

## **FACTSHEET**

**TITLE: CHANGE OF ZONE NO. 2531CC, an amendment to the WILLIAMSBURG VILLAGE PLANNED UNIT DEVELOPMENT**, requested by DaNay Kalkowski on behalf of Jerry and Annette Weber, to adjust the rear yard setback on property located at 3821 Williamsburg Drive.

**STAFF RECOMMENDATION:** Conditional approval.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 09/14/05  
Administrative Action: 09/14/05

**RECOMMENDATION:** Conditional Approval (9-0: Carlson, Carroll, Esseks, Krieser, Larson, Person, Bills-Strand, Sunderman and Taylor voting 'yes').

### **FINDINGS:**

1. The purpose of this application is to adjust the rear yard setback from 27.5' to 20.5' to allow an addition to the existing house at 3821 Williamsburg Drive.
2. The staff recommendation of conditional approval is based upon the "*Analysis*" as set forth on p.5, concluding that approval of this application will allow the applicant to enclose a patio to make an indoor sunroom while retaining a 20.5' setback from the rear property line. The impact of the reduction to the required setback is not significant and should not negatively impact surrounding properties.
3. The applicant's testimony is found on p.7, advising that a building permit was issued for the construction of a sunroom in the exact location of a covered and screened-in patio. Work was stopped when the building inspector discovered that the footings for the sunroom were located within the rear yard setback. The record also consists of a letter in support from the Architectural Review Committee of the Williamsburg Homeowners Association (p.13).
4. There was no testimony in opposition.
5. On September 14, 2005, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend conditional approval, as set forth in the staff report on p.5-6.
6. The 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

**DATE:** September 19, 2005

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

**DATE:** September 19, 2005

**REFERENCE NUMBER:** FS\CC\2005\CZ.2531CC

**LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

**for September 14, 2005 PLANNING COMMISSION MEETING**

**PROJECT #:** Change of Zone #2531CC  
Williamsburg Planned Unit Development (PUD)

**PROPOSAL:** Adjust the rear yard setback from 27.5' to 20.5' to allow an addition to the existing house.

**LOCATION:** 3821 Williamsburg Drive

**CONCLUSION:** If approved, the applicant will be allowed to enclose a patio to make an indoor sunroom while retaining a 20.5' setback from the rear property line. The impact of the reduction to the required setback is not significant and should not negatively impact surrounding properties.

**RECOMMENDATION:**

Waiver: Rear setback from 27.5' to 20.5' Conditional Approval

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lot 1, Block 6, Williamsburg Village Addition

**EXISTING ZONING:** R-3 Residential

**EXISTING LAND USE:** Single-family residence

**SURROUNDING LAND USE AND ZONING:**

North:	Single-family Residential	R-3
South:	Single-family Residential	R-3
East:	Single-family Residential	R-3
West:	Single-family Residential	R-3

**ASSOCIATED APPLICATIONS:**

**HISTORY:**

On **July 9, 2001**, City Council approved Change of Zone #2531BB increasing the amount of commercial floor area from 32,000 to 35,300 square feet for the area located southwest of the intersection of South 34<sup>th</sup> Street and Old Cheney Road.

On **June 21, 1999** City Council approved Change of Zone #2531AA which replaced 26 townhome units with 125 dwelling units for elderly housing, and 60 dwelling units for assisted living on property located between S. 38<sup>th</sup> Street and S. 40<sup>th</sup> Street north of Pine Lake Road.

In **November 1996** City Council approved Change of Zone 2531Z, which approved 26 townhome units on property located between S. 38<sup>th</sup> Street and S. 40<sup>th</sup> Street north of Pine Lake Road.

On **March 11, 1996** City Council approved Change of Zone #2531Y, which approved an 8,300 square foot commercial/retail building on this lot. This application superceded Change of Zone #2531X.

On **August 14, 1995** City Council approved Change of Zone #2531X which approved 32,000 square feet of commercial space located on the southwest corner of S. 34<sup>th</sup> Street and Old Cheney Road.

