

FACTSHEET

TITLE: CHANGE OF ZONE NO. 3355, from AG Agricultural to R-3 Residential, requested by Engineering Design Consultants on behalf of Prairie Homes Builders, Inc., on property generally located at the southeast corner of No. 84th Street and Adams Street.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 05/01/02
Administrative Action: 05/01/02

STAFF RECOMMENDATION: Denial; however, approval, if the City's proposed Annexation Agreement on the associated annexation is accepted by the applicant and approved by the City Council.

RECOMMENDATION: Approval, with amendment deleting Lot 90 in the NW 1/4 of 14-10-7 (shown as Lot 2, Block 11, on the proposed Prairie Village Preliminary Plat) 5-4: Duvall, Larson, Bills-Strand, Krieser and Schwinn voting 'yes'; Carlson, Taylor, Newman and Steward voting 'no'.

ASSOCIATED REQUESTS: Annexation No. 02001 (02-110); Special Permit No. 1959, Prairie Village Community Unit Plan (02R-147); and Preliminary Plat No. 02003, Prairie Village (02R-148).

FINDINGS OF FACT:

1. This change of zone request and the associated annexation, community unit plan and preliminary plat were heard at the same time before the Planning Commission.
2. The original staff recommendation of **denial** is based upon the "Analysis" as set forth on p.5-6, concluding that there are no Capital Improvements Program funds available or identified for this area. The applicant requests the City share a portion of the costs; however, there is no funding identified at this time in the current budget or CIP. The applicant may proceed if they agree to construct the improvements required by the annexation agreement. If the developer does not agree to pay the cost of improvements contained in the annexation agreement, then this change of zone and the associated requests should not be approved.
3. The applicant's testimony is found on p.7-9 and 12-13.
4. Other testimony in support on behalf of the Faith Lutheran Church is found on p.10.
5. Testimony in opposition to the change of zone on Lot 90 in the NW 1/4 of 14-10-7 (shown as Lot 2, Block 11, on the proposed Prairie Village Preliminary Plat) is found on p.10. The record also consists of a letter in opposition (p.21), and the staff response to the letter in opposition (p.22). The applicant is not opposed to deleting Lot 90 from the change of zone request (See Minutes, p.12). The staff response to the request to delete Lot 90 from the change of zone is found on p.11-12.
6. The Planning Commission discussion is found on p.10-13.
7. On May 1, 2002, the Planning Commission disagreed with the staff recommendation and voted 5-4 to recommend approval of the change of zone request, with amendment deleting Lot 90 in the NW 1/4 of 14-10-7 (shown as Lot 2, Block 11, of the Prairie Village Preliminary Plat). (See Minutes, p.14).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: July 8, 2002

REVIEWED BY:

DATE: July 8, 2002

REFERENCE NUMBER: FS\CC\2002\CZ.3355

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.: Prairie Village Addition
Annexation #02001
Change of Zone #3355
Special Permit/CUP #1959
Preliminary Plat #02003

DATE: April 9, 2002

****As Revised by Planning Commission, 05/01/02****

PROPOSAL: To annex 113.05 acres, change the zone from AG to R-3, obtain a special permit for CUP for 174 single family, and 300 multi-family dwelling units and to preliminary plat 179 lots, on the southeast corner of N 84th and Adams Street.

LAND AREA:

Annexation: 113.05 acres, more or less
Change of Zone: 92.2 acres, more or less
CUP: 69.8 acres, more or less
Preliminary Plat: 113.1 acres, more or less

CONCLUSION: There are no Capital Improvements Program funds available or identified for this area. The applicant requests the City share a portion of the costs, however, there is no funding identified at this time in the current budget or Capital Improvements Program. The applicant may proceed if they agree to construct the improvements required by the annexation agreement. If the developer does not agree to pay the cost of improvements contained in the draft annexation agreement, then the property and associated requests should not be approved.

<u>RECOMMENDATION: Annexation:</u>	Denial
<u>Change of Zone:</u>	<u>Denial</u>
Special Permit/CUP:	Denial
Preliminary Plat:	Denial

GENERAL INFORMATION:

LEGAL DESCRIPTIONS: Attached

LOCATION: Generally located on the southeast corner of N 84th and Adams Streets.

APPLICANT: Steve Champoux
Prairie Homes Builders, Inc.
P.O. Box 84891
Lincoln, NE 68501
(402) 476-6599

OWNER: Steve Champoux Jonathan Welles
Prairie Homes Builders, Inc. 8501 Adams Street

Faith Evangelical Lutheran Church
6345 Madison Avenue

CONTACT: Richard Onnen
Engineering Design Consultants
630 N. Cotner Boulevard, Suite 105
464-4011

EXISTING ZONING: AG, agricultural

EXISTING LAND USE: Agricultural and undeveloped, grading is in process.

SURROUNDING LAND USE AND ZONING:

North:	Undeveloped, acreages	AG, Agricultural
South:	Undeveloped, acreages	AG
East:	Undeveloped, acreages	AG
West:	Golf course, residential, cemetery	AG, R-3, Residential, P, Public, B-1, Local Business District

COMPREHENSIVE PLAN SPECIFICATIONS: The area is indicated as urban residential, commercial and Natural/Environmentally Sensitive in the Comprehensive Land Use Plan (Page 41).

A natural drainage way crosses diagonally through the site, where the applicant has indicated some wetland areas. The Comprehensive Plan indicates that these areas should be protected and maintained (page 74). The developer shows these areas maintained as outlots for open space and drainage.

Strategies of future Urban Residential areas include:

“Close access to a neighborhood park or another type of park which would serve the neighborhood”

“Access to a commercial center serving local needs”

“A safe walkway system for internal circulation by pedestrians and cyclists” (Page 45)

The developer has shown an area designated as a park for the use of the neighborhood. Once the developer is ready to change the zone and submit a use permit, Lot 1, Block 11 and Lot 8, Block 10 shall be used for commercial purposes. The developer has shown pedestrian easements and walks to provide internal circulation for pedestrians and cyclists.

The Comprehensive Plan indicates a future school proposed to the immediate southeast of this project. Lincoln Public Schools currently owns this parcel of land.

The Comprehensive Plan indicates a future trail to be located along the natural drainage way within this project (Page 120). The Parks and Recreation Department requested the trail be relocated to

Leighton Avenue in order to provide better access to the LPS site and further separation from the Murdock Trail. The developer has indicated the trail along Leighton Avenue.

