

FACTSHEET

TITLE: ANNEXATION NO. 06010, requested by Mike and Gale Poe, to annex 4.07 acres, more or less, generally located at North 10th Street and Morton Street.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 06/07/06
Administrative Action: 06/07/06

STAFF RECOMMENDATION: Approval

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

FINDINGS OF FACT:

1. This request to annex approximately 4.07 acres, more or less, was heard before the Planning Commission in conjunction with the associated Gale Addition Preliminary Plat No. 06007 to develop 22 residential lots.
2. The staff recommendation to approve the annexation request is based upon the "*Analysis*" as set forth on p.3-4, concluding that the proposed annexation complies with the annexation policy and the 2025 Comprehensive Plan.
3. The minutes of the public hearing before the Planning Commission are found on p.5-7. The applicant requested amendments to the conditions of approval on the associated preliminary plat with regard to the location of the detention cell (See Minutes, p.5-6).
4. There was no testimony in opposition.
5. On June 7, 2006, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval of the annexation request. An annexation agreement is not required because all utilities are available and no additional right-of-way is needed for Morton Street.
6. On June 7, 2006, the Planning Commission also voted 9-0 to adopt Resolution No. PC-01000 approving the associated Gale Addition Preliminary Plat No. 06007, pursuant to the staff recommendation. The Planning Commission did not adopt the amendments requested by the applicant. To date, the preliminary plat has not been appealed.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: June 12, 2006

REVIEWED BY: _____

DATE: June 12, 2006

REFERENCE NUMBER: FS\CC\2006\ANNEX.06010

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for JUNE 7, 2006 PLANNING COMMISSION MEETING

PROJECT #: Annexation #06010

PROPOSAL: Application by Mike & Gale Poe to annex approximately 4 acres.

LOCATION: N. 10th St. and Morton St.

LAND AREA: 4.07 acres, more or less

CONCLUSION: This proposed annexation is voluntary and at the request of the property owner. This request complies with the annexation policy of the 2025 Comprehensive Plan.

<u>RECOMMENDATION:</u>	Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 3, Grove Park, located in the Northeast 1/4 of Section 2, Township 10 Range 6 East, Lancaster County, NE

EXISTING ZONING: R-3 Residential

SURROUNDING LAND USE AND ZONING:

North:	AG-Agricultural	Interstate 80 and single-family homes on acreages
South:	R-1 Residential	Single-family homes on acreages
East:	R-3 Residential	Attached single-family and single-family.
West:	R-3 Residential	Single-family home on an acreage and Interstate 80

EXISTING LAND USE: Open space/undeveloped

COMPREHENSIVE PLAN SPECIFICATIONS:

The Land Use Map of the 2025 Comprehensive Plan identifies the proposed annexation area as Urban residential and is within the future service limits. (F-23)

The provision of municipal services shall coincide with the jurisdictional boundaries of the City—in short, it is not the intent of the City of Lincoln to extend utility services (most notably, but not necessarily limited to, water and sanitary sewer services) beyond the corporate limits of the City. (F-154)

The extension of water and sanitary sewer services shall be predicated upon annexation of the area by the City. City annexations shall occur before any property is provided with water, sanitary sewer, or other potential City services. (F-154)

Annexation generally implies the opportunity to access all City services. Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (e.g. water, sanitary sewer) and may include specific

or general plans for the private financing of improvements to the infrastructure supporting or contributing to the land uses in the annexed area. (F-154,155)

HISTORY:

June 9, 2003 Annexation #03000, Preliminary Plat #02020 and Special Permit #1991, Pinecrest CUP, was approved by the City Council for the land adjacent to the east.

The zoning was changed from A-2, Single-family residential to R-3, Residential in the 1979 zoning update.

ASSOCIATED REQUEST: Preliminary Plat #06007

UTILITIES & SERVICES:

- A. **Sanitary Sewer:** There is an existing 8" sanitary sewer main in N. 10th St. The main will be extended along Morton St. to serve this development.
- B. **Water:** There is an existing 6" water main in Morton St. east of this development which will be extended along Morton St. to serve this development.
- C. **Roads:** Morton St. is a local street with 66' of right-of-way. Currently, Morton St. is a gravel rural cross section road adjacent to the proposed development. Morton St. is paved with curb and gutter from N. 14th St. to the east boundary of this subdivision.
- D. **Parks and Trails:** There are no parks or trails at this location.
- E. **Fire Protection:** Adequate fire protection may be provided.

