

AGENDA
DIRECTORS' MEETING
MONDAY, FEBRUARY 2, 2009
COUNTY-CITY BUILDING, ROOM 113
IMMEDIATELY FOLLOWING PRE-COUNCILS

I. CITY CLERK

1. Agenda Items Nos. 11, 12, 13, 14 and 23:
 - a) Antelope Village;
 - b) Little Saigon Project; and
 - c) Matt Talbot.

II. CORRESPONDENCE FROM THE MAYOR & DIRECTORS TO COUNCIL

PRESENTATIONS BY:

Lincoln Police Department. Challenges 2009 - 2010.

MAYOR

- **1. NEWS ADVISORY. Mayor Beutler's Public Schedule. Week of January 10 through January 16, 2009. (Forwarded to Council Members on 01/12/09)
- **2. NEWS RELEASE. Mayor presents December Award of Excellence to Nicholas Wemhoff and Barbara Boggs.
- **3. NEWS RELEASE. Free tickets for Doris Kearns Goodwin Forum available Thursday.
- **4. NEWS ADVISORY. Mayor Beutler and UNL Chancellor Perlman to hold a news conference, Tuesday, January 13, 2009, at 10:45 a.m, Room 113 at 555 S. 10th, updating the City's proposed arena project.
- **5. NEWS RELEASE. Arena vote delayed due to uncertain economy.
- **6. NEWS ADVISORY. Mayor Beutler will hold a news conference, Wednesday, January 14, 2009, 1:00 pm at 555 S. 10th, discussing phase one report of the Impact Fee Study Committee. (Forwarded to Council Members on 01/14/09)
- **7. NEWS RELEASE. Impact Fee Committee issues recommendations.
- *8. NEWS ADVISORY. Mayor Beutler's Public Schedule. Week of January 17 through January 23, 2009. (Forwarded to Council on 01/16/09)
- *9. NEWS RELEASE. Nominations now accepted for Mayor's Arts Awards.
- *10. NEWS ADVISORY. Mayor Beutler available to talk to the media via conference call on Tuesday, January 20, 2009 at 3:00 pm (CST). 5 CITY-TV, cable channel 5 will air the conference call live.
- *11. NEWS ADVISORY. Mayor Beutler and Police Chief Casady will hold a news conference on Friday, January 23, 2009, 575 S. 10th, to release the City crime statistics for calendar year 2008.
- *12. NEWS RELEASE. Contractor to grind holiday trees.
- *13. Citizens Information Center snow notification for Friday, January 16, 2009, 4:30 a.m. (Forwarded to Council Members on 01/16/09)
- *14. Citizens Information Center snow notification for Friday, January 16, 2009, 10:00 a.m. (Forwarded to Council members on 01/16/09)

- *15. NEWS RELEASE. Public invited to open house on water quality improvements in Tierra Park.
- *16. Washington Report, January 16, 2009.
- 17. Washington Report, January 23, 2009.

DIRECTORS

CITIZEN INFORMATION CENTER

- **1. Cable TV Advisory Board Meeting Agenda of January 22, 2009.
 - a) Complaints received about Time Warner.
- *2. Cable TV Advisory Board Minutes, July 24, 2008.

CITY LIBRARIES

- *1. NEWS RELEASE. African American Read-In. Readings held at Eiseley Branch Library, 1530 Superior Street, Thursday, February 5, 2009 at 12:00 noon.
- *2. NEWS RELEASE. Title nominations now being accepted to be read as part of the 2009 One Book - One Lincoln community reading program.
- *3. NEWS RELEASE. Sundays at Your Library. Expanded service hours at several locations.

FINANCE/BUDGET

- 1. January Sales Tax Reports:
 - a) Actual Compared to Projected Sales Tax Collections;
 - b) City of Lincoln Gross Sales Tax Collections (With Refunds Added Back In) 2003-2004 Through 2008-2009;
 - c) City of Lincoln Sales Tax Refunds 2003-2004 Through 2008-2009; and
 - d) City of Lincoln Net Sales Tax Collections 2003-2004 Through 2008-2009.

PLANNING

- **1. Action by Planning Commission, January 14, 2009.
- *2. Nebraska Capitol Environs Commission January meeting cancelled.
- *3. Memorandum regarding Bill #09-6. Change of Zone No. 08063, Text amendment relating to electronic copy signs for churches, schools and community playhouses.

PLANNING COMMISSION FINAL ACTION

- *1. Special Permit No. 08050. Expansion of nonstandard dwelling, 827 North 33rd Street. Resolution No. PC-01152.
- *2. Special Permit No. 08041. Stone Haven Community Unit Plan. S.W. 12th Street and West Denton Road. Resolution No. PC-01153.
- 3. Special Permit No. 08034A, Amendment to the Whispering Meadows Community Unit Plan. S.W. 27th Street and West A Street. Resolution No. PC-01156.
- 4. Comprehensive Plan Conformance No. 08029. Permanent conservation easement, S.W. 1st Street and West E Street. Resolution No. PC-01154.
- 5. Action by Planning Commission, January 28, 2009.

PUBLIC WORKS/WATER & WASTEWATER SYSTEM

- 1. Lincoln Water and Wastewater Systems Fiscal Year 2007-08 Audits. (Delivered to Council on January 23, 2009)

URBAN DEVELOPMENT

- **1. Reply to Michael Reinmiller from Kenneth D. Smith, City Parking Manager, regarding correspondence of January 4, 2009 on downtown parking (Correspondence included).

URBAN DEVELOPMENT/HOUSING REHAB AND REAL ESTATE DIVISION

- 1. Street and Alley vacation No.08012. East/West alley 26th to 27th Street, North of W Street.

III. COUNCIL RFI'S & CITIZENS CORRESPONDENCE TO INDIVIDUAL COUNCIL MEMBERS

JON CAMP

- 1. Email from Wayne and Judy Jensen voicing opposition to proposed daycare center at 29th and Porter Ridge with concerns of traffic and the waivers for the developer.
- 2. Email from Michael, Chris, Colton and Addison Dinneen stating reasons they feel a daycare of this size should not be built at this location.
- 3. Email from Donald Henninger strongly opposing the proposed zone change for a daycare center.
- 4. Email from Jan Harris and Reta Leggett protesting the zone change for a daycare center listing reasons why the location is unsuitable for this business.
- 5. Email from Tanya Colson opposed to zone change for a daycare business giving reasons to keep residential.
- 6. Email letter from Steve Goosic listing reasons on not allowing the zoning changes and special waivers, 29th and Porter Road, for a proposed daycare center.
- 7. Email from Cyndi Miller, Knowledge Beginnings child care center director, giving reasons to oppose the zoning change and waivers to permit a child daycare center at 29th and Porter Ridge Road.
- 8. Email from Tim and Carol McClain with concerns regarding proposed change of zoning at 29th and Porter Ridge Road and listing daycare centers already in the neighborhood.

ROBIN ESCHLIMAN

- *1. Email from Richard Todd regarding railroad cars parked parallel to Highway 2 and 40th to 48th Street for extended time period.
- 2. Response to Richard Todd on unsightly BNSF rail cars along Highway 2 from approximately 48th to 27th Street.

IV. CORRESPONDENCE FROM CITIZENS TO COUNCIL

- **1. Correspondence through InterLinc from Brendan Evans in support of the proposed sign for the Lincoln Community Playhouse. (Delivered to Council Members on 01/12/09 before formal Council Meeting)
- **2. Email from Perry Haralson in support of an electronic sign for the Community Playhouse. (Delivered to Council Members on 01/12/09 before formal Council Meeting)
- **3. Email from Anthony Messineo in support of a sign proposed for the Lincoln Community Playhouse. (Delivered to Council Members on 01/12/09 before formal Council Meeting)
- **4. Community Health Endowment (CHE) elects officers and welcomes new trustees.
- **5. Letter from Joyce Richter in opposition to Doctor Johns business being permitted to operate.

- **6. Letter from Bob Reeves opposing request by the Lincoln Community Playhouse for a lighted sign.
- **7. LES Legislative Guidelines for 2009.
- **8. InterLinc correspondence from Rick and Jessica Stanton regarding proposed blighted area ownership.
- *9. Correspondence through InterLinc. Question on Elmwood receiving ALS intercept.
- *10. Letter from the Commission on Accreditation for Law Enforcement Agencies reporting re-accredited status to the Lincoln Emergency Communications/911 Center.
- *11. Email from Gerald Brodd regarding gasoline prices set by stations.
- *12. Email from Linda Witfoth regarding issues brought up at the January 12, 2009 City Council Meeting. Change of Zone 08058 and Use Permit 08002.

V. ADJOURNMENT

**** HELD OVER FROM JANUARY 19, 2009.**

***HELD OVER FROM JANUARY 26, 2009.**

09R-17 and
09-12

MEMORANDUM

To: Lincoln City Council Members
From: Wynn Hjermstad, Urban Development
Date: January 28, 2009
Re: Cost Benefit Analysis for the *Antelope Valley Redevelopment Plan*,
Antelope Village Project.

Attached is a cost benefit analysis for your consideration with the amendment to the *Antelope Valley Redevelopment Plan*. The amendment adds the Antelope Village Project to the Plan.

The Plan amendment is scheduled for public hearing on February 9th. In the meantime, please contact me if you have any questions: 441-8211 or whjermstad@ci.lincoln.gov. Thank you.

09R-17 and
09-12

MEMORANDUM

To: Lincoln City Council Members
From: Wynn Hjermstad, Urban Development
Date: January 28, 2009
Re: Cost Benefit Analysis for the *Antelope Valley Redevelopment Plan*,
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The Plan amendment is scheduled for public hearing on February 9th. In the meantime, please contact me if you have any questions: 441-8211 or whjermstad@ci.lincoln.gov. Thank you.

**Cost Benefit Analysis
Antelope Village Project
January, 2009**

The Antelope Village Project (the "Project") will redevelop the block between 23rd and 24th, "P" and "Q" Streets in the Antelope Valley Redevelopment Area. The Project will include an office/condominium building containing approximately 18,000 square feet, located on the southwest corner portion of the block. The uses of this building will consist of office space for NeighborWorks Lincoln, a community room, a fitness facility, all located on the first floor. Eight to ten residential condominiums will be located on the second and third floors. In addition, the Project will contain eighteen (18) individually platted townhomes which will be sold to foster home ownership in the Redevelopment Area.

As required by Nebraska Community Development Law (Neb.Rev.Stat. §18-2113), the City has analyzed the costs and benefits of the proposed Antelope Village Project including:

Tax Revenues.

Tax Increment Financing Analysis

Description		
Base Value	Current Assessed Value – 2009	\$ 959,350
Est. New Assessed Value	In Phases – when Complete	\$4,500,000
Increment Value	New Assessed Value minus base Assessed Value	\$3,450,650
Annual TIF Generated	= increment x 2.029514 tax rate	\$ 72,000
Funds Available	Annual TIF Generated x 13 years	\$ 450,000

The assessed value of the property within the project area will increase by an estimated \$3,500,000 as a result of the private investment. This will result in an estimated annual increase of approximately \$72,000 in property tax collections that will be available for the construction of public improvements related to the project during the 13 year TIF period. The public investment of a projected \$450,000 in TIF funds will leverage \$5 million in private sector financing, resulting in a private investment of \$11 for every City TIF dollar spent.

Public Infrastructure and Community Public Service Needs Impacts. It is not anticipated that the Project will have an adverse impact on existing public infrastructure as it will take advantage of existing infrastructure. The Project entails the capture of the incremental tax revenues for the purposes of relocating some utility service lines, installing site utilities, energy conservation improvements, and other eligible improvements.

It is not anticipated that the Project will have any adverse impact on City services, but will generate additional revenue providing support for those services.

Employment Within the Project Area. It is not anticipated that the Project will have an adverse impact on employers and employees of firms locating or expanding within the boundaries of the area of the redevelopment project. The Project will provide additional housing opportunities for individuals and families seeking to live near their workplace.

Employment in the City Outside the Project Area. Approximately 125,936 persons living in the City of Lincoln were employed, according to the 2005 American Community Survey. The median household income for the City in 2005 was \$45,790.

Other Impacts.

The Project increases business and tax base without an adverse effect on either public or private entities. There will also be personal property tax and other municipal revenue generated for the immediate benefit of the community. The Project will facilitate the development of vacant or underdeveloped areas in the City, without the incurrence of significant public cost. The Redevelopment Project will also benefit and encourage additional private development in and around the Redevelopment Area.

The Project will create tax and other public revenue for the City and other local taxing jurisdictions. While the use of tax increment financing will defer receipt of a majority of new ad valorem real property taxes generated by the Project, the Project will increase home ownership opportunities within the Redevelopment Area.

In addition to new personal property tax revenues, the Project will also contribute to municipal revenues through excise taxes, fees, licenses, sales taxes, and other taxes that occur and are paid by homeowners in the Redevelopment Area.

The Project should have a positive impact on private sector businesses in and around the area outside the boundaries of the redevelopment project. The Project is not anticipated to impose a burden or have a negative impact on other local area employers, but should increase the need for services and products from existing businesses. Most notably, the 26-28 new homes and the office space will provide a quality mixed-use development in the Antelope Valley Redevelopment Area.

09R-19 and
09-13

MEMORANDUM

To: Lincoln City Council Members
From: Wynn Hjermstad, Urban Development
Date: January 28, 2009
Re: Cost Benefit Analysis for the *North 27th Street Corridor and Environs Redevelopment Plan*, Little Saigon Project.

Attached is a cost benefit analysis for your consideration with the amendment to the *North 27th Street Corridor and Environs Redevelopment Plan*. The amendment adds the Little Saigon Project to the Plan.

The Plan amendment is scheduled for public hearing on February 9th. In the meantime, please contact me if you have any questions: 441-8211 or whjermstad@ci.lincoln.gov. Thank you.

**Cost Benefit Analysis
Little Saigon Project
26 & W Streets
January, 2009**

As required by Nebraska Community Development Law (Nebr. Res.Stat §18-2147), the City has analyzed the costs and benefits of the proposed Little Saigon Project.

Tax Revenues. The Little Saigon project is located at northeast corner 26th & W Streets. The current assessed value is \$72,500.

Tax Increment Finance Analysis		
Base Value	Current Assessed Value	\$72,500
Estimated New Assessed Value	70% of Project Cost + Base	\$422,500.00
Increment Value	New Value minus Base Assessed Value	\$350,000.00
TIF Tax Generated	= increment x 2.029514 rate	\$7,103.00
Funds Available	Annual TIF Generated x 14 years at 8.25%	\$71,865.00

The assessed value of the property within the project area will increase by an estimated \$350,000.00 as a result of the project private investment of \$500,000. This will result in an estimated annual increase of \$7,103.00 in property tax collections that will be available for the construction of the public improvements related to the project during the 15 year TIF period.

The TIF to be generated will be approximately \$71,865. This amount in public funds will leverage about \$500,000 in private sector financing, an investment of \$6.96 for every City dollar spent.

Public Infrastructure and Community Public Service Needs. It is not anticipated that the Project will have an adverse impact on existing public infrastructure. TIF financing will be used for public infrastructure costs such as sidewalks on the south and west side of the project area, a driveway approach on W Street, grading and site preparation, re-feed of existing Lincoln Electric System service and landscaping the right-of-way.

It is not anticipated that the Project will have any adverse impact on Community Public

Service needs.

Employment Within the Project Area. It is not anticipated that the Project will have an adverse impact on employers and employees of firms locating or expanding within the boundaries of the area of the redevelopment project. The developer is planning on adding up to 10 new jobs within the first year of operation.

Employment in the City outside the Project Area. Approximately 125,936 persons living in Lincoln are employed, according to the 2005 American Community Survey. The median household income for the City in 2005 was \$45,790.

The impact of an additional 10 jobs will have minimal impact on the overall employment in Lincoln.

Other Impacts. The project site is currently vacant. This redevelopment project should continue to spur further development along the N 27th Street corridor. The project completes redevelopment on three of the four corners of the intersection adjacent to the new MoPac Trail bridge. The other two redevelopment projects are the People's Health Center to the north and Heartland Optical across the street.

The project also returns a city owned lot to the property tax rolls.

The owners are planning an exterior and interior renovation of the existing building to compliment the new building.

