07-122 Introduce: 8-6-07

Change of Zone 07018

ORDINANCE NO. _____

AN ORDINANCE amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon.

BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

Section 1. That the "Lincoln Zoning District Maps" attached to and made a part of Title 27 of the Lincoln Municipal Code be and they are hereby amended by changing the boundaries of the districts established and shown on said Maps as follows:

Outlot C and Lot 24 of Block 4 of Corrected Plat of Hartland Homes East 4th Addition, except that part deeded to the City of Lincoln, Nebraska, warranty deed recorded July 7, 2004 as Instrument Number 2004-45155 in the records of Lancaster County, Nebraska and Lot 65 Irregular Tract located in the East Half of Section 10, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, being more particularly described as follows:

Referring to the southeast corner of Outlot C, Block 4, Corrected Plat of Hartland Homes East 4th Addition being on the west right-of-way of South 84th Street and the point of beginning; thence north 89 degrees 44 minutes 28 seconds west, on the south line of said Outlot C of the Corrected Plat of Hartland Homes East 4th Addition and said west right-of-way of South 84th Street, a distance of 10.00 feet to a point on the south line of said Outlot C and the northeast corner of Lot 23 of said Corrected Plat of Hartland Homes East 4th Addition and said west right-of-way of 84th Street; thence north 83 degrees 08 minutes 13 seconds west along the south line of said Outlot C and the north line of said Lot 23 of Corrected Plat of Hartland Homes East 4th Addition, a distance of 201.67 feet to a point on the south line of said Outlot C and the northeast corner of Lot 22 of said Corrected Plat of Hartland Homes East 4th Addition; thence north 71 degrees 43 minutes 57 seconds west, along the south line of said Outlot C and the north line of said Lot 22 of Corrected Plat of Hartland Homes East 4th Addition, a distance of 148.48 feet to the southwest corner of said Outlot C and the southeast corner of Lot 18 of said Corrected Plat of Hartland Homes East 4th Addition; thence north 05 degrees 55 minutes 25 seconds west along the west line of said Outlot C and the east line of said Lot 18 of Corrected Plat of Hartland Homes East 4th Addition, a distance of 71.43 feet, to a point on the west line of said Outlot C and the southeast corner of Lot 17 of said Corrected Plat of Hartland Homes East 4th Addition; thence north 11 degrees 22 minutes 54 seconds west, along the west line of said Outlot C and the east line of said Lot 17 of Corrected Plat of Hartland Homes East 4th Addition, a distance of 71.43 feet to a point on the west line of