The Comprehensive Plan Anticipated Lincoln Service Limit and Phasing Plan indicates this area in Phase III. Phase III is defined as:

“Areas designed for mid-term development contiguous to existing or planned development but lacks one or more major items of infrastructure such as arterial road, park or trunk sewer” (Page 197).

This area lacks the arterial roadway standards for Adams Street. Sewer is available to most of the project area. The City has not yet budgeted for the construction of Adams to arterial standards.

The Comprehensive Plan indicates that in Phase III areas:

“The community shall discourage growth. Infrastructure improvements will generally not be included in the 1-6 year CIP, but may be considered in the long term capital improvement planning of the various city and county departments. The community will consider development proposals in this area only if the developer agrees to immediately provide, at the developer’s cost all off site improvements necessary to extend municipal infrastructure to serve the proposed development” (page 196).

Commercial is shown in the Comprehensive Plan to encompass the entire west portion of this site, the developer proposed to concentrate the commercial at the northwest corner of the site, which is more consistent with current commercial development, and to have a multi-family area at the southwest corner. This helps to discourage strip commercial along N. 84th Street as the Comprehensive Plan indicates.

HISTORY:

April 1, 2002	Revised preliminary plat was submitted:
February 21, 2002	Developer Negotiation meeting
February 19, 2002	Staff only Developer Negotiation meeting
February 19, 2002	Planning Director’s letter was sent:
February 7, 2002	Developer Negotiation meeting
February 5, 2002	Staff only Developer Negotiation meeting
January 18, 2002	Original preliminary plat was submitted
September 18, 2002	Staff only Developer Negotiation meeting
September 13, 2001	Fact-finding Developer Negotiation meeting
September 11, 2001	Staff only Developer Negotiation meeting
August 30, 2001	First fact-finding meeting of the Developer Negotiation Team
1979	The zone was updated to AG, Agricultural during the zoning update from A-A, Rural and Public Use district.

UTILITIES: Water connection is being made from an existing line in N. 84th Street and Leighton Avenue. Typically a loop system is required. The developer has submitted calculations indicating that sufficient flow and pressure exists to serve the residential portion of the development from the existing main. A connection in Adams Street west of N. 84th Street will be required at the time the commercial area is developed in order to complete the loop. The developer is showing oversized water mains in N 87th Street, Wagon Drive, Leighton Avenue, Prairie Village Drive, N. 91st Street and Tallgrass Lane. The developer requests the city share in all of the oversizing costs.

The Faith Evangelical Lutheran Church will be served with utilities. The Lincoln Water System of Public Works & Utilities Department indicated that the church should have sufficient pressure for fire flows if the area that is identified as future commercial is not served until the system can be looped.

This project proposes to connect to the existing sewer line in N. 84th Street. As was established with the Regent Heights 1st Addition and Northern Lights Addition preliminary plats, a per acre sewer connection fee is required. The developer is showing an oversized (10") sanitary sewer main in Tallgrass Lane in order to accommodate the anticipated service of the LPS site and requests the city share in the cost of oversizing.

TOPOGRAPHY: Sloping to the drainage way and draining to the north and east.

TRAFFIC ANALYSIS: N. 84th Street is identified as an arterial street in the Comprehensive Plan Future Street and Road Classification. Adams Street is outside the urban area boundary and is currently unclassified. Since the urban boundary is proposed to extend to include the project area, Adams Street should be extended as an urban minor arterial roadway. Currently, Adams Street is a two lane rural roadway. The Public Works & Utilities Department recommends improvements to Adams Street consistent with an arterial roadway and providing for traffic safety.

Leighton Avenue is at the half mile point and should be a collector road. The Public Works and Utilities Department indicated that collector width pavement is required and the developer agrees to dedicate 40' of right-of-way on the north side of Leighton Avenue for the duration of their project area. The developer requests to pave this road through an assessment district. The Public Works & Utilities and Law Departments indicated that the property to the south of Leighton Avenue is outside the city limits and cannot be assessed through an assessment district. The developer has not discussed this option with the south landowner and that landowner has not been a part of the discussions of the development of this plat. The proposal does not include the annexation of the are south of Leighton.

PUBLIC SERVICE: The Lincoln Public Schools owns land south and east of this site. There are no development proposals at this time for the parcel owned by LPS. The developer of this plat indicated interest in possibly purchasing the LPS site for development and incorporation into the community unit plan. Street connections have been made as required to the LPS site.

The Parks and Recreation Department indicated that they would prefer that the proposed park facility be coordinated with the Lincoln Public Schools due to the possibility of a school being located in the area.

ENVIRONMENTAL CONCERNS: The developer has identified wetlands in the drainage area shown in Outlots A, B and C. The developer proposes to preserve these areas in the outlots for open space and detention. Areas may be used for passive recreation.

ANALYSIS:

1. This is an application to annex 113 acres, to change the zone from AG to R-3, a special permit for a community unit plan for 474 dwelling units and preliminary plat 179 lots
2. This project began in the Developer Negotiation Process on August 30, 2001 before official submittal. A series of fact finding and negotiation meetings were held. The developer and city could not reach an agreement on infrastructure needs and costs for an annexation agreement. The city indicated to the developer that no funding is available to subsidize portions of this project. The developer decided to pursue the project despite a lack of agreement. The city indicated that the developer could bear the costs of the development and wait for reimbursement when funding is available in the Capital Improvements Program, (2008) if the project is added to the six year CIP.

Change of Zone:

3. The developer indicated that they are considering commercial development for Lots 1 and 2 Block 11 and Lot 8, Block 10. They have no site plan or know what the configuration of the commercial area may be at this time. Due to this, the city suggested leaving the area as AG, Agricultural and zone the land at the time that they are prepared to submit a traffic study and site plan for the area. The remaining portion is proposed for R-3, Residential.

The staff recommendation for Annexation #02001, Preliminary Plat #02003, Change of Zone #3355 and Special Permit/CUP #1959 are denial due to a lack of funding.

Prepared by:

Becky Horner
Planner

**ANNEXATION NO. 02001;
CHANGE OF ZONE NO. 3355;
SPECIAL PERMIT NO. 1959,
PRAIRIE VILLAGE COMMUNITY UNIT PLAN;
and
PRELIMINARY PLAT NO. 02003,
PRAIRIE VILLAGE**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 1, 2002

Members present: Carlson, Taylor, Duvall, Larson, Bills-Strand, Newman, Krieser, Steward and Schwinn.

Staff recommendation: Denial.