The new development offers entrepreneurial opportunity with five retail/commercial bays that the owner plans on leasing. The owner has two of the five bays leased.

MEMORANDUM

To: Lincoln City Council Members
From: Wynn Hjernstad, Urban Development
Date: January 28, 2009
Re: Cost Benefit Analysis for the *North 27th Street Corridor and Environs Redevelopment Plan*, Matt Talbot Kitchen and Outreach Project.

Attached is a cost benefit analysis for your consideration with the amendment to the *North 27th Street Corridor and Environs Redevelopment Plan*. The amendment adds the Matt Talbot Kitchen and Outreach Project to the Plan.

The Plan amendment is scheduled for public hearing on February 9th. In the meantime, please contact me if you have any questions: 441-8211 or whjernstad@ci.lincoln.gov. Thank you.

Cost Benefit Analysis

Matt Talbot Kitchen and Outreach Project

January, 2009

The Matt Talbot Kitchen and Outreach (MTKO) Project (the "Project") will utilize the existing facility at 2121 N. 27th Street, the old Carnegie Library, and complete construction of a new facility to comprise a total of approximately 12,000 square feet. The project will include renovation of the Carnegie Library building and new construction of an approximately 9,000 square foot building and related parking.

As required by Nebraska Community Development Law (Neb. Rev. Stat. §18-2113), the City has analyzed the costs and benefits of the proposed MTKO Project including:

Tax Revenues. The site is currently under city ownership, acquired for construction of the 27th Street overpass, and is not on the property tax rolls. MTKO is a non-profit organization that also does not pay property taxes; therefore, the impact to property taxes is neutral. The estimated total cost to implement the Project is approximately \$2 million which includes approximately \$400,000 of public investment. The source of public funds will be Tax Increment Financing (TIF) estimated to be \$400,000 generated from private development within the North 27th Street Redevelopment Area. The public investment of \$400,000 will leverage \$1,600,000 in private sector financing, resulting in a private investment of \$4.00 for every City TIF dollar spent.

Public Infrastructure and Community Public Service Needs Impacts. It is not anticipated that the Project will have an adverse impact on existing public infrastructure as it will take advantage of existing infrastructure.

Community public service needs will be enhanced by this new location. MTKO statistics show that many of the people served live in the surrounding Clinton neighborhood. Also, the agency has outgrown its current facility. This new, larger facility will increase capacity, allowing MTKO to continue to provide needed services.

Employment Within the Project Area. It is not anticipated that the Project will have an adverse impact on employers and employees of firms locating or expanding within the boundaries of the redevelopment project. MTKO may add one or two new positions.

Employment in the City Outside the Project Area. Approximately 125,936 persons living in the City of Lincoln were employed, according to the 2005 American Community Survey. The median household income for the City in 2005 was \$45,790.

Other Impacts. In 2008, 105,702 meals were provided by MTKO. However, the agency provides much more than meals. Since 2000, Strategic Planning by the Board of Directors resulted in expanding homeless prevention services and programs. Outreach Services address a multitude of complex needs for homeless or near homeless people. Some of the services provided and projects underway include

weekly neighborhood food distribution, life skills enhancement classes, the Homeless Identification Project, nutrition counseling, health outreach, the Vision Improvement Project, Transitions House, Housing Case Management, the Social Security Outreach and Recovery program, street outreach, and monthly foot clinic. By focusing on homeless prevention and services, MTKO saves the community in emergency services for health, shelter and other needs.

Volunteers are the core of the agency: with 10,089 instances of volunteer assistance provided in 2008, MTKO coordinates one of the largest volunteer programs in Lincoln. In 2007, \$193,002 was reported as in-kind donations for volunteer food costs and \$397,838 was the value of volunteer labor.

With MTKO located on 27th Street, existing businesses could benefit from the number of MTKO volunteers who will now be coming to the area, potentially patronizing businesses there and resulting in increased sales and sales tax revenues.



INSIDE:

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OBAMA, CONGRESS FOCUS ON STIMULUS

CONGRESS

Obama sworn in as 44th President; Congress quickly begins confirming Cabinet appointments. Millions of Americans this week withstood bone-chilling temperatures, long lines, long walks, and long waits to witness the swearing in of Barack Obama as President and attend the many festivities surrounding the event.

Once the parties were over, however, both the new President and Congress got to work quickly, recognizing that the current state of the nation's economy and world affairs were in need of immediate attention. For example, a number of Obama Cabinet positions have been confirmed by the Senate this week:

Secretary of State Hillary Rodham Clinton; Agriculture Secretary Tom Vilsack; Education Secretary Arne Duncan; Housing and Urban Development Secretary Shaun Donovan; Interior Secretary Ken Salazar; Homeland Security Secretary Janet Napolitano; Transportation Secretary Ray LaHood, and Veterans' Affairs Secretary Erik Shinseki. Also approved by the Senate were Environmental Protection Agency Administrator Lisa Jackson, White House Office of Management and Budget Director Peter Orszag, and United Nations Ambassador Susan Rice.

The group that has yet to be confirmed are the following departmental designees: Timothy Geithner for Treasury; Eric Holder for Justice; Hilda Solis for Labor; Thomas Daschle for Health and Human Services, and Ron Kirk for U.S. Trade Representative. All are expected to be approved within the next two weeks. President Obama has yet to nominate a Commerce Secretary to replace Bill Richardson, and Defense Secretary Robert Gates did not need to be reconfirmed, as he was already in the position.

Consideration of the various components of the economic stimulus package (see related story) was the focus in Congress this week, and those matters are expected to be on the fast-track again next week. House floor consideration and Senate committee consideration of the plans are expected, and President Obama has scheduled a meeting with congressional Republicans to sell his plan as well.

In addition, the House will consider a Senate-approved version of wage discrimination legislation (S 181), while the Senate will continue Cabinet confirmations and the reauthorization of the State Children's Health Insurance Program (SCHIP).

STIMULUS

House panels clear stimulus proposals. The House Appropriations Committee and House Ways and Means Committee each approved their sections of the economic stimulus bill this week. The party-line votes in both panels revealed bitter feelings on the Republican side of the aisle, as many in the GOP objected to the high pricetag (\$825 billion) and the fact that they did not believe they had been properly consulted during the crafting of the package.

Both committee chairmen maintained that Republicans had refused opportunities to contribute to the plan and defended their swift action as a necessary response to a faltering economy. Nonetheless, President Obama moved swiftly to try to stem the GOP criticism, first with a bipartisan meeting of congressional leadership at the White House today, followed by an unprecedented meeting with House Republicans next week.

During the markup this week, Republicans made several unsuccessful attempts to amend the House Appropriations Committee draft

Washington Report

Archived at:
[www.capitaledge.com/
archive.html](http://www.capitaledge.com/archive.html)

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released late last week (see January 16 [Washington Report](#) for details) that included \$550 billion in spending for a variety of domestic programs. One amendment that was approved would prevent embattled Illinois Governor Rod Blagojevich (D) from directing the use of funds in the package.

As cleared by the Ways and Means Committee, the \$275 billion tax portion of the stimulus bill would institute a number of tax breaks aimed at stimulating the economy and assisting low- and moderate-income taxpayers. Over half of the bill's cost would go to a "Making Work Pay Tax Credit" of \$500 for individuals (\$1,000 for married couples). The tax credit, available in 2009 and 2010, would go to all taxpayers earning \$75,000 or less (\$150,000 or less for married couples). The bill also includes a two-year expansion of the child tax credit, a higher education tax credit to offset tuition costs and tax incentives to encourage the hiring of unemployed veterans. Other highlights of the bill include a temporary expansion of unemployment and welfare benefits and a short-term subsidy to help newly unemployed workers pay for health insurance.

The package cleared by the Ways and Means Committee includes a number of provisions designed to address the fiscal crisis faced by state and local governments, restore the municipal bond market and spur state and local infrastructure investment.

- In a victory for local governments, the bill would delay for one year the implementation of the requirement set to take effect in 2011 that state and local governments withhold three percent of all payments to vendors.
- In an effort to spur demand for municipal bonds, the bill would provide \$18.3 billion to permit state and local governments the option of issuing tax credit general obligation bonds instead of tax-exempt general obligation bonds in 2009 and 2010.
- The bill would temporarily allow financial institutions to deduct a portion of the interest they earn from tax-exempt municipal bonds issued in 2009 and 2010. Normally, financial

institutions are not allowed to take that deduction.

- It would expand the definition of "small issuer of tax-exempt municipal bonds" from \$10 million to \$30 million for 2009 and 2010. As discussed above, financial institutions cannot take a deduction for interest earned on tax-exempt municipal bonds, but the law makes an exception for the municipal bonds of "small issuers."
- The bill would create a new category of tax credit bonds dubbed **Recovery Zone Bonds** for investments in infrastructure, job training, education and economic development in areas facing high rates of poverty, unemployment or home foreclosures, including Empowerment Zones and Renewal Communities. The national cap on the bonds would be \$25 billion in 2009 and 2010, with \$10 billion of that amount for economic development bonds and \$15 billion for facility bonds. The national cap would be allocated to the states by the ratio that each state's 2008 job losses bears to the national total of 2008 job losses. ***The states would have to sub-allocate the cap to counties and to cities over 100,000 in population using the same job loss ratio.***
- To spur school construction and modernization, the bill would authorize \$11 billion per year in 2009 and 2010 in tax credit bonds for the construction, rehabilitation or repair of public school facilities or for the purchase of land for public school facilities.
- A \$2.4 billion expansion of the national cap for Qualified Energy Conservation Bonds. Qualified Energy Conservation Bonds are a new category of tax credit bonds authorized last year to finance state and local programs and initiatives to reduce greenhouse gas emissions. The current national cap for these tax credit bonds is \$800 million. The cap is allocated to the states according to population; the states

must allocate a proportional share of their allocations to all cities and counties with a population of more than 100,000.

- A \$1.6 billion expansion of the cap on Clean Renewable Energy Bonds.

The tax title of the stimulus bill cleared by the Ways and Means Committee now heads to the House floor on Wednesday, where it will be combined with the portions of the stimulus bill that the Appropriations and Energy and Commerce Committee approved this week. The House is expected to clear the bill easily, the only uncertainty being how many Republican votes it will garner. The Senate Finance Committee is scheduled to mark up its version of the stimulus bill tax title next Tuesday.

FINANCE

House votes to constrain TARP. Twice this week, the House voiced its displeasure with the Troubled Asset Relief Program (TARP), the \$700 billion package designed to stave off the collapse of the financial industry.

Yesterday, the House approved, 270-155, a resolution (H J Res 3) that would block the release of the second \$350 billion installment of TARP funds. That vote was largely symbolic because the Senate defeated a similar resolution last week by a vote 42-52. The original TARP legislation required that approval of only one of the two chambers of Congress was necessary to release of the second half of the funds.

Earlier in the week, the House approved, 260-166, a bill (HR 384) that would impose guidelines for and restrictions on the use of remaining TARP funds. The bill would place limits on investments and on the executive pay of institutions accepting TARP assistance. It would also require institutions receive TARP funds to submit quarterly reports, would require audits of TARP recipients and would specifically require the Treasury Department to expand foreclosure assistance under the program to community banks and other small financial institutions at terms similar to those offered to their larger competitors.

The bill also includes a number of provisions designed to address problems of state and local governments, such as directing \$40 billion to additional foreclosure prevention activities and directing Treasury to use TARP funds to support issuers of municipal securities (see last week's [Washington Report](#) for more detail about HR 384).

Approval of this bill may also prove symbolic, as the Senate, eager to avoid another lengthy debate on this controversial issue, is unlikely to take action on HR 384 bill or a similar bill in the coming weeks. However, the Obama Administration would not need congressional approval to implement a number of the provisions of the legislation, and may do so in the coming weeks.

EMPLOYMENT

[Senate approves wage discrimination measure.](#) The Senate approved legislation (S 181) this week that is designed to address a 2007 Supreme Court case that denied an Alabama woman the ability to sue her employer for wage discrimination because the statute of limitations on her case had run out.

The High Court ruled in the case (*Ledbetter v. Goodyear*) that Lilly Ledbetter could not sue Goodyear because she had not filed the case within 180 days of when she received her first unfair wage. Ledbetter did not discover that her male counterparts at Goodyear had been making higher wages until 20 years later.

The Senate bill would apply the statute of limitations to each discriminatory paycheck or action, not just the first. A number of Republicans argued that the legislation was too vague and would lead to increased unnecessary litigation, but supporters maintain that the bill simply reinforces the original intent of the 1964 Civil Rights Act.

In order to avoid expected filibusters to the legislation, Senate leaders required that 60 votes would be necessary for passage, as opposed to a simple majority. The bill was approved 61-36, with Republicans Kay Bailey Hutchison of Texas, Lisa Murkowski of Alaska, and Susan Collins and Olympia Snowe of Maine joining the Democrats.

The House approved a broader version (HR 11) of the bill last week, but there are reports that the chamber may simply approve the Senate bill next week and avoid a House-Senate conference committee on the bill.

The measure stands to be the first major piece of legislation presented by Congress to President Obama.

GRANTS AND NOTICES

Department of Justice

The National Institute of Justice (NIJ) is seeking applications for the FY 2009 Technology Research and Development for Law Enforcement and Corrections Grant. This grant opportunity is for research and development of law enforcement technology that provides improvement in areas such as confirming an individual's identity, situational awareness, locating and tracking individuals, data analysis tools, and means to detect contraband. According to NIJ, the funding amount and number of awards made will depend on the availability of funds and the quality of applications. All applications are due online at www.grants.gov on March 2, 2009. To view the full grant announcement and application instructions, see:

<http://www.ncjrs.gov/pdffiles1/nij/sl000862.pdf>.

Department of Transportation

The Department of Transportation (DOT) issued a notice of proposed rulemaking and a request for comments regarding the Transportation Infrastructure Finance and Innovation Act (TIFIA). DOT proposes to amend the TIFIA rule to implement recent statutory changes, and to incorporate changes to improve the efficiency of TIFIA and its usefulness to borrowers. This proposed rulemaking includes substantive changes that were mandated by SAFETEA-LU. DOT seeks comments on proposed definitions, clarifications, and two new policies that will impact the project selection process. Comments are due by March 23, 2009. For more information please see the *Federal Register* Wednesday, January 21, 2009 pages 3487-3508.

Assistance to Firefighters Grants Workshops

The Assistance to Firefighters Grants (AFG) Program Office at the Department of Homeland Security has posted the schedule for applicant workshops for the FY 2009 Assistance to Firefighters Grants. Applicant workshops are conducted by AFG regional staff and are free to all attendees. Details and regional schedules can be found here:

<http://www.firegrantsupport.com/workshop/display/workshops.aspx>.

