

RESOLUTION NO. A- 70031

01 WHEREAS, an application for an administrative subdivision of real  
02 property described as:

03 Part of the North three-eighths of Lot 7, Potter's Subdivi-  
04 sion of Irregular Tracts 2 and 51, in the Southeast Quarter  
05 of Section 33, Township 10 North, Range 7 East of the Sixth  
06 Principal Meridian, Lincoln, Lancaster County, Nebraska, de-  
07 scribed as follows:

08 Beginning at the point of intersection of the centerline of  
09 vacated 56th Street and the south right-of-way line of Sham-  
10 rock Road; thence along the said centerline on an assumed  
11 bearing of south 0 degrees 01 minute 40 seconds east, 212.00  
12 feet; thence south 90 degrees 00 minutes east, 780.00 feet;  
13 thence north 0 degree 01 minute 40 seconds west, 212.00  
14 feet to a point on the south right-of-way line of Shamrock  
15 Road; thence along the said right-of-way line north 90 degrees  
16 00 minutes 00 seconds west, 780.00 feet to the point of  
17 beginning,

18 has been made by Jonathan L. and Joann Waterbury; and

19 WHEREAS, the application for administrative subdivision approval was  
20 not approved for nonconformance with the requirement that the subdivision be  
21 accomplished by the platting procedures when a street is needed within the area  
22 of the proposed lots and the requirement that sidewalks be constructed along the  
23 south side of Shamrock Road abutting the proposed subdivision; and

24 WHEREAS, applicants have requested a modification to waive said  
25 requirements pursuant to Section 26.31.010 of the Lincoln Municipal Code; and

26 WHEREAS, the City Council finds that the strict application of all  
27 subdivision requirements would result in actual difficulties or substantial  
28 hardship or injustice to the applicants.

29 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
30 Lincoln, Nebraska:

31 That, in accordance with the recommendations of the Planning Commission:

32 a. The requirement that the subdivision be accomplished by the  
33 platting procedures when a street is needed within the area of the proposed lots  
34 is hereby waived under the following conditions:

35 The subdividers, their successors and assigns agree:

- 36 1. To submit all required drawings, documents, information, and  
37 fees to accomplish the platting of the subject property in  
38 accordance with the platting requirements of the City of  
39 Lincoln, including the dedication of a street from Shamrock  
40 Road to the south limits of the proposed subdivision in the  
41 vicinity of proposed Parcel No. 4.

CITY OF LINCOLN  
RECEIVED

APR 22 1985

PLANNING DEPT.

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- 2. That proposed Parcel Nos. 2 and 4 shall be nonbuildable until the final plat of the subject property is approved and accepted by the City of Lincoln.
- 3. That failure to accomplish the platting of the subject property within one year from the date administrative subdivision approval is granted shall render the administrative subdivision permit null and void.

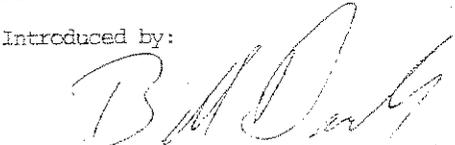
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b. The requirement that sidewalks be constructed along the south side of Shamrock Road abutting the proposed subdivision is hereby waived; provided, however, that the applicants understand and agree that this waiver shall in no way be construed to relieve the applicants or any future owners of any future obligation to construct sidewalks upon proper order of the City.

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All other conditions for approval of this administrative subdivision approval shall be complied with by the applicants.

Introduced by:



Approved as to Form:



City Attorney

AYES: Ahlschwede, Danley, Gayley, Hampton, Hoffman, Johnson, Shackelford;  
NAYS: None.

