

## FACTSHEET

**TITLE: SPECIAL PERMIT NO. 04035, ANDREA'S COURT COMMUNITY UNIT PLAN**, requested by Ross Engineering, Inc., on behalf of Chris Kodad and Believer's Fellowship Church, for 32 dwelling units and a church, with associated waiver requests, on property generally located at 40<sup>th</sup> and Superior Streets.

**STAFF RECOMMENDATION:** Conditional Approval

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 07/21/04  
Administrative Action: 07/21/04

**RECOMMENDATION:** Conditional Approval, with amendments (7-1: Marvin, Larson, Taylor, Krieser, Pearson, Carroll and Bills-Strand voting 'yes'; Carlson voting 'no'; Sunderman absent).

### FINDINGS OF FACT:

1. This is a request to develop 32 townhouse/dwelling units and a church, with the following waiver requests:
  - Preliminary Plat process
  - Detention/retention storage for storm water
  - Minimum lot area for single-family attached lots
  - Cul-de-sac geometry
  - Required front and rear yard setbacks.
2. The staff recommendation of conditional approval including approval of all waiver requests, except the waiver of sidewalks on both sides of private roadway, is based upon the "Analysis" as set forth on p.4-6, concluding that the proposal is consistent with the Comprehensive Plan and the Zoning Ordinance. There does not appear to be any unusual circumstance to justify waiving sidewalks.
3. The applicant's testimony is found on p.12-13. The applicant indicated that the wetland will be restored and an educational and social use of that restored wetland is proposed. The sidewalk waiver is requested in order to keep the southern units as far away from Turner Creek as possible. The requirement to put the sidewalk back in would require deleting the guest parking stalls. The waiver of the sidewalk will allow the townhouse units to move further to the private roadway and to provide more green space in the back of the townhouse lots. The maps submitted by the applicant at the public hearing are found on p.27-28.
4. Testimony in opposition is found on p.14-15, and the record consists of a petition in opposition bearing 104 signatures and five letters in opposition (p.29-48). The issues of the opposition include density and its impact on the traffic along North 40<sup>th</sup> Street and the intersection of 40<sup>th</sup> & Superior Streets; the waivers of the front and rear yard setbacks for the townhouse units when in such close proximity to single-family dwellings; effect of pollution on the wetlands; the need for improvements to Turner Ditch between 40<sup>th</sup> Street and Salt Creek; and flooding concerns in general.
5. The applicant's response to the opposition is found on p.16-18.
6. On July 21, 2004, the majority of the Planning Commission agreed with the staff recommendation and voted 7-1 to recommend conditional approval, with amendments adding Condition #1.1.17, which denies the waiver of required lot area and the waiver of the front and rear yard setbacks; adding Condition #1.1.18, requiring a sidewalk connecting the patio area to the public sidewalk in North 40<sup>th</sup> Street; and adding Condition #5.6 to require a floodplain fill permit (Commissioner Carlson dissenting on the basis of floodplain concerns). See Minutes, p.18-19.
7. On July 23, 2004, Ross Engineering filed a letter appealing the denial of the waiver of minimum lot size and the waiver of front yard and side yard setback requirements (p.49-50). The applicant is not appealing the denial of the waiver originally requested on sidewalks or other conditions of approval.
8. Additional comments from the Watershed Management Division of Public Works & Utilities submitted subsequent to the Planning Commission action and recommending additional conditions with respect to the 100-year flow along Turner Ditch are found on p.51-53. The applicant and staff are working to resolve these issues prior to City Council hearing.
9. All other Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been satisfied.

**FACTSHEET PREPARED BY:** Jean L. Walker  
**REVIEWED BY:** \_\_\_\_\_  
**REFERENCE NUMBER:** FS\CC\2004\SP.04035

**DATE:** September 7, 2004

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# LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for July 21, 2004 PLANNING COMMISSION MEETING

**\*\*As Revised by Planning Commission and Recommended for Conditional Approval on July 21, 2004\*\***

**P.A.S.:** Special Permit #04035  
Andrea's Court CUP

**PROPOSAL:** Community Unit Plan consisting of 32 townhouse units and a church.

**LOCATION:** Approximately 40<sup>th</sup> and Superior Streets.

**WAIVER REQUEST:**

1. Eliminate the preliminary plat process.
2. Detention/retention storage for storm water.
3. Sidewalks on both side of private roadway.
4. Minimum lot area for single-family attached lots.
5. Cul-de-sac geometry.
6. Required yard setbacks.

**LAND AREA:** 4.628 acres, more or less, for density purposes.  
9.413 acres, more or less, total.

**CONCLUSION:** This Community Unit Plan is consistent with the Comprehensive Plan and Zoning Ordinance. There does not appear to be any unusual circumstance to justify waiving sidewalks.

**RECOMMENDATION:**

1. Eliminate the preliminary plat process.	Conditional Approval
2. Detention/retention storage for storm water.	Approval
3. Sidewalks on both side of private roadway.	Denial
4. Minimum lot area for townhome lot.	<b><u>Denial</u></b> Approval
<b>(**Per Planning Commission, 07/21/04**)</b>	
5. Cul-de-sac geometry.	Conditional Approval
6. Required yard setbacks.	<b><u>Denial</u></b> Approval
<b>(**Per Planning Commission, 07/21/04**)</b>	

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:**

The remaining portion of Lot 1, Hanson-Jordan Addition, located in the NE 1/4 of Section 7-10-7, Lancaster County, Nebraska, more particularly described in the attached metes and bounds description.

**EXISTING ZONING:** R-3 Residential

**EXISTING LAND USE:** Vacant

**SURROUNDING LAND USE AND ZONING:**

North:	Vacant	R-3 Residential
South:	Turner's Ditch	R-3 Residential
	Single-family dwellings	R-2 Residential
East:	Single- and multiple family dwellings	R-3 Residential
West:	Vacant	R-3 Residential
	Salt Creek	I-1 Industrial

**HISTORY:**

Aug 2003 Final Plat #03081 Hanson-Jordan 1<sup>st</sup> Addition submitted, proposing to split Lot 1 into two lots. This final plat has not been approved.

Jun 1989 Hanson-Jordan Administrative Final Plat approved Lot 1 and Outlot A.

May 1979 The zoning update changed this property from A-2 Single-Family Dwelling to R-3 Residential.

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Land Use Plan identifies this area as Urban Residential. (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)

***Guiding Principles for the Urban Environment - Residential Neighborhoods***

Home ownership is the foundation upon which successful neighborhoods and communities are built. Citizens should be able to afford to buy a safe and decent home. The plan should recognize the impact of policies and programs on community housing costs. (F 18)

Encourage different housing types and choices, including affordable housing, throughout each neighborhood for an increasingly diverse population. (F 18)

Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood. (F 18)

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)

***Guiding Principles for New and Existing Neighborhoods***

Encourage a mix of compatible land uses in neighborhoods, but similar uses on the same block face. Similar housing types face each other: single family faces single family, change to different use at rear of lot. (F 69)

**UTILITIES:** Water service is public. Sanitary sewer service is proposed to be private, however, the Public Works Department recommends it be public as well.

**TRAFFIC ANALYSIS:** The Comprehensive Plan identifies North 40<sup>th</sup> Street as a Collector, and Superior Street as a Principal Arterial, both now and in the future. (E 49, F 103) Ballard Place is shown as a private roadway measuring 27 feet wide in most instances. The roadway terminates in a nonstandard cul-de-sac with an 18 foot wide travel lane.

**Collector Streets:** These streets serve as a link between local streets and the arterial system. Collectors provide both access and traffic circulation within residential, commercial, and industrial areas. Moderate to low traffic volumes are characteristic of these streets. (F 105)

**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. 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.

### **ENVIRONMENTAL CONCERNS:**

There is a mapped wetland on this site, which appears in old aerial photographs, but is not readily apparent today. The Applicant has delineated 0.14 acre of wetland, and is proposing to relocate a portion and enlarge the wetland to 0.17 acre. This is not a Category 4 Saline wetland, and will not be impacted by additional runoff from the church parking lot. The developer has also proposed a 25 foot wide no impact buffer and conservation easement around the wetland.

The developer ~~has a current fill permit that would allow filling the entire site to the 100yr flood elevation. However, they are~~ is proposing to fill no more than 75% of the total allowed under the fill permit. Since this project is located within the existing city limits, it is not subject to the recently approved flood standards, including the no net rise policy and compensatory storage. **(\*\*As corrected by staff during public hearing before Planning Commission on 07/21/04. Also See Condition #5.6\*\*)**

### **ANALYSIS:**

1. This is a request for approval of a Community Unit Plan consisting of 32 townhouse units and a church.
2. The townhouse area consists of 4.62 acres, which will support up to 32 units under an R-3 CUP. The area shown for a future church is not included in the density calculation. The overall CUP area, as measured to the center lines of Superior and North 40<sup>th</sup> Streets, contains 10.4 acres. Since this area exceeds 10 acres, a reduction in density is not required.
3. Planning Staff supports the waiver to the requirement for a preliminary plat, provided Applicant submits all information required with a preliminary plat as part of the special permit. The approved community unit plan may be used in lieu of the preliminary plat for the area of this amendment.
4. The Public Works Department supports the waiver to detention/retention facilities given the project's proximity to Salt Creek. This project is located in an area that has a recommended maximum fill percentage of 75%, based upon the Lancaster County Flood Insurance Study. This project does not exceed the maximum fill percentage for the site. The proposed

drawings show only 35,884 cubic yards of off-site fill. The drawings should indicate the maximum allowable amount of fill is 36,555 cubic yards, and the actual amount used may be increased up to this amount through an administrative amendment approved by the Planning Director. Additionally, the flow path and capacity calculations for the local 100yr storm must be provided.

5. Planning Staff and the Public Works Department do not support the waiver to sidewalks on both sides of the private roadway. There is no justification offered for this waiver. There appears to be adequate space on the south side of the private roadway for a sidewalk.
6. The minimum lot area for a two-family dwelling in the R-3 district is 5,000 square feet per family. The proposed duplex lots range in size from 3,920 sf to 7,840 sf, with 26 of 32 lots containing less than 5,000 sf. Given the amount and proximity of open space provided in Outlot B and the recreational area, Planning Staff supports this waiver.
7. The Public Works Department supports the waiver to cul-de-sac geometry, provided parking is prohibited in the cul-de-sac, except for in the parking stalls shown on the proposed plan. The 18 foot wide travel lane would not provide adequate maneuvering space for large vehicles if parking in the cul-de-sac were allowed.
8. The required front yard setback is 20 feet, which Applicant proposes to reduce to 8.5 feet at its narrowest. The lots on the north side of the private road all provide front yard setbacks of 16 feet or more, except Lot 32 which provides less. The lots on the south side all provide front yard setbacks of at least 8 feet. However, an outlot for the private roadway provides an additional 16 feet to the curb. Therefore, the front yard will appear to be greater than 20 feet in all cases, except for Lot 32 along North 40<sup>th</sup> Street, which will be 13 feet.
9. The required rear yard setback is the smaller of 30 feet or 20% of the lot depth. In most cases, this setback is met. Lots 29-32 do not meet the requirement, primarily due to the curve in the road. Similarly, Lots 17 and 20 located on the cul-de-sac do not meet the requirement.
10. Planning Staff supports the waiver to front and rear yard setbacks, as shown on the proposed plans. The required side yard setback appears to be provided.
11. The sanitary sewer system is proposed to be private. The Public Works Department recommends the sanitary sewer system be public rather than private, noting the costs to maintain a private sanitary sewer system can be an unnecessary burden on future lot owners.
12. However, a public sanitary sewer system would require waivers to design standards to allow construction opposite street grades. The waiver would require holding this proposal over for continued hearing for advertising purposes, but Public Works would not oppose the waiver provided maximum and minimum depths are not exceeded. Additionally, an easement width of 15 feet on either side of the pipe and 3.5 feet of clearance from the back of curb would be required.

13. The Public Works Department will accept a private sanitary sewer system provided the plans are revised to show a 15 foot separation from the pipe centerline to any building envelope, and a 3.5 foot separation to back of curb. This will accommodate City design standards should the City be requested to take over the system.
14. A minimum 15 foot wide easement must be provided on either side of the centerline of the water main. The plans must be revised to provide this easement.
15. The Lower Platte South NRD will require a Written Notice of Intent and Stormwater Pollution Prevention Plan, as well as a US Army Corps of Engineers 404 Permit for work planned for expansion of the existing wetlands. Onsite grading must not disturb existing fences, and should provide positive drainage away from the toe of the Salt Creek levee.
16. The NRD has an easement over a portion of the site for an existing 24" drainage structure, which must be shown on the plans.
17. The existing bank of Turner Ditch is close to vertical. A concrete-type outlet structure may need to be used and designed so that it outlets with the direction of the flow.
18. LES easements must be shown on the plans.
19. Additional fire hydrant locations have been identified by the Fire Department and must be shown on the plans.
20. The street name Ballard Place has been used. The name of this private roadway must be changed to Ballard Court.
21. Outlot B is included in the density calculation for this CUP, but does not meet the requirements of the subdivision ordinance. This outlot must be attached to a lot that has frontage and access to a public street or private roadway. If it is attached to the church lot, it will no longer count towards density, and the density calculations will need to be revised accordingly.
22. The waiver to required yard setbacks must be listed on the site plan.
23. The landscape plan must be revised to add a note indicating all landscaping except for street trees to be planted between curb and sidewalk on city right-of-way on North 40<sup>th</sup> Street, shall be planted on private property and locations marked by landscape contractor who will be installing such plantings, and to add 5 Cimmaron Ash trees planted 6 feet from back of curb on North 40<sup>th</sup> Street right-of-way.
24. An agreement between the owner of Lot 33 and the developer of the CUP must be submitted providing the owners of Lots 1 through 32 with access to the recreational facilities on Lot 33.
25. The layout of the softball field is such that batters will be looking into the late afternoon sun and spectators will be close to the resident's back yards and homes. By locating the right field foul line parallel to the west property line, both of these conditions could be eliminated.

## **CONDITIONS:**

### 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 the plans to show:
    - 1.1.1 Provide the flow path and capacity calculations for the local 100yr storm.
    - 1.1.2 Add a note to the plan stating parking is prohibited in the cul-de-sac, except for in the parking stalls as shown on the plans, and no parking signs will be installed.
    - 1.1.3 Provide a minimum 15 foot wide separation between the centerline of the sanitary sewer main and any building envelope, and a minimum 3.5 foot wide separation between the sanitary sewer main and the back of curb.
    - 1.1.4 Provide a minimum 15 foot wide easement on both sides of the centerline of the water main.
    - 1.1.5 Show all required LES easements.
    - 1.1.6 Provide additional fire hydrant locations to the satisfaction of the Fire Department.
    - 1.1.7 Provide a new name for the Private Roadway "Ballard Place."
    - 1.1.8 Revise Outlot B to conform to subdivision standards.
    - 1.1.9 Add the waiver to required yard setbacks to the Waivers table.
    - 1.1.10 Add a note to the Landscape Plan indicating all landscaping except for street trees to be planted between curb and sidewalk on city right-of-way on North 40<sup>th</sup> Street, shall be planted on private property and locations marked by landscape contractor who will be installing such plantings.
    - 1.1.11 Add 5 Cimmaron Ash trees planted 6 feet from back of curb on North 40<sup>th</sup> Street right-of-way.
    - 1.1.12 Add a note indicating up to 36,555 cubic yards of fill may be brought into the site. Increases from the amounts shown on the approved plans may be approved by the Planning Director.