ANALYSIS:

- 1. This is a request for annexation of 4.07 acres of land northwest of N. 10th St. and Morton St.
- 2. The proposed annexation area is contiguous to the city limits. Pinecrest subdivision is located on the east side of this proposed development.
- 3. The future land use plan identifies this area as urban residential.
- 4. A preliminary plat has been submitted in association with this application. The preliminary plat is for 18 single-family lots and 4 attached single-family lots.
- 5. An annexation agreement is not required for this development. All utilities are available and no additional right-of-way is needed for Morton St.
- 6. Annexation policy:
 - ! Land which is remote from the limits of the City of Lincoln will not be annexed; land which is contiguous and generally urban in character may be annexed; and

land which is engulfed by the City should be annexed.

- ! Annexation generally implies the opportunity to access all City services. Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (i.e., water, sanitary sewer) and may include specific or general plans for the private financing of improvements to the infrastructure supporting or contributing to the land uses in the annexed area.
- ! Plans for the provision of services within the areas considered for annexation should be carefully coordinated with the Capital Improvements Program of the city and the county."

Prepared by:

Tom Cajka
Planner

DATE: May 24, 2006

APPLICANT: Mike & Gale Poe
8701 Roca Rd.
Roca, NE 68430
(402) 792-2266

CONTACT: Lyle Loth
ESP
601 Old Cheney Rd. Suite "A"
Lincoln, NE 68512
(402) 421-2500

ANNEXATION NO. 06010
and
PRELIMINARY PLAT NO. 06007,
GALE ADDITION

PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 7, 2006

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

Ex Parte Communications: None.

These applications were removed from the Consent Agenda and had separate public hearing at the request of the applicant.

Staff presentation: Tom Cajka of Planning staff presented the proposed subdivision consisting of 22 lots generally located at 14th & Morton Streets. It is immediately adjacent and west of the Pinecrest subdivision which is building houses now. The proposed plat consists of 18 single-family lots and 4 attached single-family lots. All of the utilities are available to this subdivision. Morton Street is paved with curb and gutter up to this subdivision and adjacent to it is a gravel rural county road that will be required to be brought to city urban standards. The applicant has requested no waivers on this development. There are two lots (Lots 12 and 13) that abut I-80. Because this is a preliminary plat and not a CUP, the city cannot require the developer to install any type of noise barrier such as berms or sound walls. The only subdivision requirement is that there be screening on the rear of the lots next to the interstate.

Strand wondered whether the Health Department could regulate it if there were violations of the noise ordinance. Cajka suggested that the Health Department would only regulate noise caused from the development. Strand then referred to the Health Department comments, which state that the Health Department advises that the Nebraska Department of Roads I-80 Upgrade Draft Environmental Assessment be consulted relative to the predicted noise contours and possible noise abatement strategies to address interstate noise. Cajka responded, stating that the Health Department can make a recommendation, but it cannot be a requirement of this subdivision.

Carroll inquired whether Lots 12 and 13, which are next to the Interstate, will be walkouts. Dennis Bartels of Public Works advised that there is not enough information to judge how that grading relates to the paving of the interstate. The lots appear to be dropping. Both lots look to be lower than the interstate right-of-way line.

Proponents

1. Matt Langston of ESP appeared on behalf of the applicant and stated that the applicant accepts all conditions of approval, with exception of Condition #1.1.15 and Condition #1.1.16. He requested that Condition #1.1.15 be deleted and that Condition #1.1.16 be modified accordingly. Condition #1.1.15 requires that the detention cell be shown on an outlot. Langston showed on the map where the detention cell is located in the back of two of the attached residential lots. These lots will be retained

by the developer as rental properties. There will be a fence around the detention cell. They wish to locate the detention cell in this manner in order to not lose one lot and make the most out of the development. There are no requirements that the detention cell must be on its own outlot.

Carroll inquired about a homeowners association. Langston advised that there will be a homeowners association and the covenants will provide that the homeowners association will be responsible for the maintenance of the detention cell. The detention cell will abut Morton Street, so he does not believe the maintenance will be a problem. The homeowners association will not own the property on which the detention cell is located, but will be required to maintain the detention cell.

Strand does not understand how a homeowners association can be required to maintain a detention cell on someone else's property, should those lots be sold in the future. Langston again stated that it will be set forth in the covenants that if the lots are ever sold, the homeowners will own the land but the detention cell must be kept in a working and pre-sale state. The detention cell will be located on an easement.

