City Council Introduction: **Monday**, August 22, 2011
Public Hearing: **Monday**, August 29, 2011, at **5:30** p.m.

Bill No. 11R-204

FACTSHEET

TITLE: **SPECIAL PERMIT NO. 1114E,** requested by Heritage Builders, Inc. and the Pheasant Run Road Association, for authority to amend the **Pheasant Run Community Unit Plan** to allow sidewalk required along one side of Pheasant Run Lane to remain as it is constructed with one-half on either side of the street, on property generally located at Pheasant Run Lane and Old Cheney Road.

STAFF RECOMMENDATION: Denial

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 07/27/11
Administrative Action: 07/27/11

RECOMMENDATION: Denied (6-2: Esseks, Francis, Larson, Lust, Cornelius and Sunderman voting 'yes'; Taylor and Partington voting 'no'; Gaylor Baird absent)

FINDINGS OF FACT:

1. The purpose of this proposed amendment to the approved Pheasant Run Community Unit Plan is to allow the sidewalk required to be constructed along one side of Pheasant Run Lane to remain as it is now constructed with one-half on either side of the street, i.e. the approximately south one-half of the sidewalk is built on the west side of the street and the north one-half is built on the east side of the street. The sidewalk was required to be constructed on the west side of Pheasant Run Lane pursuant to the preliminary plat and community unit plan approved in 1987. An administrative amendment was approved in 1997, allowing the sidewalk to be moved from the west side to the east side of Pheasant Run Lane. The City is still holding a $8,500 surety from the final plat for this addition to complete the sidewalk system.

2. The staff recommendation to deny this amendment is based upon the "Analysis" as set forth on p.8-9, concluding that requiring pedestrians to perform a mid-block street crossing to remain on the sidewalk is neither ideal nor recommended, unless some circumstance such as an unusual topographic feature which creates a hardship or otherwise makes building the sidewalk all on one side of the street unfeasible. In this case, staff finds that there is no hardship. The most recently approved plan for the community unit plan shows the sidewalk to be built along the east side of Pheasant Run Lane, and that was the understanding of those people that have built homes in the area since 1997. The staff presentation is found on p.11-12. The staff report also contains recommendations for signing and striping the mid-block crossing if the Planning Commission decided to approve the waiver.

3. The applicants' testimony is found on p.12-14, and the record consists of a petition in support from 21 property owners and members of the Pheasant Run Road Association (p.23-24). The applicants contend that the portion of the sidewalk constructed on the west side was to avoid going through mature trees on the east side that existed at the time. The applicant also contends that the safety issue of the mid-block crossing can be easily resolved with signing and striping. The applicant also suggested that the mid-block crossing would allow traffic to slow down as it turns into the development from Old Cheney Road.

4. There was no testimony in opposition.

5. On July 27, 2011, a motion for approval failed 3-5, and the majority of the Planning Commission then agreed with the staff recommendation and voted 6-2 to deny, finding that the sidewalk should be located only on one side of the street and did not want to establish a precedent by allowing half of the sidewalk on one side of the street and half on the other (See Minutes, p.14-15).

6. On August 5, 2011, a letter of appeal was filed by Tim Gergen of Olsson Associates on behalf of the developer/applicant, Heritage Builders, Inc. (p.2).

FACTSHEET PREPARED BY: Jean L. Preister **DATE**: August 15, 2011
REVIEWED BY:_____ **DATE**: August 15, 2011
REFERENCE NUMBER: FS\CC\2011\SP1114E Appeal

Jean Preister

From: Jean Preister
Sent: Friday, August 05, 2011 12:32 PM
To: Jean Preister
Subject: FW: pheasant run

From: Tim Gergen [mailto:tgergen@oaconsulting.com]
Sent: Friday, August 05, 2011 10:44 AM
To: Brian Will
Subject: pheasant run

Brian-
The developer would like to appeal the planning commission decision to city council regarding the sidewalks at Pheasant Run subdivision. Do you need a formal letter regarding such?

Let me know
Thanks
Tim

Tim Gergen, PE | Land Development | Olsson Associates
1111 Lincoln Mall, Suite 111 | Lincoln, NE 68508 | tgergen@oaconsulting.com
TEL 402.474.6311 | DIR 402.458.5914 | CELL 402.525.6588 | FAX 402.474.5160

OLSSON ASSOCIATES

Please consider the environment before printing this e-mail.

