City Council Introduction: **Monday**, June 24, 2002
Public Hearing: **Monday**, July 1, 2002, at **1:30** p.m.

Bill No. 02-102

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 3339,** from AG Agricultural District to O-3 Office Park District, requested by Engineering Design Consultants on behalf of Thompson Creek, L.L.C., on property generally located east of South 56th Street and Union Hill Road.

STAFF RECOMMENDATION: Approval of revised legal description to include the proposed live/work units.

ASSOCIATED REQUESTS: Annexation No. 01007 (02-100); Annexation and Zoning Agreement (02R-144); Change of Zone No. 3338 (02-101); Preliminary Plat No. 01015, Thompson Creek (02R-141); Special Permit No. 1930, Thompson Creek Community Unit Plan (02R-140); and Use Permit No. 141 (02R-142).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 01/23/02; 02/06/02; and 02/20/02
Administrative Action: 02/20/02

RECOMMENDATION: Approval of revised legal description to include the proposed live/work units (7-0: Newman, Hunter, Steward, Krieser, Taylor, Carlson and Schwinn voting 'yes'; Bills and Duvall absent).

FINDINGS OF FACT:

1. This Change of Zone No. 3339 and the associated annexation, change of zone, preliminary plat, community unit plan and use permit were heard at the same time before the Planning Commission.

2. The staff recommendation to approve the change of zone with a revised legal description including the proposed live/work units, is based upon the "Analysis" as set forth on p.4-6, concluding that, with revisions, the proposal generally conforms to the Land Subdivision Ordinance, City of Lincoln Design Standards and the Zoning Ordinance. The proposal contains a number of positive aspects, including lanes to the rear of some residential units, live/work dwellings and a mixture of housing types.

3. This change of zone had public hearing on 1/23/02, with continued public hearings on 2/06/02 and 2/20/02.

4. The applicant's testimony is found on p.7-9; 11-12; 13-14; and 17-18.

5. Other testimony in support by Kent Seacrest is found on p.14-15.

6. There was no testimony in opposition.

7. On February 20, 2002, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend approval, subject to a revised legal description including the proposed live/work units.

FACTSHEET PREPARED BY: Jean L. Walker **DATE**: June 17, 2002

REVIEWED BY:_____ **DATE**: June 17, 2002

REFERENCE NUMBER: FS\CC\2002\CZ.3339 Thompson Creek

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application.

P.A.S.: Preliminary Plat #01015 - Thompson Creek **DATE:** January 9, 2002
Special Permit #1930
Use Permit #141
Change of Zone #3338
Change of Zone #3339
****As Revised and Approved by Planning Commission on 2/20/02****

PROPOSAL:		
	Change of Zone #3338	AG to R-3
	Change of Zone #3339	***AG to O-3***
	Preliminary Plat #01015	283 residential and 2 office lots
	Special Permit #1930	312 assigned units; 40 unassigned
	Use Permit #141	69,000 sq. ft. of office
		live/work dwellings

WAIVER REQUESTS: see attached

LAND AREA: Preliminary Plat - 78.153 acres, more or less
Use Permit - 7.156 acres, more or less
Special Permit - 70.997 acres more or less

CONCLUSION: With revisions the preliminary plat, use permit, and community unit plan generally conform to the Land Subdivision Ordinance, City of Lincoln Design Standards and the Zoning Ordinance.

This proposal contains a number of positive aspects, including lanes to the rear of some residential units, live/work dwellings, and a mixture of housing types.

RECOMMENDATION:		
	Change of Zone #3338	Approval, with revision
	Change of Zone #3339	***Approval, with revision***
	Preliminary Plat #01015	Conditional Approval
	Special Permit #1930	Conditional Approval
	Use Permit #141	Conditional Approval

LOCATION: Generally located east of S. 56th Street and Union Hill Road

APPLICANT: Thompson Creek, L.L.C.
Hampton Development Services, Inc.
6101 Village Drive, Suite 101
Lincoln, NE 68516
(402) 434-5650

OWNERS: Thompson Creek, L.L.C.

CONTACT: Robert L. Dean
Engineering Design Consultants
630 N. Cotner Blvd - Suite 105
Lincoln, NE 68505

EXISTING ZONING: AG Agricultural

EXISTING LAND USE: Undeveloped

SURROUNDING LAND USE AND ZONING:

North:	AG	Campbell's Garden Center and plant nursery
South:	AG	L.E.S. transmission lines and fields
East:	AG	Agricultural
West:	R-3	Residential

ASSOCIATED APPLICATIONS: Annexation #01007

HISTORY: This area was converted from A-A Rural and Public Use to AG Agricultural in the 1979 zoning update.

COMPREHENSIVE PLAN SPECIFICATIONS: The area is shown as Urban Residential in the Southeast Lincoln/Highway 2 Subarea Plan.

The Plan designates the southeast corner of S. 56th Street and Pine Lake Road as an Urban Village.

The subarea plan designated this land as Phase II - *areas designated for near term development will be contiguous to existing or planned development but lacking one or more major items of infrastructure, such as arterial road, park or trunk sewer.* (p 197)

The Comprehensive Plan indicates several goals for future urban residential areas, one of which indicates:

> "Encourage efficient use of urban areas by providing for high density residential uses as an integral part of major, planned commercial and residential developments." (Page 44)
>
> "Increase ownership opportunities for households of different sizes and income levels." (page 44)

UTILITIES: Not currently available. The annexation agreement will specify cost responsibilities for the infrastructure.

TOPOGRAPHY: Sloping from the east and west edges of the property to a channel in towards the center.

TRAFFIC ANALYSIS: S. 56th Street is classified as an arterial street; it is a public way corridor in the Comprehensive Plan.

PUBLIC SERVICE: Currently served by Southeast Rural Fire District and County Sheriff. Upon annexation, City Fire and Police will provide service.

ENVIRONMENTAL CONCERNS: Preservation of the drainage channel and existing topography

AESTHETIC CONSIDERATIONS: Preservation of existing tree masses

ANALYSIS:

1. These applications propose a mixture of office, single family housing, two family housing, multi-family housing, and live/work townhouses.

2. The ordinance states the purpose of the Community Unit Plan is "to encourage the creative design of new living areas... and in order to permit such creative design in buildings, open space, and their interrelationship while protecting the health, safety, and general welfare of existing and future residents of surrounding neighborhoods."

3. The proposed development generally meets the intent of the ordinance.

4. The live/work townhouses on the north side of Billings Drive should be rearranged to face each other rather than lining one side of the street. Outside employees are not permitted in the R-3 zoning district, so the townhouse area should be zoned O-3 and included with the use permit. If the live/work concept is not developed, that area should revert to R-3 zoning and uses. The parking requirement for the office uses can be waived; the residents will use the rear-entry garages and any clients would use the on street parking along Billings Drive. The open space requirement for dwellings in the O-3 district can be satisfied by the close proximity to the mini park and the wooded drainage way between blocks 9 and 21. Some of the requirement could be met through balconies and rooftop space, but the applicant has not provided specific designs for the structures.