said Outlot C and the southeast corner of Lot 16 of said Corrected Plat of Hartland Homes East 4th Addition; thence north 16 degrees 40 minutes 16 seconds west, along the west line of said Outlot C and the east line of said Lot 16 of Corrected Plat of Hartland Homes East 4th Addition, a distance of 71.43 feet, to a point on the west line of said Outlot C and the southeast corner of Lot 15 of said Corrected Plat of Hartland Homes East 4th Addition; thence north 22 degrees 18 minutes 19 seconds west, along the west line of said Outlot C and the east line of said Lot 15 of Corrected Plat of Hartland Homes East 4th Addition, a distance of 58.19 feet, to a point on the west line of said Outlot C and the southeast corner of Lot 14 of said Corrected Plat of Hartland Homes East 4th Addition; thence north 27 degrees 50 minutes 59 seconds west, along the west line of said Outlot C and the east line of said Lot 14 of Corrected Plat of Hartland Homes East 4th Addition, a distance of 70.18 feet, to a point on the west line of said Outlot C and the southeast corner of Lot 13 of said Corrected Plat of Hartland Homes East 4th Addition; thence north 30 degrees 00 minutes 06 seconds west, along the west line of said Outlot C and the east line of Lots 5 thru 14 of said Corrected Plat of Hartland Homes East 4th Addition, a distance of 560.05 feet, to a point on the west line of said Outlot C and on the south line of Outlot A and the northeast corner of Lot 5 of said Corrected Plat of Hartland Homes East 4th Addition; thence north 29 degrees 46 minutes 13 seconds east, along the west line of said Outlot C and the east line of said Outlot A of Corrected Plat of Hartland Homes East 4th Addition, a distance of 130.03 feet, to a point on the west line of said Outlot C and the east line of said Outlot A of Corrected Plat of Hartland Homes East 4th Addition; thence north 31 degrees 23 minutes 12 seconds east, along the west line of said Outlot C and said east line of Outlot A of Corrected Plat of Hartland Homes East 4th Addition, a distance of 300.00 feet, to a point on the west line of said Outlot C and the east line of said Outlot A of Corrected Plat of Hartland Homes East 4th Addition; thence north 00 degrees 08 minutes 24 seconds west along the west line of said Outlot C and the east line of said Outlot A of Corrected Plat of Hartland Homes East 4th Addition, a distance of 212.00 feet, to a point on the west line of said Outlot C and the east line of said Outlot A of Corrected Plat of Hartland Homes East 4th Addition and on the south right-of-way of Glynoaks Drive; thence south 89 degrees 50 minutes 20 seconds east, along the west line of said Outlot C of Corrected Plat of Hartland Homes East 4th Addition and said south right-of-way of Glynoaks Drive, a distance of 30.00 feet, to a point on the west line of said Outlot C of Corrected Plat of Hartland Homes East 4th Addition and said east right-of-way of Glynoaks Drive; thence north 00 degrees 01 minutes 02 seconds west, along the west line of said Outlot C of Corrected Plat of Hartland Homes East 4th Addition and east right-of-way of said Glynoaks Drive, a distance of 60.00 feet, to a point on the west line of said Outlot C of Corrected Plat of Hartland Homes East 4th Addition and north right-of-way of said Glynoaks Drive; thence north 89 degrees 50 minutes 20 seconds west, along the west line of said Outlot C of Corrected Plat of Hartland Homes East 4th Addition and said north right-of-way of Glynoaks Drive, a distance of 121.05 feet, to a point on the west line of said Outlot C of Correct Plat of Hartland Homes East 4th Addition and said north right-of-way of Glynoaks Drive and the southeast corner of Phares City Park, Lincoln, Nebraska; thence north 00 degrees 05 minutes 15 seconds east, along the west line of said Outlot C of Corrected Plat of Hartland Homes East 4th Addition and the east line of said Phares City Park, Lincoln, Nebraska, a distance of 119.21 feet, to the northeast corner of said Outlot C of Corrected Plat of Hartland Homes East 4th

