City Council Introduction: **Monday**, July 14, 2008
Public Hearing: **Monday**, July 21, 2008, at **1:30** p.m. Bill No. 08-86

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 08033,** from R-2 and R-3 Residential to R-4 and R-5 Residential; from R-3 Residential to R-2 Residential; and from R-5 Residential to R-4 Residential, requested by Chateau Properties, LLC, on property generally located at North 56th Street and Holdrege Street to North Cotner Boulevard and Vine Street.

STAFF RECOMMENDATION: Approval

ASSOCIATED REQUESTS: Special Permit No. 1174G (08R-159).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 07/02/08
Administrative Action: 07/02/08

RECOMMENDATION: **Denial** (5-3: Cornelius, Taylor, Esseks, Francis and Carroll voting 'yes'; Larson, Sunderman and Partington voting 'no'; Gaylor Baird absent).

FINDINGS OF FACT:

1. This change of zone request and the associated amendment to the Chateau La Fleur Community Unit Plan were heard at the same time before the Planning Commission.

2. The purpose of this change of zone request is to increase the density to allow an amendment to the Chateau La Fleur Community Unit Plan to add 144 multiple-family dwelling units, for a total of 920 dwelling units. The change of zone would increase the maximum allowable density to 1294 dwelling units.

3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.5-6, concluding that the change of zone is consistent with the Future Land Use Map in the Comprehensive Plan. The staff presentation is found on p.8-9.

4. The applicant's testimony is found on p.9-11, indicating that the 144 additional dwelling units is all that is being requested and that any additional dwelling units would require another amendment to the community unit plan.

5. The record consists of one letter in support (p.25).

6. Testimony in opposition is found on p.11-12, and the record consists of two letters in opposition based on floodplain and floodprone issues and the implementation of the Deadmans Run Watershed Master Plan (p.29-33). The additional information submitted by Russell Miller in opposition is found on p.27-28.

7. The discussion by the Planning Commission in regard to the floodplain and floodprone issues is found throughout the testimony on p.8-14. The Commission was advised that this application should be reviewed and acted upon on its own merits and not considered in association with the implementation of the Deadmans Run Watershed Master Plan and possible future use of part of the property for public purpose.

8. On July 2, 2008, the majority of the Planning Commission disagreed with the staff recommendation and voted 5-3 to recommend **denial** based on the increase in density (See Minutes, p.14-15).

9. On July 2, 2008, the majority of the Planning Commission also voted 5-3 to **deny** the associated amendment to the Chateau La Fleur Community Unit Plan, which has been appealed to the City Council (Bill #08R-159).

FACTSHEET PREPARED BY: Jean L. Preister **DATE**: July 7, 2008

REVIEWED BY:_____ **DATE**: July 7, 2008

REFERENCE NUMBER: FS\CC\2008\CZ.08033+

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for July 2, 2008 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No. 08033

PROPOSAL: From R-2 to R-4; from R-2 to R-5; from R-3 to R-4; from R-3 to R-5; from R-3 to R-2 and from R-5 to R-4.

LOCATION: N. 56th Street and Holdrege to N. Cotner Boulevard and Vine Street.

LAND AREA: 81.24 acres, more or less

EXISTING ZONING: R-2 Residential District, R-3 Residential District, and R-5 Residential District.

CONCLUSION: The changes of zone are consistent with the Comprehensive Plan Future Land Use map.

RECOMMENDATION: Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached.

EXISTING LAND USE: Single-family dwelling, multiple-family dwellings, and elderly housing.

SURROUNDING LAND USE AND ZONING:

North:	R-2 Residential District:	Detached single-family dwellings Private parochial school
	R-3 Residential District	Detached single-family dwellings Attached single-family dwellings Townhouses
	B-1 Local Business District	Restaurant
	P Public Use District	Fire Station #9
South:	R-2 Residential District	Detached single-family dwellings Private parochial schools
	R-5 Residential District	Elderly housing
	R-6 Residential District	Multiple-family dwellings
	B-1 Local Business District	Service Station
East:	R-2 Residential District	Detached single-family dwellings
	R-3 Residential District	Detached single-family dwellings
	R-5 Residential District	Multiple-family dwellings
	B-1 Local Business District	Service Station

	P Public Use District	Bethany Park
West:	R-2 Residential District	Detached single-family dwellings Private parochial schools
	R-3 Residential District	Detached single-family dwellings Attached single-family dwellings

ASSOCIATED APPLICATIONS:
Special Permit #1174G

HISTORY:

January 20, 1998:	Resolution #A-78563 was passed by City Council to approve Special Permit #1174F to add one dwelling unit in former clubhouse.
October 9, 1995:	Resolution #A-77023 was passed by City Council to approve Special Permit #1174E to eliminate a pedestrian bridge over Deadmans Run.
July 18, 1994:	Resolution #76229 was passed by City Council to approve Special Permit #1508 for 95 elderly housing units.
July 18, 1994:	Resolution #A-76228 was passed by City Council to approve Special Permit #1174D to add land and increase density.
July 18, 1994:	Ordinance #16640 was passed by City Council to approve Change of Zone #2826 from R-2 to R-5.
February 3, 1992:	Resolution #A-74634 was passed by City Council to approve Special Permit #1174A for a club.
April 30, 1990:	City Council denied Resolution #38-4012 for Special Permit #1174B to add 114 elderly housing units.
May 18, 1987:	Resolution #A-71383 was passed by City Council to approve Special Permit #1174A to add 112 dwelling units.
May 18, 1987:	Ordinance #14666 was passed by City Council to approve Change of Zone #2316 from R-3 to R-5.
April 28, 1986:	Resolution #A-70723 was passed by City Council to approve Special Permit #1174 to add 99 dwelling units.
April 19, 1971:	Lot 204 Irregular Tract and Outlot A, Park Valley Heights were combined into a developable lot by Administrative Subdivision Permit #1178.
December 13,1971:	Resolution #A-59057 was passed by City Council to approve Special Permit #580 (Charleston Court) for 228 dwelling units.

August 26, 1968: Resolution #A-56931 was passed by City Council to approve Special Permit #431 (Chateau La Fleur) for 225 dwelling units.

COMPREHENSIVE PLAN SPECIFICATIONS:

The Comprehensive Plan Future Land Use map designates this area as Green Space, Lakes and Streams, and Urban Residential. (p. 19)

Green Space: Areas predominately used for active recreational uses, such as parks, golf courses, soccer or ball fields, and trails. Green space areas may be either public or privately owned. While some isolated environmentally sensitive features may be within these areas, they are predominately for active recreation, with some passive recreation uses also possible. (p. 16)

Lakes and Streams: This category includes the larger stream corridors, lakes, and ponds. (p. 16)

Urban Residential: Multi-family and single family residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. (p. 16)

New residential development is generally discouraged in areas of environmental resources such as endangered species, saline wetlands, native prairies and in floodplain corridors. It is also strongly encouraged that adequate spacing be provided from pipelines and areas where hazardous chemicals could be used and stored. Property owners and residents along the pipeline should be notified about hazards and emergency actions. (p. 65)

Interconnected networks of streets, trails and sidewalks should be designed to encourage walking and bicycling and provide multiple connections within and between neighborhoods. (p. 66)

Encourage a mix of housing types, including single family, duplex, attached single family units, apartments, and elderly housing all within one area. Encourage multifamily near commercial areas. (p. 68)

UTILITIES: Abbey Court is served with public sanitary sewer. The rest of the community unit plan is served with private water and sewer.

