

FACTSHEET

TITLE: ANNEXATION NO. 06001, requested by Dubois, LLC, to annex approximately 70 acres, more or less, generally located at South 84th Street and Highway 2.

STAFF RECOMMENDATION: Approval, subject to an Annexation Agreement.

ASSOCIATED REQUESTS: Annexation Agreement (06R-104) and Change of Zone No. 06001 (06-80)

FINDINGS OF FACT:

1. This annexation request and the associated change of zone to R-3 and the Grand Terrace Community Unit Plan were heard at the same time before the Planning Commission.
2. The proposed annexation consists of approximately 70 acres.
3. The staff recommendation to approve the annexation request, subject to an Annexation Agreement, is based upon the "Analysis" as set forth on p.4-5, concluding that the proposal is in conformance with Comprehensive Plan.
4. The minutes of the public hearing before the Planning Commission are found on p.7-13. The applicant's testimony is found on p.7-9, including requests to amend the conditions of approval by adding language to recognize that the Clarendon Hills Road Improvement District has been created to pave certain existing gravel roads to an asphalt county road standard and that the developer of Grand Terrace has agreed to subsidize such road improvements in the amount of \$285,000. The applicant also requested that the annexation agreement include language obligating the City to use its power of eminent domain to acquire the sanitary sewer and water main easement across private property made necessary by the grading changes if the owner is unable to acquire the easement after reasonable efforts. (See p.8 and 18).
5. The testimony by Mike Rierden on behalf of the Clarendon Hills Road Improvement District in support of the proposed additional conditions of approval on the annexation is found on p.9-10, and the Exhibit "A" submitted by Mr. Rierden is found on p.19-21.
6. There was no testimony in opposition; however, the record consists of an e-mail from James and Jennifer Heck requesting that the roads be improved to urban standards pursuant to Comprehensive Plan Amendment No. 04011 (p.22-24).
7. On March 15, 2006, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval, subject to an Annexation Agreement, but deleting Lots 16-20, Block 2, from the annexation request. The Planning Commission did not add the language dealing with the Clarendon Hills Road Improvement District in their motion, at the recommendation of staff, but did recognize that the applicant's willingness to enter into this private agreement with his neighbors was a consideration in their recommendation of approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 03/15/06
Administrative Action: 03/15/06

RECOMMENDATION: Approval of a revised legal description, subject to an Annexation Agreement (8-0: Sunderman, Strand, Esseks, Krieser, Taylor, Larson, Carroll and Carlson voting 'yes').

FACTSHEET PREPARED BY: Jean L. Walker

REVIEWED BY: _____

REFERENCE NUMBER: FS\CC\2006\ANNEX.06001+

DATE: May 15, 2006

DATE: May 15, 2006

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for March 15, 2006 PLANNING COMMISSION MEETING

NOTE: This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for individual applications where appropriate.

PROJECT #: *Annexation #06001 - Grand Terrace*
Change of Zone #06001

PROPOSAL: To annex approximately 70 acres of land and change the zoning from AG to R-3.

LOCATION: South 84th Street and Highway 2.

LAND AREA: Approximately 70 acres.

CONCLUSION: The applicant must enter into an annexation agreement with the City of Lincoln, the terms of which will be mutually acceptable to both the City and the owner. The change of zone to R-3 to allow development at an urban residential density is consistent with a recently approved comprehensive plan amendment for this area, and must be approved for the associated CUP (SP#06001) to be allowed. Subject to the conditions of approval, this request complies with the requirements of the Zoning Ordinance and the Comprehensive Plan.

RECOMMENDATION:

AN#06001
CZ#06001

Conditional Approval
Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 59 I.T. in the NE 1/4 of Section 22, T9N, R7E of the 6th P.M., Lancaster County, Nebraska, more particularly described in the attached legal description.

EXISTING ZONING: AG Agriculture

EXISTING LAND USE: Open space, the land is not developed nor farmed.

SURROUNDING LAND USE AND ZONING:

North:	Acreage Residential, Office (north of Hwy 2)	AGR, O-3
South:	Acreage Residential	AGR
East:	Commercial (under development)	B-5
West:	Acreage Residential	AGR

ASSOCIATED APPLICATIONS:

SP#06001 - A request for a community unit plan for up to 485 dwelling units on approximately 70 acres of land. The associated special permit for a CUP is covered in a separate report for procedural convenience. The applications for the annexation and change of zone must be approved by City Council, where the special permit is final action at Planning Commission. As a result, the annexation and change of zone will be forwarded to City Council separate from the special permit application.

HISTORY:

CPA#04011 - A Comprehensive Plan Amendment approved in June, 2004 to change the land use designation in the Comprehensive Plan on the site of this proposed development from Low Density Residential to Urban Density Residential

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F17 - Overall Form - Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in older neighborhoods, and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods.

Page F18 - Residential Neighborhoods - A range of parks and open space, from tot-lots to ballfields, should be distributed within neighborhoods and be within walking distance of the residents."

Page F23 - This site is designated as urban residential land use in the Land Use Plan.

Page F27 - Urban Growth Tiers - This site is in Tier 1, Priority Area A of the City's Future Service Limit.

Page F28 - The Comprehensive Plan includes three tiers of growth for the City of Lincoln. Tier I reflects the "Future Service Limit," where urban services and inclusion in the city limits are anticipated by 2025. Infrastructure planning, especially for water and sanitary sewer facilities, can reach beyond the 25 year time horizon to 50 years and further. Tier I defines the City of Lincoln's near term growth area – generally a 40 square mile area which could reasonably expect urban services within the next twenty five year period. Land within this area should remain generally in the present use in order to permit future urbanization by the City.

Page F67 - Guiding Principles for New Neighborhoods

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

Page F156 - Subarea Planning - By reference the Southeast Lincoln/Highway 2 Subarea Plan is included in the Comprehensive Plan.

Southeast Lincoln/Highway 2 Subarea Plan:

Page 8 - Designates urban residential land use for this site.