Staff Review Completed:



Administrative Assistant

ADOPTED

APR 15 1985

By City Council





DONALD R. WITT  
M. DOUGLAS DEITCHLER  
WALTER E. ZINK II  
RANDALL L. GOYEUTE  
STEPHEN S. GEALY  
GAHL S. PERRY  
DALLAS D. JONES  
JILL GRADWOHL SCHROEDER  
DAVID A. DUDLEY

BRENDA S. SPILKER  
STEPHANIE F. STACY  
W. SCOTT DAVIS  
MARK A. HUNZEKER  
WILLIAM G. BLAKE  
PEYER W. KATI  
CHRISTOPHER M. FERDICO  
DARLA S. IDEUS  
JARROD S. BOJNOTE

TIMOTHY E. CLARKE  
ANDREW M. LOUDON  
CHRISTINA L. BALL  
JENNY L. PANKO  
JAMES D. HAMILTON  
CAROLINE M. WESTERHOLD  
AMANDA A. DUTTON  
CYNTHIA R. LAMM  
DEREK C. ZIMMERMAN

JOHN J. HEIECK  
MARK W. BUCKNER  
OF COUNSEL  
ROBERT T. GRIMM  
J. ARTHUR CURTISS  
DAVID D. ZWART

\*ALSO ADMITTED IN KANSAS

December 10, 2007

Ernest R. Peo, III., Esq.  
Chief Assistant City Attorney  
Lincoln City Attorney's Office  
575 South 10<sup>th</sup> Street, #4201  
Lincoln, NE 68508-3997

RE: Shamrock Addition Final Plat No. 05073  
Generally Located At Shamrock Road on South 70<sup>th</sup> Street

Dear Rick:

As you and I have discussed in the past, we represent Mr. and Mrs. Howard N. Richoux of Port Townsend, Washington. Our clients contracted to sell a home at 6701 Shamrock Road to Mr. and Mrs. James A. Moon, who are living at the property at the present time.

This property was originally owned by Mr. and Mrs. Jonathan L. Waterbury. In 1985, the Waterburys made application for an Administrative Subdivision Permit that could not be approved because the Planning Department determined that a new road was needed. A "Modification of Requirements for Administrative Subdivision" was requested, and it was approved by Resolution No. A-70031. The modification included a condition that a failure by the Applicant to accomplish the platting of the subject property within one year from the date of administrative subdivision approval was granted would render the Administrative Subdivision Permit null and void. A plat was not submitted within one year and thus the Administrative Subdivision Permit was, by its own terms, voided. Interestingly, on the administrative subdivision, partials 3 and 4 were conveyed on April 23, 1985 by the Waterburys to our clients.

In 2006, on behalf of our clients, I came before the Planning Commission and the City Council asking for a waiver of all requirements for the subdivision ordinance. This encountered resistance from the neighbors and we were unsuccessful at that time. One of the main problems was that neighbors would not agree to a community unit plan, which would take unanimous approval by all property owners whose land abuts Shamrock Road. As it stands today, it is extremely unlikely that there will ever be any consensus by all the neighbors.

Ernest R. Peo, III., Esq.  
December 6, 2007  
Page 2

Alternatively, we believe that the Lincoln City Council could amend its Resolution No. A-70031, passed in 1985, by deleting the condition that failure to accomplish the platting of the subject property within one year from the date of administrative subdivision approval would render the administrative subdivision permit null and void.

Enclosed is a copy of the Resolution. At the time, the City Council recognized that strict application of all subdivision requirements would result in actual difficulties and substantial hardship and injustice to the applicants. This continues to be the case. Under its inherent authority, the City Council could, given the nature of the situation, remove, by amending the Resolution, requirement no. 3 of the Resolution and thereby reinstate the Administration Subdivision Permit which was approved, unanimously, on April 15, 1985. Per our telephone discussion of this issue, please place this matter on the City Council agenda for consideration as soon as possible. Thank you.

Sincerely,



Mark A. Hunzeker  
For the Firm  
Mhunzeker@baylorevnen.com

MAH/lls  
Enclosure

Fee \$..50.00..

NO. 2405

SE 1/4, SEC. 33 T. 10 N., R. 7 E.

