

City Council Introduction: **Monday**, April 16, 2001
Public Hearing: **Monday**, April 23, 2001, at **1:30 p.m.**

Bill No. 01-65

FACTSHEET

TITLE: MISCELLANEOUS NO. 01003 to amend the **Country Meadows Final Plat, Ordinance No. 14784**, requested by Valeree & Richard Krueger and Kathleen & James Schulz, to reduce the building setback from 50' to 20' where the lots abut Outlot F, on property generally located at South 66th and Pine Lake Road.

STAFF RECOMMENDATION: Denial.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 04/04/01
Administrative Action: 04/04/01

RECOMMENDATION: Approval (6-1: Carlson, Krieser, Hunter, Taylor, Newman and Schwinn voting 'yes'; Steward voting 'no'; Bayer and Duvall absent).

FINDINGS OF FACT:

1. The Planning staff recommendation to **deny** this request to amend the Country Meadows final plat to reduce the building setback is based upon the "Analysis" as set forth on p.2-3, concluding that the modification of the 50' setback along Outlot F on Lot 6, Block 1, and Lot 1, Block 2, Country Meadows, does not conform with the Zoning and Subdivision Ordinances.
2. The applicant's testimony is found on p.4 and 5. The purpose of this request is to allow greater flexibility in future accessory building placement on Lot 6, Block 1, and Lot 1, Block 2.
3. The Country Meadows Homeowners Association supports this request (p.012).
4. There was no testimony in opposition.
5. The Commission's discussion with staff is found on p.4-5.
6. On April 4, 2001, the Planning Commission disagreed with the staff recommendation and voted 6-1 to recommend **approval** (Commissioner Steward dissenting). See Minutes, p.5-6.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: April 9, 2001

REVIEWED BY: _____

DATE: April 9, 2001

REFERENCE NUMBER: FS\CC\FSM01003

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Miscellaneous #01003

DATE: March 22, 2001

PROPOSAL: To amend Condition No. 2(h) of Country Meadows Final Plat, Ordinance No. 14784, to reduce the building setback from 50' to 20'.

GENERAL INFORMATION:

APPLICANT: Valeree J. and Richard C. Krueger
6525 S. 66th Street
Lincoln, NE 68516

Kathleen A. and James D. Schulz
6601 S. 66th Street
Lincoln, NE 68516

CONTACT: Same

LOCATION: Generally located at S. 66th Street and Pine Lake Road

EXISTING ZONING: AGR - Agricultural Residential

LEGAL DESCRIPTION: Lot 6, Block 1 and Lot 1, Block 2, Country Meadows, located in the SE 1/4 of Section 16, Township 9, Range 7 of the City of Lincoln, Lancaster County, Nebraska.

ANALYSIS:

1. This is a request to amend Condition No. 2(h) of Country Meadows Final Plat, Ordinance No. 14784:

“To agree to not permit any buildings within 50' of Outlot F and to place a protective covenant on Lot 6, Block 1, and Lot 1, Block 2 to that effect.”

2. The proposed amendment would reduce the building setback from 50' to 20' where the lots abut Outlot 'F'.

3. Outlot 'F' is shown as a future street in Country Meadows Preliminary Plat and noted in the Final Plat as a future street, which is platted at this time as an Outlot.

4. The intent of this condition is to establish appropriate front yard setback along Outlot 'F' when the future roadway is in place.

5. The AGR zoning requires a front yard setback of 50' from the street.

6. The designation of Outlot 'F' as a future roadway is necessary to provide adequate pedestrian and vehicular circulation in the existing and future surrounding neighborhoods.
7. Section 26.23.130(a) of the Subdivision Ordinance requires block length not exceed 1,320 feet. The "street" shown as Outlot 'F' is required.
8. Public Works and Utilities Department comments that Outlot 'F' was platted as a potential street right-of-way. The setback should match the same requirements as a required front yard.
9. Section 26.31.010 - Modification of Requirements of Title 26, The Land Subdivision Ordinance states:

"Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual condition that the strict application of the requirements contained in these regulations would result in actual difficulties or substantial hardship or injustice, the council may vary or modify such requirements so that the subdivider may develop the property in a reasonable manner, but so that at the same time, the public welfare and interests of the city and surrounding area are protected and the general intent and spirit of these regulations are preserved..."
10. The review by the Planning staff found neither substantial hardship or injustice caused by this condition, nor enhanced public welfare and interests through this modification.