5. The residential alleys are too wide. The Subdivision Ordinance requires 20 feet of right-of-way for alleys, but not all of that needs to be paved. The residential alleys in Vavrina Meadows 1st Addition are 16 feet wide, for example.

6. The alley in Block 5 is approximately 900 feet long. There should be a break somewhere near Lots 10, 11, 39 and 40. This will facilitate access to the houses at the center of the block. The corner lots appear wide enough to accommodate 20 feet of north south alley. The cost of constructing the additional alleys can be offset by providing narrower alley widths.

7. Thompson Creek Boulevard is a long, wide fairly straight street which will encourage speeding. The right of way east of Greycliff Drive should be reduced to 60 feet and the pavement width reduced to 27 feet. The width reduction saves the developer the cost for 22,800 square feet of concrete.

8. Greycliff Drive does not exceed block length maximums within this subdivision, but the presence of the L.E.S. transmission line easements to the south means that the street will exceed maximum block length once the area develops. Providing a street connection from Union Hill to Garrison Drive promotes better circulation now and in the future. The street

connection would require approximately 6,750 square feet of concrete - a fair trade for the 22,800 square feet of concrete no longer required on Thompson Creek Boulevard.

9. The request to exceed the maximum height in the R-3 district will allow parking to be built on the ground level of the apartment buildings adjacent to Union Hill road.

10. The proposed sanitary sewer does not meet maximum depth design standards. Public Works & Utilities notes that having downstream property that has not constructed sanitary sewer is not sufficient justification for waiving the design standards. The development of the western portion of this plat should not occur until an outlet sewer is constructed in the natural drainage basin.

11. The lots adjacent to Detention Cell 1 would be flooded by the 100 year ponding elevation. This must be corrected.

12. Bottom treatment of the open ditches is necessary in areas not covered by the permanent pool.

13. The applicant has not provided calculations which show the post development flows matching the Beal Slough master plan.

14. Public Works & Utilities notes that the right angle parking, with its limited sight distance and proximity to a horizontal curve, creates potential conflicts with traffic. The townhouse area along Billings Drive must be revised so that there is sufficient room within the right-of-way for a sidewalk as well. If the 45 right angle parking stalls were removed, Billings Drive would permit approximately 27 spots for parallel parking on the north and 22 spots on the south (assuming 20 feet per parking spot). The proposed right angle parking might provide more convenience and parking stalls for drivers accustomed to standard office and commercial developments, but it carries a reduction in traffic safety.

15. The applicant has requested the following yards:

Single family		
	Front	Building structure/porches - 15 ft. Side loaded garage - 15 ft. Front loaded garage - 20 ft.
	Side	Porches, decks, accessory buildings and detached garages - 0 ft. Main structure - 5 ft.
	Rear	Smaller of 30 ft. or 20% of depth
Two family	Front	Building structure/porches - 10 ft. Side loaded garage - 10 ft. Front loaded garage - 20 ft.
	Side	Porches, decks, accessory buildings and detached garages - 0 ft. Main structure - 3 ft.

	Rear	With alley - 10 ft. Without alley - smaller of 30 ft. or 20% of depth
Townhouses	Front	15 ft.
	Side	5 ft.
	Rear	Building - smaller of 30 ft. or 20% of depth Garage - 20 ft.

The proposed yards permit additional building mass on relatively small lots. Since single family houses can be placed on any two family lot per Note 26, the two housing types should have the same setback requirement. It would also be preferable for side loaded garages to have the same 15 ft. setback on both single- and two-family lots. Note 40 states that buildings must conform to building and life safety code requirements. If the yard waivers are approved as proposed, there may be situations where building and life safety codes disallow building plans that appear to be permitted by these waivers. Previous community unit plans such as Fallbrook and Vavrina Meadows 1st Addition have granted generic setback waivers, with the specifics to be determined through an administrative amendment. Such a course is appropriate here.

16. The Parks & Recreation Department requires a detailed plan of the playground space, including a scale and review of safety issues.

17. The applicant had not initially requested that unused density be allocated to "unassigned units." Doing so will permit minor changes, such as converting a corner single family house into a two-family house, without council action.

<u>CONDITIONS:</u>

CHANGE OF ZONE #3339:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office, the change of zone will be scheduled on the City Council's agenda:

1.1 Revise the legal description to include the proposed live/work units.

ANNEXATION NO. 01007;
CHANGE OF ZONE NO. 3338;
CHANGE OF ZONE NO. 3339;
SPECIAL PERMIT NO. 1930,
THOMPSON CREEK COMMUNITY UNIT PLAN;
PRELIMINARY PLAT NO. 01015, THOMPSON CREEK;
and
USE PERMIT NO.141

PUBLIC HEARING BEFORE PLANNING COMMISSION: January 23, 2002

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

Staff recommendation: Deferral of the annexation; approval of the changes of zone, with revisions to the legal description; and conditional approval of the community unit plan, preliminary plat and use permit.

Jason Reynolds of Planning staff clarified Condition #1.1.8 of the Community Unit Plan, on page 120: "Connect Union Hill Road from Greycliff Drive to Garrison Drive." This does not mean that Union Hill Road would be extended directly from where it is, but a road connection between Greycliff Drive and Garrison Drive somewhere in that lot.

Proponents

1. Mark Hunzeker appeared on behalf of **Hampton Development Services,** the developer. This project is the result of quite a lot of planning in conjunction with the neighbors. Campbells and Home Real Estate both participated in a series of meetings involving the urban planning design firm with a number of design charrettes where a lot of neighborhood input was taken. The concept here is to develop a "new urbanism" type subdivision--urban village. We have made a lot of effort in the design of this project to preserve the existing topography and the existing drainage channel, and to adjoin the neighbors to the north, south and east in such a way as to provide for connections that facilitate the development of the abutting properties.

With respect to the preliminary plat conditions, Hunzeker stated that there is an issue with Condition #1.1.7 which requires the removal of Outlot labels E, F, G and H, and requires that they cannot be final platted. This raises a question and needs explanation from staff. Hunzeker understood the instructions to be to label these as outlots. These outlots are generally located in the northeast and eastern area of the plat. The reason they have been labeled as outlots and the reason they cannot be final platted is because the streets that abut those lots are on property under different ownership and they will not be able to be platted until the adjoining property is platted. By not labeling them as outlots, when we come in with a final plat, we will be creating parcels along our east boundary and to the north that amount to less than 10 acres. That creates a subdivision question because in the past we have been told we cannot create a parcel that is less than 10 acres. So all we are trying to do is delineate those

areas as being unplattable until we are able to get streets dedicated abutting them. But the way it appears, we may not be able to plat a substantial amount of other land unless we have the ability to label these as outlots and have waivers of the street frontage requirements.

