

FACTSHEET

TITLE: USE PERMIT NO. 08003, requested by Waterford Estates, LLC, to develop 250,000 sq. ft. of commercial floor area, on property generally located at North 98th Street and O Street.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 01/28/09
Administrative Action: 01/28/09

STAFF RECOMMENDATION: Conditional Approval

RECOMMENDATION: Conditional Approval, with amendments (6-1: Carroll, Cornelius, Esseks, Francis, Sunderman and Taylor voting 'yes'; Gaylor Baird voting 'no'; Larson and Partington absent).

ASSOCIATED REQUESTS: Change of Zone No. 08075 (10-4).

Resolution No. PC-01155

FINDINGS:

1. This proposed use permit was heard by the Planning Commission in conjunction with the associated Change of Zone No. 08075 from AG Agricultural District to B-2 Planned Neighborhood Business District.
2. The purpose of the proposed use permit is to develop 250,000 sq. ft. of commercial floor area on 18.93 acres, with a limitation of 50,000 sq. ft. of restaurants, banks, convenience stores and drive-through uses and a restriction that Lot 1, Block 1, be restricted from having any restaurants, banks, convenience stores or drive-through uses due to the future neighborhood to the north.
3. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.17-18, concluding that the use permit proposes land uses and floor area that is consistent with the Future Land Use Plan in the Comprehensive Plan. The staff presentation is found on p.24.
4. The applicant's testimony is found on p.24-25. The applicant submitted proposed amendments to the conditions of approval as set forth on p.43-45.
5. The staff agreed with the applicant's proposed amendments, except for the right-in, right-out driveway onto 98th Street proposed to be located about 500 feet north of O Street and 300 feet south of the proposed intersection of 98th Street with Boathouse Drive (Condition #2.1 of the staff report, p.18). Public Works staff indicated concern with excessive access points along an arterial which is projected to carry high traffic volumes.
6. There was no testimony in opposition.
7. On January 28, 2009, the majority of the Planning Commission agreed with the staff recommendation, with the amendments as requested by the applicant, and voted 6-1 to adopt Resolution No. PC-01155 (p.3-13). Commissioner Gaylor Baird dissented based on the amendment to allow the right-in, right-out onto 98th Street over the objection of staff (See Minutes, p.26). Larson and Partington were absent.
8. On January 28, 2009, the Planning Commission also voted 7-0 to recommend approval of the associated Change of Zone No. 08075 from AG Agricultural District to B-2 Planned Neighborhood Business District (Bill #10-4).
9. On February 10, 2009, the Director of Public Works appealed the Planning Commission's decision on the access issue to the City Council (p.2)
10. This use permit and the associated change of zone were not previously scheduled on the City Council agenda at the request of the applicant.
11. On December 21, 2009, the Director of Planning sent a 30-day expiration notice to the applicant (p.46).
12. On December 23, 2009, DaNay Kalkowski, on behalf of the applicant, requested that this use permit and the associated change of zone request be scheduled on the City Council agenda and placed on the Council's pending list on first reading until the applicant has acquired a user for the property (p.47).
13. **Please Note:** Eugene Carroll voted on this application as a Planning Commission member and should abstain from voting as a City Council member.

FACTSHEET PREPARED BY: Jean L. Preister

DATE: January 4, 2010

REVIEWED BY: _____

DATE: January 4, 2010

REFERENCE NUMBER: FS\CC\2009\UP.08003+ Appeal



CITY OF LINCOLN
NEBRASKA

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

February 10, 2009

City Clerk Office
555 South 10th Street, Suite 103
Lincoln, NE 68508

RE: Appeal of Resolution No. PC-01155

In the review of Use Permit #08003, Public Works objected to the right-in, right-out driveway to 98th Street between East 'O' Street and Boathouse Road shown on the site plan. The staff recommended condition of approval was to delete this driveway. The Planning Commission voted conditional approval with an amendment that eliminated the condition to remove this driveway, thus approving the driveway. The Public Works Department objects to this driveway and by this letter is appealing Resolution No. PC01155 to the City Council due to the elimination of the condition that required deletion of the driveway from the site plan.

Sincerely,



Greg MacLean
Director of Public Works

cc: Marvin Krout
Roger Figard
Randy Hoskins
Dennis Bartels

FILED
CITY CLERK'S OFFICE
2009 FEB 10 PM 3 29
CITY OF LINCOLN
NEBRASKA

**PLANNING COMMISSION FINAL ACTION
NOTIFICATION**

TO : Mayor Chris Beutler
Lincoln City Council

FROM : Jean Preister, Planning 

DATE : February 4, 2009

RE : **Use Permit No. 08003**
(N. 98th Street and O Street)
Resolution No. PC-01155

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 **Use Permit No. 08003**, with conditions, as revised and amended, requested by Waterford Estates, LLC, for authority to develop 250,000 sq. ft. of commercial floor area, on property generally located at North 98th Street and "O" Street.

Motion for conditional approval, as revised and amended, carried 6-1: Francis, Carroll, Cornelius, Esseks, Sunderman and Taylor voting 'yes'; Gaylor Baird voting 'no'; (Larson and Partington absent). Gaylor Baird was opposed to granting the right-in, right-out onto North 98th Street.

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.

Note: On January 28, 2009, the Planning Commission also voted 7-0 to recommend approval of the associated Change of Zone No. 08075 from AG Agricultural District to B-2 Planned Neighborhood Business District (Larson and Partington absent). The public hearing before the City Council has not yet been scheduled.

Attachment

cc: Building & Safety
Rick Peo, City Attorney
Public Works
Mark Palmer, Olsson Associates, 1111 Lincoln Mall, 68508
DaNay Kalkowski, 1111 Lincoln Mall, Suite 350, 68508
Waterford Estates LLC, 8644 Executive Woods Drive, 68512
Steve Bussey, Sunrise Estates Community Assn., 1001 N. 86th Street, 68505

RESOLUTION NO. PC-01155

USE PERMIT NO.08003

1 WHEREAS, Waterford Estates, LLC has submitted an application in accordance with
2 Section 27.31.100 of the Lincoln Municipal Code designated as Use Permit No. 08003 to
3 develop 250,000 square feet of commercial floor area on property generally located at N.
4 98th Street and O Street, and legally described to wit:

5 A portion of Outlot "D", Waterford Estates Addition, located in the Southeast
6 Quarter of Section 23, Township 10 North, Range 7 East of the 6th P.M., City of
7 Lincoln, Lancaster County, Nebraska, and more particularly described as follows:

8 Commencing at the southeast corner of said Outlot "D", said point being on the
9 west right-of-way line of North 98th Street, and on the north right-of-way line of
10 East "O" Street, said point being the true point of beginning; thence westerly along
11 a south line of said Outlot "D", said line being a north line of said right-of-way on
12 an assumed bearing of south 86 degrees 46 minutes 15 seconds west, a
13 distance of 337.32 feet to a point; thence north 83 degrees 32 minutes 33
14 seconds west along a south line of said Outlot "D", said line being a north line of
15 said right-of-way, a distance of 217.45 feet to a point; thence north 00 degrees 35
16 minutes 26 seconds east, a distance of 184.94 feet to a point; thence north 44
17 degrees 20 minutes 49 seconds east, a distance of 155.57 feet to a point of
18 curvature of a non-tangent curve in a clockwise direction having a radius of
19 183.00 feet, a central angle of 37 degrees 57 minutes 29 seconds, an arc
20 distance of 121.24 feet, a tangent length of 62.94 feet, a chord bearing of north 18
21 degrees 23 minutes 19 seconds west, and a chord distance of 119.03 feet to a
22 point; thence north 00 degrees 35 minutes 26 seconds east, a distance of 136.72
23 feet to a point of curvature of a curve in a counter clockwise direction having a
24 radius of 192.00 feet, a central angle of 71 degrees 41 minutes 27 seconds, an
25 arc length of 240.24 feet, a tangent length of 138.71 feet, a chord bearing of north
26 35 degrees 15 minutes 18 seconds west, and a chord distance of 224.87 feet to
27 a point of reverse curvature, thence along a curve in a clockwise direction having
28 a radius of 433.00 feet, a central angle of 63 degrees 36 minutes 57 seconds, an
29 arc length of 480.76 feet, a tangent length of 268.55 feet, a chord bearing of north
30 39 degrees 17 minutes 32 seconds west, and a chord distance of 456.45 feet to
31 a point of reverse curvature, thence along a curve in a counter clockwise direction

1 having a radius of 967.00 feet, a central angle of 27 degrees 46 minutes 47
2 seconds, an arc length of 468.85 feet, a tangent length of 239.13 feet, a chord
3 bearing of north 21 degrees 22 minutes 27 seconds west, and a chord distance
4 of 464.27 feet to a point of reverse curvature, thence along a curve in a clockwise
5 direction having a radius of 533.00 feet, a central angle of 35 degrees 29 minutes
6 07 seconds, an arc length of 330.11 feet, a tangent length of 170.54 feet, a chord
7 bearing of north 17 degrees 31 minutes 17 seconds west, and a chord distance
8 of 324.85 feet to a point; thence north 00 degrees 13 minutes 16 seconds east, a
9 distance of 22.84 feet to a point; thence south 87 degrees 19 minutes 39 seconds
10 east, a distance of 209.80 feet to a point; thence south 89 degrees 37 minutes 05
11 seconds east, a distance of 182.72 feet to a east corner of said Outlot "D", said
12 point being the southwest right-of-way corner of Waterford Estates Drive; thence
13 continuing easterly along said line, said line being a north line of said Outlot "D";
14 said line being a south line of said right-of-way, a distance of 81.77 feet to a point,
15 said point being on the west right-of-way line of North 98th Street; thence south
16 27 degrees 38 minutes 04 seconds east along a east line of said Outlot "D", said
17 line being a west line of said right-of-way, a distance of 17.90 feet to a point;
18 thence south 10 degrees 37 minutes 15 seconds east along an east line of said
19 Outlot "D", said line being a west line of said right-of-way, a distance of 44.87 feet
20 to a point of curvature of a non-tangent curve in a counter clockwise direction
21 having a radius of 1,560.00 feet, a central angle of 23 degrees 33 minutes 06
22 seconds, an arc distance of 641.24 feet, a tangent length of 325.21 feet, a chord
23 bearing of south 16 degrees 43 minutes 12 seconds east, and a chord distance
24 of 636.74 feet to a point of reverse curvature, thence along a curve in a clockwise
25 direction having a radius of 320.00 feet, a central angle of 08 degrees 16 minutes
26 09 seconds, an arc length of 46.18 feet along a east line of said Outlot "D", said
27 line being a west line of said right-of-way, a tangent length of 23.13 feet, a chord
28 bearing of south 24 degrees 21 minutes 41 seconds east, and a chord distance
29 of 46.14 feet to a point of reverse curvature, thence along a curve in a counter
30 clockwise direction having a radius of 318.00 feet, a central angle of 12 degrees
31 28 minutes 19 seconds, an arc length of 69.22 feet along a east line of said Outlot
32 "D", said line being a west line of said right-of-way, a tangent length of 34.75 feet,
33 a chord bearing of south 26 degrees 27 minutes 46 seconds east, and a chord
34 distance of 69.09 feet to a point of compound curvature of a curve in a counter
35 clockwise direction having a radius of 1,570.00 feet, a central angle of 03 degrees
36 46 minutes 57 seconds, an arc length of 103.64 feet along a east line of said
37 Outlot "D", said line being a west line of said right-of-way, a tangent length of
38 51.84 feet, a chord bearing of south 34 degrees 35 minutes 24 seconds east, and
39 a chord length of 103.63 feet to a point; thence south 36 degrees 28 minutes 52
40 seconds east along a east line of said Outlot "D", said line being a west line of
41 said right-of-way, a distance of 150.72 feet to a point; thence south 11 degrees 16
42 minutes 18 seconds west along a east line of said Outlot "D", said line being a
43 west line of said right-of-way, a distance of 15.00 feet to a point on the north
44 right-of-way line of Boathouse Road; thence south 61 degrees 35 minutes 01
45 seconds west along a south line of said Outlot "D", said line being a north line of
46 said right-of-way, a distance of 42.31 feet to a point of curvature of a non-tangent
47 curve in a clockwise direction having a radius of 451.00 feet, a central angle of 01
48 degrees 01 minutes 52 seconds, an arc distance of 8.12 feet along a south line of
49 said Outlot "D", said line being a north line of said right-of-way, a tangent length of