TRAFFIC ANALYSIS: One portion of the development has vehicular access to N. 56th Street (Urban Minor Arterial). The other portion of the development has vehicular access to Holdrege Street (Urban Minor Arterial), N. 63rd Street (Local Street), Cotner Boulevard (Urban Minor Arterial), and Vine Street (Urban Minor Arterial).

The area is served by two bus routes. The #42 stops at any intersection along Holdrege Street. The #44 stops at the intersection of N. Cotner Boulevard and Vine Street.

N. 56th Street, Vine Street, and N. Cotner Boulevard adjacent to the community unit plan are all in a 40' building line district.

PUBLIC SERVICE: Fire Station #9 is located near the development at 901 N. Cotner Boulevard.

REGIONAL ISSUES: The development straddles the Deadmans Run floodway.

ENVIRONMENTAL CONCERNS: Portions of the development are in the floodway, the FEMA 500 year floodplain, and the locally adopted floodprone area.

ALTERNATIVE USES: The community unit plan has not reached the maximum density allowed under the current zoning. The alternative to the changes of zone would be to maintain the existing density as approved and develop the remaining 16 units.

ANALYSIS:

1. The community unit plan (special permit #1174F) which covers much of the areas in the proposed changes of zone has developed 776 of the allowed 792 units that have been approved.

2. The applicant is proposing to add 144 multiple-family dwelling units at this time.

3. The changes of zone would allow an increase in density. The City of Lincoln Design Standards allow 6.96 dwelling units per acre in the R-3 Residential District and 13.93 dwelling units per acre in the R-4 Residential District. The existing community unit plan for this site (special permit #1174F) allows a maximum of 776 dwelling units (including the elderly housing). The proposed zoning would allow a maximum of 1,294 dwelling units (including the elderly housing).

4. Density for the elderly housing is not figured by the community unit plan density calculations. Elderly housing for this community unit plan was previously approved for an 80% density bonus above what the underlying R-5 Residential District allows. There are 94 units of elderly housing currently approved. The proposed change of zone would increase the allowed density to 174 units of elderly housing due to an 80% density bonus for elderly housing. These additional units are not transferrable to the overall community unit plan for conventional dwelling units. The current proposal does not request any increase above the existing approved 94 units of elderly housing.

5. Portions of the application are within the floodway, 500 year floodplain, and the locally adopted floodprone area.

6. Deadmans Run flows through the community unit plan from southeast to northwest. A portion of the application is within an area identified for a proposed flood storage project that is critical to the Deadmans Run Watershed Master Plan. The detention projects outlined in the master plan along with other improvements would significantly reduce the potential for future flooding in the Deadmans Run watershed, resulting in the removal of 807 homes and businesses from the floodplain. The City and the Lower Platte South Natural Resources District are currently working through the process to secure assistance from the United States Army Corps of Engineers to find solutions to reduce the flood risk if the authority and appropriations for a study are granted. The Lower Platte South Natural Resources District is actively in the appraisal process to obtain an easement over a portion of the Chateau property (in the area of the proposed 90 units on Abbey Court) and a portion of the Lincoln Lutheran property).

7. Density Calculations:
The community unit plan includes approximately 83.31 acres, a small portion of which is not included in the associated change of zone application (Change of Zone #08033).

The existing density on site is 776 dwelling units per 83.31 acres or 9.31 units per acre. That includes 94 units of elderly housing.

The current approved density for the site is 792 dwelling units per 83.31 acres or 9.51 units per acre.

The changes of zone would allow a maximum of 1,294 dwelling units per 83.31 acres or 15.53 units per acre. That includes 174 units of elderly housing.

The current proposal would allow 920 dwelling units per 83.31 acres or 11.04 units per acre. That includes 94 units of elderly housing.

8. The changes of zone will make the zoning boundaries consistent with the boundaries of the platted lots. Lots 1-4, Chateau First Addition will be entirely zoned R-4 Residential District; Lot 5, Chateau First Addition will be entirely zoned R-5 Residential District; Outlot A, Park Valley Heights and Lot 204 Irregular Tract will be entirely zoned R-2 Residential District.

Lot 204 Irregular Tract and Outlot A, Park Valley Heights were combined into a developable lot by Administrative Subdivision Permit #1178 in 1971. The lot was developed with a detached single-family dwelling and is currently zoned R-2 and R-3. The change of zone would put the whole lot under R-2 zoning; consistent with the rest of the adjacent detached single-family neighborhood.

Lot 189 Irregular Tract was added to the change of zone request to prevent an isolated piece of R-3 Residential District.

9. Parking:
There are 97 existing parking stalls for the elderly housing on Lot 5, Chateau First Addition. This is sufficient for the existing development of 94 units. The parking requirement for elderly housing is one space per dwelling unit. Parking would have to be expanded significantly in order to realize the full allowed density of 174 units.

There are 1,162 existing and proposed parking stalls for the remainder of the community unit plan. The existing approved development of 682 dwelling units provided 1,162 parking stalls. This does not meet the parking requirement for the R-4 Residential District of two spaces per dwelling unit, but is grandfathered by previous approval. The current proposal increases the number of dwelling units by 144 to 826. The proposed 144 dwelling units are required to provide two stalls per dwelling unit (288 parking stalls). The proposal includes 313 parking stalls (25 above the required for the proposal), and is therefore sufficient. Parking would have to be expanded significantly (by 593 stalls) in order to realize the full allowed density of 1,120 units.

Prepared by:

Brandon M. Garrett, AICP
Planner

DATE: June 24, 2008

APPLICANT: Chateau Development, LLC
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Lincoln, NE 68506

OWNER: Chateau Properties, LLC
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Lincoln, NE 68506

CONTACT: Civil Design Group, Inc
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402-434-8494

CHANGE OF ZONE NO. 08033
and
SPECIAL PERMIT NO. 1174G, AMENDMENT TO THE CHATEAU LA FLEUR COMMUNITY UNIT PLAN

PUBLIC HEARING BEFORE PLANNING COMMISSION: July 2, 2008

Members present: Cornelius, Larson, Taylor, Esseks, Sunderman, Partington, Francis and Carroll (Gaylor Baird absent).

Ex Parte Communications: Commissioner Esseks disclosed that he contacted the Planning Department to alert staff to the questions he would be asking on this proposal.

Staff recommendation: Approval of the change of zone and conditional approval of the special permit amendment.

Staff presentation: **Brandon Garrett of Planning staff** discussed the several issues surrounding these applications. Based on the current zoning and approved community unit plan (CUP), the density would allow 792 dwelling units. The site plan has been previously approved for 776 dwelling units. If the zoning was not changed, there would still be 16 dwelling units that could be developed before the CUP reaches the maximum allowed density. The proposed change of zone and amendment to the CUP would increase the allowed density from 792 dwelling units to 1294 dwelling units. The application currently before the Commission, however, only proposes to add 144 dwelling units to the existing 776 approved dwelling units, for a total of 920 dwelling units for the entire 83 acres.

With regard to floodplain concerns and related issues, the floodway for Deadmans Run flows through the CUP from the southeast at Cotner and Vine to the northwest at N. 56th and Holdrege. Portions of the existing and proposed dwelling units are in the 500 year floodplain and the locally adopted floodprone area. On February 25, 2008, the City Council approved the Comprehensive Plan Amendment for the Deadmans Run Watershed Master Plan, outlining the series of flood control projects to remove homes and businesses from the floodplain. Garrett displayed a map indicating the areas that would remain in the floodplain or floodprone area, and the areas that would be removed from the floodprone or floodplain areas if the projects outlined in the Master Plan were implemented. According to the Deadmans Run CIP results map, much of the Chateau property would be removed from the floodplain. One of the projects detailed in the Master Plan is a two-cell detention project located partially on the Chateau property. With respect to Cell A, Public Works has expressed their concern over losing the opportunity for this key element of the Master Plan. The Lower Platte South Natural Resources District (NRD) states that the NRD Board has authorized staff to begin the process to acquire the necessary easements to enclose the basins, one being on the Chateau property.