**APPLICATION FOR SUBDIVISION PERMIT**  
TO THE LINCOLN CITY—LANCASTER COUNTY PLANNING DEPARTMENT

The undersigned hereby applies for a permit to subdivide the following described parcel of land:

**LEGAL DESCRIPTION OF PROPERTY** Part of the North 3/8 of Lot 7, Potter's Subdivision of Irregular Tracts 2 and 51, in the SE 1/4 of Section 33, T10N, R7E of the 6th P.M., Lincoln, Nebraska, more particularly described on attached Exhibit "A" in Lancaster County, Nebraska

**DESCRIPTION OF PARCELS CREATED:**

**DESCRIPTION KEY:** Parcel numbers are not to be used for legal descriptions.

**PARCEL 1** through 4: See attached Exhibit "B"

**PARCEL 2**

**PARCEL 3**

**PARCEL 4**

- NOTE:
- (1) This subdivision permit is issued in accordance with Resolution No. 70031 adopted by City Council on April 15, 1985, attached to and made a part of this subdivision approval as Exhibit "D".
  - (2) The approval of this subdivision permit is granted with the conditions of approval as specified in Agreement attached to and made a part of this subdivision approval as Exhibit "E".
  - (3) FAILURE TO ACCOMPLISH THE PLATTING OF PROPERTY WITHIN ONE YEAR FROM THE DATE ADMINISTRATIVE APPROVAL IS GRANTED SHALL RENDER THIS SUBDIVISION PERMIT NULL AND VOID. PARCEL NOS. 2 AND 4 ARE NON-BUILDABLE UNTIL PLATTED.

APPROVED THIS 23<sup>RD</sup> DAY OF APRIL 1985

**I. CITY OF LINCOLN, AND ITS CITY COUNCIL**  
 GARNER STEU BY Jim Felton  
 PLANNING DIRECTOR

—OR—

**LANCASTER COUNTY, AND ITS COUNTY BOARD**  
 CHAIRMAN, COUNTY BOARD

COUNTY SURVEYOR

PLANNING DIRECTOR

SKETCH OF SUBDIVISION:

See attached Survey Record as Exhibit "C"

**I HEREBY CERTIFY THAT THE ABOVE STATEMENTS ARE CORRECT**

Jonathan L. Waterbury  
 Jonathan L. Waterbury  
Joann Waterbury  
 OWNER Joann Waterbury

ADDRESS

EXHIBIT "A"

LEGAL DESCRIPTION:

Part of the North 3/4 of Lot 7, Potter's Subdivision of Irregular Tracts 2, and 51 in the Southeast quarter of Section 33, Township 15 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska described as follows, to wit:

Beginning at the point of intersection of the centerline of vacated 66th Street and the South right of way line of Shamrock Road; Thence along the said centerline on an assumed bearing of S 0° 01' 40" E 212.00'; Thence S 90° 00' E 780.00'; Thence N 0° 01' 40" W 212.00' to a point on the South right of way line of Shamrock Road; Thence along the said right of way line N 90° 00' 00" W 780.00' to the Point of Beginning, said tract containing an area of 94380 square feet. ( 2.17 acres. )

PARCEL 1- Part of the North 3/8 of Lot 7, Potter's Subdivision of Irregular Tracts 2, and 51, in the Southeast Quarter of Section 33, Township 10 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska described as follows, to wit:

Beginning at the intersection of the centerline of vacated 66th Street and the South right of way line of Shamrock Road; Thence along the said centerline on an assumed bearing of S 0° 01' 40" E 212.00'; Thence S 90° 00' E 225.97'; Thence N 0° 01' 40" W 212.00' to a point on the South right of way line of Shamrock Road; Thence along the said right of way line N 90° 00' W 225.97' to the Point of Beginning, said tract containing an area of 47905 Square feet.

Parcel 2- Part of the North 3/8 of Lot 7, Potter's Subdivision of Irregular Tracts 2, and 51, in the Southeast Quarter of Section 33, Township 10 North, Range 7, East of the 6th P.M., Lincoln, Lancaster County, Nebraska described as follows, to wit:

Beginning at a point on the South right of way line of Shamrock Road, said point being 225.97' Easterly distant from the point of intersection of the centerline of vacated 66th Street and the South right of way line of Shamrock Road; Thence on assumed bearing of S 0° 01' 40" E 212.00'; Thence S 90° 00' E 184.68'; Thence N 0° 01' 40" W 212.00' to a point on the South right of way line of Shamrock Road; Thence along the said right of way line N 90° 00' W 184.68' to the Point of Beginning, said tract containing an area of 39152 square feet.