DENIED 7/27/11 6-2 (Esseks, Francis, Larson, Lust, Cornelius and Sunderman voting 'yes'; Partington and Taylor voting 'no'; Gaylor Baird absent)

RESOLUTION NO. PC-**DENIED 6-2 (07/27/2011)**

SPECIAL PERMIT NO. 1114E

WHEREAS, Olsson Associates on behalf of the Developer and the Home Owners Association for Pheasant Run has submitted an application designated as Special Permit No. 1114E for authority to amend the Pheasant Run Community Unit Plan to allow the sidewalk required along one side of Pheasant Run Lane to remain as it is constructed with one-half on either side of the street, on property generally located at Pheasant Run Lane and Old Cheney Road and legally described as:

> Outlot "B" and Lots 2 through 7, Block 1, Pheasant Run Addition; Outlot "B" and Lots 2 through 9, Pheasant Run 1st Addition; Lot 1, Pheasant Run 2nd Addition; Lot 1, Pheasant Run 3rd Addition; Lots 2 through 4, Pheasant Run 4th Addition; Lots 1 and 2, Pheasant Run 5th Addition; Outlot "A", Lots 1 through 6, Block 1, and Lots 1 through 3, Block 2, Pheasant Run 7th Addition; Outlots "A", "B", and "C", Pheasant Run 8th Addition; Lot 3, Pheasant Run 9th Addition; Lots 1 and 2, Pheasant Run 10th Addition; all located in the Southeast Quarter of Section 9, Township 9 North, Range 7 East of the 6th P.M., City of Lincoln, Lancaster County, Nebraska; containing a calculated area of 21.08 acres more or less;

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

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

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

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

That the application of Olsson Associates on behalf of the Developer and the Home Owners Association for Pheasant Run, hereinafter referred to as "Permittee" to amend the Pheasant Run Community Unit Plan to allow the sidewalk required along one side of Pheasant Run Lane to remain as it is constructed with one-half on either side of the street, on the property described above, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction of said community unit plan be in substantial compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves an amendment to the existing Pheasant Run to allow the sidewalk to remain as it is presently constructed with one-half of either side of the street.

2. Upon approval of the special permit by the Planning Commission, the Permittee shall cause to be prepared and submitted to the Planning Department a

revised and reproducible final plot plan including five copies with all required revisions listed below:

a. Show the sidewalk in the approved location.

b. Show crossing details including truncated domes, ramps and signs to the satisfaction of the Public Works Department.

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

4. All development and construction must substantially comply with the approved plans.

5. All privately-owned improvements shall be permanently maintained by the Permittee.

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

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

8. The Permittee 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 Permittee.

9. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all prior resolutions approving this permit remain in full force and effect as specifically amended by this resolution.

The foregoing Resolution was approved by the Lincoln City-Lancaster County Planning Commission on this ____ day of _____, 2011.

ATTEST:

_____ DENIED 7/27/11 6-2.

Chair

Approved as to Form & Legality:

_____

Chief Assistant City Attorney

006

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for July 27, 2011 PLANNING COMMISSION MEETING

PROJECT #: Special Permit No.1114E - Pheasant Run Community Unit Plan (CUP)

PROPOSAL: To allow the sidewalk required along one side of Pheasant Run Lane to remain as it is constructed with one-half on either side of the street.

LOCATION: Pheasant Run Lane and Old Cheney Road

CONCLUSION: Requiring pedestrians to perform a mid-block street crossing to remain on the sidewalk is neither ideal nor recommended, unless some circumstance such as an unusual topographic feature which creates a hardship or otherwise makes building the sidewalk all on one side the street unfeasible. In this case, there is no hardship. The most recently approved plan for the CUP shows the sidewalk to be built along the east side of Pheasant Run Lane, and was the understanding of those people that have built homes in the area since 1997.

RECOMMENDATION: Denial

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached legal description

EXISTING ZONING: R-1 Residential

EXISTING LAND USE: Single family residential

SURROUNDING LAND USE AND ZONING:

North: R-1, Residential
South: R-1, Residential
East: R-1, Residential
West: R-1, Residential

HISTORY:

May 1979 - The zoning was changed from A-1 Single family to R-1 Residential with the 1979 Zoning Update.

Nov 1984 - PP#84604 for the Pheasant Run Preliminary Plat and Special Permit #1114 for the Pheasant Run Community Unit Plan were approved.

Apr 1985 - Special Permit #1114A was approved to revise the layout of the Pheasant Run Community Unit Plan.

May 1987 - PP#87615 for the Pheasant Run Preliminary Plat Replat and Special Permit #1114B were approved amending the layout of Pheasant Run and increasing the number of dwelling units to 32.

Sep 1995 - Special Permit #1114C was approved amending the layout of the Pheasant Run Community Unit Plan and increasing the number of dwelling units to 36.

Jan 2006 - Special Permit #1114D was approved adjusting side and rear setbacks internal to the development.

ANALYSIS:

1. A sidewalk is required only along one side of Pheasant Run Lane by prior waiver approved with the preliminary plat. This is a request to allow the required sidewalk to remain as it is constructed with one-half on either side of the street. That is, the approximately south one-half of the sidewalk is built on the west side of the street, and the north one-half is built on the east side of the street.

