

## **FACTSHEET**

**TITLE:** CHANGE OF ZONE NO. 2751A, an amendment to the VAN DORN ACRES FINAL PLANNED UNIT DEVELOPMENT, requested by Slosburg Company, for 210 dwelling units, 33,000 sq. ft. of commercial floor area, and uses found in the B-1 Local Business District, including the on- and off-sale of alcohol, with associated waiver requests, on property generally located at the southwest corner of 84<sup>th</sup> & Van Dorn Streets.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 08/20/03 and 09/17/03  
Administrative Action: 09/17/03

**RECOMMENDATION:** Conditional Approval, as revised, with amendments (8-0: Larson, Bills-Strand, Carlson, Duvall, Marvin, Krieser, Taylor and Steward voting 'yes').

**STAFF RECOMMENDATION:** Conditional approval, as revised.

1. This proposed amendment to the Van Dorn Acres PUD originally included 220 dwelling units, 33,000 sq. ft. of commercial floor area for uses allowed in the B-1 Local Business District, and the sale of alcohol within 100' of a residential district or residential use. During the negotiations while this project was being considered by the Planning Commission, the number of dwelling units was reduced to 210, and the on-sale of alcohol is limited to businesses which derive more than 50% of their gross business receipts from food sales.
2. The applicant requests the following waivers:
  - A. To allow a private sanitary ejector pump to serve commercial area.
  - B. To eliminate the pedestrian easement.
  - C. To include tandem parking in the required parking.
  - D. To exceed the maximum building height for the multi-family structures.Waiver requests to allow the construction of a privacy fence in excess of 6'4" and to reduce the required building separation to 20' were withdrawn during the negotiations.
3. This application had original public hearing on August 20, 2003. The applicant's testimony is found on p.16-19. Testimony in opposition is found on p.19-23, and the record consists of two letters in opposition, including a petition from the Crown Pointe Homeowners Association containing 192 signatures (p.52-56 - the petition is not attached). The main issues of the opposition included density, increase in commercial square footage and traffic. The applicant's response to the opposition is found on p.23-24. The Planning Commission deferred the hearing for four weeks to give the applicant an opportunity to work more with the neighbors.
4. Continued public hearing was held on September 17, 2003. The applicant's testimony and other testimony in support is found on p.26-28, at which time letters in support were submitted from Lincoln Public Schools, Lincoln Benefit Life and various property owners in the general area (p.59-65). The number of dwelling units was reduced from 220 to 210, with the landscape buffer behind the homes to the west being increased from 17.5' to 29' behind all of the garages. The buffer behind the surface parking stalls is 32' of green space and the buffer in four locations all the way out to the drive is 49'. The agreement reached with the Good Shepherd Presbyterian Church regarding an easement for the construction of a dry water detention basin in the northwest corner of the church's property is found on p.57. The applicant also submitted proposed amendments to the conditions of approval (p.58).
5. The Crown Pointe Homeowners Association representative testified at the continued public hearing, acknowledging that more constructive meetings had been held with the developer during the deferral period. The conditions upon which the Crown Pointe Homeowners Association will support the project are found on p.67-77.
6. The request for a traffic signal by the neighbors at 84<sup>th</sup> & Rockledge Road was one of the main focuses of discussion, resulting in an amendment to Condition #1.1.2 (p.12) to require the installation of a traffic signal as soon as feasible and as recommended by the City Traffic Engineer, to also address and take into consideration the concerns of the neighborhood. (Also See Minutes, p.29-30).
7. On September 17, 2003, the Planning Commission voted 8-0 to approve the staff recommendation of conditional approval, as revised on September 17, 2003, with amendment to Conditions #1.1.2, #1.3.9 and #6.6 (See Minutes p.31). The conditions of approval, as amended, are found on p.11-15.
8. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been satisfied, and the revised site plan is attached (p.38).

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

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

**REFERENCE NUMBER:** FS\CC\2003\CZ.2751A

**DATE:** November 10, 2003

**DATE:** November 10, 2003

**LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT  
for August 20, 2003 PLANNING COMMISSION MEETING  
\*\*Revised for September 17, 2003 Planning Commission Meeting\*\***

**\*\*As Revised by Planning Commission: 9/17/03\*\***

**P.A.S.:** Change of Zone 2751A - Amendment to Van Dorn Acres PUD

**PROPOSAL:** Amend the Van Dorn Acres R-3 Residential PUD, for 220 residential units, 33,000 square feet of commercial floor area for uses allowed in the B-1 Local business District, and the sale of alcohol within 100' of a residential district or residential use.

**LOCATION:** Southwest corner of 84<sup>th</sup> and Van Dorn Streets.

**WAIVER REQUEST:**

1. Allow the placement and use of a private sanitary ejector pump to accommodate sanitary sewer service to the commercial development area.
2. Eliminate the pedestrian easement.
3. Allow both parking stalls arranged in a tandem configuration to be considered for the purpose of satisfying parking requirements.
4. ~~Reduce required building separation to 20'. **\*\*Waiver request withdrawn by the applicant\*\***~~
5. ~~Allow the construction of a privacy fence in excess of 6'-4". **\*\*Waiver request withdrawn by the applicant\*\***~~
6. Exceed maximum building height for multi-family structures.

**LAND AREA:** The entire Van Dorn Acres PUD contains 153.8 acres, more or less.  
The area within this application contains 13.2 acres, more or less.

**CONCLUSION:** When viewed in comparison to the approved PUD plan, this amendment increases residential density and commercial floor area. However, the approved plan covered 2/3 of the site. The proposal covers the entire site. The increased development intensity reasonably represents what could have been expected as this site developed beyond the current approval.

<b>RECOMMENDATION:</b>	<b>Conditional Approval</b>
1. Private sanitary ejector pump to serve commercial area.	Conditional Approval
2. Eliminate pedestrian easement.	Denial
3. Tandem parking included in required parking.	Approval
4. <del>Building separation of 20'. <b>**Waiver request withdrawn by the applicant**</b></del>	<del>Denial</del>
5. <del>Privacy fence in excess of 6'-4". <b>**Waiver request withdrawn by the applicant**</b></del>	<del>Conditional Approval</del>
6. Building height for multi-family structures	Approval

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Block 4, Outlot A, Crown Pointe Estates Addition, located in the NE 1/4 3-9-7, Lancaster County, Nebraska

**EXISTING ZONING:** R-3 Residential

**EXISTING LAND USE:** Vacant land within a residential planned unit development

**SURROUNDING LAND USE AND ZONING:**

North:	Apartments	R-1 Residential
South:	Church	R-3 Residential
East:	Golf course	AGR Agricultural Residential
	Office building	O-3 Office Park
West:	Single-family houses	R-3 Residential

**HISTORY:**

Jun 2002 Administrative Amendment #02042 approved a revision to the lot layout along a portion of South 81<sup>st</sup> Street.

Aug 2000 Administrative Amendment #00058 approved a revision to several duplex lot layouts along East Pointe Road and South 83<sup>rd</sup> Street.

Apr 1998 Administrative Amendment #98020 approved the addition of an irrigation well pump house in the northwest corner of the PUD.

Nov 1997 Administrative Amendment #97082 approved eliminating several lots and converting other lots from single-family to single-family/two-family lots.

Apr 1996 Administrative Amendment #96021 approved converting several lots from single-family to single-family/two-family.

Apr 1996 Administrative Amendment #96016 withdrawn.

Jul 1994 Administrative Amendment #94026 approved removing the “duplex” notation from Lots 14 through 21, Block 4 and lots 1 through 7, Block 9. These lots back onto the apartment and church properties.

Mar 1994 Administrative Amendment #94008 approved several changes and corrections to sheets 1, 3, 4, and 5.

Feb 1994 Administrative Amendment #94001 approved several changes and corrections to sheet 1 and added sheet 2.

Sep 1993 Final Planned Unit Development/Change of Zone 2751 approved Van Dorn Acres PUD, consisting of 232 single-family dwelling units, 118 two-family dwelling units on 85 duplex

lots, and 96 apartment dwelling units in 4-24 unit buildings, for a total of 446 dwelling units.

Mar 1993 Preliminary Planned Unit Development/Change of Zone 2751 approved Van Dorn Acres PUD for 316 single- and two-family lots, 2 multiple-family lots, 2 commercial lots, 1 school site, and 5 outlots.

May 1979 The zoning update changed the zoning from A-1 Single-Family Dwelling to R-3 Residential.

### **COMPREHENSIVE PLAN SPECIFICATIONS:**

The 2025 Future Land Use Plan shows this area as Urban Residential. (F 25) This project is located within the Top Priority Area. (F 27)

**Urban Residential:** Multi-family and single-family residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. (F 27)

**Top Priority Area:** Areas generally within the city limits at the beginning of the planning period. There are still significant infrastructure needs within the existing city and areas currently under development. (F 29)

The Comprehensive Plan talks about density in general terms. However, the predominant theme is Lincoln should plan for future growth in ways that maximize efficient use of public facilities and minimize land consumption.

Recognizing that Lincoln is part of a larger region, the Comprehensive Plan has identified a number of **Emerging Regional Issues**, including urban growth, edge development, and community densities. These and other issues will not dictate a particular city's or county's given density, but they are indications of planning trends and development forces that will impact the collective future of the region. (F 4)

**Overall Population Growth Projections** suggest Lancaster County's population is assumed to reach over 363,000 persons by the year 2025 - that's nearly 113,000 people more than the County's year 2000 population base of 250,291 persons. By year 2050, the County's population is projected to reach 527,000 people, or more than 277,000 people than reside in the county today. (F 5)

The Comp Plan addresses future **Urban, Rural, and Village Growth**, stating the City of Lincoln's population will stay at about 90 percent of the County's population. This means Lincoln's population will reach beyond 327,000 persons by year 2025, and almost 475,000 persons by year 2050. (F 6) This would add approximately 42,560 dwelling units in the Lincoln urban area by year 2025, to support the additional population of 103,000 persons. (F 34)

The historical **Population Density** for Lincoln has remained relatively consistent at around 3,000 persons per square mile since 1970. Certainly within the urban fabric there are variations from this norm. Areas of residential concentration near the Downtown and many of Lincoln's older neighborhoods have levels of density greater than this average. Conversely, there are locations on the urban fringe with newer neighborhoods having population densities below this level. (F 7)

While sufficient developable land is designated in the plan to accommodate an overall city-wide density comparable to the current figure, the community should strive to maximize efficiency in development. (F 7)

The **Guiding Principles for the Urban Environment** include:

Lincoln's future urban growth should generally occur in multiple directions around the existing city. Lincoln will continue to have managed and contiguous growth. Lincoln's sense of community has been based on incremental, compact growth built on the foundation of established neighborhoods. Future growth will continue this traditional pattern and be linked to both the level of demand in the market and to the orderly extension of public improvements and services. (F 17)

Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in older neighborhoods, and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods. (F 17)

Encourage mixed-use redevelopment, adaptive reuse, and in-fill development including residential, commercial and retail uses. These uses may develop along transit routes and provide residential opportunities for persons who do not want to or cannot drive an automobile. (F 18)

Many activities of daily living should occur within walking distance. Neighborhoods should include homes, stores, workplaces, schools and places to recreate. Interconnected networks of streets, trails and sidewalks should be designed to encourage walking and bicycling, reduce the number and length of automobile trips, conserve energy and for the convenience of the residents. (F 18)

The **Guiding Principles for New Neighborhoods** provides both text and graphic representations of several principles. These principles include:

6. Encourage a mix of housing types, single-family, townhomes, apartments, elderly housing all within one area.
7. Similar housing types face each other: single-family faces single-family, change to different use at rear of lot.
8. Parks and open space within walking distance of all residences.
9. Multi-family and elderly housing nearest to commercial area.
10. Pedestrian orientation; shorter block lengths, sidewalks on both sides of all roads.
11. Public uses (elementary schools, churches) as centers of neighborhood - shared facilities (city parks and school sites).