CONCLUSION:

The modification of the 50' setback along Outlot F on Lot 6, Block 1 and Lot 1, Block 2, Country Meadows does not conform with the Zoning and Subdivision Ordinances.

STAFF RECOMMENDATION:

Denial

Prepared by:

Ching-Yun Liang
Planner

MISCELLANEOUS NO. 01003

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 4, 2001

Members present: Carlson, Krieser, Hunter, Steward, Taylor, Newman and Schwinn; Bayer and Duvall absent.

Planning staff recommendation: Denial.

Proponents

1. Rick Krueger testified on behalf of the applicants seeking to change the side yard setback on the Country Meadows final plat. The situation only affects the two lots—Krueger and his neighbor. The Country Meadows lots are 1-acre in size and under covenants, the owners are allowed to install an outbuilding and that is Krueger's ultimate intention. All of the homes are built now. There will be a roadway laying on top of the outlot. This request would allow Krueger and his neighbor to put their out-buildings closer to the outlot. Currently, it would be considered a side yard except for the 50' lot line on the final plat. Krueger has received approval from the Country Meadows Homeowners Association.

Newman inquired about the width of the right-of-way. Krueger believes it is 60'.

Hunter referred to the aerial photographs and inquired about the area behind the two lots. Krueger advised that it is an outlot that the association owns. It goes down off 66th Street between the two properties and heads generally north for future connection. The outlot it runs through does not have any density units assigned. He believes it is an outlot in perpetuity. He does not believe it could be designed for a home.

There was no testimony in opposition.

Staff questions

Steward sought verification that Outlot A and Outlot B would never be built upon. Kay Liang of Planning staff advised that on the original plat there is a utility easement over the outlot so if it would be preliminary platted it could be developed. Steward's concern is that we are setting up a key condition with this more narrow distance between r.o.w. and setback that will impact and affect future development along that roadway. Liang offered that if we agree with the reduction of the setback along Outlot F which is designated as future roadway, it would set a precedent for future development. In further response to a question by Steward, Ray Hill of Planning staff advised that if Outlot F was dedicated as a public street, the setback would be 50'. Under the present AGR zoning district the front yard is 50'. The intent of Outlot F was to provide access to the common open space and to provide access to properties that now front upon Hwy 2 to provide other means of circulation throughout the section.

Schwinn observed that if this neighborhood were to become R-1 zoning in the future, the front yard setback would be 30'.

Schwinn inquired whether the staff really foresees a major problem with that 20' setback off the street if the property were developed in the future. Hill responded, stating that the property is zoned AGR and the required front yard is 50'. If the zoning is changed to zoning which requires a smaller front yard, the staff would not have objection to changing it at that time.

Response by the Applicant

Krueger clarified that he is not asking for a change of zone. It is currently an outlot and as such is not a front yard, so he does not believe they are asking for anything extraordinary. The Country Meadows homeowners all have an interest in the outlot and it has never been the intention that it would ever be developed. And Krueger cannot conceive that there would be additional houses back there. In the subarea plan for 84th and Hwy 2 this is shown as green and open space.

Steward inquired whether the applicant would accept 30'. Krueger stated that "anything would be great". He requested 20' because the normal side yard setback in AGR is 15', so at 20' it is beyond what would normally be a side yard setback in AGR. He has received approval from the homeowners association to go to 20', so he believes that should carry some weight because the Country Meadows Homeowners Association has been very active in land use issues.

Hunter clarified that this will only affect two lots. Krueger confirmed.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 4, 2001

Hunter moved approval, seconded by Carlson.

Hunter will vote in favor because nothing will be built without approval of all the homeowners.

