

City Council Introduction: **Monday**, June 2, 2003  
Public Hearing: **Monday**, June 9, 2003, at **1:30 p.m.**

Bill No. 03-92

## FACTSHEET

**TITLE: CHANGE OF ZONE NO. 3290**, from AGR Agricultural Residential to R-1 Residential, requested by Carl R. Schmidt, on property generally located at Old Cheney Road and Frontier Road.

**STAFF RECOMMENDATION:** Approval.

**ASSOCIATED REQUEST:** Preliminary Plat No. 02018, Frontier Meadows (03R-145).

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 01/08/03 and 01/22/03  
Administrative Action: 01/22/03

**RECOMMENDATION:** Approval (5-0: Krieser, Taylor, Carlson, Newman and Steward voting 'yes'; Duvall, Larson, Schwinn and Bills-Strand absent).

### FINDINGS OF FACT:

1. This change of zone request and the associated Frontier Meadows Preliminary Plat No. 02018 were heard at the same time before the Planning Commission.
2. The staff recommendation to approve the change of zone request is based upon the "Analysis" as set forth on p.4-5, concluding that the proposal is generally in conformance with the 2025 Comprehensive Plan. The requested change of zone would allow the proposed lots to be subdivided in the future to 9,000 sq. ft. lots.
3. The applicant's testimony is found on p.6-7 and 8-9.
4. Testimony in support is found on p.9, and the record consists of two letters in support (p.15-16).
5. There was no testimony in opposition.
6. On January 22, 2003, the Planning Commission agreed with the staff recommendation and voted 5-0 to recommend approval.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** May 27, 2003

**REVIEWED BY:** \_\_\_\_\_

**DATE:** May 27, 2003

**REFERENCE NUMBER:** FS\CC\2003\CZ.3290

# LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

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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.: Change of Zone #3290 (AGR to R-1)**  
Preliminary Plat #02018

**DATE:** December 19, 2002

**SCHEDULED PLANNING COMMISSION MEETING:**

**DATE:** January 8, 2003

**\*\*As Revised by Planning Commission: 01/22/03\*\***

**PROPOSAL:** To create 3 residential lots on 3.89 acres located at Old Cheney Rd. & Frontier Rd.

**WAIVER REQUEST:**

1. Allow street lighting at 480' to 500' intervals.
2. Allow sidewalks on one side only of internal streets.
3. Allow rural roadway section including 22' wide paving and 41' radius cul-de-sacs.
4. Allow rural ditches for stormwater runoff.
5. Allow the use of a sanitary sewer ejector until gravity sewer is available.

**LAND AREA:** CZ #3290—1.92 acres more or less  
PP #02018—3.89 acres more or less

**CONCLUSION:** Generally in conformance with the 2025 Comprehensive Plan. The plat is similar to Hawkswood Estates, located immediately to the east. Requested waivers are similar to waivers granted on Hawkswood Estates. The requested change of zone would allow the proposed lots to be subdivided in the future to 9,000 square feet lots. Final plats should not be approved until the area is served by gravity sanitary sewer.

**RECOMMENDATION:**

**Change of Zone #3290**

Preliminary Plat #02018

**Approval**

Conditional Approval

**WAIVER REQUESTS**

-Exceed maximum spacing for street lighting

Approval

-Allow sidewalks on one side of internal streets

Approval

-Allow rural roadway section including 22' paving and 41' radius cul-de-sac

Denial

-Allow ditches for stormwater runoff

Denial

-Allow the use of a sanitary sewer ejector until gravity sewer is available

Denial

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:**

PP #02018– The north 416' of Lot 1, Sheldon Heights in the NE 1/4 of Section 16, Township 9 North, Range 7 East, of the 6<sup>th</sup> P.M., Lancaster County, Nebraska.

CZ #3290– See attached legal description.