Becky Horner of Planning staff submitted additional information, including a copy of a letter to Jim Titus responding to his concerns about the zoning request, and a revision to Condition #1.16 of the preliminary plat, at the request of Parks and Recreation:

Revise the preliminary plat to show a trail along the drainage easement to the satisfaction of the Parks and Recreation Department.

Proponents

1. Mark Hunzeker appeared on behalf of **Prairie Homes**, the developer. They have been working on this project for quite some time. This project involves mostly residential land. Some of it will eventually be developed as commercial. It is located generally at the corner of 84th & Adams and extends south along 84th to Leighton. The notch out of the L-shape is a 40-acre tract that is owned by LPS for a future elementary school site. The sewer for this property is the round-about sewer main that was built to serve the Regents Heights II subdivision and which runs somewhat diagonally across the site from northeast to southwest. The low end of the property is at the northeast and the developer is in the process of coming to an agreement with LPS to grade this developer's site using dirt from the LPS site in order to facilitate both the construction of sewer and the elevation of property on this developer's site to be served by that sewer, as well as providing cover for the sewer that will serve the school site.

Hunzeker advised that the developer reached a point where they could not agree with the staff and it was determined that this proposal needed to be moved on to the Council for guidance as to the precise cost-sharing arrangements for some of the off-site improvements.

Hunzeker submitted proposed amendments to the conditions of approval set forth in the staff report. With regard to the annexation, the staff report suggests that the applicant must sign an annexation

agreement to the satisfaction of the City prior to being scheduled on the City Council agenda. Hunzeker requested that the recommendation on the Annexation read: “Approval, subject to a signed annexation agreement to the satisfaction of the City of Lincoln.” This allows this proposal to get to the City Council for a decision on the terms of that annexation agreement without being “held hostage” to getting scheduled on their agenda.

With regard to the preliminary plat, Hunzeker requested the following amendments:

--Move Condition #1.4 from Site Specific to #3.3 under General conditions. This condition requires “Improvements to the drainage channel in Outlots A, B and C to the satisfaction of the Public Works & Utilities, Parks and Planning Departments.” Hunzeker is not quite sure what this condition means. Some staff in some city departments would prefer to maintain these channels as natural drainageways, which is this developer’s preference, and some staff in other departments would like to see concrete liners placed in these channels. This developer’s environmental consultant has indicated that there are wetlands in the bottom of that channel all the way across the site, so the developer does not want to get into the process of disturbing it and pouring concrete if it can be avoided. Hunzeker is requesting that this condition be moved to give the developer an opportunity to work with the staff as to how to deal with that channel while this plat proceeds to the City Council rather than a final conclusion having to be made before the plat is even scheduled on the Council agenda. Hunzeker believes this can be worked out as long as everyone understands the ground rules and the environmental conditions. The developer does not yet have a final report from their environmental consultant. However, thus far it does indicate wetlands through that channel and the developer wishes to maintain it as a natural drainageway. There is not enough additional drainage going into it from this project that it will make any difference.

--Delete Condition #1.6. This condition refers to pedestrian easements and the comment by Public Works relative to the grade of the walkway easements that go through the middle of blocks. Hunzeker believes this development can meet the sidewalk design standards. This developer is willing to meet the design standards and would request that this condition be deleted.

--Amend Condition #1.16: Revise the preliminary plat to show a trail easement note along the drainage easement. Add a note indicating that a 20' wide trail easement will be dedicated in a location acceptable to the Parks and Recreation Department. This language has been agreed upon with the staff.

--Delete Condition #1.7. “A note on the plan indicating that there shall be interim turn lanes in Adams Street until Adams Street is improved to an arterial standard.” Hunzeker indicated that this is a big issue and one that brought the developer here in disagreement with the staff relative to an annexation agreement. Adams Street is a two-lane paved county road as it abuts this subdivision. Within the last year, Public Works has decided that it is now city policy to require every subdivider that abuts a section line road to pay for a share (which started out some time ago to be 25%, and now seems to be 50%) of what they are calling a “suburban cross-section roadway on section line roads”. This developer got to the point where they were reluctantly in agreement to fund half of the cost of building that 3-lane suburban cross-section. Then the city

staff said they did not have the money to build the rest of it so this subdivider would have to wait. In the meantime, the staff suggested left turn lanes that come into this subdivision in two places on Adams. Hunzeker pointed out that the new proposed Comprehensive Plan shows that there is nothing in the way of urban development east of this site until you get further south, so there will be no urban development to the east of this subdivision for a very long time. This developer does not believe there is or will be sufficient traffic any time soon for there to be a need for left turn lanes for westbound traffic coming into this site. Staff is also wanting right turn lanes to go into this site. Again, Hunzeker submitted that there is no justification for these right turn lanes. If we are required to pay for that, then this developer should get credit for that against the cost of the developer's share of the off-site improvements in Adams Street. The answer to that was "no" by city staff.

Hunzeker explained that this proposal needs to be presented to the City Council to get resolution of this issue because it is not the Planning Commission's responsibility to determine the cost-share; however, it is a condition that is placed on the plat. Council may decide that this is a requirement, but it is inappropriate to ask the Planning Commission to impose this requirement.

–Delete Condition #1.19, which denies the waiver request to have double frontage lots. Hunzeker pointed out that the only double frontage are along what is shown as Leighton Street (which is a gravel road at this point and eventually will be a collector street). There is a power line that runs along Leighton that will run through the front 20-30 feet of these lots (or the rear 20-30 feet as now configured). This developer is requesting to have the double frontage lots on Leighton and another street so that the front yards can face the interior local street and relinquish access and have rear yards facing Leighton. This is the configuration that the city requires on all major streets. It is one which in this circumstance makes sense in that it eventually could become a busier street because of the commercial traffic that will be generated by development immediately across the road to the south, which area is designated as commercial in the Comprehensive Plan.

–Amend Condition #2.5 to allow double frontage lots: "A modification to the requirements of the land subdivision ordinance to permit non-radial lot lines and double frontage lots."

–Amend Condition #3.2.8: "To relinquish the right of direct vehicular access to North 84th Street and Adams Street except as shown on the site plan, to serve Lot 24, Block 9." The site plan does not show any access into the church site. Hunzeker is requesting to add Lot 24, Block 9 to Condition #3.2.8 to allow access to Adams Street as it has been shown and agreed upon.

Delete Condition #1.1.2 of the Community Unit Plan: "Revised 'proposed park' and 'proposed playground' as 'open space'". Hunzeker stated that this was requested and shown, and now it is requested to be removed. This developer wants to leave it alone. The developer is not opposed to showing a recreation area in accordance with the CUP design standards.