The **Transportation Planning Principles** for Lincoln and Lancaster County involve different modes of transportation to achieve the safe, efficient and convenient movement of persons and goods. The transportation system includes streets and highways, public transportation, railroads, trails, sidewalks, and airport facilities. (F 85)

The overall objectives of the transportation plan include:

Developing a balanced transportation system that meets the mobility needs of the community and supports Lincoln and Lancaster County's land use projections and plan. (F 87)

Using the existing transportation system to its best advantage. (F 87)

Increasing the use of alternative means of transportation, including public transportation, bicycle transit, and pedestrian movement, by improving and expanding facilities and services and encouraging compact, walkable land use patterns and project designs. (F 87)

Pedestrians are found throughout the community. Their needs can vary by where they are located:

**Schools:** While it might not be critical for the route to school to be picturesque and visually captivating, a safe and secure environment must be provided for students going to and coming from schools. Sidewalks should be direct and continuous with safe street crossings. (F 91)

**Other Areas:** All areas of the community should have safe, secure, and reasonably direct pedestrian connections. Activities of daily living should be available within walking distance. Neighborhoods should include homes, stores, workplaces, schools, and places to recreate. Interconnecting streets, trails, and sidewalks should be designed to encourage walking and bicycling, reduce the number and length of automobile trips, and conserve energy. (F 91)

**Public Transportation** is an essential component of the transportation system and should be integrated with all other transportation modes. (F 97)

Transit service reacts to the density of the City, transportation corridors and activity centers, as well as to the design of activities along those corridors and centers it serves. High travel corridors and activity centers with a mix of uses provides the demand that can effectively support higher levels of transit service. (F 97)

Effective public transportation service requires good pedestrian connections to and from transit stops, density of activities, and development designs supportive of transit riders...Productive transit service requires high density land development patterns which link residential areas to employment, retail, and service centers. Development design needs to be transit friendly providing convenient access to transit services. (F 98)

## **UTILITIES:**

Utilities are generally available. However, the proposed sanitary sewer and water systems are private. The sanitary sewer includes a private ejector pump to serve the commercial area. The number of units raises concerns over the available downstream capacity of the Fox Hollow sanitary sewer. The private water system as shown is unsatisfactory.

## **TOPOGRAPHY:**

The site slopes down from the north and west to the east side by approximately 25', and down to the southeast corner by approximately 15'. The commercial area is proposed for the lowest part of the site. According to the proposal, the commercial area will be located approximately 15' lower than the apartments.

## **TRAFFIC ANALYSIS:**

This site sits at the southwest corner of South 84<sup>th</sup> and Van Dorn Streets. The Comprehensive Plan identifies South 84<sup>th</sup> Street as a Principal Arterial and Van Dorn Street as a Minor Arterial, both now and in the future. (E49, F103) "Arterials are multiple use corridors that carry large volumes of through traffic." (F 102)

**Principal Arterials:** This functional class of street serves the major portion of through-traffic entering and leaving the urban area and is designed to carry the highest traffic volumes. These serve intra-area traffic such as between the CBD and outlying residential areas and traffic between major inner-city communities or suburban centers. Included in this class are fully controlled access facilities and partially controlled access facilities. The principal arterial system is stratified into the following (two) subsystems:

**Other Principal Arterials:** This functional class of street serves the major portion of intercommunity and intracommunity traffic movement within the urban area and is designed to carry high traffic volumes. For other principal arterials, the concept of service to abutting land is subordinate to serving major traffic movements. Facilities within this classification are capable of providing direct access to adjacent land but such service is to be incidental to the primary functional responsibility of moving traffic within this system. (F 102)

**Minor Arterials:** This functional class serves trips of moderate length and offers a lower level of mobility than principal arterials. This class interconnects with, and augments principal arterials, distributes traffic to smaller areas, and contains streets that place some emphasis on land access. These are characterized by moderate to heavy traffic volumes. (F 103)

**Additional Urban Area System Improvements** include a wide range of projects for which the City has already committed funds, as well as longer term projects that do not have specifically earmarked funding. Committed Projects include improving South 84<sup>th</sup> Street to 4 lanes plus turn lanes from Montello Road to Amber Hill Road. Proposed Projects include improving Van Dorn Street to 4 lanes plus turn lanes between Normal Boulevard and 80 Street, and from 84<sup>th</sup> Street to 112<sup>th</sup> Street. (F 109, 110)

## **ENVIRONMENTAL CONCERNS:**

This site is located in the Stevens Creek watershed. The storm water system is proposed to collect water in two detention cells located at the southern end of the site. The water will then be piped to the public storm sewer system in 84<sup>th</sup> Street. The wastewater system for the apartments is designed to gravity flow to the northwest, where it will enter the public system. The wastewater from the commercial area utilizes a private ejector pump and piping to transfer wastewater from the Steven's Creek watershed to the Antelope Creek watershed. This design requires a waiver of Design Standards.

The proposed grading and drainage plan is unsatisfactory. Additional information must be provided in order for the Public Works & Utilities Department to complete their review. In addition, detention cell #1 is shown off-site, located on property not owned by Applicant.

Before the City is able to approve such a plan, the Applicant must provide written proof that they have permission to construct cell #1 by the property owner. Verbal agreement will not be accepted.

**ALTERNATIVE USES:**

The currently approved Planned Unit Development could be developed, which includes 96 apartment units in 4-24 unit 35' foot tall buildings, and a commercial center with approximately 10,000 square feet of floor area. This proposal could also be scaled back to fewer than 220 units and less than 33,000 square feet of floor area.

**ANALYSIS:**

1. This is a proposal to amend the Van Dorn Acres Planned Unit Development to increase multiple-family units from 96 to 220, and increase service commercial floor area from 10,000 square feet to 33,000 square feet. The service commercial area is proposed to include uses permitted in the B-1 Local Business District, specifically including the on- and off-sale of alcohol within 100' of a residential district or use. Waivers have been requested for a private sanitary sewer ejector pump, the elimination of a pedestrian easement, tandem parking stalls, reduction of building separation to 20', and a privacy fence in excess of 6'-4".
2. This PUD is currently approved for 96 dwelling units in 4 24-unit buildings, and 10,000 square feet of service commercial floor area in 2-5,000 square foot buildings. The approved plan shows development on 8.6 acres, with 4.8 acres left undeveloped. A copy of this site plan is attached.
3. This PUD covers 153.8 acres. Current R-3 PUD regulations will allow up to 839 dwelling units, and up to 15.4 acres of service commercial floor area.
4. This PUD was originally approved for 446 dwelling units (232 single-family, 118 two-family, and 96 multiple-family). This equates to 2.9 units per acre. The most recently approved amendment shows 422 dwelling units (228 single-family, 98 two-family, and 96 multiple-family). This equates to 2.7 units per acre. The proposal has 544 dwelling units (228 single-family, 98 two-family, and 220 multiple-family). This equates to 3.5 units per acre.
5. The approved plan is relevant to a review of this proposal. This proposal is not drawn on a blank slate. The current proposal for 96 units and 10,000 square feet of commercial area covers 8.6 acres. This leaves 4.8 acres with future development potential. The apartment units cover 5.8 acres, and have a density of 16.6 units per acre. Assuming these plans were built, and the additional land was proposed for 16.6 unit per acre, that would add another 79 units, for a total of 175 units. These would likely be clustered in several apartment buildings, leaving potential for additional service commercial area.
6. In comparison, this proposal has 220 units on 9.5 acres, or 23.2 units per acre. To accommodate the increased density, the proposal shows greater setbacks between the apartment buildings and the adjacent single-family dwellings, and Applicant agrees to provide landscaping screening beyond the required amount. The approved plan shows a 30' setback to the apartments. The proposal shows a 50' setback for one building, and setbacks between 70' and 80' for the rest.

7. An argument can be made that reducing the density in the city effectively increases the need for more units in another location, namely the edge of the city, which increases the burden for all taxpayers by creating the need to fund new infrastructure. This argument has been offered recently in support of downzoning areas of established, older neighborhoods.

The argument has application in this case as well. Since this development is located at the edge of the city, there is justification for allowing higher density in order to slow the growth and expansion of the city outward.

This area of the city is located along the Steven's Creek Ridge, which has long been a natural barrier to development. Future infrastructure improvements will allow development past this ridge, and open many more acres to development. The character of this part of Lincoln will undoubtedly change in the long term. Planning for the compatibility of development in this area should take into account future changes, realizing that this area will not remain the edge indefinitely, but will be incorporated into a larger urban fabric.

8. The increased density of this development will impact traffic in the immediate area. The Public Works & Utilities Department will allow right and left turns into and out of Rockledge Road at 84<sup>th</sup> Street. If traffic warrants support removal of left turning movements, Rockledge Road may be limited to right turns in and out only. In the near term, right and left turns will be allowed at the entrance onto Van Dorn Street. As part of the future Van Dorn Street expansion, a median will be constructed, preventing left turns into or from the site. Right turns will be allowed, as will be u-turns at the intersection of 84<sup>th</sup> and Van Dorn.

Neighbors have expressed concern over the potential for increased traffic from this proposed development traveling through the neighborhood streets due to the limitations at 84<sup>th</sup> Street and Rockledge Road. The Applicant and neighbors both favor a traffic signal at this intersection, but the City Traffic Engineer opposes a signal at this location. It is difficult to predict the distribution of future trips this site will generate. However, although traffic patterns will be affected in the near term, future improvements in 84<sup>th</sup> and Van Dorn Streets, as well as future development to the south and east, will also impact the distribution of trips.

9. In the long term, new development to the east and south will have a greater impact upon the traffic flow patterns in this area. The impacts of this development will be a small portion of the overall increases in trips along Van Dorn and 84<sup>th</sup> Streets. The City has already committed and planned for transportation improvements that will likely precede extensive development of the areas east of 84<sup>th</sup> Street.
10. Since this proposal increases the density over the approved plan, it would be reasonable to require buffering and screening beyond the minimum requirements. LMC §27.60.020(a)(2)(iv) provides "the City Council shall require such landscaping, screening, traffic access, and setbacks as are necessary to protect and enhance neighboring areas within or adjacent to the planned unit development."

The proposal shows double the setback of the approved plan for most buildings. However, a condition that 3-story buildings be setback at least 70' and 2-story buildings be setback at least 35' is reasonable. 35' matches what is typically required for apartments, and 70' will maintain the 3-story setback as proposed. This setback will have an effect on the southern-most building in that it will have to be moved further from the property line, or be reduced to 2-stories, in which case it could be moved closer to the property line.