**Actual Compared to
Projected Sales Tax Collections**

	2008-09 PROJECTED	2008-09 ACTUAL	VARIANCE FROM PROJECTED	\$ CHANGE FR. 07-08	% CHANGE FR. 07-08
SEPTEMBER	\$4,648,330	\$4,377,476	(\$270,854)	(\$144,262)	-3.19%
OCTOBER	\$4,842,011	\$4,736,074	(\$105,937)	(\$237,187)	-4.77%
NOVEMBER	\$4,836,314	\$4,851,237	\$14,923	\$191,378	4.11%
DECEMBER	\$4,534,401	\$4,336,273	(\$198,128)	(\$387,336)	-8.20%
JANUARY	\$4,654,027	\$4,209,000	(\$445,027)	(\$381,789)	-8.32%
FEBRUARY	\$5,930,039				
MARCH	\$4,312,238				
APRIL	\$4,101,468				
MAY	\$4,785,046				
JUNE	\$4,631,241				
JULY	\$4,699,599				
AUGUST	\$4,990,120				
TOTAL	\$56,964,834	\$22,510,060	(\$1,005,023)	(\$959,196)	-4.08%

Actual collections through January are 4.27 % below projections for the year

**CITY OF LINCOLN
GROSS SALES TAX COLLECTIONS
(WITH REFUNDS ADDED BACK IN)
2003-2004 THROUGH 2008-2009**

	ACTUAL 2003-2004	ACTUAL 2004-2005	ACTUAL 2005-2006	ACTUAL 2006-2007	% CHG. FR. PRIOR YEAR	ACTUAL 2007-2008	% CHG. FR. PRIOR YEAR	ACTUAL 2008-2009	% CHG. FR. PRIOR YEAR
SEPTEMBER	\$4,453,875	\$4,648,160	\$4,630,210	\$4,573,597	-1.22%	\$4,612,020	0.84%	\$4,812,555	4.35%
OCTOBER	\$4,670,587	\$4,706,690	\$4,823,369	\$4,712,519	-2.30%	\$5,052,950	7.22%	\$4,845,000	-4.12%
NOVEMBER	\$4,526,166	\$4,687,792	\$4,799,275	\$4,658,480	-2.93%	\$4,818,715	3.44%	\$4,937,998	2.48%
DECEMBER	\$4,314,111	\$4,500,338	\$4,511,403	\$4,445,761	-1.46%	\$4,753,456	6.92%	\$4,545,947	-4.37%
JANUARY	\$4,335,924	\$4,264,010	\$4,342,902	\$4,554,634	4.88%	\$4,617,097	1.37%	\$4,465,270	-3.29%
FEBRUARY	\$5,531,405	\$6,086,841	\$5,797,893	\$5,993,653	3.38%	\$5,596,617	-6.62%		
MARCH	\$3,980,041	\$4,158,874	\$4,247,908	\$4,125,074	-2.89%	\$4,421,405	7.18%		
APRIL	\$3,889,388	\$4,097,988	\$3,991,159	\$4,018,709	0.69%	\$4,227,476	5.19%		
MAY	\$4,602,788	\$4,730,317	\$4,543,369	\$4,895,921	7.76%	\$4,753,366	-2.91%		
JUNE	\$4,599,245	\$4,557,735	\$4,539,614	\$4,664,470	2.75%	\$4,859,251	4.18%		
JULY	\$4,391,257	\$4,519,466	\$4,655,061	\$4,772,617	2.53%	\$4,983,976	4.43%		
AUGUST	\$4,893,438	\$4,803,665	\$4,991,723	\$4,887,329	-2.09%	\$5,026,702	2.85%		
TOTAL	\$54,188,225	\$55,761,877	\$55,873,886	\$56,302,764	0.77%	\$57,723,030	2.52%	\$23,606,769	-1.04%

**CITY OF LINCOLN
SALES TAX REFUNDS
2003-2004 THROUGH 2008-2009**

	ACTUAL 2003-2004	ACTUAL 2004-2005	ACTUAL 2005-2006	% CHG. FR. PRIOR YEAR	ACTUAL 2006-2007	ACTUAL 2007-2008	% CHG. FROM PRIOR YEAR	ACTUAL 2008-2009	% CHG. FROM PRIOR YEAR
SEPTEMBER	(\$69,997)	(\$135,858)	(\$80,882)	-40.47%	(\$27,350)	(\$90,282)	230.10%	(\$435,079)	381.91%
OCTOBER	(\$110,193)	(\$165,219)	(\$358,866)	117.21%	(\$166,695)	(\$79,688)	-52.19%	(\$108,925)	36.69%
NOVEMBER	(\$219,454)	(\$101,531)	(\$173,972)	71.35%	(\$3,881)	(\$158,855)	3993.08%	(\$86,760)	-45.38%
DECEMBER	(\$390,445)	(\$325,510)	(\$6,319)	-98.06%	(\$175,440)	(\$29,848)	-82.99%	(\$209,674)	602.47%
JANUARY	(\$59,315)	(\$220,967)	(\$269,713)	22.06%	(\$84,287)	(\$26,308)	-68.79%	(\$256,270)	874.13%
FEBRUARY	(\$323,218)	(\$394,324)	(\$73,395)	-81.39%	(\$327,119)	(\$489,939)	49.77%	(\$83,713)	-82.91%
MARCH	(\$22,759)	(\$99,240)	(\$165,869)	67.14%	(\$133,574)	(\$325,269)	143.51%		
APRIL	(\$199,018)	(\$69,900)	(\$196,682)	181.38%	(\$130,611)	(\$108,764)	-16.73%		
MAY	(\$155,787)	(\$122,283)	(\$166,567)	36.21%	(\$381,653)	(\$22,529)	-94.10%		
JUNE	(\$194,593)	(\$34,811)	(\$14,085)	-59.54%	(\$186,252)	(\$136,308)	-26.82%		
JULY	(\$42,086)	(\$162,998)	(\$39,492)	-75.77%	(\$155,825)	(\$478,184)	206.87%		
AUGUST	(\$531,884)	(\$148,028)	(\$57,700)	-61.02%	(\$569,595)	(\$43,759)	-92.32%		
TOTAL	(\$2,318,751)	(\$1,980,668)	(\$1,603,541)	-19.04%	(\$2,342,280)	(\$1,989,734)	-15.05%	(\$1,180,422)	34.92%

**CITY OF LINCOLN
NET SALES TAX COLLECTIONS
2003-2004 THROUGH 2008-2009**

	ACTUAL 2003-2004	ACTUAL 2004-2005	ACTUAL 2005-2006	ACTUAL 2006-2007	ACTUAL 2007-2008	% CHG. FROM PR. YEAR	ACTUAL 2008-2009	% CHG. FROM PR. YEAR
SEPTEMBER	\$4,383,878	\$4,512,303	\$4,549,328	\$4,546,247	\$4,521,738	-0.54%	\$4,377,476	-3.19%
OCTOBER	\$4,560,394	\$4,541,471	\$4,464,503	\$4,545,825	\$4,973,261	9.40%	\$4,736,074	-4.77%
NOVEMBER	\$4,306,712	\$4,586,261	\$4,625,303	\$4,654,599	\$4,659,859	0.11%	\$4,851,237	4.11%
DECEMBER	\$3,923,666	\$4,174,828	\$4,505,085	\$4,270,321	\$4,723,609	10.61%	\$4,336,273	-8.20%
JANUARY	\$4,276,609	\$4,043,044	\$4,073,189	\$4,470,347	\$4,590,789	2.69%	\$4,209,000	-8.32%
FEBRUARY	\$5,208,187	\$5,692,517	\$5,724,498	\$5,666,534	\$5,106,677	-9.88%		
MARCH	\$3,957,283	\$4,059,634	\$4,082,038	\$3,991,501	\$4,096,136	2.62%		
APRIL	\$3,690,371	\$4,028,088	\$3,794,477	\$3,888,098	\$4,118,712	5.93%		
MAY	\$4,447,001	\$4,608,034	\$4,376,803	\$4,514,268	\$4,730,837	4.80%		
JUNE	\$4,404,651	\$4,522,924	\$4,525,529	\$4,478,219	\$4,722,943	5.46%		
JULY	\$4,349,171	\$4,356,468	\$4,615,569	\$4,616,793	\$4,505,792	-2.40%		
AUGUST	\$4,361,554	\$4,655,637	\$4,934,023	\$4,317,734	4,982,944	15.41%		
TOTAL	\$51,869,477	\$53,781,209	\$54,270,346	\$53,960,485	\$55,733,297	3.29%	\$22,510,060	-4.09%

Year to date vs.
previous year

**PLANNING COMMISSION FINAL ACTION
NOTIFICATION**

TO : Mayor Chris Beutler
Lincoln City Council

FROM : Jean Preister, Planning 

DATE : January 29, 2009

RE : **Special Permit No. 08034A, Amendment to the Whispering Meadows Community Unit Plan (S.W. 27th Street and West A Street)**
Resolution No. PC-01156

The Lincoln City-Lancaster County Planning Commission took the following action at their regular meeting on Wednesday, January 28, 2009:

Motion made by Sunderman, seconded by Taylor, to approve **Special Permit No. 08034A**, with conditions, requested by Whispering Meadows, LLC, for authority to develop **Whispering Meadows Community Unit Plan** for 27 single family lots and 211 attached single family lots, together with a reduction in the minimum lot area requirements and modifications to height and area requirements, on property generally located at S.W. 27th Street and West A Street.

Motion for conditional approval carried 6-1: Esseks, Cornelius, Sunderman, Gaylor Baird, Taylor and Carroll voting 'yes'; Francis voting 'no'; (Partington and Larson absent).

The Planning Commission's action is final, unless appealed to the City Council by filing a Letter of Appeal with the City Clerk within 14 days of the date of the action by the Planning Commission.

The Letter of Acceptance will be mailed to the permittee by the City Clerk at the end of the 14-day appeal period.

Attachment

cc: Building & Safety
Rick Peo, City Attorney
Public Works
Peter Katt, 1248 O Street, Suite 600, 68508
Whispering Meadows c/o Fowler Custom Homes, 1233 Infinity Court, 68512
William Vocasek, West A Neighborhood Assn., 1903 W. Mulberry Court, 68522
Robert Bowen, West A Neighborhood Assn., 1901 W. South Street, 68522
Chris Cashmere, West A Neighborhood Assn., 3510 W. Plum, 68522
Bill Hergott, West A Neighborhood Assn., 1710 W. Washington, 68522
Paul Carney, Coddington Mills Homeowners Assn., 2301 W. Millstone Road, 68522
Michelle Furby, Coddington Mills Homeowners Assn., 1350 S.W. 24th Street, 68522
Krystal Gabel <klgabel@aol.com>

RESOLUTION NO. PC- 01156

SPECIAL PERMIT NO. 08034A

1 WHEREAS, Whispering Meadows LLC has submitted an application designated
2 as Special Permit No. 08034A for authority to develop Whispering Meadows Community Unit
3 Plan for 27 single family lots and 211 attached single family lots, together with a request to waive
4 certain requirements of the Land Subdivision Ordinance and Zoning Code, on property generally
5 located at S.W. 27th Street and West A Street and legally described as:

6 Lots 1 through 16, Block 1, Lots 1 through 16, Block 2, a portion of
7 Outlot A and all of Outlots B and C, Whispering Meadows Addition,
8 located in the West Half of the Southwest Quarter lying southerly
9 of the south low water channel line of Middle Creek, located in
10 Section 28, Township 10 North, Range 6 East of the 6th P.M., City
11 of Lincoln, Lancaster County, Nebraska and more particularly
12 described by metes and bounds as follows:

13 Commencing at the southwest corner of the West Half of the
14 Southwest Quarter, Section 28, Township 10 North, Range 6 East;
15 thence in a northwesterly direction on an assigned bearing of north
16 00 degrees 07 minutes 49 seconds west, a distance of 70.00 feet;
17 thence north 89 degrees 55 minutes 33 seconds east, a distance
18 of 33.00 feet to the point of beginning; thence north 00 degrees 07
19 minutes 49 seconds west, a distance of 287.71 feet; thence south
20 89 degrees 52 minutes 11 seconds west, a distance of 33.00 feet;
21 thence north 00 degrees 07 minutes 49 seconds west, a distance
22 of 958.58 feet; thence north 89 degrees 53 minutes 21 seconds
23 east, a distance of 400.00 feet; thence north 00 degrees 07
24 minutes 56 seconds west, a distance of 690.00 feet; thence south
25 61 degrees 33 minutes 53 seconds east, a distance of 162.57
26 feet; thence north 73 degrees 13 minutes 57 seconds east, a
27 distance of 219.17 feet; thence south 76 degrees 23 minutes 09
28 seconds east, a distance of 78.18 feet; thence north 86 degrees
29 08 minutes 36 seconds east, a distance of 334.40 feet; thence

1 south 00 degrees 00 minutes 36 seconds east, a distance of
2 175.02 feet; thence south 89 degrees 59 minutes 24 seconds
3 west, a distance of 47.77 feet; thence south 55 degrees 17
4 minutes 04 seconds west, a distance of 160.56 feet; thence south
5 36 degrees 32 minutes 42 seconds west, a distance of 63.05 feet;
6 thence north 88 degrees 26 minutes 22 seconds west, a distance
7 of 117.12 feet; thence north 78 degrees 42 minutes 05 seconds
8 west, a distance of 59.70 feet; thence south 77 degrees 12
9 minutes 31 seconds west, a distance of 96.05 feet; thence south
10 60 degrees 49 minutes 40 seconds west, a distance of 165.78
11 feet; thence south 33 degrees 43 minutes 03 seconds west, a
12 distance of 160.67 feet; thence south 00 degrees 07 minutes 56
13 seconds east, a distance of 141.87 feet; thence south 17 degrees
14 40 minutes 31 seconds east, a distance of 241.22 feet; thence
15 south 46 degrees 48 minutes 38 seconds east, a distance of
16 293.35 feet; thence north 89 degrees 58 minutes 33 seconds east,
17 a distance of 599.30 feet; thence south 00 degrees 00 minutes 36
18 seconds east, a distance of 825.04 feet; thence south 89 degrees
19 55 minutes 33 seconds west, a distance of 919.11 feet; thence
20 north 00 degrees 07 minutes 49 seconds west, a distance of
21 10.00 feet; thence south 89 degrees 55 minutes 33 seconds west,
22 a distance of 372.28 feet; to the point of beginning, containing
23 35.66 acres more or less;

24 WHEREAS, the Lincoln City-Lancaster County Planning Commission has held a
25 public hearing on said application; and

26 WHEREAS, the community as a whole, the surrounding neighborhood, and the
27 real property adjacent to the area included within the site plan for this community unit plan will
28 not be adversely affected by granting such a permit; and

29 WHEREAS, said site plan together with the terms and conditions hereinafter set
30 forth are consistent with the comprehensive plan of the City of Lincoln and with the intent and
31 purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and
32 general welfare; and

33 NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster County
34 Planning Commission of Lincoln, Nebraska:

35 That the application of Whispering Meadows LLC, hereinafter referred to as
36 "Permittee", to develop Whispering Meadows Community Unit Plan for 27 single-family lots and

1 211 attached single-family lots, be and the same is hereby granted under the provisions of
2 Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that
3 construction of said development be in substantial compliance with said application, the site
4 plan, and the following additional express terms, conditions, and requirements:

5 1. This permit approves 238 dwelling units and a waiver to Section 26.23.140 of the
6 Land Subdivision Ordinance for a reduction in the minimum lot area requirements and
7 modifications to height and area requirements as shown on the approved site plan.

8 2. The Permittee shall cause to be prepared and submitted to the Planning
9 Department a revised and reproducible final plot plan including 5 copies with all required
10 revisions as listed below before a final plat is approved.

- 11 a. Revise street names to the satisfaction of Building and Safety and
12 Emergency Communications.
- 13 b. Add Outlots B and C Whispering Meadows Addition to the Legal
14 Description.
- 15 c. Show and dimension all building envelope lines.
- 16 d. Revise the site plan to include all LES requests per their October 1, 2008
17 memo to the Planning Department.
- 18 e. Add a note to the General Notes "Address numbers will be provided on
19 both the front and back of the house in addition to providing directional
20 signs to the house numbers from the private roadway.
- 21 f. Add a note to the General Notes that "landscape, street tree and
22 screening requirements will be met at the time of building permit or final
23 plat which ever is applicable."
- 24 g. Show Outlot E as platted lots with an access easement.
- 25 h. Show a pedestrian circulation on the plan to the satisfaction of the
26 Planning Director.
- 27 i. Show water and fire hydrants to the satisfaction of the Fire Department
28 and Public Works.
- 29 j. Show all of the General Notes that were on the Original submitted site
30 plan.
- 31
32

1
2 k. Add to the General Notes "No more than 30 of the 149 townhouse units
3 will be three bedroom units".
4

5 3. The construction plans substantially comply with the approved plans.

6 4. Provide documentation from the Register of Deeds that the letter of acceptance
7 as required by the approval of the special permit has been recorded.

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

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

16 Before the approval of a final plat, the public streets, private roadway
17 improvements, sidewalks, public sanitary sewer system, public water system,
18 drainage facilities, land preparation and grading, sediment and erosions control
19 measures, storm water detention/retention facilities, drainageway improvements,
20 street lights, landscaping screens, street trees, temporary turnaround and
21 barricades, and street name signs, must be completed or provisions (bond,
22 escrow or security agreement) to guarantee completion must be approved by the
23 City Law Department. The improvements must be completed in conformance
24 with adopted design standards and within the time period specified in the Land
25 Subdivision Ordinance. A cash contribution to the City in lieu of a bond, escrow,
26 or security agreement may be furnished for sidewalks and street trees along
27 major streets that have not been improved to an urban cross section. A cash
28 contribution to the City in lieu of a bond, escrow, or security agreement may be
29 furnished for street trees on a final plat with 10 or fewer lots.