Hunzeker requested that Condition #1.1.10 of the preliminary plat be deleted. This condition requires that the sewers be revised so that they do not exceed maximum depth. There are a couple of these areas in this plat. As we come off of 56th on the west, the property rises substantially and we have an area where our sewer is about 20' deep and about 200-300' in length where we exceed the depth. There is another area that is also below the recommended depth because we have to get under the drainageway. The reason that we are deep here is because we are trying to save the existing topography and minimize the amount of cut and fill on the site. We could knock the hill down another 5', but we really don't want to do that because part of the attraction of this property is the topography. It is important to this project to try to keep that as near to the existing topography as possible. It is possible to sewer the area by running a sewer back through the Campbell property along 56th Street, but the Campbell property has no immediate plan for development and we don't know when that will come. The area to the south all sewers back through our other main sewer, so we would only be waiting for a sewer to get to this area and it would stop. We're serving it with a sewer that is below the design standard depth because we are trying to maintain this topography. We could sewer it if we had to cut it down, but we really don't want to do that.

Hunzeker also requested that Condition #1.1.14 of the preliminary plat be deleted. This condition requires the developer to eliminate the 90 degree parking along Billings Drive. There are proposed live/work townhomes on Billings Drive. Other conditions require us to move these townhomes over to the opposite side so that they face one another and to adjust our change of zone to bring them into the O-3 district. We need parking to serve those live/work units. We have been asked to widen the street to a local commercial width, but we need to be able to have parking. 90 degree parking is the most efficient and provides the most parking for those uses. By providing parallel parking, it cuts it in half and it would be insufficient parking for these live/work units.

Hunzeker requested that Condition #1.1.6 of the community unit plan be deleted. This condition requires the addition of a north/south alley in Block 5. Hunzeker stated that by moving these live/work units, they will be providing a north/south alley and would like not to have to provide another one between Lots 39 and 40.

Hunzeker also requested that Condition #1.1.8 of the community unit plan be deleted. The requirement being made is to connect Greycliff Drive (which is mostly north/south) and Garrison Drive with a connecting street. Hunzeker pointed out that they do not exceed the maximum block length of 1320' in this location. In fact, if you measure from the middle of Thompson Creek Drive 1320' south, it comes out somewhere around 120' south of property that is currently owned by LES. It is hard to imagine that LES has a need for this parcel with a substation located nearby. If LES holds onto that property and does not allow a street to go through, the street being required by this condition would dead-end. If the LES property becomes part of a new subdivision, there is room to come all the way to a point where you can run lots in a north/south direction before you get to the 1320' block length requirement. Hunzeker does not

believe that this developer should be required to add a street where the design standards don't require it and there is capability to make the connection on the property to be platted next.

Hunzeker requested to amend Condition #1.1.9 of the community unit plan which deals with the setbacks. This developer is requesting a very high degree of flexibility with respect to setbacks from front, side and rear yards because of the small size of some of the lots as well as alley access points, etc. He does not believe staff is in any disagreement and they are suggesting a generic approval of those with administrative amendments. However, Hunzeker believes there may be instances where building codes or life safety codes might require a greater setback. Therefore, he suggested that a phrase be added at the end of Condition #1.1.9, "...., subject to life safety and building codes." He also suggested that a new condition #2.5 be added to the community unit plan: "Waiver of front, side and rear yard setbacks subject to administrative amendments providing for minimum setbacks meeting building and life safety codes." This simply clarifies that the minimum standard for any setback waiver will be the building and life safety codes.

Hunzeker advised that the only other thing about this project that is outstanding is an annexation agreement. He does not believe there are major issues to be resolved and believes it can be accomplished quickly. Hunzeker requested that the Commission go ahead and approve this project, subject to the execution of an Annexation Agreement prior to scheduling on the City Council agenda.

Newman was intrigued by the live/work unit concept and she asked for further description. Hunzeker understands that the concept is to have a unit which, in appearance from the street, resembles a townhome but is in some way (either the upstairs or the main level) an office space for some sort of professional type business, i.e. sole practitioners, law, accountancy, commercial artists, design people, any number of computer related type services. These would be areas where, because of the zoning and because of the approval of the mix of uses, they would be able to have an outside employee where you could not if doing it out of your house. It would also permit small wall signs on the buildings.

Hunzeker confirmed that the live/work units will be in the O-3 and the staff recommendations on the changes of zone are to revise the legal descriptions to address moving some of the live/work townhomes. Schwinn inquired as to rationale for the original location of the live/work units rather than as being required by staff. Hunzeker indicated that they will lose a few units by moving them just because of the curb and the street. The thought was having those units back up to what is likely to be office/commercial might be a little easier transition, but the staff felt strongly that the units should face one another and we basically agreed to do that after further consideration.

Schwinn also noted that staff has a concern about the 90 degree parking, but if you put the 90 degree parking all on one side of the street, then that issue would only be half. Hunzeker believes the traffic issue is minimal with it only being one block long. That particular street should not be a heavily traveled one.

There was no testimony in opposition.

Staff questions

Steward asked staff to explain the rationale for opposing the in-line one side of the street live/work units. Jason Reynolds of Planning staff responded, stating that in general, the urban design principle is to have them facing each other. The practical benefit of having the units opposite each other is that it is easier to park across the street as opposed to down the street. In this block there was previously shown a street and it no longer is in place.

Steward differed with the notion of like uses facing each other. He thinks that is an older design issue and not necessarily a "new urbanism" issue. In the future, he will look for more mixing of these patterns than uniformity of patterns in terms of what the overall environment presents to the buying public. Schwinn agreed.

Steward asked for some explanation of the 1320' distance discussion on connecting Union Hill Road and Greycliff Drive. Reynolds explained that Greycliff Drive down to the end of the property is approximately 850'. By the time you get to the other side of the LES property, it is 1/4 mile. If the LES property is developed, we don't know precisely where that street will be located. This allows for a better street connection when that property does develop. If it does not develop, it makes this subdivision function better. It also provides a better pedestrian connection to the office and business uses along 56th Street. Steward observed that that is a serious concern–the directness or indirectness of the pedestrian routes. Are there any pedestrian ways through any of these longer situations? Reynolds stated, "no, there are not".

With regard to Condition #1.1.6 on the community unit plan regarding the north-south alley, Steward asked whether staff agrees to delete that condition. Reynolds agreed.

With regard to Condition #1.1.9, Reynolds agreed with the additional language suggested by the applicant regarding the life safety and building codes but he does not believe the addition of Condition #2.5 is necessary. The language, "subject to an administrative amendment", could be added in Condition #2 instead.

Steward asked whether the staff is comfortable with the Commission acting on the annexation, subject to the execution of an annexation agreement prior to scheduling on the City Council Agenda. Reynolds disagreed. The idea of having the annexation agreement ready to sign prior to Planning Commission allows the Planning Commission to be fully cognizant of the costs involved with this development. All of the recommended approvals are contingent upon the annexation. Therefore, the whole package should be deferred.

Schwinn would like to defer two weeks and would request that the Commission be provided with the agreed upon amendments to the conditions.