Page 11 - On the southwest corner of 84th and Highway 2, property owned by St. Elizabeth's has been designated as urban residential on the eastern portion. The western portion is designated as low density residential, which could be appropriate for development at a density of two dwelling units per acre if the adjacent road network were paved and urban utilities in place.

UTILITIES: Sewer/Water - Sanitary sewer and water service exist north across Highway 2 in the Pine Lake Plaza office complex now under construction. The plan shows both utilities being extended under Highway 2 and across property beyond the limit of this development to serve it. A water main also exists in South 84th Street.

TOPOGRAPHY: The slope across the site is generally falling north towards Highway 2, with the highest area being at the southwest corner. The area at the southwest corner is in another drainage basin and cannot be connected to the sanitary sewer serving the rest of the development. There is an existing pond on the site as well as delineated wetlands.

TRAFFIC ANALYSIS: The site is surrounded on three sides by residential acreage development with gravel roads. To the east, the site abuts South 84th Street which has recently been improved as a four-lane arterial street. At the northeast corner, the site abuts Highway 2. This development shows four street connections with the adjacent neighborhoods, and also shows a connection to South 84th Street. South 84th Street is divided by a median at this location, and this development will only be provided with right-in, right-out access to South 84th Street. Internally, the development is served by public streets except the townhouse/multiple-family area which is served by a private roadway.

PUBLIC SERVICE: The site will be served by City of Lincoln Fire and Police Departments. The nearest fire stations are at South 84th and South Streets, and at South 48th Street and Claire Avenue.

REGIONAL ISSUES: The site is surrounded by acreage development served by gravel roads. If annexed, this development makes several street connections to the adjacent neighborhoods, and raises the question of whether some or all of the gravel roads in the area should be improved to provide paved access to the development.

In the Fall of 2005, the acreage owners surrounding this site requested and the County Board approved a road improvement district for the purpose of creating an assessment district to potentially pave the gravel streets with asphalt to meet County standards. Eventually, these acreages will be annexed into the city limits. If the surrounding roads are paved after annexation, they must be improved to city standards with concrete paving, curb and gutter. If the streets are asphalt upon annexation, the existing asphalt paving surface would be allowed to remain. The cost to individual property owners in an assessment district is less if the streets are paved with asphalt versus concrete.

ANALYSIS:

1. CPA#04011 was approved in 2005 designating this site for urban residential land uses. The proposed change of zone to R-3 complies with that designation.
2. The associated request for a CUP (SP#06001) is proposing a residential development with the maximum density allowed by the Design Standards for this site, which is 485 dwelling units. The site plan for the CUP shows a layout that accommodates 267 units (183 single-family units and 84 townhouse units). The applicant is seeking to have the maximum number of units approved as part of the CUP to retain the flexibility to develop the townhouse area as apartments.

3. Sewer and water are not adjacent to the site and must be extended from the north across Highway 2 to serve the development. Both utilities are shown crossing land owned by others not involved in this development, and a utility easement must be granted. Public Works notes that the application states the City will use the power of condemnation to acquire the easement. However, condemnation is a decision of City Council not staff, and Public Works only supports condemnation if there is no other satisfactory alignment.
4. A portion of the site is in a different drainage basin and cannot be served by the sewer proposed in the remainder of the development, but must be served by the Beal's Slough trunk sewer. There are currently no funds in the Capital Improvement Program to extend that line to a point where it can serve these lots. Until sewer is available that area cannot be final platted into buildable lots.
5. A phasing plan is included as part of the associated CUP. Public Works noted that the phasing plan should be revised to show which surrounding gravel streets are proposed to be improved with this development. Those street improvements must be agreed upon by the City and the developer and will be made a part of the proposed annexation agreement. A signed agreement is a condition of annexation.
6. Approval of the annexation and change of zone requests are conditions of approval of the CUP.

CONDITIONS OF APPROVAL:

AN#06001

1. The owner will enter into an annexation agreement with the City of Lincoln.

Prepared by

Brian Will
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Planner
February 28, 2006

**APPLICANT/
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**ANNEXATION NO. 06001,
CHANGE OF ZONE NO. 06001,
AND
SPECIAL PERMIT NO. 06001,
GRAND TERRACE COMMUNITY UNIT PLAN**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 15, 2006

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

Staff recommendation: Approval of the annexation, subject to an Annexation Agreement; approval of the change of zone; and conditional approval of the community unit plan.

Ex Parte Communications: None.

Additional information submitted for the record: Brian Will of Planning staff submitted a letter from Jim Heck at 8000 S. 80th Street, who expressed concerns about the development and the surrounding street network.

Proponents

1. Peter Katt appeared on behalf of the applicant/developer. This project has been underway for quite some time. There was a Comprehensive Plan Amendment in 2004 which had changed the land use designation to urban density residential. This developer spent 6-9 months working with the neighbors at that time and has continued to work hard with the neighbors since that time. 84th Street is now open. The acreage developments that surround this site include Portsche Heights, Clarendon Hills and Amber Hills. All of the perimeter roadways are currently in place but they are all gravel. The biggest issue in moving this into an urban designation was dealing with the area road network.