Additional landscaping will provide a more substantial buffer. The 17-1/2' setback to garages should be increased to at least 20' in order to provide adequate growing room for most coniferous trees. The required screening amount for the perimeter of a PUD is 50% from 6' to 15'. Although the west property line is not part of a PUD perimeter, there is justification for requiring additional landscaping here because of the difference in land uses on either side. Screening of the apartments should be provided at 100% between 6' and 15', and located between the garage buildings. The garage buildings themselves should be screened 50% between 6' and 15'.

Taking into account the proposed increases over the approval, these requirements are reasonable to protect and enhance neighboring areas to this development.

11. The sanitary sewer system plan is unsatisfactory. Additional information must be provided in order for the Public Works & Utilities Department to complete their review. Calculations need to be provided showing that the downstream sanitary sewer has available capacity to serve this development. The method of serving Building 10 with sanitary sewer needs to be shown on the utility plan.
12. The private water system as shown is unsatisfactory. Design Standards state that only one water meter is allowed per lot. The system shown indicates the need for two meters. Also, water meter locations need to be shown on the plans in an above-ground structure or in the mechanical room of a proposed building. The proposed water in Rockledge Road needs to be built as a condition of building permit approval.
13. The grading and drainage plan is unsatisfactory. Additional information must be provided in order for the Public Works & Utilities Department to complete their review. Information regarding detention cell stage/storage/discharge must be provided, detention calculations must be revised and include calculations for the 2- and 10- year storm, and contours at 2' intervals should be shown. Emergency spillways with a clear overland flow path must be added for both detention areas. In addition, Applicant must provide written proof that they have permission to construct cell #1 off-site on property not owned by Applicant. Verbal agreement will not be accepted.
14. An internal storm sewer system must be provided showing that all drainage that is assumed to reach the detention cells has a route to get there via a storm sewer or overland flow.
15. The contours for Rockledge Road must be revised to reflect the standard 27' paving cross section. Street paving in Rockledge Road needs to be built as a condition of building permit approval.

16. A Section 404 permit from the Army Corps of Engineers may be required for filling the tributaries that drain across the site. If required, these permits must be obtained prior to grading these areas.
17. The Lincoln Electric System has required easements that must be shown. These easements may be viewed at the Planning Department.
18. The Building and Safety Department Fire Prevention Division has denied this proposal for lack of on-site fire hydrants.
19. This development is exempt from park and trail impact fees. However, the Parks and Recreation Department requires an outdoor recreation plan be submitted for review.
20. A waiver for an ejector pump shown to serve Lot 23 is satisfactory to the Public Works & Utilities Department since the sanitary sewer system is private. The note for such waiver should include a provision that the ejector pump will be maintained by the developer, and designed to discharge into the private sanitary sewer system located on-site.
21. The sidewalk between Lots 16 and 17, Block 4 Crown Pointe Estates is constructed. This sidewalk connects to a pedestrian easement on this property. There does not appear to be sufficient justification to eliminate a pedestrian connection to the existing sidewalk. This easement would serve as a valuable route for the existing residential development to access the proposed commercial area, and would provide an additional connection for apartment tenants to the public sidewalk system. This waiver should not be granted.
22. In addition to maintaining the pedestrian way easement, the proposal should include an internal sidewalk plan for pedestrian movement between buildings and connection to the public sidewalk system.
23. Tandem parking is increasingly popular with apartments. Generally, the required parking ratio for apartments is designed to provide parking for tenants as well as guests. Some recognition is given to the fact that when some tenants have guests, others will be guests elsewhere. The concept behind tandem parking is to provide a garage stall attached to the apartment, and a stall in front of the garage door. This design does raise the concern that there may be insufficient parking available for guests. Tandem stalls are generally not counted towards parking requirements.

However, §27.65.090 of the Community Unit Plan ordinance provides “the City Council may modify the parking regulations for multiple-family dwellings to allow a percentage of parking spaces located on a driveway behind a garage attached to a dwelling unit to be considered as required parking stalls for creative designs...” There does not appear to be a reason why a PUD should be treated differently on this issue. The proposal shows 457 total parking stalls, out of a required 440. There are 65 tandem stalls (just the stall in front of the garage door), which means 48 tandem stalls are being counted for required stalls. The 65 tandem stalls represent 14.2% of the total. The plan also shows 261 surface stalls, which is 57% of the total. Given the Applicant’s intention to build 1- and 2-bedroom units, these percentages suggest adequate parking for tenants and guests.

Although the Planning Department recommends approval of this waiver, it does suggest that this issue is worthy of further analysis and development of a more standardized application of tandem stalls that can address the concerns of developers and the City.

24. LMC §27.71.140 requires the open space between multiple-family buildings located on the same lot be 30' for two-story buildings, and 40' for three-story buildings. Building Code does not allow for any feature of the buildings to be closer than 20'. The proposed plans show building envelopes that do not meet the required separation, however, the building lines as shown do meet the required separation, in all instances except for the distance between buildings 2 and 3. The envelopes for all other buildings could be redrawn to provide the required separation without affecting the proposed building lines. Also, there appears to be adequate space on the plan to rearrange the buildings slightly such that the required separation could be provided for all buildings, including 2 and 3. Therefore, this waiver should not be granted.
25. A fence in excess of 6'-4" is treated as an accessory structure by the Building Code. As a structure, it cannot be located closer than 2' to the side or rear property line, and cannot be located in the front yard. If granted, this waiver should include a condition requiring the fence to maintain a 2' setback to the side and rear lot lines, and cannot be located in the front yard.
26. This PUD is located in an R-3 Residential district, which does not allow alcohol sales. However, through the PUD ordinance, such a use can be allowed by City Council. The special use would not automatically apply, but can be used as a guide in order to maintain a fair and equitable treatment of alcohol related sales. The Police Department has commented that portions of the commercial building are located within 100' of a residential use or district, which violates the special permit provisions. Police therefore recommends denial to the request for on- and off-sale alcohol. The Planning Department recommends conditional approval of this waiver by limiting the on-and off-sale of alcohol to those portions of commercial buildings located further than 100' from a residential use. Again, this PUD ordinance provision may be worthy of further analysis.
27. Comments are attached from the Public Works & Utilities, Building and Safety, Parks and Recreation, Police, and Lincoln-Lancaster County Health Departments.

**CONDITIONS (\*\* As Revised by Planning Commission on September 17, 2003\*\*):**

Site Specific:

1. After the Applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
  - 1.1 Revise sheet 1 of 8 to show:
    - 1.1.1 Revise General Note 15 by removing the sentence "Lot numbers with a "d" suffix indicates lots that shall be developed with duplex units," as such units no longer exist on the plan.

- 1.1.2        Revise Additional General Note 20 to say “Reconstruction of Rockledge Road at 84<sup>th</sup> Street to be by Executive Order. Construction in Rockledge Road to include modification to the existing raised island to allow eastbound left turn and through maneuvers from Rockledge Road at 84<sup>th</sup> Street. ~~When warranted and recommended,~~ A traffic signal at 84<sup>th</sup> & Rockledge Road shall be installed as soon as feasible and as recommended by the City Traffic Engineer, to also address and take into consideration concerns of the neighborhood. The developer is responsible for the cost of installation of ~~a~~the traffic signal at 84<sup>th</sup> and Rockledge Road.” **(\*\*As revised and recommended by Planning Commission: 9/17/03\*\*)**
- 1.1.3        Revise Additional General Note 22 by replacing “B-2” with “B-1,” adding a period after the word “district,” removing “including,” and adding to the end of this sentence “shall be permitted in those portions of Buildings 9 and 10 that are located 100' or more from a residential building.”
- 1.1.4        Revise Additional General Note 31 by adding the sentence “A motorized gated entry may be added if administratively approved by the City prior to installation.”
- 1.1.5        Revise the Proposed Dwelling Units schedule to reflect 4 duplex units, and a total of 534 units.
- 1.1.6        Add a note stating that 3-story buildings shall be setback at least 70', 2-story buildings shall be setback at least 35', and garages shall be set back from the property line at least 25', or more, as agreed upon by abutting property owners. Revise the drawing accordingly.
- 1.1.7        Add a note stating lighting along the west drive will be provided by light fixtures mounted under the garage eaves and by pole lights with shields to prevent light from encroaching on the homes to the west.
- 1.1.8        Add a note stating dumpsters will be placed in non-required parking stalls and be concealed from the west by screen.
- 1.1.9        Add an internal sidewalk plan.
- 1.2        Revise sheet 2A of 8 to show:
  - 1.2.1        If the waiver to include tandem stalls as required parking is not granted, the parking schedule must be revised accordingly.
  - 1.2.2        Indicate on each building the number of stories it will include.
- 1.3        Revise sheet 2B of 8 to show:

- 1.3.1 Show 2' contours.
- 1.3.2 Provide information about the detention cells showing stage/storage/discharge values, outlet structure details, and more detailed grading information.
- 1.3.3 Revise the peak inflow calculations to Cell #2 to account for the outflow of Cell #1.
- 1.3.4 Revise the Basin A3 runoff calculations.
- 1.3.5 Provide 2- and 10-year storm event calculations.
- 1.3.6 Show an internal storm sewer system.
- 1.3.7 Show that all drainage that is assumed to reach the detention cells has a route to get there via storm sewer or overland flow.
- 1.3.8 Submit written documentation evidencing that the Applicant has permission to construct cell #1 on off-site property. A verbal agreement will not be accepted. If this is not possible, revise the plan to show all required detention located on-site.
- 1.3.9 ~~Revise the grading in Rockledge Road profile to conform to the standard 27' paving cross section to the satisfaction of the Public Works & Utilities Department.~~ **(\*\*As revised and recommended by Planning Commission, at the request of staff, 9/17/03\*\*)**
- 1.3.10 Add any private stormwater systems to show which areas may or may not drain to the detention cells.
- 1.3.11 Show emergency spillways with a clear overland flow path for both detention cells.
- 1.3.12 Show on-site fire hydrant locations.
- 1.4 Revise sheet 2C of 8 for the approval of the Public Works & Utilities Department to show:
  - 1.4.1 Show the method of sanitary sewer service to Building 10.
  - 1.4.2 Revise the water system to show only one water meter per lot. Also, show water meter locations in an above ground structure or in the mechanical room of a proposed building.
- 2. This approval permits 210 dwelling units, 33,000 sq. ft. of service commercial floor area, and uses found in the B-1 Local Business District, including the on-and off-sale of alcohol located

in those portions of Buildings 9 and 10 that are located 100' or more from a residential building. The on-sale of alcohol shall be limited to businesses which derive more than 50% of their gross business receipts from food sales.