Hunzeker requested the Planning Commission's approval so that this proposal can be moved on to the City Council for their decision. There are numerous references in the staff report that this property is in Phase 3. Hunzeker pointed out that this is not going to be in Phase 3 by the time it reaches the City Council. It is going to be Phase 1, Priority 1, and it meets all of the criteria for Phase 1.

2. Mark Hannemann, testified on behalf of Faith Lutheran Church and School. There were 21 fourth grade students in the audience from Faith Lutheran School. The Church has been in the process of relocating the church and school for six years. They are very excited to see this development come around them. They are in the construction process at this time. The original intent was to be done by June 15, but that has been delayed. Their biggest concern is the timing of city services/annexation and they are in full support of moving forward with this process. It impacts the church and school in many different ways, not the least significant of which is city water. It will cost about \$100,000 to do the well, tank, sprinklers, etc., if the property is not annexed, and it would have to be abandoned within 6 months once annexation did occur. The church is anxious to pay its fair share of the improvements in this new neighborhood, but they are most anxious to see things move forward.

3. Stu Tietz, Principal of Faith Lutheran School, testified in support of the expeditious annexation of the property. The current Faith Lutheran School facility is currently being vacated because it has been sold and they are anxious to move to the new site as soon as possible. The school is relocating to temporary facilities at this time. They realize that annexation is inevitable. There is a sewer line running parallel to Adams Street on the church property that is ready to be hooked up and used; however, they cannot access this sewer until annexation occurs.

4. Nancy Thyparambil, teacher of the 4th Grade students at Faith Lutheran School, testified in support. These kids are really concerned. They have no place to go this fall. They must move out of their current building by June 15th. They need the help and action by the Planning Commission on this annexation as they do not know where they are going to go to school this fall. She pointed out that the private school teachers and parents pay taxes for the public schools and take a burden away by having their children in private schools.

Opposition

1. Jim Titus, appeared on behalf of **Jonathan Welles**, the owner of Lot 90 in the NW 1/4 of 14-10-7, shown on the plat as Lot 2, Block 11. Welles objects to the change of zone on his property. It came as a surprise that the property would be R-3 rather than AG until such time as it would be developed as commercial. This property owner is opposed to R-3 zoning.

Schwinn asked for staff response to the proposed amendments to the conditions of approval.

Dennis Bartels of Public Works noted that one of the issues was the sidewalks. He believes that Condition #1.6 in the staff report related to his comments about steps on the sidewalks. The applicant had indicated that the public sidewalk was too steep and would need steps. Bartels comments were to the effect that steps are not allowed in the public sidewalk system. The point of his comment was that the grades will need to adjusted or the easement location moved.

With regard to the drainage issue, Bartels stated that the staff is not advocating necessarily that the channel be regraded and lined with concrete. His comments were related to the design standard requirement that they prove that the channel is stable and can be maintained. Condition #1.4 is requesting that they go through the calculations, tell us the soil type and show us what stabilization needs to be done to assure that the channel will look similar to what it is looks like today. The development of this property will increase the runoff to the channel and we want to make sure it is going to be maintained as a natural channel and not a future problem to the property owners.

Bartels agrees that the church can have the driveway on Adams Street (Condition #3.2.8).

With regard to the off-site improvements, Bartels indicated that these are issues that need to be settled in the annexation agreement that is being negotiated. Bartels will be satisfied as long as the final approval is in conformance with the annexation agreement.

Schwinn did not have a problem with approving this subdivision subject to an annexation agreement, even though it has not yet been agreed upon. Obviously, the annexation agreement needs to come forward to the City Council and it is up to the City Council to make that decision.

Carlson referred back to Condition #1.6 regarding the pedestrian easements. He asked staff to further clarify whether this condition could be deleted. Bartels stated that he does not know the wishes of the applicant, but the plan submitted had a statement in it that steps would be required because of the grade and he was attempting to point out that city requirements do not allow steps in public sidewalks. Bartels is just saying that the plan that is approved needs to eliminate the need for steps.

Carlson inquired about the double frontage lots on Leighton. Bartels indicated that to have been a Planning Department request.

Steward noted that the staff recommendation is for denial across the board. He is presuming that is primarily because of the CIP misfit with the strategy for getting the utilities in place according to the Comprehensive Plan and the CIP. Becky Horner of Planning staff concurred, including the arterial roadway.

Steward further commented that we have gone to great lengths in the new proposed Comprehensive Plan (which has not yet passed City Council and County Board) to provide a strategy to bring the CIP program planning more in line with the Comprehensive Plan. Here we have a classic case of a development being ahead of a piece of the critical planning for the city, which he does not see a huge problem with if it can be ultimately approved by the City Council. But we are bringing this CIP process forward this next month into the purview of the Planning Commission. If we take action on this proposal now, it seems like even before we start on this new policy, we are violating it. It is not so much in his opinion a question of whether this is a technically correct or viable proposal. It is that it is totally out of sync with our current fiscal and physical planning. Horner concurred.

Newman sought guidance on how to deal with Lot 90. Horner stated that if the zoning of this lot is not changed to R-3, it makes it difficult for the developer to final plat. Schwinn inquired what zoning an acreage becomes once it is annexed into the city. Ray Hill of Planning staff stated that if an area is brought into the city and the configuration of the lot is not being changed, the lot can remain zoned AG.

This particular plan changes the configuration of the lot and therefore is no longer sitting there undivided. The proposal is to do a street and subdivision of that lot as it now exists. By doing that it is no longer sitting there by itself. If they were not running a street through that property it could remain AG. But this proposal is actually showing a street carving through Lot 90 and changing the configuration of that lot. That is why the staff is saying that it should be changed to R-3 so that we are not creating a lot that does not meet the minimum lot area requirements of AG (20 acres). There has been some discussion about this being a farmstead. It was a farmstead as long as it had 20 acres. But once reduced from 20 acres, it is no longer considered a farmstead.

Schwinn asked about the implications of R-3 zoning versus AG. Hill suggested that there may be a valuation change but that would have to be answered by the County Assessor. There will be some valuation change once it is annexed as well.

Bills-Strand wondered why this lot could not be deemed commercial now. Hill stated that it requires a change of zone request from AG to some commercial zoning. Hill was not sure it would be big enough for B-2 (5 acres). Horner believes that the Welles lot is 5 acres, but it would be less than 5 acres with the street running through it.