Addition and the southwest corner of Outlot A of Antelope Creek 1st Addition, located in the Northeast Quarter of Section 10, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska; thence north 89 degrees 56 minutes 42 seconds east, along the north line of said Outlot C of Corrected Plat of Hartland Homes East 4th Addition and the south line of said Outlot A of Antelope Creek 1st Addition, a distance of 6.74 feet, to a point on said north line of Outlot C of Corrected Plat of Hartland Homes East 4th Addition and the southeast corner of said Outlot A of Antelope Creek 1st Addition and the southwest corner of Lot 65 Irregular Tract, located in the Northeast Quarter of Section 10, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska; thence north 00 degrees 10 minutes 45 seconds west, along the west line of said Lot 65 Irregular Tract and the east line of said Outlot A of Antelope Creek 1st Addition, a distance of 456.23 feet, to the northwest corner of said Lot 65 Irregular Tract and to a point on the east line of said Outlot A of Antelope Creek 1st Addition and the southwest corner of Mandarin Court Subdivision, located in the Northeast Quarter of Section 10, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska; thence north 89 degrees 54 minutes 32 seconds east, along the north line of said Lot 65 Irregular Tract and south line of said Mandarin Court Subdivision and Pioneer Heights Subdivision located in the Northeast Quarter of Section 10, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, a distance of 902.92 feet, to the northeast corner of said Lot 65 Irregular Tract and the southeast corner of said Pioneer Heights Subdivision and said west right-of-way of South 84th Street; thence south 00 degrees 12 minutes 59 seconds east, along the east line of said Lot 65 Irregular Tract and the east line of said Corrected Plat of Hartland Homes East 4th Addition and said west right-of-way of South 84th Street for the next nine (9) courses, a distance of 458.54 feet; thence south 00 degrees 12 minutes 52 seconds east, a distance of 142.09 feet; thence south 07 degrees 24 minutes 52 seconds west, a distance of 94.28 feet; thence south 00 degrees 12 minutes 52 seconds east, a distance of 147.60 feet; thence south 89 degrees 47 minutes 08 seconds west, a distance of 27.46 feet; thence south 00 degrees 12 minutes 52 seconds east, a distance of 100.00 feet; thence north 89 degrees 47 minutes 08 seconds east, a distance of 28.00 feet; thence south 22 degrees 00 minutes 57 seconds east, a distance of 32.31 feet; thence south 00 degrees 12 minutes 52 seconds east, a distance of 316.66 feet; thence south 09 degrees 22 minutes 32 seconds west, a distance of 75.05 feet; thence south 00 degrees 12 minutes 52 seconds east, a distance of 171.30 feet; thence north 89 degrees 47 minutes 08 seconds east, a distance of 12.50 feet; thence south 00 degrees 12 minutes 52 seconds east, a distance of 231.43 feet; thence south 00 degrees 13 minutes 14 seconds east, a distance of 335.01 feet to the point of beginning; said tract contains 32.94 acres, more or less;

be and they hereby are (1) transferred from the AG Agricultural District to the R-3 Residential District and are hereby made a part of the R-3 Residential District (2) designated as an overlay Planned Unit District pursuant to and in accordance with Chapter 27.60 of the Lincoln Municipal Code entitled “Planned Unit Development District” and (3) governed by all the provisions and

regulations pertaining to the underlying R-3 Residential District except as modified in Section 2 below.

Section 2. Hampton Enterprises' Development Plan for Glynoaks Plaza Planned Unit Development as set forth in its application and the site plan be and the same is hereby approved upon condition that construction and operation of said Planned Unit Development by Hampton Enterprises, its successors and assigns, be in strict compliance with said application, the site plan, and the following express terms and conditions and requirements:

1. This Change of Zone approves 78 dwelling units, but does not restrict the number of residential units in the commercial area, and 258,000 square feet of commercial floor area. This permit further approves zero front, side, and rear yards; maximum height to 45' in residential area and to 50' in commercial area; modifications to the required size, type and location of residential area signs; modifications to the required size, type and location of commercial area signs; reduced parking to 1 space per 600 sq. ft. of floor area for nonresidential uses; parking not on same lot as use; the use of required off-street parking for outdoor sales; modifications to the required size, type and location of street trees; and lots without frontage to a public street or private roadway.

2. Final plats within the area of this PUD must be approved by the City.

If any final plat on all or a portion of the approved planned unit development is submitted five (5) years or more after the approval of the planned unit development, the city may require that a new planned unit development be submitted, pursuant to all the provisions of section 26.31.015. A new planned unit development may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the planned unit development as originally approved does not comply with the amended rules and regulations.

Before the approval of a final plat, the public streets, private roadway improvements, sidewalks, public sanitary sewer system, public water system, drainage facilities,

land preparation and grading, sediment and erosions control measures, storm water detention/retention facilities, drainageway improvements, street lights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs, must be completed or provisions (bond, escrow or security agreement) to guarantee completion must be approved by the City Law Department. The improvements must be completed in conformance with adopted design standards and within the time period specified in the Land Subdivision Ordinance.