1 4.06 feet, a chord bearing of south 73 degrees 10 minutes 37 seconds west, and
2 a chord distance of 8.12 feet to the northwest corner of said right-of-way; thence
3 south 16 degrees 18 minutes 27 seconds east along a east line of said Outlot
4 "D", said line being a west line of said right-of-way, a distance of 98.00 feet to the
5 southwest corner of said right-of-way, said point being a point of curvature of a
6 non-tangent curve in a counter clockwise direction having a radius of 549.00 feet,
7 a central angle of 08 degrees 21 minutes 54 seconds, an arc distance of 80.15
8 feet along a north line of said Outlot "D", said line being a south line of said
9 right-of-way, a tangent length of 40.15 feet, a chord bearing of north 69 degrees
10 30 minutes 36 seconds east, and a chord distance of 80.08 feet to a point on the
11 west right-of-way line of North 98th Street; thence south 65 degrees 03 minutes
12 00 seconds east along a north line of said Outlot "D", said line being a south line
13 of said of right-of-way, a distance of 27.37 feet to a point; thence south 38
14 degrees 34 minutes 11 seconds east along a east line of said Outlot "D", said line
15 being a west line of said right-of-way, a distance of 41.11 feet to a point of
16 curvature of a non-tangent curve in a clockwise direction having a radius of
17 1,434.00 feet, a central angle of 11 degrees 33 minutes 31 seconds, an arc
18 distance of 289.29 feet along a east line of said Outlot "D", said line being a west
19 line of said right-of-way, a tangent length of 145.14 feet, a chord bearing of south
20 25 degrees 05 minutes 29 seconds east, and a chord distance of 288.80 feet to a
21 point of compound curvature of a curve in a clockwise direction having a radius of
22 327.00 feet, a central angle of 16 degrees 04 minutes 15 seconds, an arc length
23 of 91.72 feet along a east line of said Outlot "D", said line being a west line of said
24 right-of-way, a tangent length of 46.16 feet, a chord bearing of south 11 degrees
25 16 minutes 35 seconds east, and a chord length of 91.42 feet to a point of
26 reverse curvature, thence along a curve in a counter clockwise direction having a
27 radius of 318.00 feet, a central angle of 10 degrees 10 minutes 03 seconds, an
28 arc length of 56.43 feet along a east line of said Outlot "D", said line being a west
29 line of said right-of-way, a tangent length of 28.29 feet, a chord bearing of south
30 08 degrees 19 minutes 29 seconds east, and a chord distance of 56.36 feet to a
31 point of reverse curvature, thence along a curve in a clockwise direction having a
32 radius of 1,418.00 feet, a central angle of 12 degrees 33 minutes 00 seconds, an
33 arc length of 310.60 feet along a east line of said Outlot "D", said line being a west
34 line of said right-of-way, a tangent length of 155.92 feet, a chord bearing of south
35 07 degrees 08 minutes 00 seconds east, and a chord distance of 309.98 feet to
36 the point of beginning. Said tract contains a calculated area of 824,666.50 square
37 feet or 18.93 acres, more or less.

38 WHEREAS, the real property adjacent to the area included within the site plan for this
39 construction of commercial floor area will not be adversely affected; and

40 WHEREAS, said site plan together with the terms and conditions hereinafter set forth are
41 consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the
42 public health, safety, and general welfare.

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

3 That the application of Waterford Estates, LLC, hereinafter referred to as "Permittee", to
4 develop 250,000 square feet of commercial floor area be and the same is hereby granted under
5 the provisions of Section 27.31.100 of the Lincoln Municipal Code upon condition that
6 construction and operation of said commercial space be in substantial compliance with said
7 application, the site plan, and the following additional express terms, conditions, and
8 requirements:

- 9 1. This permit approves 250,000 square feet of commercial floor area with a
10 limitation of 50,000 square feet of restaurants, banks, convenience stores, and drive-through
11 uses and a restriction that Lot 1, Block 1 be restricted from having any restaurants, banks,
12 convenience stores, and drive-through uses.
- 13 2. The City Council must approve the associated request Change of Zone #08075.
- 14 3. Before a final plat is approved, the Permittee shall
 - 15 a. Cause to be prepared and submitted to the Planning Department a
16 revised and reproducible final plot plan including 5 copies with all required
17 revisions as listed:
 - 18 i. Revise the site plan to show the adjacent preliminary platted lots
19 and street system north of this use permit.
 - 20 ii. Realign N. 97th Street (private roadway) to match the alignment
21 proposed with N. 95th Street north of Waterford Estates Drive in
22 the preliminary plat, and revise the legal descriptions of the change
23 of zone and use permit based on the realignment of N. 97th Street.
24 Depending on the alignment of the private roadway and/or future
25 alignment of the proposed future N. 95th Street shown on the use
26 permit, some streets may need to be renamed.
 - 27 iii. Revise General Notes #5 to replace "NW 48th Street" and "W.
28 Holdrege Street" with "N. 98th Street" and "O Street", respectively.
 - 29 iv. Revise the site plan to show setbacks for building envelopes as
30 referenced in General Notes #12 and #24.
 - 31 v. Remove General Notes #17.

- 1 vi. Revise General Notes #18 to include Lots 1-4, Block 1.
- 2 vii. Revise General Notes #24 to state: "The site and parking lot layout
3 is conceptual. The developer reserves the right to build anywhere
4 within the building envelopes shown. Parking will be provided in
5 accordance with Chapter 27.67."
- 6 viii. Add General Notes #26 to state: "This approval permits 250,000
7 square feet of commercial floor area with a limitation of 50,000
8 square feet of restaurants, banks, convenience stores, and drive-
9 through uses and a restriction that Lot 1, Block 1 be restricted
10 from having any restaurants, banks, convenience stores, and
11 drive-through uses."
- 12 ix. Remove the "Land Use and Parking Summary Table".
- 13 x. Revise the Planning Commission "Approval" block to refer to this
14 as a "Use Permit" rather than a "Planned Unit Development".
- 15 xi. Delete the City Council "Approval" block.
- 16 xii. Show utility easements as requested by Lincoln Electric System.
- 17 xiii. Revise the trunk sewer alignment to the satisfaction of Public
18 Works.
- 19 xiv. Revise the water system to the satisfaction of Public Works.
- 20 xv. Revise the grading plan to the satisfaction of Public Works.
- 21 xvi. Show sidewalks on grading in the vicinity of the box culvert that
22 allows a safe sidewalk to be constructed.
- 23 xvii. Correct the trail alignment to be shown south of Boathouse Road
24 crossing N. 98th Street parallel to N. 98th Street along the west side
25 down to O Street.
- 26 xviii. Add General Notes #27 to state: If necessary, the trail shall be
27 permitted and an easement will be granted in the front yard
28 setback of Lots 3 and 4, Block 2, along O Street.
- 29 xix. Add General Notes #28 to state: "A high pressure underground
30 natural gas pipeline is located along the southern edge of this
31 proposed development. The Lincoln-Lancaster County Health
32 Department calculated a hazard area of approximately 154 feet on
33 each side for this pipeline. Future owners and/or lessees of
34 dwellings or buildings located within the projected hazard area
35 shall be advised of the natural gas pipeline's location."

1 xx. Ornamental street lights for private roadways and pedestrian way
2 easements are to be approved by L.E.S.

3 b. Submit calculations to review head water and flood plain assumptions
4 used to determine flood plain and minimum building opening elevations.

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

8 4. Prior to the issuance of a building permit:

9 a. The construction plans substantially comply with the approved plans.

10 b. Final plats must be approved by the City.

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

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

35 c. The Planning Director may approve final plats after the Permittee has
36 signed an agreement that binds the Permittee and Permittee's
37 successors and assigns:

38 i. to complete the street paving of public streets, and temporary
39 turnarounds and barricades located at the temporary dead-end of
40 the streets shown on the final plat within two (2) years following the
41 approval of the final plat.

- 1 ii. to complete the paving of private roadway, and temporary
2 turnarounds and barricades located at the temporary dead-end of
3 the private roadways shown on the final plat within two (2) years
4 following the approval of this final plat.
5
6 iii. to complete the installation of sidewalks along both sides of the
7 streets and private roadways and along the south side of
8 Waterford Estates Drive as shown on the final plat within four (4)
9 years following the approval of the final plat.
10
11 iv. to complete the installation of sidewalks along N. 98th Street and O
12 Street as shown on the final plat within two (2) years following the
approval of this final plat.
13
14 v. to complete the public water distribution system to serve this plat
within two (2) years following the approval of the final plat.
15
16 vi. to complete the public wastewater collection system to serve this
17 plat within two (2) years following the approval of the final plat.
18
19 vii. to complete the enclosed public drainage facilities shown on the
20 approved drainage study to serve this plat within two (2) years
following the approval of the final plat.
21
22 viii. to complete the enclosed private drainage facilities shown on the
23 approved drainage study to serve this plat within two (2) years
following the approval of the final plat.
24
25 ix. to complete land preparation including storm water
26 detention/retention facilities and open drainageway improvements
27 to serve this plat prior to the installation of utilities and
28 improvements but not more than two (2) years following the
approval of the final plat
29
30 x. to complete the installation of public street lights along Boathouse
31 Road and Waterford Estates Drive within this plat within two (2)
years following the approval of the final plat.
32
33 xi. to complete the installation of private street lights along N. 97th
34 Street within this plat within two (2) years following the approval of
the final plat.
35
36 xii. to complete the planting of the street trees along N. 97th Street,
37 Boathouse Road, and Waterford Estates Drive within this plat
within four (4) years following the approval of the final plat.
38
39 xiii. to complete the installation of street trees along the north side of O
40 Street and the west side of N. 98th Street as shown on the final plat
within two (2) years following the approval of this final plat.

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
- xiv. to complete the installation of the street name signs within two (2) years following the approval of the final plat.
 - xv. to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.
 - xvi. to complete any other public or private improvement or facility required by the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.
 - xvii. to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.
 - xviii. to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
 - xix. to complete the public and private improvements shown on the Use Permit.
 - xx. to keep taxes and special assessments on the outlots from becoming delinquent.
 - xxi. to maintain the outlots and private improvements in a condition as near as practical to the original construction on a permanent and continuous basis.
 - xxii. to maintain the plants in the medians and islands on a permanent and continuous basis.
 - xxiii. to maintain the street trees along the private roadways and landscape screens on a permanent and continuous basis.
 - xxiv. to maintain and supervise the private facilities which have common use or benefit in a condition as near as practical to the original construction on a permanent and continuous basis, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development and that these are the responsibility of the land owner.
 - xxv. to retain ownership of and the right of entry to the outlots in order to perform the above-described maintenance of the outlots and private improvements on a permanent and continuous basis. However, Permittee may be relieved and discharged of such maintenance obligations upon creating in writing a permanent and

1 continuous association of property owners who would be
2 responsible for said permanent and continuous maintenance
3 subject to the following conditions:

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

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

16 xxvi. to relinquish the right of direct vehicular access from Lots 1-4,
17 Block 1 and Lots 1, 2, and 4, Block 2 to N. 98th Street and from
18 Lots 3 and 4, Block 1 to O Street.

