

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 07056**, from AGR Agricultural Residential District to R-3 Residential District, requested by John and Andrea Schleich, on approximately 4.95 acres, more or less, generally located at Ashbrook Drive and Nebraska Highway 2.

STAFF RECOMMENDATION: Approval

ASSOCIATES REQUESTS: Special Permit No. 1992A (07R-227)_

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 10/24/07
Administrative Action: 10/24/07

RECOMMENDATION: Approval (7-0: Taylor, Esseks, Larson, Gaylor-Baird, Francis, Carroll and Cornelius voting 'yes'; Moline and Sunderman absent).

FINDINGS OF FACT:

1. This application was heard before the Planning Commission in conjunction with the associated amendment to the Edenton Woods Community Unit Plan, Special Permit No. 1992A.
2. This application proposes to change the zoning from AGR to R-3 Residential to allow the Edenton Woods Community Unit Plan to add approximately 33 dwelling units.
3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3, concluding the requested change of zone to R-3 will allow urban density residential consistent with the Future Land Use Plan. This request is consistent with the Comprehensive Plan. The staff presentation is found on p.5.
4. The applicant's testimony is found on p.5-6, and other testimony in support is found on p.6-7. The only issue was the waiver of block length on the associated amendment to the community unit plan.
5. There was no testimony in opposition.
6. On October 24, 2007, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend approval of this change of zone request (Moline and Sunderman absent).
7. On October 24, 2007, the Planning Commission also voted 7-0 to approve the associated amendment to the community unit plan (Special Permit No. 1992A), but did not grant the applicant's request to waive block length. The applicant has appealed the denial of this waiver to the City Council.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: October 29, 2007

REVIEWED BY: _____

DATE: October 29, 2007

REFERENCE NUMBER: FS\CC\2007\CZ.07056+

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for October 24, 2007 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone #07056

PROPOSAL: From AGR Agricultural Residential to R-3 Residential

LOCATION: Ashbrook Drive and Highway 2

LAND AREA: Approximately 4.95 acres.

EXISTING ZONING: AGR Agricultural Residential

CONCLUSION: The requested change of zone to R-3 will allow urban-density residential development consistent with the Future Land Use Plan. This request is consistent with the Comprehensive Plan.

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

LEGAL DESCRIPTION: See attached legal description and exhibit.

EXISTING LAND USE: Vacant

SURROUNDING LAND USE AND ZONING:

North:	Single-family Residential	R-1, R-3
South:	Vacant	AGR
East:	Vacant, Single-family Residential	AGR, R-3
West:	Vacant, Church	AGR

ASSOCIATED APPLICATIONS:

Special Permit #1992A - A request to amend the Edenton Woods CUP and add approximately 33 dwelling units.

COMPREHENSIVE PLAN SPECIFICATIONS:

Pg 17 - The Future Land Use Map designates this land for Urban Density Residential land uses.

Subarea Planning - Southeast Lincoln/Highway 2 Subarea Plan.

Southeast Lincoln/Highway 2 Subarea Plan:

Figure 2 - Designates urban residential uses for this site.

Page 9 - Retention of low density residential character; Changes from low density to urban residential.

HISTORY:

April 5, 2004 - The following applications relating to Edenton Woods were approved by City Council:

- Annexation #03004 - To annex approximately 13.3 acres.
- Change of Zone #3387 - From AGR to R-3
- Special Permit #1992 - For a Community Unit Plan (CUP) for attached and detached single-family residences.
- Preliminary Plat #02023 Edenton Woods - Creates 46 lots for residential development, and five outlots.

ANALYSIS:

1. This request seeks to change the zoning from AGR to R-3 on approximately 4.95 acres of land.
2. The land is within the city limit, and all utilities are available to adequately serve residential development on the site.
3. The Future Land Use Map of the Comprehensive Plan designates urban density residential land uses for this site. R-3 zoning is consistent with this designation.
4. An associated application proposing to amend the Edenton Woods Community Unit Plan (CUP) has also been submitted. It expands the original CUP and adds approximately 33 dwelling units to the 46 previously approved. The review of that application is contained in a separate report.
5. This change of zone requires City Council approval, whereas the special permit to amend the CUP only requires Planning Commission action. The change of zone must be approved for the special permit to be allowed, and will be noted in the conditions of approval of the permit.