Newman is concerned because the owner of Lot 90 does not want it changed and this development is putting a road through his property. Hill concurred. The road goes through the side of his property. Bills-Strand believes this lot is shown as a future commercial site. Hill concurred, stating that there are a lot of other conditions that we have agreed upon at such time as they come in for the commercial zoning. But the proposal today is not to rezone that individual's lot other than to R-3. It can be rezoned to commercial in the future. The R-3 proposed works; however, the owner is objecting to the R-3 zoning.

Carlson inquired whether the balance of the irregularly shaped tract is remaining AG. Horner stated that it will remain AG, and she understands that the developer plans to final plat the road right-of-way with that lot so that it will meet the area requirement for AG.

Schwinn believes this lot can be left zoned AG because it is contiguous and in a normal zoning pattern. However, Horner pointed out that based on the design proposed, they would not be able to final plat that portion. Horner believes that the Welles lot actually does go on the other side of the road right-of-way. Schwinn wonders whether leaving the Welles property AG would affect the school. Horner indicated that they may not be able to final plat the church lot in that event.

With regard to the CIP issues, Bartels of Public Works clarified that there is no major impact to the water and sanitary sewer CIP. The CIP implications we are talking about are the street system.

Response by the Applicant

Hunzeker believes that since the Welles lot is a legally created lot of approximately 5 acres or less, it is not only possible but legal and proper to allow this subdivision to take place without rezoning his property. He believes it could remain AG. But that has not yet been confirmed by the City Attorney. The Welles property was properly subdivided into that size lot as a farmstead and what we are proposing to do with it today is not to change it to a smaller lot. It is to simply change its configuration

and leave it the identical size that it is today. The parcels that are being exchanged in that transaction between the church and Mr. Welles are two and they are exactly the same size. The proposed street is an existing easement because of an agreement that was a condition of the sale of the property to the church and there is a requirement that it will become a public street upon annexation. This is no surprise to Mr. Welles. The concern has arisen on the part of a potential buyer of the Welles property. He does not believe there is an existing agreement to purchase that property. But the existing agreement for annexation provides that the access easement shall be dedicated as a public street. Hunzeker believes it is legal for the city to leave the Welles property alone and go forward.

With regard to the fact that this is supposedly out of sync with the CIP, Hunzeker disagrees. They have reached agreement on water and sewer and he believes they are within a couple of issues of being in agreement on the off-site street improvements. This is not out of sync. The city built a sewer to serve this area in violation of its own policy. It has been developing for several years on the west and on the east side of 84th Street. It's ready. It meets the criteria of the existing plan to be Phase I. In the new plan it is or will very soon be Tier I, Priority I, so we are not out of sync. If it is out of sync, Hunzeker suggested that it represents a colossal failure of planning in this community. The improvements in 84th Street have already been made to serve this site. It should not be this developer who suffers. In virtually every case where you have been extending utilities and annexation at the fringe, the agreements have provided for payment of money or installation of improvements that the city doesn't presently have and those things are coming on after the project is well underway. Concurrent installation of public improvements and development is only critical as it relates to water and sewer. If you have good access, the ultimate construction of the boulevard roadway is not something critical on day one.

Regarding Condition #1.1.3 on the community unit plan, Hunzeker is not sure why the maximum building height waiver is not being granted. There is a comment in the staff report that the applicant had requested a waiver with respect to the apartment buildings in order to provide underground parking on the back sides. If there is a need to put something on the site plan to show that, Hunzeker would be happy to do so. He requested that Condition #1.1.3 be amended:

Maximum height of 35' is ~~not~~ waived, not to exceed 50'.

If this waiver is approved, the applicant will add a note to indicate that there will be parking in the lower level of those buildings. The site plan on p.103 shows the buildings which are in the northwestern corner of the site. This area was originally shown to be commercial and the staff report correctly indicates that placing residential here is a good thing because it breaks up the commercial strip on the east side of 84th. The grade of that site drops significantly from Leighton down to the drainageway and as we step down, the proposal was to provide some parking in the lower level of those buildings.

Steward indicated that Hunzeker has answered his question concerning water and sewer and the CIP. But, he pointed out that Hunzeker began his presentation by saying there was disagreement on the cost of the roadway and the city did not have funds. Where are the funds going to come from? Hunzeker responded, stating that this is very much the same as every other project that comes along. For example, but for the fact that it was already developed on the west side, Thompson Creek was approved where that developer agreed to pay for half the cost of that suburban section abutting Thompson Creek on the west. The other half is going to have to come from somewhere in the Public

Works Dept. And just a few minutes ago, the Planning Commission approved Ashley Heights 1st Addition with frontage abutting N.W. 48th Street and we're not going to the three-lane suburban cross-section there.

Public hearing was closed.