**LOCATION:** Old Cheney Rd. & Frontier Rd. (approximately the 6500 block of Old Cheney Rd.)

**APPLICANT:** Carl R. Schmidt  
7541 Boone Trail  
Lincoln, NE 68516  
(402) 483-6623

**OWNER:** Same as applicant

**CONTACT:** Lyle Loth  
E.S.P.  
601 Old Cheney Rd. Suite A  
Lincoln, NE 68512  
(402) 421-2500

**EXISTING ZONING:** AGR- Agricultural Residential and R-1 Residential

**EXISTING LAND USE:** Vacant

**SURROUNDING LAND USE AND ZONING:**

North:	R-1	Single family residential
South:	AGR	Single family residential
East:	R-1	Single family residential
West:	AGR & R-1	Single family residential

**COMPREHENSIVE PLAN SPECIFICATIONS:**

This area is shown as Residential Low Density in the 2025 Comprehensive Plan (F-25). Low density residential is defined as “residential areas with densities ranging from 1 to 5 acres per dwelling unit, with a typical density of 3 acres per dwelling unit.” (F-27)

The Southeast Lincoln/ Highway 2 Subarea Plan show this area as Low Density Residential.

*Sidewalks should be provided on both sides of all streets. (F-66, 67)*



**ANALYSIS:**

1. This is a request to subdivide one acreage lot into three smaller acreage lots.
2. This preliminary plat is similar to and adjacent to Hawkswood Estates.
3. Although the plat shows lots approximately one acre in size, the R-1 zoning district allows a minimum lot size of 9,000 square feet. The proposed lots could be subdivided in the future.
4. The applicant is requesting waivers similar to those granted for Hawkswood Estates and Grandview Heights; including rural section roads, sidewalks on one side of interior streets, street lighting at 500' intervals and rural ditches to carry storm water. Public works & Utilities Department objects to the waiver of rural section roads.
5. This plat cannot be served with gravity sanitary sewer. The applicant is proposing the use of a wastewater ejector to pump the sanitary sewer to the existing sanitary sewer on Old Cheney Road. Public Works & Utilities Department objects to this waiver.
6. Rural road cross sections with no curb and gutter require additional maintenance including the ditches and the driveway culverts. If the owners want the rural character, they should then be responsible for the maintenance.

Prepared by:

Tom Cajka  
Planner

**CHANGE OF ZONE NO. 3290  
FROM AGR AGRICULTURAL RESIDENTIAL  
TO R-1 RESIDENTIAL  
and  
PRELIMINARY PLAT NO. 02018  
FRONTIER MEADOWS**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 8, 2003

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

Staff recommendation: Approval of the change of zone and conditional approval of the preliminary plat.

The Clerk announced that the applicant has submitted a written request for a two-week deferral. Motion to defer made by Newman, seconded by Carlson, with continued public hearing an administrative action scheduled for January 22, 2003, and carried 8-0: Carlson, Bills-Strand, Larson, Newman, Duvall, Taylor, Krieser and Schwinn voting 'yes'; Steward absent.

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 22, 2003

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

Staff recommendation: Approval of the change of zone and conditional approval of the preliminary plat.

Proponents

1. **Kent Seacrest** appeared on behalf of the owner and developer, **Carl Schmidt**. This project consists of a change of zone from AGR to residential and a preliminary plat to take about four acres and turn it into 3 lots of about 1-acre each in size. Seacrest indicated that the applicant has met with staff and the neighbors during the two-week deferral.

One of the issues was pumping sewage from these three proposed homes up to Old Cheney Road. This is a unique piece of real estate. The Comprehensive Plan shows this property as low density residential with 1- to 5-acre lot size, so this proposal is in conformance with the Comprehensive Plan. This parcel is just one of the little 3.8 acre tract in the middle of the triangle surrounded by acreages. We have discussed pumping sewage up, because the natural sewage will come from the south across Highway 2. This area does not have a sewage plan, yet it is inside the city limits. This applicant is proposing to pump the sewage up to Old Cheney.

This proposal also seeks approval of rural standards for the streets with no curb and gutter. Seacrest recalled that there have been several “retrofits” lately (5-acre tracts being replatted into 1-acre tracts, being in conformance with the Comprehensive Plan and yet not be urbanized). To the east of this development is Hawkswood Estates, which was approved with rural standard streets. Yet in this application, the staff and administration are not recommending approval of the rural standard streets. There was another recent plat called Grandview Heights on No. 14<sup>th</sup> that was recommended for rural standard streets. This (Frontier Meadows) is the start of a neighborhood. The bigger neighborhood surrounding this is called Sheldon Heights which is trying to do what was done at Grandview Heights with rural standards, with city water and sewer. Sheldon Heights is represented by Art Zygielbaum and Stan Maly, who have submitted letters in support of the rural standard streets for Frontier Meadows. Both of these neighbors to the south are begging that Frontier Meadows be allowed to have rural standards because that neighborhood to the south is coming in next and will want rural streets. Seacrest showed a map of Hawkswood Estates which is due east with approved rural standard streets.