19 5. Before occupying the buildings all development and construction is to
20 substantially comply with the approved plans.

21 6. All privately-owned improvements, including landscaping are to be permanently
22 maintained by the Permittee or an appropriately established association approved by the City.

23 7. The physical location of all setbacks and yards, buildings, parking and circulation
24 elements, and similar matters must be in substantial compliance with the location of said items
25 as shown on the approved site plan.

26 8. The terms, conditions, and requirements of this resolution shall run with the land
27 and be binding upon the Permittee, its successors and assigns.

28 9. The Permittee shall sign and return the letter of acceptance to the City Clerk
29 within 60 days following the approval of the use permit, provided, however, said 60-day period
30 may be extended up to six months by administrative amendment. The City Clerk shall file a
31 copy of the resolution approving the use permit and the letter of acceptance against Outlot D,

1 Waterford Estates Addition, Lincoln, Lancaster County, Nebraska, with the Register of Deeds,
2 filing fees therefor to be paid in advance by the Permittee.

DATED: January 28, 2009.

ATTEST:

/S/ Original signed by

Eugene Carroll

Chair

Approved as to Form & Legality:



Chief Assistant City Attorney

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for JANUARY 28, 2009 PLANNING COMMISSION MEETING

****As Revised by Planning Staff and as approved and adopted by Planning Commission on January 28, 2009, with amendments requested by the applicant****
Resolution No. PC-01155

PROJECT #: Use Permit No. 08003

PROPOSAL: 212,700 square feet of commercial floor area.

LOCATION: N. 98th Street and O Street

LAND AREA: 18.93 acres, more or less.

EXISTING ZONING: B-2 Planned Neighborhood Business District
AG Agriculture District

CONCLUSION: Staff recommends increasing the proposed commercial floor area to 250,000 square feet with a limitation of 50,000 square feet of restaurants, banks, convenience stores, and drive-through uses and a restriction that Lot 1, Block 1 be ~~limited to office or retail uses~~ restricted from having any restaurants, banks, convenience stores, and drive-through uses. The use permit proposes land uses and floor area that is consistent with the 2030 Comprehensive Plan Future Land Use Plan.
(As revised by staff on 1/28/09**)**

<u>RECOMMENDATION:</u>	Conditional Approval
-------------------------------	----------------------

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached.

EXISTING LAND USE: agriculture/undeveloped

SURROUNDING LAND USE AND ZONING:

North:	R-3 Residential District	agriculture/undeveloped
South:	AG Agriculture District	agriculture/undeveloped
East:	B-2 Planned Neighborhood Business District	agriculture/undeveloped
	AG Agriculture District	agriculture/undeveloped
West:	AG Agriculture District	wetlands/agriculture/undeveloped

ASSOCIATED APPLICATIONS:

Change of Zone #08075

HISTORY:

- October 15, 2007 The Planning Director approved Waterford Estates Addition Final Plat #07021 and the area of the application was annexed by platting.
- April 17, 2005 Change of Zone #04019 from AG to B-2 was approved by City Council.
- March 16, 2005 Waterford Estates Addition Preliminary Plat #04011 was approved by Planning Commission.

COMPREHENSIVE PLAN SPECIFICATIONS:

This area is identified as Industrial, Commercial, Green Space, Lakes & Streams, and Environmental Resources in the 2030 Comprehensive Plan Future Land Use Plan. (P. 19)

Commercial: Areas of retail, office and service uses. Commercial uses may vary widely in their intensity of use and impact, varying from low intensity offices, to warehouses, to more intensive uses such as gas stations, restaurants, grocery stores or automobile repair. Each area designated as commercial in the land use plan may not be appropriate for every commercial zoning district. The appropriateness of a commercial district for a particular piece of property will depend on a review of all the elements of the Comprehensive Plan. (P. 16)

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

Industrial: Areas where railroads, manufacturing, trucking and transportation facilities are the dominant land use. Some commercial activities may also take place in predominately industrial districts, such as office, retail or warehouses. (P. 16)

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

Environmental Resources: Land and water masses which are of particular importance for maintenance and preservation, such as saline wetlands, native prairie, and some floodway and riparian corridors. Such areas may be either publicly or privately owned. (P. 16)

Commercial and industrial districts in Lancaster County shall be located:

- within the City of Lincoln or incorporated villages
- outside of saline wetlands, signature habitat areas, native prairie and floodplain areas
- where urban services and infrastructure are available or planned for in the near term
- in areas compatible with existing or planned residential uses
- in areas accessible by various modes of transportation (i.e. automobile, transit and pedestrian)
- so that they enhance entryways or public way corridors, when developing adjacent to these corridors

(P. 35)

This area is identified as "Light Industrial" on the Existing and Proposed Industrial Centers map in the comprehensive plan. (P. 39)

Light Industrial centers are primarily for lighter manufacturing uses with some additional office and retail uses located within the center, such as the Chamber Industrial Tract at S. 14th & Old Cheney Road.

This area is identified as "Mixed Use Office" and as a "Community Center" on the Existing and Proposed Commerce Centers map in the comprehensive plan. (P. 41)

Community Centers are intended to be smaller in scale and intensity of uses than Regional Centers and serve a more targeted market and geographic area. Community Centers tend to be dominated by retail and service activities, although they can also serve as campuses for corporate office facilities and other mixed-use activities. When properly located, some light manufacturing or assembly when accessory to an office function may be allowed.

One or two department stores or "big box" retail operations may serve as anchors (a single store over 50,000 sq. ft.) to the Community Center with numerous smaller general merchandise stores located between any anchors or on surrounding site pads. (P. 43)

Mixed Use Office Centers are to provide a high quality office environment with some supportive retail and service uses. Centers are designed to encourage office uses to locate together, rather than dispersed on single sites, in order to maximize transportation access and have enough mass to support retail and services within the center. Office uses benefit from the mix and employees are more satisfied with the work environment when retail uses are within walking distance. A good example of a Mixed Use Office Center is Fallbrook which has within 560,000 SF of office uses around a 120,000 SF "neighborhood" type retail center – which is 18% of the total space. Existing office parks may have little or no retail space, but are encouraged to add retail and services space as they continue to develop or redevelop. (P. 46)

O Street is classified as an Urban Principal Arterial and N. 98th Street is classified as an Urban Minor Arterial in the 2030 Comprehensive Plan Functional Classification. (P. 102)

UTILITIES:

The site has access to City utilities. A high pressure underground natural gas pipeline is located along the southern edge of this development.

TRAFFIC ANALYSIS:

~~The application included a 2006 traffic study. The land uses and local street system alignment in this study are different than what is proposed. The alignment of Boathouse Road west of N. 98th Street is shown in the application to end in a 'T' intersection at N. 97th Street. The stacking requirement in the study shows more stacking than can be provided with the proposed street design.~~

(As revised by staff on 1/28/09)

The application proposes a right-in, right-out driveway onto N. 98th Street between O Street and Boathouse Road. Public Works objects to this driveway based on the projected N. 98th Street traffic volumes and the existing substandard distance between O Street and Boathouse Road.

PUBLIC SERVICE:

The nearest City fire station is located at 2201 S. 84th Street. There is a rural fire station near the intersection of N. 84th Street and Holdrege Street.

ENVIRONMENTAL CONCERNS:

There is a wetlands to the west of the proposal.

AESTHETIC CONSIDERATIONS:

Most of the area of the application is located at the intersection of two arterial streets. The site will have high visibility for passing traffic. For a period of time, this will be the major east entrance to the City of Lincoln.

ALTERNATIVE USES:

Zoning the land for industrial or office uses would also be consistent with the Future Land Use Plan.

ANALYSIS:

1. The application is for an 18.93 acre use permit. The proposal includes a maximum of 212,700 square feet of commercial floor area. Staff proposes increasing the commercial floor area to 250,000 square feet with a limitation of 50,000 square feet of restaurants, banks, convenience stores, and drive-through uses in order to address concerns about traffic. Staff also recommends a restriction that Lot 1, Block 1 be ~~limited to office or retail uses restricted from having any restaurants, banks, convenience stores, and drive-through uses~~ due to proximity to the future neighborhood to the north. **(**As revised by staff on 1/28/09**)**
2. Change of Zone #08075 is associated with this application. The proposed use permit is within the current city limits.
3. There is a wetland area west of this application. Future commercial or industrial changes of zone and/or use permits are anticipated west of this application and east of N. 98th Street.
4. This general area is designated as a site for "Light Industrial", "Mixed Use Office", and "Community Center". All three of these designations allow for a mix of office and commercial uses consistent with the B-2 Planned Neighborhood District.
5. ~~The alignment of Boathouse Road is not consistent with the traffic study. The proposal shows a 'T' intersection with N. 97th Street. The segment of Boathouse Road between N. 97th Street and N. 98th Street is less than 250' of paving between intersections, which limits the stacking capacity. The street should be realigned to be continuous to the proposed future N. 95th Street shown on the site plan. This alignment also facilitates more stacking on Boathouse Road and creates a more efficient street network west of N. 98th Street in addition to providing a direct flow and connection to the future uses east of N. 98th Street.~~

This application for roughly 19 acres is only the first part of what could eventually materialize into over 200 acres of commercial uses north of O Street on either side of N. 98th Street and over one million square feet of commercial uses including the possibility of multiple big box stores according to the traffic study.

~~For reference, the Edgewood area (including the Trade Center, Apple's Way, and the Alamo Center) is 1.4 million square feet. A center of this magnitude should take into account adequate site circulation to facilitate future traffic impacts. Realigning Boathouse Road to be continuous should not only aide in site circulation in the current proposal, but also with subsequent commercial submittals for this area.~~

(As revised by staff on 1/28/09**)**

- 6.5. The right-in, right-out driveway onto N. 98th Street is too close to the intersection of N. 98th Street and O Street. The proposed right-in, right-out is less than 600' from the centerline of O Street. Boathouse Road to the north is already closer than the standard 1/4 mile spacing. Locating a driveway at a point which has substandard distance increases the opportunities for conflicts with stacked cars and flowing traffic on N. 98th Street and potentially risky maneuvers of vehicles exiting this site southbound onto N. 98th Street and cutting across lanes of traffic to make a left turn (eastbound) at the traffic signal at O Street.
- 7.6. ~~Public Works & Utilities recommends the realignment of Boathouse Road as mentioned in Analysis #5 and also recommends the right-in, right-out be removed from the plans as~~

mentioned in Analysis #65. (**As revised by staff on 1/28/09**)

This approval permits 250,000 square feet of commercial floor area with a limitation of 50,000 square feet of restaurants, banks, convenience stores, and drive-through uses and a restriction that Lot 1, Block 1 be limited to office or retail uses restricted from having any restaurants, banks, convenience stores, and drive-through uses.