Prepared by:

Brian Will, 441-6362, bwill@lincoln.ne.gov

Planner

October 10, 2007

APPLICANT: John and Andrea Schleich
8644 Executive Woods Drive
Lincoln, NE 68512

OWNERS: John and Andrea Schleich
8644 Executive Woods Drive
Lincoln, NE 68512

Berean Fund Church of
Lincoln
6400 South 70th Street
Lincoln, NE 68516

CONTACT: Mike Eckert
Civil Design Group
8644 Executive Woods Drive
Lincoln, NE 68512

**CHANGE OF ZONE NO. 07056
and
SPECIAL PERMIT NO. 1992A,
AN AMENDMENT TO THE
EDENTON WOODS COMMUNITY UNIT PLAN,**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 24, 2007

Members present: Taylor, Esseks, Larson, Gaylor-Baird, Cornelius, Francis and Carroll; Moline and Sunderman absent.

Ex Parte Communications: None.

Staff recommendation: Approval of the change of zone and conditional approval of the amendment to the special permit, except for denial of the request to waive block length.

This application was removed from the Consent Agenda by the staff due to the recommendation to deny the request to waive block length.

Staff presentation: **Brian Will of Planning staff** explained that the change of zone from AGR to R-3 is required for this community unit plan to be amended as requested. The subject property is designated urban density residential in the Comprehensive Plan. The proposed use is consistent with that designation and staff is recommending approval. The community unit plan was approved two years ago. This amendment adds approximately 10 acres and 33 dwelling units.

The only issue is relative to block length. The applicant is requesting that the block length requirement be waived. They want to exceed 1,320 feet, which is the maximum allowed by the ordinance, measured from Hwy 2 to Stevens Ridge Road. Staff is recommending denial of that waiver request because staff did not find adequate justification to approve the waiver request.

Staff is recommending approval of the change of zone and conditional approval of the amendment to the community plan.

Esseks asked Will to explain the importance of dividing the block up with a road. Will stated that the maximum block length exists in the ordinance for several reasons. One of them is to provide connectivity between neighborhoods; it also lessens the dependence upon the surrounding arterial streets and allows more free movement within a section without going onto the arterial streets. In addition, in this case, with a park nearby, it makes it easier for the neighbors to get back and forth between neighborhoods and to the neighborhood park.

Proponents

1. Mike Eckert of Civil Design Group submitted proposed amendments to the conditions of approval, as follows:

Remove General Condition #3.1.2: “Show a street breaking the block length on the west side of Ashbrook Drive.”

Remove General Condition #3.1.3: “If the block length waiver is granted, locate the pedestrian way easement between Lots 26 and 27, Block 1.”

Amend General Condition #3.1.5 to read: “Show 4' between the back of curb and the sidewalk along Camellia Court.”

Add General Condition #3.1.14: “Show a pedestrian way easement between lots 33 and 34, Block 1.”

Eckert explained that this proposal is an extension of the existing townhouse development in Edenton Woods 1st Addition. The original Edenton Woods subdivision is now developing with townhouses being constructed— there are six lots that have been previously platted. This amendment would reconfigure some of the lots that were previously platted, adding a cul-de-sac and adding more lots to the south. This land was owned by Berean Church. His client needed more than 10 acres and the acquisition of the outlot was necessary to make this 10 acres.

Eckert agreed with staff that the issue is block length. That block length runs all the way from Hwy 2 up to Stevens Ridge Road. Eckert submitted that this is a unique set of circumstances. It is anticipated that the outlot will go back to the Berean Church. The church has expanded and added more parking facilities and a maintenance shed. He agreed that the street connection for typical block length is necessary to make the linkages into neighborhoods, but there will not be a neighborhood here. There will be two cul-de-sacs. They are all very large urban style acreage lots. Ashbrook is very curved. Staff is requiring that the road be connected and the applicant believes it is unnecessary because of the cost of over \$100,000 and the loss of two lots. For pedestrian movement, the proposal provides an easement between lots to allow access to the park.