Carlson asked staff to speak to the rationale for removing the 90 degree parking. Reynolds stated that one of the unfortunate side effects is that it expands a street. The initial drawings showed sort of a crunch between right-of-way and the front of the townhouses and there wasn't much room to include the parking, sidewalks and a little bit of turf and some street trees. You end up with a right-of-way that will be very wide with 90 degree parking. But, Steward believes you exacerbate that problem by putting them face-to-face. Reynolds suggested that taking away the 90 degree parking eliminates the problem. One of the advertised waivers is waiver of parking requirements, so essentially the office use

could make use of on-street parking. The applicant did not provide a parking study to indicate how much parking is required. It would, however, be similar to a home occupation and have the same parking demands.
Schwinn observed that by moving the cars at an angle, the diagonal length of the car is actually longer and you use more space than with the 90 degree parking. This developer is trying to bring us the future. Schwinn thinks we should revisit this concept because he believes what the developer originally proposed makes more sense. Steward feels better about the buffer if you get office use on the other side.

Steward asked Public Works to discuss the sewer depth issue. Dennis Bartels of Public Works advised that this piece of ground is Tier II in the Comprehensive Plan–we're leapfrogging to get it built. If we wait for the development to happen along that natural drainage area, the sewer would be in that natural drainage area and we would not have a forever situation where the city has to maintain it or a plumber has to dig a 22' hole to allow the paving. It takes extra expense and equipment to maintain because we are developing a piece out of sequence with the normal downstream/upstream development. Steward observed, however, if we say they can't go to that depth, it means they can't develop that part of the property until the city determines the trunk line to serve that area. Bartels explained that it is a normal 8" local service line which means it would be the responsibility of the property owner that it goes through. There are a number of houses that would have to take service to this sewer along Thompson Creek. The proposal is to run a sewer against street grade. The natural drainage is to the west and north.

Bartels indicated that he raised questions about the right angle parking. 90 degree parking is probably the most unsafe parking you can get because one car beside you obstructs your vision. They are on tight horizontal curves which compounds that problem. Angle parking is more ideal. We're not real interested in plowing snow out of these parking stalls, either. Reynolds also clarified that the applicant requested public streets. But, Bartels advised that even on private streets the city does not allow more than five parking stalls in a group. In the plan that was submitted, the parking went all the way to the right-of-way line with 15' setback to the building, which still needs the sidewalk and street trees outside the right-of-way Bartels thought it was getting tight.

<u>Response by the Applicant</u>

Hunzeker observed that we have done a lot of talking in Lincoln about the desire to move toward this type of development, and it's going to be a different thing than we're used to. We have design standards which for the most part are standards which are desirable, but in situations such as this they just don't apply. We do need parking for these units and we do need to have enough so that people will feel like they can do business without having to send their customers far down the street to park. Up and down the street are relatively small duplex units, so there is not going to be a lot of available street space to park if there is overflow for the work/live units. They will have access to rear parking but they are going to need some parking on the street. He does not believe plowing the snow will be an issue because these owners won't wait for the city to get there.

With respect to the street connection in Condition #1.1.8 of the community unit plan, Hunzeker expressed frustration because the reasoning behind it is hard to grasp. If the property to the south does not develop, then we won't have a connection. It is still only 850'. If the property to the south does not develop, then you've got an 850' block. If we're not going to stay with the 1320' in the design standards, then at what point are we free to make up a new rule? Hunzeker stated that he understands

the comment with respect to pedestrian traffic and he believes they have room to provide a pedestrian way at least at the end of the block, but to put a street through in addition to the fact that it is not required by the design standards, causes some real grade problems. Making the required 3% platforms at those intersections with a short street is problematic. It will require a significant change to the grading plan.

Hunzeker further pointed out that all of this area drains back to the drainage way that runs down to the Beal Slough trunk sewer that presently is at Pine Lake Road, approximately where the railroad track is located. There is just the one area that they cannot serve without exceeding the depth. It would be served back to the north if we couldn't serve it "this way". By serving it "in this direction" we are not creating a gap, we're simply shortening the length of the sewer that comes up "this direction" rather than "this direction". (Hunzeker was pointing to the map during this discussion). We are not in a different drainage basin--we are simply on two different sides of a hill within the same drainage basin. Hunzeker cited several other developments that have been approved with sewers that exceed the recommended depth, i.e. Andermatt, Pine Lake Plaza, Stone Bridge Creek. Hunzeker understands there is a concern and that we don't want to do it all the time, but it is something that is done regularly where the conditions justify it, such as in this case.

Steward moved to defer for two weeks, with continued public hearing and administrative action scheduled for February 6, 2002, seconded by Newman and carried 7-0: Steward, Newman, Taylor, Bills, Carlson, Krieser and Schwinn voting 'yes'; Duvall and Hunter absent.

Steward complimented the applicant for the work and strategy and the courage to try to take on a different kind of development project with the existing standards. In working on the new Comprehensive Plan, it has become more and more clear to him that if we are really going to make it as easy as possible, profitable, reasonable and convenient, we are going to have to look at our codes and design standards. He also complimented the staff for being accommodating within the limitations of existing codes and regulations.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: February 6, 2002

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

Jason Reynolds of Planning staff requested an additional two week deferral to continue to negotiate the annexation agreement with the applicant. He advised that there has also been a request from the property owner to the south to have some revisions to the site plan.

Bills made a motion to defer for two weeks, with continued public hearing and action scheduled for February 20, 2002, seconded by Carlson and carried 7-0: Taylor, Carlson, Bills, Steward, Krieser, Duvall and Newman voting 'yes'; Hunter and Schwinn absent.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: February 20, 2002

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

Jason Reynolds of Planning staff submitted a revised conceptual layout for the live-work unit area and recommended additional conditions on the use permit and special permit accepting this conceptual layout. The special permit should have a new Condition #1.1.10: "Revise the street layout near the live-work units in accordance with Exhibit "A" submitted on February 20, 2002, subject to review and approval by city departments." The same language should be added as new Condition #1.1.14 on the use permit.

Proponents

1. Mark Hunzeker appeared on behalf of **Hampton Development Services.** He agreed with the new condition relative to revising the live-work area. He believes this is a design that was arrived at by the applicant in an effort to address the concerns of the staff of having these live-work units face one another and provide for the 90 degree parking in front of the units; and it resolves the issue of north/south access from the main road to the road running parallel to the north. This is a good solution. It ends up doing everything that the staff was attempting to accomplish with the previous conditions. It actually ends up costing a couple of units, but the net result is that we end up with more usable space to the west for the office uses.

Hunzeker addressed the conditions of approval dated 1/31/02. Condition #1.1.10 on the preliminary plat still requires revision to the sewer system so that it does not exceed the maximum depth. Hunzeker reiterated from the last hearing the need to retain the existing contours in the project to the extent possible. Hunzeker agreed that the project is in violation of the standard by "a little bit over a short distance"; however, he reiterated the request to delete this condition so that they do not have to grade down the hill to meet sewer depths. They are trying very hard to maintain the topography in this area to retain the drainageways. They need this flexibility.