Carlson inquired about the elevation of the development with the interstate. Langston stated that the right-of-way is significantly above the interstate, but then from the right-of-way down into the lots to the southeast it does slope down and the right-of-way creates a natural berm. They have not planned an additional berm because this parcel has five to six dozen pine trees that are 20-30 feet tall. He is guessing that Lots 12 and 13 will have split-level homes. He does not believe they could be walkouts.

There was no testimony in opposition.

Dennis Bartels of Public Works addressed the detention cell condition. Public Works is concerned about the maintenance as well as the safety. There appear to be retaining walls on three sides that are six to seven feet below the area of the lot, taking out the back 25+ feet of those lots, making it potentially unsafe unless it is fenced through the 25' back yard surrounding the detention pond. He believes they are losing the rear 26 feet, but there is nothing in the standards that say it can't happen that way. Public Works is concerned about the retaining walls forming the storage rather than gradual slopes into the pond. Theoretically, they could step into 7-8 feet of water in the pond right outside the back door. Public Works would have less concern if the detention cell were located on an outlot with a fence.

Esseks suggested that if what the developer is requesting is within the law, then maybe the law should be improved.

Carroll confirmed that Lot 1 still becomes a buildable lot with the detention pond. Cajka agreed. From a planning standpoint, one section of the subdivision ordinance talks about creating "desirable lots". Planning does not believe these are "desirable lots" when almost half of the lot is in the easement for a detention cell that is in the rear of the lot.

Cajka stated that staff is also concerned about the maintenance issue in the covenants. The Planning Department gets calls all the time about enforcement of covenants, but the City does not enforce covenants. It is a private issue. In the long run, Cajka could see potential problems with final platting in the future if the lots are sold. Therefore, the preferred solution is to put the detention cell on a separate outlot with the homeowners association maintaining and possibly owning the outlot.

Esseks confirmed that if the staff recommendation is approved, the developer loses one lot. Cajka concurred. They would probably lose one lot, but not two.

Response by the Applicant

Langston suggested that if they do put the detention cell on an outlot, the concerns about the retaining wall and possible depth of the cell would be about the same because the area is pretty equivalent if they turned it and put it on its own lot. They will install a fence around the detention cell.

Esseks wondered whether this ultimately creates a nonconforming lot because that lot would be sold minus the back half. Langston stated that if the lot is sold, it would be sold as an entire lot, including the detention cell. The detention cell will not be its own lot.

Larson does not understand how they could sell a lot that has a detention pool that has a covenant that the homeowners association is maintaining it. Langston stated that it would be a structure and the homeowners association would be required to clear any debris, etc. to maintain the quality of the integrity of the retaining wall.

Strand could agree if those homeowners who have the detention cell are liable for the maintenance, but she cannot agree to make someone else liable for it where they have to have that land to be buildable lots. How are you going to have someone own it but someone else responsible for taking care of it? Langston reiterated that the detention cell would be a structure that belongs to the association, the same as a transmission tower belonging to LES that may be in someone's yard.

ANNEXATION NO. 06010

ACTION BY PLANNING COMMISSION:

June 7, 2006

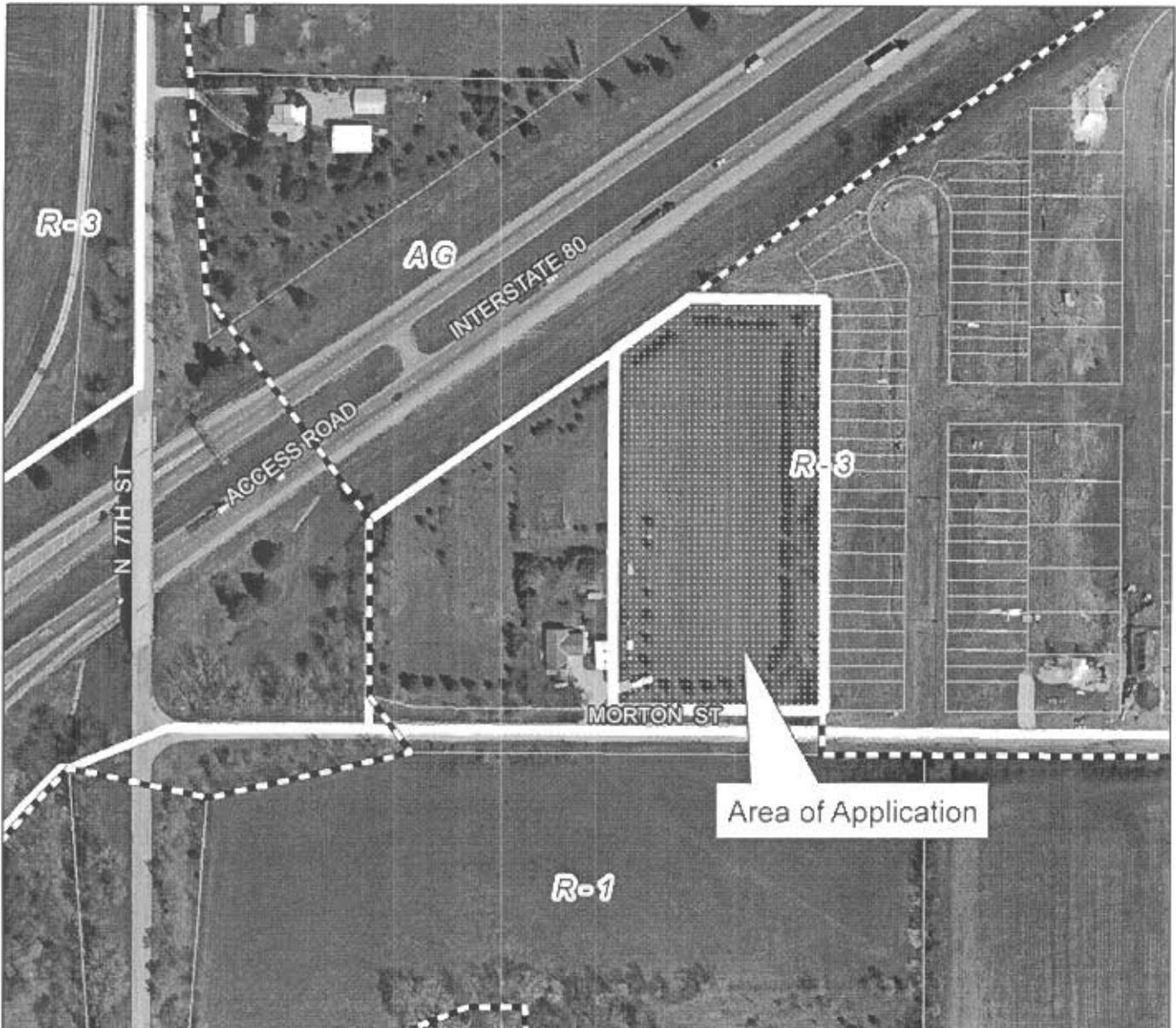
Strand moved approval, seconded by Larson and carried 9-0: Strand, Taylor, Larson, Carroll, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'. This is a recommendation to the City Council.

PRELIMINARY PLAT NO. 06007

ACTION BY PLANNING COMMISSION:

June 7, 2006

Strand moved to approve the staff recommendation of conditional approval, seconded by Carroll and carried 9-0: Strand, Taylor, Larson, Carroll, Esseks, Cornelius, Krieser, Sunderman and Carlson voting 'yes'. This is final action, unless appealed to the City Council within 14 days.



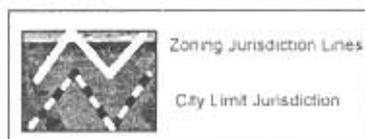
**Preliminary Plat #06007 & Annexation #06010
Gale Addition
N 9th St & Morton St**