The proposed amendments to the conditions of approval remove the requirement to put the road in. The applicant would prefer that the pedestrian easement be located in the middle of the cul-de-sac, and the applicant is willing to extend the pedestrian easement to the west in the event there is another cul-de-sac or another road there.

This is an example of an area where the connectivity issue does not serve a lot of purpose because of the church to the west and existing cul-de-sacs to the north. Eckert believes that most of the traffic will come up from Hwy 2 to Camellia Court. The private road will be 630'.

Carroll inquired as to the reason for not having the sidewalk up in the top of the circle. Eckert stated that there are topography constraints, but the primary reasons are the reconfiguration and two existing irrigation wells.

Support

1. Jeff Johnson, Home Real Estate, testified in support. He will be working with the developer on marketing the lots. If you look at the desirability from a marketing standpoint, there is tremendous more marketability and desirability for cul-de-sac lots. It will cost \$100,000 to build the street and the developer would lose two lots, which is equal to another \$100,000, all of which will

add to the cost of the remaining lots. The owners of the lots in the development directly to the east will become “headlight” lots and those owners had no knowledge that the street would be coming through. There are three lots that would be at the end of the street that would be affected by the car lights if the street connection is required.

There was no testimony in opposition.

Esseks noted that there are at least three cul-de-sacs in this immediate neighborhood already – what is the city’s policy on cul-de-sacs? Do we encourage or discourage them and why? Will explained that there is no opposition on the part of the City to cul-de-sacs, but the problem here is that it is one-way in and one-way out and does not serve the greater purpose of providing connectivity and contributing to the efficiency of the transportation network.

Esseks wondered about the compromise of a pedestrian connection. Will stated that in this case, the staff would have asked for a pedestrian connection anyway. The further north you move the pedestrian easement the more efficient it becomes. The staff sees no technical reason why it could not be located further to the north.

As far as the street connection, Will explained that when the original Edenton Woods was approved, the staff did not require the street connection because at that time the Berean Church indicated that they would not be selling the property. Therefore, staff did not force the issue at that time. What we see now is a development pattern that should have this street connection. The staff is not out to increase the cost of development, but that is not necessarily the number one rationale for granting variances. We expect a development to meet the requirements unless they can show some justification.

Gaylor-Baird inquired whether platting is typically done with the assumption that the design standards can be met. Will explained that the original development did not require the street connection because the church owned the property and did not indicate any intention to sell any of their property. However, there is now nothing that prevents an additional connection. The lots could easily be replatted and a street connection shown.

Carroll asked staff to respond to the applicant’s request to show the sidewalk 4' from the back of curb instead of 7'. Will indicated that staff would not object to that amendment.

Carroll clarified that staff is requesting that the street be on the north end and that it will continue west and then hook into the private drive of the church. Will stated that staff is recommending that the applicant show the connection going to the west so that it could be carried further west if that property develops.

Response by the Applicant

Eckert clarified that his client could build on the previously platted lots today but he has chosen to preserve a green space. Because we are taking what was also an outlot (green space) behind those lots and incorporating it into these lots, it required amending the CUP, so it opened up the door for staff to require the connection. Eckert reiterated that the connection is not appropriate because of the cost and because those lots are final platted today.

Eckert believes that two to four of the lots would be affected by the headlights, depending on the turn movements at the end of the street. As far as mitigating the headlights, Eckert suggested that there really is nothing except for the street trees in the front yard. It is a road that is at a 7% slope and comes down to a 3% platform.