Hunzeker also suggested that Condition #1.1.14 of the preliminary plat regarding the 90 degree parking may now be deleted based upon the revised layout of the live-work units submitted today. Referring to the community unit plan special permit, Hunzeker noted that Condition #1.1.7 still requires a connection between Union Hill Road from Greycliff Drive to Garrison Drive. Union Hill Road comes into the site and it T's into Greycliff. The requirement is to connect Greycliff and Garrison on the theory that between Thompson Creek Boulevard and someplace south of our property line is the 1320' magic number that we can't exceed for block length. "We are at 850' and we think that is sufficient under the design standards". The developer does not wish to make that connection. The city requires not more than a 3% platform grade as you make intersections with the street. To make that 3% platform grade between these two streets would be very difficult and would require a very significant revision to the grading plan. It would really flatten out what is now a significant grade. In addition, there is more than enough room from the south boundary of our property to a point where there would ever be a street to the south to make lots face north/south on a road that could be brought in from 56th. If LES does not declare their property surplus and allow the property to the south to be developed, then this discussion is moot because there is only 45' from our south property line to the LES parcel.

Hunzeker acknowledged that the developer does not have a signed annexation agreement; however, he requested that the Commission act on these applications today and move them forward to the City Council. Hunzeker believes the annexation agreement will be worked out between now and the time the rest of these applications are ready to be scheduled on the Council agenda. Hunzeker stated that they only received the Public Works memorandum yesterday regarding the annexation agreement and he does not believe they are that far apart in terms of reaching agreement. The Public Works memo is dated 2/11/02 and was not forwarded to Hunzeker until 2/19/02. Hunzeker urged the Commission to forward a recommendation of approval, subject to an annexation agreement prior to City Council action. Given the length of time it is presently taking to get approval of EO's and plans for construction of streets, sewer and water, Hunzeker believes they are virtually at the limit now in terms of getting streets in this summer. The redesign of the live-work units has to be reviewed and approved by staff before the application gets scheduled at Council anyway.

Hunter inquired about the office building design. Hunzeker stated that they do not have the office building design available at this time.

Carlson asked the applicant to talk about the permissible traffic turn motions at Thompson Creek and Union Hill. Hunzeker stated that there would be left turns in at Thompson Creek from 56th. Southbound traffic would be able to turn left in at Thompson Creek. Westbound traffic would not be able to turn left out onto 56th. In terms of getting into the eastern part of the subdivision, Thompson Creek will be the main access.

2. Kent Seacrest appeared on behalf of **Ridge Development Company** and **Southview, Inc.**, the property owners on the south edge of this tract, with four proposed roads coming into their site. They have been trying to resolve this. This is a unique situation with the real estate owned by LES that is no longer going to be a substation. There are streets coming right into the LES tract. Seacrest's clients have asked LES to declare that property surplus and he believes that declaration of surplus is in process. The dilemma is the LES tract and in order for the block length issue to work, his clients need to acquire the LES tract. If it is not surplused, Seacrest's clients would have a problem. Another dilemma is the LES easement (power line) which is right on the edge of the applicant's property and entirely on the Ridge Development property. Seacrest's clients get to pave four streets under that 80' wide LES easement. Because of "new urbanism", Seacrest understands the connectivity issue. But the dilemma for his clients is with the extra cost of the streets, they have to be sure those streets work.

Seacrest advised that he met with staff several months ago and has met with the applicant. They all discussed the block length issue as well as getting the proposed four roads underneath the power line. Seacrest has been informed that LES says they can get those roads to go underneath the power line. However, Seacrest submitted a proposed amendment to Condition #1.1.1 of the preliminary plat to make sure that happens:

1.1.1 Easements requested by L.E.S. <u>The Preliminary Plat shows 6 roadways on the south edge of the Preliminary Plat with proposed roadway extensions through the L.E.S. transmission line easement. Revise the Preliminary Plat to include the cross sections of the road extension right-of-ways to show the road extensions and road right-of-ways in the L.E.S. transmission line easement to (i) be free of existing power poles and ground structures, (ii) meet transmission wire clearance standards and (iii) intersect the south edge of the L.E.S. transmission line</u>

easement at a ninety degree angle. Any construction or grade changes in the L.E.S. transmission line easement located along the south side of the Preliminary Plat are subject to L.E.S. and the abutting property owner approvals and must be in accordance with L.E.S. design and safety standards.

The issue is the location of the block length. His clients will need a waiver and if they don't get the waiver, they will have an unusual layout. Seacrest requested that the staff recommendation be approved as opposed to the request by the applicant to delete Condition #1.1.7 on the special permit. Seacrest also requested that the streets coming to LES be at 90 degrees because otherwise it creates insufficient lots for his client. Seacrest supports the connection of Union Hill Road from Greycliff Drive to Garrison Drive.

Steward was curious about the connectivity between this applicant's proposal and that of Seacrest's clients in terms of topography. If the angle streets work in a topographical circumstance with minimum cut and fill, why does the topography change that dramatically between the two? On a flat surface, Steward would agree that the angles are problematic. Mark Palmer of Olsson Associates stated that the topography for those streets was running with the channel. That channel dies out on his client's property and there is one existing pond. The topography seriously changes. The streets do not serve much purpose on the angle for where the storm drainage needs to go. Steward is not convinced that the two road patterns can't be worked out together so that the Thompson Creek pattern is determinant by reason of being first and the Seacrest clients then have some responsibility to adjust. Seacrest's response was that there are standards that say lot lines are supposed to be parallel to roads.

There was no testimony in opposition.

Staff questions

Steward commented that we have come back to the point of trade-off between extreme or relatively unreasonable sewer depth and unreasonable or undesirable grading conditions on the natural topography. Steward complimented the developer for being more sensitive than we often are in this community about topography changes. Are we in an impossible situation by withdrawing this condition on sewer depth? Dennis Bartels of Public Works suggested that the other option that was not mentioned is the timing question. When the rest of the Campbell property is developed, the entire area could be served with normal depth sewer. Grading the hill off is not the only way to solve the problem.

Bartels further suggested that if the depth standard is waived, the problem is that it is immediately adjacent to a street. If we have to get to the sanitary sewer pipe, we would probably lose the pavement and might get into the yards to get down to that depth. Federal law requires us to have an engineer trench for repairs when we get below 20' deep for safety. It is difficult for Public Works to get below 20' with the equipment that they have. He acknowledged that we do have sewers that are at that depth so he's not saying we can't work with that situation, but his recommendation is coming from the fact that he doesn't believe it is necessary in this situation.

Steward inquired about a general estimate of the availability of the other sewer service. Bartels suggested that in the normal course of events, it would wait until the development of the Campbell property. There is also a piece from Pine Lake Road north through some acreage property that would have to be built. In theory, it could be built right now but we'd have to go through other people's property and either buy it or condemn easements to make it happen.