CHANGE OF ZONE NO. 3355

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 1, 2002

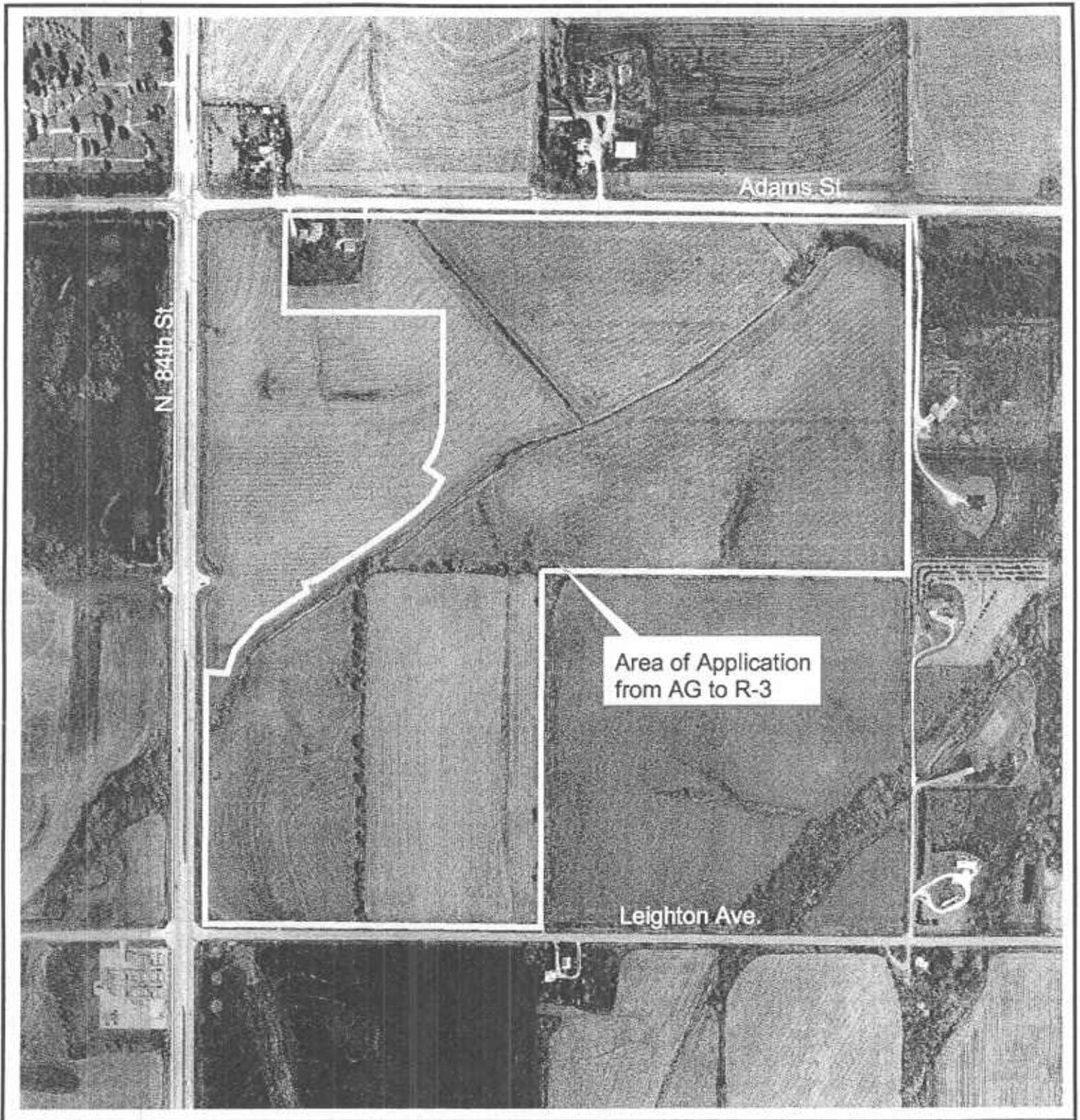
Duvall moved approval, deleting the Welles property (Lot 90 in the NW 1/4 of 14-10-7, shown as Lot 2, Block 11, of the Prairie Village Preliminary Plat) leaving it zoned AG, seconded by Larson.

Schwinn believes leaving this AG is totally appropriate. We have AG within the city and it is contiguous with AG. It does not put the owner in a bad position of having R-3 zoning where the rest is proposed to be future commercial. It allows him the freedom to negotiate with the commercial use.

Steward believes it creates a problem from a timing circumstance. He believes this creates a really difficult planning issue as far as the school and church are concerned. A school needs rooftops and rooftops need a school. Schools buy cheap land and the rooftops follow. We continue to get the low density development at the edges because of this independent advance planning that goes on. The church is somewhat in the same position. Both of these entities have a community responsibility to pay more attention to the Comprehensive Plan and to the city's ability to support them in the services that they need. This is mitigated to a large extent because this area has been included in the new Comprehensive Plan and ultimately it is going to be developed. But there is a set of principles in planning that need to be more carefully followed.

Schwinn disagreed because the analysis suggests that this complies with the old and the new Comprehensive Plan. We have apartments and commercial that we are showing there in the new Comprehensive Plan. He believes it is sound principles of planning.

Motion for approval, deleting the Welles property from the change of zone request, carried 5-4: Duvall, Larson, Bills-Strand, Krieser and Schwinn voting 'yes'; Carlson, Taylor, Newman and Steward voting 'no'.



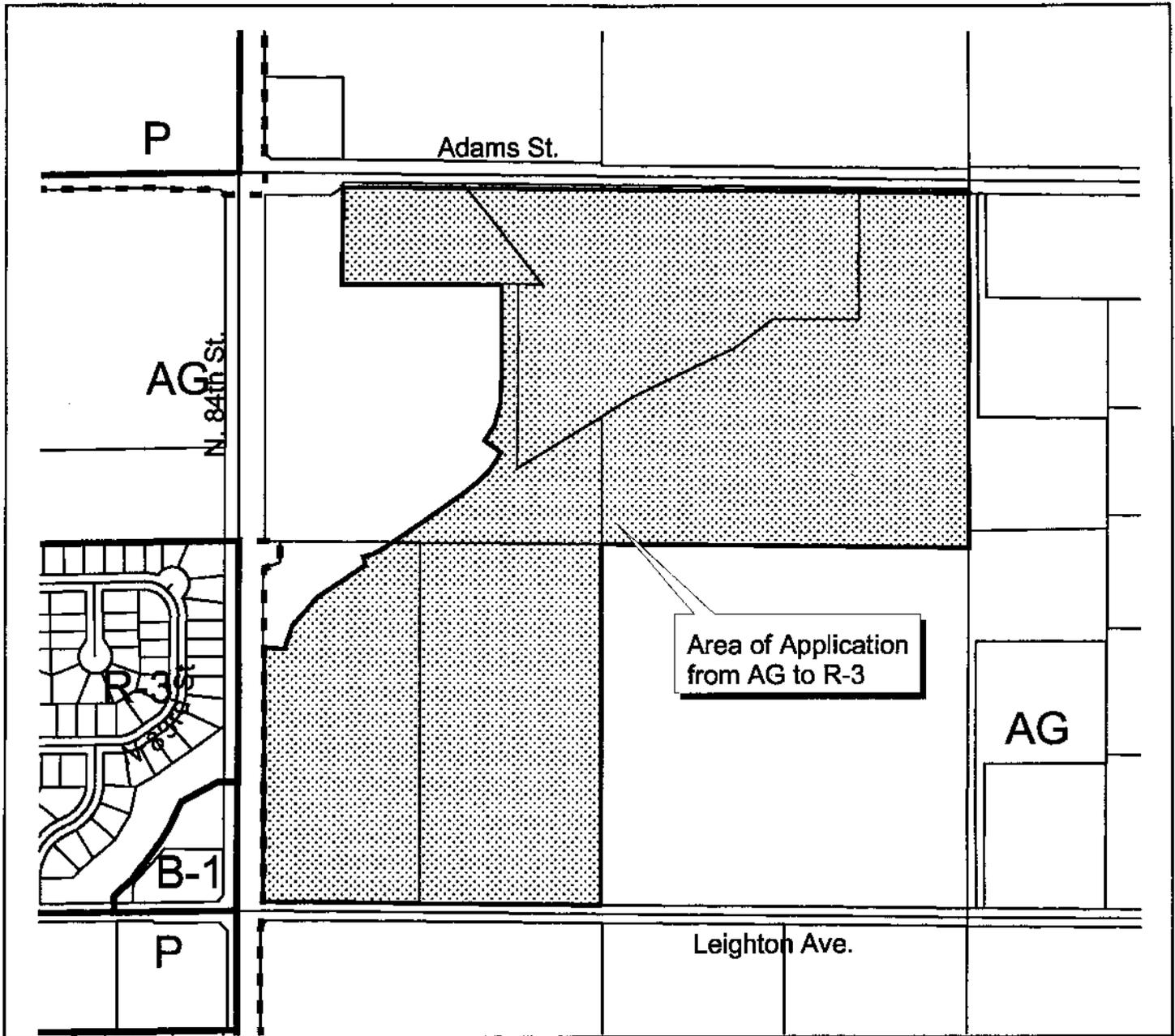
**Change of Zone #3355
Prairie Village
N 84th & Adams St.**