- 1.1.13 Add a note stating grading will not disturb existing fences, and will provide positive drainage away from the toe of the Salt Creek levee.
- 1.1.14 Show the existing Lower Platte South NRD easement on the site plan.
- 1.1.15 Submit plans for the approval of the Public Works and Utilities Department and the Lower Platte South NRD for the outlet structure used in Turner Ditch.
- 1.1.16 Revise the layout of the softball field to provide more separation between the spectator stands and resident's homes, and so batters will not be looking into the late afternoon sun.
- 1.1.17 Revise the lots to provide the minimum required lot area, and front and rear yard setbacks. (\*\*Per Planning Commission, 07/21/04\*\*)
- 1.1.18 Show a sidewalk connecting the patio area to the public sidewalk in North 40<sup>th</sup> Street. (\*\*Per Planning Commission, 07/21/04\*\*)

1.2 Submit a written agreement between the owner of Lot 33 and the developer of the CUP providing the owners of Lots 1 through 32 with access to the recreational facilities on Lot 33.

1.3 Submit an ownership certificate.

2. This approval permits 32 dwelling units and a church, with waivers to the preliminary plat process, detention/retention storage for storm water, the minimum lot area for single-family attached lots, cul-de-sac geometry, and required front and rear yard setbacks.

3. The waiver of the preliminary plat process shall only be effective for a period of ten (10) years from the date of the city's approval, and shall be of no force or effect thereafter. If any final plat on all or a portion of the approved community unit plan is submitted five (5) years or more after the approval of the community unit plan, the city may require that a new community unit plan be submitted, pursuant to all the provisions of section 26.31.015. A new community unit plan may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the community unit plan as originally approved does not comply with the amended rules and regulations.

General:

4. Final Plats will be approved by the Planning Director after:

4.1 You have completed or posted a surety to guarantee the completion of the private roadway improvements, sidewalks, sanitary sewer system, water system, drainage facilities, land preparation and grading, sediment and erosions control measures, drainageway improvements, street lights, landscaping screens, street trees, and street name signs.



- 4.2 The subdivider has signed an agreement that binds the subdivider, its successors and assigns:
- 4.2.1 to complete the street paving of the private roadway shown on the final plat within two (2) years following the approval of this final plat.
  - 4.2.2 to complete the installation of sidewalks along both sides of the private roadway, the west side of North 40<sup>th</sup> Street, the south side of Superior Street, and the connector sidewalk to the recreational area shown on the final plat within four (4) years following the approval of this final plat.
  - 4.2.3 to complete the public water distribution system to serve this plat within two (2) years following the approval of this final plat.
  - 4.2.4 to complete the private wastewater collection system to serve this plat within two (2) years following the approval of this final plat.
  - 4.2.5 to complete the enclosed drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of this final plat.
  - 4.2.6 to complete land preparation including open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of this final plat
  - 4.2.7 to complete the installation of street lights along the private roadway within this plat within two (2) years following the approval of this final plat.
  - 4.2.8 to complete the planting of the street trees along the private roadway, North 40<sup>th</sup> Street, and Superior Street within this plat within four (4) years following the approval of this final plat.
  - 4.2.9 to complete the installation of the street name signs within two (2) years following the approval of this final plat.
  - 4.2.10 to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards).
  - 4.2.11 to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.
  - 4.2.12 to complete the public and private improvements shown on the preliminary plat.

- 4.2.13 to submit to the lot buyers and home builders a copy of the soil analysis.
- 4.2.14 to pay all design, engineering, labor, material, inspection, and other improvement costs.
- 4.2.15 to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
- 4.2.16 to properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water facilities as they were designed and constructed within the development, and that these are the responsibility of the land owner.
- 4.2.17 to relinquish the right of direct vehicular access from Lots 1 and 32 North 40<sup>th</sup> Street, and from Lot 33 to Superior Street, and North 40<sup>th</sup> Street except as shown.
- 4.2.18 to timely complete the public and private improvements and facilities required by Chapter 26.23 of the Land Subdivision Ordinance which have not been waived including but not limited to the list of improvements described above.
- 4.2.19 to post the required security to guarantee completion of the required improvements if the improvements are not completed prior to approval of this final plat.

5. Before receiving building permits:

- 5.1 The permittee shall have submitted a revised final plan including 5 copies and the plans are acceptable.
- 5.2 Submit a Written Notice of Intent and Stormwater Pollution Prevention Plan for approval to the Lower Platte South NRD.
- 5.3 Submit an approved Section 404 permit, or a letter from the US Army Corps of Engineers stating such permit is not required.
- 5.4 The construction plans shall comply with the approved plans.
- 5.5 Final Plats shall be approved by the City.
- 5.6 Obtain a floodplain fill permit from the Building and Safety Department. (\*\*As recommended by staff and approved by Planning Commission, 07/21/04\*\*)

STANDARD CONDITIONS:

6. The following conditions are applicable to all requests:
- 6.1 Before occupying the dwelling units all development and construction shall have been completed in compliance with the approved plans.
  - 6.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
  - 6.3 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.
  - 6.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 6.5 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.

Prepared by:

Greg Czaplewski  
441.7620, gczaplewski@ci.lincoln.ne.us

**Date:** July 7, 2004

<b>Applicants: and Owners:</b>	Chris Kodad 2231 Calvert Street Lincoln, NE 68502 730.5082	Believer's Fellowship Church Pastor Dan Thompson PO Box 4758 Lincoln, NE 68504 438.7004
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**Contact:** Ross Engineering, Inc.  
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Lincoln, NE 68508  
474.7677

# SPECIAL PERMIT NO. 04035

## ANDREA'S COURT COMMUNITY UNIT PLAN

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

July 21, 2004

Members present: Marvin, Larson, Carlson, Krieser, Pearson, Taylor, Carroll and Bills-Strand; Sunderman absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: Bills-Strand reported that she had received a telephone call from one of the neighbors inquiring about the hearing process and procedures.

Greg Czaplewski of Planning staff submitted additional information for the record, including two letters in opposition. He also submitted a new Condition #5.6 requested by the Building & Safety Department, requiring that the developer obtain a floodplain fill permit. It is something they would have to do anyway. The staff report was in error in stating that they already had a fill permit.

### Proponents

**1. Gus Ponstingl of Ross Engineering** appeared on behalf of **Green Development Corporation and Believers Fellowship Church** and presented the proposed development for 16 townhouse units on approximately 9.4 acres located at the corner of Superior and N. 40<sup>th</sup> Street. There will also be a church developed on the northeast corner of the site. The church owns the property. Both the developer and the church thought it would be better to approach this development jointly and the result is a project that helps the developer, the church and the adjacent community.

There will be a private roadway for the townhouses, which are located on the south portion of the site. The private roadway will be 27' wide paving with concrete curb and gutter, with private sanitary sewer tying into a larger public main. There will also be a 6" water main that will tie into a larger water main along North 40<sup>th</sup> Street.

Ponstingl noted that there is an existing wetland that has been farmed out and difficult to find; however, the developer is proposing to restore the wetland and create a 25' buffer around it with an outlot over that wetland.

**2. Ron Ross, Ross Engineering** continued the applicant's presentation. Believers Fellowship has owned the property for 12 years. It has been farmed in soy beans and corn. This is the first year it has not been farmed. The wetland was delineated back in 2002. If you attempt to find the wetland, you will not find it. You will only find one of the three characteristics, and that is the soils. This development will do a minor amount of grading and filling of .02 of an acre and will add .05 of an acre. The applicant has applied for a permit from the Army Corps of Engineers. This developer will restore the wetland and proposes an educational and social use of that restored wetland.

Ross explained that when the church began work on this project, they submitted a fill permit which was not approved because the other party walked from the project. The first fill permit was for filling the entire project. Ross informed the church that it was not the best thing to fill the entire project. The church and developer joined forces and they now have support from Watershed Management. The FEMA drawings for this area have a stipulation suggesting that the city will not fill this reach of Salt Creek any more than 75% of what would otherwise be allowable fill within this reach of Salt Creek. This development is filling slightly less than the 75% because the grading has been kept down. The only thing being filled is the church facility. The townhouse units have to be filled 1' above floodplain. The amount of fill has been substantially reduced from what the church was initially submitting. This project is within FEMA's recommended requirement of only 75% of that volume.

Ross also noted that Turner Ditch to the south is a major tributary. Water will be discharged from the townhouses and a little bit of the church. About 4-5 acres will be going directly into Salt Creek by an existing storm sewer. This development's contribution to Turner Ditch is extremely insignificant. An analysis of the hydrology of Turner Ditch was conducted. With elevation of 1139, the surface water of the 100-year storm is 38.7, so actually water will be contained within the top of bank. The townhouses on the north side of Turner Ditch are about 5' above the top of the bank and above what will be considered the high water flowing through Turner Ditch.

Ross reiterated that this development respects the previous mapped wetland.

With regard to sidewalks, Ross stated that it is the developer's opinion that a sidewalk on the south side is not a definite necessity in this small dead-end private roadway. He believes the sidewalk has been waived in similar situations. This waiver is not being requested because of cost considerations. The desire is to keep the southern units as far away from Turner Creek as possible, thus they pushed those units to 25' from the south curb line of Ballard Court, putting a little more rear yard into the southern townhouses. Ross would agree to putting the sidewalk back in, but this would require deleting the guest parking stalls. The waiver is requested to allow the townhouse units to be a little bit further to the private roadway and to provide more green space in the back of the townhouse lots.

Pearson noted that the map submitted by the applicant today is different from the map in the Planning Commission agenda. Ross concurred. The ballpark has been turned.

Carroll confirmed that the wetlands will be an outlot controlled by the church. Ross agreed. There will be a homeowners association for the townhouses and they will join hands in maintenance of the common area but it is under the jurisdiction of the church.

Bills-Strand inquired about a sidewalk access to the basketball courts and ball parks for the people across the street on 40<sup>th</sup> Street. Ross stated that the church has extended opportunities for the neighborhood to use these recreational facilities. There is sidewalk access at the private roadway and the developer will consider another sidewalk at the driveway entrance of the parking lot for the church.

## Opposition

**1. Ken Ward**, 4035 N. 40<sup>th</sup> Street, testified in opposition. The majority of the neighborhood just found out about this project a week ago today. They held a meeting on Friday and do not believe their questions have been answered. The neighbors have not had an opportunity to talk to the developers. The neighbors are not completely against the land being developed, but they would like some input and have the opportunity to discuss their concerns, including traffic. There have been numerous accidents on 40<sup>th</sup> Street. Between 27<sup>th</sup> and 48<sup>th</sup> Street there are only two small long blocks of streets to get from Cornhusker Highway to Superior Street. 40<sup>th</sup> Street is already carrying 15-25% more traffic than it was designed to handle. Ward has had two accidents getting in and out of his own driveway. The police have been called hundreds of times to set up traffic monitoring.

The neighbors are also concerned about the waiver of the yard standards as to whether the line of sight will be acceptable.

Ward has lived in the area since 1972, and the sanitary sewer system has been a tremendous problem and the city is constantly monitoring it today. The neighbors would like to have some assurances about this issue. They are concerned about the flooding. Turner Ditch does run at capacity. There are a number of neighbors who were sandbagging their homes in July 1993 or 1994 because it was overflowing.

While the wetlands is being farmed, Ward assured that the thousands of geese he sees in his back yard on a regular basis know that there are wetlands there.

Ward recommended that a study of the entire area be done to see what effect this development might have on some of these issues. There is some concern in the neighborhood about the size of the cul-de-sac and he pointed out that the staff is recommending that there be no parking on either side of the street on a 600' long cul-de-sac. With 32 units of at least 2 cars per unit, he is concerned about the parking and what it is going to do to the potential accidents on 40<sup>th</sup> Street.

Ward submitted a letter signed by 104 people in this area in opposition.

**2. Joyce Schriener**, 3840 N. 42<sup>nd</sup> Street, testified in opposition. In addition to the concerns raised by Mr. Ward, another concern is the number of waiver requests concerning setbacks in this small area – 32 townhouses on less than 5 acres – if you look at the type of development already in the area, you will see large lots with a lot of green area. Therefore, she does not believe this development is compatible. She has talked with the Planning Department and asked whether they had toured the area, and they had not toured the area other than the specific site. She is also concerned about the amount of fill they are proposing. She understands the 75% guidelines and knows they are coming in with less than 75%, but she believes it is a very, very small amount less than 75%.

**3. Robert Converse**, 3921 N. 42<sup>nd</sup> Street, testified in opposition. Because this development is in the floodplain, flood insurance will be required and it will be a \$600/year premium. He wonders if anyone has considered what impact the Antelope Creek widening project will have on Salt Creek. Flooding further downstream could easily occur and the Superior Street bridge is the first

downstream narrowing and could be affected. He has not seen when the church will be built. They have owned the land for almost 14 years and what guarantee is there that it will ever be built? The proposed building is only 90' x 90', which is only 8,100 sq. ft. Without the church, where will water come from to maintain the ballfield? What will house the water meter? Are there plans for recreational facilities without the church? What about ballfield lighting? How can 32 units be granted in 4.62 acres when measurements are taken from the centerline of 40<sup>th</sup> Street? He believes the density is too high because of the waiver requests. What guarantee is there that the recreational area will be built and maintained? The church has owned the land since 1991 and during this entire time, no improvements have been made. There is no provision for a playground.

Converse also suggested that after the grade is brought up to the finished elevation, the south edge of the lots along Turner Ditch will need protection because of the drop-off.

**4. Lawrence Fournier**, 3748 N. 44<sup>th</sup> Street, testified in opposition. He visited the neighbors and they were all surprised about this development. The neighbors have lived there for 30-55 years. They are all stunned, basically about the traffic. 40<sup>th</sup> and 44<sup>th</sup> Streets are in dire need of traffic signals at both ends. The concern for most of the residents on 44<sup>th</sup> is traffic. Traffic has increased since the North Star High School has opened. Fournier believes that the traffic would increase and he requested that the Commission seriously consider taking more time to look at this proposal.