On **April 3, 1995** City Council approved Change of Zone #2531W which approved an additional 7,460 square feet of floor area to the existing day care center and to increase the number of children who may be provided day care at the center from 110 to 150.

On **April 10, 1995** City Council approved Change of Zone #2531U which approved 300 elderly dwelling units at approximately S. 34<sup>th</sup> Street and Faulkner Drive.

On **September 6, 1994** City Council approved Change of Zone #2531T which approved a pedestrian way easement for a hiker/biker trail near S. 38<sup>th</sup> Street and West Savannah Circle.

On **June 28, 1993** City Council approved Change of Zone #2531S, which approved the realignment of S. 38<sup>th</sup> Street and reduced density from 180 multiple family dwelling units to 48 dwelling units consisting of 24 two-family dwellings. This application was subsequently withdrawn.

On **November 16, 1992** City Council approved Use Permit #58, for a total of 477,200 square feet of commercial space for the commercial area east S. 34<sup>th</sup> Street and south of Old Cheney Road. Use Permit #58C to increase the total commercial area to 671,900 square feet was approved by the City Council on May 1, 1995.

On **September 14, 1992** City Council approved Change of Zone #2531R, which approved 74 single family units, 2 multiple family area and 2 outlots at S. 34<sup>th</sup> Street and Pine Lake Road.

On **July 6, 1992** City Council approved Change of Zone #2688, which changed the zone of the 80 acre commercial area from R-3 PUD to B-2 and O-3 zoning. That conversion did not include Outlot A at 34<sup>th</sup> & Old Cheney Road, which remained zoned R-3 PUD.

On **June 1, 1992** City Council passed Change of Zone #2531Q, which revised approved signage for property located at 3901 Faulkner Drive.

On **September 16, 1991** City Council approved Change of Zone #2531P, which approved a 3-story, 42,500 square foot office building in the corporate office park portion of Williamsburg PUD located at Village Drive and Union Road.

On **March 11, 1991** City Council approved Change of Zone #2531O, which approved a total of 24,000 square feet of office/general commercial buildings on property located at 40<sup>th</sup> Street and Faulkner Drive.

On **March 25, 1991** City Council approved Change of Zone #2531N, which approved the development of 16.44 acres as 10 single family lots and 2 outlots west of S. 34<sup>th</sup> Street north and south of Browning extended.

On **March 4, 1991** City Council approved Change of Zone #2531L, #2531K, and #2531J which approved the development of 90.1 acres for medium density and single family residential dwellings on property located south of Faulkner Drive and southwest of Cape Charles Drive.

On **October 1, 1990** City Council approved Change of Zone #2531I, which approved a 5,000 square foot office building on the southwest corner of Orwell Street and S. 34<sup>th</sup> Street.

On **October 1, 1990** City Council approved Change of Zone #2531H, which approved the development of 18 two-family dwellings on the northwest corner of Orwell Street and S. 34<sup>th</sup> Street.

On **October 1, 1990** City Council approved Change of Zone #2531G, which approved an 18,000 square foot office building south of Old Cheney Road, north of Village Drive.

On **October 1, 1990** City Council approved Change of Zone #2531F, which approved 13,000 square feet of retail/office space; 6,000 square feet of financial, 13,000 square feet of commercial and 6,000 square feet of restaurant on the southwest corner of Old Cheney Road and 40<sup>th</sup> Street.

On **October 1, 1990** City Council approved Change of Zone #2531E, which approved a 7,000 square foot convenience store on the southwest corner of Old Cheney Road and Village Blvd.

On **October 1, 1990** City Council approved Change of Zone #2531D, which approved a 5,000 square foot restaurant located on the southwest corner of Duxhall Drive and S. 40<sup>th</sup> Street.

On **September 24, 1990** City Council approved Change of Zone #2531C, which approved a 6,000 square foot office space and 232 apartment units on the southwest corner of Faulkner Drive and S. 40<sup>th</sup> Street.