Seacrest then stated that his client has given up trying to pump the sewage and is no longer seeking that waiver. His client has also agreed to work with the neighborhood to the south to bring in the rural standards so that everything in the triangle is rural standards. Southfork also has rural standards and it is in this triangle.

Seacrest submitted a motion to amend the conditions of approval, including giving up the request to pump sewage, but requesting deletion of the urban street standards with curb and gutter.

Carlson believes that this is going to be something the Commission will see more and more of as we go along. He appreciates the agreement to the gravity flow. But what is the ultimate form if it is not curb and gutter? Seacrest stated that this triangle has different sets of covenants but yet common covenants requiring 1 acre or larger. With these covenants, there is not the potential for the density that would require the curb and gutter. You don’t need curb and gutter and it changes the appearance from agrarian rural setting to being in the city. This saves the tree masses. There will be fire hydrants and fire protection.

Carlson is sympathy to the aesthetic desire, but what about the walking network? Seacrest stated that the walking networks are planned. They do have a street network and they are putting in sidewalk on one side, plus some of the owners have talked about the wood chip trail network that will be done privately to be able to circulate back and forth.

There was no testimony in opposition.

### Staff questions

Carlson asked staff to respond to the motion to amend. Tom Cajka advised that the staff is in agreement with the change to gravity flow. He deferred to Public Works regarding the street standards. If rural streets are allowed, the property owners will be responsible for maintaining the ditches and culverts.

Dennis Bartels of Public Works had a mixed reaction as far as the rural streets. The reservation is because of Public Works' perception of some maintenance cost problems that occur with rural streets in general. There is talk today about the neighbors to the south coming in with a development similar to this with larger lots; however, nothing has been submitted nor approved. The primary outlets for that development would be through here. We would be relying on faith that the south would follow through with similar size lots. There would be more maintenance costs because of the ditch. For instance, in this type of weather, when you plow snow without the curb, the blade will get into a grass shoulder and cause complaints as far as parking and sprinkler systems. It is a general perception that the maintenance that goes along with rural streets has higher costs. Southfork may not be a real good example because it was a county subdivision that was annexed after-the-fact. We did not force the roads to be reconstructed when it was finally annexed.

Steward indicated that he personally understands the principle and appreciates the need for curb and gutter in a standard urban profile; however, now that we do have a number of these subdivisions and have had some for some time, maybe some study of the cost comparisons might be useful when these applications come forward. This triangle seems to be rather unique in what was developed there, including the size of the lots, how they are trying to redevelop and how they are trying to help the Comprehensive Plan conform to density. Steward asked Bartels whether he would agree that there is some justification within this particular confine for similar profile. Bartels indicated that he agrees with the general principle. But he is not sure everyone sees the rural standard the same way. Engineers might have a different vision of a rural standard than the developer.

With regard to the amendment to Condition #3.2.9 (the water connection), Bartels suggested that the way it is rewritten was not his intent when he asked for it. The people that lived along Old Cheney were going to get a sanitary sewer and asked the city to create an ordinance whereby if they built it, the city would have the authority to ask those that connected to help pay for the frontage. Public Works determined that if it was good for the private side to get reimbursed, the city should have the same consideration. Bartels' intent was for an analogous payment for the equivalent of half of the 6" water main for the frontage on the existing 16" main in Old Cheney which was paid entirely by the water system as a CIP project. With the likelihood of impact fees, it is kind of caught in the middle. Bartels had mixed reactions to changing this condition and disagreed with the proposed amendment to Condition #3.2.9.

#### Response by the Applicant

Seacrest was taken back by the water issue. He thinks they could be made to pay three times. There is going to be a cul-de-sac with a water line--why pay for a second water line? As far as the plat, this developer is putting in water so why would they pay to do the water line on Old Cheney, unless this is deemed an off-site improvement? The property is already annexed. It is not fair or legal to ask for off-site water lines. Impact fees have been passed. This developer will be paying for off-sites every time they get a building permit. "So why would we be paying for water more than we need to?"