#### Staff questions

With regard to street widths and traffic, Marvin commented that 40<sup>th</sup> Street is a two-lane roadway, 27' wide, which connects Superior Street and Cornhusker Highway. What does the city own beyond the 27' in terms of right-of-way? Chad Blahak of Public Works stated that it would typically be 60' or 50' of right-of-way (either 30' or 25' feet on either side from centerline). It is functioning now as a collector street of 66'. Marvin is concerned about units 1 and 32. If the road ever went to five lanes, not only are the homes on the east side going to get pinched, but the ones that we haven't even built yet would be landing in a spot that could later push the road right up next to the building. Blahak did not know the Comprehensive Plan designation for 40<sup>th</sup> Street, but he does not believe it would become a 5-lane roadway. The 66' right-of-way is enough to accommodate the 33'.

Larson inquired about the "no parking" provision. Blahak explained that the comment about no parking only pertains to the turnaround at the end of the cul-de-sac. The driving lane going around the island does not allow parking. If there is room in between driveways along the cul-de-sac, parking would be allowed.

Carlson asked for confirmation that Stormwater Management is satisfied. Devin Biesecker of Public Works explained that under the current code requirements, the development is allowed to fill in the floodplain as long as their structures are elevated 1' above the 100-year elevation. They can fill their entire site and there is no limit on the amount of fill. The entire site is within the 100-year floodplain. In areas of Salt Creek, it is recommended that in certain storage areas they give a percentage of fill to insure that when the areas are filled we can maintain the allowable 1' of rise in the floodway. For this area, that was listed as 75%, and Public Works asked the developer to stay within that limit.

Carlson noted that Turner Ditch has a mechanical flood door that can be closed if Salt Creek rises too high. When it is closed, it back-floods this area of the floodplain. Presumably the new places would be 1' above, but does Public Works have any sense of the floodplain impacts? Biesecker does not believe the flood gates were taken into account in the study. When the flood gates are closed on the levee it will back up water but he does not know how far.

Blahak clarified that the Comprehensive Plan does not show any future widening of 40<sup>th</sup> Street.

Bills-Strand inquired about traffic signals at 40<sup>th</sup> & Superior. Blahak stated that there are none at 40<sup>th</sup> & Superior. The nearest traffic signal is at 48<sup>th</sup> & Superior. Public Works tries to get back to each intersection on a 2-year periodic basis to review it. He believes that the last time this was researched it did not warrant a signal. Another study can be requested. Bills-Strand is hopeful that it will be studied because of all the development at 27<sup>th</sup> & Superior, including North Star High School.

Bills-Strand is concerned about parking. She knows from living in a townhome area that when you entertain guests, it is difficult to park in the townhouse area because the driveways are so close together. Is there ever any consideration given for some additional off-street parking? Blahak indicated that it is a frequent recommendation from Public Works that additional parking be provided for these townhouse developments. Czaplewski clarified that the only parking required to provide is two stalls per unit, and this application provides four stalls, two in the driveway and two in the garage. There is no code requirement beyond that. This application meets the parking requirements.

Pearson observed that with 32 units at four additional cars per unit, there will be 128 cars coming out of Ballard Place. She disagrees that this is not going to affect the traffic on 40<sup>th</sup> Street. She would like to hear the developer's response.

Taylor noted that the speed limit is 25 mph on 40<sup>th</sup> Street and the speed limit on Superior Street is 45 mph. Is the problem of speeding on 40<sup>th</sup> Street? He wonders what time there are traffic speeding concerns. The neighbors indicated that it is during rush hour. Taylor stated that he has experienced very little traffic on 40<sup>th</sup> Street during his visits to the area during the day.

Marvin asked staff to respond to the issue of notice to the neighbors. Czaplewski advised that a sign is posted on the property and written notice is mailed from the Planning Department 10 days prior to the hearing.

Taylor questioned the necessity of a traffic signal at 44<sup>th</sup> Street if there is one at 48<sup>th</sup> Street. Is it feasible? Czaplewski understands that the traffic concerns are generated by the peak traffic hours. The last time the intersection was studied, it did not warrant the traffic signal.

#### Response by the applicant

Ross clarified that the applicant is not requesting a change of zone. The property is zoned R-3. The church can build on R-3 by right. They already had a fill permit request, but this proposal shrinks it down with much less dirt. The application before the Commission today is a community unit plan.



This developer could come in and change this to single family lots in R-3. But, the applicant wants to create affordable housing in this area with two-unit townhouses. There are apartments across the street on the east side of 40<sup>th</sup> Street; and there are apartments on the south side of Superior Street, followed by a combination of a couple of single family homes and townhouses. This is a nice area, and this applicant is not here to affect the neighbors' way of living but to create a compatible situation with the church. The applicant could come back and not even request a community unit plan, but rather a straight preliminary plat and he does not know how the city could deny the use of R-3 zoned property. But that is not what this applicant wants to do.

Ross pointed out that the building envelope being shown is 35' x 60'. The units are not that big. With the architectural drawings, it appears that they could shrink down the building envelope. This would result in a very slightly modified site plan and would not require any waivers. But the difference is only 3.5'. The units were located closer to the private roadway to put more space in the back. If the Commission wants to strike the waivers, they can shift the units back with the proper front yard and proper rear yard. The overall diameter of the cul-de-sac is 6' bigger than the city's requirement for a private cul-de-sac. It is configured a little bit differently so it requires a variance. If the Commission does not want to grant the waiver, they can certainly build a slightly smaller cul-de-sac.

The applicant does not have to restore the wetland, but that is what they want to do.

Ross also suggested that they could build 50 single family lots with the R-3 zoning. Is the City going to say "no" to a single family development?

As far as parking, Ross explained that the units will have a double-stall garage with parking in front of the garage. This application provides space for four cars per unit plus another seven guest stalls. They may add a few more parking stalls. They want a development that does not cause parking problems on 40<sup>th</sup> Street, so Ross assured they would take a look at this issue.

Ross also assured that the church does want to build. The church has been waiting for this opportunity for some time. They have a buyer that is ready to go. The church has authorized the engineer to prepare construction drawings for the grading and storm sewer and they are prepared to start immediately on the church's site. This starts their church with the funding coming from the sale of the south area.

Again, Ross stated that the lots are 40' x 100'. They can move the units slightly if the Commission prefers no waivers. The normal lot is 5,000 sq. ft. These lots are at least 4,000 sq. ft. If we needed to take more land to the north, we could do that, but this is a joint project where both the development to the south and the church to the north are paying for the recreational facilities.

As far as traffic volumes, Ross stated that he has been out in the area on eight occasions recently and he has never seen a back-up. It is a 66' wide right-of-way. He is not here to fight the traffic signal battle. He hopes it will be studied and that a traffic signal will be warranted. But, a development like this should not be stymied because of the traffic signal issue.

Ross apologized because the developer did not know there was an organized neighborhood group. The church did send out a letter and he agrees that it should have been sent out a week sooner.

Ross does not believe there is a drainage problem. If it backs up, the water will back up over 40<sup>th</sup> Street and will go through the drainageway and back up into those areas. They are not required to put all of that storage of water in this 9.4 acres.

Pearson inquired as to the schedule of development, i.e. what is going to be built first? Ross indicated that there are some pre-sold units and they will start immediately on the private roadway. They can start with eight units because they have water and access. The site grading for the entire project will all be done under one contract. They do need to get the wetlands issue resolved, but they plan to start immediately. He estimated that all of the townhouses will be built in two years. The church is extremely anxious to start their project. The volleyball court will be built with the townhouses, followed by the other recreational facilities, but they are grading the entire area.

Pearson asked whether the developer would agree to add a new walk connecting the pavilion to the public sidewalk. Ross indicated that they would agree to do so.

Marvin inquired about the need to buy flood insurance. Ross stated that the units are required to be 1' above the 100-year floodplain. The lots are being graded to be outside of the 100-year floodplain. There are no basements because basements are not allowed in the 100-year floodplain area.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

July 21, 2004

Carlson moved to deny. Motion failed for lack of a second.

Carroll moved to approve, with conditions as set forth in the staff report, seconded by Larson.

Pearson moved to amend to strike "minimum lot area" and "required front and rear yard setbacks" from the waiver approvals in Condition #2; to add a condition to provide a public access walk connecting the pavilion to the public sidewalk; and to encourage Public Works to re-study the area for a traffic signal at 40<sup>th</sup> and Superior, seconded by Marvin.

Pearson believes that denying these waivers will push some of the units further away from Turner Ditch and put the sidewalk back in on the south side of the road and maybe make the softball field and the amenities more accessible to the neighborhood. She believes there will be increased traffic on 40<sup>th</sup> Street.

Because these homes do not have basements, Bills-Strand would like to see them use as much of the building envelope as possible to get decent sized living areas. If the Commission wants to shorten the back yards along Turner Ditch, she wouldn't mind, but she would like to see at least the ones backing up to the softball area utilize a bigger building envelope. Pearson believes they can increase the size of the units because the available area is already larger. They're just not utilizing the whole thing.

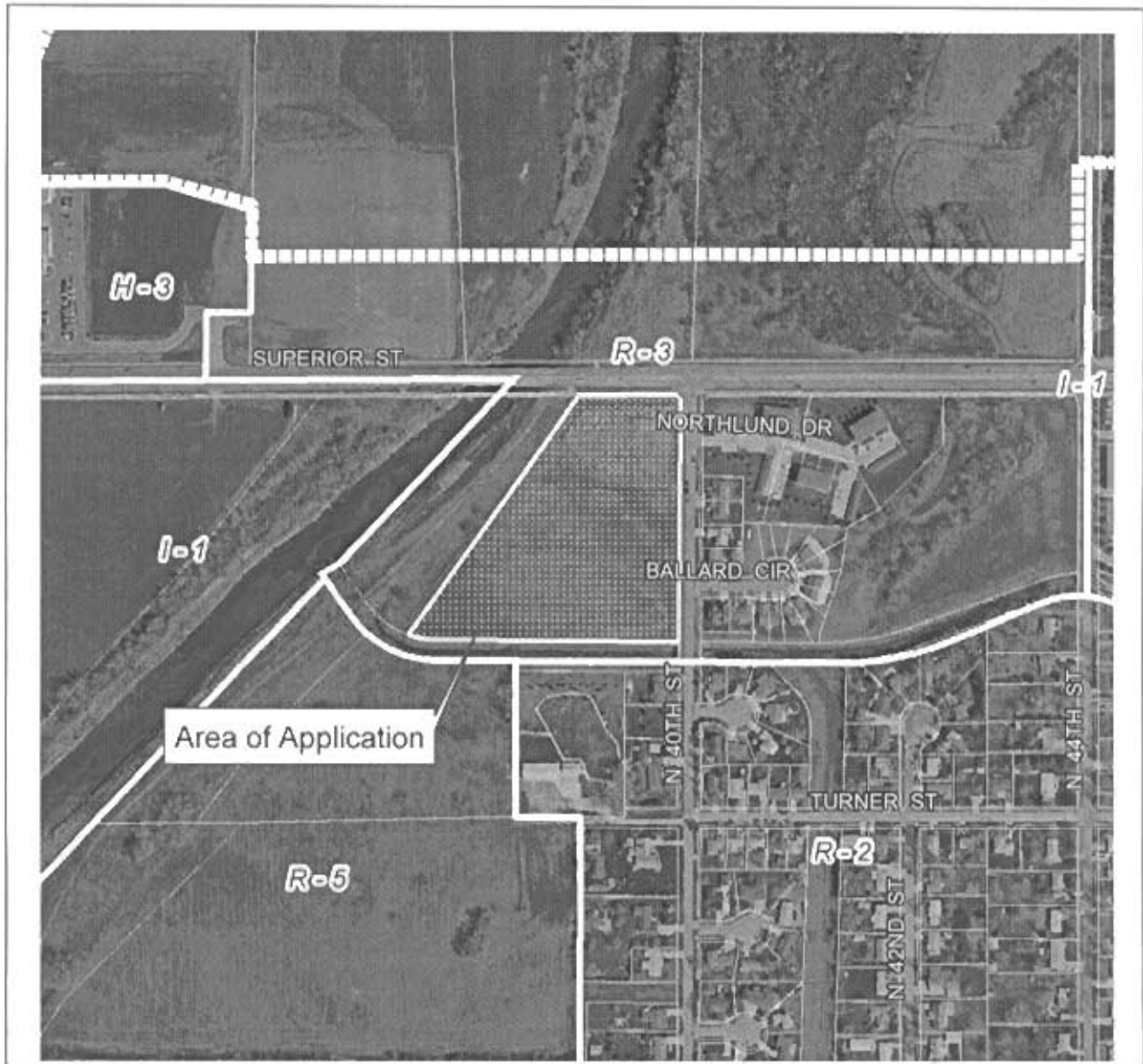
Motion to amend carried 8-0: Marvin, Larson, Taylor, Carlson, Krieser, Pearson, Carroll and Bills-Strand voting 'yes'; Sunderman absent.

Carlson's concern is the floodplain. Townhouses will be protected but this is a classic example of "where does that water go?" You have a flooding situation for the surrounding property owners because there is no requirement that this development do anything to not flood out their neighbors. In addition, you have potential additional danger for the existing townhouses because there is no FEMA mapped study based on that ditch flood door being dropped. If Salt Creek starts to rise and the flood door is closed, you've got Turner Ditch water backing up and flooding. We don't know if the townhomes have proper engineering in order to be protected. He is very aware that those "no net rise" requirements only apply to areas outside the city limits, but the Comprehensive Plan tells us that,

...future urban development will be outside the floodplain and floodway. This helps new development avoid potential flood risks and preserves the important functions of the floodplain. Keeping development outside of the floodplain preserves flood storage and other natural and beneficial functions of floodplains. It also avoids the long-term, cumulative impact of development in the floodplain.

Carlson stated that his guide is from the Comprehensive Plan. As he sits on this Commission and gives guidance to the City Council, the Comprehensive Plan tells him to avoid this situation. We can engineer ourselves out of that situation by creating new standards, but it is a floodplain issue that causes concern for him.

Motion for conditional approval, as amended, carried 7-1: Marvin, Larson, Taylor, Krieser, Pearson, Carroll and Bills-Strand voting 'yes'; Carlson voting 'no'; Sunderman absent. This is a recommendation to the City Council.