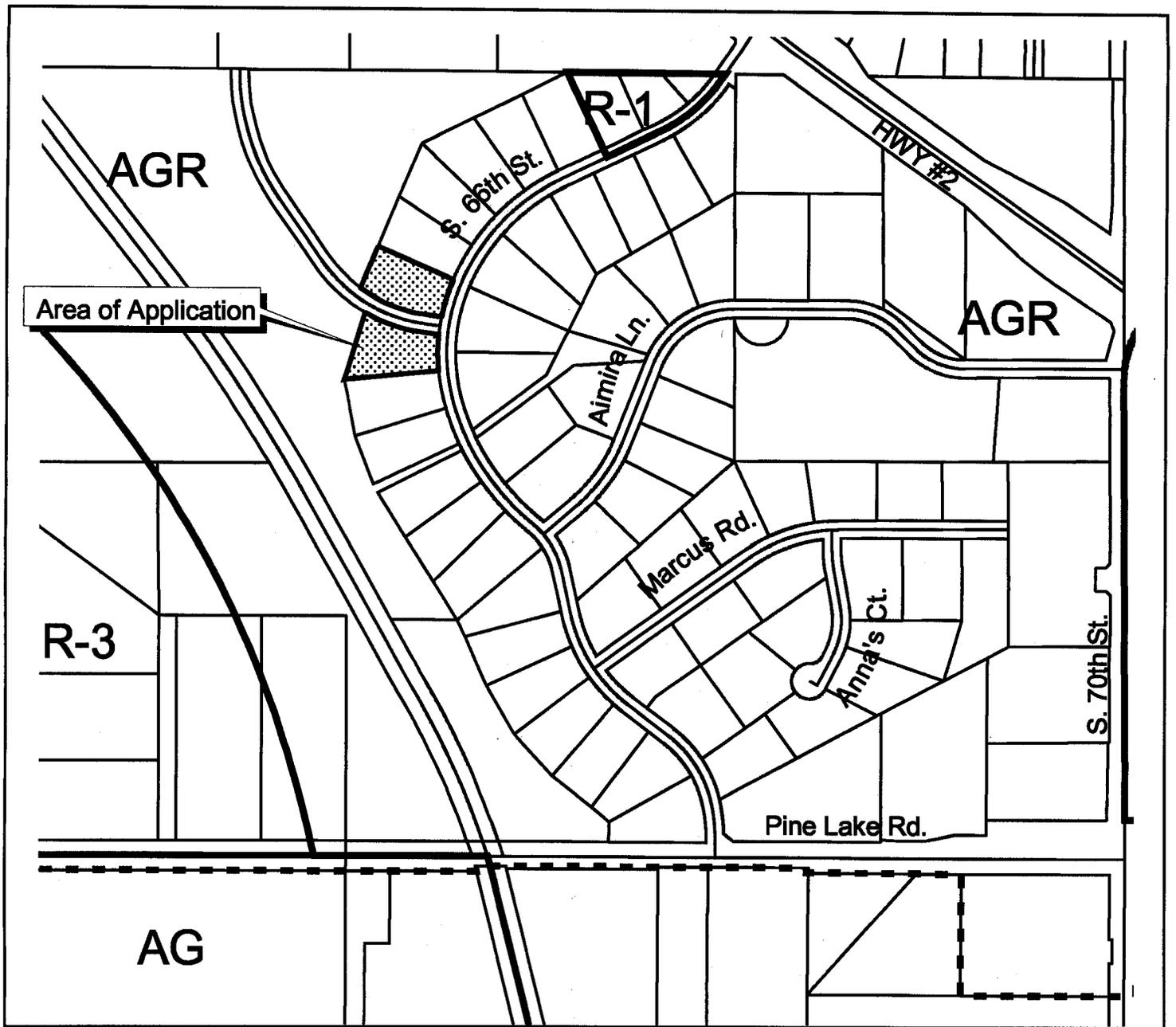
Carlson noted the homeowners association support. Although he is sensitive that it could be a road, the question is whether it will be a road and it looks like that possibility is pretty slim. He wants to be sensitive in the future for that situation, but if the developer and neighborhood association is on board, there does not appear to be an imminent public reason to deny.

Newman's concerns are whether it is a side yard setback or a front yard setback, and whether there will be sufficient r.o.w. if there is ever a road, but she believes there is enough room.