(**As revised by staff on 1/28/09**)

CONDITIONS OF APPROVAL:

Site Specific Conditions:

1. The City Council approves associated request:
 - 1.1 Change of Zone #08075
2. The developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 5 copies with all required revisions and documents as listed before a final plat is approved:
 - 2.1 ~~Revise the site plan to show Boathouse Road as a continuous street from N. 98th Street to N. 95th Street. N. 97th Street (private roadway) and the private driveway south of Boathouse Road should be realigned to 'T' into Boathouse Road. This revised roadway alignment will provide additional stacking as needed per the 2006 traffic study. If Planning Commission or City Council decide to eliminate Condition 2.1, then submit a revised traffic study with the proposed alignment and updated land uses per this use permit that indicates proper stacking to the satisfaction of Public Works and Utilities. (**As revised by staff on 1/28/09**)~~
 - 2.2 ~~Revise the legal description of the change of zone and use permit based on the realignment of Boathouse Road and N. 97th Street in Condition 2.1. (**As revised by staff on 1/28/09**)~~
 - 2.1 2.3 ~~Revise the site plan to remove the right-in, right-out driveway onto N. 98th Street. (**As revised and approved by Planning Commission at the request of the applicant: 1/28/09**)~~
 - 2.2 2.4 Revise the site plan to show the adjacent preliminary platted lots and street system north of this use permit.
 - 2.3 2.5 Realign N. 97th Street (private roadway) to match the alignment proposed with N. 95th Street north of Waterford Estates Drive in the preliminary plat, and revise the legal descriptions of the change of zone and use permit based on the realignment of N. 97th Street. Depending on the alignment of the private roadway and/or future alignment of the proposed future N. 95th Street shown on the use permit, some streets may need to be renamed. (**As revised and approved by Planning Commission at the request of the applicant and agreement of staff: 1/28/09**)
 - 2.4 2.6 Revise General Notes #5 to replace "NW 48th Street" and "W. Holdrege Street" with "N. 98th Street" and "O Street", respectively.

- 2.5 2:7 Revise the site plan to show setbacks for building envelopes as references in General Notes #12 and #24.
- 2.6 2:8 Remove General Notes #17.
- 2.7 2:9 Revise General Notes #18 to include Lots 1-4, Block 1.
- 2.8 2:10 Revise General Notes #24 to state: "The site and parking lot layout is conceptual. The developer reserves the right to build anywhere within the building envelopes shown. Parking will be provided in accordance with Chapter 27.67."
- 2.9 2:11 Add General Notes #26 to state: "This approval permits 250,000 square feet of commercial floor area with a limitation of 50,000 square feet of restaurants, banks, convenience stores, and drive-through uses and a restriction that Lot 1, Block 1 be limited to office or retail uses restricted from having any restaurants, banks, convenience stores, and drive-through uses."
(As revised by staff on 1/28/09**)**
- 2.10 2:12 Remove the "Land Use and Parking Summary Table".
- 2.11 2:13 Revise the Planning Commission "Approval" block to refer to this as a "Use Permit" rather than a "Planned Unit Development".
- 2.12 2:14 Delete the City Council "Approval" block.
- 2.13 2:15 Show utility easements as requested by Lincoln Electric System.
- 2.14 2:16 Revise the trunk sewer alignment to the satisfactory of Public Works.
- 2.15 2:17 Revise the water system to the satisfactory of Public Works.
- 2.16 2:18 Revise the grading plan to the satisfactory of Public Works.
- 2.17 2:19 Submit calculations to review head water and flood plain assumptions used to determine flood plain and minimum building opening elevations.
- 2.18 2:20 Show sidewalks on grading in the vicinity of the box culvert that allows a safe sidewalk to be constructed.
- 2.19 2:21 Correct the trail alignment to be shown south of Boathouse Road crossing N. 98th Street parallel to N. 98th Street along the west side down to O Street.
- 2.20 2:22 ~~Include easement and grading plan reflecting trail platform along O Street.~~ Add General Note #27 to state: If necessary, the trail shall be permitted and an easement will be granted in the front yard setback of Lots 3 and 4, Block 2, along O Street.
(As revised by Planning Commission at the request of the applicant and agreement by staff: 1/28/09**)**

- 2.21 ~~2.23~~ Add General Notes #27 to state: “A high pressure underground natural gas pipeline is located along the southern edge of this proposed development. The Lincoln-Lancaster County Health Department calculated a hazard area of approximately 154 feet on each side for this pipeline. Future owners and/or lessees of dwellings or buildings located within the projected hazard area be advised of the natural gas pipeline’s location.”
- 2.22 ~~2.24~~ Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the special use permit has been recorded.
- 2.23 ~~2.25~~ Ornamental street lights for private roadways and pedestrian way easements are approved by L.E.S.
3. Prior to the issuance of a building permit:
- 3.1 The construction plans substantially comply with the approved plans.
- 3.2 Final plat(s) is/are approved by the City.

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

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

Permittee agrees:

to complete the street paving of public streets, and temporary turnarounds and barricades located at the temporary dead-end of the streets shown on the final plat within two (2) years following the approval of the final plat.

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

to complete the installation of sidewalks along both sides of the streets and private roadways and along the south side of Waterford Estates Drive as shown on the final plat within four (4) years following the approval of the final plat.

to complete the installation of sidewalks along N. 98th Street and O Street as shown on the final plat within two (2) years following the approval of this final plat.

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

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

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

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

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

to complete the installation of public street lights along Boathouse Road and Waterford Estates Drive within this plat within two (2) years following the approval of the final plat.

to complete the installation of private street lights along N. 97th Street within this plat within two (2) years following the approval of the final plat.

to complete the planting of the street trees along N. 97th Street, Boathouse Road, and Waterford Estates Drive within this plat within four (4) years following the approval of the final plat.

to complete the installation of street trees along the north side of O Street and the west side of N. 98th Street as shown on the final plat within two (2) years following the approval of this final plat.

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

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

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

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

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

to complete the public and private improvements shown on the Use Permit.

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

to maintain the outlots and private improvements in a condition as near as practical to the original construction on a permanent and continuous basis.

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

to maintain the street trees along the private roadways and landscape screens on a permanent and continuous basis.

to maintain and supervise the private facilities which have common use or benefit in a condition as near as practical to the original construction on a permanent and continuous basis, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development and that these are the responsibility of the land owner.

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

- (1) Owner shall not be relieved of Owner's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans.
- (2) The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds

to relinquish the right of direct vehicular access from Lots 1-4, Block 1 and Lots 1, 2, and 4, Block 2 to N. 98th Street and from Lots 3 and 4, Block 1 to O Street.

Standard Conditions:

4. The following conditions are applicable to all requests:

- 4.1 Before occupying the buildings all development and construction is to substantially comply with the approved plans.

- 4.2 All privately-owned improvements, including landscaping are to be permanently maintained by the owner or an appropriately established association approved by the City.
- 4.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
- 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the special permit, provided, however, said 60-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant

Prepared by:

Brandon M. Garrett, AICP
Planner

DATE: January 22, 2009

APPLICANT: Mark Palmer
Olsson Associates
1111 Lincoln Mall, Ste. 111
Lincoln, NE 68508

OWNER: Waterford Estates, LLC
8644 Executive Woods Drive
Lincoln, NE 68512

**CHANGE OF ZONE NO. 08075,
and
USE PERMIT NO. 08003**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 28, 2009

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

Ex Parte Communications: None.

Staff recommendation: Approval of the change of zone and conditional approval of the use permit, as revised.

Staff presentation: **Brandon Garrett of Planning staff** noted that there is a lot of B-2 zoning in this area. This application will add approximately 10 acres of B-2. The applicant's proposal was for a mix of uses. Staff has proposed 250,000 sq. ft. of commercial floor area with a limitation on fast food, banks and drive-through uses. A restriction is being proposed on Lot 1, Block 1, due to its adjacency to future residential. Specific uses that would not be allowed are listed in the staff report. Due to a revised traffic study that was submitted by the applicant, the condition that Boathouse Drive be continuous to 56th St. has been removed. It can be a T intersection as shown. He has been in communication with the applicant and it appears they are in general agreement with the conditions of approval except for Condition #2.1 of the revised staff report (2.3 of original). Staff is still recommending this condition to remove the right-in, right-out driveway onto N. 98th Street.

Esseks would like Condition #2.1 clarified. Garrett stated that spacing is important. It is 100 feet from Boathouse Dr. to the centerline of "O" Street. Adding an additional right in, right out, would aggravate the situation.

Dennis Bartels of Public Works stated the developers have done a long range trip generation report. The report addresses traffic volume on 98th St. and a lot of turn movements. Staff is projecting future traffic, but there is a desire to have flexibility in the future.

Proponents

1. Mark Palmer of Olsson Associates appeared on behalf of **Waterford Estates, LLC**. This application was submitted around Christmas, 2008. He has been working on a few issues with city staff. The right in, right out on 98th St. is an issue of contention. His clients have been working extensively on this project. There are numerous residential lots built. There has been some interest in the commercial portion of the development. 98th St. has been constructed to approximately ½ mile north of "O" Street. Two major intersections have been built. The NRD dam, lake and flood pool area as well as multiple channels that feed into the lake all need to be taken into consideration. The Planning Dept. has recommended more square footage be added to this use permit. There is the potential for intensive uses. If the right turn lane is gone, it impedes their development. A traffic study has been provided to the State. He thinks 600 feet is adequate. Palmer submitted proposed amendments as follows:

- 2.1 2.3 ~~Revise the site plan to remove the right-in, right-out driveway onto N. 98th Street.~~
- 2.3 2.5 Realign N. 97th Street (private roadway) to match the alignment proposed with N. 95th Street north of Waterford Estates Drive in the preliminary plat, and revise the legal descriptions of the change of zone and use permit based on the realignment of N. 97th Street. Depending on the alignment of the private roadway and/or future alignment of the proposed future N. 95th Street shown on the use permit, some streets may need to be renamed.
- 2.20 2.22 ~~Include easement and grading plan reflecting trail platform along O Street.~~Add General Note #27 to state: If necessary, the trail shall be permitted and an easement will be granted in the front yard setback of Lots 3 and 4, Block 2, along O Street.

There was no testimony in opposition.

Staff questions

Francis believes based on the traffic study, this could turn into a six lane major street. She inquired what would prompt a traffic light. Bartels stated studies show a light at this location.

Francis asked how many business need to be up and running to generate the traffic lights. Bartels responded that this development alone will generate a need for a light. He sees 98th St. as a major arterial. It is good engineering practice to limit access points on major arterials. Public Works has historically objected to driveways on arterials. There could be 100 plus cars exiting this street in the p.m. peak hour.

Francis projected that 98th St. would mirror 84th St. for volume size and traffic. Bartels agreed. Those are the numbers that the developer's traffic study showed.

Esseks questioned if 98th St. goes through to Highway 6. Bartels replied yes. This road could be open before the East Beltway.

Garrett stated that staff is agreeable to the applicant's proposed change to Condition #2.3. Terry Genrich at Parks is also agreeable to Condition #2.20. Staff does not agree to deletion of Condition #2.1 (right-in, right-out onto N. 98th Street).

Response by the Applicant

Palmer understands that 98th St. is one mile east of 84th St. The infrastructure has been created to extend this street. There are alignments that need to be done for this street to go all the way through to Highway 6. This development will probably exacerbate the problem at 84th and "O" Street. This is all based on models. Two right-in, right-out access points to the residential development on the north end have already been approved. He believes the south end should be treated the same as the north end. For example, 40th St. and Yankee Hill by Super Target has a right-in, right-out 580 feet from the centerline. He would like to see consistency. He doesn't see this as being any different from many other locations in town.