With regard to the platforms of the streets, Schwinn inquired as to the angle of the grade of that street. Bartels stated that he has not seen a profile and he has not tried to compute it himself.

Schwinn asked staff to discuss the annexation agreement. Jason Reynolds advised that there is no annexation agreement at this time. The memo referred to by the applicant dated 2/11/02 was received by the Planning Department on 2/19/02 as well. There are a number of requirements by Public Works as to the developer's contribution and the City subsidy. This area is in Phase II of the Comprehensive Plan where development should be neither encouraged nor discouraged. The developer had some disagreements with the conditions that Public Works is laying out for the annexation agreement. The staff continues to recommend that the annexation be deferred until such time as there is an annexation agreement. Schwinn wondered about proceeding with the rest of the applications without the annexation. Reynolds pointed out that a condition of approval on most of the other applications is approval of the annexation. Based upon the applicant's testimony, Reynolds concurred that they are close to reaching an agreement.

Rick Peo, Law Department, believes that if the other items go forward to Council prior to the annexation, they would not be adopted or passed by City Council until an annexation can be approved. Upon further discussion, Reynolds was confident that the annexation will catch up with the rest of the applications. It depends on how quickly the plans are revised and submitted to staff for review.

At the request of Carlson, Bartels further explained the sewer issue and how it would be built. It is not a question of transferring sewage out of a drainage basin.

If the sewer depth is not waived, Schwinn wanted to know what portion of this development would have to wait until the other sewer comes through. Based on the topography and the street grades as submitted, Bartels stated that the high point of Thompson Creek is approximately at the intersection of Greycliff Drive and Thompson Creek. In general, everything west of that point would have to wait, including the commercial lot and a couple of office lots. The work-live units would probably also not be able to served; however, Bartels was not sure where the limit might be with the new work-live layout as submitted today.

With regard to the connection of Union Hill Road from Greycliff Drive, Steward wondered whether some sort of caveat could be placed on this condition based upon the LES property decision. Reynolds believes if the LES property continues to be in LES ownership, it is actually more problematic. Steward believes that this property owner has a real problem it if continues to be held by LES. Reynolds agreed that the Commission could put some sort of contingency on that condition if they so desired.

Again, with regard to the sewer depth, Schwinn wondered about granting the waiver now, but when the other sewer line is available, the 30' gets abandoned at that point and they then are required to connect to the new sewer line. Bartel's response was that if the deeper sewer is allowed, then the sewer from

the Campbell property won't have to be built any further south. There is nothing south of the Thompson Creek plat or west of 56th that will require the Campbell sewer. The last property that will need it is this plat.

Further discussing the street connection of Union Hill Road from Greycliff Drive to Garrison Drive, Bartels stated that the grade difference is at the south property line. Looking at the projected street grades, Greycliff and Garrison would be approximately 300 feet apart with about a 14' grade, which would be a 4.5% slope as compared to the 3% standard. The grades could be adjusted and might be different as you move further north. Bartels acknowledged that there are some 5, 6, 7 and 8 percent street grades in the community; however, the design standard is 3%. In order to accomplish this, it might take a combination of some adjustment of the street grades and a waiver of that 3%.

Response by the Applicant

Hunzeker further discussed the sewer depth waiver on the map. This project cannot be done without this waiver because we do not know when the Campbell property is going to develop. Hunzeker pointed out that this plan was put together with Campbells and the property owner to the south through a long series of meetings with a new urbanism planner. The street layouts and everything that is shown were part of that overall plan and we thought it had been agreed upon by both other participants in this process. If we don't have the ability to waive the sewer depth, we will have to regrade the property. This is really counterproductive. The only other alternative would be to leave out one of the things we were excited about in the initial phase–the dance studio, gym school facility that we thought was a nice addition to the new urbanism feel of this entire project. We really need that sewer depth waiver. We think it is justified. He could name two dozen locations where there are sewers much deeper for much longer distance. Here we are trying to respect the topography and he does not understand the logic of not allowing this waiver.

With respect to the road and block length issue, this applicant's block from Thompson Creek Blvd. to the south end of our property is 850'. The maximum block length is 1320'. You don't get to 1320' until you get 120' south of the south line of the LES property. It is very possible to bring in streets that run east and west. The road will never be built if LES doesn't sell that property. At what point do you make up a new rule just because somebody asks you to? We are 850', not 1320'. Besides that, there is pedestrian access along the power line easement that runs parallel to the south line. There will be a new bike trail in that LES easement.

With respect to Seacrest's proposed amendment, Hunzeker commented that this developer is required to project grades and they have done that. The Thompson Creek grades go under the LES power line just fine. The standards as proposed by Seacrest's amendment do not exist anywhere. This developer is willing to work with the property owner to the south, but this is not a standard this developer is willing to adhere to nor does it exist in any city ordinance or design standard. Hunzeker requested that the Seacrest amendment not be adopted. He is confident that the Thompson Creek grades are going to be fine. Yes, they can stop their grading north of the property line and stop their plat north of the property line, but that is not a helpful thing to do because those streets need to be extended and there needs to be grading that happens right on the property line where both property owners need to cooperate.

Steward suggested that in a perfect world, because Hunzeker has acknowledged cooperation with the property owners to the north and to the south, all three of these would have come to the Commission together because they have been conceived as a related concept. It would seem that this is one of the problems with the mixed use so-called "new urbanism" approach--it will tend always to be bigger than a single developer is prepared to match. It seems like we're faced with a couple of distinct strategies. One is to do certain things that imply if conditions go in one way north of you and south of you, then you're response will be thus and so (some contingency conditions). Another response would be to say, if this really is a coordinated plan, then we ought to coordinate it at this level. That's not fair to the first one who is up here. The third response is to say, you're here first and you've met all the reasonable existing design standards and therefore everybody is going to have to respond to your pattern. Are there any other options? Hunzeker does not disagree that it would be nice if this kind of project could all be in a neat tidy package that came in all at once. That's almost always the case. One of the problems you always run into is that when you are trying to implement a good plan you have to deal with multiple ownerships and existing uses and existing topography. In this case, the primary user of land other than just for agriculture, happens to also be the owner who has closest access to the sewer, and they are not prepared to move forward with reuse of their property at this time. We're not talking about taking sewer outside of a natural drainage basin. We're all in the same drainage basin.

As to the property to the south, Hunzeker stated that this developer really has no control over the LES property–that's a decision that LES has to make, although we understand that they are in the process of declaring that property surplus and will put it out for public bid when that process is complete. Hunzeker's client has no interest in the LES property. We don't know who will own it, but if you look at the ownership pattern, it has 56th on the west and is then surrounded by property owned by Seacrest's client and his client is the logical buyer. Nobody has a better ability to incorporate that parcel into a project than Seacrest's client. If LES decides not to declare it surplus and retain ownership, then the issue of the block length goes away because the street never gets extended. There would be a similar block length issue then on the two streets to the east. It's either solved by the sale and development of the LES property, or it's not.