2002 aerial

**Special Permit #04035  
N. 40th & Superior St.  
Andrea's Court CUP**

**Zoning:**

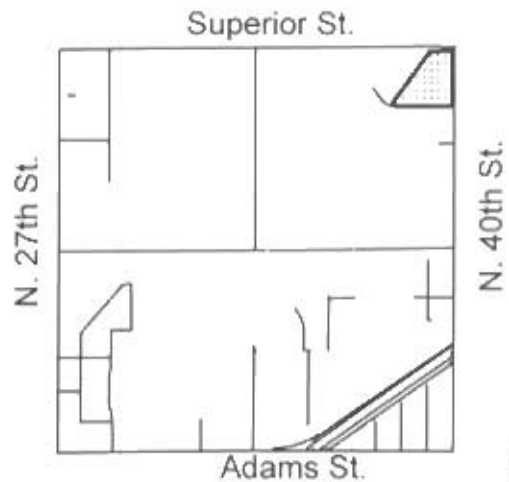
- R-1 to R-6 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile  
Sec. 07 T10N R7E

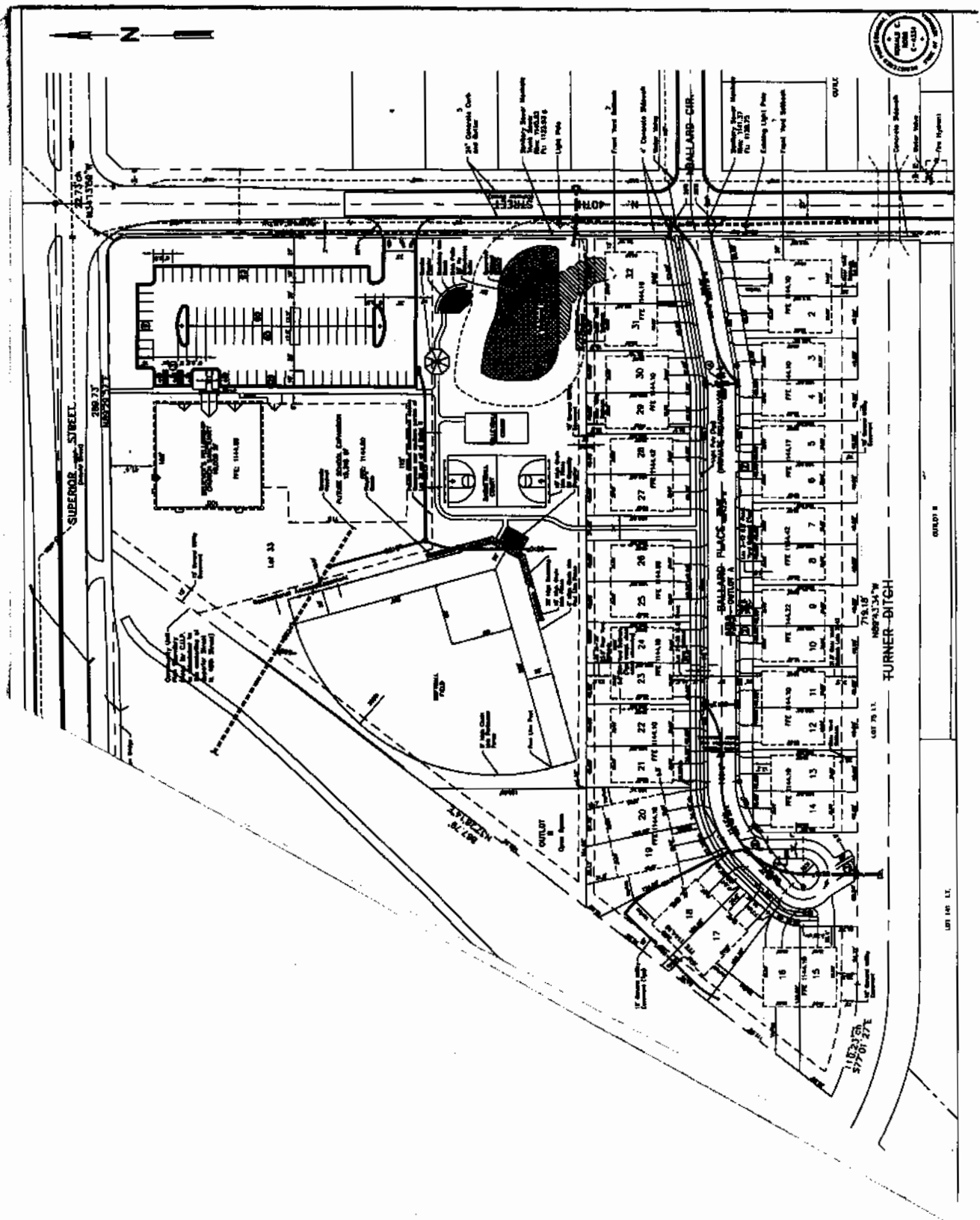


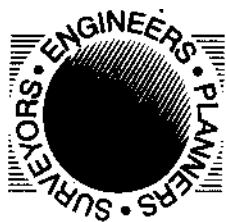
Zoning Jurisdiction Lines

City Limit Jurisdiction



020





**ROSS**  
**E**ngineering,  
**I**nc.

June 21, 2004

Mr. Marvin Krout, AICP  
Planning Director  
City of Lincoln Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

Re: Andrea's Court Community Unit Plan Submittal  
Lincoln, Nebraska  
No. 40<sup>th</sup> Street and Superior Street  
REI Project No. 145401-B

**ESTABLISHED**  
**1974**

*Innovative  
Designs  
For the  
Future of  
Tomorrow*

Ladies and Gentlemen of the Planning Commission:

On behalf of Chris Kodad and Believer's Fellowship Church, we are pleased to submit an Application for a Community Unit Plan (CUP) for Andrea's Court for 32 Townhome units and Believers Fellowship Church. There are many recreational amenities with this CUP, including a basketball court, a softball field, and a volleyball court. The legal description for Andrea's Court CUP is: Lot 1, HANSON-JORDAN ADDITION to the City of Lincoln, location in the Northeast Quarter of Section 7, Township 10 North, Range 7 East of the Sixth Principal Meridian, Lancaster County. The proposed development is generally located at N. 40<sup>th</sup> and Superior Streets and lies completely within the 100-Year Floodplain. The total area for the CUP is 10.136 acres as measured to the centerline of the adjacent R.O.W's.

**Sanitary Sewer:**

An 8-inch sanitary sewer main will be extended to service the Townhomes on Ballard Place from N 40<sup>th</sup> Street. The sanitary sewer main will be private.

**Water:**

A 6-inch Public water main will extend from N. 40<sup>th</sup> Street to the end of Ballard Place.

**Paving:**

Ballard Place is a 27-foot wide Private Drive, ending in a Cul-De-Sac.

**Recreational and Green space**

A large green space will be set aside to the north of the Townhomes and south of the church. A sidewalk will be constructed from the Townhomes to the recreational area to the north and connect to the church building. Believers Fellowship will grant a private recreational easement to the townhomes to allow use of the facilities. As stated previously, the recreational facilities are a strong point for the development and will include a basketball court, a softball field, and a volleyball court, as well as a gazebo for picnics and a patio area nears the wetland.

**Wetland:**

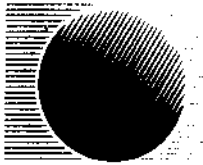
A small, farmed out wetland has been identified from old aerials as having previously existed within the CUP boundary. Believers Fellowship retained GSI, Inc. to perform a jurisdictional wetlands determination and delineation on the 9.5-acre parcel. GSI identified a total of 0.14 acres of wetlands. The developer has agreed to replace a small portion of the area designated wetland with additional land adjacent to the historic location for wetland, by expanding the wetland to the north and the east. The total area set aside will be 0.17 acres. This is not a Category 4 Saline wetland. The wetland will be also not be impacted by additional drainage from the Church parking lot, because drainage will be captured by an inlet and channeled to the existing 24" storm sewer to the west. The developer has agreed to create a conservation easement around the wetland in the site plan so as not to disturb the wetland in the future.

The Candy Factory  
201 North 8th Street  
Suite 401  
Lincoln, NE 68508  
Phone 402.474.7677  
Fax 402.474.7678

www.rossengineering.com

RECEIVED  
JUN 21 2004

022



**Waivers:**

We are requesting the following waivers to Design Standards:

1. Detention-retention storage. Due to the existing wetlands, close proximity to Salt Creek, and the approximate 3 acres of open space, we feel a detention pond is not warranted. Storm water will surface drain throughout the complex. The northwest portion of the development will drain through an existing 24" storm sewer maintained by the NRD out letting into Salt Creek.
2. Preliminary Plat Process, instead just the Community Unit Plan process.
3. Sidewalks on both side of road. Rather than build a sidewalk on the south side of Ballard Place, an alternative sidewalk shall be constructed to connect thru the recreational area to the north.
4. Minimum SF of Townhome lot.

**Floodplain:**

The amount of fill that would be required to take the existing grade for the site up to the 100 Year Floodplain Elevation of 43.0 along the north side and 43.1 on the south side is 48,741 CY. According to the conversations we had with Nicole Fleck-Toose and Devon Biesecker, we can bring in 75% of this amount. Therefore, the allowable quantity of fill is 36,555 CY. Our CUP shows fill in the amount for both the remaining Church property and Andrea's Court is slightly less than 36,000 CY, which means we are slightly less than the allowable 75% per the Flood Insurance Study requirements.

During our pre-application meetings with the City of Lincoln, Nicole Fleck-Toose and Devin indicated that the City of Lincoln would not require either a No Net Rise policy or the Compensatory Storage. We prepared our design in good faith that we would not be required to provide the additional storage requirements.

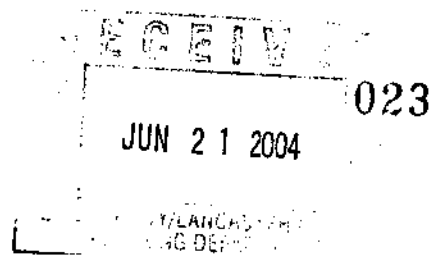
**Density Calculation:**

<u>Description</u>	<u>Number of Units</u>	<u>Acres</u>
Townhomes	32 units / 6.96 Units/AC	= 4.59 AC
TOTAL within CUP: Includes Outlot A, Outlot B & Lots 1-32:		4.628 AC

Included with this submittal are the following:

- A. CUP Application
- B. Exhibit A: Legal Description of CUP
- C. Plans

Cover Sheet	21 copies
Existing Topographic Site Plan	4 copies
Site Plan	24 copies
Grading Plan	4 copies
Drainage Area Plan	4 copies
Street Profiles	4 copies
Utility Plan	4 copies
Landscape Plan	4 copies





D. Filing Fees Check in the amount of \$ 1,050.00  
CUP Base Fee \$250.00  
Unit fee: 32 units x \$25/unit \$800.00  
E. Permission Letter from Dan Thompson and Chris Kodad

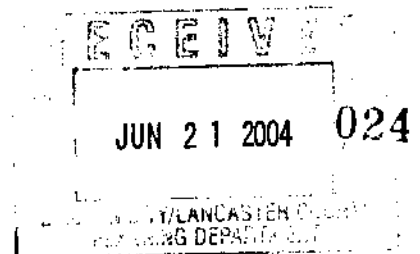
Sincerely,

**ROSS ENGINEERING, INC.**

Gus Ponstingl  
Senior Planner

cc: Chris Kodad,  
Daniel Thompson

145401A 01 (CUP Submittal letter)





## Exhibit A

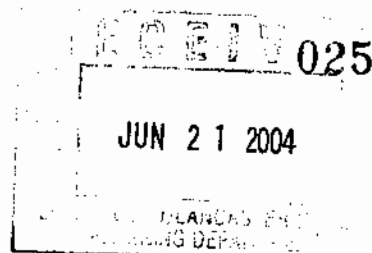
### LEGAL DESCRIPTION

AREA OF LOT 1, INCLUDED FOR ANDREA'S COURT COMMUNITY UNIT PLAN. FOR TOTAL AREA OF ANDREA'S COURT C.U.P., THE AREA IS CALCULATED TO THE CENTERLINE OF SUPERIOR STREET AND N. 40<sup>TH</sup> STREET.

A Legal Description of the Remaining Portion of Lot 1, HANSON-JORDAN ADDITION to the City of Lincoln, location in the Northeast Quarter of Section 7, Township 10 North, Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska and more particularly described by metes and bounds as follows:

Beginning at a found 3/4" Pipe, being the Southeast Corner of the Remaining Portion of Lot 1, HANSON-JORDAN ADDITION to the City of Lincoln or the Northeast Corner of Lot 75 Irregular Tract, all location in the Northeast Quarter of Section 7, Township 10 North, Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska and said point is on the West Right-of-way Line of North 40<sup>th</sup> Street; Thence N 89°43'34" W, (an assumed bearing), and on the South Line of the Remaining Portion of Lot 1 of said Hanson-Jordan Addition or the North Line of Lot 75 Irregular Tract of said Section 7, a distance of 719.18 feet to a found 1" Pipe, being the Point of Non-tangent Curvature; Thence on a curve to the right, and on the South Line of the Remaining Portion of Lot 1 of said Hanson-Jordan Addition or the North Line of Lot 75 Irregular Tract of said Section 7, having a radius of 256.48 feet, an arc length of 111.10 feet and a central angle of 24°49'05", with a chord bearing of N 77°01'27" W, a chord distance of 110.23 feet to a found 1" Pipe, being the Southwest Corner of the Remaining Portion of Lot 1 or the Southeast Corner of Outlot 'A' of said Hanson-Jordan Addition; Thence N37°28'14" E, and on the West Line of the Remaining Portion of Lot 1 or the East Line of Outlot 'A' of said Hanson-Jordan Addition, a distance of 867.79 feet to a Found 1" Pipe, being the Northwest Corner of the Remaining Portion of Lot 1 or the Northeast Corner of Outlot 'A' of said Hanson-Jordan Addition and also said point is on the South Right-of-way Line of Superior Street; Thence N 89°29'57" E, and on the North Line of the Remaining Portion of Lot 1 of said Hanson-Jordan Addition or the South Right-of-way Line of said Superior Street, a distance of 289.73 feet to a found 1" Pipe, being the Point of Non-tangent Curvature; Thence on a curve to the right, and on the Northerly Line of the Remaining Portion of Lot 1 of said Hanson-Jordan Addition or the Southerly Right-of-way Line of said Superior Street, having a radius of 20.00 feet, an arc length of 24.18 feet, and a central angle of 69°15'33", with a chord bearing of S 34°12'59" E, a chord distance of 22.73 feet to a found 1" Pipe, being a point on the West Right-of-way Line of said North 40<sup>th</sup> Street; Thence S 00°18'48" W, and on the East Line of the Remaining Portion of Lot 1 of said Hanson-Jordan Addition or the West Right-of-way Line of said North 40<sup>th</sup> Street, a distance of 700.67 feet to the point of beginning and containing a calculated area of 410,046.25 square feet or 9.413 acres, more or less.