Steward observed that the city has been and in many cases insists that developers make potential connections out of subdivisions to establish roadway systems for reasons of public interest when there may not be an immediate owner public interest being expressed. Just because people are not here to support or resist is not reason to disagree with the staff recommendation. He believes it ultimately might be a roadway and the intent was to ultimately provide potential for connection to the south between 56th and 70th. If we set up a pattern, we further inhibit that opportunity by this yard frontage, which would become a front yard. He will vote against the motion.

Schwinn noted that Outlot F is an outlot and it is not a r.o.w. for a street as of yet. It was laid out that way but he cannot imagine the neighborhood association ever allowing that to be released. The land on Outlot A and B is very, very low and would probably never be possible to develop anyway, even if they got every homeowner to agree. He will vote to approve especially since it is the 20' that is the front yard requirement in many of our zoning districts.

Motion to approve carried 6-1: Carlson, Krieser, Hunter, Taylor, Newman and Schwinn voting 'yes'; Steward voting 'no'; Bayer and Duvall absent.

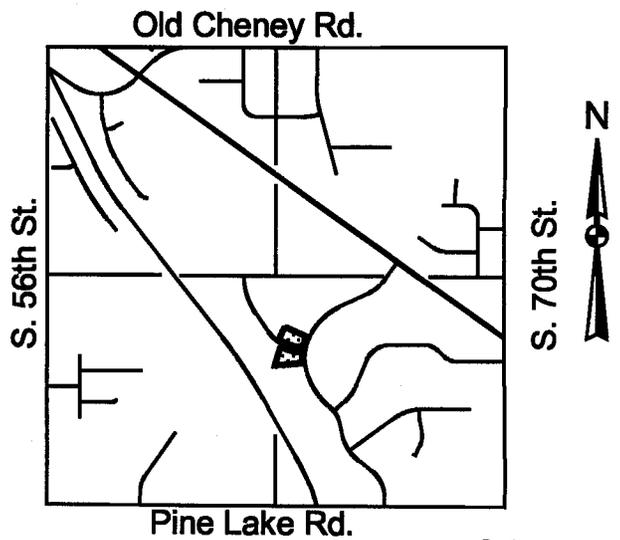
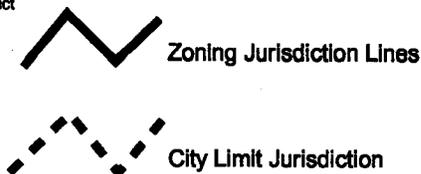