The only condition in the annexation and zoning is an annexation agreement. The developer has not yet had the opportunity to review an agreement draft from the city. Katt did point out, however, that the neighbors came together and formed a Clarendon Hills (road improvement) District. The road standards are proposed to be 8" asphalt and 6" asphalt. This is what the road improvement district plans to do with the off-site roads, and the developer of Grand Terrace has agreed to contribute \$285,000 to the costs of paving all of those off-site roads. Katt requested that the following language be added to the conditions of approval on the annexation:

2. The Annexation Agreement shall provide for and recognize that the off site improvements to the existing gravel roads, i.e. Amber Hill Road, 80th Street, Revere Lane, Portsche Lane, Badger Drive, Boone Trail, 7th Street, Carson Road and Travis Drive are expected to be paved by the Clarendon Hills Road Improvement District ("District") to an asphalt county road standard together with such other improvements as allowed by Neb. Rev. Stat. §39-1610 that may be undertaken by the District. The owner has agreed to subsidize these road improvements in recognition of the benefit accruing

to this project. If the District becomes obligated to construct the improvements, the owner shall be obligated to either deposit \$285,000.00 ("Cash Funds") in an account designated by and payable to the Clarendon Hills Road Improvement District or Applicant will provide, at Applicant's expense, an Irrevocable Letter of Credit in the amount of \$285,000.00 ("Letter of Credit Funds") designating Clarendon Hills Road Improvement District as Beneficiary. The terms and provisions of the Irrevocable Letter of Credit shall be commercially reasonable and otherwise acceptable to the Clarendon Hills Road Improvement District. The Cash Funds or Letter of Credit Funds shall be utilized by the Clarendon Hills Road Improvement District only to subsidize the pavement of the roads described above and as shown on Exhibit "A" which is incorporated by this reference.

This language would require that the off-site roads will be paved by the district at this standard and his client will be obligated to contribute to those costs.

Katt also requested that the following Condition #3 be added to the conditions of approval on the annexation:

3. The Annexation Agreement shall obligate the City of Lincoln to use its power of eminent domain to acquire the sanitary sewer and water main easement across private property made necessary by the grading changes to accommodate the neighborhood's requests. The cost of acquiring the easement shall be at owner's sole cost and expense and shall be acquired by the City only if the owner is unable to do so after reasonable efforts.

This language will recognize the commitment by the city, if necessary, to condemn a sewer and water line easement across the private property. During discussions with the neighbors, the original plan required some extensive grading. The original plan had been to regrade the area and build it up so that all of the water could "come back this way" to connect to the sewer. The neighborhood did not want that grading. The city indicated a willingness for an easement and if necessary, to use eminent domain. When this area further urbanizes, those easements will need to be in place. The language proposed as Condition #3 simply recognizes that if they cannot acquire that easement, the city will acquire it through eminent domain in order to have this area urbanized.

With regard to the community unit plan, Condition #2.1.1.6 requires parkland dedication to the satisfaction of the Parks & Recreation Department. Katt does not believe the developer will have any problem working with Parks; however, the developer does not necessarily agree with Parks taking four prime lots for the location of the park.

Katt requested the following amendments to the community unit plan:

1. Delete Conditions #2.1.1.7, #2.1.1.8 and #2.1.1.9.

These conditions will be met as part of the requirement to administratively amend the townhome area.

2. Delete the following language from Condition #2.1.1.12:

Show the 12" high-pressure gas line, ~~and identify it on the plans with a bold-type font.~~

While there is an obligation to include the gas line easement on the plans, Katt sees no reason to put it in bold.

3. Amend Condition #2.1.1.16 by adding the following language at the end:

Show the required public street paving and grading for Lots 16-20, Block 2, which shall be a county road asphalt paving cross section if paved as a part of the Clarendon Hills Road Improvement District, or a standard urban street cross section if the road has not been paved prior to these lots being final platted.

The question is the road standard. Those lots also drain into a different drainage basin and sanitary sewer. That road will be paved as a part of the improvement district, so the additional language would provide that the road be constructed to city standards if the road has not been paved prior to the lots being final platted.

Larson asked for a further explanation of the road improvement district. Is it a voluntary improvement district? Katt concurred. That district was formed to create a legal entity that has the authority to enter into agreements that would be binding upon everyone in the neighborhood. It has the authority to tax and levy special assessments. The district will pay all of the remaining costs except the \$285,000 being contributed by this applicant.

2. Mike Rierden appeared on behalf of **Clarendon Hills Road Improvement District**, which includes everything with the exception of Lot 56, which is the proposal before the Commission today. Rierden explained the phases of the road improvement district. The first phase, which is the “organizational phase”, has been accomplished. A petition is presented to the County Board by 10% of the property owners. The County Board then sets it for special election. There were sufficient votes to create the district and three trustees were elected. The three trustees make the decisions as far as accepting bids for the road improvements, any other contracts, etc. The next phase is the “pre construction phase” which is where they are now. The trustees need to either vote on a resolution of necessity which says it is necessary to improve the roads within the district, or 60% of the property owners come forward and say they want the improvements done. Rierden believes they have the votes to get that done. Then they go into the “construction financing phase” and the trustees contract with various contractors to get the job done. At the same time, they work out financing terms, with a brokerage house issuing bond anticipation notes which provide the district with the money to pay the contractors as the project moves along. Then we go into the “assessment phase after construction”. A hearing is conducted by the trustees. Most of the districts have taken the position that each lot is assessed equally because they obtain the same benefit from the improvements. Those assessments are voted on by the trustees and then they go to district court for approval of all of the actions of the trustees. The district court approves the issuance of permanent bonds which pay off the bond anticipation notes and provide the final financial paying of the debts of the district.

Rierden suggested that the staff report language might indicate that the standard has not been set yet as far as the paving of this particular district. He submitted copy of a letter from Don Thomas, County Engineer, which makes reference to Lot 59, which is the property in question, and the problems that could come up in the future if this area is platted. Rierden also submitted Exhibit A, which sets forth where the County Engineer is proposing certain areas for 8 inch asphalt and certain areas for 6 inch

asphalt. As far as cost sharing, Rierden agreed with the testimony given by Peter Katt and agreed that the proposed language be added to the annexation agreement conditions of approval. The only question he has is the language "commercially acceptable". The district would prefer the cash. The district does not want to have to go to a bank or committee. Rierden did not request that the language be changed because he believes they can work it out as the agreement goes forward to the City Council.

The term of the bonds would be nine years, with a lien on all of the properties during that time. When houses are sold it is up to the property owner and the buyer to determine whether the buyer will assume that obligation.

There was no testimony in opposition.