145401A 03 (legal desc. CUP)



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## MEMORANDUM

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**TO:** Planning Commissioners  
**FROM:** Greg Czaplewski, Planning Department  
**SUBJECT:** Andrea's Court  
SP.04035  
**DATE:** July 21, 2004

At the request of the Building and Safety Department, please make the following revisions to the conditions of approval:

Add Condition 5.6 as follows:

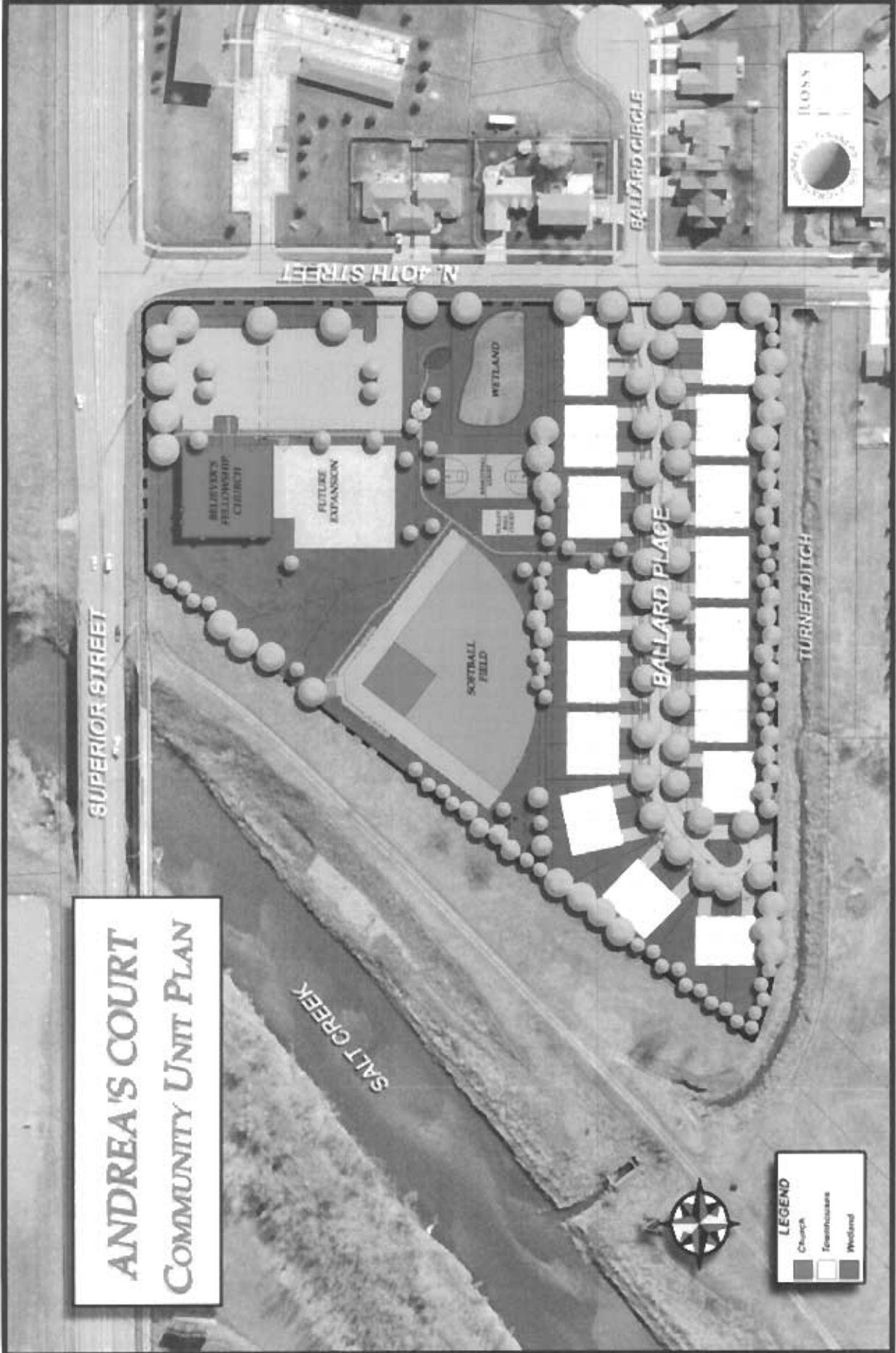
5.6 Obtain a floodplain fill permit from the Building and Safety Department.

Due to a misunderstanding between the Owner, Engineer, and Planning Staff, the report states such permit has been obtained. However, the permit has been applied for, but not yet approved. This change does not affect the staff report in any other way.

Both Applicant and City Staff agree with this revision.

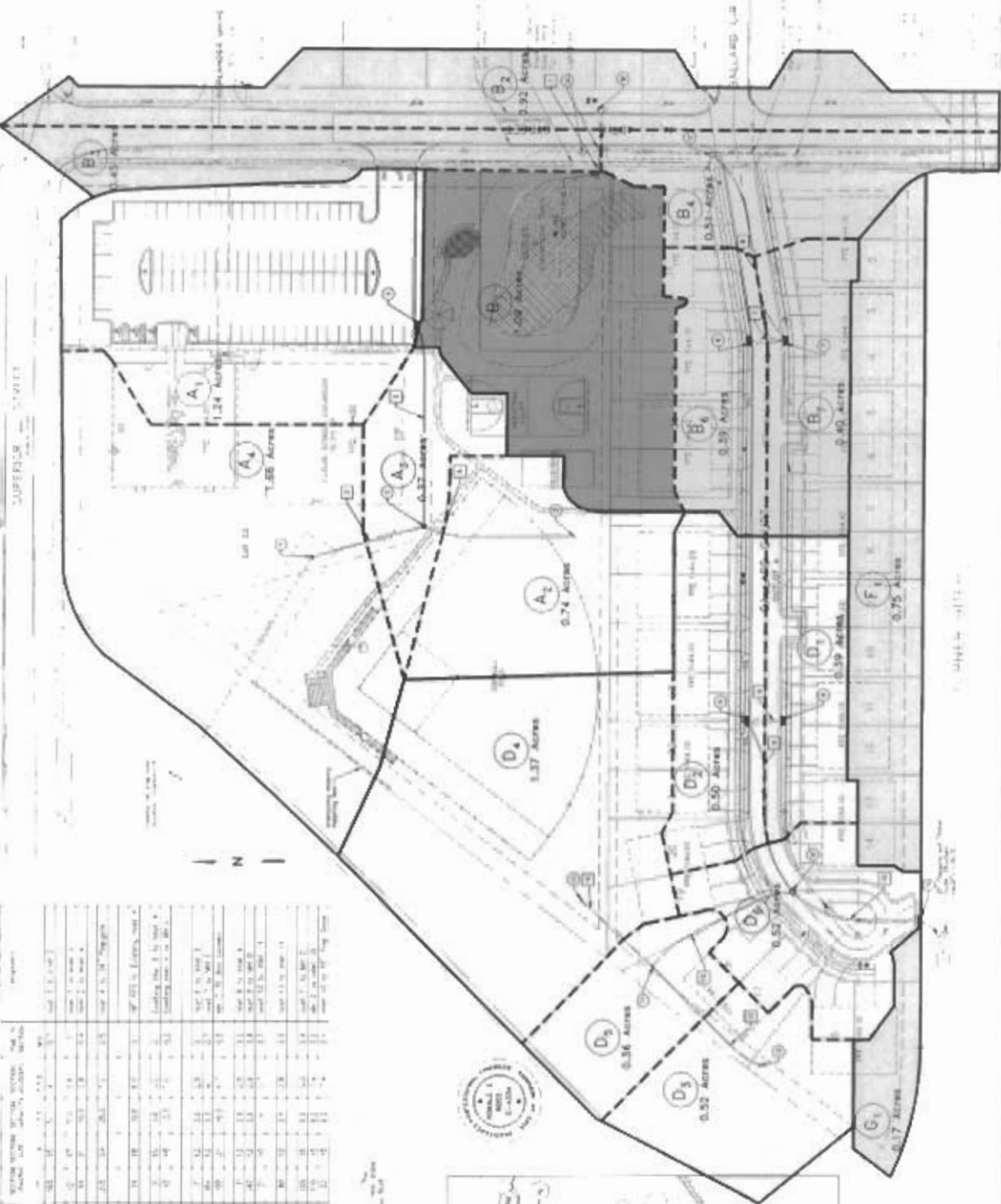
Thank you.

# ANDREA'S COURT COMMUNITY UNIT PLAN



**LEGEND**

	Church
	Townhouses
	Wetland



FEMA MAP CROSS SECTION LOCATIONS  
SHEET NO. 104

**DRAINAGE COMPUTATIONS**

Sub-Area	Area (Acres)	Impervious Area (%)	Runoff Coefficient (C)	Peak Runoff (CFS)	Peak Runoff (MGD)
A1	1.24	100	0.95	1.24	0.0001
A2	0.74	100	0.95	0.74	0.0001
A3	0.37	100	0.95	0.37	0.0001
A4	1.86	100	0.95	1.86	0.0002
B1	0.50	100	0.95	0.50	0.0001
B2	0.92	100	0.95	0.92	0.0001
B3	0.50	100	0.95	0.50	0.0001
B4	0.53	100	0.95	0.53	0.0001
B5	0.50	100	0.95	0.50	0.0001
B6	0.39	100	0.95	0.39	0.0001
B7	0.50	100	0.95	0.50	0.0001
B8	0.50	100	0.95	0.50	0.0001
B9	0.50	100	0.95	0.50	0.0001
B10	0.50	100	0.95	0.50	0.0001
B11	0.50	100	0.95	0.50	0.0001
B12	0.50	100	0.95	0.50	0.0001
B13	0.50	100	0.95	0.50	0.0001
B14	0.50	100	0.95	0.50	0.0001
B15	0.50	100	0.95	0.50	0.0001
B16	0.50	100	0.95	0.50	0.0001
B17	0.50	100	0.95	0.50	0.0001
B18	0.50	100	0.95	0.50	0.0001
B19	0.50	100	0.95	0.50	0.0001
B20	0.50	100	0.95	0.50	0.0001
B21	0.50	100	0.95	0.50	0.0001
B22	0.50	100	0.95	0.50	0.0001
B23	0.50	100	0.95	0.50	0.0001
B24	0.50	100	0.95	0.50	0.0001
B25	0.50	100	0.95	0.50	0.0001
B26	0.50	100	0.95	0.50	0.0001
B27	0.50	100	0.95	0.50	0.0001
B28	0.50	100	0.95	0.50	0.0001
B29	0.50	100	0.95	0.50	0.0001
B30	0.50	100	0.95	0.50	0.0001
B31	0.50	100	0.95	0.50	0.0001
B32	0.50	100	0.95	0.50	0.0001
B33	0.50	100	0.95	0.50	0.0001
B34	0.50	100	0.95	0.50	0.0001
B35	0.50	100	0.95	0.50	0.0001
B36	0.50	100	0.95	0.50	0.0001
B37	0.50	100	0.95	0.50	0.0001
B38	0.50	100	0.95	0.50	0.0001
B39	0.50	100	0.95	0.50	0.0001
B40	0.50	100	0.95	0.50	0.0001
B41	0.50	100	0.95	0.50	0.0001
B42	0.50	100	0.95	0.50	0.0001
B43	0.50	100	0.95	0.50	0.0001
B44	0.50	100	0.95	0.50	0.0001
B45	0.50	100	0.95	0.50	0.0001
B46	0.50	100	0.95	0.50	0.0001
B47	0.50	100	0.95	0.50	0.0001
B48	0.50	100	0.95	0.50	0.0001
B49	0.50	100	0.95	0.50	0.0001
B50	0.50	100	0.95	0.50	0.0001
B51	0.50	100	0.95	0.50	0.0001
B52	0.50	100	0.95	0.50	0.0001
B53	0.50	100	0.95	0.50	0.0001
B54	0.50	100	0.95	0.50	0.0001
B55	0.50	100	0.95	0.50	0.0001
B56	0.50	100	0.95	0.50	0.0001
B57	0.50	100	0.95	0.50	0.0001
B58	0.50	100	0.95	0.50	0.0001
B59	0.50	100	0.95	0.50	0.0001
B60	0.50	100	0.95	0.50	0.0001
B61	0.50	100	0.95	0.50	0.0001
B62	0.50	100	0.95	0.50	0.0001
B63	0.50	100	0.95	0.50	0.0001
B64	0.50	100	0.95	0.50	0.0001
B65	0.50	100	0.95	0.50	0.0001
B66	0.50	100	0.95	0.50	0.0001
B67	0.50	100	0.95	0.50	0.0001
B68	0.50	100	0.95	0.50	0.0001
B69	0.50	100	0.95	0.50	0.0001
B70	0.50	100	0.95	0.50	0.0001
B71	0.50	100	0.95	0.50	0.0001
B72	0.50	100	0.95	0.50	0.0001
B73	0.50	100	0.95	0.50	0.0001
B74	0.50	100	0.95	0.50	0.0001
B75	0.50	100	0.95	0.50	0.0001
B76	0.50	100	0.95	0.50	0.0001
B77	0.50	100	0.95	0.50	0.0001
B78	0.50	100	0.95	0.50	0.0001
B79	0.50	100	0.95	0.50	0.0001
B80	0.50	100	0.95	0.50	0.0001
B81	0.50	100	0.95	0.50	0.0001
B82	0.50	100	0.95	0.50	0.0001
B83	0.50	100	0.95	0.50	0.0001
B84	0.50	100	0.95	0.50	0.0001
B85	0.50	100	0.95	0.50	0.0001
B86	0.50	100	0.95	0.50	0.0001
B87	0.50	100	0.95	0.50	0.0001
B88	0.50	100	0.95	0.50	0.0001
B89	0.50	100	0.95	0.50	0.0001
B90	0.50	100	0.95	0.50	0.0001
B91	0.50	100	0.95	0.50	0.0001
B92	0.50	100	0.95	0.50	0.0001
B93	0.50	100	0.95	0.50	0.0001
B94	0.50	100	0.95	0.50	0.0001
B95	0.50	100	0.95	0.50	0.0001
B96	0.50	100	0.95	0.50	0.0001
B97	0.50	100	0.95	0.50	0.0001
B98	0.50	100	0.95	0.50	0.0001
B99	0.50	100	0.95	0.50	0.0001
B100	0.50	100	0.95	0.50	0.0001
C1	1.57	100	0.95	1.57	0.0002
D1	0.50	100	0.95	0.50	0.0001
D2	0.50	100	0.95	0.50	0.0001
D3	0.50	100	0.95	0.50	0.0001
D4	0.50	100	0.95	0.50	0.0001
D5	0.50	100	0.95	0.50	0.0001
D6	0.50	100	0.95	0.50	0.0001
D7	0.50	100	0.95	0.50	0.0001
D8	0.50	100	0.95	0.50	0.0001
D9	0.50	100	0.95	0.50	0.0001
D10	0.50	100	0.95	0.50	0.0001
D11	0.50	100	0.95	0.50	0.0001
D12	0.50	100	0.95	0.50	0.0001
D13	0.50	100	0.95	0.50	0.0001
D14	0.50	100	0.95	0.50	0.0001
D15	0.50	100	0.95	0.50	0.0001
D16	0.50	100	0.95	0.50	0.0001
D17	0.50	100	0.95	0.50	0.0001
D18	0.50	100	0.95	0.50	0.0001
D19	0.50	100	0.95	0.50	0.0001
D20	0.50	100	0.95	0.50	0.0001
D21	0.50	100	0.95	0.50	0.0001
D22	0.50	100	0.95	0.50	0.0001
D23	0.50	100	0.95	0.50	0.0001
D24	0.50	100	0.95	0.50	0.0001
D25	0.50	100	0.95	0.50	0.0001
D26	0.50	100	0.95	0.50	0.0001
D27	0.50	100	0.95	0.50	0.0001
D28	0.50	100	0.95	0.50	0.0001
D29	0.50	100	0.95	0.50	0.0001
D30	0.50	100	0.95	0.50	0.0001
D31	0.50	100	0.95	0.50	0.0001
D32	0.50	100	0.95	0.50	0.0001
D33	0.50	100	0.95	0.50	0.0001
D34	0.50	100	0.95	0.50	0.0001
D35	0.50	100	0.95	0.50	0.0001
D36	0.50	100	0.95	0.50	0.0001
D37	0.50	100	0.95	0.50	0.0001
D38	0.50	100	0.95	0.50	0.0001
D39	0.50	100	0.95	0.50	0.0001
D40	0.50	100	0.95	0.50	0.0001
D41	0.50	100	0.95	0.50	0.0001
D42	0.50	100	0.95	0.50	0.0001
D43	0.50	100	0.95	0.50	0.0001
D44	0.50	100	0.95	0.50	0.0001
D45	0.50	100	0.95	0.50	0.0001
D46	0.50	100	0.95	0.50	0.0001
D47	0.50	100	0.95	0.50	0.0001
D48	0.50	100	0.95	0.50	0.0001
D49	0.50	100	0.95	0.50	0.0001
D50	0.50	100	0.95	0.50	0.0001
D51	0.50	100	0.95	0.50	0.0001
D52	0.50	100	0.95	0.50	0.0001
D53	0.50	100	0.95	0.50	0.0001
D54	0.50	100	0.95	0.50	0.0001
D55	0.50	100	0.95	0.50	0.0001
D56	0.50	100	0.95	0.50	0.0001
D57	0.50	100	0.95	0.50	0.0001
D58	0.50	100	0.95	0.50	0.0001
D59	0.50	100	0.95	0.50	0.0001
D60	0.50	100	0.95	0.50	0.0001
D61	0.50	100	0.95	0.50	0.0001
D62	0.50	100	0.95	0.50	0.0001
D63	0.50	100	0.95	0.50	0.0001
D64	0.50	100	0.95	0.50	0.0001
D65	0.50	100	0.95	0.50	0.0001
D66	0.50	100	0.95	0.50	0.0001
D67	0.50	100	0.95	0.50	0.0001
D68	0.50	100	0.95	0.50	0.0001
D69	0.50	100	0.95	0.50	0.0001
D70	0.50	100	0.95	0.50	0.0001
D71	0.50	100	0.95	0.50	0.0001
D72	0.50	100	0.95	0.50	0.0001
D73	0.50	100	0.95	0.50	0.0001
D74	0.50	100	0		