3. A private sanitary ejector pump is approved for the commercial buildings. The private ejector pump shall be maintained by the developer, and designed to discharge into the private sanitary sewer system located on-site.
4. Tandem parking stalls are approved to be used as required parking stalls in the amount shown on the approved plan.
5. Building heights up to 38' for multiple-family dwellings is approved.
6. Before receiving building permits:
  - 6.1 The permittee shall have submitted a revised and reproducible final plan including 5 copies and the plans are acceptable.
  - 6.2 The construction plans shall comply with the approved plans.
  - 6.3 Final Plans shall be approved by the City.
  - 6.4 Obtain a Section 404 permit from the Army Corps of Engineers for fill on this site, or provide documentation that such a permit is not required.
  - 6.5 Developer shall provide escrow or security agreement for the costs of constructing a traffic signal at 84<sup>th</sup> and Rockledge Road.
  - 6.6 Show easements required by Lincoln Electric System; however, easements will be avoided to not disrupt screening between the multi-family and single family dwellings. (\*\*As revised and recommended by Planning Commission: 9/17/03\*\*)

STANDARD CONDITIONS:

7. The following conditions are applicable to all requests:
  - 7.1 Before occupying the dwelling units all development and construction shall have been completed in compliance with the approved plans.
  - 7.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
  - 7.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
  - 7.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

7.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

8. The site plan as approved with this resolution voids and supersedes all previously approved site plans.

Prepared by:

Greg Czaplewski  
Planner

**Date:** September 17, 2003

**Applicant:** Slosburg Company  
10040 Regency Circle  
Omaha, NE 68114  
402.391.7900

**Owner:** Herbert Brothers  
Glen Herbert  
8410 Navajo Trail  
Lincoln, NE 68520  
489.6088

**Contact:** Slosburg Company  
Jerry Kavan  
7201 Pioneers Boulevard  
Lincoln, NE 68506  
484.7921

**CHANGE OF ZONE NO. 2751A,  
AMENDMENT TO THE VAN DORN ACRES  
FINAL PLANNED UNIT DEVELOPMENT**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

August 20, 2003

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

Staff recommendation: Conditional approval.

Ex Parte Communications: Bills-Strand and Taylor reported that they met with the applicant.

Greg Czaplewski of Planning staff submitted additional information for the record including:

--a letter from Allstate Insurance Company addressing their concern with the potential for a traffic signal at 84<sup>th</sup> & Rockledge Road;

--an email with two attached letters in opposition from the Crown Pointe Neighborhood Association;

--a memo from the City Wastewater Division of Public Works specifying that there is adequate downstream capacity in the sanitary sewer system to serve this development. Czaplewski then revised the staff recommendation to delete Condition #1.4.1 in response to the memo from the Wastewater Division.

--an amendment to Condition #2 regarding alcohol sales, to add the sentence: "The on-sale of alcohol shall be limited to businesses which derive more than 50% of their gross business receipts from food sales."

--deletion of Condition #5 because the applicant will withdraw the request to have a 6'4" fence.

Proponents

**1. Michael Rierden** appeared on behalf of the applicant and submitted additional information in a booklet setting forth the history of the Slosburg Company, being established in the late 1800's, and beginning real estate development in 1918. Slosburg does not sell their properties, but operates and manages them. Their projects are "live, work and shop" projects, located close to commercial areas on arterial streets. Their first project in Lincoln was the Lions Gate project on 50<sup>th</sup> & R Streets. One of the other projects in Lincoln is the Tanglewood Apartment complex just north of Roper's Mortuary and east of Wyuka Cemetery. Slosburg contacts all of the neighbors that may be affected by their projects. The additional information contains a letter in support from the current owners of the property, Glen and Jack Herbert.

Rierden advised that a series of meetings were held with the property owners, beginning on June 24<sup>th</sup> with the abutting property owners; on July 8<sup>th</sup> with the entire neighborhood, with there being over 300 invitations; and a third meeting on August 7<sup>th</sup> with the neighborhood. The last meeting was moderated by the Planning staff. Rierden also submitted letters in support from two property owners and the Crown Pointe Townhome Association.

**2. Jerry Kavan, of the Slosburg Company, 6439 Boxelder Drive,** discussed the original approved site plan of Herbert Brothers, which showed the building 30' off the property line. One-half of that property is designed to develop as phase 1 of the total development. It has always been the intent of the seller that the entire property would be developed. If built as previously approved, there would be commercial plus 227 apartment units. The PUD allows for 500 additional dwelling units to be built and additional commercial. This proposal represents the last 13 acres available in the PUD to be developed. Slosburg goes through many, many renditions of the site plan to come up with the best plan. The goal on this proposal was to develop the "live, work and shop" type of environment. As they refined the plan they considered comments from the city and the concerns of the neighbors.

Kavan then explained the commercial element of the site plan, being two buildings--one in-line and one pad. The in-line building will be similar to the Lenox Square Shopping Center building. The commercial uses are along 84<sup>th</sup> Street, separated topographically from the apartments by a grade separation of 15' with 15' retaining wall around two sides of the commercial. The type of tenants would be neighborhood service commercial--hair salon, sandwich shops, casual dining, dry cleaners, etc.

The apartments will be at the main entrance off of Rockledge with a clubhouse at the main entrance. They are proposing to use a two-story apartment building with tuck-under garages, with the larger apartment units being 1200-1500 sq. ft. The three-story apartment buildings will have tuck-under garages. There are 65 tuck-under garages and 66 detached garages around the perimeter. The exterior of the buildings are primarily brick, incorporating some stone, using fine architectural features. Behind the clubhouse there is a recreational courtyard with pool, spa and other features with a fitness center in the clubhouse.

In comparison with the previously approved plan of three 4-story buildings, the development now has four apartment buildings behind the homes, one of which is two-story, and all being 70' away from the property line. The gas station has been removed. Every one of the four buildings that back up to the neighbors' homes are 10' below the floor elevation of those homes. Slosburg has been working with Campbells Nursery regarding the area between the homes and the apartment buildings and intends to provide much bigger and more trees than required. Dick Campbell is recommending that the developer meet individually with each homeowner.

It is anticipated that the typical resident is going to be a 25-40 year old professional who is a renter by choice. Their careers include medical, law, computers, education, administration, and sales. The second largest rental group are those people who have raised their children and want to stay in the neighborhood. Slosburg then described the interior features of the units.

**3. J.D. Burt of Design Associates, 1609 N Street,** also testified on behalf of the developer. He advised that the traffic circulation is similar to the previously approved plan, with the addition of access to 84<sup>th</sup> Street. There are several improvements to public right-of-way proposed, at the developer's expense. There will be an access at 82<sup>nd</sup> & Van Dorn, with right turn lane for east-bound to south-

bound vehicles. Construction will include a continuous right turn lane from west of 82<sup>nd</sup> and proceeding over to 84<sup>th</sup> Street. The 84<sup>th</sup> Street access would line up with the center of the commercial building, with access for right turn in and out, and with a right-turn deceleration lane, at the developer's expense. Proceeding further south to Rockledge, it will be a very similar situation with a right turn lane in 84<sup>th</sup> at Rockledge, at the developer's expense. With regard to the intersection of Rockledge Road, as part of the city's project, they built the intersection and allowed left turn ingress. Public Works has agreed to allow modification to the existing median to provide a full left turn, through and right turn movement at the intersection of Rockledge Road on the west approach. This results in a traffic pattern that will provide left and right turns from 82<sup>nd</sup> onto Van Dorn and full movement at the intersection of Rockledge. It is believed that these two accesses will alleviate any of the traffic generated from this development.

The city has two projects pending that will impact this development, one of which is 84<sup>th</sup> Street that ends south of here at Monticello. That project is going forward. The other project is the widening of Van Dorn from Normal over to 80<sup>th</sup> Street, which is shown in the Comprehensive Plan. With that project, the developer has been advised that a median will be installed as part of that project which will eliminate the ability for left turns in and out of the site at 82<sup>nd</sup> Street. Public Works indicates that with the intersection design of 84<sup>th</sup> & Van Dorn, there will be signalized U-turn movement to allow leaving the site to make a right turn onto Van Dorn and make a convenient U-turn at the intersection of 84<sup>th</sup> to proceed back west-bound on Van Dorn.

Burt acknowledged that the neighbors have a concern about Rockledge. They have raised a concern that there will be a considerable amount, or some traffic generated by this development that would have a tendency to make a trip down Rockledge, up Crown Pointe Road and ultimately ending up at 79<sup>th</sup> & Van Dorn. With the intersection improvements this developer is making and the ability to make left turns at 82<sup>nd</sup> & Van Dorn, Burt believes that problem will be very unlikely to happen.

Burt noted that the neighbors have also shown concern about a traffic signal at the intersection of 84<sup>th</sup> & Rockledge. Public Works has indicated that is not something in which they are interested. However, the developer would support it and it is the developer's opinion that a traffic signal would do a lot to help the neighborhood with any potential of diverted trips from this development back to the neighborhood.

Rierden then addressed the conditions of approval, withdrawing the fence waiver request and the building separation waiver request. Building 1 has now been moved to 70' from the property line east to comply with the staff recommendation. Rierden proposed amendments to Condition #1.1.5 and Condition #1.1.12; requested to move Condition #1.3.12 to Condition #6.4, and requested to delete Condition #1.5.

Marvin inquired as to Building 1. Rierden stated that it is the 3-story apartment building.

Carlson requested an explanation of how the apartment dwellers will be moving to and from the commercial area. Jerry Kavan explained that because of the grade separation, they are unable to do a vehicular drive between the commercial and the apartments within this development's property. Two stairways are shown on the site plan, one of which is at the 90 degree turn of the retaining wall and the other being directly behind the southern end of the in-line building.

Carlson then inquired about an internal sidewalk system and the pedestrian easement in the Crown Pointe connection. Kavan advised that currently, there is a pedestrian easement through one of the residential properties with a concrete sidewalk. The existing plan called for an additional sidewalk from that point to this development's property down to Rockledge and up to VanDorn. This connection will stay in place due to the staff recommendation. However, the neighbors wanted it removed because the commercial has been moved. There will be sidewalks through the community if that easement is not removed. Kavan acknowledged that the Planning staff wants to discuss additional sidewalks and they are in that process now.

In response to a question by Steward regarding the detention cell, Kavan acknowledged that it is a dry detention cell, with the intent to plant trees in that area to make it like a park.

### Support

1. **Ken Skunkwiler**, owner of property at 7020 LaSalle, testified in support based upon his experience with the Lenox Village Square development. This developer works very hard to please the neighbors and follows through with everything they have said they are going to do.

### Opposition

1. **Kurt Suhr**, 8030 Thornview Road, testified on behalf of the members of the Crown Pointe Homeowners Association and presented 192 signatures in opposition. They do not agree with the layout and content of the proposed development. They believe that the developer has shown minimal, if any, concern about the neighborhood. Suhr suggested that the proposal is not consistent with the PUD in that they are requesting 124 more apartments (129% increase), on approximately 3.6 more acres of land (or only 60% more land). With respect to the commercial uses, the developer is requesting 23,000 sq. ft. (230%) more commercial, on only about 40% more land. The neighborhood outlined their concerns about traffic during the neighborhood meetings, only to hear about the developer's long list of wisdom and experience in development. This developer does not live in Lincoln. The first meeting was only for the adjacent homeowners, who asked that the developer include the entire neighborhood. There are 228 homes in the neighborhood and the developer did not notify all of the neighbors or the surrounding area. At each of the meetings the developer's presentation included the statement that "quality and density are our friends".

Suhr suggested that the neighborhood should have been involved when they began this project over a year ago. The association sent a letter to the Planning Director expressing displeasure with the process and the proposed amendment. The neighborhood also sent a letter to the developer indicating that the neighborhood would support a development plan that limits the use of the Crown Pointe neighborhood streets and promotes and encourages the use of either 84th Street and/or Van Dorn Street; and the neighborhood would support a development plan that respects the intent and concept of the R-3 zone and follows more traditional planning rules and methods that have been utilized throughout other neighborhoods within the City.