The site circulation and connectivity of the CUP is another issue of concern for Planning, Public Works and Fire. A major concern is that the proposed site plan would add 90 dwelling units to Abbey Court, currently developed with 96 units. The proposed site plan would then result in 186

dwelling units on a dead-end street with one way in and out onto N. 56th Street. An additional vehicular connection has been added as a condition of approval (#2.1.8):

> Revise the plans to show a second vehicular access and a looped water supply system to the proposed development on Abbey Court.

Condition #2.1.9 requires a note stating that:

> ...A second open vehicular access with a public access easement or common access easement shall be constructed prior to the issuing of building permits for any dwelling units south of Abbey Court.

That note is very important in terms of addressing the timing of any development in the area of the proposed 90 units. If they do develop that area, there is going to be a need for the additional access.

Larson suggested that the detention cells will get quite deep. What will they be used for other than detention? Garrett responded that Cell A is the primary cell that would receive the stormwater. Cell B would only be lowered by 13' so it would be sort of an overflow to Cell A. Currently, the Lincoln Lutheran High School football field, practice field or soccer field is on this site.

Esseks asked for the definition of a "locally adopted floodprone area". Garrett explained that the floodprone area is basically equivalent to the FEMA adopted 100-year floodplain.

Proponents

1. Mark Hunzeker appeared on behalf of **Chateau Development.** This project/complex is one of the earlier multi-family complexes in Lincoln to develop under a CUP. There are 776 dwelling units and probably more residents than many, many of the small towns in Nebraska. Over the 40 years, it has grown both in dwelling units and amenities. It is nearly unique in that it has not changed ownership since 1974. It represents a great example of long term investment in this community and commitment to a very high standard of management. Chateau has s similar complex near 70th & Van Dorn which is currently being expanded. This project is next on the list of continuing upgrades and improvements.

This project was begun by meeting with staff, with a positive reaction from staff. There are a number of Comprehensive Plan criteria, including maximizing the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity; encouraging greater amount of commercial space per acre and more dwelling units per acre; adoptive reuse and infill development; and multi-family and single family residential uses in areas with varying densities from 15 to less than 1 unit per acre, to name a few. Thus, Hunzeker submitted that this project is clearly in conformance with the Comprehensive Plan.

Hunzeker stated that there is little disagreement between staff and the developer and very little opposition to the substance of this proposal. There is only one issue to which the staff and developer have not reached complete agreement, and that is the access issue. The developer does not argue with the potential safety concerns, although Hunzeker suggested that they are somewhat

exaggerated. He believes that the Fire Department can find a way in and out with or without a second access. Hunzeker proposed amendments to the conditions of approval as follows:

2.1.8 Revise the plans to show a second emergency vehicular access and a looped water supply system to the proposed development on Abbey Court.

2.1.9 Add a note to the Sheet 2 General Site Notes that states, "A second ~~open~~ emergency vehicular access with ~~a public access easement or common~~ emergency access easement shall be constructed prior to the issuing of building permits for any dwelling units south of Abbey Court".

Hunzeker stated that the developer has been working with the school on a potential secondary emergency access. Hunzeker pointed to at least four examples of CUP developments with one access – Waterbrook with several hundred units accessing Folkways Boulevard; Villa Tierra on S. 27th Street & Tierra Drive, with one access to Tierra Drive; the Fountain Glen apartments at N.W. 1st & West Fletcher, with over 400 units and single access; Salt Valley View CUP, amended to add 162 units to existing 270 units of Ruskin Place, with single access point. There is a second access required to be constructed within two years following final plat approval on the Salt Valley View CUP; however, that access is onto a much heavier speed and traveled roadway than N. 56th Street. Chateau La Fleur does not have a second access today because they developed under a CUP and did not subdivide. Hunzeker submitted that the secondary access being requested by staff is not something which is required by the CUP design standards or anything in the zoning ordinance. Hunzeker suggested that Fire would have the ability to open the gates electronically, when necessary for emergency.

With regard to the Deadmans Run floodplain issue, Hunzeker noted the letters in opposition to this proposal based on the future possible public use of some of this property. It is kind of like addressing a possible future public park. Just because you put something in the Comprehensive Plan does not mean that it exists or that the private property owner has no use of it. It means that someday, if the city chooses, it may go forward with a park on that property. In this case, the city might, at some point, go forward with a public use of a portion of this property. If it does, then it has the power to do so and this developer has no objection to the city going forward; however, this developer is not in a position to wait indefinitely. This developer has had a plan to move forward with expansion of this site for some time and "a possible future public use" is not a permissible reason to deny this project or impose burdens not routinely imposed on similar projects because there might someday be a use for this property. This application must be treated as an application on its own merits – not on a possible future public use.

With respect to the project affecting this property in the Deadmans Run Watershed Master Plan, the City Council very specifically resolved that prior to final design and construction, the preliminary engineering reports will be brought before the City Council for public hearing and approval. So there is not even a tentative approval of a project on that site. We know that the NRD has given direction to commence discussion for acquisition of this property, and Hunzeker is not suggesting that they do not have that power, but if they do, they need to come forward and do so in the manner provided by the Nebraska state statutes, not by denial of an application for a project of this nature.

Esseks noted that part of the development at N. 56th called Adrianna Court is in the floodprone area

already – both the existing dwelling units and part of the area being added. He believes that to be a serious issue, particularly in an area where we already have a lot of high flood risk – 700 homes vulnerable to flooding. It does not appear to be a good area to impose further impervious surface. Esseks takes the position that this is a serious limitation to this application with land in the local adopted floodprone area where you want to add additional impervious surfaces. Hunzeker pointed out that the staff recommendation does not make any sort of reference to that as a limitation for a very good reason; that is, that the city's floodplain and floodprone regulations do not limit the ability of property owners within the developed city (which this is) from going forward with projects such as this and bringing those areas out of the floodplain. There is plenty of dirt on this site which can be excavated, providing additional flood storage outside the building envelopes of the proposed units, to protect them from flooding and maintain the existing flood storage on the site. Esseks inquired whether that is incorporated into this plan. Hunzeker responded, "yes". It will show up in the grading plan. It will be a part of the review for buildings permits. The floodplain regulations and the floodprone regulations permit this kind of project as it would in any other floodplain or floodprone area in the city that is within the defined areas of the existing city.

Carroll noted that the change of zone increases the maximum allowable to 1294 units. This application seeks a total of 920 dwelling units. Are you really going to want the maximum number? Hunzeker does not think they will get there, but because of the massive area they thought it made sense to bring the entire project under one zoning district. The maximum number permitted will be the number being requested today and anything more will require another amendment.

Carroll inquired about the recreational areas being eliminated. Hunzeker noted that there is a condition of approval to add recreational area to make up for what is being removed.

Carroll also inquired whether the issue of a unit being built over a sewer easement has been resolved or corrected. Hunzeker stated that they will revise the building envelope to be sure no building gets placed within that easement area.

Carroll confirmed that detention will be built on the site to not displace any of that water in the floodprone area. Hunzeker stated that the grading plan will take some dirt off the existing site and place it in the building pads for these buildings. They will probably end up with no net loss of flood storage on the entire site and very likely, although not required, a no net rise situation relative to the existing conditions. They are not showing detention and staff is not requesting it. It is not necessary or desired in areas immediately adjacent to the stream and downstream from upper reaches of the watershed.