30 If a community wastewater system and/or community water system is proposed
31 the final plat cannot be approved until documentation that the community
32 wastewater system and community water system necessary to serve every lot in
33 the final plat has been completed and approved by the appropriate agency.
34

35 6. Permittee must enter into an agreement with the City wherein Permittee as

36 Subdivider agrees:

37 a. to complete the paving of private roadway, and temporary turnarounds
38 and barricades located at the temporary dead-end of the private roadways
39 shown on the final plat within two (2) years following the approval of this
40 final plat.
41

42 b. to complete the installation of sidewalks as shown on the site plan within
43 four (4) years following the approval of the final plat.

- 1 c. to complete the enclosed private drainage facilities shown on the
2 approved drainage study to serve this plat within two (2) years following
3 the approval of the final plat.
- 4 d. to complete land preparation including storm water detention/retention
5 facilities and open drainageway improvements to serve this plat prior to
6 the installation of utilities and improvements but not more than two (2)
7 years following the approval of the final plat
- 8 e. to complete the installation of private street lights along private roadways
9 within this plat within two (2) years following the approval of the final plat.
- 10 f. to complete the planting of the trees within this plat within four (4) years
11 following the approval of the final plat.
- 12 g. to complete the installation of the street name signs within two (2) years
13 following the approval of the final plat.
- 14 h. to complete the installation of the permanent markers prior to construction
15 on or conveyance of any lot in the plat.
- 16 i. to complete any other public or private improvement or facility required by
17 Chapter 26.23 (Development Standards) of the Land Subdivision
18 Ordinance in a timely manner which inadvertently may have been omitted
19 from the above list of required improvements.
- 20 j. to comply with the provisions of the Land Preparation and Grading
21 requirements of the Land Subdivision Ordinance.
- 22 k. to complete the public and private improvements shown on the
23 Community Unit Plan.
- 24 l. to keep taxes and special assessments on the outlots from becoming
25 delinquent.
- 26 m. to maintain the outlots and private improvements in a condition as near as
27 practical to the original construction on a permanent and continuous
28 basis.
- 29 n. to maintain the sidewalks in the pedestrian way easements as shown on
30 the site plan and all of its elements in a condition as near as practical to
31 the original or as constructed condition in order to provide the user with a
32 safe and convenient facility on a permanent and continuous basis.
- 33 o. to maintain and supervise the private facilities which have common use or
34 benefit in a condition as near as practical to the original construction on a
35 permanent and continuous basis, and to recognize that there may be
36 additional maintenance issues or costs associated with providing for the
37 proper functioning of storm water detention/retention facilities as they
38 were designed and constructed within the development and that these are
39 the responsibility of the land owner.
40
41
42
43

1 p. to retain ownership of and the right of entry to the outlots in order to
2 perform the above-described maintenance of the outlots and private
3 improvements on a permanent and continuous basis. However,
4 Owner(s) may be relieved and discharged of such maintenance
5 obligations upon creating in writing a permanent and continuous
6 association of property owners who would be responsible for said
7 permanent and continuous maintenance subject to the following
8 conditions:

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

15 (2) The maintenance agreements are incorporated into covenants and
16 restrictions in deeds to the subdivided property and the documents
17 creating the association and the restrictive covenants have been
18 reviewed and approved by the City Attorney and filed of record with
19 the Register of Deeds
20

21 q. to inform all prospective purchasers and users that the land is located
22 within the Airport Environs Noise District, that the land is subject to an
23 aviation and noise easement granted to Lincoln Airport Authority, and that
24 the land is potentially subject to aircraft noise levels which may affect
25 users of the property and interfere with its use.
26

27 7. Before occupying the dwelling units / buildings all development and construction
28 is to substantially comply with the approved plans.

29 8. All privately-owned improvements, including landscaping and recreational
30 facilities, are to be permanently maintained by the Permittee or an appropriately established
31 homeowners association approved by the City.

32 9. The physical location of all setbacks and yards, buildings, parking and circulation
33 elements, and similar matters must be in substantial compliance with the location of said items
34 as shown on the approved site plan.

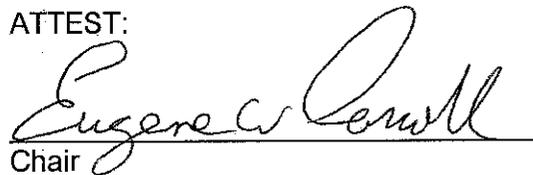
35 10. The terms, conditions, and requirements of this resolution shall run with the land
36 and be binding on the Permittee, its successors and assigns.

1 11. The Permittee shall sign and return the letter of acceptance to the City Clerk
2 within 60 days following the approval of the special permit, provided, however, said 60-day
3 period may be extended up to six months by administrative amendment. The City Clerk shall file
4 a copy of the resolution approving the special permit and the letter of acceptance against Lots 1-
5 16, Block 1, Lots 1-16, Block 2, and Outlots A, B and C, Whispering Meadows Addition, Lincoln,
6 Lancaster County, Nebraska with the Register of Deeds, filling fees therefor to be paid in
7 advance by the Permittee.

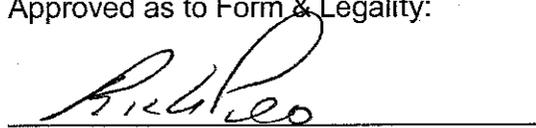
8 12. The site plan as approved with this resolution voids and supersedes all previously
9 approved site plans, and voids and supercedes SP# 1703 and SP# 1728 however all
10 resolutions/ordinances approving previous permits remain in force unless specifically amended
11 by this resolution.

12 13. The foregoing Resolution was approved by the Lincoln City-Lancaster County
13 Planning Commission on this 28 day of January, 2009.

ATTEST:


Chair

Approved as to Form & Legality:


Chief Assistant City Attorney



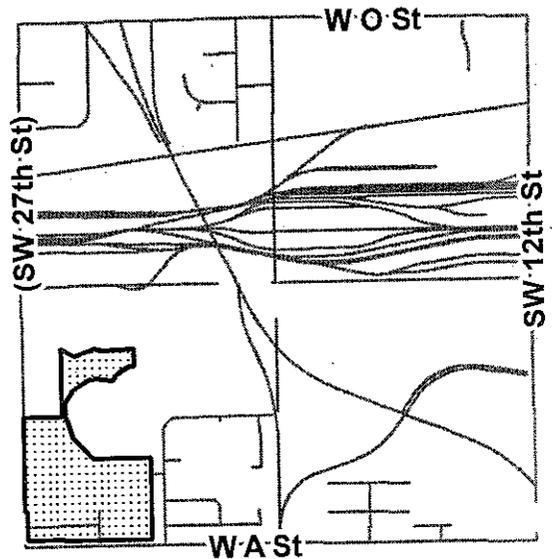
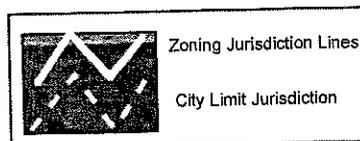
2007 aerial

**Special Permit #08034A
Whispering Meadows CUP
SW 27th & W A St**

Zoning:

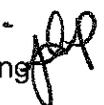
One Square Mile
Sec. 28 T10N R06E

- R-1 to R-3 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



**PLANNING COMMISSION FINAL ACTION
NOTIFICATION**

TO : Mayor Chris Beutler
Lincoln City Council

FROM : Jean Preister, Planning 

DATE : January 29, 2009

RE : **Comprehensive Plan Conformance No. 08029**
(Permanent Conservation Easement - S.W. 1st Street and West E Street)
Resolution No. PC-01154

The Lincoln City-Lancaster County Planning Commission took the following action at their regular meeting on Wednesday, January 28, 2009:

Motion made by Taylor, seconded by Esseks, to find the proposed acquisition of a permanent conservation easement from David C. Lange, to preserve the flood storage capacity over an area generally located at S.W. 1st Street and West E Street, to be in conformance with the 2030 Lincoln/Lancaster County Comprehensive Plan.

Motion for a finding of conformance with the Comprehensive Plan carried 8-0: Cornelius, Taylor, Gaylor Baird, Larson, Sunderman, Francis, Esseks and Carroll voting 'yes' (Partington absent).

This is final action on the finding of conformity unless appealed to the City Council within 14 days of the action by the Planning Commission.

A resolution by the City Council accepting the conservation easement agreement between the City of Lincoln and David C. Lange will be scheduled on a future Council agenda.

Attachment

cc: Building & Safety
Rick Peo, Chief Assistant City Attorney
Ben Higgins, Watershed Management

RESOLUTION NO. PC- 01154

Comprehensive Plan Conformity No. 08029

1 WHEREAS, Mr. David C. Lange has offered to convey to the City of Lincoln the
2 attached permanent conservation easement to preserve the flood storage capacity over an area
3 generally located at S.W. 1st Street and West E Street and legally described as Lot 3, except
4 the railroad right-of-way, Block 5, Mechanic's Addition to Lincoln, Lancaster County, Nebraska;
5 and

6 WHEREAS, the City of Lincoln is authorized to accept and hold conservation
7 easements under the terms of the Conservation and Preservation Easement Act (Neb. Rev.
8 Stat. §§ 76-2,111 to 76,2,118); and

9 WHEREAS, Neb. Rev. Stat. § 76-2,112 requires that, in order to minimize
10 conflicts with land use planning, the proposed conservation easement must be submitted to the
11 Lincoln City - Lancaster County Planning Commission for comments regarding the conformity of
12 the proposed conservation easement to the Lincoln City Comprehensive Plan prior to
13 acceptance of the easement by the City of Lincoln; and

14 WHEREAS, the Director of Planning has submitted a request designated as
15 Comprehensive Plan Conformity No. 08009 to find the proposed acquisition of permanent
16 conservation easement by the City of Lincoln to be in conformity with the Comprehensive Plan.

17 NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster County
18 Planning Commission of Lincoln, Nebraska:

19 That Mr. David C. Lange's offer and the City of Lincoln's acceptance of the
20 attached permanent conservation easement to preserve the floodplain storage capacity and to
21 restrict the development on the property described above be and the same is hereby found to be
22 in conformance with the Lincoln City/Lancaster County Comprehensive Plan.

1 The foregoing Resolution was approved by the Lincoln City-Lancaster County
2 Planning Commission on this 28 day of January, 2009.

ATTEST:


Chair

Approved as to Form & Legality:



Chief Assistant City Attorney

CONSERVATION EASEMENT AGREEMENT

THIS CONSERVATION EASEMENT AGREEMENT is entered into as of the _____ day of _____, 20____, by and between **DAVID C. LANGE, a single person, ("Owner")** and the **CITY OF LINCOLN, NEBRASKA ("City")**.

RECITALS

I.

Owner is the owner in fee simple of Lot 3, Block 5, Mechanic's Addition, Lincoln, Lancaster County, Nebraska ("Property"). Owner desires to convey and City desires to accept a permanent Conservation Easement to preserve the flood storage capacity on that portion of the Property legally described as Lot 3, Block 5, Mechanic's Addition. ("Easement Area").

II.

The City is authorized to accept and hold this Conservation Easement under the terms of this Agreement and the Conservation and Preservation Easements Act.

III.

This Agreement has been submitted to the Lincoln-Lancaster County Planning Commission pursuant to the provisions of Neb. Rev. Stat. § 76-2,112 for review and recommendation and said Commission has found that the Conservation Easement is in conformance with the Lincoln City Comprehensive Plan.

IV.

The City Council of the City of Lincoln, Nebraska, has approved and accepted this Conservation Easement after duly considering the recommendations of the Lincoln City-Lancaster County Planning Commission and has authorized the Mayor to execute this Agreement on behalf of the City.

NOW, THEREFORE, in consideration of the mutual value to the Owner and City and to encourage and preserve wetlands the City and Owner agree as follows:

1. Grant of Conservation Easement. Owner hereby creates, establishes, grants, and conveys to City for its benefit and the benefit of the public a conservation easement over the Easement Area to restrict the Easement Area to open space (which may include a surface parking area) and protect and preserve the flood storage capacity of the Easement Area and to restrict development and future use of the Property that will significantly impair or interfere with the flood storage capacity of the Easement Area.

A. The following uses and practices, although not an exhaustive recital of the inconsistent uses and practices, are inconsistent with the purposes of this Conservation Easement and shall be prohibited within the Easement Area:

- i. Construction or placement of fill material, cement, buildings, fences, signs, or any other structure;
- ii. Any other use or practice that would adversely impact the flood storage capacity.

B. The term of this Conservation Easement will be in perpetuity unless earlier terminated pursuant to any of the following provisions:

- i. By the City pursuant to the provisions of Neb. Rev. Stat. § 76-2,113.
- ii. By the Lancaster County District Court pursuant to the provisions of Neb. Rev. Stat. § 76-2,114.

The parties agree that termination of this Agreement may be total and affect the entire Easement Area, or may be partial and result in the termination of the easement over only a portion of the Easement Area.

2. **Condition of the Easement Area at Time of Grant.** The condition of the Easement Area at the time of this grant shall mean the flood storage capacity of the Easement Area existing at the time of this grant as shown on the conservation easement site plan filed with Street and Alley Vacation 00007 and Comprehensive Plan Conformity 00008 in the City's Planning Department.

3. **Protection and Maintenance of the Easement Area.**

A. Owner agrees at Owner's own cost and expense to protect and maintain the flood storage capacity of the Easement Area in the same condition existing at the time of this grant except as otherwise authorized by this Conservation Easement.

B. Owner agrees to pay any real estate taxes, estate taxes or assessments levied by competent authorities on the Easement Area, including but not limited to any tax or assessment affecting the easement granted herein. Owner further agrees to obtain, pay for, and continuously maintain liability and property insurance covering the Easement Area.

C. Owner shall cooperate with and assist the City at City's cost in applying for, obtaining, protecting, maintaining and enhancing any and all surface water and ground water rights and privileges related to the Easement Area by signing applications which the City deems necessary or desirable for the management, maintenance or development of the Easement Area for the purposes provided for herein.

4. **Inspections and Access by City.** The City shall have the right of reasonable ingress and egress to and from the Easement Area from public roads and streets and from adjacent properties for its employees, contractors, vehicles and equipment for the purpose of inspecting, maintaining, or protecting the flood storage capacity of the Easement Area as the City may deem necessary or desirable.

5. **Enforcement.** Owner agrees that the City may enforce the provisions of this Conservation Easement by any proceeding at law or in equity, including but not limited to, the right to require restoration of the Easement Area to the condition at the time of this grant. Owner further agrees that the City may seek an injunction restraining any person from violating the terms of this Conservation Easement and that the City may be granted such injunction without posting of any bond whatsoever. Owner further agrees that the City does not waive or forfeit the right to take any action as it deems necessary to insure compliance with the covenants and purposes of this grant by any prior failure to act. Owner further agrees that should owner undertake any activity requiring the approval of the City without or in advance of securing such approval, or undertake any activity in violation of the terms of this Conservation Easement that City shall have the right to enforce the restoration of that portion of the Easement Area affected by such activity to the condition that existed prior to the undertaking of such unauthorized activity. In such case, the cost of such restoration and the City's cost of suit, including reasonable attorney fees, shall be paid by Owner.

6. **Title to Easement Area.** Owner covenants that Owner is the owner of marketable title to all of the Easement Area, has legal right, title and capacity to grant the Conservation Easement granted herein subject to easements and restrictions of record.

7. **Binding Affect.** The Conservation Easement granted herein shall run with the land and shall inure to the benefit of and be binding upon the heirs, successors and assigns of Owner and City.

8. **Recordation.** The parties agree that this Agreement shall be duly filed by the City with the Lancaster County Register of Deeds upon execution and acceptance by the City. Filing fees shall be paid in advance by the Owner.