Suhr reported on the final meeting that the neighborhood had with the developer and two planners from the Planning Department. The Planning Department provided information regarding other developments with the same densities and setbacks. The neighbors did take photographs of some of the examples, and they struggled to find a development that was like theirs. Most did not have high

density apartments next to people's homes. This last meeting was the same as others. All of the same issues were discussed and the response by the developer was the same: "this proposal is what you need--it is what's best for you." The only positive result of the last meeting was that Dennis Bartels did admit that the neighborhood streets would no doubt incur increased traffic.

Suhr suggested that there is no data or facts available to support what's going to happen. The developer was not willing to offer any compromise other than: 1) no wall-pack lighting on the west side of the structures facing the neighborhood; 2) move the southwest building 5' to the east (which they have now agreed to do); and 3) reduce the density by 5 apartments (220-215). None of these compromises were listed or discussed in the staff report.

Suhr suggested that the cost of the development to this neighborhood is too high. The neighbors' financial investment should be no less important than that of the developer.

This neighborhood already endures traffic congestion with Lux Middle School. 79<sup>th</sup> & Van Dorn is a mess that is not going to get any better. This amendment magnifies traffic congestion. The encouraged use of Rockledge Road creates an unsafe burden on the neighborhood.

There are many issues that need to be resolved prior to approval. The Crown Pointe Neighborhood Association approves the plan that was adopted in 1993, keeping the apartments the same and going to the outlot for any further development.

**2. Bill Boehler**, 2801 Crown Pointe Circle, testified in opposition, stating that the "undue concentration of population" is subject to wide interpretation. This proposal increases the density from earlier plans and the Commission should consider its responsibility to conserve the value of property and control traffic if this plan is approved. Boehler did meet with Mr. Kavan. The northern entrance into the development will have a path of car lights moving through his house all night long. He suggested that the development include trees in the southwest corner of the entrance or even in his own yard. If the developer were to formally commit to altering the plan to include a tall evergreen screen on the northern entrance of the development and some screening trees in his back yard, the value of his property could be maintained. Boehler is also concerned about the traffic and congestion on Van Dorn. Lux is the city's largest middle school with over 1000 people, students and staff. In addition to Lux, this area has seen Silver Crest show up with 200 residents coming on board, and, in addition, there is another new development that is even larger that is nearing completion. Lincoln Benefit Life has several hundred employees flowing through the neighborhood on a regular basis. Thus, the volume on Van Dorn is quite substantial. If the Commission approves this plan, the city should be prepared to put in a genuine street light at 79<sup>th</sup> & Van Dorn.

**3. Bill Olson**, attorney, appeared on behalf of the Somerset Apartments, located at the northwest corner of 84<sup>th</sup> & Van Dorn. He stated that he has mixed emotions because of the obvious implication that Somerset does not like competition. He stated emphatically that not to be the case. He is testifying to discuss the density. Somerset is 192 units on 13.6 acres of land, with a density of 14.07 per acre. Somerset has a swim pool, clubhouse, garages, tennis courts, and a lot of landscaping. There is no commercial area on that 13.67 acres. The proposal today covers the entire 13.2 acres--that's an additional 1/2 of what's already approved in terms of acreage which would allow for more density. The current plan calls for 96 multi-family units on 8.6 acres, along with the 10,000 sq. ft. of commercial space. The proposed amendment adds only 5 acres of land and 33,000 sq. ft. of

commercial space. This puts 220 units on 9.5 acres, which is 23.2 units per acre--about a 50% increase over Somerset's density. Somerset is concerned about that many units on that small acreage compared to what is already there. Somerset agrees with the increased density of 40-50 more units. Apartments are fine and commercial is fine, but Olson requested that the Commission consider the density of the area and what they are asking for. Olson believes they have overdone it.

Approximately 15 people stood in support of Olson's testimony. Olson was contacted by his client and asked to cooperate with the homeowners and guide them through the process. He attended three meetings with the homeowners and listened to their concerns. The Slosburgs were not invited to their meetings, but Somerset was not invited to the Slosburg meetings. Olson did not call the meetings of the neighborhood.

**4. Margaret Washburn**, 619 So. 42<sup>nd</sup> Street, testified in opposition to the on-sale liquor. She has two grandchildren that live on Crown Pointe Road just behind this proposed development. There is nothing credible about making alcohol available. She is concerned about the proximity of Lux School.

**5. John Porter**, 3016 Crown Pointe Road (the southeast corner of Crown Pointe Road and Rockledge Road), testified in opposition. This development is not good for the neighborhood nor for the City. The traffic is a major issue in getting to the commercial area. He now has to leave 30 minutes earlier once school starts to get to work on time. He serves the citizens to the east of 84<sup>th</sup> Street as a volunteer fireman. By adding 440 parking places with these units, traffic is going to be even worse. "We have gone way beyond what this was ever intended to do." The developer has requested an inordinate amount of waivers. Why do we have to have waivers once we set the rules? Alcohol is an issue. The people who live in the apartments are not going to be paying the property tax for the schools. Porter requested that the proposal be deferred or denied. The developer did not work with him. He received notification on June 24<sup>th</sup> and they have been working on this over a year. He was not notified until the second letter went out. He is not here as part of the grand plan to eliminate development of this area. He welcomes the apartments as previously approved. Rockledge will be heavily traveled and he requested that Rockledge not be made a through street. This will cause traffic to come through his neighborhood. There is no flexibility here. Porter asked that this application be put aside until the developer complies with all of the changes that are being requested. He thinks they can make it work, but it is not now a good situation.

**6. Dan Spiry**, 7910 Thornview Road, testified in opposition. The developer has the misfortune of having two architects that live in this PUD, and he is one of them. A site plan is worth a thousand words. This site plan is all about maximizing density. He enjoys a well-designed, dense, live, work, play environment, but as he looked at this site plan, it is an exercise in maximizing density. The natural features on the site are being bulldozed. Yes, there are some spots of green area, but it's all about buildings, driveways and parking lots. The remnants are the green space. Where are you going to put the recreation plan unless it is in the bottom of the detention cell? The site plan shows two disjointed uses separated by a 15' retaining wall. For the pedestrian, you've got two stairways that end up in a service drive of the commercial space. There are a lot of things that throw up red flags in his mind about design. His biggest concern is that his street is going to become a very convenient shortcut for the added density on this site. With regard to the traffic pattern, he foresees that Rockledge to Crown Pointe to 79<sup>th</sup> to Van Dorn is going to be the most convenient. It is worse if you are visiting the commercial center and want to head west after your visit. If you leave the commercial center, you are

going to cut through the neighborhood. He suggested that the neighborhood does not need Rockledge—don't connect it and let it serve the apartment complex and the commercial center.

**7. Gene Morrissey**, 8030 Brookfield Drive, is concerned about the amount of traffic that this will create. A lot of the traffic is going to come out and wind up at 79<sup>th</sup> & Van Dorn. There are already 800 employees at Lincoln Benefit Life and it is difficult to get out now before school even starts. There are 1,406 apartment units in the square mile and there are 110 empty at the present time. There are 184 units that are currently under construction, leaving 294 units that are presently available.

**8. Larry Dahl**, 2810 Crown Pointe Circle, testified in opposition. He purchased Lot 12 in 1994. All of the abutting properties will have maximum green space of only 20' and then a garage or two behind their properties, which will be like having a house behind his back yard. The 3-story apartment building will only be 70' from their lot lines. This is unacceptable. There is lack of green space--a 20' buffer is totally inadequate. Their covenants state that the rear yards can have no out buildings, yet these 1400 sq. ft. garages will be behind their homes. This affects the quality of life. The driveway at 82<sup>nd</sup> and Van Dorn will become a thoroughfare to Rockledge Road. There is traffic and noise and car lights shining in his windows 24 hours a day. There will be a loss of privacy with the apartment buildings with balconies 70' from his lot line. This will also produce noise and air pollution. The sense of security he has grown accustomed to will be gone. The landscaping offered by Slosburg is not adequate. Light pollution is also an issue. This plan is not neighborhood friendly and does not fit into the neighborhood.

**9. Del Weed**, 2940 Crown Pointe Road, testified in opposition. When he moved into his home in 1995, he knew there would be some apartments behind his home. For 10 years he has lived with that plan and has come to accept it. Up until a year ago, there were still people moving into the neighborhood and receiving the 1993 information, but then in June of this year, we understood there to be a new plan. We had trusted that the 1993 plan would be what would be constructed. He requested that this proposal be delayed so that the neighborhood can get back into harmony with the developer and the Planning Commission. Bigger is not always better.

**10. Carol Brown**, 2201 Elba Circle, testified in opposition. This is the same thing that happened to her neighborhood at 24<sup>th</sup> & Dodge. We were told what was going to happen and then it got changed. All you are doing is telling people to not believe what people say is really going to happen. Beware to the public. There's a school there that generates traffic. We need some traffic lights in this neighborhood. Density does not revolve around the automobile. There are way too many automobiles to dump on this area. These people deserve a chance to go back and work with the developer. How many apartments do we need in this community? Aren't we over-burdened with apartments?

**11. Jack Fields**, 8121 Arrow Ridge Road, testified in opposition to the median down Van Dorn Street. A good share of the residents of the Somerset Apartments and Arrow Ridge Townhomes come out 82<sup>nd</sup> Street onto Van Dorn and make a left turn to go to 84<sup>th</sup> to go north or south. A median there will force us to go back down through the neighborhood, hit Devoe and then 79<sup>th</sup>

Street, and again causing more confusion and congestion at 79<sup>th</sup> & Van Dorn. There need to be right and left turns at 82<sup>nd</sup> Street.

### Response by the Applicant

With regard to the traffic issues, Rierden does not believe anyone can say for certain that the traffic is going to go into the neighborhood. Once someone tries, they probably won't do it again. In regard to the traffic on 84<sup>th</sup> & Van Dorn, he referred to p.8 of the staff report, paragraph 9, which states that, "The impacts of this development will be a small portion of the overall increase in trips along Van Dorn and 84th Streets. The City has already committed and planned for transportation improvements that will likely precede extensive development of the areas east of 84th Street."

With regard to density, Rierden suggested that there are several different components. The Comprehensive Plan and the philosophy of the city has changed in the last few years, that being to encourage some higher density to better utilize our infrastructure and city utilities. The traffic flow on the approved plan is basically the same—this proposal simply adds another curbcut for the commercial buildings. It is important to note (and Rierden thinks this is a clear case of be careful what you wish for) that the commercial directly abuts Mr. Dahl's property in the approved plan and the closeness of the apartments. The Slosburgs have moved the buildings by 70+ feet. Rierden then submitted a letter from Richard Campbell of Campbell's Nursery which recommends that the developer talk to all of the residential property owners west of the project. This is being done. The Slosburgs have offered to go into their individual homes and back yards and plant appropriate plantings and trees.

With regard to lighting, Rierden pointed out that at the third meeting with the property owners, one of the overtures the developer made was that they would not utilize any wall-pack lighting on the walls along the west property line, and they got no response. That overture will continue to be open and they will continue to work on the lighting and hire a lighting consultant.

As far as property valuations, Rierden submitted an article from the National Home Builders Association indicating that between 1987 and 1997, single family detached homes located near multi-family structures, on average, appreciate at somewhat higher rate than single family attached homes that were not located near multi-family buildings.