**Miscellaneous #01003
S. 70th St & Pine Lake Rd.**

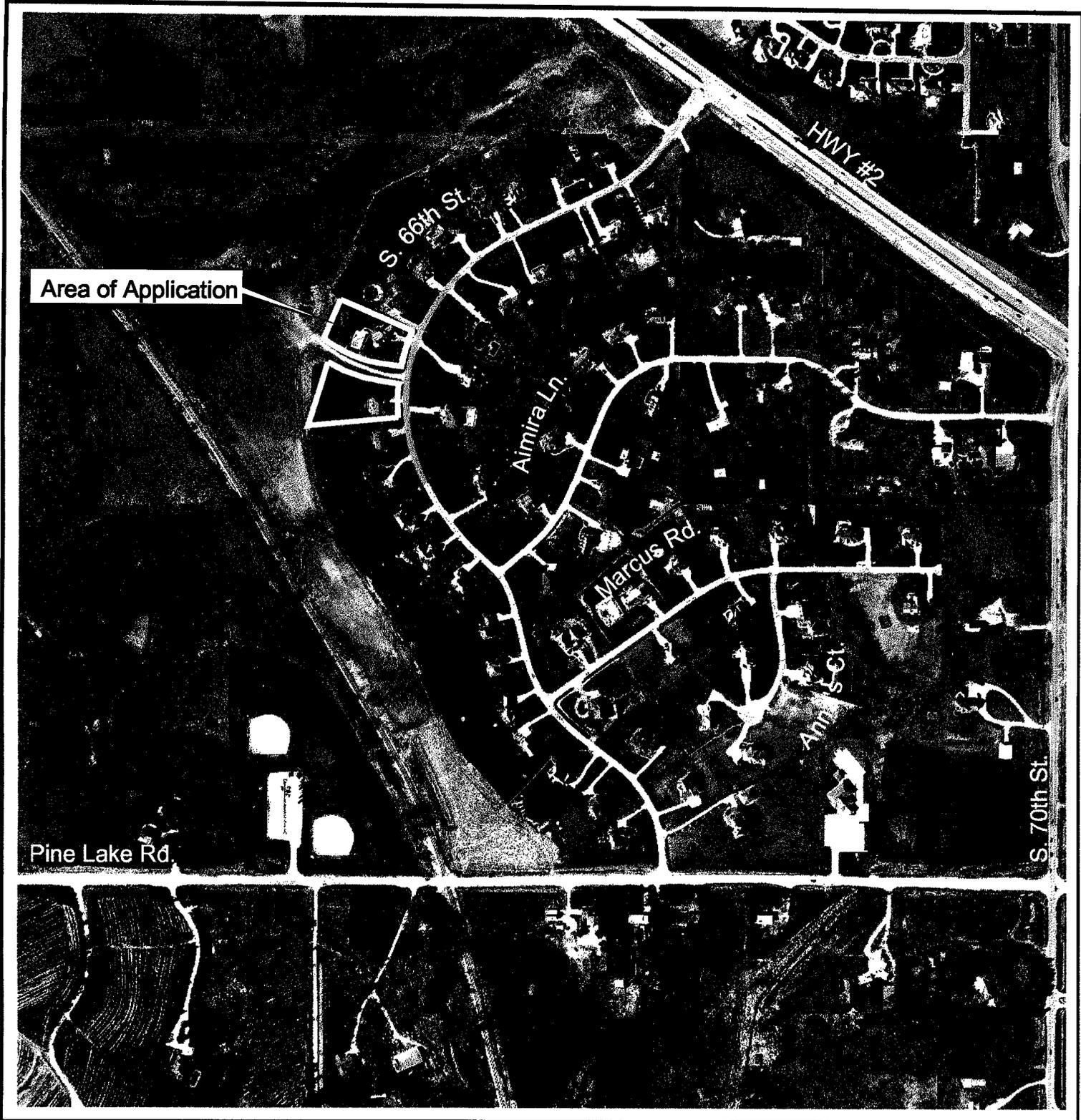
Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile
Sec. 16 T9N R7E



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**Miscellaneous #01003
S. 70th St & Pine Lake Rd.**