9. **Severability.** If any provision of this Conservation Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of the Conservation Easement and the application of such provisions to persons or circumstances other than those to which it is found to be invalid shall not be affected thereby.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

Owner:

David C. Lange

David C. Lange

CITY OF LINCOLN, NEBRASKA

Attest:

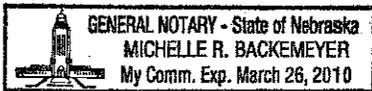
City Clerk

By:

Chris Beutler, Mayor of Lincoln

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 9th day of July, 2008, by David C. Lange.



Michelle R. Backemeyer
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Chris Beutler, Mayor of the City of Lincoln, Nebraska on behalf of the City of Lincoln, Nebraska.

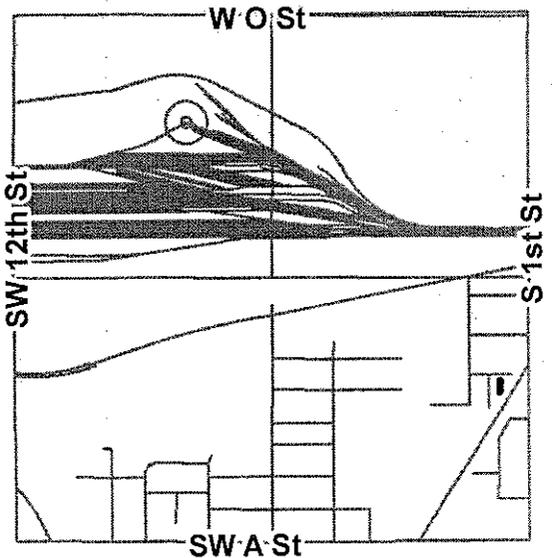
Notary Public



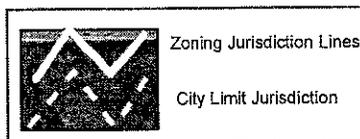
2007 aerial

Comp Plan Conformance #08029
SW 1st & W E Sts.
Zoning:

One Square Mile
 Sec. 27 T10N R06E



- 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



**** ACTION BY PLANNING COMMISSION ****
January 28, 2009

NOTICE: The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, January 28, 2009, at 1:00 p.m. in the City-Council Hearing Room, County-City Building, 555 S. 10th St., Lincoln, Nebraska, on the following items. For more information, call the Planning Department, 441-7491.

**** PLEASE NOTE:** The Planning Commission action is final action on any item with a notation of "FINAL ACTION". Any aggrieved person may appeal Final Action of the Planning Commission to the City Council by filing a Notice of Appeal with the City Clerk within 14 days following the action of the Planning Commission.

The Planning Commission action on all other items is a recommendation to the City Council or County Board.

AGENDA

WEDNESDAY, JANUARY 28, 2009

[Commissioner Partington absent]

Approval of minutes of the regular meeting held January 14, 2009. ****APPROVED, 7-0 (Gaylor Baird abstained; Partington absent)****

1. CONSENT AGENDA
(Public Hearing and Action):

COMPREHENSIVE PLAN:

Page 01 1.1 Comprehensive Plan Conformance No. 08029, to review as to conformance with the 2030 Lincoln-Lancaster County Comprehensive Plan, the acquisition of a permanent conservation easement, on property generally located at SW 1st Street and West E Street.

***** FINAL ACTION *****

**Staff recommendation: Conformance with the Comprehensive Plan
Staff Planner: Brandon Garrett, 441-6373, bgarrett@lincoln.ne.gov
Planning Commission 'final action': A FINDING OF CONFORMANCE WITH THE COMPREHENSIVE PLAN, 8-0 (Partington absent).
Resolution No. PC-01154.**

ANNEXATION:

- Page 07
- 1.2 Annexation No. 08009, to annex 150.4 acres, more or less, generally located at N. 84th Street and Cornhusker Highway.
Staff recommendation: Approval
Staff Planner: Tom Cajka, 441-5662, tcajka@lincoln.ne.gov
Planning Commission recommendation: APPROVAL, 8-0 (Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, February 23, 2009, 5:30 p.m.
- Page 13
- 1.3 Annexation No. 08012, to annex 22.2 acres, more or less, generally located at S. 27th Street and Rokeby Road.
Staff recommendation: Approval
Staff Planner: Brian Will, 441-6362, bwill@lincoln.ne.gov
Planning Commission recommendation: APPROVAL, 8-0 (Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, February 23, 2009, 5:30 p.m.
- Page 19
- 1.4 Annexation No. 08014, to annex 145.2 acres, more or less, generally located at S. 1st Street and Van Dorn Street and S. 6th Street and Pioneers Boulevard.
Staff recommendation: Approval
Staff Planner: Brian Will, 441-6362, bwill@lincoln.ne.gov
Planning Commission recommendation: APPROVAL, 8-0 (Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, February 23, 2009, 5:30 p.m.
- Page 25
- 1.5 Annexation No. 08017, to annex 32 acres, more or less, generally located at NW 39th Street and West Adams.
Staff recommendation: Approval
Staff Planner: Tom Cajka, 441-5662, tcajka@lincoln.ne.gov
Planning Commission recommendation: APPROVAL, 8-0 (Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, February 23, 2009, 5:30 p.m.
- Page 31
- 1.6 Annexation No. 08018, to annex 6.8 acres, more or less, generally located at NW 12th Street and Highway 34.
Staff recommendation: Approval
Staff Planner: Tom Cajka, 441-5662, tcajka@lincoln.ne.gov
Planning Commission recommendation: APPROVAL, 8-0 (Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, February 23, 2009, 5:30 p.m.

Page 37 1.7 Annexation No. 08021, to annex 134 acres, more or less, generally located at N. 44th Street and Superior Street.
Staff recommendation: Approval
Staff Planner: Tom Cajka, 441-5662, tcajka@lincoln.ne.gov
Planning Commission recommendation: APPROVAL, 8-0 (Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, February 23, 2009, 5:30 p.m.

CHANGE OF ZONE:

Page 43 1.8 Change of Zone No. 08070, from I-1 Industrial District to B-3 Commercial District, and to designate as a landmark, property built as the Standard Oil Co. Barn and Garage, generally located at N. 14th Street and New Hampshire Street.
Staff recommendation: Approval
Staff Planner: Ed Zimmer, 441-6360, ezimmer@lincoln.ne.gov
Planning Commission recommendation: APPROVAL, 8-0 (Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, February 23, 2009, 5:30 p.m.

CHANGE OF ZONE WITH RELATED ITEMS:

Page 61 1.9a Change of Zone No. 08073, from R-3 Residential District to O-3 Office Park District, on property generally located at S. 29th Street and Porter Ridge Road.
Staff recommendation: Approval
Staff Planner: Christy Eichorn, 441-7603, ceichorn@lincoln.ne.gov
Removed from Consent Agenda and had separate public hearing.
Planning Commission recommendation: DENIAL, 5-3 (Francis, Taylor, Gaylor Baird, Cornelius and Carroll voting 'yes'; Esseks, Sunderman and Larson voting 'no'; Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, March 2, 2009, 1:30 p.m.

Page 61 1.9b Special Permit No. 08052, for an early childhood care facility, with a waiver of the requirement to be located on an arterial street, on property generally located at S. 29th Street and Porter Ridge Road
Staff recommendation: Conditional Approval
Staff Planner: Christy Eichorn, 441-7603, ceichorn@lincoln.ne.gov
Removed from Consent Agenda and had separate public hearing.
Planning Commission recommendation: DENIAL, 8-0 (Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, March 2, 2009, 1:30 p.m.

Page 61 1.9c Use Permit No. 100B, an amendment to revise the boundaries and to add approximately 0.98 acres to the existing South Ridge Village use permit, with requests to waive the side yard and rear yard setbacks, on property generally located at S. 27th Street and Pine Lake Road.
Staff recommendation: Conditional Approval
Staff Planner: Christy Eichorn, 441-7603, ceichorn@lincoln.ne.gov
Removed from Consent Agenda and had separate public hearing.
Planning Commission recommendation: DENIAL, 8-0 (Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, March 2, 2009, 1:30 p.m.

PERMITS:

Page 83 1.10 Special Permit No. 310D, an amendment for expansion of a health care facility with waivers to setbacks and height, located on property generally located at Normal Boulevard and Cotner Boulevard.
Staff recommendation: Conditional Approval
Staff Planner: Brian Will, 441-6362, bwill@lincoln.ne.gov
Removed from Consent Agenda and had separate public hearing.
Planning Commission recommendation: CONDITIONAL APPROVAL, as set forth in the staff report dated January 14, 2009, 7-0 (Gaylor Baird absent at time of vote; Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, February 23, 2009, 5:30 p.m.

4. PUBLIC HEARING AND ACTION:

ANNEXATION:

Page 97 4.1 Annexation No. 08010, to annex 448.2 acres, more or less, generally located at S. 70th Street and Pine Lake Road.
Staff recommendation: Approval
Staff Planner: Brian Will, 441-6362, bwill@lincoln.ne.gov
Had public hearing.
Planning Commission recommendation: APPROVAL, 8-0 (Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, February 23, 2009, 5:30 p.m.

- Page 105
- 4.2 Annexation No. 08015, to annex 116.9 acres, more or less, generally located at S. Folsom Street and W. Calvert Street.
Staff recommendation: Approval
Staff Planner: Brian Will, 441-6362, bwill@lincoln.ne.gov
Had public hearing.
Planning Commission recommendation: APPROVAL, 6-0 (Gaylor Baird declaring a conflict of interest; Larson and Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, February 23, 2009, 5:30 p.m.
- Page 113
- 4.3 Annexation No. 08016, to annex 243 acres, more or less, generally located at NW 48th Street and Interstate 80.
Staff recommendation: Approval
Staff Planner: Tom Cajka, 441-5662, tcajka@lincoln.ne.gov
Had public hearing.
Planning Commission recommendation: APPROVAL, 7-0 (Larson and Partington absent).
Public Hearing before City Council tentatively scheduled for Monday, February 23, 2009, 5:30 p.m.

CHANGE OF ZONE:

- Page 119
- 4.4a County Change of Zone No. 08071, amending the Lancaster County Zoning Resolution by amending Article 13, Special Permit, Section 13.001(14), to allow excavation and stone milling to be approved by special permit in the AG and AGR zoning districts and to provide conditions governing said use; and to add Section 13.017 relating to enforcement and revocation of special permits.
Staff recommendation: Approval
Staff Planner: Mike DeKalb, 441-6370, mdekalb@lincoln.ne.gov
Had public hearing.
Planning Commission recommendation: APPROVAL, 7-0 (Larson and Partington absent).
Public Hearing date before Lancaster County Board of Commissioners is being requested.
- Page 119
- 4.4b City Change of Zone No. 08072, amending Title 27 of the Lincoln Municipal Code relating to zoning by amending Section 27.07.040, 27.09.040 and 27.49.040 to add excavation and stone milling as a permitted special use in the AG, AGR, and I-2 zoning districts, respectively; by amending Section 27.63.160 to allow excavation and stone milling to be approved by special permit in the AG, AGR, R-3, B-2, H-2, H-3, H-4, and I-2 zoning districts and to provide conditions governing said use; amending Sections 27.15.040, 27.31.050, 27.35.020, 27.41.040, 27.43.040, 27.45.030, 27.47.030, and 27.51.030 to provide consistency in the terminology used in each section relating to excavation and stone milling; by repealing Sections 27.63.310 and 27.63.360 in their entirety; and repealing Sections 27.07.040, 27.09.040, 27.15.040, 27.31.050, 27.35.020, 27.41.040, 27.43.040,

27.45.030, 27.47.030, 27.49.040, 27.51.030, and 27.63.160 of the Lincoln Municipal Code as hitherto existing.

Staff recommendation: Approval

Staff Planner: Mike DeKalb, 441-6370, mdekalb@lincoln.ne.gov

Had public hearing.

Planning Commission recommendation: APPROVAL, 7-0 (Larson and Partington absent).

Public Hearing before the City Council will be scheduled subsequent to the public hearing and action by the Lancaster County Board of Commissioners on County Change of Zone No. 08071.

CHANGE OF ZONE WITH RELATED ITEMS:

Page
153

4.5a Change of Zone No. 08075, from AG Agricultural District to B-2 Planned Neighborhood Business District, on property generally located at N. 98th Street and "O" Street.

Staff recommendation: Approval

Staff Planner: Brandon Garrett, 441-6373, bgarrett@lincoln.ne.gov

Had public hearing.

Planning Commission recommendation: APPROVAL, 7-0 (Larson and Partington absent).

Public Hearing before City Council will be scheduled at a future date.

Page
171

4.5b Use Permit No. 08003, for approximately 19 acres for office and retail use, on property generally located at N. 98th Street and "O" Street.

***** FINAL ACTION *****

Staff recommendation: Conditional Approval

Staff Planner: Brandon Garrett, 441-6373, bgarrett@lincoln.ne.gov

Had public hearing.

Planning Commission 'final action': CONDITIONAL APPROVAL, as set forth in the revised staff report submitted on 1/28/09, with the amendments as requested by the applicant, 6-1 (Gaylor Baird dissenting; Larson and Partington absent).

Resolution No. PC-01155.

5. CONTINUED PUBLIC HEARING AND ACTION:

5.1 Special Permit No. 08034A, an amendment to the Whispering Meadows Community Unit Plan, for 27 single family lots and 211 attached single family lots, together with a request to reduce the minimum lot area requirements and to modify the height and area requirements of the Land Subdivision Ordinance, on property generally located at S.W. 27th Street and West A Street.

***** FINAL ACTION *****

Planning staff recommendation: Conditional Approval

Staff Planner: Christy Eichorn, 441-7603, ceichorn@lincoln.ne.gov

Had continued public hearing.

Planning Commission 'final action': CONDITIONAL APPROVAL, as set forth in the staff report dated January 15, 2009, 6-1 (Francis dissenting; Larson and Partington absent).

Resolution No. PC-01156.

* * * * *

**AT THIS TIME, ANYONE WISHING TO SPEAK ON AN ITEM
NOT ON THE AGENDA, MAY DO SO**

* * * * *

PENDING LIST:

1. *Street and Alley Vacation No. 04013, to vacate all of the east-west alley in Block 65, Original Lincoln, bounded by 13th, 14th, "M" and "N" Streets, generally located at S. 13th Street & "M" Street. (**Expires 01/28/09**)*
(3-16-05: Planning Commission voted 9-0 to place on pending until completion of the Downtown Master Plan at the request of the applicant.)

2. *County Special Permit No. 08051, to allow a campground, on property generally located at NW 112th Street and Interstate 80.*
(1-14-09: Planning Commission voted 8-0 to continue public hearing on February 11, 2009 at the request of the applicant).
****** 1-15-09: WITHDRAWN BY APPLICANT ******

Planning Dept. staff contacts:

Steve Henrichsen, Development Review Manager	441-6374	shenrichsen@lincoln.ne.gov
Mike Brienzo, Transportation Planner	441-6369	mbrienzo@lincoln.ne.gov
Tom Cajka, Planner	441-5662	tcajka@lincoln.ne.gov
David Cary, Long Range Planner	441-6364	dcary@lincoln.ne.gov
Mike DeKalb, Planner	441-6370	mdekalb@lincoln.ne.gov
Christy Eichorn, Planner	441-7603	ceichorn@lincoln.ne.gov
Brandon Garrett, Planner	441-6373	bgarrett@lincoln.ne.gov
Rashi Jain, Planner	441-6372	rjain@lincoln.ne.gov
Brian Will, Planner	441-6362	bwill@lincoln.ne.gov
Ed Zimmer, Historic Preservation Planner	441-6360	ezimmer@lincoln.ne.gov

* * * * *

**The Planning Commission meeting
which is broadcast live at 1:00 p.m. every other Wednesday
will be rebroadcast on Sundays at 1:00 p.m. on 5 City-TV, Cable Channel 5.**

* * * * *

**The Planning Commission agenda may be accessed on the Internet at
<http://www.lincoln.ne.gov/city/plan/pcagenda/index.htm>**

M e m o r a n d u m

To: City Council Members

From: Fran Mejer *fm*
Public Works & Utilities Business Manager

Subject: Lincoln Water & Wastewater Systems Fiscal Year 2007-08 Audits

Date: January 22, 2009

cc: Mayor Chris Beutler, Greg MacLean, Chad Blahak,
Don Herz, Tammy Grammer, Joan Ross

BKD, LLP has completed their audit of the Lincoln Water and Wastewater Systems for Fiscal Year 2007-08. Copies of the reports are available at both the City Clerk's office and City Council secretary's office for your review. Should you personally wish to have a copy of the financial reports, I have additional copies in my office.