Hunzeker believes the annexation will catch up with the rest of the project. There are ways to accomplish it if there is a will to do so.

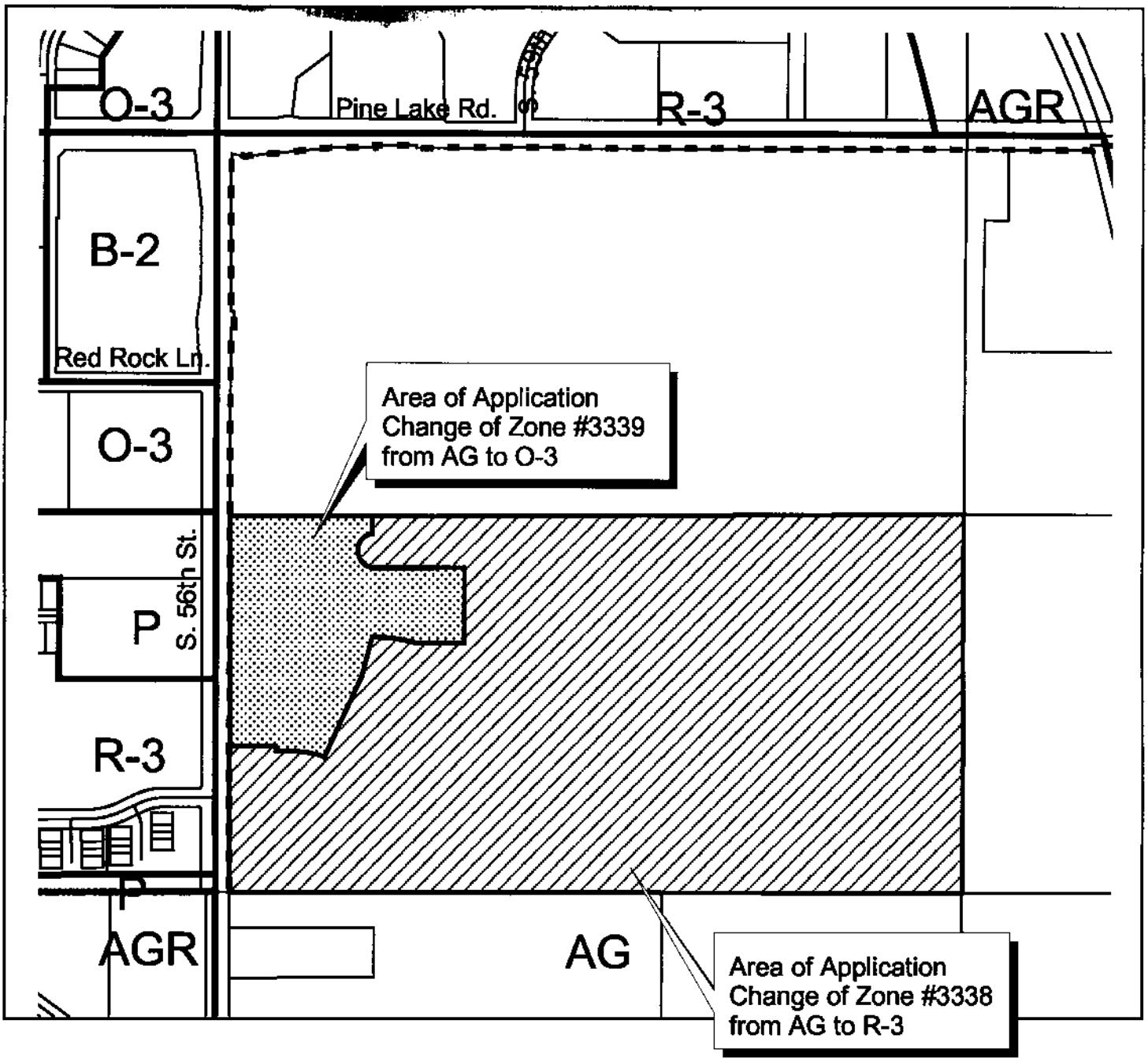
Carlson asked the City Attorney to clarify on the abnormality of approving the application without the annexation agreement. Rick Peo of the City Law Department stated that the annexation agreement will be the basis of the city recommending approval or denial of the annexation itself. It we reach agreement, then the city will be recommend approval of the annexation. If we cannot resolve how to pay for the infrastructure improvements, the staff would recommend denial of the annexation and it would be the decision of the City Council to determine who should pay for what. The Planning Commission does not have a role on the annexation agreement itself. It becomes attached to the annexation at Council level. The other applications are contingent upon the annexation being approved. They won't be adopted without the annexation. The only basis for deferral of the annexation is really for the city staff to be able to make a recommendation based on the agreement between the parties. If we don't agree, the staff would recommend denial of the annexation.

Carlson moved to defer the annexation for two weeks, with continued public hearing and administrative action on March 6, 2002, seconded by Newman and carried 7-0: Newman, Hunter, Steward, Krieser, Taylor, Carlson and Schwinn voting 'yes'; Bills and Duvall absent.

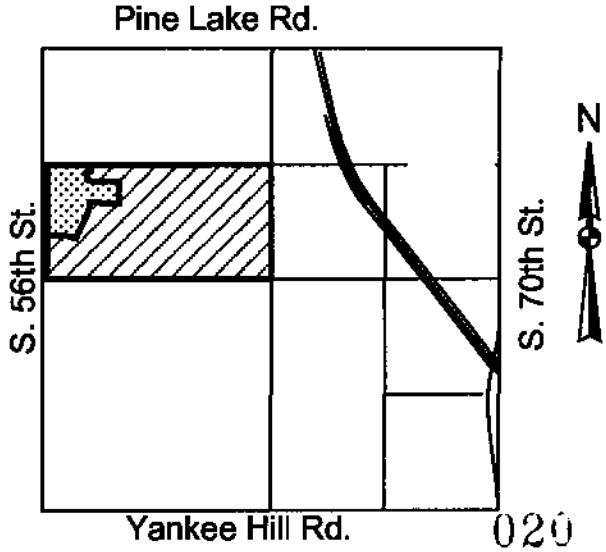
Public hearing was closed on the remainder of the Thompson Creek applications.

CHANGE OF ZONE NO. 3339
ADMINISTRATIVE ACTION BY PLANNING COMMISSION: February 20, 2002

Carlson moved approval, subject to a revised legal description as recommended by staff, seconded by Steward and carried 7-0: Newman, Hunter, Steward, Krieser, Taylor, Carlson and Schwinn voting 'yes'; Bills and Duvall absent.



