

City Council Introduction: **Monday**, September 16, 2002
Public Hearing: **Monday**, September 23, 2002, at **1:30 p.m.**

Bill No. 02R-204

FACTSHEET

TITLE: WAIVER OF DESIGN STANDARDS NO. 02016, requested by Jerry Joyce of The Legacy Limited Partnership, to waive street trees and sidewalk on South 58th Street adjacent to Lot 3, Cherrywood Estates Addition, generally located at So. 58th Street and Pioneers Blvd.

STAFF RECOMMENDATION: Approval of the waiver of street trees, but **denial** of the waiver of sidewalk.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 09/04/02
Administrative Action: 09/04/02

RECOMMENDATION: **Approval** of the waiver of street trees and **denial** of the waiver of sidewalk (7-1: Steward. Bills-Strand, Larson, Taylor, Carlson, Newman and Schwinn voting 'yes'; Krieser voting 'no'; Duvall absent).

FINDINGS OF FACT:

1. The Planning staff recommendation to approve the proposed waiver of street trees, but deny the proposed waiver of sidewalk is based upon the "Analysis" as set forth on p.3-4, concluding that there are no unusual circumstances that would warrant the approval of the waiver of sidewalk. Due to existing mature trees in the front yard, the waiver of street trees is acceptable.
2. The applicant's testimony is found on p.5.
3. There was no testimony in opposition.
4. On September 4, 2002, the Planning Commission voted 7-1 to agree with the staff recommendation to approve the waiver of street trees and deny the waiver of sidewalk (Commissioner Krieser dissenting).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: September 9, 2002

REVIEWED BY: _____

DATE: September 9, 2002

REFERENCE NUMBER: FS\CC\2002\WDS.02016

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Waiver of Design Standards #02016

DATE: August 14, 2002

PROPOSAL: Waive street trees and sidewalk on S. 58th Street adjacent to Lot 3, Cherrywood Estates Addition.

CONCLUSION: There are no unusual circumstances that would warrant the approval of the waiver to sidewalk. Due to existing mature trees in the front yard, the waiver of street trees is acceptable.

<u>RECOMMENDATION:</u>	Approval of the waiver of street trees. Denial of the waiver of sidewalk.
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 3, Cherrywood Estates Addition, located in the SW 1/4 of Section 4, Township 9, North Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska.

LOCATION: S. 58th Street and Pioneers Blvd.

APPLICANT: Jerry Joyce
The Legacy Limited Partnership
8101 "O" St. Suite 100
Lincoln, NE 68510
(402) 489-3387

OWNER: same as applicant

CONTACT: same as applicant

EXISTING ZONING: R-4 Residential

EXISTING LAND USE: An assisted/independent living facility for elderly and one single family house.

SURROUNDING LAND USE AND ZONING:

North:	R-2 Residential	Single family residential fronting S. 58 th Street.
South:	R-2 Residential	Day Care and residential
East:	R-2 Residential	Single family and two-family houses
West:	R-4 Residential	Assisted living facility

HISTORY:

May 21, 1997 Administrative Amendment #97011 to Special Permit 1493A to revise the site plan was approved by the Planning Director.

July 25, 1996 Administrative Amendment #96059 to Special Permit 1493A to increase the number of beds in the assisted living area from 37 to 42 was approved by the Planning Director.

February 27, 1995 Administrative Amendment #94107 to Special Permit 1493A to revise site plan was approved by the Planning Director.

September 28, 1994 Special Permit 1493A for housing for elderly was approved by Planning Commission.

June 2, 1994 Cherrywood Estates Addition Administrative Final Plat #93081 was approved by the Planning Director.

April 7, 1994 Waiver of Design Standards #94001 to waive street trees and sidewalk in front of Lot 3, Cherrywood Estates Addition was approved by City Council.

March 14, 1994 Special Permit 1493 for housing for elderly was approved by City Council.

March 14, 1994 Change of Zone #2801 from R-2 to R-4 on Lots 1-10, Block 1 Lowery Heights Addition was approved by City Council.

September 1986 Change of Zone #2279 from R-2 to B-1 on Lots 4,5,6 and 7, Block 1 Lowery Heights was denied by City Council.

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2025 Comprehensive Plan specifies this area as Urban Residential.

Guiding Principles for Existing Neighborhoods in the 2025 Comprehensive Plan include:

“Maintain and enhance infrastructure and services in existing neighborhoods.”

(page F-75)

The Community Form chapter of the 2025 Comprehensive Plan states that neighborhoods should include interconnected network of streets, trails and sidewalks to encourage walking and bicycling. (page F-21)

The Mobility and Transportation section of the 2025 Comprehensive Plan includes:

“Continuity– The sidewalk system should be complete and without gaps.” (p. F-97)

TRAFFIC ANALYSIS: S. 58th Street is a local street.