**MEMORANDUM**

**TO:** Members of the Planning Commission  
**FROM:** Tom & Twyla Hansen, 4140 N. 42nd Street Circle, Lincoln, NE  
402/466-5839  
**RE:** Special Permit 04035  
**DATE:** July 20, 2004

First we would like to say we appreciate the comments and stipulations of this Special Permit request as prepared by the planning department. We agree with the sidewalk requirement on both sides of the private street as well as creation of a private sanitary sewer providing it meets city design standards.

We do, however, have concerns:

1. The first is the density and its impact on traffic along 40th Street, and the intersection of 40th and Superior. Although 40th Street is designated as a Collector Street it tends to be used more as an arterial cut-off between Cornhusker Highway and Superior. Speeding is an ongoing problem, and the intersection of 40th and Superior is problematic for left turns from 40th Street.

The additional 32 townhouses with the possibility of 64 additional vehicles, not to mention additional traffic from the sports fields and future church, will likely increase the number and frequency of speeders and traffic accidents at the intersection of 40th and Superior.

*We request a discussion and analysis regarding traffic as part of this Special Permit, since it was only discussed briefly in the document.*

2. While we appreciate the effort of this Special Permit request to make efficient use of available land for affordable housing through increased density, we question the conditional approval of waivers for the front and back yard setbacks for six of the 32 lots (20%) in such close proximity to single-family dwellings to this area's south. These waivers, if approved, will set a bad precedent for future development proposals, especially in a 100-year flood plain where additional soil fill is required.

*In this context, we request that the front and back yard setback waivers be denied for this Special Permit.*

3. Another concern is effect of pollution on the wetlands because of pesticide and fertilizer runoff from the nearby yards and sports fields, as well as runoff from the street. These issues are addressed in the discussion but will probably require on-going monitoring. Condition 1.1.13 may satisfy this, but it's unclear.

*We request that wetland monitoring plans be made in writing as a condition for the Special Permit.*

4. Item #17 says the "a concrete-type outlet structure may need to be used..." This wording is vague. Condition 1.1.15 addresses the issue but provides no guidance.

*We request a detailed explanation and description of the concrete outlet structure in writing as part of the Special Permit.*

5. There is no mention in this Special Permit request as to improvements to Turner's Ditch between 40th Street and Salt Creek. At the present time, it is minimally maintained with steep banks and trees growing down in the water. While we would prefer the entire ditch to still be wild and meandering like it was 32 years ago when we built our house, we are concerned that that stretch of Turner's Ditch is presently narrower than it is to the east of 40<sup>th</sup> Street, and that the flow of storm water to Salt Creek is impeded.

*We request a discussion of improvements to Turners Ditch between 40<sup>th</sup> Street and Salt Creek be made part of this Special Permit.*

6. Our last concern is more general in nature. Having lived near the Special Permit request area since 1966, we have witnessed the increase of the 100-year flood plain—as designated by FEMA (Federal Emergency Management Agency)—in this area because of Lincoln's current policy on flood-plain development. This Special Permit request is yet another example of inadequate restrictions on flood plain development. The water that 36,555 cubic yards of fill will displace will need to go somewhere, very possibly into nearby homes. We believe this is a poor planning practice, besides clearly being wrong.

Wrong, too, is the additional financial burden placed on present homeowners by the cost of flood insurance. When we built our house 32 years ago, our property wasn't included in the 100-year flood plain. Ten years ago, the edge of our property was added to the flood plain, but not any portion of our house. Last year, part of our house was included in the flood plain, including the entire basement. Estimate for flood insurance on our property (value \$155,000) would be approximately \$1,400/year (\$116/month). This is one of the hidden and unfair costs of flood plain development directly related to present planning practices. Suddenly, the affordability of housing is in question, for this Special Permit area and present homeowners in the 100-year flood plain.

Recently, the City Council adopted a 'No Net Rise' standard for the 3-mile area outside Lincoln city limits, requiring a hydraulic study to show no rise greater than 0.05' in the 100-year floodplain (outside the floodway) or flood-prone areas.

*We strongly urge the Planning Commission and the City Council to take a stand—one that makes common sense for the common good—by adopting the same flood-plain regulations for development within the city limits that were recently adopted for the three mile jurisdiction area.*

Thank you for considering our concerns on this Special Permit request.

104 Signed letters

To: Lincoln City Planning Commission  
Mary F Bills-Strand                      Jon Carlson                      Eugene Carroll  
Gerry Krieser                              Roger Larson                      Dan Marvin  
Melinda Pearson                          Lynn Sunderman                      Tommy Taylor

Subject: Proposed development of Southwest corner of 40<sup>th</sup> & Superior streets

We, the undersigned, residents of the Sunset Acres neighborhood community, hereby declare and register our opposition to the proposed development of the 32 multi-family dwelling units on the property of the southwest corner of 40<sup>th</sup> & Superior streets, for the reason(s) stated below.

- 1) Insufficient time, prior to your review of the proposed development project, has been given to the residents of the surrounding Sunset Acres neighborhood for a thorough and comprehensive review and possible opposition to, or rebuttal of, the project.
- 2) Possible inadequate capacity of existing sewer drainage/flow to handle the additional demands of the proposed 32 units.
- 3) Considerable safety concerns due to the increased traffic flow on 40<sup>th</sup> Street, 44<sup>th</sup> Street and connecting residential streets (Turner Street and Colfax Avenue).
- 4) Waivers of the City of Lincoln required standards and codes to allow this project to go forth... a) required setback measurements, b) required minimum lot sizes, c) required cul-de-sac geometry, d) \_\_\_\_\_, e) \_\_\_\_\_
- 5) Possible faulty calculations to determine density levels for the proposed 32 units.
- 6) Deterioration / elimination of existing wetlands property.
- 7) Creation of an environment detrimental to the existing single family neighborhood, leading to a decrease in property valuations.
- 8) Possible flooding of existing properties due to the proposed method to handle storm water run-off / drainage.

Thank you for giving thought to our concerns for this major proposed development that may/will have adverse effects on our neighborhood.

Name	Address	Date
GARY & Nancy Smith	4009 TURNER	7-19-04
Nancy & Annick		
KEITH & CANDY FENSTER	4017 TURNER	7-19-04
Candi Fenster		
Stan & Carol Fraas	4025 Turner	7-19-04
Carol Fraas, Stan Fraas		7-19-04
Jona Jacquie Nystrom	4131 Turner	7-19-04
Jacquie Nystrom		
DAVID M. CLARK: Judith A. Clark	4811 Turner St	7-19-04
David M. Clark, Judith A. Clark		
KENNETH D. BARTON	4301 TURNER ST.	07-19-04
Kenneth D. Barton		
Jon & Norma Fleege	4320 Turner St	7-19-04
Jon M. Fleege		
Paul & Wittma Stephens	4220 Turner St	7-19-04
Wittma Stephens		
Roxanne W. Miller		
Roxanne W. Miller	4140 Turner	7-19-04
Mike Dagharty	4130 Turner St	7-19-04
Mike Dagharty		
MIKE & Kay KOZMARCZYK		
Kay Kozmarczyk	4032 Turner	7-19-04
Marcia Beck & Ken Beck		
Marcia Beck	4024 TURNER	7-19-04
Ken & Karen Hughes		
Ken & Karen Hughes		7-19-04
Larry & Pat Siebe		
Larry & Pat Siebe		7/19/04
THOMAS DIEZELIS	4033 TURNER	
Thomas Diezelis		7-19-04
Joe & Teri Sloup	4001 Turner	7-19-04
Just F. Sloup, Teri Sloup, Teri Sloup		7-19-04
Darryl & Tracey Rouse	4100 N 40th	7-20-04
Darryl Rouse		



Name KENNETH FUHRER Address 3740 NO 40 Date 7-19-04

Kenneth Fuhrer

ELIZABETH A. ZIERKE 4021 FREDERICK CR

Elizabeth & Zierke 7-19-04

Tiffany Butcher / Michael Butcher  
William Butcher 4020 Frederick Cr, Lincoln, NE 68504

Dan Darnewood  
Dan Darnewood 4010 Frederick Cir. 466 9650

Lynn Darnewood  
Lynn Darnewood 4010 Frederick Cir Lincoln NE 68504

Wes Hehn 19 JULY 467-1664  
Wes Hehn 4000 Frederick Cir. Lincoln, NE 68504

Ann Garner 19 July 04 467-11044  
Ann Garner 4000 Frederick Circle Lincoln 68504

Beverly Placzek  
Beverly Placzek 4000 Pleasantview Circle Lincoln, NE 68504

Jerry Placzek 4000 Pleasantview Circle Lincoln, NE 68504  
Jerry Placzek

Fred Haas 4011 Pleasantview Circle Lincoln, Ne. 68504  
Fred Haas 7-19-04

Corinne Haas 7-19-04  
Corinne Haas 4011 Pleasantview Circle Lincoln - 68504

KEN WARD  
Ken Ward 4035 N. 40th, LINCOLN, NE 68504

VANG NGUYEN 3718 N. 40th St, Lincoln NE 68504  
Vann Nguyen 07-20-04

PATRICIA KOHL 4110 N. 40th St " " 68504  
Patricia Kohl 464-3977 7-20-04

MARK Dinges 4030 Jersey Cr. 7-20-04  
Mark Dinges 464-0298 Lincoln, Ne. 68504

JOAN SELIX 4000 JERSEY CR. LINCOLN, NE. 68504 7/20/04  
Joan Selix 466-8887

Diane Preusker 4001 Ballard Cr. Lincoln, NE 68504 7/20/04  
Diane Preusker 464-2189

Todd Preusker 4001 Ballard Cr. Lincoln, NE 68504 7/20/04  
Todd Preusker 464-2189

Name	Address	Date
<del>JAMES J. CHAPMAN</del>	<del>3710 N. 40<sup>th</sup> St</del>	<del>7-19-04</del>
<del>James J. Chapman S</del>		
Ruth M. Wendelin	4110 N 42nd St. Circle	7-19-04
<del>Ruth M. Wendelin</del>		
DUANE L Wendelin	4110 N 42 <sup>nd</sup> St Circle	7-19-04
<del>Duane L Wendelin</del>		
Judy Ward	4035 No 40 <sup>th</sup>	7-19-04
<del>Judy A. Ward</del>		
<del>PAT HARDESTY</del>		
<del>Pat Hardesty</del>	3901 N 40 <sup>th</sup>	7-19-04
<del>JANE HARDESTY</del>		
<del>Jane Hardesty</del>	3901 N 40 <sup>th</sup>	7-19-04
Patricia Montgomery	3831 N. 40 <sup>th</sup>	7-19-04
<del>Patricia Montgomery</del>		
Chris E. Montgomery	3831 N. 40th	7-19-04
<del>Chris E. Montgomery</del>		
JOHN J. KNOTT		
<del>John J. Knott</del>	3720 No 40 <sup>th</sup>	7-19-04
Michele F. Knott		
<del>Michele F. Knott</del>	3720 No 40 <sup>th</sup>	7-19-04
Mary L. Sandell		
<del>Mary L. Sandell</del>	3726 N. 40	7-19-04
Judy Sobotta	310 8003	
<del>Judy Sobotta</del>	3724 No. 40 <sup>th</sup>	7-19-04
Mark Murphy	8730 466-4781	
<del>Mark K. Murphy</del>	N 40 <sup>th</sup>	7-19-04
CLIFF COOK	<del>3714</del> 465-4994	
<del>Cliff Cook</del>	3714 No. 40	7-19-04
JANET L. DEAN		
<del>Janet L. Dean</del>	3712 No 40 464-0612	7-19-04
Michael PEJAUG	3708 NO 40 <sup>th</sup>	
<del>Michael C. Evans</del>	466-8087	7-19-04
Jewel Fuhren	3740 N. 40th	
<del>Jewel Fuhren</del>	464-9091	7-19-04