Attached is the Post Audit Communication and Management letter. BKD, LLP stated in this report they noted no matters involving the internal control over financial reporting and its operation that they would consider to be material weaknesses. The results of their tests disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

BKD, LLP did address in the "Other Matters" section of the letter the following:

Developer / Impact Fee Arrangements

The System currently has several directed impact fee arrangements and other arrangements with developers for the reimbursement of certain project costs. The existing arrangements vary in the structure of the agreement and the responsibilities of the parties involved. We suggest the System consider preparing a formal approach to developer arrangements including a template for future agreements to make certain that each agreement follows the System's overall objectives with long-term planning and budgeting.

Public Works & Utilities response: *We continue the process of developing a Policy to address this issue.*

Should you have any questions regarding the audit, please do not hesitate to contact me at 441-7537.



The Honorable Mayor and Members of the Audit Committee
Lincoln Water and Wastewater Systems
Lincoln, Nebraska

As part of our audits of the financial statements of Lincoln Water and Wastewater Systems (collectively referred to as the System) as of and for the year ended August 31, 2008, we wish to communicate the following to you.

AUDIT SCOPE AND RESULTS

Auditor's Responsibility Under Auditing Standards Generally Accepted in the United States of America

An audit performed in accordance with auditing standards generally accepted in the United States of America is designed to obtain reasonable, rather than absolute, assurance about the financial statements. In performing auditing procedures, we establish scopes of audit tests in relation to the financial statements taken as a whole. Our engagement does not include a detailed audit of every transaction. Our engagement letter more specifically describes our responsibilities.

These standards require communication of significant matters related to the financial statement audit that are relevant to the responsibilities of those charged with governance in overseeing the financial reporting process. Such matters are communicated in the remainder of this letter or have previously been communicated during other phases of the audits. The standards do not require the auditor to design procedures for the purpose of identifying other matters to be communicated with those charged with governance.

An audit of the financial statements does not relieve management or those charged with governance of their responsibilities. Our engagement letter more specifically describes your responsibilities.

Qualitative Aspects of Significant Accounting Policies and Practices

Significant Accounting Policies

The System's significant accounting policies are described in Note 1 of the audited financial statements.

Alternative Accounting Treatments

No matters are reportable

Management Judgments and Accounting Estimates

Accounting estimates are an integral part of financial statement preparation by management, based on its judgments. The following areas involve significant areas of such estimates for which we are prepared to discuss management's estimation process and our procedures for testing the reasonableness of those estimates:

- Valuation and classification of developer liabilities
- Sales and use tax payable – Water System

Financial Statement Disclosures

The following areas involve particularly sensitive financial statement disclosures for which we are prepared to discuss the issues involved and related judgments made in formulating those disclosures:

- Developer commitments
- Fair value of financial instruments
- Related party transactions

Audit Adjustments

No audit adjustments were proposed

Auditor's Judgments About the Quality of the System's Accounting Principles

No matters are reportable

Disagreements with Management

No matters are reportable

Difficulties Encountered in Performing the Audit

No matters are reportable

Other Material Written Communications

Listed below are other material written communications between management and us related to the audit:

- Management representation letters (attached)

INTERNAL CONTROL OVER FINANCIAL REPORTING

In planning and performing our audit of the financial statements of Lincoln Water and Wastewater Systems (collectively referred to as the System) as of and for the year ended August 31, 2008, in accordance with auditing standards generally accepted in the United States of America, we considered the System's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the System's internal control. Accordingly, we do not express an opinion on the effectiveness of the System's internal control. As such, our consideration of internal controls would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements of the System's financial statements on a timely basis. A control deficiency in design exists when a control necessary to meet a control objective is missing or an existing control is not properly designed so that, even if the control operates as designed, a control objective is not always met. A control deficiency in operation exists when a properly designed control does not operate as designed or when the person performing the control does not possess the necessary authority or qualifications to perform the control effectively.

A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the System's ability to initiate, authorize, record, process or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the System's financial statements that is more than inconsequential will not be prevented or detected by the System's internal controls.

A material weakness is a significant deficiency, or a combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the System's financial statements will not be prevented or detected by the System's internal controls.

We observed the following matters that we consider to be control deficiencies, significant deficiencies or material weaknesses. Previously we made observations as a result of our 2007 audit engagement in a letter dated November 28, 2007.

Material Weaknesses

No matters are reportable

Significant Deficiencies

No matters are reportable

Other Control Deficiencies

No matters are reportable

OTHER MATTERS

Although not considered material weaknesses, significant deficiencies or other control deficiencies in internal control over financial reporting, we observed the following matters and offer these comments and suggestions with respect to matters which came to our attention during the course of the audits of the financial statements. Our audit procedures are designed primarily to enable us to form an opinion on the financial statements and, therefore, may not bring to light all weaknesses in policies and procedures that may exist. However, these matters are offered as constructive suggestions for the consideration of management as part of the ongoing process of modifying and improving accounting controls and the financial and administrative practices and procedures. We can discuss these matters further at your convenience and may provide implementation assistance for changes or improvements if you require.

Developer/Impact Fee Arrangements

The System currently has several directed impact fee arrangements and other arrangements with developers for the reimbursement of certain project costs. The existing arrangements vary in the structure of the agreement and the responsibilities of the parties involved. We suggest the System consider preparing a formal approach to developer arrangements including a template for future agreements to make certain that each agreement follows the System's overall objectives with long-term planning and budgeting.

Future Accounting Pronouncements

Governmental Accounting Standards Board Statement No. 49: *Pollution Remediation Obligations*

This statement identifies the circumstances under which a governmental entity would be required to report a liability related to pollution remediation. Statement 49 also would require governments to disclose information about their pollution remediation obligations associated with clean-up efforts in the notes to the financial statements.

Statement 49 is effective for the fiscal year ending August 31, 2009.

* * * *

This communication is intended solely for the information and use of management, the Mayor and Audit Committee and others within the System and is not intended to be and should not be used by anyone other than these specified parties.

BKD, LLP

November 25, 2008

CITY OF LINCOLN WATER SYSTEM
555 South 10th Street
Lincoln, NE 68508

November 25, 2008

BKD, LLP
Certified Public Accountants
1221 N Street, Suite 600
Lincoln, Nebraska 68508

We are providing this letter in connection with your audits of our financial statements as of and for the years ended August 31, 2008 and 2007. We confirm that we are responsible for the fair presentation of the financial statements in conformity with accounting principles generally accepted in the United States of America. We are also responsible for adopting sound accounting policies, establishing and maintaining effective internal control over financial reporting, operations and compliance, and preventing and detecting fraud.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm, to the best of our knowledge and belief, the following:

1. The financial statements referred to above are fairly presented in conformity with accounting principles generally accepted in the United States of America.
2. We have made available to you:
 - (a) All financial records and related data.
 - (b) All minutes of meetings of the governing body held through the date of this letter.
 - (c) All significant contracts and grants.
3. We have informed you of all current risks of a material amount that are not adequately prevented or detected by entity procedures with respect to:
 - (a) Misappropriation of assets.

- (b) Misrepresented or misstated assets, liabilities or net assets.
4. We acknowledge our responsibility for the design and implementation of programs and controls to prevent and detect fraud.
 5. We have no knowledge of any known or suspected:
 - (a) Fraudulent financial reporting or misappropriation of assets involving management or employees who have significant roles in internal control.
 - (b) Fraudulent financial reporting or misappropriation of assets involving others that could have a material effect on the financial statements.
 6. We have no knowledge of any allegations of fraud or suspected fraud affecting the Lincoln Water System received in communications from employees, customers, regulators, suppliers or others.
 7. Except as reflected in the financial statements, there are no:
 - (a) Plans or intentions that may materially affect carrying values or classifications of assets and liabilities.
 - (b) Material transactions omitted or improperly recorded in the financial statements.
 - (c) Material gain/loss contingencies requiring accrual or disclosure, including those arising from environmental remediation obligations.
 - (d) Events occurring subsequent to the balance sheet date requiring adjustment or disclosure in the financial statements.
 - (e) Related party transactions, balances, arrangements or guarantees.
 - (f) Agreements to purchase assets previously sold.
 - (g) Violations of law, regulations, contracts, grants or requirements of regulatory agencies for which losses should be accrued or matters disclosed in the financial statements.
 - (h) Unasserted claims or assessments that our attorneys have advised us are probable of assertion.
 - (i) Restrictions on cash balances or compensating balance agreements.
 - (j) Guarantees, whether written or oral, under which the Lincoln Water System is contingently liable.

8. Adequate provisions and allowances have been accrued for any material losses from:
 - (a) Uncollectible receivables.
 - (b) Reducing obsolete or excess inventories to estimated net realizable value.
 - (c) Sales commitments, including those unable to be fulfilled.
 - (d) Purchase commitments in excess of normal requirements or above prevailing market prices.

9. Except as disclosed in the financial statements, we have:
 - (a) Satisfactory title to all recorded assets, and they are not subject to any liens, pledges or other encumbrances.
 - (b) Complied with all aspects of contractual and grant agreements, for which noncompliance would materially affect the financial statements.

10. We have not been designated as a potentially responsible party (PRP or equivalent status) by the Environmental Protection Agency (EPA) or other cognizant regulatory agency with authority to enforce environmental laws and regulations.

11. With regard to deposit and investment activities:
 - (a) All deposit, repurchase and reverse repurchase agreements and investment transactions have been made in accordance with legal and contractual requirements.
 - (b) Disclosures of deposit and investment balances and risks in the financial statements are consistent with our understanding of the applicable laws regarding enforceability of any pledges of collateral.
 - (c) We understand that your audit does not represent an opinion regarding the enforceability of any collateral pledges.

12. With respect to any nonattest services you have provided us during the year:
 - (a) We have designated a qualified management-level individual to be responsible and accountable for overseeing the nonattest services.
 - (b) We have established and monitored the performance of the nonattest services to ensure that they meet our objectives.

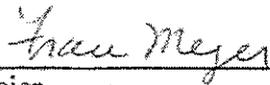
- (c) We have made any and all decisions involving management functions with respect to the nonattest services and accept full responsibility for such decisions.
 - (d) We have evaluated the adequacy of the services performed and any findings that resulted.
13. We acknowledge that we are responsible for compliance with applicable laws, regulations and provisions of contracts and grant agreements.
 14. We have identified and disclosed to you all laws, regulations and provisions of contracts and grant agreements that have a direct and material effect on the determination of amounts in our financial statements or other financial data significant to the audit objectives.
 15. We have identified and disclosed to you any violations or possible violations of laws, regulations and provisions of contracts and grant agreements whose effects should be considered for recognition and/or disclosure in the financial statements or for your reporting on noncompliance.
 16. We have taken or will take timely and appropriate steps to remedy any fraud, abuse, illegal acts or violations of provisions of contracts or grant agreements that you or other auditors report.
 17. We have a process to track the status of audit findings and recommendations.
 18. We have identified to you any previous financial audits, attestation engagements, performance audits or other studies related to the objectives of your audit and the corrective actions taken to address any significant findings and recommendations made in such audits, attestation engagements or other studies.
 19. The financial statements disclose all significant estimates and material concentrations known to us. Significant estimates are estimates at the balance sheet date which could change materially within the next year. Concentrations refer to volumes of business, revenues, available sources of supply, or markets for which events could occur which would significantly disrupt normal finances within the next year.
 20. The fair values of financial and nonfinancial assets and liabilities, if any, recognized in the financial statements or disclosed in the notes thereto are reasonable estimates based on the methods and assumptions used. The methods and significant assumptions used result in measurements of fair value appropriate for financial statement recognition and disclosure purposes and have been applied consistently from period to period, taking into account any changes in circumstances. The significant assumptions appropriately reflect our present

intent and ability to carry out specific courses of action relevant to and inherent in those assumptions.

21. The supplementary information required by the Governmental Accounting Standards Board, consisting of management's discussion and analysis, has been prepared and is presented in conformity with the applicable GASB pronouncements. The information contained therein is based on all facts, decisions and conditions currently known to us and is measured using the same methods and assumptions as were used in the preparation of the financial statements. There has been no change from the preceding period in the methods of measurement and presentation.
22. We have received opinions of counsel upon each issuance of tax-exempt bonds that the interest on such bonds is exempt from federal income taxes under the Internal Revenue Code of 1986, as amended. There have been no changes in the use of property financed with the proceeds of tax-exempt bonds, or any other occurrences, subsequent to the issuance of such opinions, that would jeopardize the tax-exempt status of the bonds. Provision has been made, where material, for the amount of any required arbitrage rebate.
23. We represent the impact fees receivable of \$404,423 is a current asset as they are expected to be expended within the next fiscal year.
24. We believe the maximum amount owed to the State of Nebraska for sales and use tax is \$353,697 at August 31, 2008.
25. The amount allocated to Lincoln Water System is an appropriate estimate of the fund's cost for other post employment benefits.



Greg MacLean
Director of Public Works & Utilities



Fran Mejer
Public Works & Utilities Business Manager

CITY OF LINCOLN WASTEWATER SYSTEM
555 South 10th Street
Lincoln, NE 68508

November 25, 2008

BKD, LLP
Certified Public Accountants
1221 N Street, Suite 600
Lincoln, Nebraska 68508

We are providing this letter in connection with your audits of our financial statements as of and for the years ended August 31, 2008 and 2007. We confirm that we are responsible for the fair presentation of the financial statements in conformity with accounting principles generally accepted in the United States of America. We are also responsible for adopting sound accounting policies, establishing and maintaining effective internal control over financial reporting, operations and compliance, and preventing and detecting fraud.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm, to the best of our knowledge and belief, the following:

1. The financial statements referred to above are fairly presented in conformity with accounting principles generally accepted in the United States of America.
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3. We have informed you of all current risks of a material amount that are not adequately prevented or detected by entity procedures with respect to:
 - (a) Misappropriation of assets.

- (b) Misrepresented or misstated assets, liabilities or fund equity.
4. We acknowledge our responsibility for the design and implementation of programs and controls to prevent and detect fraud.
 5. We have no knowledge of any known or suspected:
 - (a) Fraudulent financial reporting or misappropriation of assets involving management or employees who have significant roles in internal control.
 - (b) Fraudulent financial reporting or misappropriation of assets involving others that could have a material effect on the financial statements.
 6. We have no knowledge of any allegations of fraud or suspected fraud affecting the Lincoln Wastewater System received in communications from employees, customers, regulators, suppliers or others.
 7. Except as reflected in the financial statements, there are no:
 - (a) Plans or intentions that may materially affect carrying values or classifications of assets and liabilities.
 - (b) Material transactions omitted or improperly recorded in the financial statements.
 - (c) Material gain/loss contingencies requiring accrual or disclosure, including those arising from environmental remediation obligations.
 - (d) Events occurring subsequent to the balance sheet date requiring adjustment or disclosure in the financial statements.
 - (e) Related party transactions, balances, arrangements or guarantees.
 - (f) Agreements to purchase assets previously sold.
 - (g) Violations of law, regulations, contracts, grants or requirements of regulatory agencies for which losses should be accrued or matters disclosed in the financial statements.
 - (h) Unasserted claims or assessments that our attorneys have advised us are probable of assertion.
 - (i) Restrictions on cash balances or compensating balance agreements.
 - (j) Guarantees, whether written or oral, under which the Lincoln Wastewater System is contingently liable.

8. Adequate provisions and allowances have been accrued for any material losses from:
 - (a) Uncollectible receivables.
 - (b) Reducing obsolete or excess inventories to estimated net realizable value.
 - (c) Sales commitments, including those unable to be fulfilled.
 - (d) Purchase commitments in excess of normal requirements or above prevailing market prices.

9. Except as disclosed in the financial statements, we have:
 - (a) Satisfactory title to all recorded assets, and they are not subject to any liens, pledges or other encumbrances.
 - (b) Complied with all aspects of contractual and grant agreements, for which noncompliance would materially affect the financial statements.