Staff questions

Esseks inquired as to the fiscal implications of the annexation, i.e. page 5 of the staff report on the community unit plan discusses the need for concrete pavement leading to this property and it is noted that the property has no direct access and will be dependent upon other streets leading to it. What's going to happen? If they commit only to asphalt pavement and this area is annexed, will the city be under any obligation to upgrade that pavement? Brian Will of Planning staff stated that he was attempting to indicate that staff has yet to negotiate an annexation agreement with the developer. The requirement for any off-site improvements would be included in the annexation agreement. That annexation agreement has not been negotiated and staff does not know yet whether there are going to be any off-site improvements required. That annexation agreement must be negotiated before these applications move on to the City Council. He also pointed out that there is an access point now to S. 84th Street, so there is a paved access.

Carroll inquired whether the staff is in agreement with the proposed amendments. Does the staff want to obligate the city to use the power of eminent domain? Will explained that the staff cannot obligate the city. It must be a decision by the City Council. Dennis Bartels of Public Works offered that the staff can agree to condemnation but it does no good. The City Council must approve the authority to condemn. It is not a staff decision. The easement is outside of the applicant's ownership, so they would have to negotiate an easement or the City Council has the authority to approve the city purchasing the easements and going through negotiations of condemnation.

Carroll inquired whether the staff is in favor of adding the two conditions to the annexation agreement as requested by the applicant. He thought it more beneficial for the city staff to negotiate the agreement and not let the Planning Commission insert something that may or may not be appropriate. Will suggested that it is probably actually more for the benefit of the developer and the property owners. The staff does not object to inserting the language proposed. It would basically be a statement of an agreement made among the parties.

Carlson believes that the Planning Commission reviews annexations for contiguous nature to the city, availability of services, etc., i.e. more the planning nature. He does not recall when the Planning Commission has been involved in the terms of the agreement. Will concurred that the Planning Commission does not review the terms of the annexation agreement.

Rick Peo, City Law Department, agreed that it is probably not wise to incorporate any conditions of approval regarding the annexation agreement. Those terms need to be negotiated. What is being submitted as conditions are the concept issues to give a comfort level to the acreage owners and the developer that there will be some mechanism to get the water and sewer and the paved roads. He suggested that those concept issues should be deferred until the annexation agreement is negotiated.

Will agreed with the applicant's proposed amendments to the community unit plan.

Response by the Applicant

Katt stated that the biggest issue in getting this approved was incorporating an urban development into an area that had been developed for acreages some time in the past. These neighbors understand that they are going to be surrounded and incorporated into the City but they want to maintain as much as they can of what they have. These roads dramatically change their neighborhood and that is why they want to put in the asphalt roads and that is why this condition is an important issue. He believes that the Planning Commission should include the additional conditions on the annexation because the Planning Commission should weigh in on whether it is an appropriate land use to allow for these off-site roads to be paved to an asphalt county standard. Katt also believes that the neighborhood wants the Planning Commission to weigh in on that standard. Likewise, the sewer is a significant issue. These are important planning issues. The Planning Commission recommendation is not binding on the City Council and it is not binding on staff, but he thinks it would be helpful to the parties as they move forward and negotiate the annexation agreement.

Larson confirmed that the annexation agreement pertains to only Lot 59. Katt agreed. This is a rather unique circumstance and the developer is hopeful to include a third party in the annexation agreement (the road improvement district), but he has not had a chance to discuss this with the City Attorney. He believes it would simplify things to make the road district a third party in the annexation agreement.

Larson inquired as to what percentage of landowners signed onto the road improvement district. Katt did not know how many signed but they had to have 60%. He believes it may be 85% to 90%. This will be an improvement in the neighborhood and the road improvements will be necessary to the extent this is an urban development with more traffic. He believes this is a good model. He does not believe that the city can require one thing of his client in terms of off-street paving costs. But it was the right thing to do to find a way to minimize the impacts of this development in the surrounding neighborhood and his client is willing to contribute \$285,000 to help make this a good project. The projected cost estimate for the paving is \$700,000 or \$800,000 up to \$1.2 million. And with asphalt it kind of depends upon the cost of petroleum products at any given time. In any event, this developer's contribution is significant.

Brian Will approached the Commission and asked for the opportunity to clarify the applicant's proposed amendment to Condition #2.1.1.16. Because those lots in the southwest corner front onto Boone Trail, the Lincoln Municipal Code requires they front onto a street that has been improved. He does not believe the proposed amendment is clear to that effect. Katt explained that this language pertains only to the lots on Boone Trail. The five lots on Boone Trail are in a different drainage basin so they will not be able to be developed or final platted until some other sewer line comes up from the south. When that happens, and assuming that the Clarendon Hills Road District follows through, Boone Trail will be an asphalt road. All of the roads in that neighborhood will be asphalt. It is a neighborhood consistency issue and the language is intended to provide that if this road is paved as an asphalt road,

it will be allowed to remain asphalt when these lots come in and the sewer is there. The language is intended to provide that if the road is paved as asphalt when the lots are ready to final plat, they can continue to use that asphalt road. If it is not paved at all and is gravel at time of final plat, then obviously we need to pave it to city standards at that time.

Esseks commented that there are going to be more developments like this where we have to reconcile the configuration to urban density. Once the sewer capacity is available, he thinks it a bad precedent to allow that section to stay as asphalt. How difficult is it to convert from asphalt to urban standards? Dennis Bartels of Public Works believes the proposed language is the result of comments made in his report. He explained that his concern was that there were no requests to waive the subdivision ordinance requirement that any lot when final platted must have curb and gutter street. This is one that the district has talked about paving as 8 inch asphalt, and it would take some review as to whether storm sewer is needed. The City and County believe the standard lends itself to curb and gutter. It is feasible to have a concrete curb and gutter with asphalt surface. The way the annexation is proposed, this piece is going to be a city street as soon as this annexation is passed because the annexation boundary touches this 300-400 feet of street, so that is a glitch in the paving district because it will be a city street unless the annexation is pulled back away from it. We had asked that the grading and their plat plans be shown to be graded and assumed to be curb and gutter because when fully developed it is not desirable to have six or seven driveways. We like curb and gutter with urban size lots. We don't necessarily object to paving it but we are pointing out that when the sewer is available and it comes time to final plat, the rural section street will be substandard. We object to substandard streets next to urban size lots.