On **July 9, 1990** City Council approved Change of Zone #2531B, which approved a 5,000 square foot convenience store and automobile fuel pumps south of Old Cheney Road west of S. 40<sup>th</sup> Street.

On **June 1990** City Council approved Change of Zone #2531A, which approved a 5,000 square foot day care center on the southeast corner of Orwell Street and Old Cheney Road.

On **June 25 1990**, this area was approved in a Preliminary Planned Unit Development as Medium Density Residential with 96 dwelling units. The Preliminary PUD approved 483,200 SF of commercial space. In the original preliminary PUD, Outlot A was shown for 28 dwelling units in duplexes.

This area was changed from "A-1" Single Family to "R-3" Residential during the 1979 zoning update.

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Land Use Map of the Comprehensive Plan designates this area as urban residential.

**ANALYSIS:**

1. This request seeks an adjustment to the rear yard setback from 27.5' to 20.5' to allow the addition of a sunroom onto the existing home located at 3821 Williamsburg Drive. The proposed addition is 12' x 14.5'.
2. This property is located in the R-3 district. The setbacks are as follows: Front - 20'; Side - 5'; and Rear - the smaller of 30' or 20% of the lot depth (in this case 27.5'). While setbacks can be adjusted by City Council as part of the PUD, no setback adjustments for the single-family residential areas were approved for the Williamsburg PUD.
3. While irregularly shaped and appearing to front onto two streets, the lot is actually a typical interior lot. As shown on the attached survey, the lot is adjacent to Outlot C to the north, and as a result is not considered a corner lot. The rear lot line is opposite the lot line adjacent to Williamsburg Drive.
4. If approved, the requested adjustment will allow the existing patio to be enclosed to create an attached sunroom 20.5' from the rear property line. The rear yard of the subject property abuts the rear yard of neighboring lots, and the reduction should not have a significant impact on those neighboring properties.
5. This adjustment only applies to the subject lot, and does not affect other lots within the PUD. All other lots must comply with the applicable requirements of the R-3 district.
6. If this request is denied, the owner can apply for a variance from the Board of Zoning Appeals (BZA) which is authorized to hear such requests. However, before applying to the Board, the owner is required to first exhaust all administrative remedies which includes seeking an amendment to the PUD.

**CONDITIONS OF APPROVAL:**

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
  - 1.1 Revise the site plan to show:
    - 1.1.1 Show the dimension from the setback line to the property line.
2. This approval adjusts the rear setback from 27.5' to 20.5' to allow an addition to the existing house.

General:

3. Before receiving building permits:
  - 3.1 The permittee shall have submitted a revised and reproducible final plan showing the following revisions and the plans are acceptable:
  - 3.2 The construction plans shall comply with the approved plans.
  - 3.3 Final plans shall be approved by the City.

Standard:

4. The following conditions are applicable to all requests:
  - 4.1 Before occupying the addition all development and construction shall have been completed in compliance with the approved plans.
  - 4.2 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.
  - 4.3 This ordinance's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 4.4 The City Clerk shall file a copy of the ordinance approving the permit and the letter of acceptance with the Register of Deeds. The Permittee shall pay the recording fee in advance.
5. The site plan as approved with this ordinance voids and supersedes all previously approved site plans, however all ordinance approving previous permits remain in force unless specifically amended by this ordinance.

Prepared by:

Brian Will  
441-6362, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)  
Planner  
August 31, 2005

**APPLICANT/**

**OWNER:** Jerry and Annette Weber  
3821 Williamsburg Drive  
Lincoln, NE 68516  
(402) 421-1850

**CONTACT:** DaNay Kalkowski  
Seacrest and Kalkowski  
1111 Lincoln Mall  
Lincoln, NE 68508  
(402) 435-6000

**CHANGE OF ZONE NO. 2531CC,  
AN AMENDMENT TO THE  
WILLIAMSBURG VILLAGE PLANNED UNIT DEVELOPMENT**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 14, 2005

Members present: Esseks, Carroll, Taylor, Larson, Sunderman, Person, Krieser, Bills-Strand and Carlson.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Brian Will of Planning staff submitted a letter in support from Tom Hardesty, Chair of Architectural Review Committee of the Williamsburg Village Homeowners Association.