Change of Zone #3338
Change of Zone #3339
Thompson Creek
S. 56th & 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. 21 T9N R7E

Zoning Jurisdiction Lines

City Limit Jurisdiction

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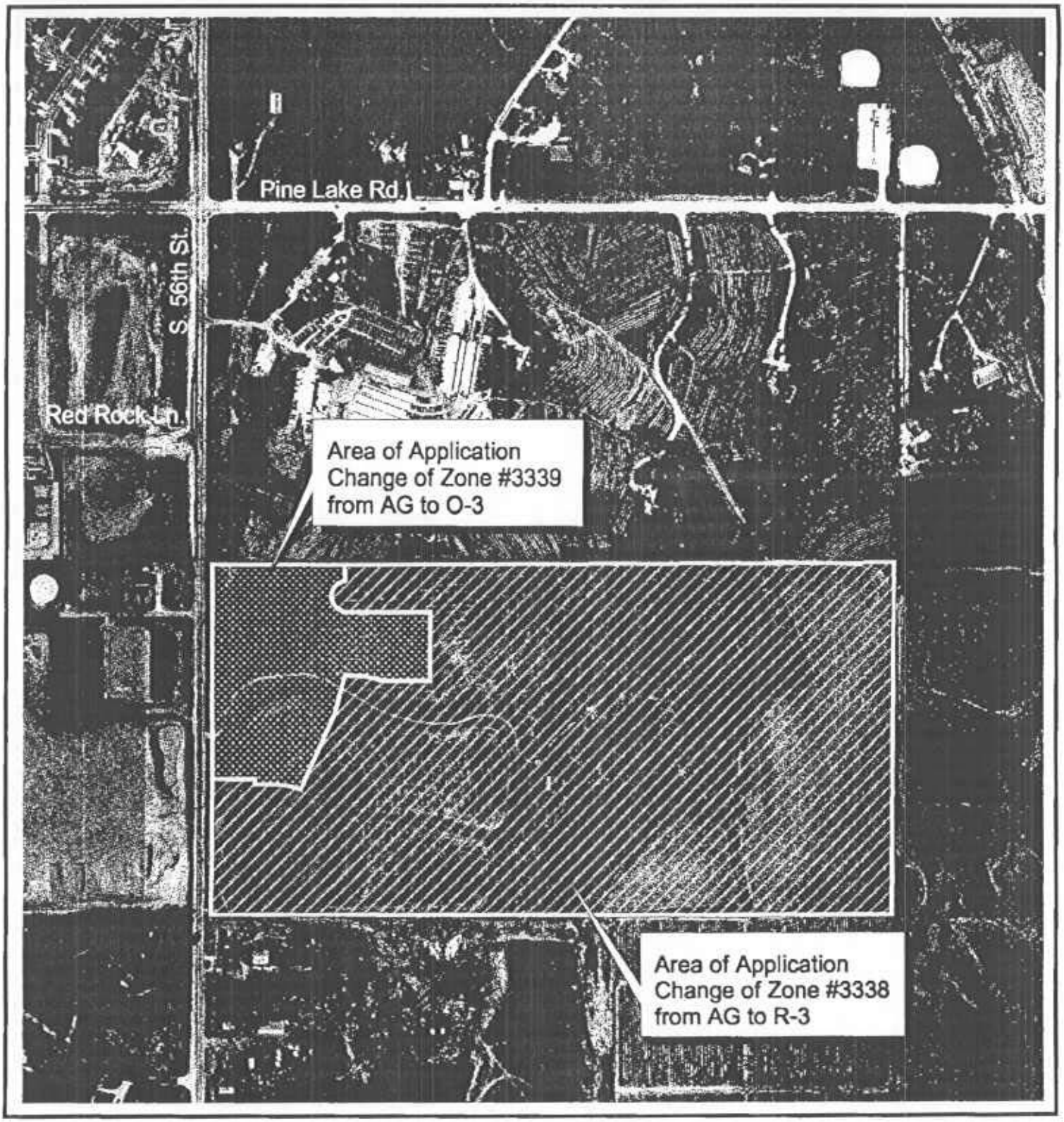
Lincoln City - Lancaster County Planning Dept.



Change of Zone #3338
Change of Zone #3339
Thompson Creek
S. 56th & Pine Lake Rd.

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Photograph Date: 1999

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Lincoln City - Lancaster County Planning Dept.

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CZ.3339

LEGAL DESCRIPTION
THOMPSON CREEK USE PERMIT
CHANGE OF ZONE
AG TO O-3

A LEGAL DESCRIPTION OF A TRACT OF LAND LOCATED IN LOT 35 IRREGULAR TRACT IN THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 9 NORTH RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA AND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF SAID SOUTH HALF OF THE NORTHWEST QUARTER; THENCE: N89°58'01"E, (AN ASSUMED BEARING), ON THE SOUTH LINE OF SAID SOUTH HALF, A DISTANCE OF 50.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH 56TH STREET; THENCE: N00°00'00"E, ON SAID LINE, A DISTANCE OF 517.32 FEET TO THE POINT OF BEGINNING; THENCE: S90°00'00"E, A DISTANCE OF 160.42 FEET; THENCE: S00°00'00"W, A DISTANCE OF 17.50 FEET; THENCE: S89°59'59"E, A DISTANCE OF 62.43 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 19°47'51", A RADIUS OF 323.00 FEET, AN ARC LENGTH OF 111.61 FEET, A CHORD LENGTH OF 111.05 FEET AND A CHORD BEARING S80°06'04"E; THENCE: ON SAID CURVE, A DISTANCE OF 111.61 FEET TO THE POINT OF TANGENCY; THENCE: N25°05'42"E, A DISTANCE OF 307.59 FEET; THENCE: N15°12'17"E, A DISTANCE OF 145.62 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 15°13'43", A RADIUS OF 564.00 FEET, AN ARC LENGTH OF 149.91 FEET, A CHORD LENGTH OF 149.46 FEET AND A CHORD BEARING S82°24'35"E; THENCE: ON SAID CURVE, A DISTANCE OF 149.91 FEET TO THE POINT OF TANGENCY; THENCE: N89°58'34"E, A DISTANCE OF 146.83 FEET; THENCE:S87°58'33"E, A DISTANCE OF 27.12 FEET; THENCE: N00°01'26"W, A DISTANCE OF 259.97 FEET; THENCE: S89°58'29"W, A DISTANCE OF 314.67 FEET; TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 171°23'32", A RADIUS OF 60.00 FEET, AN ARC LENGTH OF 179.48 FEET, A CHORD LENGTH OF 119.66 FEET AND A CHORD BEARING N04°21'07"W; THENCE: ON SAID CURVE, A DISTANCE OF 179.48 FEET TO THE POINT OF TANGENCY; THENCE: N00°00'00"E, A DISTANCE OF 60.69 FEET TO THE NORTH LINE OF THE SOUTH HALF; THENCE: S89°58'34"W, ON SAID LINE, A DISTANCE OF 499.12 FEET; THENCE: S00°00'00"W, ON THE EAST RIGHT-OF-WAY LINE OF SOUTH 56TH STREET, A DISTANCE OF 801.48 FEET TO THE POINT OF BEGINNING AND CONTAINING A CALCULATED AREA OF 10.502 ACRES MORE OR LESS.