CHANGE OF ZONE NO. 07056

ACTION BY PLANNING COMMISSION:

October 24, 2007

Larson moved approval, seconded by Cornelius and carried 7-0: Taylor, Esseks, Larson, Gaylor-Baird, Cornelius, Francis and Carroll voting 'yes'; Moline and Sunderman absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 1992A

ACTION BY PLANNING COMMISSION:

October 24, 2007

Larson moved to approve the staff recommendation of conditional approval, with the amendments as requested by the applicant, seconded by Francis.

Esseks stated that he is not in favor of the block length waiver. He lives in a community which is relatively new with a nice grid, so having to look for a lost child or a lost dog you don't have to go so far and you can find nice connections. Roads promote community. They are very practical. He does not like to see a whole series of cul-de-sacs and is afraid we are establishing a precedent. He does not want to inhibit the marketing of the property; however, roads provide a better community with the movement in and out.

Francis believes that a cul-de-sac is a desirable location and it attracts people because they don't have a lot of drive-through traffic.

Larson suggested that if the road is required and continues to the west into the future parking lot for the church, it will be a highly traveled road.

Taylor is concerned about the headlights beaming onto the property, but there are other things that can be done, especially with the future growth of the trees. He agrees that accessibility through the neighborhood is important.

Gaylor-Baird concurred with Esseks. There has been testimony by Health on this issue, i.e. that roads not only provide connectivity, but help promote physical activity, which is an important piece of the underlying rationale for that design standard. She believes that the street connection is also important for emergency vehicles to access the different housing areas.

Cornelius agreed with Esseks and Gaylor-Baird, and further suggested that we have heard that these lots were platted in the absence of this connection; however, that plat was approved on the assumption that there would be no development to the west. Now we are seeing development to the west and we've also heard that there may not be further development to the west, but we don't know that.

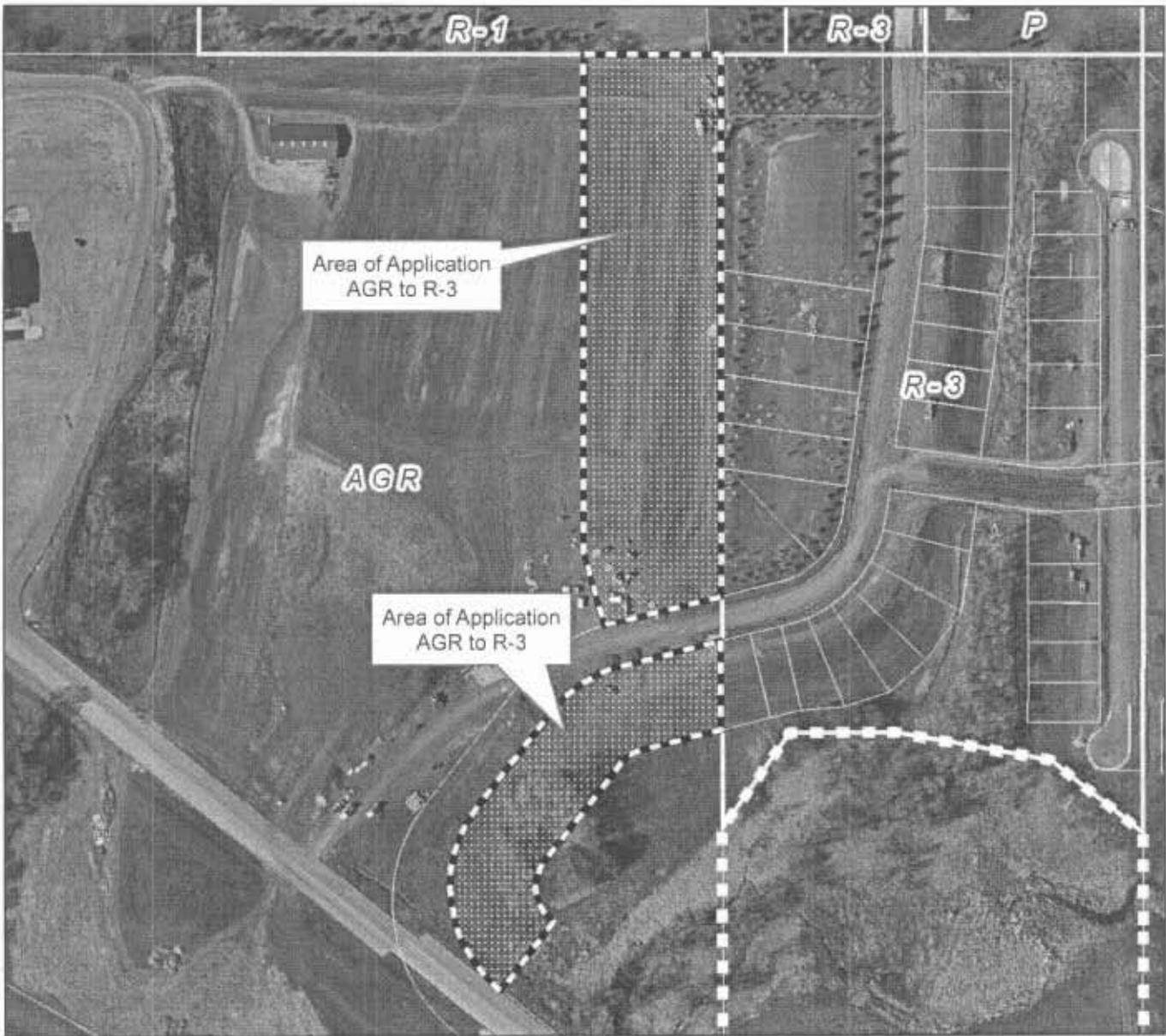
Carroll suggested that the topography and other items of the land need to be considered and how it connects. He believes the connection is necessary, especially to the west, and he will support the staff recommendation.