CHANGE OF ZONE NO. 08075

ACTION BY PLANNING COMMISSION:

January 28, 2009

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

USE PERMIT NO. 08003

ACTION BY PLANNING COMMISSION:

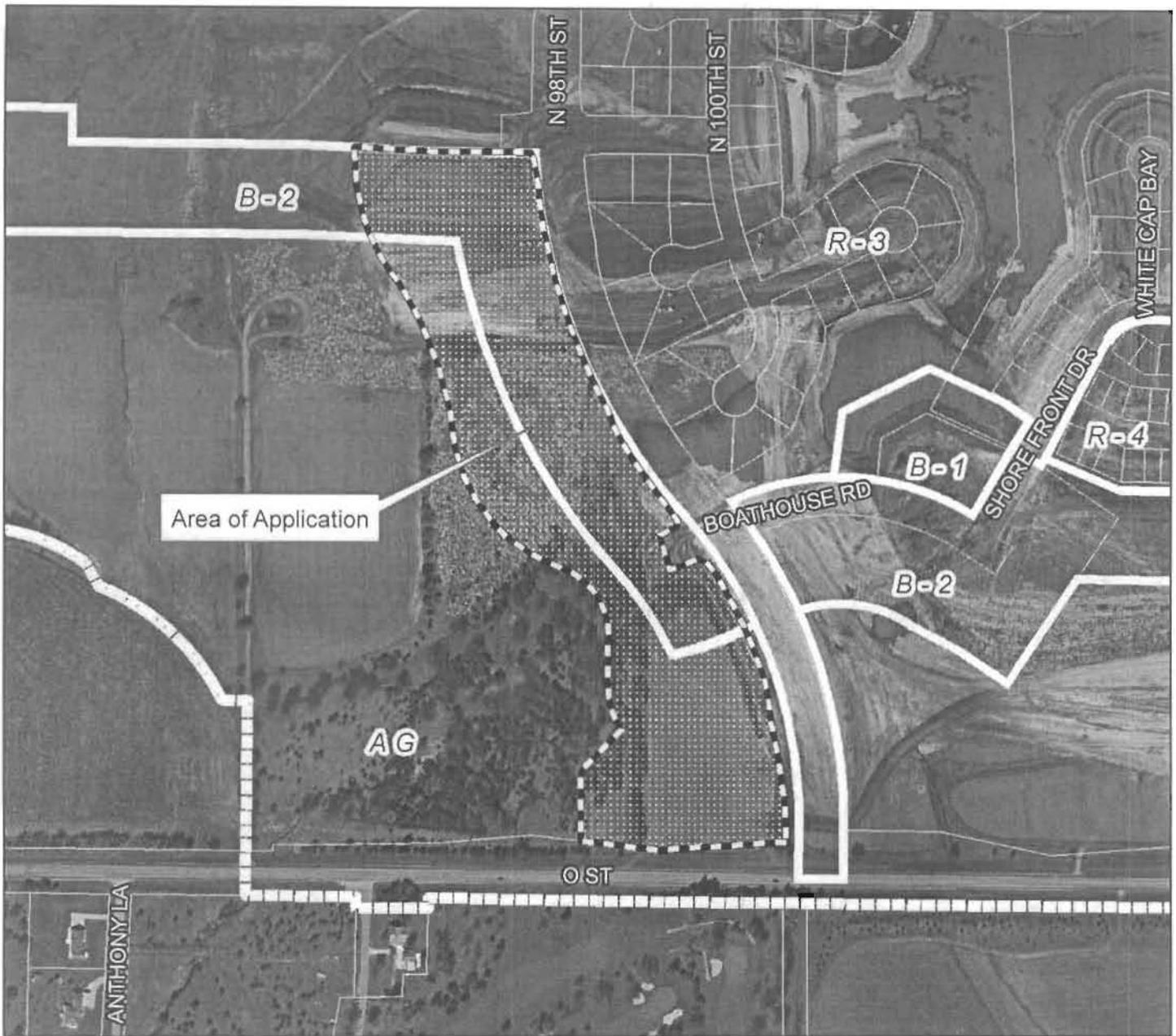
January 28, 2009

Sunderman moved approval with conditions as amended by staff and requested to be amended by the applicant, seconded by Taylor.

Sunderman stated that the right-in, right-out driveway has been very selectively used by the city. He does not see a specific reason to deny it.

Gaylor Baird asked Marvin Krout to address the right-in, right-out question. Marvin Krout stated that this issue is currently being worked on by city staff. Gaylor Baird noted that this argument comes up again and again. She hopes to have information on a policy soon.

Motion for conditional approval as revised, with amendments as requested by the applicant, carried 6-1: Carroll, Cornelius, Esseks, Francis, Sunderman and Taylor voting 'yes'; Gaylor Baird voting 'no'; Larson and Partington absent. This is final action, unless appealed to the City Council within 14 days.

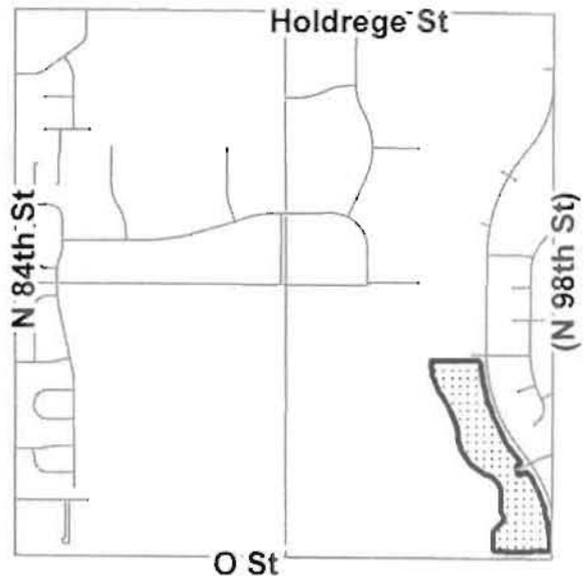
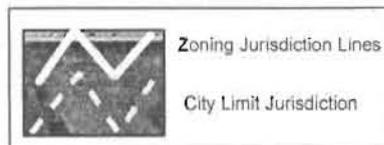


Use Permit #08003
Waterford Estates
N 98th & "O" St.
Zoning:

