.93 ACRES, MORE OR LESS.

# EXHIBIT C

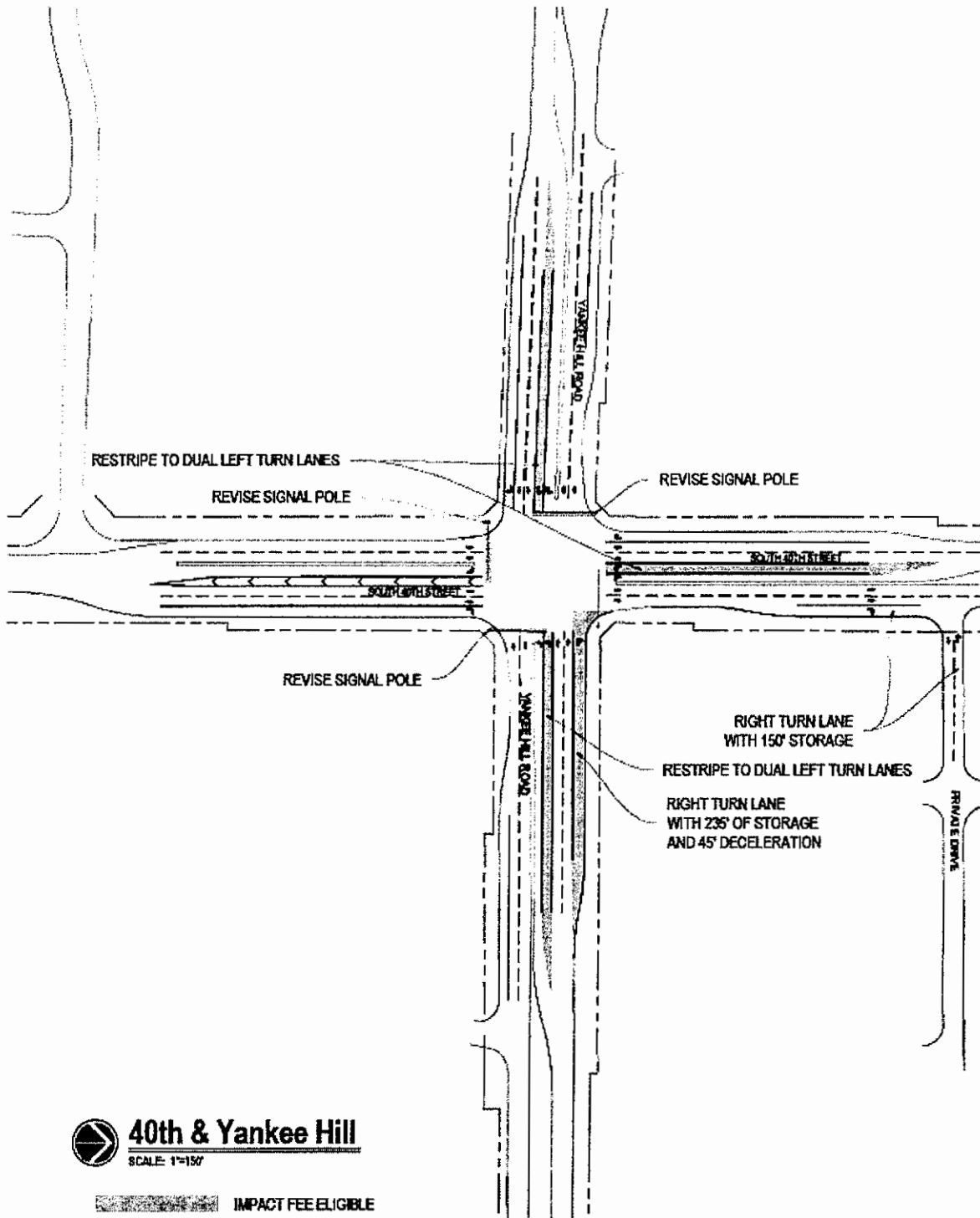
## Roadway Improvements

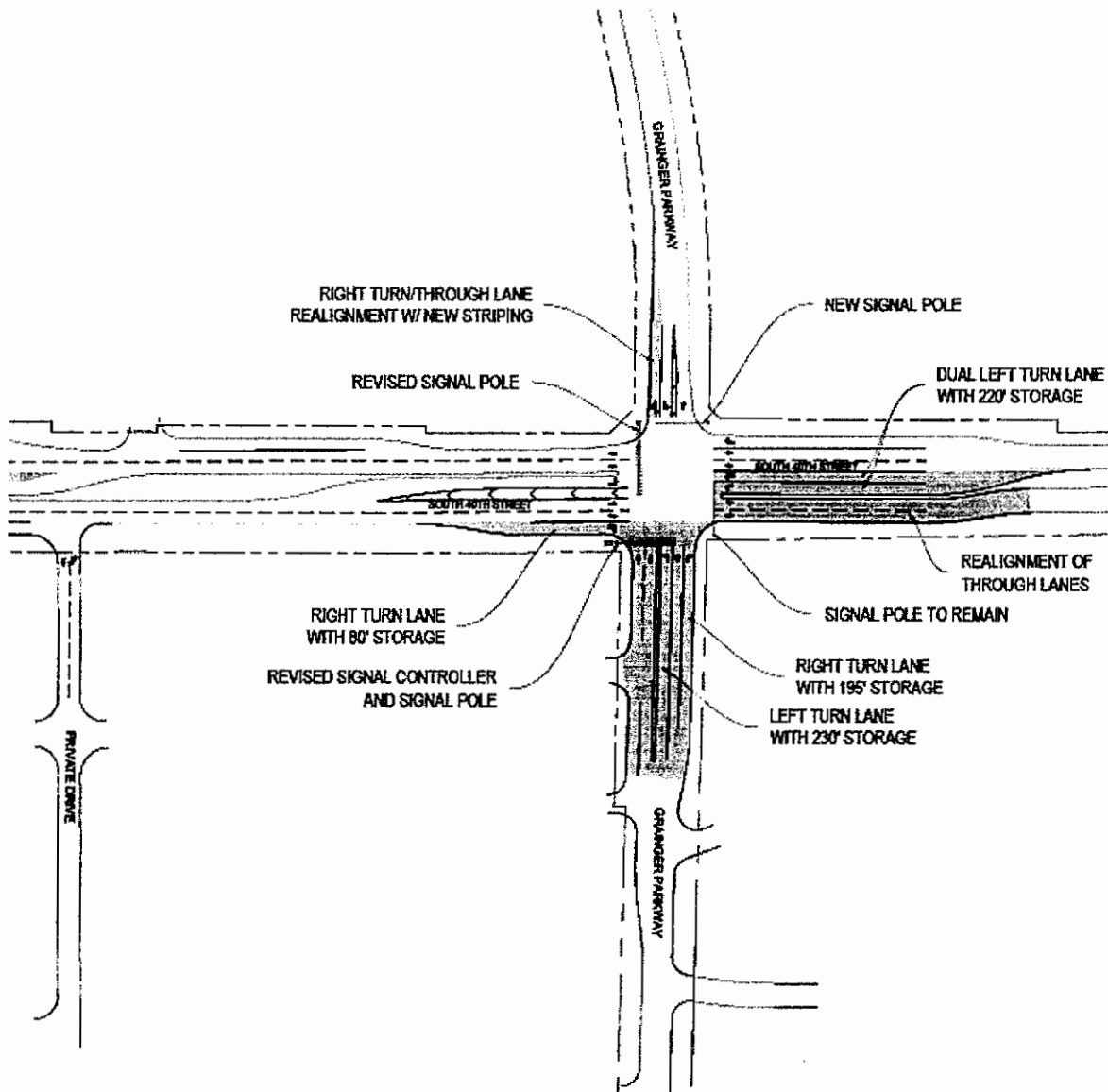


 **40th & Pine Lake**  
SCALE: 1"=150'

 IMPACT FEE ELIGIBLE







**40th & Grainger Parkway**

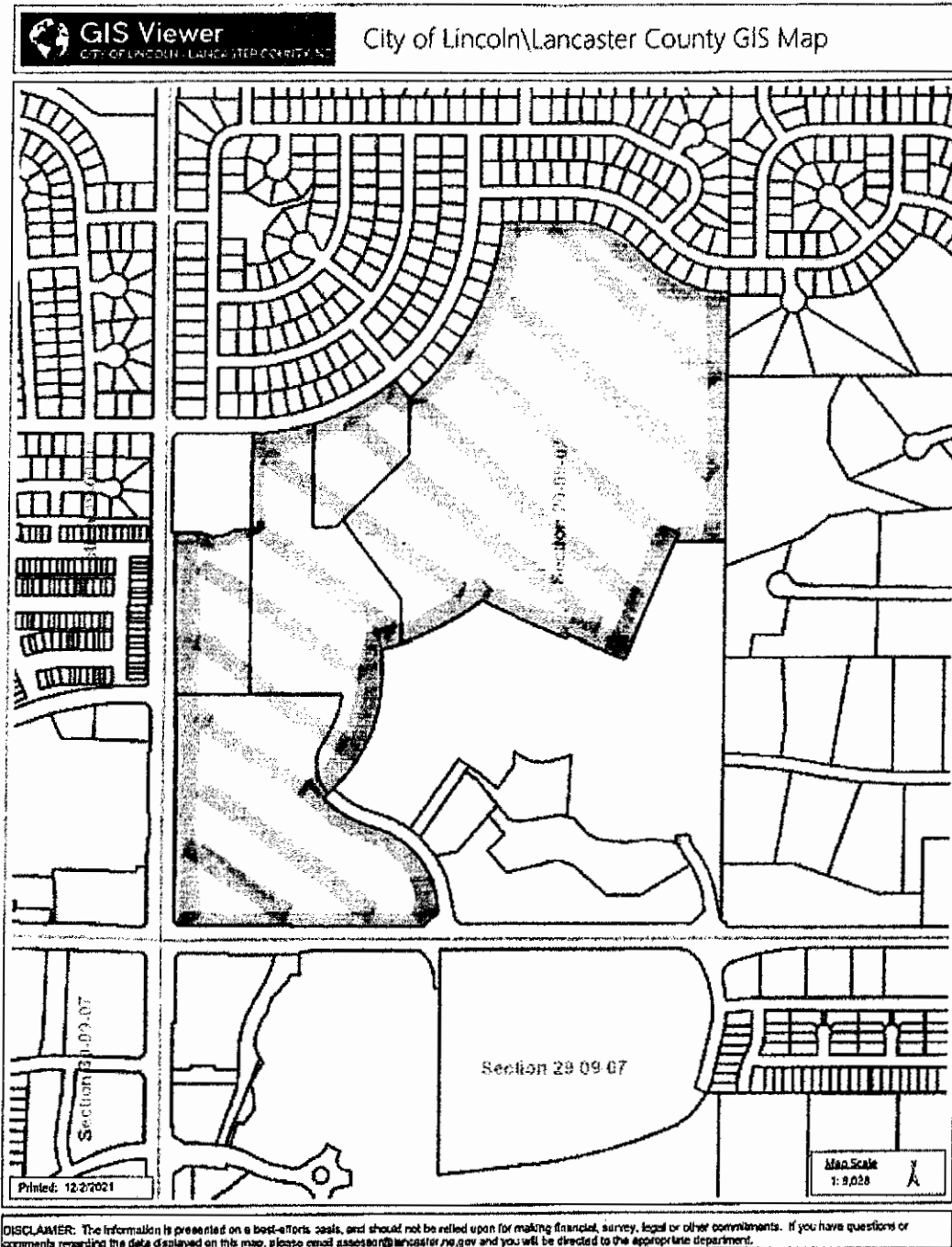
SCALE: 1"=150'



IMPACT FEE ELIGIBLE

**EXHIBIT D**

# Impact Fee Area

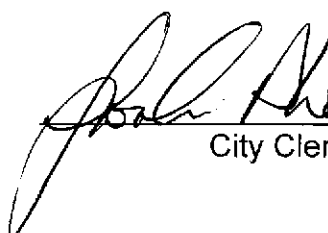


# CERTIFICATE

STATE OF NEBRASKA            )  
  )  
COUNTY OF LANCASTER        ) ss:  
  )  
CITY OF LINCOLN                )

I, Soulinnee Phan, City Clerk of the City of Lincoln, Nebraska, do hereby certify that the above and foregoing is a true and correct copy of the Conditional Zoning Agreement between the City and MBH Landholdings, LLC, Himark Land Investments, LLC, Apples Way, LLC and Guy Lammle for property generally located at 40<sup>th</sup> and Grainger as approved by Resolution A-93153 by the Lincoln City Council on January 10, 2022, as the original appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of the City of Lincoln, Nebraska, on the 14<sup>th</sup> day of January, 2022.

  
City Clerk 