<u>Opposition</u>

1. Russell Miller testified in opposition. He also submitted a letter in opposition. He displayed a photograph at 37th & Baldwin showing the 100 year flood height. There is major flood damage occurring in this area. The Planning Commission has the authority to remove that risk by denying this request and using the land for flood detention cells. He also submitted data from the County Assessor about property values in this area from about 33rd to 48th and Huntington to Cleveland. Too many times the developer makes a very good pitch that the project is very good and will bring benefits to the city; however, the people that suffer from the flood waters never show up at the hearing. He pointed out that the assessed value of this area would total slightly over 50 million

dollars. There are a string of apartment complexes from about 35th to 44th, and if there was a flood, there would be a lot of people impacted by this. This water will be slimy, dirty, and contaminated. The Planning Commission has the opportunity to make sure that never happens in Deadmans Run by using the land that this application wants to develop. The assessed value of this area is almost as much as a Gateway Shopping Center. If Gateway was in that kind of floodplain, we would be taking steps to save it. Here we have a chance to take great steps to save this area.

Miller also suggested that flood insurance is a burden that many people have to bear and it is not something of their own making. It is caused by people who have developed upstream without provision to detain the flood waters.

Miller served on the Mayor's Floodplain Task Force and the Deadmans Run Task Force.

2. Malinda Burk, President of **University Place Community Organization,** testified with concerns about the floodplain and potential implications of this development. Flood insurance is a hardship. UPCO represents the area from 33rd to 60th, Holdrege to the railroad tracks.

Staff questions

Cornelius asked for confirmation of the Planning Commission responsibilities in terms of not holding up an application based on potential public use in the future. Carroll had asked the City Attorney to be present today but he was not available. However, the City Attorney agrees that the Planning Commission cannot meld the two into this decision. The other is a decision in the future that has not been made. The Planning Commission is voting on what is in front of them today and cannot deny based upon what might happen in the future.

Esseks believes that the Comprehensive Plan contains some broad responsibilities and one of those is to protect the neighbors, property owners and residents from actions taken by their neighbors, either adjacent or upstream, that may adversely affect the value of their properties. He asked if staff believes that to be a reasonable interpretation. Garrett agreed that it is the city's responsibility to protect the health, safety and general welfare of its citizens.

Carroll asked staff to comment on the flood storage issue. Being in an existing urban area, Garrett explained that the floodplain and storage requirements do not apply. **Dennis Bartels of Public Works** further explained that if it is a subdivision, the staff will ask the developer to provide storage to protect the downstream property. Subdivision detention and retention storage type requirements limit the flow as it leaves the property. When adjacent to the floodplain or major channel, there is really no downstream property to protect. We could have asked for storage strictly within the boundaries of the CUP, but Bartels didn't see any significant benefit to local detention storage with this project.

Carroll wanted to know where the water goes. **Ben Higgins of Watershed Management** explained that if the development is in the existing urban area, the developer can put fill in the floodplain area. The water will probably have an impact somewhere else and whether that is negligible or not, he

does not know. The developer will be requested to show that that is not the case. Most typically in the existing urban area, that is not a requirement according to the state, federal and local regulations.

Marvin Krout, Director of Planning, did have a communication with the City Attorney and he agrees with Hunzeker that this is a situation where, if you look at this property compared to any other property, you would be recommending approval except for the possibility of a future use for public purpose. It could be considered a "taking" if the Planning Commission resigns the property to the public use and no economic value, even though similar to other properties that have been developed. We are always going to find something in the Comprehensive Plan to support a decision, but looking at it on the whole including density, compatibility, infrastructure, capacities, etc., this is a low density apartment complex in a generally low density area (about 3.5 units per acre), we do desire to have a higher density in areas like this to take better advantage of the infrastructure that is already available. Looking at this proposal without the issue of public purpose in the future clouding it, the staff could not find enough argument in the Comprehensive Plan to say no.

Esseks was puzzled. We already know that lots of homes downstream are currently at risk of flood. Here we are adding density to property that has been in existence for some years reaching buildout in its current zone, realizing considerable financial benefit. We are adding to the density and we have a neighboring apartment house owner who expects to receive the same treatment when he asks to increase his density. It looks to be a precedent to increase density increasing flood risk. He does not see why the courts would say we cannot protect the people downstream from this higher density and additional impervious surface. Krout suggested that if the Planning Commission or City Council want to test this issue in the courts, the City Attorney does not believe this is a case we could win. We could not show that this property would have a significant adverse effect beyond the flooding problem that already exists in this area. Its runoff is going to be way downstream before the peak of the storm hits the areas that are downstream.

Esseks is still concerned about setting a precedent. Krout observed that there is property being developed in this basin everyday. That is why we have a floodplain map and plans, but here we are going to have to solve it by structural improvements and not by managing the land in the whole basin.

Taylor sought confirmation that this development does not increase any risk at all. Krout clarified that he is suggesting that there is no "significant increased risk" by developing this 4 or 5 acres of land.

<u>Staff response</u>

Garrett believes that at least two of the examples of apartment complexes referred to by Mr. Hunzeker had two access points rather than just one.

Garrett advised that the staff is not in support of the amendments to the conditions of approval proposed by the applicant because the amendments would change it from an open vehicular access to everyday residents to an emergency access only. Emergency access was not the sole purpose for the additional access but for the connectivity for the development and additional connection for

those 186 units to Vine Street as well as 56th Street. The recommendation was in fact for a full access or common access for all of the public and residents to use.

Response by the Applicant

Contrary to the position of the Lincoln Neighborhood Alliance, Hunzeker stated that the Planning Commission does not have the power to fix the Deadmans Run flooding problem by denial of this project. In fact, he suggested that denial of this project will not fix that problem. We are not here today to argue the relative merits of the Deadmans Run Watershed Master Plan or the wisdom of spending 50 million dollars to implement that plan. We are here today to discuss the merits of this application based upon regulations that apply today. Furthermore, the Comprehensive Plan is not a regulatory document. It is a forward looking guide to the future development of the community and has absolutely no regulatory effect. Hunzeker does not dispute the city's right to acquire part of the property to implement the Deadmans Run Watershed Master Plan. If the City chooses to implement that plan, this developer will negotiate in good faith for just compensation to the owner of that property. The city does have the power to protect those properties, but that power must be executed not by the denial of projects which are otherwise permissible on private property, but by implementation of a plan of acquisition of rights and construction of improvements as provided in the master plan. This property cannot be held hostage to a "possibility sometime in the future". That is illegal. The appropriate action here is approval.

With respect to the condition relative to access, Hunzeker pointed out that the only reference to that access in the entire staff report is in the Fire Department comments asking for it as a safety concern. There is not one word referenced in that report relative to connectivity. The Adriana Court area is connected by a bike path to a bike path that leads right through Gateway Shopping Center. The limited connectivity of streets is no more limiting than many of the existing projects already in place. He does not believe any of the examples have two access points. It is a safety issue – not a connectivity issue.

CHANGE OF ZONE NO. 08003
ACTION BY PLANNING COMMISSION: July 2, 2008

Larson moved approval, seconded by Sunderman.

Esseks accepts the legal advice offered, but he will vote against this change of zone, not because it would obstruct the successful conclusion of negotiations to achieve a detention cell on the property, but because he is convinced that we have created improper medical response. We have 807 homes that are going to be in the floodplain subject to the terrible experiences of flooding. We must do everything possible to help those people out. We should not approve additional densities in this drainage basin. It would be a precedent for others currently using their properties for commercial purposes to seek higher densities.