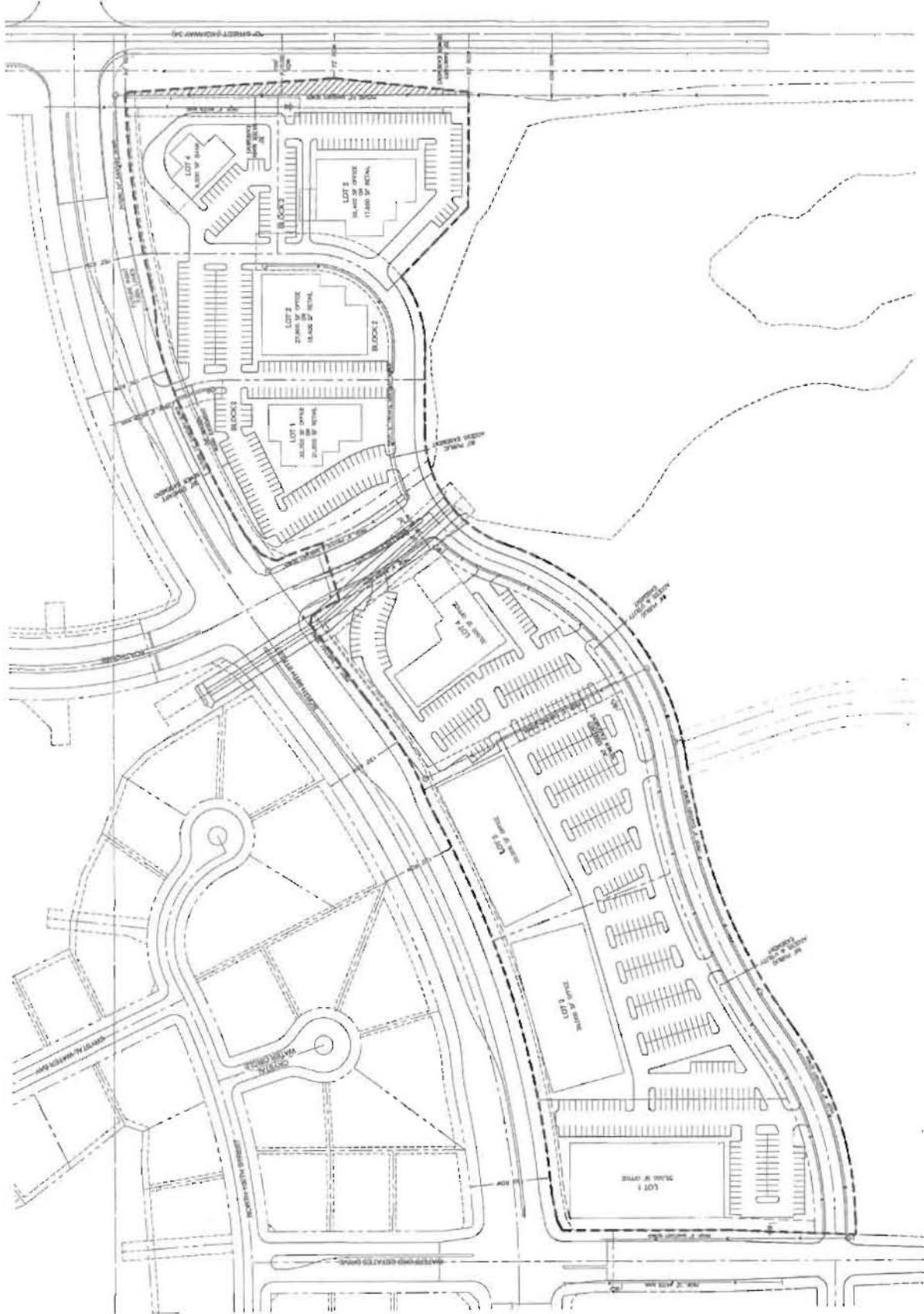
2007 aerial

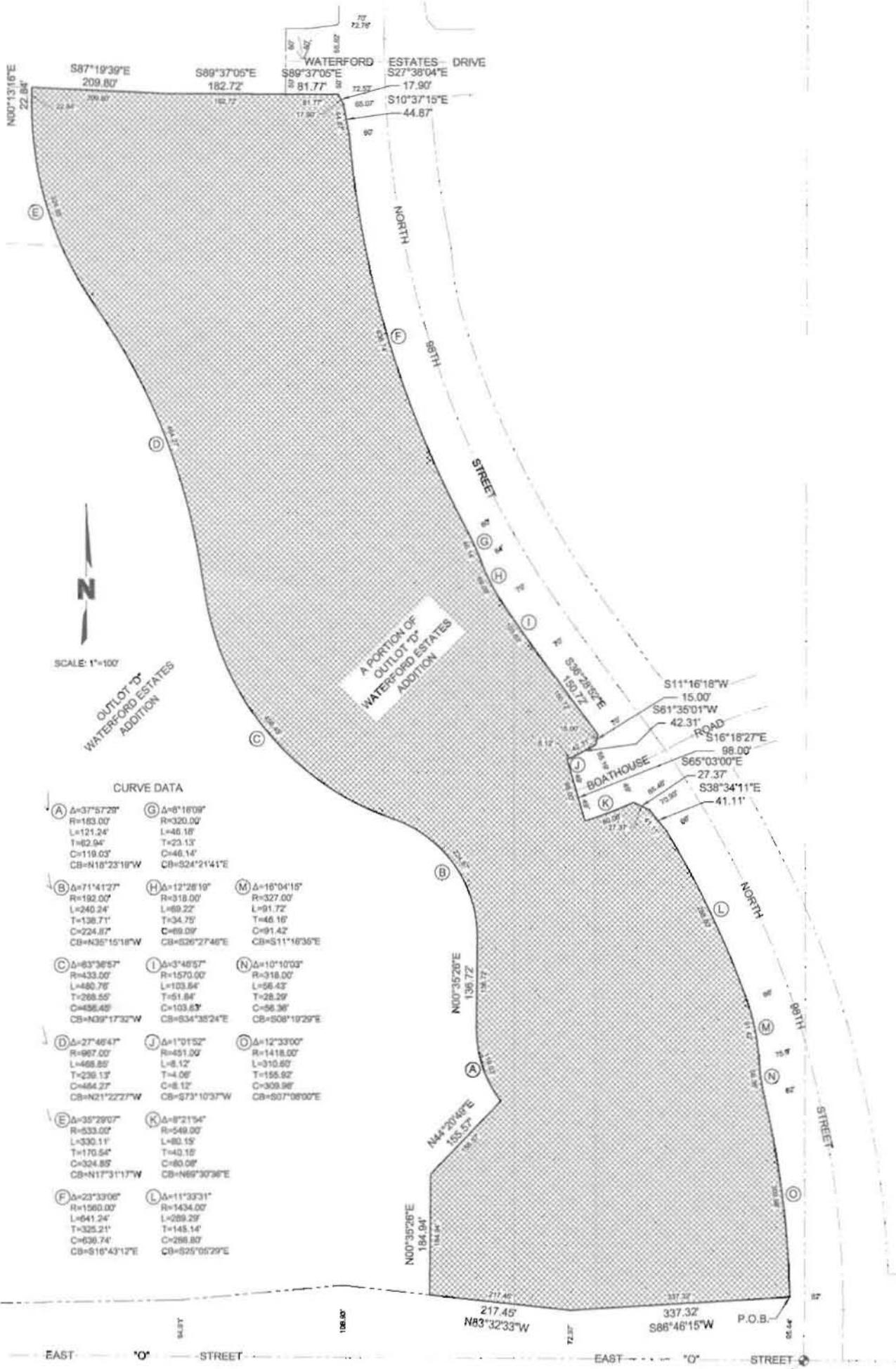
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial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

One Square Mile
 Sec. 23 T10N R07E



1/6/2008
1515
+
N





SCALE: 1"=100'

OUTLOT 'D'
WATERFORD ESTATES
ADDITION

A PORTION OF
OUTLOT 'D'
WATERFORD ESTATES
ADDITION

CURVE DATA

- | | | |
|---|---|---|
| <p>A Δ=37°57'29"
R=163.00'
L=121.24'
T=82.94'
C=119.03'
CB=N18°23'18"W</p> | <p>C Δ=6°16'09"
R=320.00'
L=46.16'
T=23.13'
C=46.14'
CB=S24°21'41"E</p> | <p>M Δ=16°04'15"
R=327.00'
L=91.72'
T=46.16'
C=91.42'
CB=S11°16'35"E</p> |
| <p>B Δ=71°41'27"
R=192.00'
L=240.24'
T=136.71'
C=224.87'
CB=N35°15'18"W</p> | <p>H Δ=12°28'10"
R=318.00'
L=69.22'
T=34.75'
C=69.09'
CB=S26°27'46"E</p> | <p>N Δ=10°10'03"
R=318.00'
L=56.43'
T=28.29'
C=56.36'
CB=S08°10'29"E</p> |
| <p>C Δ=63°36'57"
R=433.00'
L=480.76'
T=269.55'
C=496.49'
CB=N09°17'32"W</p> | <p>I Δ=3°46'57"
R=1570.00'
L=103.64'
T=61.84'
C=103.83'
CB=S34°35'24"E</p> | <p>D Δ=12°33'00"
R=1418.00'
L=310.80'
T=155.92'
C=309.96'
CB=S07°08'00"E</p> |
| <p>D Δ=27°46'47"
R=967.00'
L=468.85'
T=236.13'
C=464.27'
CB=N21°22'27"W</p> | <p>J Δ=1°01'52"
R=451.00'
L=8.12'
T=4.06'
C=8.12'
CB=S73°10'37"W</p> | |
| <p>E Δ=35°29'07"
R=633.00'
L=330.11'
T=170.54'
C=324.85'
CB=N17°31'17"W</p> | <p>K Δ=6°21'54"
R=549.00'
L=80.15'
T=40.16'
C=80.08'
CB=N69°30'36"E</p> | |
| <p>F Δ=23°33'06"
R=1560.00'
L=641.24'
T=325.21'
C=636.74'
CB=S16°43'12"E</p> | <p>L Δ=11°33'31"
R=1434.00'
L=289.29'
T=145.14'
C=266.80'
CB=S25°05'29"E</p> | |

LEGAL DESCRIPTION

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF A PORTION OF OUTLOT "D", WATERFORD ESTATES ADDITION, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID OUTLOT "D", SAID POINT BEING ON THE WEST RIGHT-OF-WAY LINE OF NORTH 98TH STREET, AND ON THE NORTH RIGHT-OF-WAY LINE OF EAST "O" STREET, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE WESTERLY ALONG A SOUTH LINE OF SAID OUTLOT "D", SAID LINE BEING A NORTH LINE OF SAID RIGHT-OF-WAY ON AN ASSUMED BEARING OF SOUTH 86 DEGREES 46 MINUTES 15 SECONDS WEST A DISTANCE OF 337.32 FEET TO A POINT; THENCE NORTH 83 DEGREES 32 MINUTES 33 SECONDS WEST ALONG A SOUTH LINE OF SAID OUTLOT "D", SAID LINE BEING A NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 217.45 FEET TO A POINT; THENCE NORTH 00 DEGREES 35 MINUTES 26 SECONDS EAST, A DISTANCE OF 184.94 FEET TO A POINT; THENCE NORTH 44 DEGREES 20 MINUTES 49 SECONDS EAST, A DISTANCE OF 155.57 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A RADIUS OF 183.00 FEET, A CENTRAL ANGLE OF 37 DEGREES 57 MINUTES 29 SECONDS, AN ARC DISTANCE OF 121.24 FEET, A TANGENT LENGTH OF 62.94 FEET, A CHORD BEARING OF NORTH 18 DEGREES 23 MINUTES 19 SECONDS WEST, AND A CHORD DISTANCE OF 119.03 FEET TO A POINT; THENCE NORTH 00 DEGREES 35 MINUTES 26 SECONDS EAST, A DISTANCE OF 136.72 FEET TO A POINT OF CURVATURE OF A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A RADIUS OF 192.00 FEET, A CENTRAL ANGLE OF 71 DEGREES 41 MINUTES 27 SECONDS, AN ARC LENGTH OF 240.24 FEET, A TANGENT LENGTH OF 138.71 FEET, A CHORD BEARING OF NORTH 35 DEGREES 15 MINUTES 18 SECONDS WEST, AND A CHORD DISTANCE OF 224.87 FEET TO A POINT OF REVERSE CURVATURE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION HAVING A RADIUS OF 433.00 FEET, A CENTRAL ANGLE OF 63 DEGREES 36 MINUTES 57 SECONDS, AN ARC LENGTH OF 480.76 FEET, A TANGENT LENGTH OF 268.55 FEET, A CHORD BEARING OF NORTH 39 DEGREES 17 MINUTES 32 SECONDS WEST, AND A CHORD DISTANCE OF 456.45 FEET TO A POINT OF REVERSE CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A RADIUS OF 967.00 FEET, A CENTRAL ANGLE OF 27 DEGREES 46 MINUTES 47 SECONDS, AN ARC LENGTH OF 468.85 FEET, A TANGENT LENGTH OF 239.13 FEET, A CHORD BEARING OF NORTH 21 DEGREES 22

MINUTES 27 SECONDS WEST, AND A CHORD DISTANCE OF 464.27 FEET TO A POINT OF REVERSE CURVATURE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION HAVING A RADIUS OF 533.00 FEET, A CENTRAL ANGLE OF 35 DEGREES 29 MINUTES 07 SECONDS, AN ARC LENGTH OF 330.11 FEET, A TANGENT LENGTH OF 170.54 FEET, A CHORD BEARING OF NORTH 17 DEGREES 31 MINUTES 17 SECONDS WEST, AND A CHORD DISTANCE OF 324.85 FEET TO A POINT; THENCE NORTH 00 DEGREES 13 MINUTES 16 SECONDS EAST, A DISTANCE OF 22.84 FEET TO A POINT; THENCE SOUTH 87 DEGREES 19 MINUTES 39 SECONDS EAST, A DISTANCE OF 209.80 FEET TO A POINT; THENCE SOUTH 89 DEGREES 37 MINUTES 05 SECONDS EAST, A DISTANCE OF 182.72 FEET TO A EAST CORNER OF SAID OUTLOT "D", SAID POINT BEING THE SOUTHWEST RIGHT-OF-WAY CORNER OF WATERFORD ESTATES DRIVE; THENCE CONTINUING EASTERLY ALONG SAID LINE, SAID LINE BEING A NORTH LINE OF SAID OUTLOT "D". SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 81.77 FEET TO A POINT, SAID POINT BEING ON THE WEST RIGHT-OF-WAY LINE OF NORTH 98TH STREET; THENCE SOUTH 27 DEGREES 38 MINUTES 04 SECONDS EAST ALONG A EAST LINE OF SAID OUTLOT "D", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 17.90 FEET TO A POINT; THENCE SOUTH 10 DEGREES 37 MINUTES 15 SECONDS EAST ALONG A EAST LINE OF SAID OUTLOT "D", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 44.87 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A RADIUS OF 1,560.00 FEET, A CENTRAL ANGLE OF 23 DEGREES 33 MINUTES 06 SECONDS, AN ARC DISTANCE OF 641.24 FEET, A TANGENT LENGTH OF 325.21 FEET, A CHORD BEARING OF SOUTH 16 DEGREES 43 MINUTES 12 SECONDS EAST, AND A CHORD DISTANCE OF 636.74 FEET TO A POINT OF REVERSE CURVATURE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION HAVING A RADIUS OF 320.00 FEET, A CENTRAL ANGLE OF 08 DEGREES 16 MINUTES 09 SECONDS, AN ARC LENGTH OF 46.18 FEET ALONG A EAST LINE OF SAID OUTLOT "D", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 23.13 FEET, A CHORD BEARING OF SOUTH 24 DEGREES 21 MINUTES 41 SECONDS EAST, AND A CHORD DISTANCE OF 46.14 FEET TO A POINT OF REVERSE CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A RADIUS OF 318.00 FEET, A CENTRAL ANGLE OF 12 DEGREES 28 MINUTES 19 SECONDS, AN ARC LENGTH OF 69.22 FEET ALONG A EAST LINE OF SAID OUTLOT "D", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 34.75 FEET, A CHORD BEARING OF SOUTH 26 DEGREES 27 MINUTES 46 SECONDS EAST, AND A CHORD DISTANCE OF 69.09 FEET TO A POINT OF COMPOUND CURVATURE OF A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A RADIUS OF 1,570.00 FEET, A CENTRAL ANGLE OF 03 DEGREES 46 MINUTES 57 SECONDS, AN ARC LENGTH OF 103.64 FEET ALONG A EAST LINE OF