Carroll suggested that the lots on Boone Trail be made an outlot for now and remove that problem. Will suggested that these lots could be excluded from the annexation. That would allow them to come back and ask for that property to be annexed in the future. The Planning Commission could vote to delete Lots 16-20, Block 2, from the annexation.

ANNEXATION NO. 06001

ACTION BY PLANNING COMMISSION:

March 15, 2006

Carroll moved approval, subject to an annexation agreement, excluding Lots 16-20, Block 2, seconded by Esseks.

Carroll noted that the applicant requested that the Planning Commission add some conditions for the annexation agreement. He understands that the neighbors want to get involved with the paving but it is not the Planning Commission's responsibility to make that part of the annexation agreement. He does not want to get in the middle of the annexation negotiations. He will leave that up to the staff and the city. This is a great development and should move forward.

Strand disagreed, believing that the annexation should involve the recognition of the agreement for the road improvements. It is important and she would like to include it as a condition, especially since it has already been agreed upon.

As a compromise to adding the conditions, Esseks suggested that Mr. Rierden and the property owners be commended for developing this road district. It seems to be an important component of the urbanization of these acreage areas, but he wants to follow the advice of the staff that the conditions for the annexation agreement are beyond the responsibility of the Planning Commission. We can individually recommend that this type of road district be encouraged.

Carlson believes it is clear from the testimony that it needs to happen. If there were a problem, the Planning Commission would not recommend annexation. He believes it is clear in the record.

Strand moved to amend to add Condition #2 to the annexation conditions, as requested by the applicant. Motion failed due to lack of a second.

Motion for approval, subject to an annexation agreement, excluding Lots 16-20, Block 2, carried 8-0: Sunderman, Strand, Esseks, Krieser, Taylor, Larson, Carroll and Carlson voting 'yes'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 06001

ACTION BY PLANNING COMMISSION:

March 15, 2006

Carroll moved approval, seconded by Larson and carried 8-0: Sunderman, Strand, Esseks, Krieser, Taylor, Larson, Carroll and Carlson voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 06001

ACTION BY PLANNING COMMISSION:

March 15, 2006

Carroll moved to approve the staff recommendation of conditional approval, with the amendments #1 and #2 requested by the applicant, seconded by Strand and carried 8-0: Sunderman, Strand, Esseks, Krieser, Taylor, Larson, Carroll and Carlson voting 'yes'. This is final action, unless appealed to the City Council.



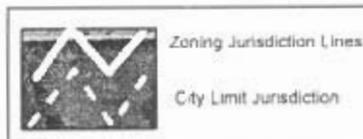
**Annexation #06001, Change of Zone #06001
& Special Permit #06001
Grand Terrace
S. 84th & Highway 2**

2005 aerial

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. 22 T9N R7E



LEGEND



AREA TO BE ANNEXED



Drawn By: NLP
 Dwg.: annex & coz
 Date: 03/20/06
 Job#: 04-005

Grand Terrace - Community Unit Plan ANNEXATION EXHIBIT Lincoln, Nebraska

LEGAL DESCRIPTION

A PORTION OF LOT 59 IRREGULAR TRACT LOCATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF SECTION 22; THENCE N89°47'01"W (ASSUMED BEARING) ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 130.83 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO BEING A POINT ON THE NORTH LINE OF LOT 1, AMBER HILL ESTATES 2ND ADDITION, A SUBDIVISION LOCATED IN THE SOUTHEAST QUARTER OF SAID SECTION 22 AND ALSO A POINT ON THE WEST RIGHT-OF-WAY LINE OF 84TH STREET; THENCE ALONG THE SOUTH LINE OF SAID LOT 59 IRREGULAR TRACT ON THE FOLLOWING DESCRIBED COURSES; THENCE N89°47'29"W, A DISTANCE OF 374.95 FEET; THENCE N89°46'28"W, A DISTANCE OF 505.25 FEET; THENCE N89°46'48"W, A DISTANCE OF 300.14 FEET; THENCE N89°51'01"W, A DISTANCE OF 60.06 FEET; THENCE N89°45'58"W, A DISTANCE OF 294.90 FEET; THENCE N89°45'49"W, A DISTANCE OF 294.97 FEET; THENCE N89°45'19"W, A DISTANCE OF 314.54 FEET TO THE NORTHWEST CORNER OF LOT 1, BLOCK 2, AMBER HILL ESTATES 1ST ADDITION, A SUBDIVISION LOCATED IN SAID SOUTHEAST QUARTER OF SECTION 22, SAID POINT ALSO BEING THE POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF BOONE TRAIL AND THE EAST RIGHT-OF-WAY LINE OF SOUTH 78TH STREET; THENCE N89°48'04"W ALONG SAID NORTH RIGHT-OF-WAY LINE OF BOONE TRAIL, A DISTANCE OF 60.00 FEET; THENCE N00°13'22"E, A DISTANCE OF 123.62 FEET; THENCE N89°46'38"W, A DISTANCE OF 205.28 FEET; THENCE N75°58'46"W, A DISTANCE OF 180.04 FEET TO A POINT ON THE WEST LINE OF SAID LOT 59 IRREGULAR TRACT SAID LINE ALSO BEING THE EAST LINE OF BLOCK 1, CLARENDON HILLS FIRST ADDITION, A SUBDIVISION LOCATED IN THE WEST HALF OF SAID SECTION 22; THENCE ALONG SAID WEST LINE OF LOT 59 IRREGULAR TRACT, SAID LINE ALSO BEING SAID EAST LINE OF BLOCK 1, CLARENDON HILLS FIRST ADDITION, ON THE FOLLOWING DESCRIBED COURSES: THENCE N00°04'24"E, A DISTANCE OF 420.33 FEET; THENCE N00°00'08"W, A DISTANCE OF 245.08 FEET; THENCE N00°01'41"E, A DISTANCE OF 481.52 FEET TO THE NORTHWEST CORNER OF SAID LOT 59 IRREGULAR TRACT, SAID POINT ALSO BEING A POINT ON THE EAST LINE OF LOT 1, SAID BLOCK 1, CLARENDON HILLS FIRST ADDITION; THENCE ALONG THE NORTH LINE OF SAID LOT 59 IRREGULAR TRACT ON THE FOLLOWING DESCRIBED COURSES: THENCE S89°49'12"E, A DISTANCE OF 1538.96 FEET; THENCE S89°50'56"E, A DISTANCE OF 210.68 FEET TO THE POINT OF INTERSECTION OF SAID NORTH LINE OF LOT 59 IRREGULAR TRACT AND THE SOUTH RIGHT-OF-WAY LINE OF NEBRASKA HIGHWAY 2; THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE OF NEBRASKA HIGHWAY 2 ON THE FOLLOWING DESCRIBED COURSES: THENCE S56°57'12"E, A DISTANCE OF 193.02 FEET; THENCE S49°09'10"E, A DISTANCE OF 301.29 FEET; THENCE S53°30'20"E, A DISTANCE OF 300.04 FEET TO THE POINT OF INTERSECTION OF SAID SOUTH RIGHT-OF-WAY LINE OF NEBRASKA HIGHWAY 2 AND SAID WEST RIGHT-OF-WAY LINE OF 84TH STREET; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE OF 84TH STREET ON THE FOLLOWING DESCRIBED COURSES: THENCE S10°15'34"E, A DISTANCE OF 164.12 FEET; THENCE S25°21'05"E, A DISTANCE OF 12.51 FEET; THENCE SOUTHERLY ON A CURVE TO THE LEFT WITH A RADIUS OF 469.95 FEET, A DISTANCE OF 171.83 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS S09°11'29"E, A DISTANCE OF 170.87 FEET; THENCE SOUTHERLY ON A CURVE TO THE LEFT WITH A RADIUS OF 585.00 FEET, A DISTANCE OF 413.96 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS S11°24'17"E, A DISTANCE OF 405.38 FEET; THENCE S31°40'37"E, A DISTANCE OF 115.97 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINS AN AREA OF 2,988,069 SQUARE FEET OR 68.60 ACRES, MORE OR LESS.