Rick Peo cautioned that the resolution was drafted based on the staff recommendation to eliminate the driveway access and does not require a pedestrian easement. We do not want to have the street connection plus the pedestrian way easement.

Carroll clarified that the motion on the floor moves pedestrian easement to another location and removes the street.

Motion for conditional approval, with amendments requested by the applicant, failed 2-5: Larson and Francis voting 'yes'; Taylor, Esseks, Gaylor-Baird, Cornelius and Carroll voting 'no'; Moline and Sunderman absent.

Esseks moved to approve the staff recommendation of conditional approval, with the amendment to Condition #3.1.5 to show 4' between the back of curb and the sidewalk along Camellia Court, seconded by Cornelius and carried 7-0: Taylor, Esseks, Larson, Gaylor-Baird, Cornelius, Francis and Carroll voting 'yes'; Moline and Sunderman absent. This is final action unless appealed to the City Council within 14 days.



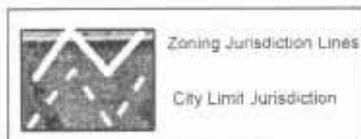
**Change of Zone #07056
Ashbrook Dr & Highway 2**

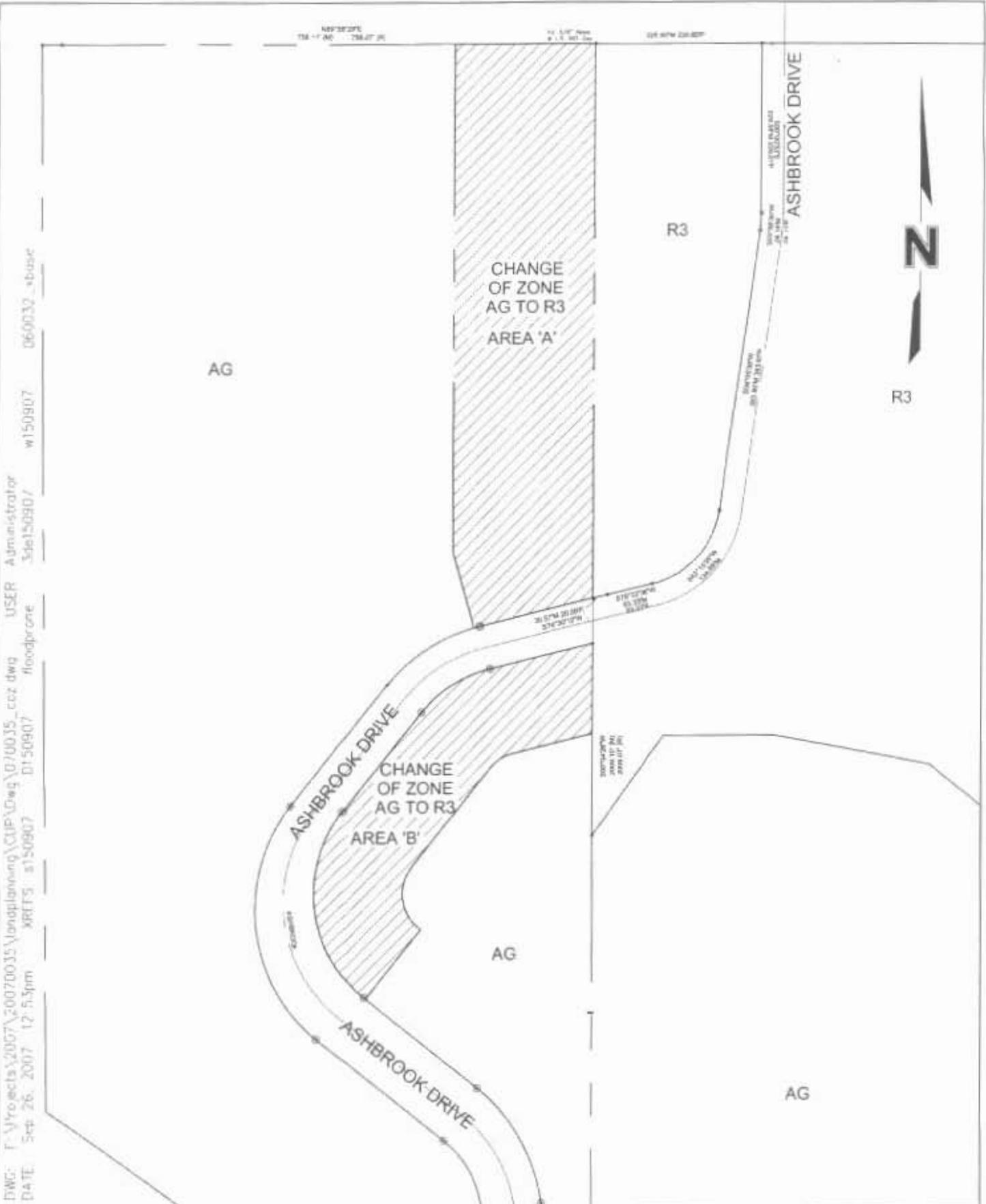
2005 aerial

Zoning:

One Square Mile
Sec. 15 T09N R07E

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential 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





DWG: F:\Projects\2007\20070035\landplanning\CUP\DWG\070035_ccz.dwg
 DATE: Sep 26, 2007 12:53pm
 USER: Administrator
 MREFS: a150907
 D150907
 floodprone
 06/0032 -busc
 w150907

drawn by: jds
 checked by: -
 project no: 2007-0037
 date: 09/21/2007

**CHANGE OF ZONE EXHIBIT
 EDENTON WOODS 1ST ADD.
 LINCOLN, NEBRASKA**

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 CONSULTING ENGINEERS • LAND USE PLANNERS
 CIVIL DESIGN • SITE DEVELOPMENT • PLANNING AND ZONING

EXHIBIT
 1
 011

EDENTON WOODS FIRST ADDITION CHANGE OF ZONE - AREA 'A'

A survey of a portion of Lot 80 Irregular Tract, located in the Southwest Quarter of Section 15 Township 9 North Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska. Said Tract of land shall be more particularly described by metes and bounds as follows.