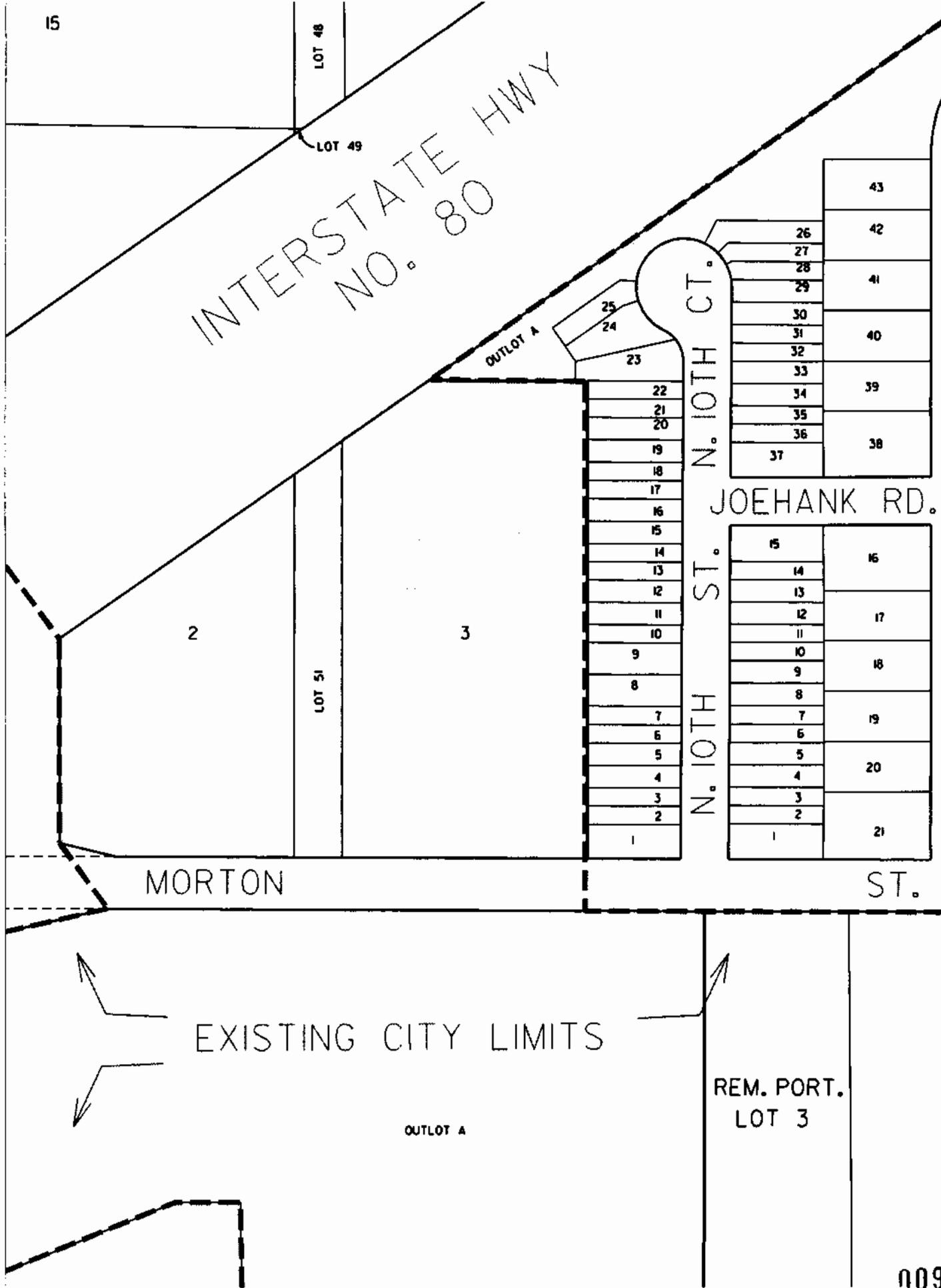
2005 aerial

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. 02 T10N R06E







May 3, 2006

Mr. Marvin Krout
Director of Planning
City of Lincoln/ Lancaster County
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Lincoln, NE 68508

LYLE L. LOTH, P.E./L.S.

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RE: GALE ADDITION PRELIMINARY PLAT

Dear Marvin,

On behalf of Mike & Gale Poe, we submit the above-mentioned applications for your review. Gale Addition is located on 9th Street north of Morton Street. The site contains approximately 4.07 acres and is zoned 'R-3'.

The project contains 18 single family and 4 single family attached lots/ dwelling units.

The site is surrounded by R-3 zoning on both sides with a single-family subdivision to the east and a single-family house on an acreage to the west, with an open field to the south, which is, zoned R-1. Interstate 80 bound this property to the north.

We are also requesting annexation of the Gale Addition project at this time.

We look forward to working with your staff as this project moves forward. Please feel free to contact me if you have any further questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Langston', with a long horizontal line extending to the right.

Matt Langston

CC. Mike and Gale Poe

DD.

ENCLOSURES: 24 copies of Sheet 1 of 5, 8 copies of Sheets 2-5 of 5

Applications for a Preliminary Plat

Certificate of Ownership

Application Fees of \$1,700.00

8-1/2" x 11" Reductions of the Plans