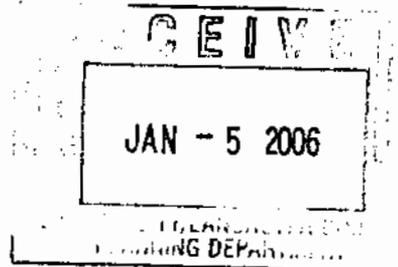


Engineering Design Consultants

2200 Fletcher Ave.
Suite 102
Lincoln, NE 68521
Ph 402-438-4014
Fx 402-438-4026

January 5, 2005

Brian Will
Planning Department
555 s. 10th Street, Suite 213
Lincoln, NE 68508



RE: Grand Terrace
Community Unit Plan
Annexation Request
EDC Job #04-005-25

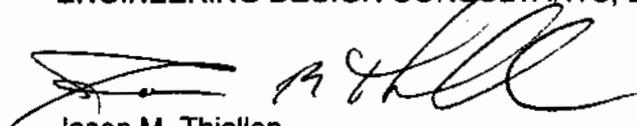
Dear Mr. Brian Will,

On behalf of Engineering Design Consultants client Dubois, L.L.C and in conjunction with the Grand Terrace Community Unit Plan submittal, we hereby request annexation to the corporate limits of the City of Lincoln the property described in the attached exhibit and legal description.

If you have any additional questions or concerns please contact me at 438-4014 or at jthiellen@edc-civil.com.

Sincerely,

ENGINEERING DESIGN CONSULTANTS, L.L.C.


Jason M. Thiellen
Land Planner

Conditions of Approval for AN # 06001, add the following paragraphs:

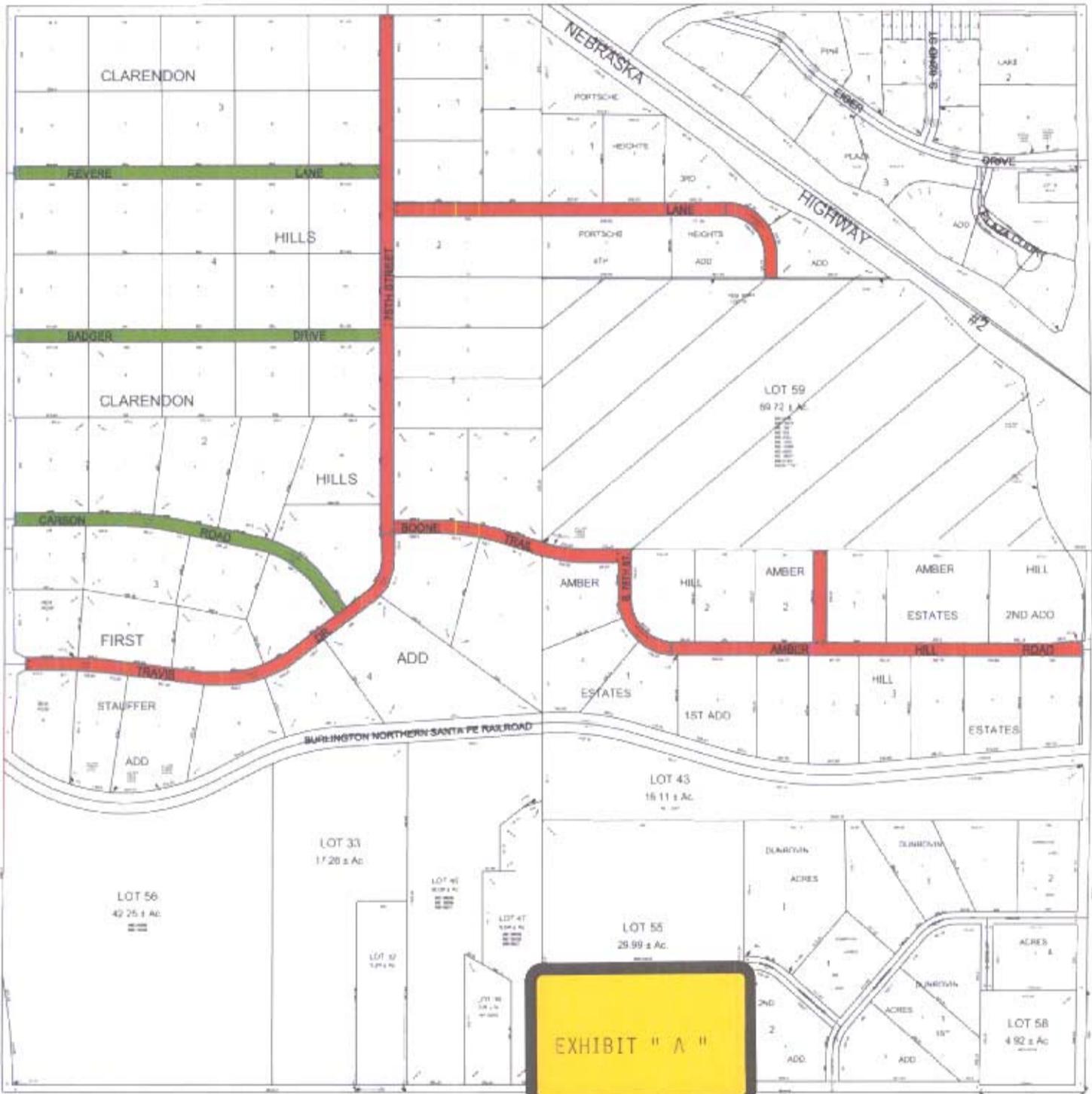
2. The Annexation Agreement shall provide for and recognize that the off site improvements to the existing gravel roads, i.e. Amber Hill Road, 80th Street, Revere Lane, Portsche Lane, Badger Drive, Boone Trail, 75th Street, Carson Road and Travis Drive are expected to be paved by the Clarendon Hills Road Improvement District ("District") to an asphalt county road standard together with such other improvements as allowed by Neb. Rev. Stat. §39-1610 that may be under taken by the District. The owner has agreed to subsidize these road improvements in recognition of the benefit accruing to this project. If the District becomes obligated to construct the improvements, the owner shall be obligated to either deposit \$285,000.00 ("Cash Funds") in an account designated by and payable to the Clarendon Hills Road Improvement District or Applicant will provide, at Applicant's expense, an Irrevocable Letter of Credit in the amount of \$285,000.00 ("Letter of Credit Funds") designating Clarendon Hills Road Improvement District as Beneficiary. The terms and provisions of the Irrevocable Letter of Credit shall be commercially reasonable and otherwise acceptable to the Clarendon Hills Road Improvement District. The Cash Funds or Letter of Credit Funds shall be utilized by the Clarendon Hills Road Improvement District only to subsidize the pavement of the roads described above and as shown on Exhibit "A" which is incorporated by this reference.

3. The Annexation Agreement shall obligate the City of Lincoln to use its power of eminent domain to acquire the sanitary sewer ^{and water main} easement across private property made necessary by the grading changes to accommodate the neighborhood's requests. The cost of acquiring the easement shall be at owner's sole cost and expense and shall be acquired by the City only if the owner is unable to do so after reasonable efforts.

Legend

- 6"
- 8"

SEC.22-T9N-R7E



PENDING

Lancaster

DON R. THOMAS - COUNTY ENGINEER

County

Engineering

DEPUTY - LARRY V. WORRELL
COUNTY SURVEYOR

Department

December 16, 2004

TO: Lancaster County Commissioners

FROM: Don Thomas Don Thomas

SUBJECT: Subdivision paving regulation changes

~~You have received a request to create a special improvement district called Clarendon Hills. The creation of this district causes some concerns about our paving regulations as it applies to rural subdivisions. The regulations (page 23-Sec. 5.01(b) attached) presently calls for six-inch asphalt pavement in subdivisions which chose to exceed the standards and pave their streets when the subdivision density did not require pavement. The concern created by this paving district request is the Comp Plan which provides that Lot 59, which is about 70 acres in size and is surrounded by the proposed paving district, can be developed as urban residential. Lot 59 has no direct arterial access, which means that all the traffic created by this more intense urban development would access through the existing subdivision streets. The paving regulations did not envision this kind of intense traffic and would be considered inadequate to support this traffic. You and I were informed, by the County Attorney, that we have the ability to change the regulations before the February election on the creation of this district.~~

You have directed me to make recommendations on pavement type and thickness for this district and I would offer some information relative to this request. The Clarendon Hills district (which includes Amber Hill Estates and Portsche Heights) are existing subdivisions with gravel streets and an average lot size of about 3+ acres. The regulations, in place at that time and today, do not require paved streets, so the existing regulations are not really applicable. This would raise the questions of whether we need to alter the regulations or simply take action on asphalt pavement type and thickness that would apply to this specific request.

In regards to this specific request, I would have the following recommendations for pavement type, width and thickness. This recommendation is given with the best available information that I can acquire about future arterial changes that could impact ingress and egress from the District. I refer to future four-laning or intersection improvements that could turn Travis, S. 75th Street and Revere Lane into right-in/right-out accesses. If this occurs, then we may be making the wrong choice for those roads that should receive the thicker pavement. The type of asphalt pavement that is

Lancaster County Commissioners
December 16, 2004
Page Two

recommended is specified as Superpave SPL. I have attached a plat that indicates both the roads that should be eight-inch thick and those that should be six-inch thick and all pavement width should be 22 foot.