015

Photograph Date: 1997

Lincoln City - Lancaster County Planning Dept.

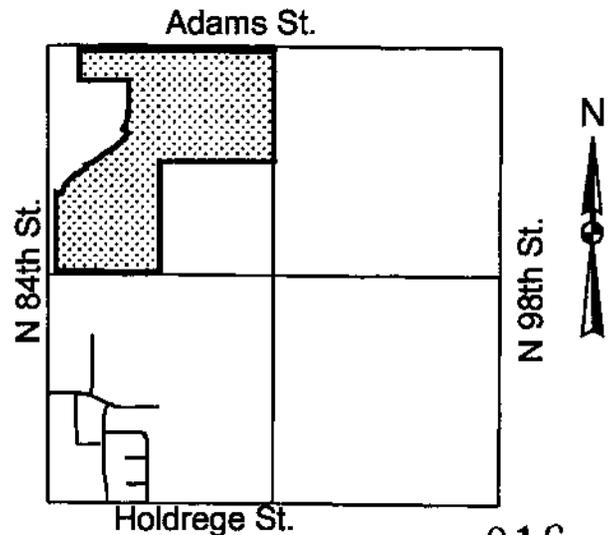
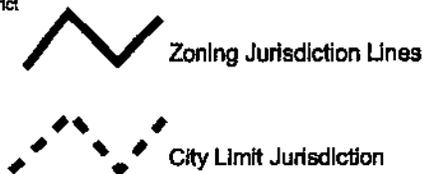


**Change of Zone #3355
Prairie Village
N 84th & Adams St.**

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. 14 T10N R7E



016

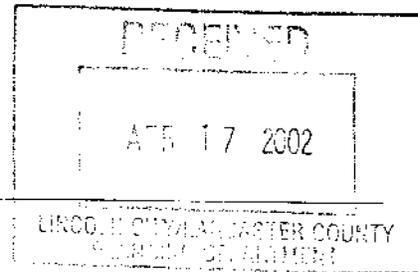
LEGAL DESCRIPTION CHANGE OF ZONE: AG to R-3

CHANGE OF ZONE

A LEGAL DESCRIPTION OF A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA AND MORE FULLY DESCRIBE AS FOLLOWS:

REFERRING TO THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER: THENCE: S00°13'16"W, (AN ASSUMED BEARING), ON THE EAST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING; THENCE: CONTINUING S00°13'16"W, ON SAID LINE, A DISTANCE OF 1289.95 FEET; THENCE: N89°22'42"W, A DISTANCE OF 1327.83 FEET; THENCE: S00°08'58"W, A DISTANCE OF 1329.14 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER; THENCE: N89°20'34"W, ON SAID LINE, A DISTANCE OF 1231.16 FEET; THENCE: N00°04'39"E, ON THE EAST RIGHT-OF-WAY LINE OF NORTH 84TH STREET, A DISTANCE OF 944.70 FEET; THENCE: S89°55'21"E, A DISTANCE OF 69.85 FEET; THENCE: N21°36'18"E, A DISTANCE OF 94.41 FEET; THENCE: N42°40'37"E, A DISTANCE OF 126.86 FEET; THENCE: N56°35'48"E, A DISTANCE OF 212.59 FEET; THENCE: N17°17'15"W, A DISTANCE OF 27.50 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 17°48'47", A RADIUS OF 383.00 FEET, AN ARC LENGTH OF 119.07 FEET, A CHORD LENGTH OF 118.59 FEET AND A CHORD BEARING N63°48'21"E; THENCE: ON SAID CURVE, A DISTANCE OF 119.07 FEET TO THE POINT OF TANGENCY; THENCE: N54°53'58"E, A DISTANCE OF 309.36 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 24°05'03", A RADIUS OF 483.00 FEET, AN ARC LENGTH OF 203.03 FEET, A CHORD LENGTH OF 201.54 FEET AND A CHORD BEARING N42°51'26"E; THENCE: ON SAID CURVE, A DISTANCE OF 203.03 FEET TO THE POINT OF TANGENCY; THENCE: N59°11'05"W, A DISTANCE OF 66.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 30°12'39", A RADIUS OF 417.18 FEET, AN ARC LENGTH OF 219.97 FEET, A CHORD LENGTH OF 217.43 FEET AND A CHORD BEARING N15°42'15"E; THENCE: ON SAID CURVE, A DISTANCE OF 219.97 FEET TO THE POINT OF TANGENCY; THENCE: N00°35'27"E, A DISTANCE OF 358.18 FEET; THENCE: N89°25'20"W, A DISTANCE OF 581.42 FEET; THENCE: N00°35'58"E, A DISTANCE OF 349.88 FEET; THENCE N00°35'38"E, A DISTANCE OF 10.01 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF ADAMS STREET; THENCE: S89°24'49"E, ON SAID LINE, A DISTANCE OF 2281.39 FEET TO THE POINT OF BEGINNING AND CONTAINING A CALCULATED AREA OF 92.194 ACRES INCLUDING 0.933 ACRES OF COUNTY ROAD RIGHT-OF-WAY MORE OR LESS.