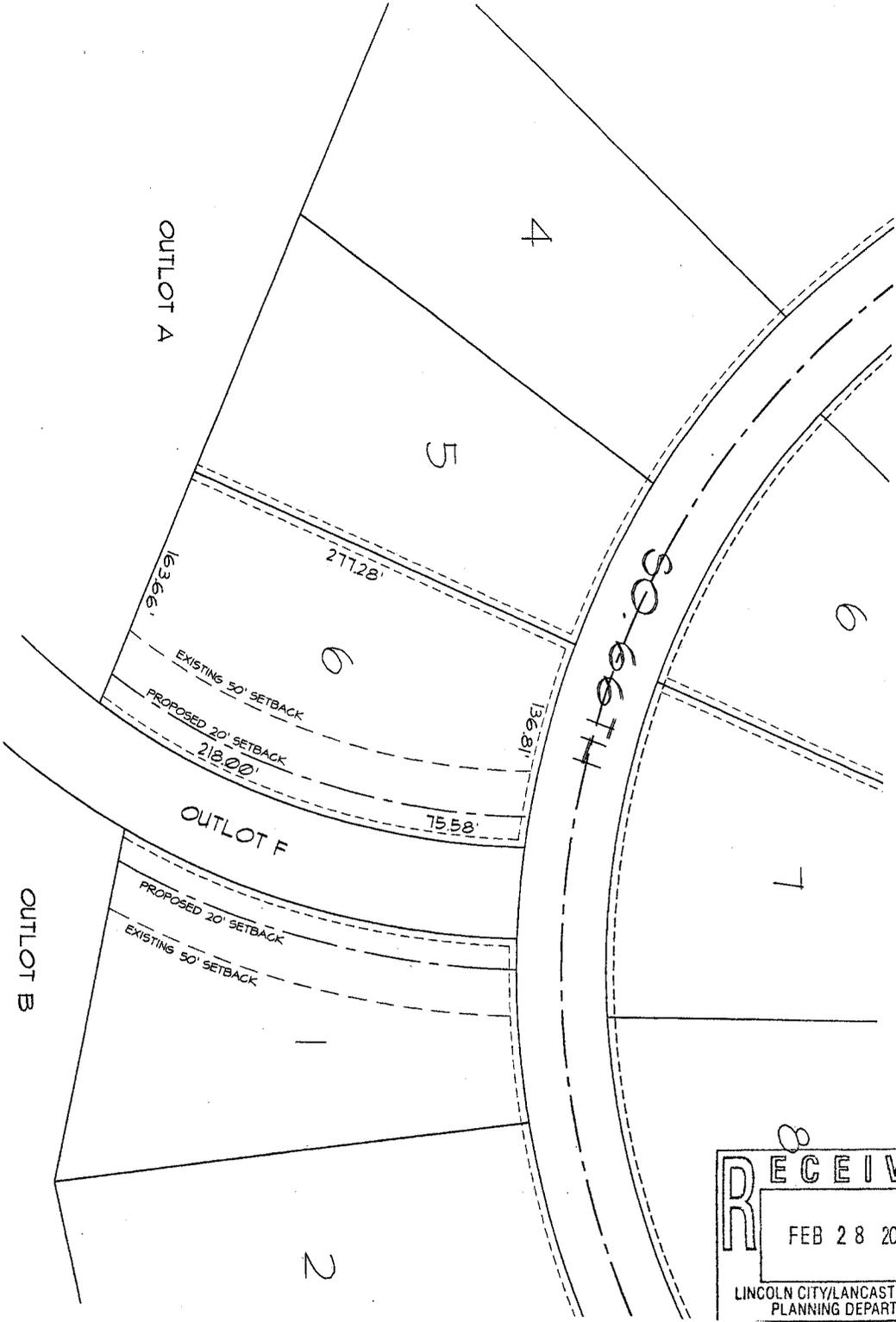


Sheet 2 of 3

Date: March 22, 2001

Photograph Date: 1997 008

Lincoln City - Lancaster County Planning Dept.



8
RECEIVED
 FEB 28 2001
 LINCOLN CITY/LANCASTER COUNTY
 PLANNING DEPARTMENT

Miscellaneous #01003
S. 70th St & Pine Lake Rd.

Sheet: 3 of 3
 Date: March 22,  North
2001

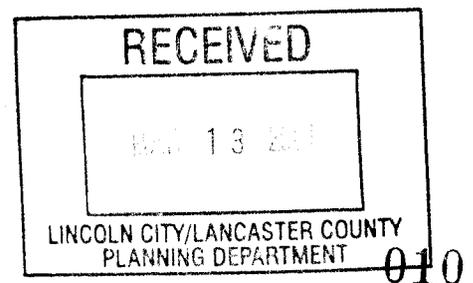
009

Memorandum

To: Ray Hill, Planning Department
From: Gary Lacy, Public Works and Utilities *GLL*
Subject: Misc #01003, Amend Ordinance #14784, Country Meadows
Date: March 8th, 2001
cc: Roger Figard, Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the Misc. #01003 to amend ordinance #14784. Public Works has the following comments:

The original Country Meadows final plat indicates that Outlot F was platted as a potential street right-of-way. The setback should match the same requirements as a required front yard.



January 22, 2001

Ms. Kathleen Sellman
Director of Planning
City of Lincoln

Re: Adjustment of building line on Lot 6 Block 1 & Lot 1 Block 2 Country Meadows
Addition, Ordinance #14784

Dear Kathleen:

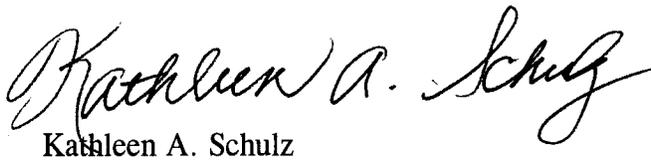
We are requesting an adjustment to the 50' building setback on these two lots.