Pearson inquired as to why this is not considered a variance through Board of Zoning Appeals. Will explained that this is the last remedy prior to an application to the Board of Zoning Appeals. It cannot be done administratively because the PUD ordinance gives the City Council authority to make adjustments to the setbacks. If this application were denied by the City Council, then the recourse would be to apply to Board of Zoning Appeals for a variance; however, before being eligible to apply to the Board of Zoning Appeals, all other remedies must be exhausted, and this is one of those other remedies. If the proposed amendment does not meet the setback requirements, the first recourse is to seek an amendment to the PUD or CUP.

Esseks inquired whether the 27.5 ft. setback is specific to this PUD and not part of our general ordinance. Will explained that 27.5 feet is the setback for the zoning district. There were no adjustments to the rear yard setbacks as part of this PUD.

Esseks inquired whether there is any history as to the risk the City takes in allowing this reduction. Will stated that the staff did an inventory and there is a history of similar adjustments to rear and side yard setbacks in both community unit plans and planned unit developments that have been granted by the city under similar circumstances.

Will confirmed that the immediate neighbors were notified of this application and this hearing. All property owners within 200 feet received notice of this public hearing.

Proponents

**1. DaNay Kalkowski** appeared on behalf of **Jerry and Annette Weber**, the owners of Lot 1, Block 6, Williamsburg Addition. The Webers are asking for a reduction in the rear yard setback to allow construction of a sunroom in the exact location where they already have a covered and screened-in patio. The lot is unique with five sides – the house is situated toward Williamsburg Village and access is taken from this lot through an outlot. Driving by, most people would presume that the front yard is the front of the house facing Williamsburg Boulevard, and that the area of the porch would be a side yard. That is not the case. The real frontage is Williamsburg Drive. When the current owners moved into the

home, it included a covered patio which was screened in a few years later. This year they decided to turn the patio area into a sunroom.

Kalkowski went on to explain that the contractor applied for and obtained a building permit for the sunroom to be built in the exact location of the screened-in porch. The issuer considered the sunroom to be located in a side yard. Consequently, the contractor proceeded to tear out the floor, prop up the roof and pour footings for the sunroom walls in accordance with the building permit. When the building inspector inspected the footings, he refused to approve the footings because they were located within the rear yard setback. The Webers are requesting this amendment to permit them to finish the sunroom in an area that, for all intents and purposes, operates like a side yard on this lot. Kalkowski submitted that this amendment does not affect any neighbors. There are mature trees along the back of the yard screening the area from the adjoining neighbors. Staff is recommending approval, and there is a letter in support from the Architectural Review Committee of the Williamsburg Homeowners Association. Kalkowski advised that she also had a phone conversation with one other neighbor who was not opposed.

The address of the property is "Williamsburg Drive". Building & Safety does not have the original building permit that was issued because they only keep them for 10 years.

There was no testimony in opposition.