Rierden also submitted a letter written to the Somerset apartment residents from the owner of the apartments, Gene Wilczewski. Based upon this letter, Rierden believes that competition is in fact their concern. Now they have to compete with Lenox Village and they are now more concerned about competing with another Slosburg Development. This is a clear situation of "watch out what you wish for". Rierden cannot believe the property owners to the west really want the original development approved with the commercial and apartment complexes so close. Mr. Herbert makes it clear that they had two phases planned, with phase two coming later. If developed along the same lines of the original proposal, there would be 227 units. The Herberts also had an offer to purchase from Wilczewski.

Rierden urged that this is a great project that is good for the City of Lincoln and good for the neighborhood. The developer agrees with all conditions of approval, with the proposed amendments, and will comply and provide the information still being required by Public Works.

Schwinn noted that the applicant is still seeking to eliminate the pedestrian easement and staff is recommending denial of that waiver. Rierden explained that they are requesting this waiver as an accommodation to some of the home owners to the west.

Marvin asked the applicant to discuss the history of the proposal to let traffic out on Rockledge. He understands that it is the city's request that it be connected. Kavan responded, noting that Rockledge was on the original PUD and the city was wanting that connection to 84<sup>th</sup> Street. When the neighbors brought up the issue about Rockledge, Slosburg agreed, but the city's position is that that road needs to be connected. Marvin asked whether the developer insists on having the Rockledge access. Kavan's response was, "beyond getting access to our property, we would support closing Rockledge".

With regard to the on-sale alcohol, Rierden found it an interesting issue because in a PUD, the underlying zoning remains (in this case R-3), but it does allow 10% commercial. One of Slosburg's intended uses is perhaps a restaurant and they desired the ability to have a restaurant that may serve alcohol--on-sale only. They have avoided a bar. The language is crafted as such and it is the developer's intent that it will be a restaurant, and perhaps something like a Spirit World with deli and fine wines that you would take home. Steward clarified that the staff has revised the condition regarding alcohol sales such that the on-sale alcohol must be in a restaurant, and Rierden agreed.

#### Staff questions

With regard to Rockledge Road, Bills-Strand recalled that there were concerns when the church came forward about delaying the development of this road because of emergency vehicles having access into the single family residences. She also thought there was some issue about the sidewalk with the church. Dennis Bartels of Public Works stated that the street has been platted for a number of years. Along with the platting of Rockledge would have been the requirement to build sidewalks within a 2-year timeframe and there was requirement for sidewalks along the south side of Rockledge. The church had requested and received some extensions of the requirement to complete those improvements. They have gone past their completion date again and they received another extension.

Larson is concerned about the U-turn on 84<sup>th</sup> Street. Bartels advised that the city is allowing U-turns to avoid having to signalize so many intersections, i.e. North 27<sup>th</sup> Street and other places along 84<sup>th</sup> Street and Pine Lake Road. When the city approved Lincoln Benefit Life, it would have required a signal 900-1,000 feet from Van Dorn Street. If we put signals at all the median openings, it starts to impair the ability to get progression along the arterial streets. That is why a left-in and right-out only design was required when Lincoln Benefit Life was approved. The U-turns are a relatively new concept for the City.

Marvin asked staff to discuss the potential for a light on 79<sup>th</sup> Street. Bartels indicated that this is an issue that is continually monitored and required to reach signal warrants. Marvin asked whether the staff has ever given any thought to denying this project access into Rockledge? Czaplewski does not believe there was an indication from staff that the access to Rockledge should be relinquished. The approved plan had access to Rockledge at one location instead of two. Bartels added that the street was already there and it defeats the purpose of a neighborhood shopping center if the neighborhood has to go into the arterial street system to access a shopping center or commercial area in their own neighborhood.

Bills-Strand asked whether the staff would allow only one entrance with that number of residents. Bartels does not know if there is a specific number for apartments. Staff objected to one driveway serving 220 apartments.

Carlson inquired about the internal sidewalk plan which Rierden indicated they were engaged with staff upon, yet he does not see it in the conditions of approval. Czaplewski agreed that it is not a condition and he believes the applicant would agree to add that as a condition.

Carlson moved for four-week deferral, seconded by Marvin.

Carlson believes there are design elements in this proposal that are very attractive. But, he is not sure the multiple uses are mixing or functioning together quite right. He is not convinced that the overall use and overall flow is quite right. He thinks the point of getting people back together might be helpful.

Marvin believes that someone needs to give some thought to the traffic that is going to go through the neighborhood. If you have 200 units, that's 1400 auto trips and a huge number of those are going to go through the neighborhood. If you want to go west, he thinks the logical way would be to go to Rockledge and curve through to get over to 79<sup>th</sup> Street.

Bills-Strand stated that she would not support deferral. She thinks it is a nice project. With the extra trees, screening and sidewalks, she believes it makes a good neighborhood. It is apartments and commercial reconfigured--it's not a change of use. Traffic is always an issue, but Rockledge was there before. She thinks people will go out on the arterials as opposed to through the neighborhood.

Schwinn does not believe this is the same as 24th & Dodge. He lives in this neighborhood and probably lives closer to this than Lenox Square or Van Dorn Plaza. There are 1400 units already existing today. There was a great uproar in his neighborhood over Lenox Square, yet the Slosburgs gained approval and went forward and there have been no complaints. He believes it is an upscale apartment complex that looks good and you have to have the density to make it economical. It is also interesting to note that after Lenox Square, we did Pioneer Woods and no one came down to complain after the success of Lenox Square. While the neighborhood opposition has been well orchestrated, he is not sure that its particular purpose was right. They were told there would be apartments behind them. He believes the numbers are close. He will vote against deferral.

Taylor stated that he will support the deferral because of the concern of the neighbors. He clarified that this does not propose a bar, but a restaurant. He agrees with this plan design--it looks good--but he thinks we need to have some breathing space so that there is a little more contact with some of the aggrieved neighbors.

Steward stated that he will support the deferral. He would like to see this project succeed. He thinks the density in an of itself it not incorrect. He agrees with the staff assessment in general; however, we are a ways away from the design to accommodate the marriage between the single family residential area and the commercial and the higher density. The idea of the terrain change has presented some difficult problems. The idea that you can only get from the apartments by steps to the commercial is not a pedestrian friendly notion. It is not a pedestrian friendly notion not to have an intent to have pedestrian movement from the single family area into this commercial area. It is not a health friendly idea not to have recreation and more green space. He thinks delay is necessary if the project can be saved.

Motion to defer four weeks, with continued public hearing and administrative action on September 17, 2003, carried 5-4: Krieser, Carlson, Taylor, Marvin and Steward voting 'yes'; Larson, Duvall, Bills-Strand and Schwinn voting 'no'.

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** September 17, 2003

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

Staff recommendation: Conditional approval, as revised on September 17, 2003.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted a letter from Good Shepherd Presbyterian Church located immediately south, advising the Commission that the church has reached agreement with the developer that will allow the Van Dorn Acres developer to provide detention facilities on church-owned property.

Czaplewski also submitted revised conditions of approval, reflecting amendments that the applicant has requested and to which the staff has agreed. Many of the previous conditions have been deleted based upon a resubmitted drawing which has satisfied a fair number of the conditions contained in the original staff report. Some of the conditions have changed or been added in the last two weeks as a result of meetings with the developer, neighbors and staff. In addition, Czaplewski requested to revise Condition #1.3.9 to "revise the grading in Rockledge Road to the satisfaction of the Public Works Department". There continue to be concerns of grading and cross-section that have not yet been addressed.

The revised conditions of approval submitted today do not change the staff recommendation found on p.121 of the agenda (page 1 of the original staff report submitted for the August 20<sup>th</sup> Planning Commission meeting). There is one new waiver request to exceed the building height, which is limited at 35'. The applicant is requesting a building height of 38' and Condition #5 approves that waiver. The staff continues to recommend denial of the waiver of the pedestrian easement and the building separation.

### Proponents

**1. Michael Rierden** submitted renderings of the work product of the Slosburg Company throughout the country and the revised site plan for this project. Rierden indicated that the developer has spent a considerable amount of time working with the neighbors in the area and within the PUD, and the abutting property owners to the west. At the public hearing on August 20, 2003, Rierden believes the developer received two messages from the neighbors: 1) general concerns about the traffic, of which this developer has very little control, but the developer will propose to help the traffic situation both now and in the future; and 2) individual concerns of the abutting property owners, which the developer believes have now been addressed.

As far as the traffic is concerned, the developer has agreed to reconstruct the Rockledge Road area according to city design standards for better traffic flow and maneuvering. The neighbors raised the concern about the need for a traffic signal at 84<sup>th</sup> & Rockledge. Slosburg is proposing and committing to pay for the signal and install it. There will be an amendment to the conditions to elaborate on this.

**2. J.D. Burt of Design Associates** submitted letters in support from Lincoln Public Schools, Lincoln Benefit Life, and various property owners in the general area. He also submitted information about the issues raised by the abutting property owners. The developer has met with the core group of neighbors and individually with the abutting property owners, and they have come to full agreement.

**3. Jerry Kavan of Slosburg Company** stated that they have reached agreement with each of the abutting property owners. Slosburg has agreed to reduce the total number of dwelling units from 220 to 210, thereby reducing the density. The most concerned abutting property owners were to the west and the concern was the landscape buffer behind their homes, which began at 17.5 feet. This buffer has now been increased to 29' behind all of the garages. The buffer behind the surface parking stalls is 32' of green space and the buffer in four locations all the way out to the drive is 49'. The 49' buffer is a combined length equating to 32% of the whole west property line.

Another change that has been made is reducing Building 3 by 12 apartment units, which reduces the length of the building to allow the freedom to manipulate the west buffer line. Building 3 is now in excess of 90' from the west property line as opposed to 73'. Building 4 has been moved away from the homes and in excess of 90' from the west property line, instead of 75'. Building 1 was 50' from the west property line and is now 75' from the west property line, and the garage behind Building 1 is 25' from the west property line. Building 1 is proposed to have end elevations that are only two stories and the core of the building will be three stories in height. Slosburg has made a statement to the neighbors that dumpsters on the west property line will be in non-required parking spaces and screened from the west with a screen wall. Slosburg will engage a lighting consultant and utilize lighting mounted under the eaves of the garages to light the drive, and will use pole lighting in-between with shields on the house side. Trees in this buffer zone will be maintained and/or replaced by the developer as necessary. Slosburg then showed an example of the type of tree buffer being proposed, which will be primarily evergreen with a 6' wood fence at the base of the evergreens.

With regard to responding to the concerns raised by the Planning Commission at the initial public hearing as far as the pedestrian circulation, Slosburg has made some improvements and is hopeful to have hit the mark. Slosburg then explained the proposed sidewalk plan. Building 8 has been added where the old detention cell was located, and Slosburg proposes to eliminate the second stair tower.

In addition to other changes, the entrance to the commercial site has been moved further west to better align with the future driveway for the church. This opens up the whole entrance into the commercial space to provide for less congestion and longer drive aisles to the bank drive-up.

In addition, Slosburg reiterated that the intersection of 84<sup>th</sup> & Rockledge will have a traffic signal which this developer will build and bear the cost. This signal should be in operation before the apartments are open.