SAID OUTLOT "D", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 51.84 FEET, A CHORD BEARING OF SOUTH 34 DEGREES 35 MINUTES 24 SECONDS EAST, AND A CHORD LENGTH OF 103.63 FEET TO A POINT; THENCE SOUTH 36 DEGREES 28 MINUTES 52 SECONDS EAST ALONG A EAST LINE OF SAID OUTLOT "D", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 150.72 FEET TO A POINT; THENCE SOUTH 11 DEGREES 16 MINUTES 18 SECONDS WEST ALONG A EAST LINE OF SAID OUTLOT "D", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 15.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF BOATHOUSE ROAD; THENCE SOUTH 61 DEGREES 35 MINUTES 01 SECONDS WEST ALONG A SOUTH LINE OF SAID OUTLOT "D", SAID LINE BEING A NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 42.31 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A RADIUS OF 451.00 FEET, A CENTRAL ANGLE OF 01 DEGREES 01 MINUTES 52 SECONDS, AN ARC DISTANCE OF 8.12 FEET ALONG A SOUTH LINE OF SAID OUTLOT "D", SAID LINE BEING A NORTH LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 4.06 FEET, A CHORD BEARING OF SOUTH 73 DEGREES 10 MINUTES 37 SECONDS WEST, AND A CHORD DISTANCE OF 8.12 FEET TO THE NORTHWEST CORNER OF SAID RIGHT-OF-WAY; THENCE SOUTH 16 DEGREES 18 MINUTES 27 SECONDS EAST ALONG A EAST LINE OF SAID OUTLOT "D", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 98.00 FEET TO THE SOUTHWEST CORNER OF SAID RIGHT-OF-WAY, SAID POINT BEING A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A RADIUS OF 549.00 FEET, A CENTRAL ANGLE OF 08 DEGREES 21 MINUTES 54 SECONDS, AN ARC DISTANCE OF 80.15 FEET ALONG A NORTH LINE OF SAID OUTLOT "D", SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 40.15 FEET, A CHORD BEARING OF NORTH 69 DEGREES 30 MINUTES 36 SECONDS EAST, AND A CHORD DISTANCE OF 80.08 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF NORTH 98TH STREET; THENCE SOUTH 65 DEGREES 03 MINUTES 00 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "D", SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 27.37 FEET TO A POINT; THENCE SOUTH 38 DEGREES 34 MINUTES 11 SECONDS EAST ALONG A EAST LINE OF SAID OUTLOT "D", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 41.11 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A RADIUS OF 1,434.00 FEET, A CENTRAL ANGLE OF 11 DEGREES 33 MINUTES 31 SECONDS, AN ARC DISTANCE OF 289.29 FEET ALONG A EAST LINE OF SAID OUTLOT "D", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 145.14 FEET, A CHORD BEARING OF SOUTH 25 DEGREES 05 MINUTES 29 SECONDS EAST, AND A CHORD DISTANCE OF 288.80 FEET TO A POINT OF COMPOUND CURVATURE OF A CURVE IN A CLOCKWISE

DIRECTION HAVING A RADIUS OF 327.00 FEET, A CENTRAL ANGLE OF 16 DEGREES 04 MINUTES 15 SECONDS, AN ARC LENGTH OF 91.72 FEET ALONG A EAST LINE OF SAID OUTLOT "D", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 46.16 FEET, A CHORD BEARING OF SOUTH 11 DEGREES 16 MINUTES 35 SECONDS EAST, AND A CHORD LENGTH OF 91.42 FEET TO A POINT OF REVERSE CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A RADIUS OF 318.00 FEET, A CENTRAL ANGLE OF 10 DEGREES 10 MINUTES 03 SECONDS, AN ARC LENGTH OF 56.43 FEET ALONG A EAST LINE OF SAID OUTLOT "D", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 28.29 FEET, A CHORD BEARING OF SOUTH 08 DEGREES 19 MINUTES 29 SECONDS EAST, AND A CHORD DISTANCE OF 56.36 FEET TO A POINT OF REVERSE CURVATURE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION HAVING A RADIUS OF 1,418.00 FEET, A CENTRAL ANGLE OF 12 DEGREES 33 MINUTES 00 SECONDS, AN ARC LENGTH OF 310.60 FEET ALONG A EAST LINE OF SAID OUTLOT "D", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 155.92 FEET, A CHORD BEARING OF SOUTH 07 DEGREES 08 MINUTES 00 SECONDS EAST, AND A CHORD DISTANCE OF 309.98 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 824,666.50 SQUARE FEET OR 18.93 ACRES, MORE OR LESS.

**Review Comments for
Application #: CZ08075
WATERFORD ESTATES**

Comments as of: Wednesday, January 14, 2009

Status of Review: Active

Reviewed By: ANY

Comments:

Status of Review: Active

Reviewed By: 911 ANY

Comments:

Status of Review: Active

Reviewed By: Alltel ANY

Comments:

Status of Review: Approved

01/02/2009 12:31:35 PM

Reviewed By: Building & Safety ANY

Comments: approved

Status of Review: Denied

01/05/2009 8:30:09 AM

Reviewed By: Building & Safety Terry Kathe

Comments: Site plan should show buildable limits. Show yard setback lines.

Status of Review: Active

Reviewed By: Fire Department ANY

Comments:

004

Reviewed By: Health Department

ANY

Comments: LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION

TO: Brandon Garrett DATE: January 12, 2009

DEPARTMENT: Planning FROM: Chris Schroeder

ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: Waterford Estates
EH Administration Commercial Park
CZ #08075 UP #08003

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the proposed development with the following noted:

Developers are responsible for all mosquito control issues during the building process and all outlots, green-spaces, and/or natural corridors subsequently controlled by the owner, tenant, occupant, lessee, or otherwise, for that subdivision would be responsible for vectors of zoonotic disease in those areas.

All wind and water erosion must be controlled during construction. The Lower Platte South Natural Resources District should be contacted for guidance in this matter.

During the construction process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but not limited to application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of ground cover will also be incorporated as necessary.

According to the LLCHD's Geographic Information System (GIS) records, a high pressure underground natural gas pipeline is located along the southern edge of this proposed development. See the attached GIS map for the location of this underground pipeline. The LLCHD calculated a hazard area of approximately 154 feet on each side for this pipeline using the hazard area equation from report entitled, "A Model for Sizing High Consequence Areas Associated with Natural Gas Pipelines" prepared by Mark J. Stephens from C-FER Technologies. A hazard area or high consequence area is defined as the area within which the extent of property damage and the chance of injury would be expected to be significant in the event of a worst case scenario rupture failure.

At this time, there are no current regulations that prohibit the location of occupied buildings within hazard areas. However, according to the final report submitted by the Planning Commission and Board of Health Joint Committee on Health and Land Use, recommended that, in new developments, developers should avoid the Hazard Area as much as possible. For example, homes and businesses should be located out of the area as much as possible. Redesigning a site to place yards, parking or garages in the Hazard Area is preferable to having residences or businesses located in this potentially harmful area. At the very least, LLCHD recommends that future owners and/or lessees of dwellings or buildings located within the projected hazard area, be advised of the natural gas pipeline's location.

Status of Review: Active

Reviewed By: Law Department

ANY

Comments:

Status of Review: Active

Reviewed By: Lincoln Electric System

ANY

Comments:

Status of Review: Active

Reviewed By: Lincoln Police Department

ANY

Comments:

Status of Review: Active

Reviewed By: Nebraska Department of Roads

ANY

Comments:

Status of Review: Denied

01/09/2009 11:13:24 AM

Reviewed By: Parks & Recreation

ANY

Comments: 1. Correct trail alignment must be shown south of boathouse crossing 98th Street parallel to N. 98th Street along the west side down to "O" Street. Also include easement and grading plan reflecting trail platform along "O" Street. Contact Terry Gerrick at 441-7939 with questions.

2. Contact the Forestry Department at 441-7036 for the assignment of Street Trees .

Status of Review: Routed

Reviewed By: Planning Department

COUNTER

Comments:

Status of Review: Active

Reviewed By: Planning Department

PLANNER

Comments:

Status of Review: Complete

01/13/2009 8:25:21 AM

Reviewed By: Public Works - Development Services

SIETDQ

Comments: Memorandum

To: Brandon Garrett, Planning Department
From: Dennis Bartels, Engineering Services
Subject: Waterford Estates Commercial Park Change of Zone and Use Permit
Date: January 13, 2009
cc: Randy Hoskins
Chad Blahak
Brian Kramer
Nick McElvain

Engineering Services has reviewed the Waterford Estates Commercial Park Change of Zone and Use Permit located on the west side of 98th Street north of "O" Street and has the following comments:

1. Street System - The application included a 2006 traffic study. The land uses and local street system alignment in this study are different than what is shown in the application. The alignment of Boathouse Road west of "O" Street is shown in the application to end in a 'T' intersection at 97th Street. The stacking requirement in the study shows more stacking than can be provided with the street design shown.

The plans show a driveway in 98th Street between "O" Street and Boathouse Road. The driveway does not meet design standards and considering the projected 98th Street traffic volumes, the substandard distance between Boathouse and "O" Street, and the numerous potential street traffic design points in 98th at this location, Engineering objects to allow this driveway.

A revised traffic study should be required. Engineering Services recommends that the street system be redesigned to make Boathouse Road a "thru" street rather than teeing into 97th Street. This provides the most options to design an efficient street system west of 98th when the land uses to the west are assumptions that may change in the future. The alignment of Boathouse Road across 98th needs to be checked to assure alignment of left turn lanes across 98th.

2. Sanitary Sewer - The trunk sewer alignment shown on the application is unsatisfactory. The City and Developer's engineer have met, and a revised tentative alignment has been agreed upon.

3. Water - The proposed water system does not meet design standards. Some variations to standard may be necessary. The Developer's engineer and the City need to meet to discuss options.

4. The grading plan is unsatisfactory and must be revised. The grading at the inlet to the triple box culvert shown on the plans will not function. Calculations also need to be submitted to review the head water and flood plain assumptions used to determine the flood plain and minimum opening elevations.

Per the plans, sidewalks will be built on both sides of the public and private streets. Sidewalks must be shown and grading shown in the vicinity of the box culvert that allows a safe sidewalk to be built.

Status of Review: Active

Reviewed By: Public Works - Long Range Planning

ANY

Comments:

007

Status of Review: Active

Reviewed By: Public Works - Watershed Management

ANY

Comments:

Status of Review: Active

Reviewed By: School District

ANY

Comments:

Status of Review: FYI

Reviewed By: Urban Development

ANY

Comments:

Status of Review: FYI

Reviewed By: Urban Development

ANY

Comments:

Status of Review: Active

Reviewed By: US Post Office

ANY

Comments:

INTER-DEPARTMENT COMMUNICATION



DATE January 8, 2009
TO: Brandon Garrett, City Planning
FROM: Mike Petersen (Ext. 7635)
SUBJECT: DEDICATED EASEMENTS
DN #03N-97E

CZ #08075

Attached is the Change of Zone for Waterford Estates Comm Park.

In reviewing the dedicated transmission line or other electrical easements shown on this plat, LES does not warrant, nor accept responsibility for the accuracy of any such dedicated easements.

Windstream, Time Warner Cable, and the Lincoln Electric System will require the additional easements marked in red on the map.

MP/nh
Attachment
c: Bill Lange
Easement File



"Sgt. Don Scheinost"
<lpd798@CJIS.LINCOLN.NE.
GOV>

01/05/2009 10:08 AM

To Brandon Garrett <BGarrett@ci.lincoln.ne.us>

cc

bcc

Subject Waterford Estates Commercial Park Change of Zone 08075,
Use Permit 08003

Mr. Garrett,

The Lincoln Police Department does not object to the Waterford Estates Commercial Park, Change of Zone 08075, Use Permit 08003.