ANALYSIS:

1. This request is to waive the Subdivision requirements for sidewalks (Sec.26.23.095) and street trees (Sec. 26.27.090).
2. The waiver request is associated with Administrative Final Plat #01092, Cherrywood Estates 1st Addition.
3. There is an existing sidewalk system on the east side of S. 58th Street and on the west side of S. 58th Street from Pioneers Blvd. north to the south lot line of Lot 3.
4. Public Works objects to the requested waivers. Waiving the sidewalks because the street is a dead end and use is minimal is an argument that can be applied to most cul-de-sacs and is not a good basis to justify the waiver.
5. Parks and Recreation Department supports the waiver of street trees for the following reasons:
 1. There are two mature trees in the front yard on private property.
 2. There is a ornamental street light in the yard.
 3. Planting of street trees would obscure existing yard trees and ornamental light.
6. The street trees and sidewalk were previously waived adjacent to Lot 3, under Waiver of Design Standard 94001. The waiver does not run with the land and cannot be transferred to the proposed Administrative Final Plat of Cherrywood Estates 1st Addition. Any new subdivision must follow the requirements of the Subdivision Ordinance.

Prepared by:

Tom Cajka
Planner

WAIVER OF DESIGN STANDARDS NO. 02016

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 4, 2002

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

Staff recommendation: Approval of the waiver of street trees and denial of the waiver of sidewalks.

Proponents

1. **Bob Schoenleber** appeared on behalf of the applicant. Schoenleber assured that there is no additional development being proposed with this request for waiver of the design standards. The current situation exists on Lot 3, i.e. residential property adjacent to The Legacy Retirement Center. The residential property has a detached garage in the rear yard with the access to that garage being off of The Legacy project driveway. There is a common access easement for that driveway. By replatting this property, the property line will be taken from the west side of the garage and moved to the east so that the garage is part of Lots 1 and 2 instead of Lot 3. This will eliminate the common access agreement and would allow the applicant to sell that property as a single family residential property. The applicant has met with the neighbors. The neighbors to the north oppose a sidewalk coming up the length of Lot 3 and stopping at the edge of their property.

Newman inquired as to the location of the sidewalks now and where they are required. Schoenleber advised that there is a sidewalk along 58th Street on Lots 1 and 2 which stops at the edge of Lot 3. There are no sidewalks continuing on the rest of 58th Street on the west side. There are sidewalks on the east side of 58th Street. The applicant is attempting to replat Lot 3, which requires a sidewalk just the distance of Lot 3. Bills sought clarification that the intent is to divide this off and resell as single family. Schoenleber agreed that to be the intent—to have that ability. The house exists and the two houses to the north exist.

There was no testimony in opposition.

Public hearing was closed.

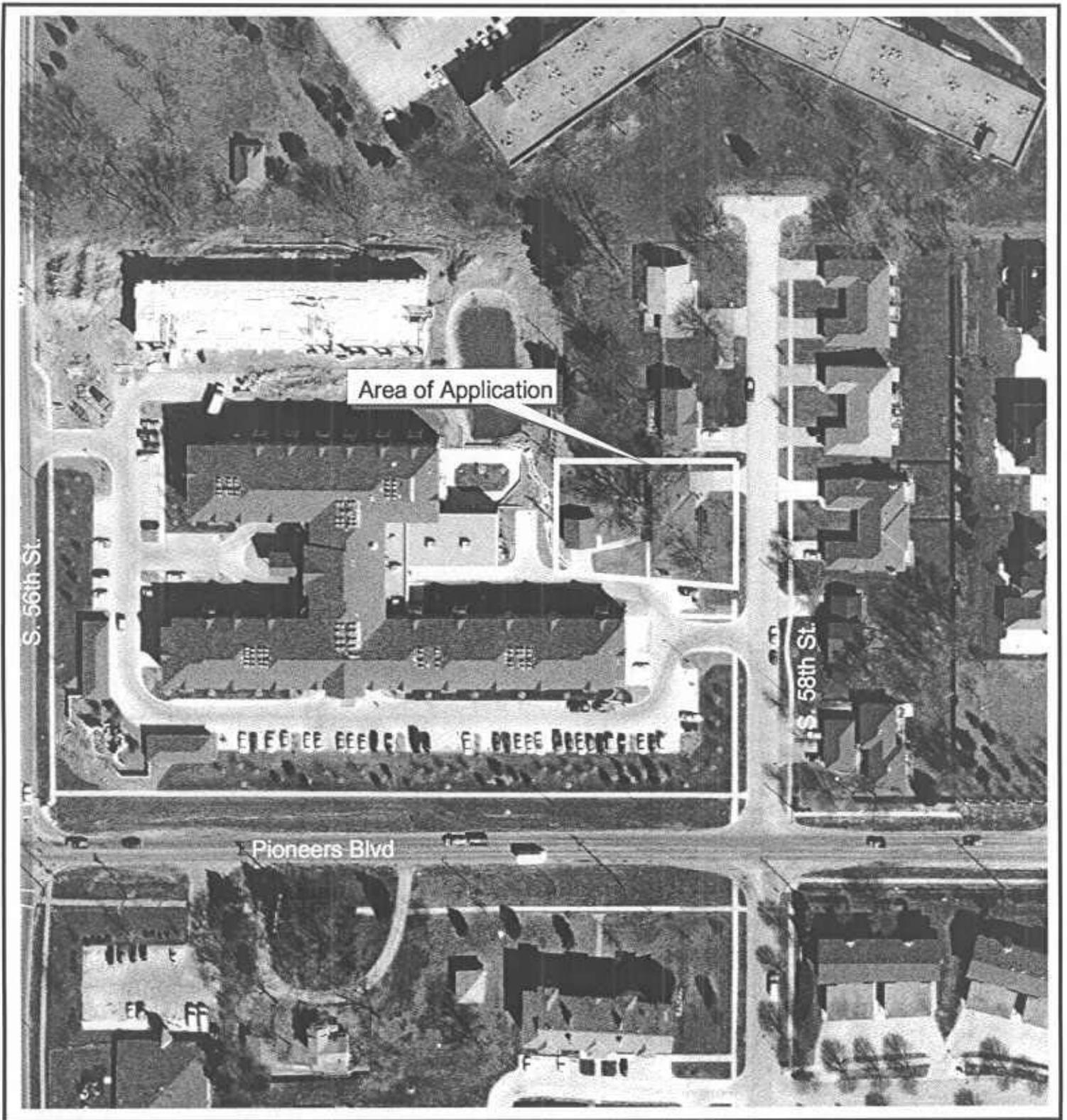
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 4, 2002