M e m o r a n d u m



To: Becky Horner, Planning
From: ~~Dennis~~ Dennis Bartels, Engineering Services
Subject: Prairie Village Revised Preliminary Plat
Date: April 16, 2002
cc: Roger Figard
Randy Hoskins
Nicole Fleck-Tooze
Virendra Singh
Nick McElvain
Mark Bauer
Ben Higgins

Engineering Services has reviewed the revised preliminary plat Prairie Village located between Leighton and Adams east of 84th Street and has the following comments:

1. Annexation - An annexation agreement should be in place prior to scheduling this plat for Planning Commission.
2. Water - The water system has been revised per previous comments. The agreement needs to address sharing and timing of construction of the 16" water mains required to serve this plat. This includes the 16" main in Adams Street.
3. Sanitary Sewer - The developer must pay the sanitary sewer connection fee for outletting to the Regent Heights / Northern Lights trunk sewer. The letter acknowledges this fee.

The plan shows a 10" sanitary sewer through portions of this plat with the justification that it will serve 128 acres. Public Works requests that a map be submitted that shows these 128 acres. If needed, the sewer can be built to a larger size than the minimum 8" size. Construction of a larger size does not constitute approval of serving all of the 40 acres school site which would require exceptions to sewer design standards.

The 8" sanitary sewer system to show depths that do not exceed design standards. Some sewers are shown at shallow depths that will not provide sewers with gravity sewer to potential basements. Public Works recommends approval of the exceptions to design standards to serve this plat as conceptually shown.

4. Drainage and Grading - The information submitted shows no improvements to the major channel thru the site. Nothing has been submitted to show that the channel will not erode after development and no improvements are shown to the drainage channel. This is contrary to design standards.

The existing topography along the east side of the plat shows the natural low area west of the east line of this plat. The grading plan shows this low area being filled and the local drainage east of 91st Street being diverted to the property to the east and an indication that the property to the east will be graded to accommodate this drainage. Unless the adjacent property owner agrees to this drainage, the grading plan is unsatisfactory. Comment 7 in the letter accompanying this plat calls for up to a 5' retaining wall along the east property line to accomplish this grading. More detail is needed to show how this wall will be built and whose property it will be on.

Grading is shown within the LES easement adjacent to 84th Street. It should be confirmed that LES will allow this grading.

The comment letter indicates that steps will be built in the pedestrian easement into the apartment site west of 87th. Steps are not permissible on a public sidewalk. The easement location or grading design should be redesigned. This same easement east of 87th also appears to be too steep for sidewalk grades.

5. Streets - The Tallgrass and Adams Street intersection is satisfactory. In the future, this intersection will be right-in, right-out when medians are constructed in Adams Street.

When Lot 2, Block 11 is redeveloped, driveway access to Adams will need to be relinquished. The driveway shown is satisfactory for use by the existing residential use.

Public Works recommends that the interim turn lanes to Adams Street, until Adams Street is approved, be required at the cost of the development.

Previous negotiations have made City recommendations concerning developer obligations toward improvements in the streets adjacent to this plat. Nothing in the revised plans changes these recommendations. These costs need to be addressed in an annexation agreement.

6. General - The information shown on the preliminary plat relating to the public water main system, public sanitary sewer system and public storm sewer system has been reviewed to determine if the sizing and general method of providing service is satisfactory. Design consideration including, but not limited to, location of water main bends around curved and cul-de-sacs, connection of fire hydrants to the public main, temporary fire hydrant locations, location and number of sanitary sewer manholes, location and number of storm sewer inlets, location of storm sewer manholes and junction boxes, and the method of connecting storm sewer inlets to the main system are not approved with this review. These and all other design considerations can only be approved at the time construction drawings are prepared and approved.

MORRIS & TITUS LAW FIRM, P.C.

A LIMITED LIABILITY ORGANIZATION

121 SOUTH 13TH STREET, SUITE 701
P.O. Box 81849
LINCOLN, NEBRASKA 68501-1849

(p.83 - Public Hearing - 5/01/02)

Telephone (402) 434-9090
e-mail: admin@morristituslaw.com

FAX (402) 434-9099
<http://www.morristituslaw.com>

April 26, 2002

Via Hand Delivery

Lincoln-Lancaster County Planning Dept.
ATTN: Becky Horner
555 South 10th Street, Ste. 213
Lincoln, NE 68508

RE: Change of Zone No. 3355, Prairie Village

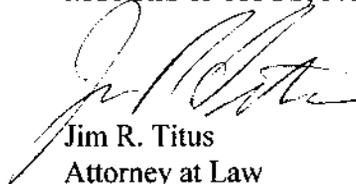
Dear Ms. Horner:

I represent John Welles, the owner of Lot 90 in the NW1/4 of 14-10-7, Lancaster County, Nebraska, shown on the Prairie Village Preliminary Plat as Lot 2, Block 11. It came as a surprise to us when we received the Notice of Public Hearing dated April 19, 2002 that Mr. Welles' property had a zoning request change to R3 Residential District. This was not his understanding of the request that was going to be made. Therefore, we withdraw any request of change of zone for Lot 90 in the NW1/4 of 14-10-7, Lancaster County, Nebraska and request that it remain AG Agricultural District.

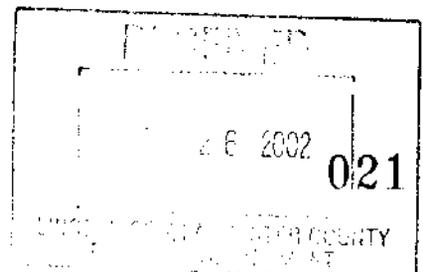
If you have any questions or comments, please feel free to call me.

Very truly yours,

MORRIS & TITUS, P.C., L.L.O.



Jim R. Titus
Attorney at Law
Direct line: 434-9066



Lincoln



Nebraska's Capital City

April 29, 2002

Jim Titus
Morris and Titus Law Firm, P.C.
121 S. 13th Street, Suite 701
P.O. Box 81849
Lincoln, NE 68501

RE: Prairie Village zoning request

Dear Mr. Titus,

We received your letter dated April 26, 2002, in which you expressed opposition to the zoning request for Lot 90 in the NW quarter of Section 14-10-7 as part of the Prairie Village Change of Zone. You requested to withdraw the petition for zoning action on this property. Zoning requests are not restricted to the landowner. Therefore, the request cannot be withdrawn. However, the owner may oppose the zoning request, express their concerns, and ask that it be denied at the the public hearing. The public hearing is scheduled for May 1, 2002 at 1:00pm. If you have any questions or comments you may call me at (402)441-6373.

Sincerely,

Becky Horner
Planner

CC: Planning Commission
Ray Hill, Planning
Rick Onnen, EDC
File

022