Name LYLE A. O'HARA

Address 3730 N 44

Date 07-19-04

Zylo & O'Plas

DONALD FINK

Donald Fink

3731 N. 44<sup>th</sup> St.

07-19-04

ZENAIDA

Zenaida

3741 N 44<sup>th</sup>

07-19-04

Judith Hedges

Judith Hedges

3800 N. 44<sup>th</sup>

7-19-04

Emma Wood

Emma W Wood

3805 N. 44<sup>th</sup>

7-19-04 (1954)

Lois Fox

Lois Fox

3810 N. 44<sup>th</sup>

7-19-04

LARRY & DONNETTA BECKWELL

Larry Beckwell

Donnetta Beckwell

3815 N 44<sup>th</sup>

7-19-04

LINDA CRAWFORD & LINDA

James D. Crawford

3820 N. 44<sup>th</sup>

7-19-04

3900 N 44<sup>th</sup>

7-19-04

3905 N 44<sup>th</sup>

X Keller

3920 N 44<sup>th</sup>

X Spilken

3930 N 44<sup>th</sup>

WILLIAM D. WARNER

William D. Warner

3900 N 44<sup>th</sup>

7-19-04

Stuehn Gayle

4101 N 44<sup>th</sup>

ELLA ECKSTEIN

Ella Eckstein

3825 No. 44

7-20-04

DAVID STUSAR

3825 N<sup>th</sup> 44<sup>th</sup> St

7/20/04

LARRY DOUTHIT

Larry Douthit

4034 N. 44<sup>th</sup>

7-20-04

Name	Address	Date
Edus Volzke	3900 N. 42nd St.	07/19/04
Douglas Z Volzke		
Betty Volzke		
Betty Volzke	3900 N. 42	7-19-04
Joyce Schriener		
Joyce Schriener	3804 N. 42	7-19-04
Marion Casburn		
Marion C Casburn	3820 N. 42	7-19-04
Roland Casburn		
Roland Casburn	3820 N. 42	7-19-04
Jeppay M. Crowley		
Jeppay M. Crowley	3800 N 42nd	7-19-04
Thom Rood	3821 N. 42	7-19-04
Mike Rood	"	"
Judith Willey	4001 N 42nd	7-19-04
JUDITH E WILLEY		
Robert D. Willey	4001 N 42nd	7-19-04
ROBERT D. WILLEY		
Patsy A. Corner		
Patsy A. CORNER	4111 N. 42nd St Cir	7-19-04
Richard G. Corner		
Rudolf Horn	4111 N 42nd St Circle	"
Karla Tinius		
Karla Tinius	4121 N. 42 St. Cr.	7-19-04
Sally Karel		
Sally Karel	4131 N. 42nd St Circle	7-19-04
Stu Essman		
Stu Essman	4141 N. 42nd Cir.	7-19-04
THOMAS W. HANSEN		
Thomas W. H	4140 N. 42nd Cir	7. 19. 04
Phyllis A. ERICSON		
Phyllis A. ERICSON	4130 No 42nd St Cir	7-19-04
Alfred ERICSON		
Alfred ERICSON	4130 No 42nd St. Circle	7-19-04
Nancy A. Ray		
Nancy A. Ray	4120 No. 42nd St Circle	7-19-04

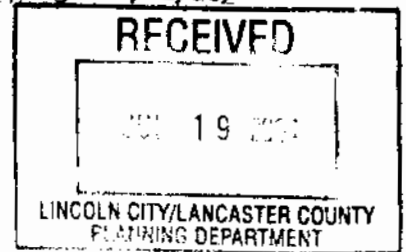
James A. Ray  
James A. Ray 4120 N. 42nd St. Cir. 7-19-04  
John Blecha  
John Blecha 3940 N. 42nd St. Cir. 7-19-04



Name	Address	Date
Dennis & Virginia Keifer	4025 N 40th	7-19-04
Dennis & Virginia Keifer	4025 N 40th	7-19-04
DENNIS & AUDREY JOHNSON	4011 COLFAX	7-19-04
Linda & Audrey Johnson		
Kerene Hasek		
4021 Colfax Ave, Lincoln, NE 68504		7-19-04
Averya Sue Quakenbush		
4020 Colfax Ave Lincoln		7-19-04
Tom & Debra Kaylor		
4135 Colfax Ave Lincoln Ne 68504		
Larry R Elfring 3801 N 42 St Lincoln Ne 68504		
George Keller 4135 Colfax Ave		
Simon L Tester 4145 Colfax Ave.		
Dad Snyger 4209 Colfax Ave		
Jan Bremer 4217 Colfax Ave		
Doug & Phyllis Anderson 4210 Colfax Ave.		

July 15, 2004

Greg Czaplewski, Project Planner  
Planning Department, City of Lincoln  
555 So. 10<sup>th</sup> St.  
Lincoln, NE 68508



Re: Special Permit No. 04035  
N. 40<sup>th</sup> Street & Superior Street

Dear Mr. Czaplewski:

It was good to talk with you yesterday regarding this project. As you suggested I will contact Nicole Fleck-Tooze for information regarding the Cities policy on development in Flood-plains.

We have been expecting the Believers Fellowship to build their church and move into our neighborhood for the last ten years. My wife and I are both active in our church consequently we are sympathetic to their cause. However, two years ago the church proposed a zoning change to develop the north half of their property into a Strip Mall which caused many of us in the area concern for our neighborhood and our property values. After our appearance at the Commission meeting that proposal was not approved by the Planning Commission.

This current proposal involves their request to waive a number of building codes so a developer can construct a maximum number of large townhouses on property that is too small for the proposed development. My wife and I are opposed to any development that does not conform to codes and regulations with which every developer must comply.

Traffic on North 40<sup>th</sup> street has recently increased with the opening of the new high school. Certainly it would increase with the addition of this proposal. Flood plain and wetland issues are a concern for us because of the potential for making our area more flood prone. The proposed development should go through the preliminary plat process and should be required to meet sidewalk and cul-de-sac geometry.

Past events show the Church leadership's desire to maximize profits at the expense of neighborhood values. They still have no time line for construction of their church as mentioned in the attached letter.

Please do the right thing and require this proposed development to meet all the current codes. After our past dealings with this group we are not comfortable with any promises they make that are not required as part of their legal obligations under City codes and regulations.

Sincerely,

Two handwritten signatures in cursive script. The first signature appears to be "Kirk Nelson" and the second is "Sue Nelson".

Kirk and Sue Nelson  
4010 Jersey Circle  
Lincoln, NE 68504  
466-4172





## **BELIEVERS FELLOWSHIP**

Daniel Thompson, Pastor

Mailing Address: P.O. Box 4758 • Lincoln, NE 68504

Church Office: 3336 North 14th Street • Lincoln, NE 68521 • (402) 438-7004

July 10, 2004

Dear Neighbors:

We would like to inform you of the proposed development of the property owned by Believers Fellowship at 40<sup>th</sup> and Superior Streets. The developer, Kris Kodad, would like to put in 32 townhouses on the south end of the property. The development will include a joint venture for a softball field and a basketball and volleyball court. (See attached drawing.) The softball field and basketball and volleyball courts will be made available for use by the neighborhood as well.

Believers Fellowship plans to build on the north side of the property as funds permit. We trust this will be a positive addition to your neighborhood.

If you have any questions, please call:

Dan Thompson, Pastor, Believers Fellowship – 438-7004

Kris Kodad, Developer – 420-9411

Gus Ponstingl, Ross Engineering – 474-7677

Sincerely,

A handwritten signature in cursive script that reads "Dan Thompson". The signature is written in black ink and is followed by a long horizontal line that extends to the right.

Dan Thompson  
Pastor

**Green Development Corp.**  
2231 Calvert Street, Lincoln, NE 68502  
(402) 420-9411

---

July 12, 2004

Dear Neighbors:

I am writing you to inform you of the proposed residential development that my company, Green Development Corp., has for the property at the Southwest corner of North 40<sup>th</sup> & Superior Streets that is currently owned by Believers Fellowship Church. As you may or may not know, the land is already zoned R-3, which means that it is meant for residential units to be constructed there. Our intent is that we would like to put in 32 townhouses on the south end of the property along with a private roadway and lighting. The price for these homes will be in the \$128-135,000 range. They will be two stories, approximately 1600-1650 square feet, and include a patio and two stall garage. The development will be a joint venture with the Church that will include common recreational facilities consisting of a softball field, basketball court and volleyball court. It is my understanding that the Church has also made you aware of this future development and has already sent you a rendering for the future plans. Believers Fellowship plans to build on the north side of the property as their plans progress.

We are set to meet with the Planning Commission on Wednesday afternoon at 1:00 pm, July 21, 2004, at the City County Building. We feel strongly that the Church and townhouse development will not have any negative impact on your property values and will be a plus for the neighborhood.

If you have any questions, please feel free to call me at (402) 420-9411 or you may reach my engineer, Ross Engineering Inc., at (402) 474-7677 or Dan Thompson at Believers Fellowship Church at (402) 438-7004.

Cordially,



Chris Z. Kodad  
President  
Green Development Corp.



Gregory S Czaplewski  
07/19/2004 07:55 AM

To: Jean L Walker/Notes@Notes  
cc: Marvin S Krout/Notes@Notes, Ray F Hill/Notes@Notes  
Subject: Special Permit No 04035

Andrea's Court CUP, 40th and Superior

----- Forwarded by Gregory S Czaplewski/Notes on 07/19/2004 07:56 AM -----



"Pauline Clark"  
<pclark1@neb.rr.com>  
07/18/2004 07:04 AM

To: <gczaplewski@ci.lincoln.ne.us>  
cc:  
Subject: Special Permit No 04035

We appose this permit because of the damage it would cause to the already problems we have with sewage and water control. also the added traffic to our street. 40th. by raising that land to above flood level you would be risking our property to flooding,  
Virginia & Dennis Keifer  
4025 No 40th  
Lincoln NE



"Pauline Clark"  
<pclark1@neb.rr.com>  
07/18/2004 07:08 AM

To: <gczaplewski@ci.lincoln.ne.us>  
cc:  
Subject: one more thing

as far as Special Permit No 04035

This land is a path for the wild life Deer and such That live in the trees next to the creek you would be driving them away from thier homes This should be a wild life park and not more residents. The city is driving all the wild life away.



"Duane and Ruth  
Wendelin"  
<speedw@nebraska.c  
om>

To: <plan@cl.lincoln.ne.us>  
cc:  
Subject: 40th & Superior street development project (application # SP 04035

07/19/2004 02:48 PM

**FILE COPY**

To: Lincoln City Planning Commission

Mary F Bills-Strand    Jon Carlson    Eugene Carroll    Gerry Krieser    Roger Larson  
Dan Marvin    Melinda Pearson    Lynn Sunderman    Tommy Taylor

Subject: Proposed development of Southwest corner of 40<sup>th</sup> & Superior streets - appl # SP 04035

I will not be able to attend the 1 PM Planning Commission meeting on Wednesday, July 21, when your committee is scheduled to review the application for the proposed development project at the corner of 40th & Superior Streets. There will be other residents of the surrounding Sunset Acres neighborhood in attendance, however; I would like to present my thoughts to the planning committee concerning this project.

I did not learn of this proposed project until Thursday evening, July 15, 2004. I think this is in-sufficient notification for residents in the neighborhood to thoroughly review this project to determine what, if any, effect it may have on the surrounding neighborhood.

I am aware that a church has plans to build on this location but it has been many years since they purchased the property and nothing has been done to give me confidence that they will follow through with their intention to build a church on this site.

After reading the proposed project as outlined in application # SP 04035, I am very concerned about the entire proposed project. It appears that there could be several items that require discussion and/or further review prior to continuing this project. I have listed several of my concerns below.

One of the major concerns I have is the effect the 32 townhomes will have on the surrounding neighborhood and the long standing traditional 'family' oriented community. The apartment dwellings on 45th and Tranquility Court and on the southeast corner of 40th & Superior streets has already had an impact on the serenity and peaceful living that existed when I first moved to the neighborhood in 1974, 30 years ago.

Secondly, I believe a study should be done to ensure that the capacity of the existing sewer drainage/flow is adequate to handle the additional demands of the proposed project. There is historical record of problems existing with the current sewer system in the Sunset Acres area between Cornhusker Hiwy and Superior streets and 40th and 44th streets.

I have considerable safety concerns due to the increased traffic flow on 40<sup>th</sup> Street, 44<sup>th</sup> Street and connecting residential streets (Turner Street and Colfax Avenue) as well as the very limited parking that will be available in the townhomes.

These 'collector' streets are already heavily traveled as a result of the growing neighborhood and particularly with the apartment complexes mentioned before.

I am very concerned about the infra-structure costs (both present and future) that may be assumed by tax payers outside of the proposed project area.

It appears to me that the planning review committee has been very lenient in allowing approvals of several required city standards and codes that would allow this project to go forth. Standards and codes were designed to ensure proper infra-structure which I as a private citizen am required to follow if I were to build a home on vacant property.

The project may have an impact on the deterioration and/or elimination of the existing wetlands in the basin area. I

personally, would like to see a feasibility study of the entire north 40th street basin area prior to any further development in the area.

The proposed disposal of storm water drainage/run-off causes concerns of possible flooding to the east and south of the project (Turner ditch). In July of 1994, Turner ditch over-flowed during a heavy rainstorm, causing water to reach my driveway at 4110 N. 42nd Street Circle. I would like to see a study done to ensure that flooding does not occur in the existing neighborhood as a result of the proposed storm water disposal process.

Lastly, I am very concerned about the effect the building of multi-family units, be it townhomes or apartment complexes, will have on the existing single family neighborhood I live in. I chose to move to this area because of the 'family' environment present in the Sunset Acres community, however, with multi-family living units being developed at nearby locations, this 'family' living has begun to erode. I have concerns that multi-family units will have an adverse affect on the property valuations for single family residences in the area.

I am aware that progress and growth must and will come to our neighborhood, however, I feel tax payers/residents living in surrounding or near areas of any development project have the right to be heard when it affects their neighborhood.

Thank you for allowing me to express my concerns, for your consideration, towards the major proposed development that may/will have adverse effects on my neighborhood.