Parcel 3- Part of the North 3/8 of Lot 7, Potter's Subdivision of Irregular Tracts 2, and 51 in the Southeast Quarter of Section 33, Township 10 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska described as follows, to wit:

Beginning at a point on the South right of way line of Shamrock Road, said point being 410.65' Easterly distant from the point of intersection of the centerline of vacated 66th Street and the South right of way line of Shamrock Road; Thence on an assumed bearing of S 0° 01' 40" E 212.00'; Thence S 90° 00' E 184.66'; Thence N 0° 01' 40" W 212.00' to a point on the South right of way line of Shamrock Road; Thence along the said right of way line N 90° 00' W 184.66' to the Point of Beginning, said tract containing an area of 39152 square feet.

Parcel 4- Part of the North 3/8 of Lot 7, Potter's Subdivision of Irregular Tracts 2, and 51, in the Southeast Quarter of Section 33, Township 10 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska described as follows, to wit:

Beginning at a point on the South right of way line of Shamrock Road, said point being 595.33' Easterly distant from the point of intersection of the centerline of vacated 66th Street and the South right of way line of Shamrock Road; Thence on an assumed bearing of S 0° 01' 40" E 212.00'; Thence S 90° 00' E 184.67'; Thence N 0° 01' 40" W 212.00' to a point on the South right of way line of Shamrock Road; Thence along the said right of way line N 90° 00' W 184.67' to the Point of beginning, said tract containing an area of 39152 square feet.



# SURVEY RECORD

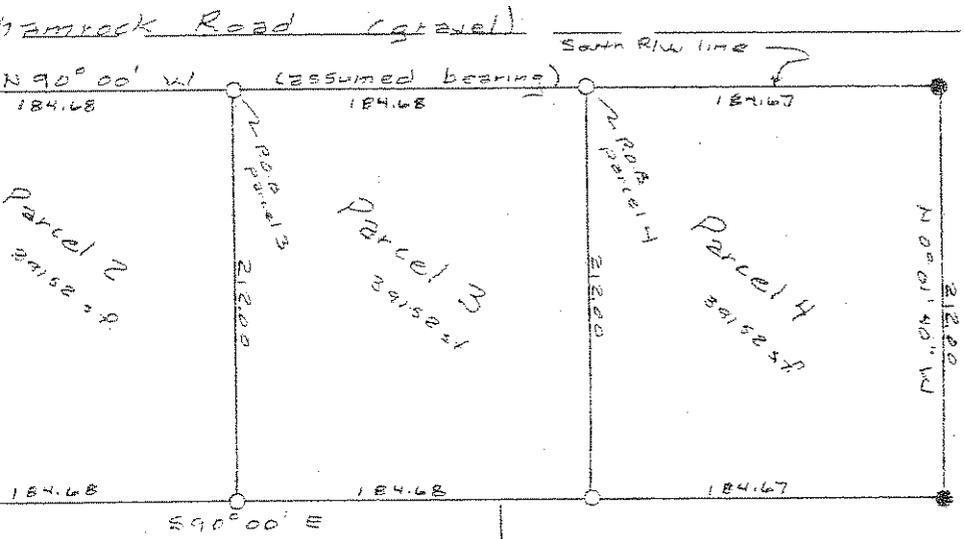
Attachment to application for administrative subdivision  
 Survey of: of part of Lot 7, Potber's Sub. of Lots 2, and 51, in the  
 Southeast Quarter of Section 33 T10N, R 7E, 6th P.M., Lancaster  
 County, Nebraska more fully described hereinafter  
 City of Lincoln

EXHIBIT "C"



● corner found  
 ○ #5x24 bar set

Block 2  
 Kelly Heights



Block 1  
 Kelly Heights

Estates