With regard to the rural road standards, Seacrest agreed that Public Works might have to maintain something, but when you put in curb and gutter and storm sewers, the city has to maintain those as well. The city has maintenance either way. He does not understand the maintenance argument because there is less to maintain with the rural road standards. In addition, Seacrest suggested that it is not

appropriate or fair when the last two projects (Grandview Heights and Hawkswood Estates) received this waiver. What is the difference?

Furthermore, Seacrest pointed out that the Comprehensive Plan designates this area as low density residential. The Comprehensive Plan talks about the different urban form needs as well as infrastructure needs. If this is not rural standard streets, then why the low density residential designation in the Comprehensive Plan? Seacrest believes it is an urban form issue and he is disappointed that Planning deferred to Public Works to discuss this issue.

Carlson confirmed that Condition #3.2.9 has this development bringing water down Frontier Road and up Frontier Circle. Seacrest concurred, offering that in the event any of these lots would tap into Old Cheney Road, this development should then tap into that line.

Carlson inquired as to when the area to the south is anticipated to come forward. It looks like it is likely to develop similarly, but if it comes in as 80 homes, what should I do? Seacrest stated that Carlson should then ask staff for a special assessment to add curb and gutter.

The Commission then agreed to allow additional testimony in support.

**Art Zygielbaum**, 6601 Pinecrest in Sheldon Heights, testified in support. The Sheldon Heights neighbors have been meeting and are getting ready to bring in a plat and an update to their covenants. Zygielbaum also supported Hawkswood Estates. The Sheldon Heights neighbors wish to maintain the rural environment that they have. The area is rural. They have been paying for their own gravel. The residents moved to this area because of the rural environment. The residents are willing to maintain a curbsless environment and one with minimal street lighting and yet minimize the cost of maintenance for the city. The Sheldon Heights neighbors have worked with this developer and the Frontier Meadows developer supports what Sheldon Heights wants to do with the Sheldon Heights area, which will be very similar to this proposal.

**Marvin Krout, Director of Planning**, then addressed the Commission. He does not believe there has been the best communication between the Departments and the applicant to date. He believes and agrees that the roads are an urban form issue and Planning does have some responsibility to talk about that. Krout believes that the Planning staff did discuss this with the Director of Public Works and Utilities and Krout was not sure that the Public Works Director had the opportunity to communicate with his staff. However, Krout stated that Allan Abbott did indicate that this was a case where he could go along with the rural standard. There have been situations before the Commission where Public Works did not disagree with a development of this sort with streets of the rural standard. Based on Krout's discussion with Allan Abbott, Krout believes that Public Works Director would agree to the rural standard in this case.

On the issue of off-site improvements, Krout was not aware of this issue until this afternoon. Outside of an annexation agreement, Krout does not believe we should be asking for this off-site water connection fee in this case. Krout suggested that the Planning Commission approve the applicant's proposed amendments.

Public hearing was closed.

**CHANGE OF ZONE NO. 3290**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 22, 2003

Carlson moved approval, seconded by Newman and carried 5-0: Krieser, Taylor, Carlson, Newman and Steward voting 'yes'; Duvall, Larson, Schwinn and Bills-Strand absent.