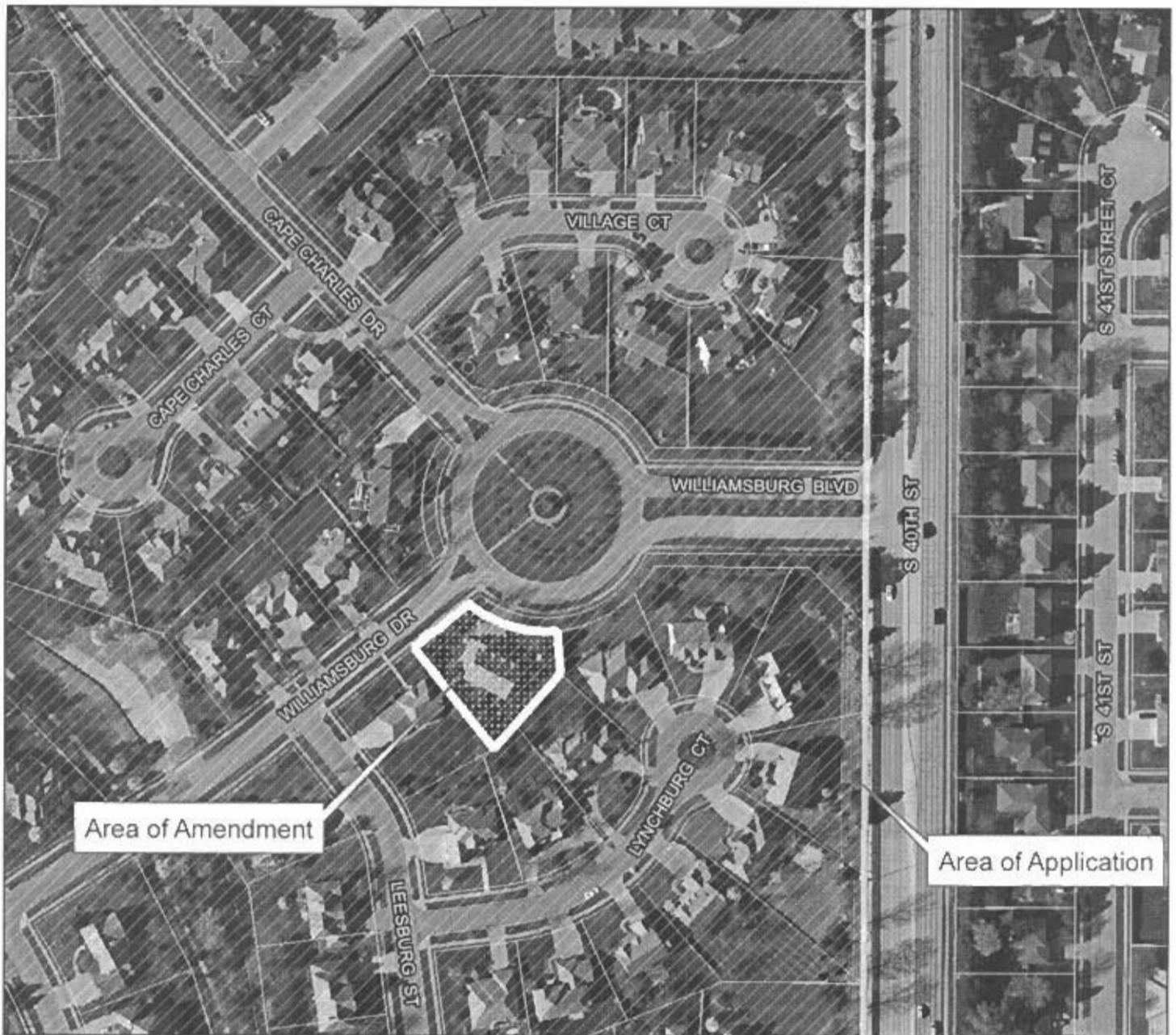
#### Staff questions

Carroll clarified with staff that this application pertains only to the sunroom portion of the house and does not change the yard setbacks for the whole house, e.g. they cannot add to the house by this action. Will confirmed that this setback adjustment is just for what is shown on the site plan for construction of the sunroom.

#### **ACTION BY PLANNING COMMISSION:**

September 14, 2005

Larson moved to approve the staff recommendation of conditional approval, seconded by Bills-Strand and carried 9-0: Esseks, Carroll, Taylor, Larson, Sunderman, Pearson, Krieser, Bills-Strand and Carlson voting 'yes'. This is a recommendation to the City Council.