I would request that we meet at a staff meeting to resolve how to proceed and request that the County Attorney provide some advice on the process.

Please call for a time on a future staff meeting.

DT:/Commissioners/Subdivision paving regulation changes - 12-16-04

cc: Roger Figard
Kristy Mundt

ITEM NO. 3.4a,b,c: ANNEXATION NO. 06001
CHANGE OF ZONE NO. 06001
SPECIAL PERMIT NO. 06001

(p.111. Public Hearing - 3/15/06)



Jean L Walker/Notes
03/14/2006 02:19 PM

To euwc@aol.com, gdkrieser@yahoo.com,
jcarlson@lincoln.ne.gov, jesseks@msn.com, Jean L
Walker/Notes@Notes, Lynn@DuTeau.com,
cc Marvin S Krout/Notes@Notes, Ray F Hill/Notes@Notes,
Brian J Will/Notes@Notes, Stephen S
Henrichsen/Notes@Notes, jthiellen@edc-civil.com

bcc

Subject Grand Terrace: 84th & Hwy 2: Annex.06001, CZ.06001 and
SP.06001

Dear Commissioners:

I apologize. The e-mail I previously sent to you from Jim Heck is actually in reference to the Grand Terrace annexation, change of zone and special permit, Items No. 3.4 a, b and c, on your March 15 Planning Commission Agenda. We will also submit this memo at the beginning of the public hearing as additional information. Sorry for any confusion.

Jean L Walker/Notes

Brian J Will/Notes



Brian J Will/Notes
03/14/2006 09:51 AM

To Ray F Hill/Notes@Notes, Dennis D Bartels/Notes@Notes,
Jean L Walker/Notes@Notes

cc

Subject Fw: St. E's Property

— Forwarded by Brian J Will/Notes on 03/14/2006 09:49 AM —



"Jim Heck"
<jheck@neb.rr.com>
03/13/2006 07:05 PM

To <commish@lancaster.ne.gov>,
<rstevens@lancaster.ne.gov>, <workbob@msn.com>,
<dschorr@lancaster.ne.gov>
cc <bwill@lincoln.ne.gov>

Subject St. E's Property

I live at 8000 South 80th Street and I am very concerned about the road standard requirements to the off sight roads of the Saint E's Tract. All we as residents have to guide us are to attend meetings, (that have been going on for two years) and the Comprehensive Plan Amendment #04011 which clearly states that roads should be upgraded to Urban Standards prior to any development approval being granted. So the developer organizes a voluntary paving district without Amber Hill, knowing that it's about 99% chance they would be included. Then Amber Hill Estates got forced into a Paving District (after every Amber Hill property owner had a chance to sign up for it and no one did) and our important roads that the developer needed help from, got his wish. The numbers game went to Clearenden Hills and Porsche Heights, (together they have 60 plus lots or votes and Amber Hill has 15 lots or votes) along with the power and leverage, left Amber Hill with little or no say in what they do.

So I am soaring high and counting on the County and the City Council to do the right thing and uphold your decision on the unanimous passing vote of the Comprehensive Plan Amendment #04011 that we are 100% supporting. Required Urban Standard prior to approval of this subdivision is a must, they are bringing the traffic.

COMPREHENSIVE PLAN AMENDMENT #04011 High lights

Page 3 Paragraph 5; The Comprehensive Plan recognizes that adverse financial impacts may occur when new developments locate next to established neighborhoods. The policy included in the Comprehensive Plan states that new development should not cause financial burden to surrounding residents, when they are not planning to develop at the same time.

Page 5 Paragraph 2; The Saint E's Tract has no direct access to the arterial street system. The residential street system surrounding the Saint E's Tract consists of county roads. Gravel roads are not appropriate to carry additional traffic created by an urban subdivision. The transportation system should be upgraded to urban standards prior to any development approval being granted. In general manner, urban residential development will increase traffic on adjacent streets, but a network of roads will disperse traffic to a minimize the impact at any one location. There are concerns from neighbors that several intersections with the arterial road system are unsafe--- these include S. 75th street and Pine Lake Road; Pine Lake Road and Highway 2; and along 70th Street.

Page 6 Paragraph 4&5

The development of the Saint E's Tract represents many challenges. The property is located within the Tier 1 growth area and is under pressure to develop at a greater intensity use that currently designated in the Comprehensive Plan. The property is surrounded by acreages, and has no direct access to arterial street system. The residential street system surrounding the Saint E's Tract consist of county gravel roads. Gravel roads are not appropriate to carry additional traffic created by an urban subdivision. The transportation system should be upgraded to urban standards prior to any development approval being granted. Balancing the goals of the Comprehensive

Plan it is possible to mitigate traffic impact, for the Saint E's Tract that would blend new housing with the existing neighborhood.

If approved, urban development located on the Saint E's Tract should be served by multiple access points and include paved roads to an appropriate standard to disperse traffic. Due to the likelihood of surrounding acreages subdividing over the next 25-years, the street system between the arterial road system, acreages and the Saint E's Tract should be paved to an urban standard with curb and gutter. While county asphalt paved roads may serve the area initially, the long term impact of urban traffic on this type of pavement will shorten the life expectancy of the road—causing it to be replaced sooner than expected. This would further financial burden on the City and taxpayers when a new road and storm sewer system would be needed. It is recommended that the "main street routes" serving the Saint E's Tract be paved to urban standards.

Page 8 Future Needs

- As existing acreage developments are surrounded by Urban Development or transition to greater residential densities by subdivision, the upgrading and improvement of Key residential streets, including connections with arterial roads must be completed. Prior to development approval, these areas impacted by annexation or adjacent to new developments should have streets brought up to an acceptable standard to satisfaction of the City of Lincoln Public Works and Utilities Department.

I hope you decide to follow this Amendment as voted on and have the developer follow as well - it's the right thing to do!

Thank You, James & Jennifer Heck

--Jean Walker, Administrative Officer
City-County Planning Department
441-6365