**PRELIMINARY PLAT NO. 02018**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

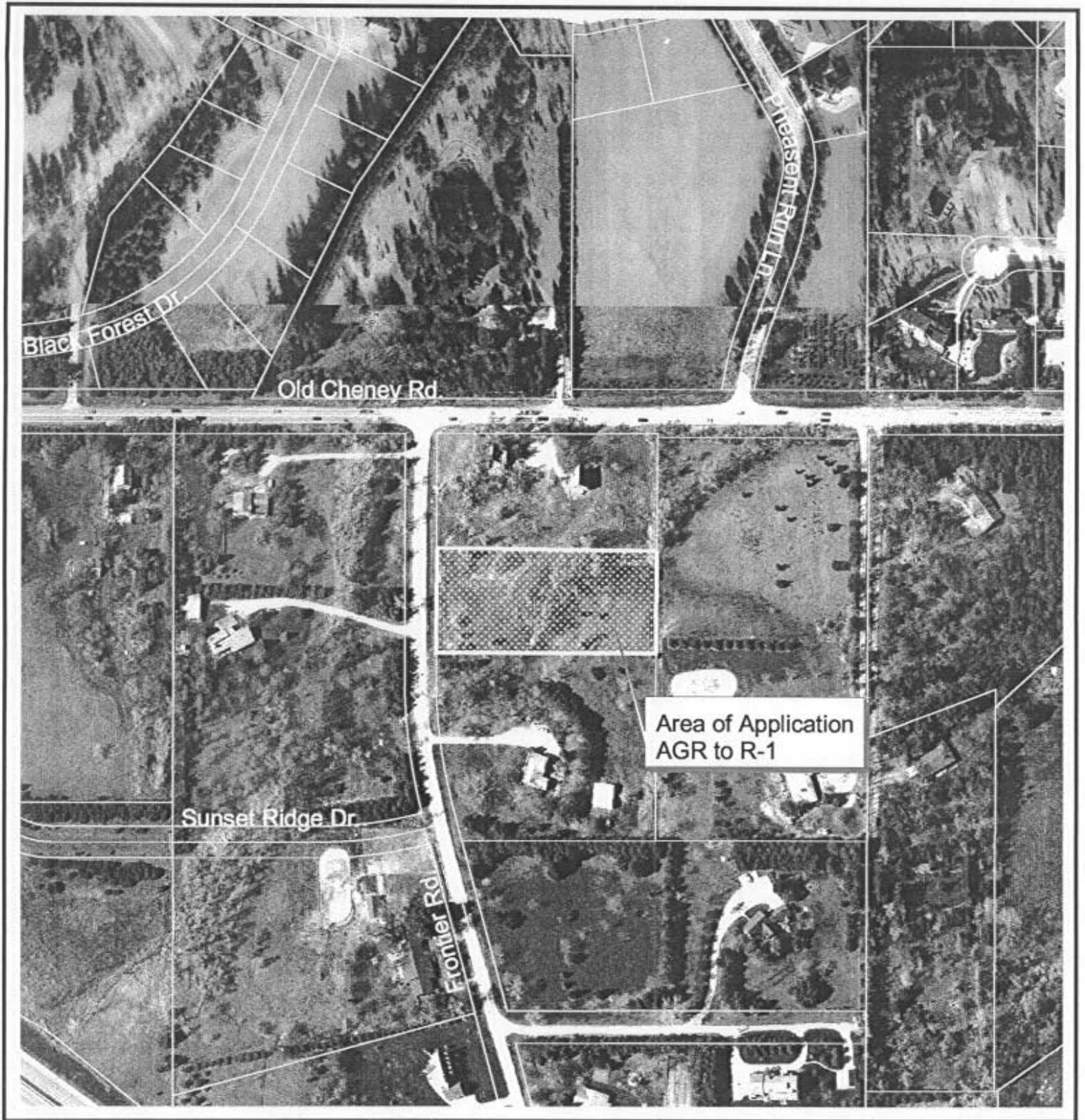
January 22, 2003

Carlson moved approval, with conditions as amended by the applicant, seconded by Newman.

Carlson appreciates the discussion on this because he needed clarification and appreciated the Planning Director's thoughts.

Steward noted that with the rural cross-sections, we have other conditions that now apply that would be implemented with this motion, i.e. Condition #3.2.11, with regard to maintenance responsibility for roadways and ditches.

Motion for conditional approval, with amendments as requested by the applicant, carried 5-0: Krieser, Taylor, Carlson, Newman and Steward voting 'yes'; Duvall, Larson, Schwinn and Bills-Strand absent.