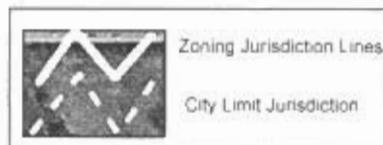


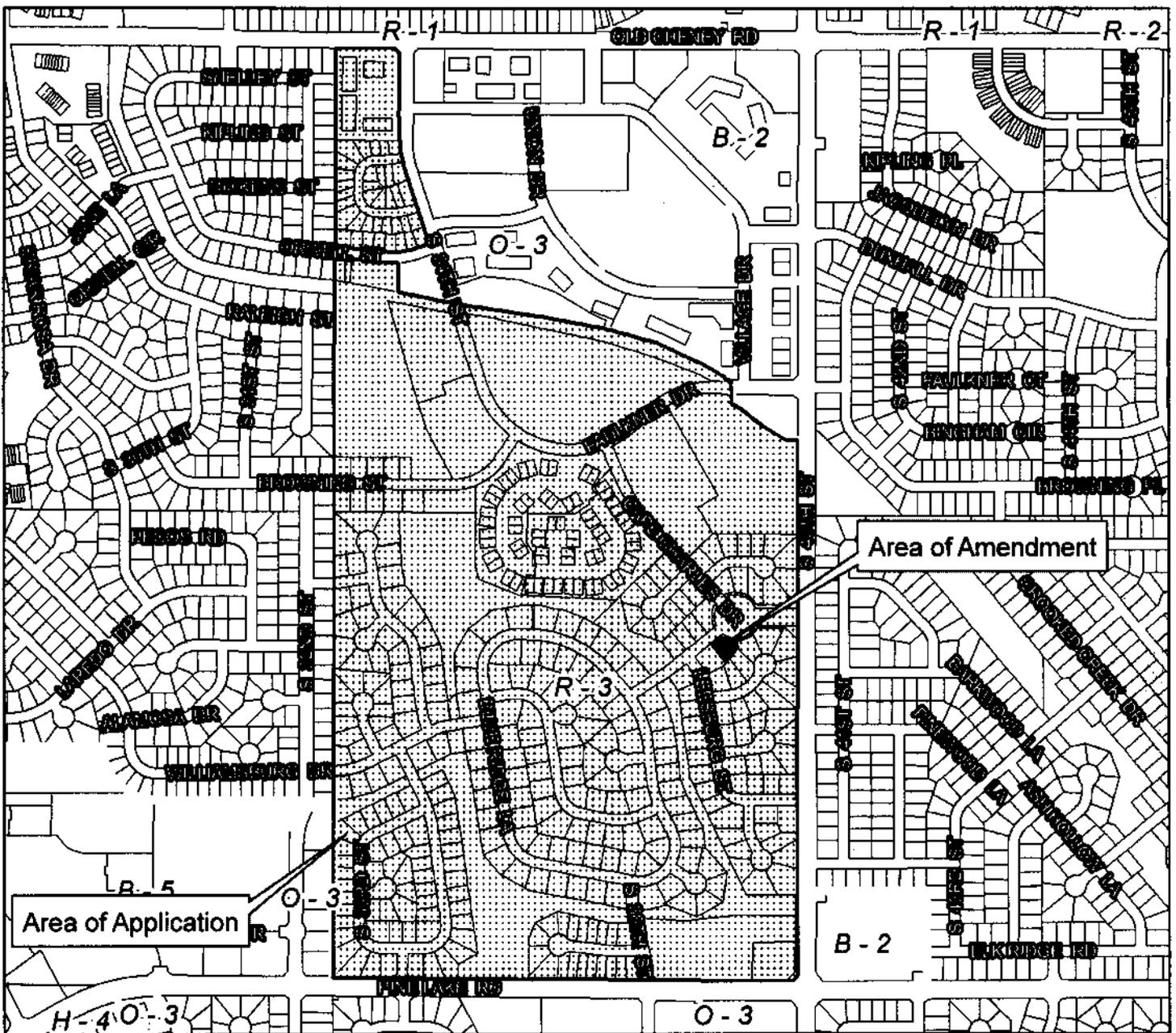
# Change of Zone #2531CC 3821 Williamsburg Drive