10. We have not been designated as a potentially responsible party (PRP or equivalent status) by the Environmental Protection Agency (EPA) or other cognizant regulatory agency with authority to enforce environmental laws and regulations.

11. With regard to deposit and investment activities:
 - (a) All deposit, repurchase and reverse repurchase agreements and investment transactions have been made in accordance with legal and contractual requirements.
 - (b) Disclosures of deposit and investment balances and risks in the financial statements are consistent with our understanding of the applicable laws regarding enforceability of any pledges of collateral.
 - (c) We understand that your audit does not represent an opinion regarding the enforceability of any collateral pledges.

12. With respect to any nonattest services you have provided us during the year:
 - (a) We have designated a qualified management-level individual to be responsible and accountable for overseeing the nonattest services.
 - (b) We have established and monitored the performance of the nonattest services to ensure that they meet our objectives.

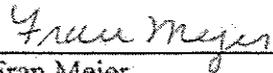
- (c) We have made any and all decisions involving management functions with respect to the nonattest services and accept full responsibility for such decisions.
 - (d) We have evaluated the adequacy of the services performed and any findings that resulted.
13. We acknowledge that we are responsible for compliance with applicable laws, regulations and provisions of contracts and grant agreements.
 14. We have identified and disclosed to you all laws, regulations and provisions of contracts and grant agreements that have a direct and material effect on the determination of amounts in our financial statements or other financial data significant to the audit objectives.
 15. We have identified and disclosed to you any violations or possible violations of laws, regulations and provisions of contracts and grant agreements whose effects should be considered for recognition and/or disclosure in the financial statements or for your reporting on noncompliance.
 16. We have taken or will take timely and appropriate steps to remedy any fraud, abuse, illegal acts or violations of provisions of contracts or grant agreements that you or other auditors report.
 17. We have a process to track the status of audit findings and recommendations.
 18. We have identified to you any previous financial audits, attestation engagements, performance audits or other studies related to the objectives of your audit and the corrective actions taken to address any significant findings and recommendations made in such audits, attestation engagements or other studies.
 19. The financial statements disclose all significant estimates and material concentrations known to us. Significant estimates are estimates at the balance sheet date which could change materially within the next year. Concentrations refer to volumes of business, revenues, available sources of supply, or markets for which events could occur which would significantly disrupt normal finances within the next year.
 20. The fair values of financial and nonfinancial assets and liabilities, if any, recognized in the financial statements or disclosed in the notes thereto are reasonable estimates based on the methods and assumptions used. The methods and significant assumptions used result in measurements of fair value appropriate for financial statement recognition and disclosure purposes and have been applied consistently from period to period, taking into account any changes in circumstances. The significant assumptions appropriately reflect our present

intent and ability to carry out specific courses of action relevant to and inherent in those assumptions.

21. The supplementary information required by the Governmental Accounting Standards Board, consisting of management's discussion and analysis, has been prepared and is presented in conformity with the applicable GASB pronouncements. The information contained therein is based on all facts, decisions and conditions currently known to us and is measured using the same methods and assumptions as were used in the preparation of the financial statements. There has been no change from the preceding period in the methods of measurement and presentation.
22. We have received opinions of counsel upon each issuance of tax-exempt bonds that the interest on such bonds is exempt from federal income taxes under the Internal Revenue Code of 1986, as amended. There have been no changes in the use of property financed with the proceeds of tax-exempt bonds, or any other occurrences, subsequent to the issuance of such opinions, that would jeopardize the tax-exempt status of the bonds. Provision has been made, where material, for the amount of any required arbitrage rebate.
23. We represent the impact fees receivable of \$220,690 is a current asset as they are expected to be expended within the next fiscal year.
24. The amount allocated to Lincoln Wastewater System is an appropriate estimate of the fund's cost for other post employment benefits.



Greg MacLean
Director of Public Works & Utilities



Fran Mejer
Public Works & Utilities Business Manager

INTEROFFICE MEMORANDUM

TO: Mayor Beutler
& City Council Members

FROM: Clinton W. Thomas

DEPARTMENT: City Council Office

DEPARTMENT: Housing Rehab & Real Estate Division

ATTENTION:

DATE: January 23, 2009

COPIES TO: Teresa J. Meier
Marvin Krout
John Hendry
Byron Blum, Bldg & Safety
Jean Preister, Planning

SUBJECT: Street & Alley Vacation No. 08012
East/West Alley 26th to 27th Street
north of W Street

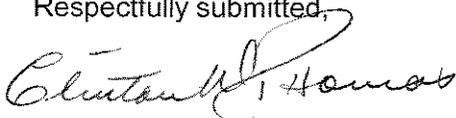
A request has been made to vacate the west half of the east/west alley running east from 26th Street in the block north of W Street. The area was viewed and appeared as a gravel surfaced alley. The only utilities visible in the alley were poles with electric, telephone, and cable attached. Public Works has indicated that because of the creation of a dead end alley, a drive aisle, a permanent easement across the drive aisle to W Street must be provided to alleviate the need for a turn around. No other public utilities are thought to exist in the alley.

Small, narrow strips such as this rarely have any value, in and of themselves, but will take on the value of the abutting property once it is assembled into it. However, in the case of an alley which has easements retained for utilities there is very little value to be added unless the utilities are relocated. Since this relocation would have to be done at the owner's expense coupled with the fact the owner must provide an access easement which is nearly equal to any value the alley might have, it is deemed the alley would have only nominal value. A value of \$0.10 per square foot is considered appropriate. The calculations are as follows:

$$2,182 \text{ sq. ft.} \times \$0.10/\text{sq. ft.} = \$218.20 \quad \text{Called } \$200.00$$

Therefore it is recommended if the alley be vacated, it be sold to the abutting property owner for \$200.00 with retention of utility easements and dedication of an access easement to W Street.

Respectfully submitted,



Clinton W. Thomas
Certified General Appraiser #990023



Jon Camp
<campjon@aol.com>
01/28/2009 09:17 AM

To <tgrammer@lincoln.ne.gov>
cc
bcc
Subject Fwd: Proposed Daycare at 29th & Porter Ridge

Jon Camp
Lincoln City Council
City Council Office: 441-7515
Haymarket Square Office: 474-1838

-----Original Message-----

From: Judy Jensen <judykjensen@gmail.com>
To: jcamp@lincoln.ne.gov
Sent: Wed, 28 Jan 2009 6:56 am
Subject: Proposed Daycare at 29th & Porter Ridge

Dear Mr. Camp,

We do not think that waivers should be granted for the proposed daycare center at 29th & Porter Ridge Road. The setbacks should not be changed. The developer should either adhere to the present setbacks and design a smaller building or find another bigger lot elsewhere. Traffic is already congested on 29th St. at times due to the Starbucks Coffee Shop and shopping center on Pine Lake Road. We have seen many people coming from that shopping area who do a U-Turn (illegally) around that island on 29th St. sometimes causing a back up of traffic flowing in from Pine Lake. The presence of the hill at 29th & Porter Ridge also obstructs vision and drivers often pop over the hill quite rapidly. A daycare center with more traffic on this residential street would further compound the safety issue. We believe residential zoning is probably a more appropriate use for property in this location.

Wayne and Judy Jensen
2829 Sissel Rd.
Lincoln, NE 68516

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Jon Camp
<campjon@aol.com>
01/28/2009 09:17 AM

To <tgrammer@lincoln.ne.gov>
cc
bcc
Subject Fwd: 29th pinelake daycare???

Jon Camp
Lincoln City Council
City Council Office: 441-7515
Haymarket Square Office: 474-1838

-----Original Message-----

From: MICHAEL DINNEEN <md62042@gmail.com>
To: jcamp@lincoln.ne.gov <jcamp@lincoln.ne.gov>
Sent: Wed, 28 Jan 2009 8:44 am
Subject: 29th pinelake daycare???

Good morning,

My name is Michael Dinneen.

My family received a card yesterday about a proposed daycare going in south of 29th and Pinelake RD.

I am not sure if it had your email on it or not but I think that it did. If not can you forward to the correct persons.

Anyway, I can not attend the meeting on such a short notice, but I would like to say that my family would be against a day care of this size at this location.

Reasons

1. We live on 2861 Sissel Rd and the road this is proposed to be on is the way we come and go from our area.
2. With that lot, it is on a curve and the road has a hill right there, making it hard to see.
3. It is a very busy street that people already drive WAY to fast on. Sunday on the ice we saw a car sliding out of control in a circle down that area. Also, you can always see slide marks from people out of control.
4. There are alot of lots in the 14th to 40th Pinelake to Yankee Hill RD area that would be more acceptable to an 11000sq foot 2 story building. Not to mention the re-zoning. It just sounds Way to bid for this lot.
5. Seems strange that this amost pasted without any questioning or oppinions from neighborhood.

Thanks for your time

Michael, Chris, Colton, Addison Dinneen

540-8844

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Jon Camp
<campjon@aol.com>
01/28/2009 12:53 PM

To <tgrammer@lincoln.ne.gov>
cc
bcc
Subject Fwd: zone change at Porter Ridge Rd

Jon Camp
Lincoln City Council
City Council Office: 441-7515
Haymarket Square Office: 474-1838

-----Original Message-----

From: domar2871 <domar2871@windstream.net>
To: jcamp@lincoln.ne.gov
Sent: Wed, 28 Jan 2009 9:19 am
Subject: zone change at Porter Ridge Rd

Due to health reasons I will be unable to attend the meeting. I would like to have it known that I am strongly against this zone change. We already have a traffic problem at that area. I can see no way this area could handle the traffic this would cause. My name is Donald Henninger and live at 2871 Porter Ridge Rd.

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Jon Camp
<campjon@aol.com>
01/28/2009 12:54 PM

To <tgrammer@lincoln.ne.gov>
cc
bcc
Subject Fwd: Proposed zone change at 29th & Porter Ridge Road

Jon Camp
Lincoln City Council
City Council Office: 441-7515
Haymarket Square Office: 474-1838

-----Original Message-----

From: Jan Harris <gh71530@windstream.net>
To: jcamp@lincoln.ne.gov
Cc: gh71530@windstream.net
Sent: Tue, 27 Jan 2009 11:06 pm
Subject: Proposed zone change at 29th & Porter Ridge Road

Mr. Camp:

This email is written on behalf of myself Janice Harris (2801 Sissel Road) and my sister Reta Leggett (2803 Sissel Road). We are property owners in the area of the proposed zone change (29th and Porter Ridge Road) and wish to protest the zone change.

Not only will the increased traffic be a problem, but mixing the types of traffic would not be beneficial to anyone. That area is largely populated with older homeowners and mixing that with young impatient parents dropping off children who (hopefully) would be supervised is not wise. Safety would certainly be a major issue. Additionally, none of us want our property value to decrease in a time when real estate is already dropping. Further, there is already a relatively large child care facility within the South Point area (near the round about - 34th street I believe) - so what would be the point of another so close in proximity - doesn't seem to be good business.

It is hoped that common sense would prevail in denying this proposed zone change.

Thank you for your attention.

Jan Harris

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Jon Camp
<campjon@aol.com>
01/28/2009 12:52 PM

To <tgrammer@lincoln.ne.gov>
cc
bcc
Subject Fwd: Planning Commission Hearing concerns

Jon Camp
Lincoln City Council
City Council Office: 441-7515
Haymarket Square Office: 474-1838

-----Original Message-----

From: Tanya Colson <tcolson@madonna.org>
To: jcamp@lincoln.ne.gov
Sent: Wed, 28 Jan 2009 9:55 am
Subject: Planning Commission Hearing concerns

Mr. Camp,

I am writing to let you know my concerns on one of the proposed changes you will be meeting about this afternoon in the planning commission hearing. My name is Tanya Colson, I own my home on 7241 So 30th Place. The empty lot directly behind my home is 29th and Porter Ridge Road, is zoned residential, I would like you to help keep it that way. When purchasing my home, one of my major factors in buying was the lot be zoned residential, now I find myself fighting to see it stays that way.

It is my understanding there is a large childcare facility wanting to build on the lot, with a building of 11,000 sq ft. Does this not require it to be located on an arterial street? There are many other lots more suitable for a childcare facility that would not require waivers to get it done.

I do not want the rear set-backs changed from 40 feet to 20 feet behind my home!

I do not want my property values decreased because the lot is no longer zoned residential!

I do not want increased noise levels in my neighborhood!

I do not appreciate the increased traffic problems, as well as safety issues this brings about in my backyard!

Please, please consider these factors! I'm not against new business, but there are existing empty buildings that could be used for the facility, without changing zones, and adding waivers. Seems like the builders are trying to squeeze a big building into a lot that is too small, so as to get rid of the property and make a quick buck.

I appreciate your support in this matter! My apologies for not being able to get to the meeting, I'm not able to take time away from my work to attend. Please keep me posted on this important matter, my Porter Ridge neighbors have my support in opposition of this zone change with waivers.

Thank you considering our opinions.

Tanya Colson

Tanya Colson
Medical Records Assistant
ext. 6532

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Jon Camp
<campjon@aol.com>
01/28/2009 12:54 PM

To <tgrammer@lincoln.ne.gov>
cc
bcc
Subject Fwd: Planning Commision - Change of Zoning and Special
Waivers - 29th and Porter Road

Jon Camp
Lincoln City Council
City Council Office: 441-7515
Haymarket Square Office: 474-1838

-----Original Message-----

From: sgoosic@hotmail.com
To: jcamp@lincoln.ne.gov; ceichorn@lincoln.ne.gov
Sent: Tue, 27 Jan 2009 10:32 pm
Subject: Planning Commision - Change of Zoning and Special Waivers - 29th and Porter Road

Change of Zone No. 08073
Special Permit No. 08052
Use Permit No. 100B

After having attended the presentation (1/26/2009) by Kruger Development on the proposed **131** child day care center, to be build on the empty lot of 29th and Porter Ridge Road, I am strongly concerned as to the impact that this will have on the property values abutting to the south and east side of the site as well as the increase traffic congestion that it will contribute to 29th and Potter Ridge Road. I strongly oppose the three request before the planning commission.

Special Permit No. 08052 seeks a waiver of the requirement to be located on an arterial street. This requirement is applied to early childhood care facilities of thirty-one or more children, for safety and traffic flow concerns. The applicant of the special waiver intends to build a early childhood care facility that will facilitate up to **131** children. That is in excess of 4 time the maximum limit allowable by city code for operating a early childhood care facility on a no-arterial street.

The location of the proposed facility is located at the junction of 29th and Porter Ridge Road. Both of these roads do not meet the definition of an arterial street. According to the county planning staff report, 29th street is considered as a collector street, but with just 32nd and 29th streets serving as the 2 main arteries into the area, traffic is already considerably high, especially congested mornings and evenings. Notably , Porter Ridge Road, a narrow street aligned with townhomes many of which are owned by young families and retired residence, is used quite often as a short cut to 27th street. By the demographic makeup of the area south of 27th and Pine Lake, it is probable to say that a large portion of the traffic to the child care center would come from that direction and presumably use Porter Ridge Road. With the lack of adequate parking

space available in front of the proposed building undoubtedly, parents will park along the street to take their child(s) up to the facility. With the increased flow of traffic, parking on the side street, and the blind spot that exist between the traffic heading south up the hill towards Porter Ridge Road those exiting from Porter Ridge Road on to 29th street, it is presumable to expect a high number of traffic accidents.

I purchased my home at 7301 S. 30th with the assurance that the area behind my home was zoned R-3 Residential. If zoning should change to O-3, the property values of the homes which directly surround the lot to the south and east will most certainly be negatively impacted. I urge the City to respect the integrity of the neighborhood and restrain the encroachment of commercial development into our residential area.

Based merely on the sizes and the placement of the proposed building, not only our property values will be adversely affected but, also our ability to enjoy our property. The proposed building covering 11,000 square feet, will stretch north to south, covering nearly 75% of the lot area. Taking in account the total height of the building, including the height of the roof, and the length of the building it will completely eliminate any view I currently have and will eliminate all afternoon sunshine to my back yard. My shrubbery will wither and a garden will nearly be impossible to keep.

I am also concerned by the fact the operator of the early childhood care facility currently only cares for 8 children in a home daycare. What expertise does she hold that suggest she will be successful. There is a difference between running a home daycare and operating **131** child and 28 member staff early childhood care facility. If she is not successful what other uses would the building be used for? According the developer, because of the design and layout of the facilities within the build, it could only be used for a day care center. If this is the case then there is a possibility of the building sitting empty.