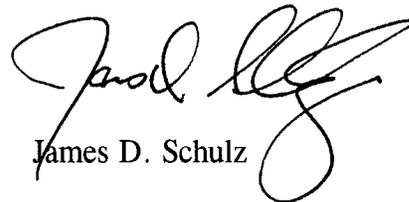
Specifically we are asking for an amendment to the approval of the Country Meadows original addition final plat to amend Condition 2(H) in Ordinance #14784 from 50' to 20'. Under AGR zoning the normal side yard setback would be 15'. This adjustment will allow greater flexibility in future accessory building placement on these two lots.

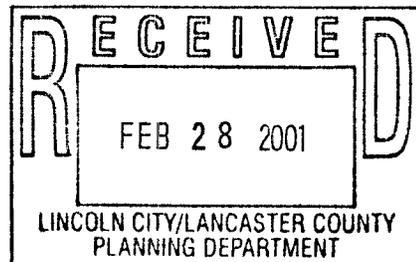
Thank you for your assistance with this request.


Valeree J. Krueger


Richard C. Krueger


Kathleen A. Schulz


James D. Schulz



Country Meadows Homeowners Association

February 18, 2001

Ms. Kathleen Sellman
Director of Planning
555 South 10th Street
Lincoln, NE 68508

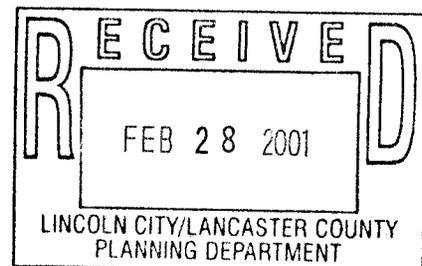
Dear Ms. Sellman,

Two homeowners in Country Meadows have requested an adjustment of the building setback from 50 feet to 20 feet long their side yards adjacent to a road to our association outlot. This would effect Lot 6 Block 1 and Lot 1 Block 2 Country Meadows Addition, Ordinance #14784. These lots are owned by Rick & Valeree Krueger and James & Kathleen Schulz. Country Meadows Homeowners Association Board of Directors supports this request.

Sincerely,



Christine Kiewra, President
Country Meadows Homeowners Association



RICK

DOB 11-17-27

87-225

BASE

WED 20/11/11

Introduce: 10-26-87

14784

ORDINANCE NO. _____

01 AN ORDINANCE accepting and approving the plat designat-
02 ed as COUNTRY MEADOWS as an addition to the City of Lincoln,
03 filed in the office of the Planning Department of the City of
04 Lincoln, Nebraska, upon certain conditions herein specified and
05 providing for sureties conditioned upon the strict compliance
06 with such conditions.

07 WHEREAS, TOWNHOUSER, INC. and KIMBERLY QUICK, TRUSTEE,
08 owners of a tract of land legally described as:

09 Part of Lots 23, 24, and 118, and all of Lots 58 and
10 110, all I.T.'s in Section 16, Township 9 North, Range
11 7 East, of the 6th P.M., Lancaster County, Nebraska,
12 more particularly described as follows:

13 Beginning at the southwest corner of said Lot 58 I.T.,
14 and extending thence north 0 degrees 19 minutes 08
15 seconds east, a distance of 690.89 feet along the west
16 line of said Lot 58 to the southwesterly right-of-way
17 of Nebraska Highway #2; thence south 54 degrees 27
18 minutes 00 seconds east along said right-of-way, a
19 distance of 989.61 feet; thence south 0 degrees 07
20 minutes 01 second east, a distance of 1415.14 feet;
21 thence south 48 degrees 49 minutes 56 seconds west, a
22 distance of 708.41 feet; thence south 76 degrees 09
23 minutes 21 seconds west, a distance of 285.00 feet;
24 thence north 89 degrees 53 minutes 57 seconds west, a
25 distance of 357.81 feet to the northeasterly right-of-
26 way line of the Burlington-Northern Railroad; thence
27 north 30 degrees 37 minutes 20 seconds west along said
28 right-of-way, a distance of 634.47 feet to the point of
29 curvature of a circular curve to the left having a
30 central angle of 7 degrees 17 minutes and a radius of
31 5779.58 feet; thence along the arc of said circular
32 curve a distance of 734.69 feet to the point of tangen-
33 cy; thence continuing along said right-of-way north 37
34 degrees 54 minutes 20 seconds west, a distance of
35 866.40 feet to the east-west centerline of said Section
36 16; thence south 89 degrees 53 minutes 57 seconds east
37 along said centerline, a distance of 1624.74 feet to
38 the point of beginning, containing 77.69 acres, more or
39 less.