## Zoning:

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

One Square Mile  
Sec. 18 T9N R7E



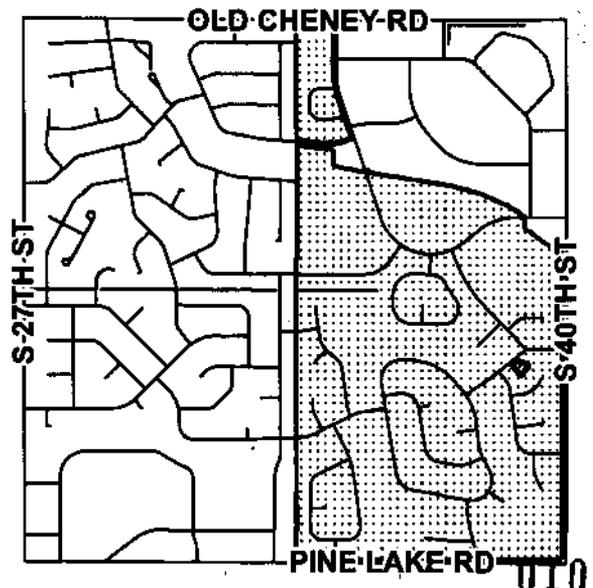
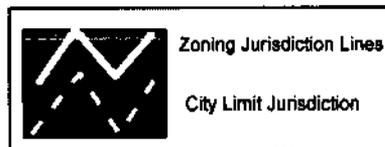


# Change of Zone #2531CC 3821 Williamsburg Drive

## Zoning:

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- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile  
Sec. 18 T9N R7E





# SEACREST & KALKOWSKI, P.C.

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KENT SEACREST  
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DANAY KALKOWSKI  
E-MAIL: danay@sk-law.com

August 25, 2005

## **HAND DELIVERY**

Marvin Krout  
Planning Director  
Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: Waiver to Williamsburg PUD 2531

Dear Marvin:

We represent Jerry and Annette Weber, who are the owners of Lot 1, Block 6, Williamsburg Village Addition, located in the Southeast Quarter of Section 18, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska, more commonly referred to as 3821 Williamsburg Drive.

The Webers are requesting an Amendment to Williamsburg PUD 2531 to permit a reduction in the rear yard setback for Lot 1, Block 6, Williamsburg Village Addition from 27.5' feet to 20.5' feet. This reduction will allow the Webers to reconstruct a sunroom in the same location where they had an existing screened-in porch, and to finish the project for which they were originally issued a Building Permit.

Enclosed please find the Waiver Application, corresponding fee, and site plan showing the reduction requested. If you have any questions regarding the enclosed, please give me a call.

Very truly yours,

  
DANAY KALKOWSKI  
For the Firm

Enclosures

SUPPORT

ITEM NO. 3.1: CHANGE OF ZONE NO. 2531CC  
(p.25 - Public Hearing - 9/14/05)



"TOM HARDESTY"  
<thardesty@wellmanninc.com  
>

09/13/2005 03:04 PM

Please respond to  
<thardesty@wellmanninc.com  
>

To <plan@lincoln.ne.gov>

cc <danay@sk-law.com>

bcc

Subject Change of zone #2531cc

Planning Commission  
9-13-2005

Re: 3821 Williamsburg Dr.  
Weber residence

As Chair of the Architectural Review Committee for the Williamsburg Home Owners Association I would like to inform the Commission that WHOA is in support of this zoning change. I have inspected the property and have reviewed the WHOA restrictive covenants and have found this project to not only be in conformance with the present restrictive covenants but also was in conformance at the time the home was originally constructed. This is based on the direction the home is placed on the lot.  
Thank you for your consideration in this matter.

Sincerely  
Tom Hardesty  
6715 Blue Ridge Lane  
Lincoln Ne. 68516

Chair Architectural Review Committee  
Williamsburg Home owners Association.