Sergeant Don Scheinost
Management Services
Lincoln Police Department
575 South 10th Street
Lincoln, NE 68508
402.441.7215
mail to: lpd798@ciis.lincoln.ne.gov



December 31, 2008

Mr. Marvin Krout
Planning Department, City of Lincoln
County-City Building
555 South 10th Street
Lincoln, NE 68508

Re: Waterford Estates Commercial Park
OLSSON Project No. 008-1900

Dear Mr. Krout:

Enclosed please find the following for the above-mentioned project:

1. Use Permit Application
2. Change of Zone Applications and Exhibits
3. Use Permit & Change of Zone Application Fee
4. Ownership Certificate
5. Cover Sheet – 21 copies
6. Site Plan – 21 copies
7. Drainage and Grading Plan – 9 copies
8. Street Profile Plan – 5 copies
9. Traffic Study – 3 copies
10. 8 ½ x 11 Copy of the Cover Sheet and Site Plan

This Use Permit consists of approximately 19 acres of the Waterford Estates property located west of 98th Street, and north of 'O' Street. The property was annexed and final platted as an outlot reserved for future development in the Waterford Estates Original Addition Final Plat. The property is part of a larger area that is designated as "LI" (Light Industrial) and "O" (Mixed Use Office) in the 2030 Comprehensive Plan.

Waterford Estates, LLC is requesting a Change of Zone to B-2 Commercial for the initial phase of the commercial park. A narrow band of B-2 zoning adjacent to 98th street was approved in conjunction with approval of the initial Waterford Estates Preliminary Plat, annexation and zoning. This request adds to the existing B-2 zoning for the initial commercial development. Fifty plus acres remain west of 98th Street for future development. This proposed initial phase includes Office and Retail uses as specified in the Use Permit site plan. Steve Hennrichsen met with DaNay Kalkowski and me on December 21st, 2008 where we discussed this scenario and reviewed the proposed site plan.

The required off-site improvements for roadways, sanitary sewer, and water mains were addressed in the Waterford Estates annexation agreement (AX 04003). 98th Street is constructed to the full Arterial roadway cross section, including box culverts, from 'O' Street to Waterford Estates Drive. The intersection of 98th Street and 'O' Street has been improved to include right and left turn lanes per NDOR standards. 16" water mains have been extended in Holdrege Street and 98th Street. A temporary sewer lift station and force main have been

constructed. 24" and 30" trunk sewers have been constructed within the development to address future sewer service needs. These improvements have been funded by the developers and are subject to reimbursement by the City according to the annexation agreement.

The Storm Water Detention and Flood Corridor requirements were master planned with the Waterford Estates Original Addition Preliminary Plat. This commercial area was included in the master planning. A forebay water quality enhancing wetland area has been constructed in Outlot "D", Waterford Estates Addition to improve water quality entering the Lake from the main tributaries through the commercial area.

A traffic Study was submitted to Public Works and the NDOR in 2006 when the 'O' Street access locations were being coordinated with the NDOR. A meeting has been set for January 5th, 2009 with Public Works Traffic Engineers to review the assumptions and discuss any modifications required to the traffic study. The NDOR has approved a future full median opening at 95th and 'O' Street. This access is to serve the Waterford Estates commercial property and Sesostris property. This initial development will utilize the Waterford Estates Drive and Boathouse Road intersections off 98th Street.

Please contact me if you have any questions regarding this Use Permit and Change of Zone, or require additional information.

Sincerely,



Mark C. Palmer, PE

Encls

cc: Tom White Waterford Estates, LLC
John Brager Waterford Estates, LLC
DaNay Kalkowski Seacrest & Kalkowski, PC, LLO

MOTION TO AMEND

I hereby move to amend the Conditions recommended by the Lincoln City/Lancaster County Planning Staff Report for Use Permit No. 08003 to read as follows:

CONDITIONS OF APPROVAL:

Site Specific Conditions:

* * *

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

- ~~2.1~~ ~~Revised the site plan to show Beathouse Road as a continuous street from N. 98th Street to N. 95th Street. N. 97th Street (private roadway) and the private driveway south of Beathouse Road should be realigned to 'T' into Beathouse Road. This revised roadway alignment will provide additional stacking as needed per the 2006 traffic study. If Planning Commission or City Council decide to eliminate Condition 2.1, then submit a revised traffic study with the proposed alignment and updated land uses per this use permit that indicates proper stacking to the satisfaction of Public Works and Utilities.~~
- ~~2.2~~ ~~Revise the legal description of the change of zone and use permit based on the realignment of Beathouse Road and N. 97th Street in Condition 2.1.~~
- 2.1 ~~2.3~~ ~~Revise the site plan to remove the right in, right out driveway onto N. 98th Street.~~
- 2.2 2.4 Revise the site plan to show the adjacent preliminary platted lots and street system north of this use permit.
- 2.3 ~~2.5~~ Realign N. 97th Street (private roadway) to match the alignment proposed with N. 95th Street north of Waterford Estates Drive in the preliminary plat, and revise the legal descriptions of the change of zone and use permit based on the realignment of N. 97th Street. Depending on the alignment of the private roadway and/or future alignment of the proposed future N. 95th Street shown on the use permit, some streets may need to be renamed.
- 2.4 ~~2.6~~ Revise General Notes #5 to replace "NW48th Street" and "W. Holdrege Street" with "N. 98th Street" and "O Street", respectively.
- 2.5 ~~2.7~~ Revise the site plan to show setbacks for building envelopes as referenced in General Notes #12 and #24.
- 2.6 ~~2.8~~ Remove General Notes #17.
- 2.7 ~~2.9~~ Revise General Notes #18 to include Lots 1-4, Block 1.

- 2.8 ~~2-10~~ Revise General Notes #24 to state: "The site and parking lot layout is conceptual. The developer reserves the right to build anywhere within the building envelopes shown. Parking will be provided in accordance with Chapter 27.67."
- 2.9 ~~2-11~~ Add General Notes #26 to state: "This approval permits 250,000 square feet of commercial floor area with a limitation of 50,000 square feet of restaurants, banks, convenience stores, and drive-through uses and a restriction that Lot 1, Block 1 be restricted from having any restaurants, banks, convenience stores, and drive-through uses limited to office or retail uses."
- 2.10 ~~2-12~~ Remove the "Land Use and Parking Summary Table".
- 2.11 ~~2-13~~ Revise the Planning Commission "Approval" block to refer to this as a "Use Permit" rather than a "Planned Unit Development".
- 2.12 ~~2-14~~ Delete the City Council "Approval" block.
- 2.13 ~~2-15~~ Show utility easements as requested by Lincoln Electric System.
- 2.14 ~~2-16~~ Revise the trunk sewer alignment to the satisfactory of Public Works.
- 2.15 ~~2-17~~ Revise the water system to the satisfactory of Public Works.
- 2.16 ~~2-18~~ Revise the grading plan to the satisfactory of Public Works.
- 2.17 ~~2-19~~ Submit calculations to review head water and flood plain assumptions used to determine flood plain and minimum building opening elevations.
- 2.18 ~~2-20~~ Show sidewalks on grading in the vicinity of the box culvert that allows safe sidewalk to be constructed.
- 2.19 ~~2-21~~ Correct the trail alignment to be shown south of Boathouse Road crossing N. 98th Street parallel to N. 98th Street along the west side down to O Street.
- 2.20 ~~2-22~~ ~~Include easement and grading plan reflecting trail platform along O Street~~ Add General Notes #27 to state: If necessary, the trail shall be permitted and an easement will be granted in the front yard setback of Lots 3 and 4, Block 2, along O Street.
- 2.21 ~~2-23~~ Add General Notes #28~~7~~ to state: "A high pressure underground natural gas pipeline is located along the southern edge of this proposed development. The Lincoln-Lancaster County Health Department calculated a hazard area of approximately 154 feet on each side of this pipeline. Future owners and/or lessees of dwellings or buildings located within the projected hazard area be advised of the natural gas pipeline's location."
- 2.22 ~~2-24~~ Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the special use permit has been recorded.

2.23 ~~2.25~~ Ornamental street lights for private roadways and pedestrian way easements are approved by L.E.S.

* * *

Introduced by:

Approved as to Form & Legality:

City Attorney

Staff Review Completed:

Administrative Assistant



Lincoln-Lancaster County 555 South 10th Street / Suite 213
Planning Department Lincoln, Nebraska 68508
Marvin S. Krout, Director 402-441-7491 / Fax: 402-441-6377

Lynn Sunderman, Chair
City-County
Planning Commission



MAYOR CHRIS BEUTLER

lincoln.ne.gov

December 21, 2009

Mark Palmer
Olsson Associates
1111 Lincoln Mall
Lincoln, NE 68508

RE: **Change of Zone No. 08075 - AG to B-2**
and **Use Permit No. 08003 - Waterford Estates Commercial Park**
(98th & O Streets)

Dear Mark:

On January 28, 2009, the Planning Commission recommended approval of the above-referenced change of zone request and adopted Resolution No. PC-01155 approving the associated Use Permit No. 08003, with conditions, as revised and amended, to develop 250,000 sq. ft. of commercial floor area generally located at N. 98th & O Streets.

On February 10, 2009, the Director of Public Works & Utilities filed a letter appealing the right-in, right-out driveway to 98th Street between East O Street and Boathouse Road, as shown on the site plan and approved by the Planning Commission.

A condition of approval of the use permit is Council approval of Change of Zone No. 08075. At the applicant's request, this change of zone and the appeal of the associated use permit have not been scheduled on the City Council agenda.

Please be advised that pursuant to ordinances previously adopted by the Lincoln City Council, this change of zone request will expire and become null and void on **January 28, 2010**, unless a request is received by the Planning Director from the applicant to remove these applications from pending status and schedule on the City Council agenda.

If you have any questions, please do not hesitate to contact the project planner, Tom Cajka, at 441-5662.

Sincerely,

Marvin S. Krout
Director of Planning

q:\shared\wp\jlu\expiration letters\CZ08075

cc: Reserve Development, LLC, 3700 S. 14th Street, 68502
DaNay Kalkowski, 1111 Lincoln Mall, Suite 350, 68508

SEACREST & KALKOWSKI, PC, LLO

1111 LINCOLN MALL, SUITE 350
LINCOLN, NEBRASKA 68508-3910

TELEPHONE (402) 435-6000
FACSIMILE (402) 435-6100

KENT SEACREST
E-MAIL: kent@sk-law.com

DANAY KALKOWSKI
E-MAIL: danay@sk-law.com

December 23, 2009

Marvin Krout
Planning Director
County-City Building
555 South 10th Street
Lincoln, NE 68508

RE: Change of Zone No. 08075 – AG to B-2
Use Permit No. 08003 – Waterford Estates Commercial Park

Dear Marvin:

In response to your December 21, 2009 correspondence, Waterford Estates, LLC, is hereby requesting that you remove the above applications from pending status and schedule them on the City Council agenda. However, Waterford Estates, LLC is not prepared to have the City Council complete the approval process for the applications until it has a user for the property that is ready to move forward. Consequently, we are requesting that at the time of first reading, the City Council place the items on pending until further notice.

If you have any questions regarding the above or need any additional information, please feel free to contact me.

Very truly yours,


DANAY KALKOWSKI
For the Firm

RECEIVED

DEC 28 2009

Lincoln/Lancaster Co.
Planning Department

047