Steward moved to approve the staff recommendation, which approves the waiver of street trees and denies the waiver of sidewalk, seconded by Carlson.

Carlson thinks perhaps there was a mistake made in 1994 by the City Council when the sidewalk was previously waived.

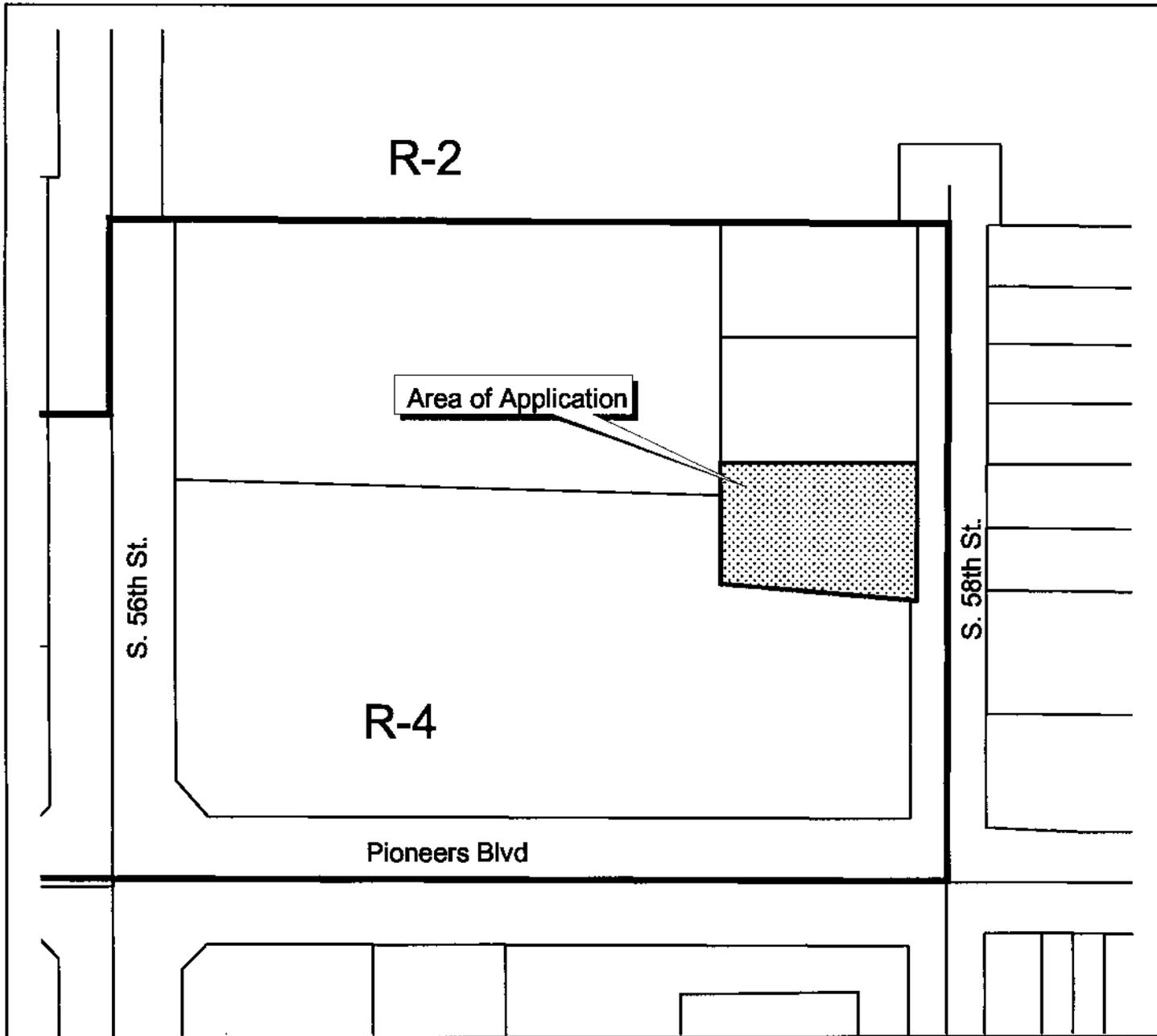
Motion recommending approval of the staff recommendation carried 7-1: Steward, Bills-Strand, Larson, Taylor, Carlson, Newman and Schwinn voting 'yes'; Krieser voting 'no'; Duvall absent.