**Change of Zone #3290  
Frontier Rd. & Old Cheney Rd.**

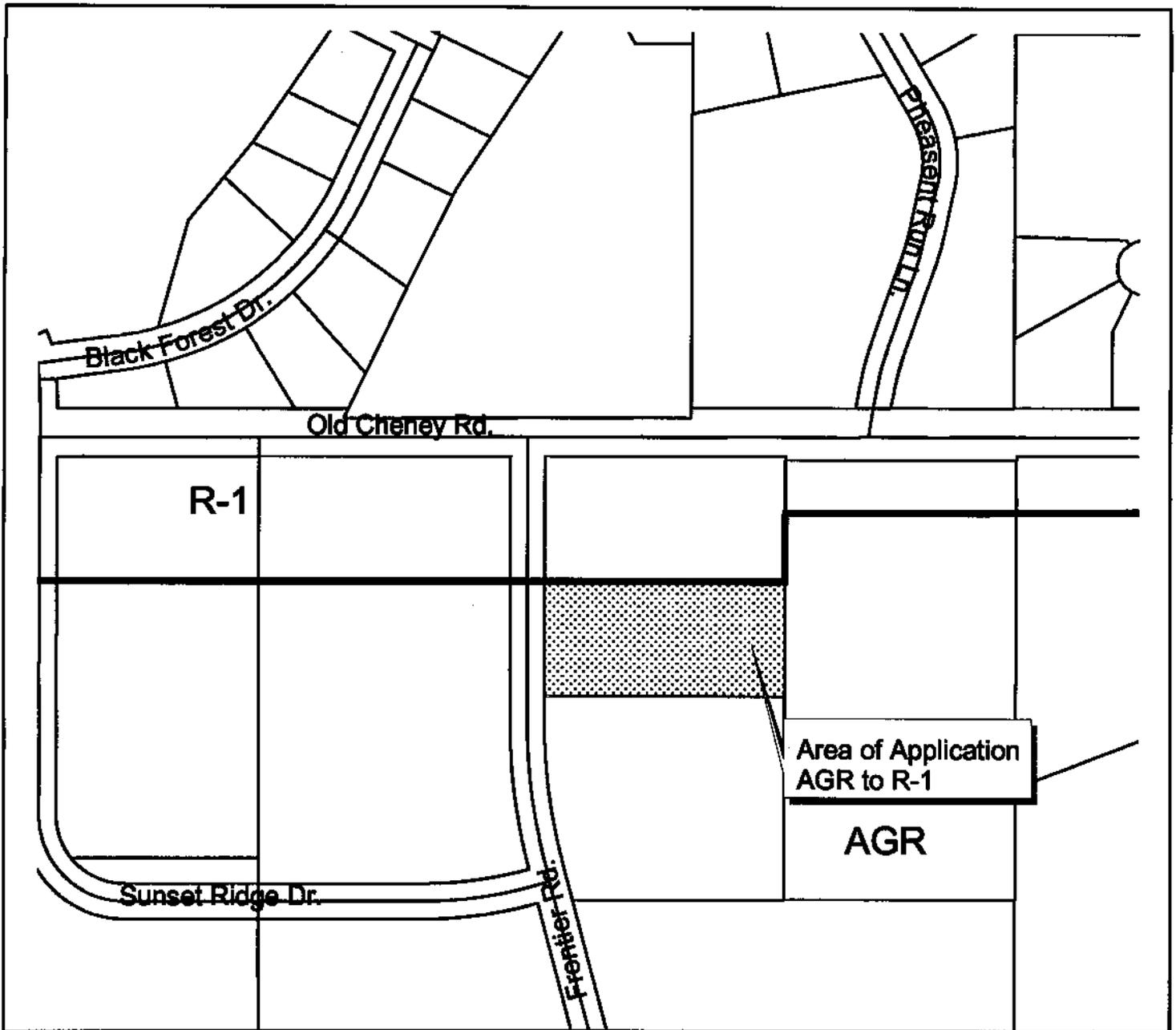


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Photograph Date: 1999

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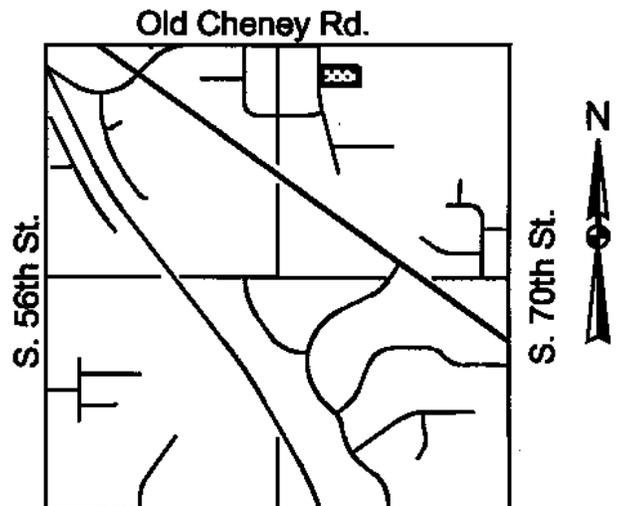


## Change of Zone #3290 Frontier Rd. & Old Cheney Rd.

### Zoning:

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

One Square Mile  
Sec. 16 T9N R7E



Pine Lake Rd.

Sheet \_\_\_ of \_\_\_

Date:

Lincoln City - Lancaster County Planning Dept.