Larson stated that he will vote in favor because voting it down is not going to change the floodplain and flood insurance requirements upstream or downstream. Most of the property affected immediately is owned by the applicant. If there is a risk, it's greatly his own risk. If he is willing to make further investment and take the risk, it makes it worthwhile.

Cornelius commented that he is sympathetic to all the views stated by his colleagues. The overriding concern in terms of flooding is the Deadmans Run Watershed Master Plan. That is the point where we are creating risk for other property owners along Deadmans Run. He believes it is the case that we are bound to take this application simply on its own merits and not the possibility that this land could be acquired and used to the public benefit in the future. For that reason, he feels compelled to vote for approval.

Carroll stated that he will vote no based on the application and its merits. This increases the density from 9.3 units per acre to 15.5 units per acre. He believes that is just too much for this area. Yes, it is in the floodway and floodprone area, and adding this much density in this area is just not good planning. We will have other people in this area coming back wanting to increase density and this is just the wrong area.

Motion for approval failed 3-5: Larson, Sunderman and Partington voting 'yes'; Cornelius, Taylor, Esseks, Francis and Carroll voting 'no'; Gaylor Baird absent.

Francis moved denial, seconded by Cornelius and carried 5-3: Cornelius, Taylor, Esseks, Francis and Carroll voting 'yes'; Larson, Sunderman and Partington voting 'no'; Gaylor Baird absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 1174G
ACTION BY PLANNING COMMISSION: July 2, 2008

Larson moved to approve the staff recommendation of conditional approval, with the amendments as requested by the applicant. Motion failed for lack of a second.

Cornelius moved to deny, seconded by Francis.

Cornelius stated that he was persuaded by the Chair's argument. He had been so focused on the floodplain issue and Cell A that he had not stopped to consider the issue of density and changed his vote for that reason.

With regard to a setting a precedent, Partington observed that any other application can also be denied or approved based on its own merits. It is not a given that another application would be approved.

However, given the 14th Amendment requiring equal protection and treatment, Esseks suggested that like applications should be treated by the same body in a like fashion.

Speaking to the density issue, Larson observed that one of the battles we are all fighting is to increase the density or have more density in the core areas of the city to eliminate urban sprawl on the edges. He believes this is a good opportunity to do that.

Motion to deny carried 5-3: Cornelius, Taylor, Esseks, Francis and Carroll voting 'yes'; Larson, Sunderman and Partington voting 'no'; Gaylor Baird absent. This is final action unless appealed to the City Council.

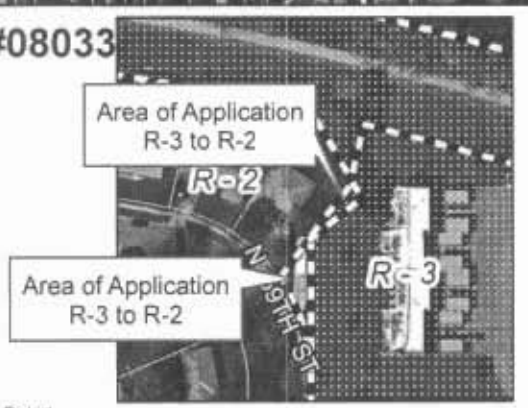
2007 aerial

Change of Zone #08033
56th & Holdrege

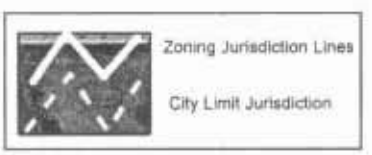
Zoning:

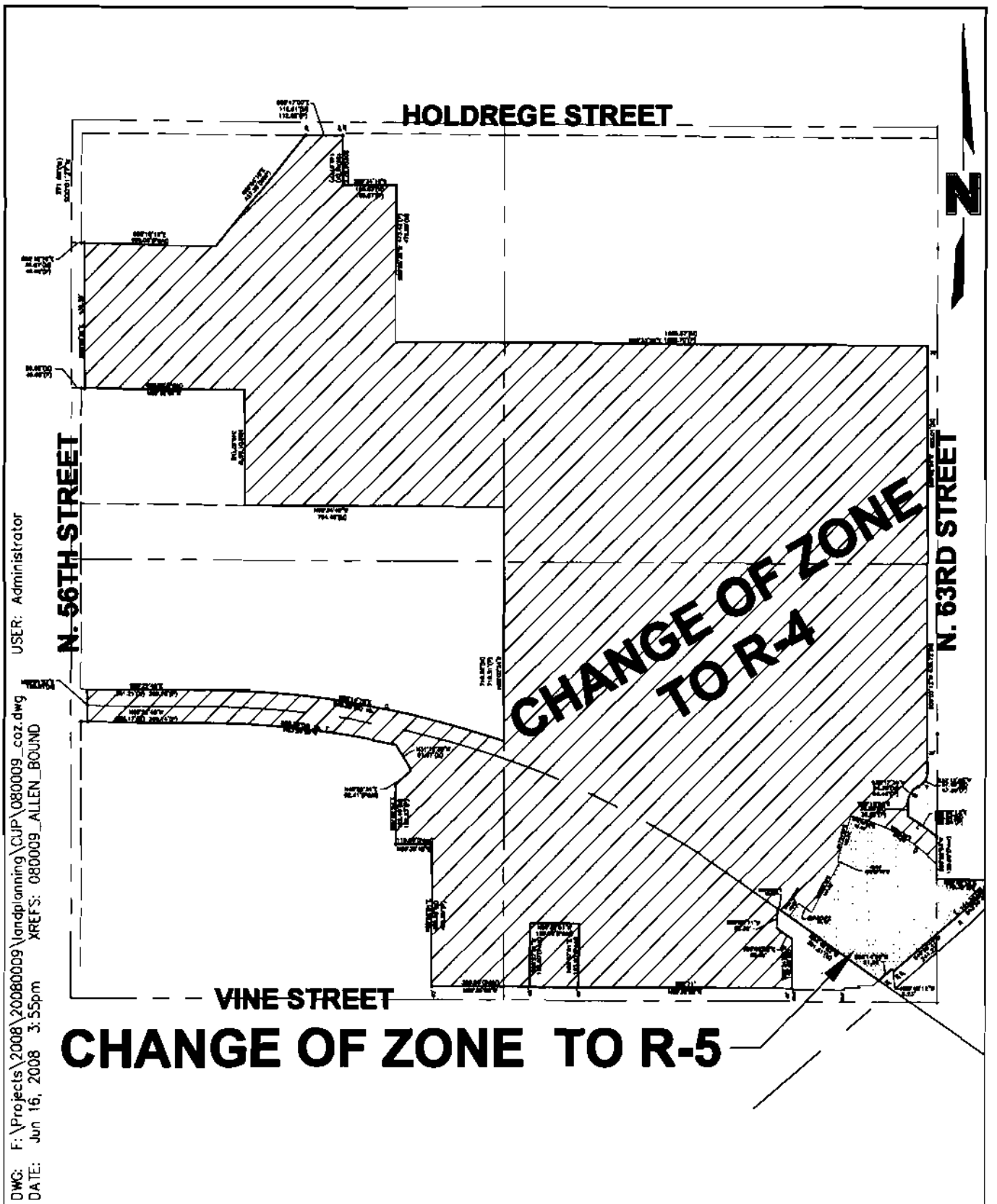
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	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

m:\plan\arcview\08_cz\cz08033



One Square Mile
Sec. 21 T10N R07E





drawn by: jds
checked by:–
project no.: 2008–0009
date: 06/16/2008

CHANGE OF ZONE EXHIBIT
CHATEAU LA FLEUR & CHARLESTON CT.
LINCOLN, NEBRASKA

Civil Design Group, Inc.
8535 EXECUTIVE WOODS, DR., SUITE 200
Lincoln, Nebraska 68512
Ph. 402-434-8484 Fax 866-213-8747
www.civildg.com
CONSULTING ENGINEERS • LAND USE PLANNERS
CIVIL DESIGN • SITE DEVELOPMENT • PLANNING AND ZONING