**Waiver of Design Standards #02016
S. 59th & Pioneers Blvd**



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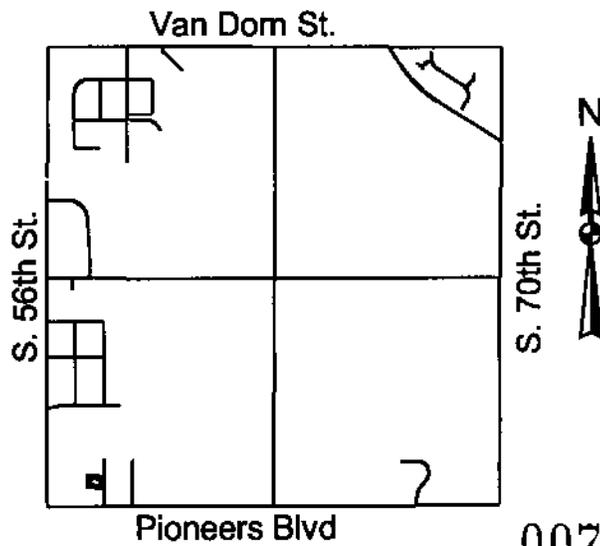
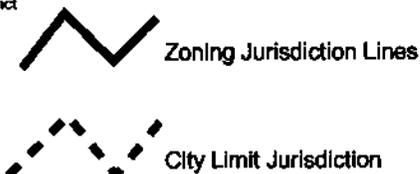


Waiver of Design Standards #02016
S. 59th & Pioneers Blvd

Zoning:

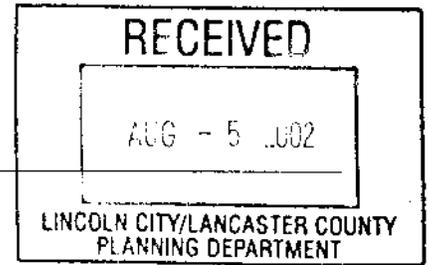
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned 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. 4 T9N R7E



007

M e m o r a n d u m



To: Tom Cajka, Planning

From:  Dennis Bartels, Public Works and Utilities

Subject: Street Trees and Sidewalk Waivers

Date: August 5, 2002

cc: Randy Hoskins
Nicole Fleck-Tooze

Engineering Services recommends denial of the requested waivers to street trees and sidewalks along 58th Street in Cherrywood Estates Addition. Waiving the sidewalks because the street is a dead end and use is minimal is an argument that can be applied to most cul-de-sacs and is not a good basis to justify the waiver. No justification is given to waive the tree requirement.

Memo



To: Tom Cajka, Planning Department

From: Mark Canney, Parks & Recreation

Date: August 7, 2002

Re: Application WDS 01092 Waiver of Trees & Sidewalks for 5600 Pioneers Blvd.

Staff members of the Lincoln Parks and Recreation Department have conducted a plan review of the above-referenced application/proposal and have compiled the following comments based on field inspection completed by Steve Schwab, City Arborist:

1. Large mature black walnut and 20' tall ash tree located in front yard, beside a decorative ornamental street light in yard on private property.
2. Planting of street trees would obscure existing yard trees/ornamental light.
3. Based on the conditions stated in item (1) & (2), a waiver of street trees is acceptable and recommended.

If you have any additional questions, comments or concerns, please feel free to contact me at 441-8248. Thanks.