012

## CHANGE OF ZONE #3290

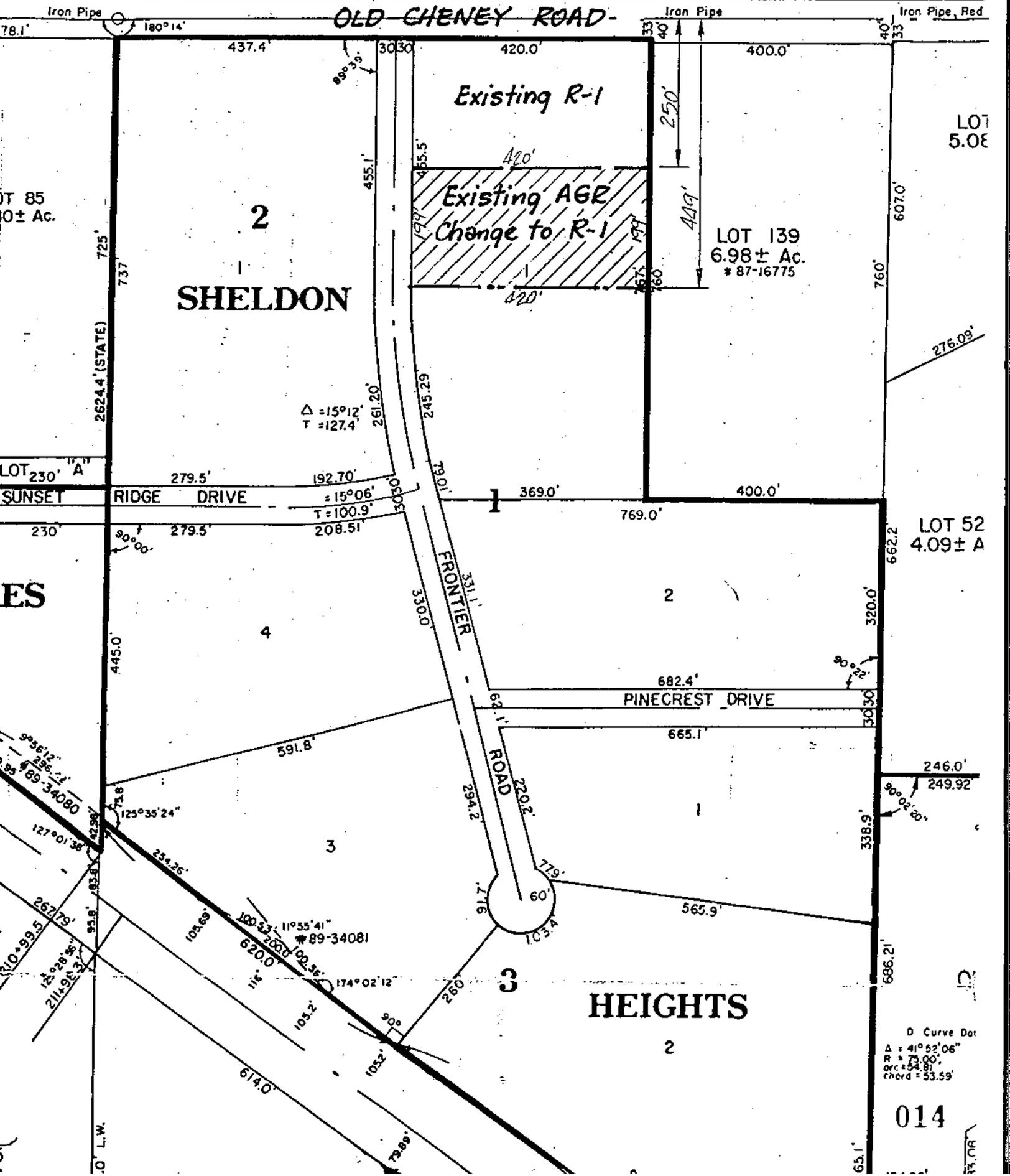
Commencing at the northeast corner of Lot 1, Block 1 Sheldon Heights Addition and extending thence along the east line of said Lot 1 S 00°23'37" W, 217.00 feet to the point of beginning;  
Thence continuing along said east line a distance of 199.00 feet;  
Thence N 89°36'23" W, 420.00 feet;  
Thence N 00°23'37" E, 199.00 feet;  
Thence S 89°36'23" E, 420.00 feet to the point of beginning containing 1.92 acres, more or less.