EXHIBIT
A

Change of Zone No. 08033, from R-3 Residential District to R-2 Residential District, on property legally described as that portion of Lot 204 Irregular Tract currently zoned R-3 and that portion of Outlot A, Park Valley Heights currently zoned R-3; from R-2 Residential District to R-4 Residential District, on property legally described as that portion of Lot 4, Chateau 1st Addition currently zoned R-2 Residential District; from R-3 Residential District to R-4 Residential District, on property legally described as Irregular Tract 189 and Lots 1-3 and that portion of Lot 4, Chateau 1st Addition currently zoned R-3 Residential District; from R-3 Residential District to R-5 Residential District, on property legally described as that portion of Lot 5, Chateau 1st Addition currently zoned R-3 Residential District; from R-5 Residential District to R-4 Residential District, on property legally described as that portion of Lot 4, Chateau 1st Addition currently zoned R-5 Residential District; and from R-2 Residential District to R-5 Residential District, on property legally described as that portion of Lot 5, Chateau 1st Addition currently zoned R-2 Residential District all located in the N ½ of Section 21-10-7, Lancaster County, Nebraska, generally located at N. 56th Street and Holdrege Street.

PUBLIC WORKS AND UTILITIES DEPARTMENT

CITY OF LINCOLN
NEBRASKA
MAYOR CHRIS BEUTLER

MEMORANDUM

Date: June 23, 2008

To: Brandon Garrett

From: Devin Biesecker

Subject: Chateau Le Fleur & Charleston Court

A portion of this area has been identified in the Deadmans Run Watershed Master Plan as a location for future stormwater detention (see attachment) as part of a larger flood control project for the watershed. Earlier this year the Deadmans Run Master Plan was adopted as a sub-area plan of the Comprehensive Plan. This detention project along with proposed improvements to the Deadmans Run channel, bridges and culverts would significantly reduce the potential for future flooding in the Deadmans Run watershed, resulting in the removal of 807 homes and businesses from the floodplain.

The City and the Lower Platte South NRD have continued interest in the detention location on the Chateau property and are currently working on several items related to the detention area.

> Recently the City and NRD have had communications with the Corps of Engineers in which the Corps acknowledged a significant need for flood control in the Deadmans Run watershed. The Corps expressed an interest in providing assistance to find solutions to reduce the flood risk if the authority and appropriations to fund study efforts can be secured. The City and NRD are in the process of working through the needed steps in this process.
>
> The Lower Platte South NRD has just started the process to appraise the Chateau property in order to obtain an easement for the proposed detention on the Chateau property.
>
> The City and Lower Platte South NRD are beginning efforts for further study on both detention areas identified in the Deadmans Run Watershed Master Plan at Taylor Park and on the Chateau/Lincoln Lutheran property. Prior to the final design and construction any of the flood control projects identified in the Master Plan, the preliminary engineering reports for these two detention areas will be brought before the City Council for public hearing and approval. The preliminary engineering reports will include geotechnical evaluation and greater detailed conceptual design for both detention areas.

8.4.2 Stormwater Detention Projects

Multiple stormwater detention project locations were evaluated with the goal of reducing flood flows along Deadmans Run main channel. A detailed hydrologic model was developed for each alternative to determine the effectiveness of the proposed sites. Based on the detailed evaluation, two dry detention projects are recommended. The first dry detention basin is located upstream of 56th Street and Holdrege Street along the main channel, while the second basin is located within Taylor Park.

8.4.2.1 Project 5: Offline Dry Detention Upstream of 56th Street, Main Channel, Station 152+93 to 159+78

Problem Description: Projects 1 through 4 include channel improvement projects that lower the floodplain elevation by increasing conveyance in the channel. This process eliminates existing flood storage in the overbanks and results in higher flood flows. To mitigate this increase in flow and potential adverse impacts downstream, stormwater detention basins must be constructed upstream of the channel conveyance projects.

Recommended Improvements: The goal of stormwater detention projects is to reduce flood flows by temporarily storing flood waters during severe rain storms and then slowly releasing the stormwater back into the channel after the storm has ended. Multiple alternatives were evaluated in this area, including variations of in-line storage with a wet bottom and variations of off-line storage with a dry bottom. The offline dry detention option was selected based on its efficiency of reducing flood flows for a given volume and project cost. The risk of adversely impacting adjacent buildings is also greatly reduced with the offline storage facility.

Available open space was targeted for the offline storage facility based on the size and geographic location within the watershed. The configuration of the basin consists of two cells, as depicted on Figure 8-15. Cell A encompasses land owned by an apartment complex and is designated as open space on their Community Unit Plan, which was approved by the City of Lincoln's Planning Department. The apartment complex has built a trail on the north side of the area that provides a connection from the west apartments to the leasing office and recreational facilities approximately a half mile to the east. The area south of the trail includes varying topography, mature trees, and a maintenance road currently used as a disposal site for construction fill and debris. Cell B encompasses land owned by a private school. The school has recently improved the area by regrading and seeding the field to create improved recreational playing surfaces.

The construction of Cell A will involve excavating approximately 16 feet of soil material using gradual 4:1 side slopes. The construction of Cell B will involve excavating approximately 13 feet of soil material using the same side slopes. A side channel weir will be constructed along the left bank of Deadmans Run main channel. The left bank and weir will separate the excavated storage facility from the channel. The weir elevation will be positioned at approximately the 5-year design storm stage. When the Deadmans Run main channel water level reaches the crest elevation of the weir, stormwater will be diverted into Cell A. As the main channel continues to rise, the bottom of Cell A will fill. During approximately the 10-year design storm, Cell B will begin to inundate, storing stormwater

for larger, less frequent storms. After the storms end, the storage facilities will drain water back into the main channel within a 24-hour period.

Other supplemental features of Cell A will include environmental enhancement by replanting with native grasses and trees. In addition, the connection trail can be replaced along the existing alignment, or through the detention facility providing access to passive recreation activities. Cell B will include a sand bed, underdrain system, and turf grass that can be used for recreational purposes. The area will gravity drain to Cell A and be available for recreational use within 24 hours of the storm subsiding.