It is evident by the number of request for special permits and zone changes that the proposed building of an early childhood facility is not suitable for that lot. If Use Permit 100B, which request a waiver on the side and rear yard setbacks is approved, it means the building will set back only 20 feet from my property, with that space to be used as the play ground. Not only will the building be even closer to my property, more afternoon daylight will be blocked, it will not provide sufficient green space or vegetation to shield our properties from the sounds of the children, the inside/outside lighting, the drone from the AC compressors, or the heat radiating off the roof during the summer months. When I go to look out my back yard all I will see, will be a tall wooden wall the developer will erect, a few bricks, and a soaring roof.

The proposed number of children(**131**) in the daycare easily equates to the size of a small school. Taking notice from Lincoln Public schools, the distance that separates the play area of the 20 school and that of the neighboring properties is much greater than 20 feet. In this case they intend to **squeeze** a school in this **little** space and expecting the neighbors to make huge concession.

The developer noted that the proposed setbacks is the same as it is between the office buildings

north of the site and the homes located just behind. This technically may be true, but he does not account for the additional space provided by the drive way behind the builds. Also those homes sit at a higher elevation and over look the buildings below and the lots are deeper. Finally, the office buildings run in an east to west direction so as to not completely block the western sky.

As you come to your decision on whether or not to allow the zoning changes and special waivers, please take in account the concerns of the homeowners the concession we are being asked of. Will this development, improve or enhance our neighborhood?

Steve Goosic
7301 S. 30th St.
Lincoln, NE 68516

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Jon Camp
<campjon@aol.com>
01/28/2009 12:56 PM

To <tgrammer@lincoln.ne.gov>
cc
bcc
Subject Fwd: 29 and Porter Ridge Road zoning

Jon Camp
Lincoln City Council
City Council Office: 441-7515
Haymarket Square Office: 474-1838

-----Original Message-----

From: Grant Miller <gmiller@neb.rr.com>
To: jcamp@lincoln.ne.gov
Sent: Tue, 27 Jan 2009 9:02 pm
Subject: 29 and Porter Ridge Road zoning

Hello Mr. Camp,

I saw there is possible zoning change for 29th and Porter Ridge Road for a 130 licensed capacity child care center. I have concerns about the traffic in and out of that area if it is changed from residential to commercial. I live at 7430 South 29th Street (29th and Katelyn Lane approximately) and I have seen an increase in traffic and excessive (35-40 mph) speed down our street with the Starbucks/Macaroni grill/Anytime fitness businesses going in. I am concerned allowing additional commercial property would increase the constant traffic up and down our street from 7:00-9:00 am and 4:00-6:00 p.m. It is already unsafe for my young children to play in the front yard unsupervised.

Secondly, I have been the director of Knowledge Beginnings child care center located at 6700 South 32nd street since it opened 8 years ago. Our center is nationally accredited by the National Association for the Education of Young Children- which is the gold standard for early childhood programs. The facility is a 10,000 sq foot building and is licensed for 170 children. We have 120 children and have yet to reach capacity in the past eight years due to the many other child care centers in the area and the new centers that have gone up over the past few years.

Just a few years ago, the Keeping Kids First child care center opened on 56th street between Old Cheney and Pine Lake Road. Recently, the Academic Advantage opened at 14th and Yankee Hill Road and I believe Trinity Church will soon open their church and child care on approximately 58th and Pine Lake Road. In the neighborhood, we also have Williamsburg Child Development Center, Little Kingdom, LaPetite, and Zac's Place. I think most of these centers are licensed for about 100 children and I am pretty sure they all have openings.

Many centers have openings due to Lincoln Public Schools going to all day kindergarten last fall- this created empty classrooms for many centers. The economy slow down is starting to affect Lincoln. We are having parents pull their children out of childcare due to job layoffs or reduction in workforce. Many of the child care licensing specialists are seeing many child care centers across Lincoln about 1/4 to 1/2 empty.

If the 130 capacity child care center were to go in at 29th and Porter Ridge Road, they would need to have a staff of about 35 teachers. There would be a lot of traffic congestion when there are many parents dropping off or picking up children from 7:00-9:00 am and 4:00-6:00 p.m. There is already a lot of traffic congestion on 29th Street at this time and there is a lot of traffic congestion on Pine Lake Road at those same times due to Cavett Elementary, Adams Elementary, Scott Middle School, and Southwest High School parents coming and going to their schools at those same times. Adams Elementary isn't up to capacity yet either.

The parking lot we have at Knowledge Beginnings is not sufficient for our needs. Although we have the roundabout to help, I see the traffic congestion my staff and customers cause at the light at 32 and Pine Lake Road and we aren't competing with Starbucks or Macaroni Grill (businesses with a lot of in and out traffic) or those new businesses going in by Anytime Fitness. A child care center is going to want to have parent events once in awhile and that would causing additional parking and traffic congestion for the area as well.

I enjoy watching channel 5 when I can and I appreciate the thoughtful questions I hear you ask community members. Thanks for taking the time to hear my concerns as I am unable to attend the meeting on Jan. 28th.

Cyndi Miller
7430 South 29th
Lincoln, NE 68516
580-1042 home
423-1188 work

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Jon Camp
<campjon@aol.com>
01/28/2009 12:57 PM

To <tgrammer@lincoln.ne.gov>
cc
bcc
Subject Fwd: Zone change at 29th and Porter Ridge Road

Jon Camp
Lincoln City Council
City Council Office: 441-7515
Haymarket Square Office: 474-1838

-----Original Message-----

From: cent5318@aol.com
To: jcamp@lincoln.ne.gov
Sent: Tue, 27 Jan 2009 7:36 pm
Subject: Zone change at 29th and Porter Ridge Road

Dear Mr. Camp,

As residents of the Porter Ridge neighborhood, we would like to bring to your attention some concerns regarding the proposed change of zoning from residential to commercial for property at 29th and Porter Ridge Road. We understand the purpose for the zoning change is to allow the construction of a childcare facility to serve up to 130 children.

Our concerns regarding this change include:

Safety for the children, parents, and neighbors

Both the corners of 28th and 29th St. and Porter Ridge Rd. are sharp T intersections (less than 90 degrees). To turn safely, drivers must slow down or stop and look for other cars that are turning. There are no stop or yield signs, and many drivers do not follow the basic rules for yielding.

With the opening of Adams Elementary School west of 27th St., there could be a considerable increase in traffic should parents drop off preschoolers at the proposed day care and proceed to Adams Elementary. Parents will soon figure out that they can use Porter Ridge Road as a direct route from so. 27th to Pine Lake Road.

There currently are many Starbucks customers who enter their drive-through, exit to the south onto 29th St., then make a U-turn around the median to get back onto Pine Lake Road. The fitness center that recently opened is likely to add to the congestion on 29th St. Add to the existing traffic 130 parents taking their children twice a day to the childcare facility and the potential for accidents increases significantly.

The only openings into a major portion of the Porter Ridge neighborhood are at 27th and Porter Ridge Road on the west and 29th and Porter Ridge Road to the north. The addition of traffic from the proposed childcare facility would hamper residents' access to their homes.

Waivers

At least three waivers have been requested including 1) facility of this size is required to be located on an arterial street, 2) rear setback reduced from 40 ft. to 20 ft., and 3) side setback changed from 15 ft. to 5 ft. It would seem that the proposed building is too large for the lot. Squeezing a building of this size into the available area appears to threaten the safety of children and parents, negatively impact the appearance of the area, and create a congestion hazard.

In addition, we question the need for additional childcare facilities in this area. There already are two facilities, one at 32nd and Pine Lake Road and another at 15th and Garrett Lane, in addition to home day care businesses.

We appreciate your attention to the proposed change of zoning and consideration of the concerns we have expressed. If you have any questions, please contact us; our home phone is 432-7124 or use this e-mail address.

Sincerely,
tim and Carol McClain
2810 Sissel Rd.
Lincoln, NE 68516.

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"Kelly K. Sieckmeyer"
<ksieckmeyer@lincoln.ne.gov
>

01/28/2009 01:49 PM

To "ritualrich@windstream.net" <ritualrich@windstream.net>
cc "Greg S. MacLean" <gmaclea@lincoln.ne.gov>, "Roger A.
Figard" <rfigard@lincoln.ne.gov>, "Scott A. Opfer"
<sopfer@lincoln.ne.gov>, "Karen K. Sieckmeyer"

bcc

Subject

Mr. Richard Todd,

In response to your e-mail sent to Councilperson Robin Eschliman, the Public Works Department has reviewed your concern regarding unsightly BNSF rail cars located along the Hwy. 2 corridor from approximately 48th Street west to 27th Street. City Engineer Roger Figard contacted Tim Harrison (Assistant Terminal Superintendent) with BNSF Railroad on Monday and explained your concerns. At that time, Mr. Harrison stated they would be relocated within the next 2 to 3 days. In addition, we agree that rail cars in certain areas are unsightly and may have a visual affect on residential areas located near rail lines however, these occurrences can only be addressed by contacting BNSF and relying on their cooperation. Unfortunately, these types of rail car staging problems may become more frequent as Hobson Yard located south of West 'O' Street continues to operate at capacity or near capacity. If you have additional questions please contact me at 441-7454. Thank you!

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**ADDENDUM
TO
DIRECTORS' AGENDA
MONDAY, FEBRUARY 2, 2009**

I. MAYOR -

1. NEWS ADVISORY - RE: Mayor Beutler's Public Schedule for Week of January 31 through February 6, 2009 - Schedule subject to change - (Forward to Council on 01/30/09).

II. CITY CLERK - None

III. CORRESPONDENCE -

A. COUNCIL REQUESTS/CORRESPONDENCE - None

B. DIRECTORS AND DEPARTMENT HEADS -

PUBLIC WORKS & UTILITIES

1. Letter to Gregory S. Nielsen - RE: Lincoln North Creek LLC (LNC) engineered and designed the Project #801752.

C. MISCELLANEOUS - None



NEWS ADVISORY

MAYOR CHRIS BEUTLER

lincoln.ne.gov

DATE: January 30, 2009

FOR MORE INFORMATION: Diane Gonzolas, Citizen Information Center, 441-7831

Mayor Beutler's Public Schedule
Week of January 31 through February 6, 2009
Schedule subject to change

Saturday, January 31

- KFOR's "Start Packing with Nebraska Home Sales" show - 7:50 a.m., Three Eagles Communications, 3800 Cornhusker Hwy.

Wednesday, February 4

- Lincoln Public Schools Foundation "Celebration of Excellence," remarks - 4 p.m., Adams Elementary School, 7401 Jacobs Creek Drive (27th Street and Yankee Hill Road)

Thursday, February 5

- KFOR Morning Show - 7:45 a.m.

Friday, February 6

- "Building Sustainable Partnerships" forum, remarks - 1:15 p.m., Hardin Hall, 33rd and Holdrege streets



MAYOR CHRIS BEUTLER
lincoln.ne.gov

Public Works and Utilities Department
Gregory S. MacLean, Director
555 South 10th Street
Suite 203
Lincoln, Nebraska 68508
402-441-7548
fax: 402-441-8609

January 29, 2009

Lincoln North Creek, LLC
c/o DeCameron Group, Inc.
Gregory S. Nielsen
6701 Northfork Circle
Lincoln, NE 68516

Dear Mr. Nielsen,

I am sorry for the delay in responding to you. You have raised some serious questions so I wanted to be sure to investigate fully. I asked Thomas Shafer, in the Design/Construction Section, to investigate and brief me on what he found. My response to your concerns is based on the information gathered by him. I've listed each of your concerns and a response for each.

Lincoln North Creek LLC (LNC) engineered and designed the Project #801752 and submitted a \$1000.00 deposit on the project.

According to the Lincoln North Creek agreement with the City, LNC agreed to pay for the services to be provided by the Public Works and Utilities Department, including: project coordinator, general plan review, creating as built plans, and obtaining all written acceptance of the work, among other things. The \$1,000 in the agreement represents the minimum deposit for this type of work and is in no way a guarantee that the costs of your project would not exceed that amount.

LNC received the attached billing and was shocked at the billing for Construction Engineering and Observer/Inspection, so I asked for the time and billing on the project from Brenda Nepper who provided immediately the attached time and billing sheet.

There must be some mix up in the time Construction Engineering as LNC paid our engineers for the Engineering on this project and submitted it from ESP Engineering. Warren Wondercheck has two entries totaling 5 hours on this project. No one can explain how this could be possible when we performed the Construction Engineering.

We need to be very clear on this point. The work you are referring to (performed by ESP), was for the plan preparation and design engineering work. This is not the same work performed by the city. The City's work includes review of the plans to ensure compliance with the City's minimum engineering requirements and all codes. It also includes coordination of the contractor's work with Public Works's Wastewater Operating Division, field inspections of sewer main installation, and issuing final acceptance of the project. Any work performed by ESP during construction is on your or their behalf. It does not qualify for, or in any way replace the City's responsibility to do this work.

Gregory S. Nielsen
Page 2
January 29, 2009

Equally egregious is the time of Timothy Byrne of 6 hours for observation and inspection. Our contractor kept track of the time that the inspector was on site and he was on site for one-half an hour. Even with travel time the six hours is not correct and should be at the maximum 1 and one-half to 2 hours.

This statement is particularly troubling. The implication is that the City has improperly or fraudulently charged you for extra work or work not performed. That is not the case. Mr. Shafer visited with you regarding who was making this claim and you told him it was not General Excavating who did the actual sanitary sewer installation work, but another contractor on the site, Brad Becker of Becker Construction, Inc. Mr. Shafer contacted Mr. Becker to learn more details regarding the work. In that conversation, Mr. Becker confirmed that he had not, in fact, kept track of the time the Public Works and Utilities Inspector was on the project as you stated. As it turns out, his estimate of ½ hour of inspection time referred only to the time spent by the Building and Safety inspector whose responsibility it is to inspect the installation of the private service connection to the sewer main before backfilling. The bill you have received from Public Works is for the inspection of the public sanitary sewer main that was constructed, not the private service line that was installed as a part of the building project.

Could you please forward this to the appropriate person to determine what the correct amount of time and charges should be.

Mr. Shafer has reviewed, in detail, the daily activity reports with the time sheets of both our construction project manager and construction inspector and found that the time charged is very much in line with what we would typically expect on projects of this type, particularly in light of the difficulties experienced (i.e. heavy flows, confined space entry by contractor and tapping a live manhole). Our inspector was on site September 26th and again September 27th, as General Excavating did the installation, for a total of six hours. At that time General Excavating indicated they would be back to perform pressure testing.

On November 20, 2008, General Excavating attempted to perform the pressure test, but had difficulties related to installation of the test lid, faulty pressure equipment, and gauges not working. These difficulties ultimately resulted in the contractor blowing the 200 lb. manhole lid about 25 feet into the air. As you might imagine, critical safety situations like this, create extra time and effort for our staff.

Additionally, it turns out that there are still outstanding issues the contractor has not addressed to allow for the final project acceptance. This will ultimately result in more charges to your project as additional time, coordination, and follow up is required.

Gregory S. Nielsen
Page 3
January 29, 2009

Our review also revealed that since we had project work at 14th and Fletcher at that same time, it appears you were not charged for travel time due to the close proximity of this project to the inspector's other daily duties. It also appears you were not charged for design plan review and project coordination during the design phase as would be normally expected on these type of projects. That is our oversight so Mr. Shafer has recommended that we not go back and add these charges to your bill at this time.

Again, I apologize for the delay in getting back to you. However, as you can see, things are not as they appeared to you.

In closing, I hope you appreciate that I take very seriously the questions you raised. If we have made mistakes or not performed, that is damaging to the Department and community and I intend to take corrective actions. However, I must be equally diligent in responding factually to questions that imply wrongdoing but turn out to be without merit. Since your project is still not complete, we cannot yet consider this issue closed. However, my staff will continue to work closely with your contractor to make sure that all project requirements are met and the project can be completed.

Sincerely,



Greg MacLean
Director of Public Works and Utilities

cc: City Council
Roger Figard
Thomas Shafer