3. Permittee, as Subdivider must sign a final plat subdivision agreement that binds the Subdivider and Subdivider's successors and assigns:

a. To complete the street paving of public streets shown on the final plat within two (2) years following the approval of the final plat.

b. To complete the paving of private roadways shown on the final plat within two (2) years following the approval of this final plat.

c. To complete the installation of sidewalks along both sides of the streets and private roadways as shown on the final plat within four (4) years following the approval of the final plat.

d. To complete the installation of sidewalks along South 84th Street as shown on the final plat within two (2) years following the approval of this final plat.

e. To complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.

f. To complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.

g. To complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

h. To complete the enclosed private drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

i. To complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of the final plat

j. To complete the installation of public street lights within two (2) years following the approval of the final plat.

k. To complete the installation of private street lights within two (2) years following the approval of the final plat.

l. To complete the planting of the street trees within this plat within four (4) years following the approval of the final plat.

m. To complete the planting of the landscape screen within this plat within two (2) years following the approval of the final plat.

n. To complete the installation of the street name signs within two (2) years following the approval of the final plat.

o. To complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.

p. To complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.

q. To submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.

r. To comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

s. To complete the public and private improvements shown on the Planned Unit Development.

t. To maintain the outlots and private improvements on a permanent and continuous basis.

u. To keep taxes and special assessments on the outlots from becoming delinquent.

v. To maintain the plants in the medians and islands on a permanent and continuous basis.

w. To continuously and regularly maintain the street trees along the private roadways and landscape screens.

x. To properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and

constructed within the development, and that these are the responsibility of the land owner.

y. To retain ownership of and the right of entry to the outlots in order to perform the above-described maintenance of the outlots and private improvements on a permanent and continuous basis. However, Subdivider may be relieved and discharged of such maintenance obligations upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:

(1) Subdivider shall not be relieved of Subdivider's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans.

(2) The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

z. To submit to the lot buyers and home builders a copy of the soil analysis.

aa. To pay all design, engineering, labor, material, inspection, and other improvement costs.

bb. To relinquish the right of direct vehicular access to South 84th Street except as shown.

4. Upon approval of the development plan for the planned unit development by the City Council, the developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 5 copies with all required revisions and documents as listed below before receiving building permits or before a final plat is approved.

a. Revise the plans as follows:

i. Provide the correct legal description on Sheet 1 of 10.

ii. Delete the words "the vicinity of" from General Note #5.

iii. Change “discontinued” to “rescinded” in General Note #11.

iv. Revise General Note #13 to state “Eaves may project over building envelopes, but not lot lines. Awnings and canopies may project into the right-of-way, however no posts or support structures affixed to the ground for awnings or canopies may be built in the right-of-way.

v. Revise General Note #14 to state “Street trees along Glynoaks Drive in the town square may vary from street tree design standards as appropriate, but must be shown and approved by the Parks and Recreation Department at the time of final plat.

vi. Combine General Notes #8 and #11.

vii. Delete Miscellaneous Note #3 on Sheet 3 of 10.

viii. The surveyor’s certificate must be signed.

ix. Show the 20' setback at the perimeter of the PUD boundary for the commercial area.

x. Show the setback between lots and the north and east PUD boundary lines in the residential area.

xi. Revise the sign restrictions in the residential area on Sheet 5 of 10 to state “Developer may construct two ground signs 50 s.f. in area at each entrance to the residential area. Exceptions to the R-3 sign requirements regarding size, location, material and height may be approved by the Planning Director by administrative amendment.

xii. Revise the parking requirements in the residential area on Sheet 5 of 10 to state “Required parking may be located on a different lot with access easements granted to provide access.

xiii. Delete “The residential zone on-street parking cannot count toward any required parking” from the parking requirements in the residential area on Sheet 5 of 10.

xiv. Revise the landscaping requirements in the residential area on Sheet 5 of 10 to state “A 75% screen at least 8' in height at maturity consisting of coniferous trees and deciduous shrubs will be planted along the north boundary of the PUD.