Estimated Project Cost: $2,932,000

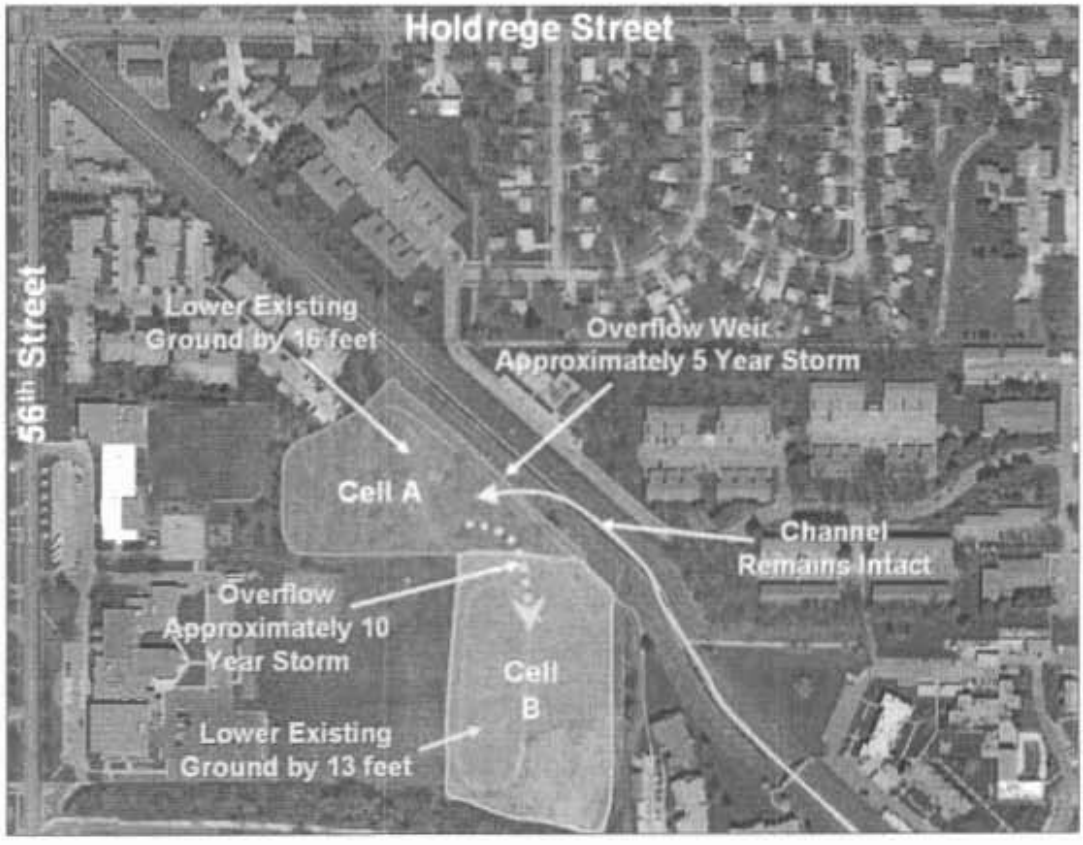


Figure 8-15
Project 5 Design Components

LOWER PLATTE SOUTH
NATURAL RESOURCES DISTRICT

3125 Portia St., Box 83581, Lincoln NE 68501-3581
(402) 476-2729 • FAX (402) 476-6454
www.lpsnrd.org

June 24, 2008

Mr. Brandon Garrett
City of Lincoln/Lancaster County Planning Dept
555 South 10th Street, Room 213
Lincoln, NE 68508

RE: Chateau LaFleur & Charleston Court – Amendment to the Community Unit Plan & Change of Zone, N. 56th & Vine Streets. CDG Project No. 2008-0009.

Dear Mr. Garrett:

The Lower Platte South NRD Board of Directors has approved the Deadman's Run Watershed Master Plan that identifies potential projects to reduce flooding along Deadman's Run in north Lincoln. This plan was a joint study with the City of Lincoln and we are currently in the process of applying for state and federal assistance to implement the DMR Master Plan.

A major component of that plan is a stormwater detention basin proposed for a portion of the property included in this proposed amendment. The basin is proposed for a portion of the Chateau Property located west of the Deadman's Run channel and is shown on the plans as the three "Proposed 30 Appartment Units" and parking lots located on an extension of Abbey Court.

The NRD advises the Commission that the NRD Board has authorized staff to begin the process of acquiring the necessary easements to construct the proposed stormwater detention basin.

Sincerely,

Glenn D. Johnson
General Manager

Civil Design Group, Inc.

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

www.civildg.com

June 4, 2008

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

Re: Chateau LaFleur & Charleston Court – Amendment to the Community Unit Plan & Change of Zone, N. 56th & Vine Streets
CDG Project No. 2008-0009

Dear Mr. Krout:

On behalf of Chateau Properties, LLC, we submit the above mentioned project for your review and approval. As discussed in our pre-submittal meeting with staff, these applications are being sought to develop three infill land areas that will utilize the existing public infrastructure and the on-site staff and facilities of the Chateau Properties' 83.31 acre multi-family development located at North 56th and Vine Street. As an infill project, this Special Permit would yield 144 additional multi-family units that will significantly compliment the city's property tax base without any infrastructure costs to the City of Lincoln. Existing on-site Chateau management, maintenance, and leasing staff would be utilized to serve these new units. Additionally, the existing clubhouse, recreational facilities, and trails system would be available to the tenants of these new units.

The Change of Zone from R-3 to R-4 is proposed to bring this multi-family complex in compliance with the current zoning ordinance written to serve multi-family areas. The site plan verifies that under the R-4 CUP zoning, the complex's density would remain below the allowable density for such a district if the additional units are approved.

One waiver is being requested for these new units, it relates to the Landscape Screening Requirement as detailed in the Design Standards, Chapter 3.5, Section 7.3. The waiver request is to allow the existing tree masses on-site to be preserved and used as the required screening between the structures and the lot line. We believe this is a reasonable request as the existing trees would meet the desire screening percentage.

In conjunction with this submittal we submit the following information:

- Site Plan – 16 copies
- Utility Plan, Grading & Landscape – 5 copies each
- Application for Change of Zone & Community Unit Plan
- Community Unit Plan & Change of Zone Application Fees - $3,120.00
- Certificate of Ownership
- Change of Zone Exhibit & Legal Description

I hope that this letter and the plan sets 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 have any questions.

Sincerely,

Mike Eckert, AICP

Encl

cc: Stefan Gaspar
Mark Hunzeker

F:\Projects\2008\20080009\landplanning\Doc\CUP-COZ-planning_6-04-08.doc

SUPPORT

ITEM NO. 4.2a&b: CHANGE OF ZONE NO. 08033
SPECIAL PERMIT NO. 1174G
(p.113 - Public Hearing - 7/02/08)

JUN 24 2008

June 23, 2008

Lincoln-Lancaster County
Planning Department
555 South 10th Street, Room 213
Lincoln, NE 68508

Re: CHANGE OF ZONE NO. 08033 and
SPECIAL PERMIT NO. 1174G
N. 56th Street & Holdrege Street

Planning Commission Members,

My wife and I own Valley View Apartments at 6235 Holdrege Street; we have 36 units. A few years ago we expanded our apartment complex from 29 units to 36 units. We wanted to build an 8-plex but were limited by density to 7 units. We have quite a bit of open space which we just mow. If the increased density is granted to Chateau La Fleur Apartments we would cxpect the same treatment as to our land. Our ground backs into the garages along Berkshire Court.

We do not object to the Special Permit as submitted. I have highlighted our location.

Respectfully,

Lloyd Hinkley

HOLDREGE STREET
WEST STREET
BERKSHIRE COURT

SUBMITTED AT PUBLIC HEARING
BEFORE PLANNING COMMISSION
IN OPPOSITION BY RUSSELL MILLER,
7/02/09

CHANGE OF ZONE NO. 08033
SPECIAL PERMIT NO. 1174G

37th & Baldwin looking north on 37th
the blue (lower) line is the predicted 100 year flood height

Using County Assessor public records the following data is presented for your consideration:

	Single Family Home	50 apartment complexes	6 mega apartment complexes	Shopping Center	Deadmans Run Total	Gateway/ Eastpark/ South side of "O"
Assessed Value	$26,936,000	$6,982,700	$11,187,000	$5,468,900	$50,574,600	$57,560,000
Annual flood insurance premiums	$220,220	$57,228	unknown**	unknown**	$277,448	unknown**
Acres					30	200

* There are approximately 455 single family homes (investments) in the Deadmans Run floodplain area that I am considering (33rd to 48th and Huntington to Cleveland strrets). Due to the large number of houses, a random sample of 57 homes was taken to determine an average assessed value of $59,200. The average flood insurance premium per home is $484.