Steward inquired whether it is possible for a handicap person to get to the commercial center other than the stairs. Slosburg advised that the sidewalk system goes down to Rockledge in front of Building 8. There is a 15' grade separation between the commercial space and the apartments, so to have adequate length of ramping, that would have to be the route for a handicap person to get down to the Rockledge sidewalk and then go across and into the commercial. A better sidewalk system has been developed up into the commercial from Rockledge so that there are designated crossing locations and adequate room behind Building 10 to get over to another crossing to get to the commercial building.

Carlson inquired as to the elevation change between the parking lot just south of Building 7 and the parking lot just north of Building 9. Slosburg stated that the 15' grade separation is on both the north side and the west side of the commercial, so it would continue to be 15' all the way to 84<sup>th</sup> Street and then there will be a retaining wall that runs along 84<sup>th</sup> Street that gradually tapers out by the time it gets to Van Dorn.

Rierden then submitted proposed amendments to the revised conditions of approval, requesting to amend Condition #1.1.6 (now Condition #1.1.2) regarding the traffic light. The developer would request that the language "warranted and recommended" be deleted from that condition. This developer and the neighbors do not want to wait to install the light. Rierden proposed new language such that, "The traffic signal shall be installed at the same time as the construction of Rockledge Road when said traffic signal shall be activated upon the issuance of the first occupancy permit for the development." The entire cost will be borne by this developer.

Rierden also requested amendment to Condition #6.6 which requires the developer to show easements required by LES. Rierden does not believe the developer should be required to give blanket easements because it could interfere with future development of the site and the marketability of the property from a legal standpoint. The developer would request that language be added to Condition #6.6: "Show easements required by Lincoln Electric System; however, no easements will be required to be shown on the west 29 feet of the development in order to protect the proposed landscaping."

The developer continues to support the neighbors' desire to waive the pedestrian access easements.

Rierden expressed appreciation to Stephen Henrichsen and Greg Czaplewski of the Planning Staff for their help with the negotiations and putting this together.

**4. Richard Slosburg** also expressed appreciation to the Planning staff, especially Greg Czaplewski and Stephen Henrichsen, who really acted like Solomon to get the developer together with the neighbors. He also expressed appreciation to the leadership of the neighborhood group, Cheryl and Larry Dahl, Kurt Suhr and Tom Tracy. It took a lot of effort on everyone's part and Slosburg Company would like to thank all of those people.

**5. Scott Lawson** testified in support on behalf of **Lincoln Benefit Life**, located at 2940 So. 84<sup>th</sup> Street, which is a wholly owned subsidiary of All State Insurance, occupying 28 acres directly on the east side of the Rockledge entrance. Lincoln Benefit was approached by the developer and they have maintained excellent communication. LBL is in support of the project from the standpoint that LBL employs about 900 people with nothing around it in terms of retail and commercial space. The

employees are given 45 minutes for lunch and it is difficult to run errands or go to lunch. This development will offer some retail and commercial opportunities for LBL employees.

### Opposition

**1. Kurt Suhr**, 8030 Thornview Road, stated that he is not sure he is in support or opposition. He pointed out that they have had constructive meetings with the developer and the city. He told them that he would support the project if the neighbors were satisfied and if some of the parking issues could be resolved. Suhr pointed out that to go west on Van Dorn, people will have to go to 84<sup>th</sup> and make a u-turn. The neighbors are pleased with the traffic signal, but it needs to be installed as soon as possible. Suhr submitted the plans that were discussed with the developer. The Crown Pointe neighbors were interested in seeing the commercial on the corner of 84<sup>th</sup> & Van Dorn, which would give people from the commercial a lot better potential for egress. They could go out on Van Dorn to go north, taking the pressure off 84<sup>th</sup> Street. The neighbors are now happy to obtain a little more green screen. They are a little disappointed with the idea of “live, work, shop”—he does not know that this plan really satisfies that concept. Suhr does not believe that the handicap accessibility issue has been resolved. He had hoped they could have done better from a basic design concept rather than using retaining walls and relying on structures and green space to screen.

Suhr also indicated that these neighbors had talked about a neighborhood park at one time during the negotiations and staff indicated that they might be able to get a neighborhood park in the Lux area. That discussion has not occurred.

Suhr would like to explore the possibility of closing Rockledge Road. The Crown Pointe neighbors still have a concern that traffic leaving this development will come through their neighborhood. A playground could be put in the city right-of-way, and there is a big open detention cell on the church property. There could be a good mesh there for a neighborhood park/playground area. It seems like a nice blend between the neighborhood, the church, the city and this development.

**2. Cheryl Dahl**, 2810 Crown Pointe Circle, commended the staff for their efforts in bringing this difficult issue together. There are so many issues concerning the traffic, and the Crown Pointe neighbors support the traffic signal at 84<sup>th</sup> & Rockledge.

### Staff questions

Marvin asked for a staff response to the proposed amendment regarding the traffic signal. Dennis Bartels of Public Works stated that Public Works has agreed that when the traffic signal is warranted, it will be installed. If not warranted at the time of the first building permit, Bartels suggested that the Commission could change the language such that it be “as recommended by the City Traffic Engineer”. Bartels does not know when it will be warranted. The Traffic Engineer is legally required to evaluate before installing a signal, so the discretion should rest with the City Traffic Engineer. It might depend on which of our 84<sup>th</sup> Street projects are going on at that time. The city would like to maintain the control of the timing when it is installed. Bills-Strands assumed that it is not illegal to say we want it now when the apartments and the commercial are in, such as “at the request of the neighbors”. Bartels advised that technically, the national regulations require that the City Traffic Engineer evaluate the warrants before installing the traffic signal. There might be some in town that do not meet the warrants, but they are to be evaluated before installation.

Carlson referred to Condition #2, "including the on- and off-sale of alcohol located in those portions of Buildings 9 and 10 that are located 100' or more from a residential building." He noted that this is different than the way the Commission has normally made this recommendation. Are these buildings separated into bays or are we going to be tape measuring? Czaplewski advised that "this" building will be portioned into as many as 14 bays. There will be bays such that the Police Department would be able to determine whether certain bays are within that requirement and whether certain bays are not. Building 10 will be outside the 100'. This language was put in to catch any of the residential uses that might have moved closer to Building 10. At this point, he does not believe that Building 10 would ever be within 100' of a residential building.

Carlson asked for legal interpretation as far as past precedent for bays versus buildings. Rick Peo of the City Law Department suggested that there is a need to recognize here that, because it is a PUD with residential zoning, the typical rules as to the issue of the measurement have somewhat changed. Because alcohol sales are actually allowed in the PUD to be transferred into the residential district, there is a need to modify the criteria somewhat. You are basically establishing a new guideline because we have never had a PUD bringing in potential alcohol sales before. We tried to maintain somewhat the same philosophy. Steward suggested that what we are talking about is distance from actual location as contrasted to building when we assumed originally that the building was the location. Peo concurred. Carlson commented further that this is specifically different from the special permit type of alcohol sales that we have seen in the past.

Marvin inquired whether the measurement would be from the clubhouse. Peo has not been involved in the discussion so he did not know whether the clubhouse was included in the measurements.

Taylor noted that the developer is still requesting that the pedestrian easement be eliminated. Is there any sufficient justification to which the staff would agree for granting that waiver? Czaplewski stated that the staff position is still that that waiver be denied and the pedestrian easement be maintained. There is an existing easement on an adjacent single family lot that has already been paved that connects to this easement. This easement has been dedicated on a previous final plat.

Steward asked whether staff agrees with the proposed amendment to Condition #6.6 regarding the LES easements. Czaplewski advised that the staff would be opposed to this change. This has been discussed with LES, and they are willing to discuss some alternative easement corridors. Czaplewski suggested that the Commission could add language that would minimize disruption to any landscaping, etc. He understands the concern for maintaining landscaping, but a wholesale elimination of easements in that corridor is not acceptable to the city.

Steward wondered whether the Commission could require that the traffic signal be "installed as soon as feasible and with the recommendation of the City Traffic Engineer". Bartels indicated that to be more acceptable than the applicant's proposed amendment.

### Response by the Applicant

Rierden responded to the alcohol sales issue, stating that the developer knows that they have to deal with the 100' and they are prepared to do so and will not be seeking any waivers or variances.

With regard to the traffic signal, Rierden reiterated that at the public hearing on August 20, 2003, every neighbor that testified was in favor of some help and, specifically, the traffic signal. Therefore, Rierden urged the Commission to recommend approval of the language he submitted. He does not see the need to wait.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

September 17, 2003

Bills-Strand moved to approve the staff recommendation of conditional approval, as revised on September 17, 2003, with amendment to Condition #1.1.6 (now 1.1.2) that, The traffic signal shall be installed as soon as feasible and as recommended by the City Traffic Engineer, to also address and take into consideration concerns of the neighborhood; with amendment to Condition #1.3.9 to, Revise the grading in Rockledge Road to the satisfaction of the Public Works & Utilities Department; and with amendment to Condition #6.6 to “Show easements required by Lincoln Electric System; however, easements will be avoided to not disrupt screening between the multi-family and single family dwellings, (so at least LES knows to try to avoid disrupting the screening), seconded by Duvall.

Bills-Strand believes the developer has done a good job of working with the neighbors.

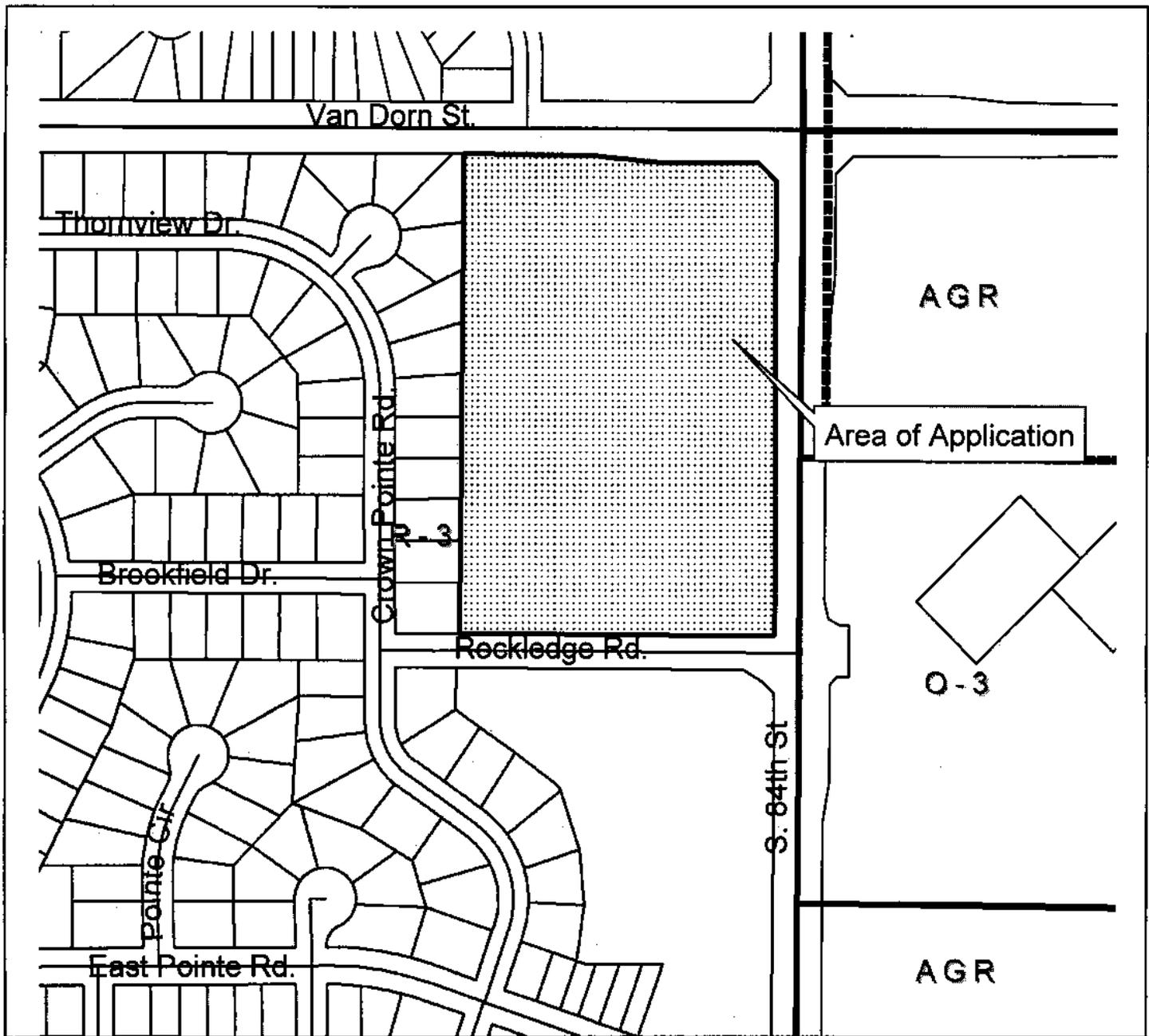
Taylor confirmed that the revised staff recommendation still recommends denial of the waiver of pedestrian easement and the building separation, as set forth on the first page of the original staff report.