xv. Revise the sign restrictions in the commercial area on Sheet 5 of 10 to state “Signs per the B-2 zoning district are

allowed and are not required to be shown on this plan but at the time of sign permits. Pole signs are prohibited"

xvi. Delete the statements from the sign restrictions in the commercial area on Sheet 5 of 10 that say "Pole signs and monument signs are prohibited", and "Maximum pedestrian sign size is 8 s.f. Canopy and projecting signs may be adjusted by the Planning Director."

xvii. Revise the sign restrictions in the commercial area on Sheet 5 of 10 to state "The size and location of canopy, pedestrian and marquee signs, including projections into the public right-of-way, may be adjusted by the Planning Director by administrative amendment.

xviii. Revise the use restrictions in the commercial area on Sheet 5 of 10 to state "No use permit shall be required for the commercial area. All uses permitted in the commercial area shall be those uses allowed in the B-2 district including residential on any level and outdoor weekend sales, except all industrial uses, drive-through facilities, service stations and convenience stores with gas pumps are prohibited, with the exception of Lot 2, Block 4 where a drive-thru facility associated with a bank is allowed, and coffee shops or banks with drive-through facilities located in the parking lots at the rear of the buildings facing Glynoaks Drive approved by administrative amendment are permitted. Outdoor sound amplification shall not be permitted between 10:00 p.m. and 8:00 a.m. Exterior lighting facing residential areas shall use cutoff fixtures, except parking lot lighting which shall comply with the applicable Design Standards. In other areas lighting shall otherwise comply with the applicable Design Standards."

xix. Revise the parking requirements in the commercial area on Sheet 5 of 10 to state "Shared/Joint parking is provided in the commercial area. The off-street parking requirement is one parking space per 600 square feet of floor area. Weekend outdoor sales events can occupy up to 40 parking spaces in parking lots located south of Glynoaks Drive at any one time."

xx. Revise the landscaping requirements in the commercial area on Sheet 5 of 10 to state "Street trees in are not shown but shall be submitted at the time of final plat with adjustments to vary the size, spacing and location approved by the Parks and Recreation Department."

xxi. A 250'-long separate southbound right-turn lane at Glynoaks Drive.

xxii. Revised street names approved by Emergency Communications and Building and Safety.

xxiii. Show and label the approximate location of the underground natural gas pipeline in South 84th Street.

xxiv. Other minor changes to the notes to the satisfaction of the Planning Department.

xxv. Change the B-4 zoning designation to B-2 wherever it occurs.

xxvi. Add a general note that indicates total amount of approved floor area and number of approved dwelling units.

b. Grading, drainage and utility plans revised to the satisfaction of Public Works Engineering Services and Watershed Management.

c. The traffic study revised to the satisfaction of Public Works.

d. Add utility easements to the satisfaction of L.E.S.

e. The construction plans comply with the approved plans.

f. Final plat(s) is/are approved by the City.

4. Before occupying the dwelling units and buildings all development and construction is to comply with the approved plans.

5. All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.

6. The site plan accompanying this plan unit development shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

7. This ordinance's terms, conditions, and requirements bind and obligate the Permittee, its successors and assigns.

8. The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the change of zone, provided, however, said 60-day period may be extended up to six months by administrative amendment. The clerk shall file

a copy of the ordinance approving the change of zone and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

9. The use allowed by Special Permit #1313 is hereby incorporated and allowed as part of this planned unit development, and Special Permit #1313 is hereby rescinded.

Section 3. The City Clerk shall file a copy of the ordinance approving the planned unit development with the Register of Deeds. Hampton Enterprises shall pay the recording fee in advance.

Section 4. Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall be posted on the official bulletin board of the City in lieu of and in place of newspaper publication with notice of passage and such posting to be given by publication one time in the official newspaper by the City Clerk. This ordinance shall take effect and be in force from and after its passage and publication as herein and in the City Charter provided.

Introduced by:

_____

Approved as to Form & Legality:

_____
City Attorney

Approved this ___ day of _____, 2007:

_____
Mayor