Respectfully,

Duane L Wendelin  
4110 N. 42nd St. Circle  
Lincoln, NE 68504  
ph 466-9143  
email [speedw@inebraska.com](mailto:speedw@inebraska.com)

25 August 2004

City Of Lincoln, City Council Office, City Council Members

Dear Sir or Madam

I am writing this letter to voice my concerns about the development of the Andrea's Court Community Unit Plan . The Special Permit No. 04035 was met with strong opposition during the Lancaster Planning Commission meeting on 21 July 2004. This opposition was voiced by a signed letter by 104 members of the S.A.N.A. (Sunset Acres Neighborhood Association). I believe that the questions raised by those in opposition have not been adequately considered or answered appropriately by County / City Government. My concerns are listed below in priority order.

First:

**FLOODING:**

Lincoln Watershed Management Mission Statement says

"To provide leadership and guidance in watershed management for the City of Lincoln, by utilizing new technology and ecologically-based engineering practices. It is our purpose to encourage sustainable growth by upholding responsible standards that maximize safety, minimize flood damage and conserve natural resources. We value education and proactive management principals to ensure quality of life for future generations."

I currently reside at 4000 North 42 and the west half of my property is in the 100 year flood plain. This neighborhood has had near flooding conditions several times in the past years. If this developer fills this housing area to the minimum of 1 foot above the existing floodplain. for construction I agree with what Jon Carlson Vice Chair of the Planning Commission said during the Planning Commission hearing:

"Townhouses will be protected but this is a classic example of "where does that water go?" You have a flooding situation for the surrounding property owners because there is no requirement that this development do anything to not flood out their neighbors."

Devin Biesecker also spoke during the hearing and stated he was not sure if flood gates on Turner Ditch were even considered during the study of the developement and was not sure how far the water would back up if the flood gates were closed. I feel that Green Development Corp. should not allowed to fill any areas of this 9.4 acre plot until a permit is issued from the Army Corps of Engineers. I also believe the fill/grading of this development is not minimizing potential future flood damage to my property as well as the other properties in the S.A.N.A. This is also in direct conflict with the above mission statement of the Lincoln Watershed Management. How can I be sure this development will not increase the likelihood of flooding on my property?

Second:

**TRAFFIC:**

I have raised a family on North 42<sup>nd</sup> Street and have had the luxury of only having local traffic on our street as it has a cross street (Colfax Ave) on the south end and a culdesac (42<sup>nd</sup> Street Circle) on the north end.. The quiet neighborhood and the reduced traffic were two decision making benefits when I purchased my property in the fall of

1986. Having to use 40<sup>th</sup> or 44<sup>th</sup> street for access to my residence has always been a challenge. The decision of which street to use for access has been magnified over the past few years by the increase in traffic on both of these streets accessing Superior and Cornhusker. We many times use Cornhusker Highway to go east to the 27<sup>th</sup> and Superior shopping area simply because access to westbound Superior from North 40<sup>th</sup> or 44<sup>th</sup> is too dangerous and the traffic is too fast for safe entry westbound.

On 1 March of 2004 I sent an inquiry to Public Works Dept of Lincoln asking if there was a plan for a stoplight at North 40<sup>th</sup> or 44<sup>th</sup> and Superior.- I received an Email from Scott Opfer and it said:

"Mr. Ross,

To answer your first question. There are no plans to install a traffic signal at either 40th or 44th & Superior Streets. Both locations have been evaluated for traffic signal control. We determined that the introduction of a new signal at either of these locations would have an overall negative impact on traffic operations in the area. One of the pieces of criteria we look at is the Crash History. Both locations have only experienced an average of about 1 crash per year for the past 10 years. If signalized and based upon past history, we would expect that number to increase to about 7 crashes per year. Also, if a signal was installed at either of these locations, we would expect the traffic volumes to increase on 40th or 44th Streets, just because we would make it easier for people to access Superior. Both of these residential streets would be negatively impacted by that increased traffic volume."

During the 21 July 2004 Planning Commission hearing Chairman Mary F. Bills-Strand was hopeful the traffic signal issue would be studied again due to all the development at 27<sup>th</sup> and Superior as well as the North Star High School. How does the S.A.N.A. insure that our interests and safety are being considered in the installation of traffic control devices for access to Superior Street from North 40<sup>th</sup> or 44<sup>th</sup> Street?

I believe that traffic levels have increased dramatically in our neighborhood over the past two to five years. When looking at Public Works posted Traffic Average volumes for our area the most current data is 2 years old and outdated. There is reference to a study on Superior Street without any recent data posted. How can we (S.A.N.A.) be sure that our concerns about the increase in traffic volumes with this development are being heard and considered for the safety of our neighborhood?

In summary I personally am not opposed to the development of this specific area or property. However I do want to insure the traffic and safety issues have been properly studied and issues both pro and con, have been discussed and considered by city/county officials. I also am very concerned about future floodplain changes and or watershed management changes due to the displacement of flood waters by this development. Your consideration of the above information will be greatly appreciated. You may contact me with any answers/information reference the above mentioned issues and concerns. Thank You.

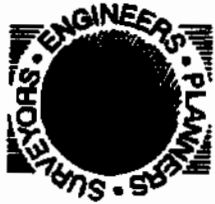
Sincerely

William R Ross  
Cheryl A Ross  
4000 North 42nd St  
Lincoln, Ne. 68504-1216  
402-466-5856



JUL 22 2004 1:47PM RUSS ENGINEERING, INC 4024747678

No. 6114 P. 2/3



**ROSS**  
**E**ngineering,  
**I**nc.

FILED  
JUL 22 2004  
CITY CLERK'S OFFICE

JUL 23 A 10 27

CITY OF LINCOLN  
NEBRASKA

Ms. Joan Ross  
City Clerk  
County-City Building  
555 South 10th Street  
Lincoln, NE 68508

RE: **Appeal of Planning Commission Approval of the Motion to Strike Waivers for Andrea's Court Community Unit Plan N 40th Street and Superior Street REI Project No. 145401B**

Dear Joan:

The Planning Commission approved the item number: 3.1: Special Permit No. 04035, Andrea's Court Community Unit Plan, on property generally located at N. 40th Street and Superior Street, for approximately 32 townhome units and a church, with requests to waive detention/retention storage, the preliminary plat process, cul-de-sac geometry, but without sidewalks, required setbacks, and minimum lot square footage.

We are hereby appealing the Planning Commission Motion to Strike the following waivers:

1. Waiver of Minimum Lot Size.
2. Waiver of Front Yard and Side Yard Setback requirements.

We have worked very closely with City of Lincoln Planning Department Staff to make this project a very appealing and successful development. This development will be a great asset to the neighbors of north Lincoln. Though the neighbors wrote in opposition to the above waivers, none of the neighbors spoke in opposition to the setbacks or the minimum lot size once they heard the testimony of Ron Ross and myself. The neighbors had not had a chance to meet with the developers prior to the Planning Commission. This was a mistake on our part, and it created a lot of unnecessary misunderstanding. The neighbors were more surprised by the late notification of the proposed development, and by the potential to add to existing traffic problems on N 40th Street and N. 44th Street, and the Turner Ditch than by the development itself. We have found the neighbors are generally supportive of the development and the way in which we have approached the site. They are excited that we are offering very nice recreational facilities and they are pleased that this will be residential and not commercial.

The Planning Commission struck the waiver of minimum lot size without any advanced discussion, without alerting the developer or engineer during the Public Hearing, without asking for ramifications of such a vital waiver, without any neighbors present requesting this specifically at the Public Hearing, and without really thinking through the ramifications. The loss of the minimum lot size waiver would cause the reduction of the recreational outlot by over 50-feet to the north, making it impossible to create the softball field. As you can see on the site plan the softball field is at the edge of the 15-foot

The Candy Factory  
201 North 8th Street  
Suite 401  
Lincoln, NE 68508  
Phone 402.474.7678  
Fax 402.474.7678

JUL 22 2004 1:47PM ROSS ENGINEERING, INC 4024747678

No. 8114 P. 3/3



easement at the south outlot-lot line. The wetland will be encroached even more by townhomes. The effect of increasing the lot size also adds to the amount of fill needed. In the interest in maintaining the existing fill amounts, minimizing lot sizes and setbacks works in favor of what the neighborhood stated it wanted during the Public Hearing.

We would like the Planning Commission to be more predictable and open to discussion with its changes to projects. Rather than unilaterally making changes to the requested waivers, we would like them to let the developers and engineers be able to discuss the affects of these changes on the site plan and on the design considerations DURING THE PUBLIC HEARING. The complexity and interconnectedness of design considerations is something Planning Commissioners should understand. Conflicting and appropriate goals, such as minimizing fill in a flood plain, protecting a wetland, avoiding Turner Ditch and allowing enough space for large recreational facilities seems are extremely important to the overall design. We expect Planning Commissioners to understand the effect of changing these constraints. The fact is that the Planning Commission did not ask what the affect of striking the minimum lot size waiver during the public hearing. The City of Lincoln is supposedly providing a stable and predictable environment of design and development. Developments are extremely large investments. The Planning Commission holds the trump card. They make and break projects with their actions. Sometimes this is necessary. But, to strike waivers that the Planning Department has thoroughly reviewed and recommended approval without allowing the engineers to discuss them at the public hearing is something we regret having experienced.

I would also like to add, that the developer and the engineer would agree to strike of the waiver of sidewalks for the south side of Ballard Court. Also, we are in agreement with the condition of adding an additional sidewalk from the patio space near the wetland to N. 40<sup>th</sup> Street. We also have a new floor plan that allows us to reduce the building envelope by 7.5-feet in depth. This will give us the flexibility to position the unit such that the spirit of the setback requirements can be met. We would still like to keep the waiver of front and rear yards setbacks as shown on the plan for design and engineering flexibility, and because the development is enhanced by the additional flexibility. This project is blessed with more open space and recreational fields than any CUP we ever worked on or seen go through the City of Lincoln. The density of this project is so low, that the City should have asked us to provide more. We think this is the perfect project for this site and we think you will agree.

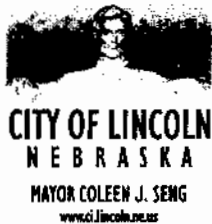
If you need any additional information or have questions, please call me.

Sincerely,  
ROSS ENGINEERING, INC.

August J. Ponstingl  
Senior Land Planner

cc: Dan Thompson, Chris Kodad  
Greg Czaplowski

AJP  
145401L 19 (appeal letter).doc



**PUBLIC WORKS AND  
UTILITIES DEPARTMENT**

**MEMORANDUM**

**Date:** September 2, 2004

**To:** Greg Czaplewski

**From:** Nicole Fleck-Tooze & Devin Biesecker

**Subject:** *Andrea's Court - Turner Ditch Issues*

**cc:** *Allan Abbott, Ben Higgins, Dennis Bartels, Chad Blahak - PW/U  
Rick Peo - Law Dept.  
John Callen - Building & Safety  
Glenn Johnson, Ed Ubben - Lower Platte South NRD  
Ron Ross - Ross Engineering*

---

The Watershed Management Division has **additional comments relating to Condition 1.1.1** of the staff report, regarding the **100-year flow along Turner Ditch**. These comments are submitted following internal discussion with Public Works, Planning, and the Law Department, and subsequent discussion with Ron Ross on September 1.

**Summary of Issue and Information Submitted**

Staff from Engineering Services and from Watershed Management have asked since the initial submittal of this project for **information required by the Subdivision ordinance relating to the elevation and limits of the 100 year storm along Turner Ditch**. This information is particularly important on this site, which presents unique considerations due to the **Salt Creek levee acting as a dam to Turner Ditch during large flood events**. When information was submitted by Ross Engineering on July 20 (one day prior to the Planning Commission meeting), it showed the 100-year flow for Turner Ditch staying within the banks. However, City staff analyzed Turner Ditch and found that the existing 100 year flow was significantly higher and **would overtop the banks to flood adjacent property north and the south of the drainage channel**.

Additional information was submitted by Ross Engineering on August 19 in response to our request to correct for the discrepancy, including revised calculations showing the 100 year flow overtopping the banks of Turner Ditch. However, information was not submitted showing the impacts that the development may cause due to the displacement of floodwaters. **The fact that Turner Ditch overtops its banks during large flood events means that adjacent properties can be impacted by the fill identified with Andrea's Court.**

**Floodplain Regulations**

**This entire subdivision is within the floodplain.** Section 26.24.020, Development of Land within Floodplain, includes the following provisions:

*There shall be no platting or subdivision of land allowed by the city within a floodplain unless the following conditions are met:*

*(a) That... the raising of the ground elevation shall be accomplished in such a manner that the general flow and storage of water is not unduly restricted or limited and will not cause flood hazards to other lands and developments, either within the proposed subdivision or otherwise, and that said protection shall be accomplished without creating the need for significant public expenditures for flood control.*

*(c) Any use approved to be located on land which is in a floodplain shall be approved only after the following factors have been considered and any adverse impacts are mitigated to the satisfaction of the City:*

*(1) The danger to life and property by water which may be backed up or diverted by such obstruction or land use...*

*(4) The ability to construct or later the obstruction in such a manner as to lessen any danger...*

*(8) Any additional conditions adopted by the city to ensure property use of land within the floodplains....*

**Additional Conditions**

**Given the new information regarding flooding along Turner Ditch, Watershed Management recommends that the following conditions be met:**

1. Submit the following information:
  - a. Hydrology calculations to confirm the 100-year flow in Turner Ditch stated in the August 19, 2004 cover letter.
  - b. A more accurate analysis of conditions by entering the 10-year water surface elevation for Salt Creek as a constant tailwater elevation.
  - c. Show the impacts caused by the displacement of floodwaters along Turner Ditch to properties south and also east (upstream) of the proposed development. This should include increased Turner Ditch flood elevations and flood limits.
2. If there are impacts due to obstructions caused by Andrea's Court (which we believe there are), the development should be revised to offset these impacts. One alternative may be upgrading the outlet structure from Turner Ditch to Salt Creek. However, there is no funding identified at this time by the NRD for such an improvement, and thus this

alternative would be at the cost of the subdivider at this time, subject to the approval of the NRD. The same Turner Ditch issue will need to be addressed with the development to the south when it comes forward, and Ron Ross has suggested that a joint solution might be found by looking at the two properties together. Other alternatives include a flowage easement (this may be possible on the undeveloped land), or mitigating for lost flood storage on the Andrea's Court development site. Regardless of how it is resolved, the adverse impacts need to be mitigated per the floodplain standards.

**Floodplain Permit**

It has come to our attention that a floodplain permit application has been submitted to the Building and Safety Department for this development. **It is our recommendation that the floodplain permit not be issued prior to resolving these issues.** The Zoning Ordinance governing the floodplain permit includes a provision that *"Any fill to be deposited in the floodplain must be shown by the applicant not to be a detriment to the general public as well as the surrounding land owners."* It has not been demonstrated to our satisfaction that the fill for Andrea's Court will not be detrimental, especially to surrounding land owners.