Commencing at the Northeast corner of Lot 80 Irregular Tract, and the POINT OF BEGINNING:

Thence bearing S 0-4-31 W a distance of 753.09 feet ;
Thence bearing S 76-28-30 W a distance of 160.05 feet ;
Thence along a curve to the LEFT, having a radius of 208.62 feet, a delta angle of 2.28, and whose long chord bears S 75-20-5 W a distance of 8.30 feet ;
Thence bearing N 15-41-57 W a distance of 105.853 feet;
Thence bearing N 0-4-31 E a distance of 690.715 feet;
Thence bearing N 89-59-52 E a distance of 192.37 feet to the point of beginning.

Said property contains 3.39 acres more or less.

CHANGE OF ZONE - AREA 'B'

A survey of a portion of Lot 80 Irregular Tract, located in the Southwest Quarter of Section 15 Township 9 North Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska. Said Tract of land shall be more particularly described by metes and bounds as follows.

Commencing at the Northeast corner of Lot 80 Irregular Tract, THENCE South 00 degrees 04 minutes 31 seconds West for a distance of 814.56 feet, to the POINT OF BEGINNING:

Thence bearing S 0-4-42 W a distance of 123.51 feet ;
Thence bearing S 76-22-8 W a distance of 116.16 feet ;
Thence along a curve to the LEFT, having a radius of 50.00 feet, a delta angle of 37.77, and whose long chord bears S 57-26-56 W a distance of 32.37 feet ;
Thence bearing S 38-35-44.37 W a distance of 172.20 feet ;
Thence along a curve to the LEFT, having a radius of 60.00 feet, a delta angle of 89.98, and whose long chord bears S 6-23-37 E a distance of 84.63 feet;
Thence bearing S 51-22-58 E a distance of 2.721 feet ;
Thence bearing S 38-37-1 W a distance of 120.000 feet ;
Thence bearing N 51-22-58 W a distance of 2.721 feet ;
Thence along a curve to the RIGHT, having a radius of 180.00 feet, a delta angle of 89.98, and whose long chord bears N 6-23-37 W a distance of 254.51 feet ;

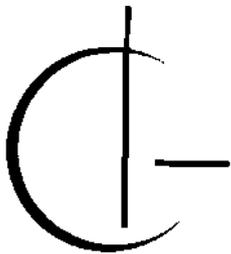
Thence bearing N 38-35-44 E a distance of 172.20 feet ;

Thence along a curve to the RIGHT, having a radius of 170.00 feet, a delta angle of 37.77 and whose long chord bears N 57-28-56 E a distance of 110.05 feet;

Thence bearing N 76-22-8 E a distance of 145.44 feet to the point of beginning.

Said property contains 1.56 acres more or less.





Civil Design Group, Inc.

Consulting Engineers & Land Use Planners
Civil Design • Site Development • Planning & Zoning

September 26, 2007

Mr. Marvin Krout
Director of Planning
City of Lincoln /Lancaster County
555 South 10th Street, Room 213
Lincoln, NE 68508

**Re: Edenton Woods First Addition -- Community Unit Plan & Change of Zone
Ashbrook Drive & Northshore Drive
CDG Project No. 2007-0035**

Dear Mr. Krout:

On behalf of John & Andrea Schleich, we submit the above mentioned project for your review and approval. With this Community Unit Plat we are adding 30 new single family attached lots and 3 single family detached lots to the previously approved Edenton Woods CUP #1992. This addition of lots will require a change of zone on a portion of this CUP area from AGR to R-3 which is consistent with the existing zoning of Edenton Woods CUP.

In conjunction with this submittal we submit the following information:

- Site Plan – 16 copies
- Utility Plan, Grading & Drainage Plan & Street Profiles – 5 copies each
- Application for Change of Zone & Community Unit Plan
- Community Unit Plan & Change of Zone Application Fee - \$1,475.00
- Certificate of Ownership
- Change of Zone Exhibit & Legal Description

I hope that this letter and the plans provide you with enough information to review this CUP. In an effort to facilitate the review process, please call me at (402) 434-8494 if you questions.

Sincerely,

Mike Eckert, AICP

Encl

cc: John & Andrea Schleich
Berean Church

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