Motion for conditional approval, as revised on September 17, 2003, with amendments, carried 8-0: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward voting ‘yes’.



**Change of Zone #2751A  
S. 84th & Van Dorn**



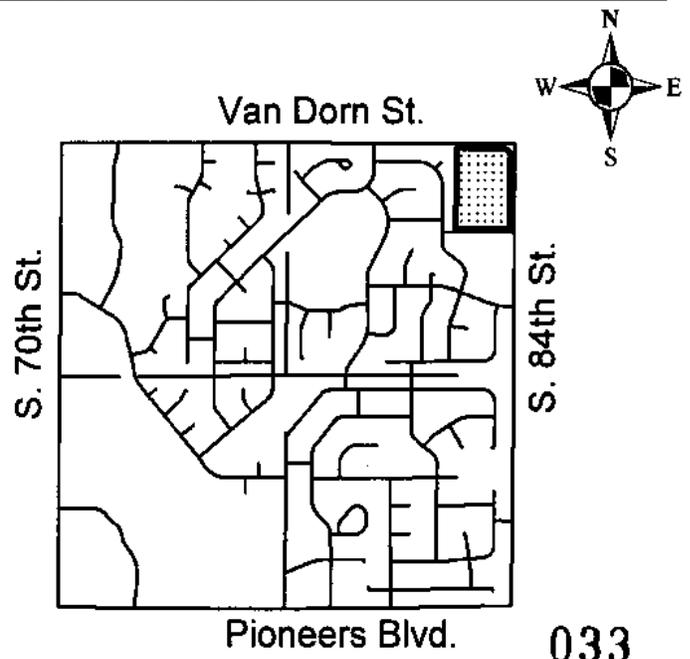


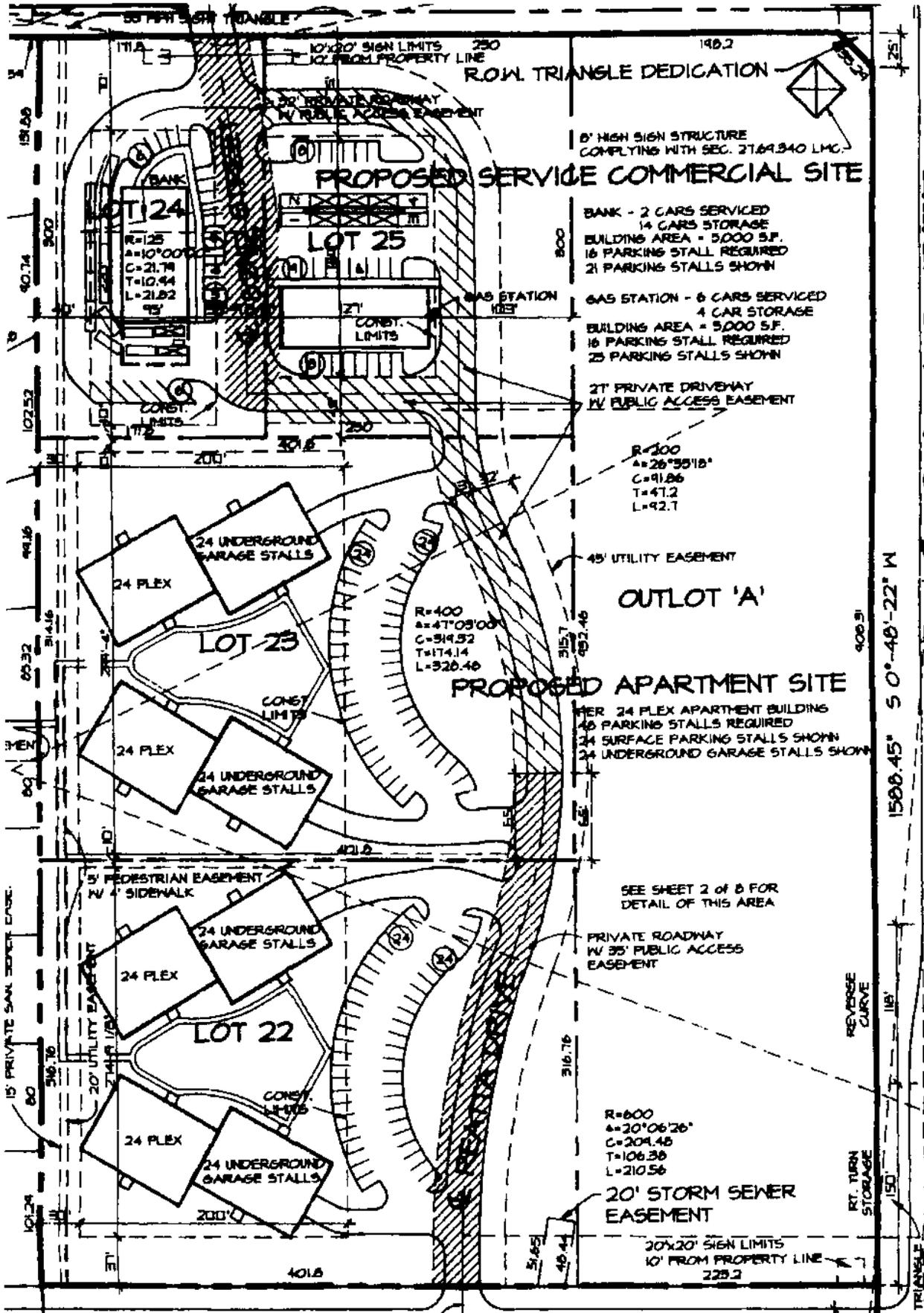
## Change of Zone #2751A S. 84th & Van Dorn

### 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-8 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. 3 T9N R7E





APPROVED PLAN

NO SCALE

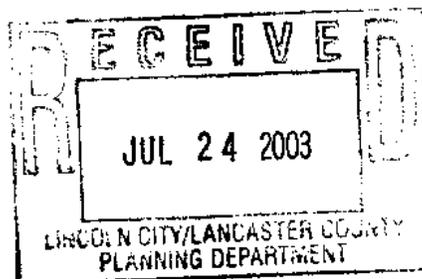


**Design Associates** of Lincoln, Inc.

Pershing Square  
1609 'N' Street  
Lincoln, NE 68508  
Phone: (402) 474-3000 • Fax: (402) 474-4045

July 10, 2003

Marvin Krout  
Lincoln/Lancaster County Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508



RE: Change of Zone # 2751A  
Van Dorn Acres PUD  
84<sup>th</sup> and Van Dorn Street

Mr. Krout:

On behalf of Slosburg Company, contract purchaser of the property located at the southwest corner of 84<sup>th</sup> and Van Dorn Street, please accept this correspondence as supplemental information to the submitted City Zoning Applications. The applications request approval of an amendment to the approved final PUD to allow construction of a mixed-use development on property legally described as Outlot "A", Block 4, Crown Pointe Estates Addition located in the Northeast Quarter of Section 3, T9N, R7E, Lincoln, Lancaster County.

The approved plan for the site includes 96 residential units, 5,000 s.f. gas station and 5,000 s.f. bank with drive-through. The site is currently undeveloped.

The development plan for this 153-acre property proposes eight multifamily buildings and two commercial buildings. The multifamily buildings are designed as two and three floor structures. A total of 220 units are proposed. The proposed residential density is consistent with the existing R-3 zoning of the site and surrounding area. Commercial uses will be consistent with the B-1 zoning district, as allowed within the limits of a Planned Unit Development. Uses may include the on and off sale of alcoholic beverages within 100' of a residential use and/or district.

The site has been designed to provide separation between the existing neighborhood and the commercial area with placement of the multifamily buildings and detached garages. The existing residences will be further buffered with installation of landscaping and privacy fence along the west limit of the site.

Access to the residential development includes private driveways on Van Dorn Street and Rockledge Road. Access to the commercial development includes driveways on 84<sup>th</sup> Street and Rockledge Road. Right turn deceleration lanes are proposed in Van Dorn and 84<sup>th</sup> Streets at each access and in 84<sup>th</sup> Street at Rockledge Road.

Site development will include construction of private utilities. Water service will be provided from the existing main in Van Dorn Street and a public main to be constructed in Rockledge Road. An

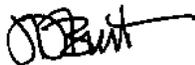
internal sanitary main will connect to existing public main located in Van Dorn Street. The private system will include a lift-station to provide sanitary sewer service to the commercial area.

This application includes several waivers to design standards. Waiver of design standards are hereby requested for the following items:

- Waiver of design standards to allow placement and operation of a private sanitary lift-station to accommodate sanitary sewer service to the commercial development area.
- Waiver of design standards of the maximum block length along the west limit of Outlot "A", Block 4 to allow elimination of the existing pedestrian connection to Crown Pointe Road.
- Waiver of parking lot design standards to allow both parking stalls located in a 'tandem' configuration to be considered for the purposes of satisfying required parking stall number calculations.
- Waiver of standards to allow a reduction of building separation from 40' to 20' within the residential development.
- Waiver of design standards to allow construction of privacy fence in a residential district in excess of 6'4".

We look forward to approval and implementation of the proposed changes to Van Dorn Acres PUD and appreciate your favorable consideration. Please advise if additional information is desired.

Sincerely,



J.D. Burt  
For the firm

cc: Richard Slosburg  
Jerry Kavan  
J. Michael Rierden