40 have filed said plat in the office of the Planning Department of
41 the City of Lincoln, Nebraska, with a request for approval and
42 acceptance thereof, in the manner and form as by ordinance
43 required; and

44 WHEREAS, it is for the convenience of the inhabitants
45 of said City and for the public that said plat be approved and
46 accepted as filed.

01 NOW, THEREFORE, BE IT ORDAINED by the City Council of
02 the City of Lincoln, Nebraska:

03 Section 1. That the plat of COUNTRY MEADOWS as an
04 addition to the City of Lincoln, Nebraska, filed in the office of
05 the Planning Department of said City by TOWNHOUSER, INC. and
06 KIMBERLY QUICK, TRUSTEE, as owners are hereby accepted and
07 approved, and said owners are given the right to plat said
08 COUNTRY MEADOWS as an addition to said City in accordance there-
09 with.

10 Section 2. That prior to the passage of this
11 ordinance, said owners shall enter into a written agreement with
12 the City which shall provide as follows:

13 The owner, its successors and assigns agree:

14 a. To submit to the Director of Public Works an
15 erosion control plan.

16 b. To maintain the private improvements on a perma-
17 nent and continuous basis. However, the owners may be relieved
18 and discharged of this maintenance obligation upon creating in
19 writing a permanent and continuous association of property owners
20 who would be responsible for said permanent and continuous
21 maintenance. The owners shall not be relieved of such mainte-
22 nance obligation until the document or documents creating said
23 property owners association have been reviewed and approved by
24 the City Attorney and filed of record with the Register of Deeds.

25 c. To protect the remaining trees on the site during
26 construction and development.

27 d. To pay all improvement costs.

28 e. To operate and maintain the community wastewater
29 system in compliance with the rules and regulations of wastewater
30 treatment work of the State of Nebraska, to obtain a permit from
31 the State of Nebraska and to require the operator of the system
32 to be trained to operate the system and to possess a certificate
33 of competency issued by the State of Nebraska.

34 f. To operate and maintain the community water system
35 in compliance with rules and regulations for public water supply
36 system for the State of Nebraska, to obtain a permit to operate
37 the water system and to require the operator of the system to

01 possess a certificate of competency issued by the State of
02 Nebraska.

03 g. To continuously maintain the streets until the
04 County specifically accepts the maintenance.

05 h. To agree to not permit any buildings within 50' of
06 Outlot F and to place a protective covenant on Lot 6, Block 1,
07 and Lot 1, Block 2 to that effect.

08 Section 3. Pursuant to Sections 26.27.020 and
09 26.27.070 of the Lincoln Municipal Code, the City waives the
10 sidewalk and ornamental street light requirements.

11 Section 4. Immediately upon the taking effect of
12 this ordinance, the City shall cause the final plat and a certi-
13 fied copy of this ordinance together with the written agreement
14 required herein to be filed in the office of the Register of
15 Deeds of Lancaster County, Nebraska. Filing fees shall be paid
16 by said owners.

17 Section 5. That this ordinance shall take effect
18 and be in force from and after its passage and publication
19 according to law.

Introduced by:

Linda Wilson

Approved as to Form and Legality: AYES: Danley, Gutgsell, Hampton,
Minnick, Seng, Wilson; NAYS: None;
ABSENT: Hempel.

Norma W. Payer
for City Attorney

PASSED

NOV 02 1987

Staff Review Completed:

[Signature]
Administrative Assistant

BY CITY COUNCIL

APPROVED

NOV 9, 1987

Bill Harris
MAYOR