**Flood insurance premiums are unknown because FEMA does not insure buildings valued over $200,000.

The Deadmans Run area has a relatively small area devoted to concrete parking lots compared to the Gateway complex which is why the assessed value and acreage are not comparable. Both the Gateway complex and the Deadmans Run apartments/commercial buildings were built in the late 1970's and early 1980's.

OPPOSITION

ITEM NO. 4.2a&b: CHANGE OF ZONE NO. 08033
SPECIAL PERMIT NO. 1174G
(p.113 & 135 - Public Hearing - 7/02/08)

Russell Miller
<neb31340@alltel.net>
06/23/2008 09:12 PM

To <bgarrett@lincoln.ne.gov>
cc
bcc
Subject dead men run

History: This message has been replied to.

Hello,

concerning CZ (08033) and SP1174G

I talk to by phone Monday afternoon concerning Chateau LE Fleur .

You have probably already thought of this but just in case : is there anyway the City could make him have "no adverse impact" with his run-off like new developments on the city fringes are required to do ?

When I was testifying at Deadman's Run Master Plan I was thinking that his acres of rooftops and parking were part of the problem for those at 45th & Huntington.

russell miller
daytime hone 499-2611

Russell Miller
<neb31340@alltel.net>
06/30/2008 08:15 AM

To <plan@lincoln.ne.gov>
cc
bcc
Subject testimony about sp1174g & cz8033 concerning chateau

To : Lincoln / Lancaster County Planning Commission 28 June 2008

From: Lincoln Neighborhood Alliance

Subject : Special Permit 1174G and change of zone CZ08033 for Chateau Le Fleur

Dear Commission Members,

Lincoln Neighborhood Alliance (LNA) urges your denial of these two requests.

The acres that this proposed development will occupy has been designated by Deadmans Run Master Plan as a key part in removing most of Deadmans Run watershed from the floodplain.

The economic impact on 56 apartment complexes plus 1 neighborhood shopping center plus over 450 homes being removed from the floodplain (total assessed value $50.74 million) will far exceed the economic gain of this proposed development. If this proposal is allowed to proceed this floodplain elimination opportunity will be lost forever.

Russell Miller
for Lincoln Neighborhood Alliance

The following is LNA's position paper that was published in March 2008.

For several weeks there has been considerable debate on the City Council concerning Deadmans Run Stormwater Master Plan, particularly the watershed area between 33rd & 48th and north to Adams Street.

THE ONE THING YOU NEED TO REMEMBER: THE INVESTORS IN DEADMANS RUN ARE INNOCENT VICTIMS. When they made their investments the floodplain did not exist. The floodplain only exists today because the City issued building permits for many housing and commercial projects east (or upstream) of 56th street without requiring those developments to make provisions for their stormwater runoff. That negligence permits runoff to flow downstream until the banks overflow. In the 37th & Baldwin area (2 blocks north of the creek) this contaminated, slimy liquid will be 3-5 feet above street level. (See picture) The shopping center at 48th & Leighton and the 50 apartment buildings to the west (combined assessed value $23.6 million) will be part of a raging current with an unknown destructive force. There are a total of

534 units in the apartment complexes and in a flash flood there is a strong potential of human injury, not to mention the guaranteed property damage.

At the public hearings, statements were made several times that it would be cheaper to just "pay for everyone's flood insurance" than to invest the $50 million to correct this deplorable situation. That testimony is the best example of how completely misunderstood this flooding problem is, not to mention an extremely short range vision. These investments have every expectation of lasting 100 years—similar to the historic buildings in the Haymarket. I strongly doubt that the speakers were agreeing to pay the insurance bill for the next 100 years, but someone will! In the last 7 years the insurance premiums have increased 11% and this money leaves our community.

Every property insurance policy states it will cover windstorms (i.e. tornados) but EXCLUDES water damage (i.e. flood). All federally insured banks are mandated to require flood insurance on property loans unless the borrower can prove the property is outside of the floodplain. From a regional perspective there are relatively few properties in the floodplain; therefore, flood insurance is a comparatively high cost item. The cost of cleanup is astronomical.

As Councilman Camp stated in the Council vote on 25 February 2008, these homes are selling at a substantial discount. The investors with these properties are penalized twice: once for having the annual expense of flood insurance and once for having to sell at a discount when they want to cash in their investment. Property owners have testified that they are reluctant to improve their land because of the flood potential. These two penalties exist because of the upstream investors' actions that were permitted by city government. Perhaps those investors should share their financial gains with the victims downstream.

The approval and vigorous implementation of the Deadmans Run Watershed Master Plan will (1) provide the opportunity for the City Council to correct wrongs permitted 30 years ago in the name of progress; (2) increase the property tax base; and (3) give investors incentives to improve their properties even further which will increase the tax base even more.

The Lincoln Neighborhood Alliance (LNA) recognizes the long term detrimental effect of flood insurance costs as well as the potential flooding damage has on a neighborhood and investments. The LNA Candidate Questionnaire section on Stormwater for last year's election cycle asked each candidate if they would "work aggressively ...to mitigate ... flooding problems" (lincolnneighborhoods.org click on Candidate Q&A). The four candidates that were elected plus Mr. Svoboda all agreed or strongly agreed with this statement.

The Candidate Questionnaire was a promise to the community. The voting and motions on Deadmans Run Master Plan is action. These actions are contrary to the campaign pledges of some Council members. Excuses that the budget is tight are moot because it will always be tight. However, there will be a budget disaster when the flood occurs. Implementing the Deadmans Run Master Plan today will save major sums of money in the future.

Russell Miller
Lincoln Neighborhood Alliance and Member of Deadmans Run Watershed Citizens Advisory

Committee

Using County Assessor public records the following data is presented for your consideration:

	Single Family Homes*	50 apartment complexes	6 mega apartment complexes	Shopping Center	Deadmans Run Total	Gateway/ Eastpark/ South side of "O"
Assessed Value	$26,936,000	$6,982,700	$11,187,000	$5,468,900	$50,574,600	$57,560,000
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* There are approximately 455 single family homes (investments) in the Deadmans Run floodplain area. Due to the large number of houses, a random sample of 57 homes was taken to determine an average assessed value of $59,200. The average flood insurance premium per home is $484.

**Flood insurance premiums are unknown because FEMA does not insure buildings valued over $200,000.
The Deadmans Run area has a relatively small area devoted to concrete parking lots compared to the Gateway complex which is why the assessed value and acreage are not comparable. Both the Gateway complex and the Deadmans Run apartments/commercial buildings were built in the late 1970's and early 1980's.

CHANGE OF ZONE NO. 08033
SPECIAL PERMIT NO. 1174G
(p.113 and 135 - Public Hearing - 7/02/08)

JUN 30 2008

REF: Special Permit 1174G

Dear Sirs:

I noticed on your agenda for July 2 that an application has been submitted to impinge on existing flood standards. I oppose such denigration of public safety.

Some years ago I was an emergency manager and dealt with flood issues and flood plain issues. Based on that experience I encourage you to adhere to existing local and federal flood plain standards. Failure to do so only adds suffering and cost to "others" in the future.

I would note that it appears that the City sent notices to all property owners, including the applicant as far back as 2006, detailing the standards and the flood protection plans - obviously well before this development project was hatched.

Sincerely,

Richard A Noyes 6/27/08

Richard Noyes