Va. 11°30' 79.90 Ch.

# OLD CHENEY ROAD

## SHELDON

## HEIGHTS



LOT 85  
10± Ac.

2

Existing R-1

Existing AGR  
Change to R-1

LOT 139  
6.98± Ac.  
\* 87-16775

LOT 52  
4.09± A

$\Delta = 15^\circ 12'$   
 $T = 127.4$

$\Delta = 15^\circ 06'$   
 $T = 100.9$   
208.51

D Curve Def  
 $\Delta = 41^\circ 52' 06''$   
 $R = 73.00'$   
 $Chord = 53.59'$

014

IN SUPPORT:

CHANGE OF ZONE NO. 3290  
PRELIMINARY PLAT NO. 02018

Submitted at public hearing before  
Planning Commission: 1/22/03

Planning Commission  
City of Lincoln  
Lincoln, NE 68508

RE: PAS Change of Zone #3290 (AGR to R-1)  
Preliminary Plat #02018

It was my intention to testify in favor of the proposed waivers requested by Carl Schmidt for our neighborhood - Sheldon Heights. Unfortunately I will be unable to attend your meeting this afternoon. I am sending my thoughts to Kent Seacrest so he can convey my support for what Carl is trying to accomplish.

We have lived in Sheldon Heights for about 13 years and want to maintain the rural environment. Our neighbors have had some preliminary meetings to accomplish what our neighbors to the east, Hawkswood Estates, accomplished last year. In all likelihood we will come before you asking for the same waivers Carl and our neighbors to the east requested. We believe they are a natural extension to the Hawkswood area and are reasonable requests.

If any of you have any questions, please feel free to call me, 434-1861. We recommend approval of the zoning waivers.

Sincerely,



Stan Maly  
6700 Pinecrest Dr.  
Lincoln, NE 68516

*IN SUPPORT: Submitted at Public Hearing  
before Planning Commission: 1/22/03*

*CHANGE OF ZONE NO. 3290  
PRELIMINARY PLAT NO. 02018*

**Arthur I. Zygielbaum**  
6601 Pinecrest Drive  
Lincoln, NE 68516

January 22, 2003

Planning Commission  
City of Lincoln  
Lincoln, NE

Reference: P.A.S: Change of Zone #3290 (AGR to R-1)  
Preliminary Plat #02018

Speaking for myself and for my neighbors, I strongly support the proposed waivers requested by Carl Schmidt through Kent Seacrest for the area called Frontier Meadows within Sheldon Heights.

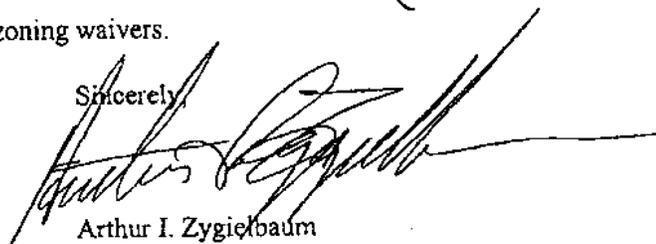
The proposed waiver closely matches waivers approved for Hawkswood Estates and is in concert with current plans being developed by the Sheldon Heights neighborhood. It is our intent to follow the lead of Hawkswood Estates in maintaining the rural environment currently existing within the community.

As you may be aware, my activities on the Beal Slough Stormwater Taskforce and on the Comprehensive Plan Committee focused upon maintaining the expectations of people who choose Lincoln as their home. While recognizing the city's need to accommodate growth and to serve all citizens in an efficient and cost-effective manner, I believe and have shown that effective compromises exist to meet the demands of a particular community and satisfy the requirements of the city in general. In the current instance, the proposed waivers support the infrastructure maintenance needs of the city and sustain the rural community we have built with our neighbors.

My involvement with the City has lead to a strong respect for the work of the Planning Commission and Department. The personnel I worked with are skilled and accomplished. I do therefore respectfully disagree with their recommendations of denial for the rural roadway and stormwater ditches in the waiver document. These items are similar to already approved waivers in Hawkswood Estates and are in agreement with plans we are developing.

I recommend and request approval of the zoning waivers.

Sincerely,



Arthur I. Zygielbaum