2. The revised preliminary plat and community unit plan approved in 1987 were approved with private roadways throughout the development. As part of the preliminary plat approval there was a request to waive the requirement for sidewalks along both sides of the private roadways. The waiver was approved in part, and required sidewalks along only the west side of Pheasant Run Lane, the north side of Pheasant Run Court, and the north side of Pheasant Run Place. No waiver was approved for Grouse Place and sidewalks were required along both sides.

3. Administrative Amendment #97017 was approved on March 11, 1997 allowing the sidewalk to be moved from the west side to the east side of Pheasant Run Lane.

4. All but two homes have been built since the amendment moving the sidewalk to the east side of the street. The two that were built prior to the amendment are 5600 and 5610 Pheasant Run Lane (see attached exhibit showing the date that homes were built along with addresses in parentheses), and there are sidewalks adjacent to both these homes. Sidewalks were constructed along the frontage of 6530 and 6533 Pheasant Run Court located on the west side, although it was not required of the CUP.

5. 5630 Pheasant Run Lane was built in 2010, and a sidewalk extends across approximately two-thirds of the lot to the south-most driveway curb cut (see the attached exhibit which depicts the driveway and ramp locations). The point at which this sidewalk ends lines-up with the ramp terminating the sidewalk on the west side, but was not extended to the south lot line of the property.

6. The home at 5640 Pheasant Run Lane is under construction and the sidewalk could be installed at the proper time with no disruption. The home at 5650 was built in 2008 and is fully developed, but there appears to be adequate area to locate a sidewalk in such a way as to not interfere with the mailbox and mature tree located near where the sidewalk would be built.

7. As the sidewalks are now built, it requires pedestrians to perform a mid-block crossing of the street to remain on the sidewalk. The crossing is also near the apex of the curve, and is the point where visibility for cars traveling south and looking for pedestrians crossing from west to east is reduced the most. Being less than ideal, it would only be recommended in the case of a hardship, such as a unique topographic feature which makes building the sidewalk on one of the street unfeasible. There is no unique circumstance or hardship in this case.

8. All required improvements had to be guaranteed with an approved surety at the time the final plat creating the lots was approved. The City is still holding $8,500 from the final plat of Pheasant Run 7th Addition for the installation of sidewalks. Staff estimates that is the approximate amount to complete the sidewalk along the east side of Pheasant Run Lane.

9. Sidewalks along private roadways do not require the approval of an executive order by Public Works and Utilities, and Public Works is not involved in either locating or inspecting them. Public Works only does 'drive-by' inspections when requested in order to verify the sidewalks have been built so the funds held in escrow to guarantee their installation can be released.

10. In their review Public Works notes standards which should be applied to such a mid-block street crossing. Among them, truncated domes should be installed to meet ADA requirements, and the crossing should be marked with signs.

Staff recommends denial of this request. However, if the Planning Commission votes to approve this request it would allow the sidewalk to remain as is. In that event, staff recommends the approval be granted subject to the following conditions.

CONDITIONS OF APPROVAL:

Site Specific:

1. Upon approval of the special permit by the Planning Commission, the applicant 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 below.

    1.1 Revise the site plan as follows:

        1.1.1 Show the sidewalk in the approved location.

        1.1.2 Show crossing details including truncated domes, ramps and signs to the satisfaction of Public Works.

2. The construction plans substantially comply with the approved plans.

Standard:

3. The following conditions are applicable to all requests:

   3.1 All development and construction is to substantially comply with the approved plans.

   3.2 All privately-owned improvements are to be permanently maintained by the owner.

   3.3 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.

   3.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

   3.5 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.

4. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by

Brian Will
Brian Will, 441-6362, bwill@lincoln.ne.gov
July 12, 2011

APPLICANT: Tim Gergen
Olsson Associates
1111 Lincoln Mall
Lincoln, NE 68508
402-474-6311

SPECIAL PERMIT NO. 1114E,
AMENDMENT TO
PHEASANT RUN ADDITION COMMUNITY UNIT PLAN

PUBLIC HEARING BEFORE PLANNING COMMISSION: July 27, 2011

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

There were no ex parte communications disclosed.

Staff recommendation: Denial.

Staff presentation: **Brian Will of Planning Department** advised that staff is recommending denial of this proposal. This affects the Pheasant Run CUP located at Old Cheney Road and Pheasant Run Lane between 56th Street and 70th Street on Old Cheney Road. The original CUP and the associated preliminary plat were approved in November of 1994, and remained largely unchanged until 1987. At that point in time, a new preliminary plat and an amendment to the CUP came forward revising the lot layout to add dwelling units for total of 232. In addition, at that time, there was a waiver granted relative to sidewalks, to allow sidewalks only on one side of the street, i.e. along only the west side of Pheasant Run Lane, the north side of Pheasant Run Court, and the north side of Pheasant Run Place. Then in 1997, an administrative amendment was approved allowing the sidewalk to be moved from the west side to the east side of Pheasant Run Lane.

This portion of the CUP is largely built out. The last home is now under construction. The first homes built along Pheasant Run Lane in the northeast corner were built in 1990 and 1991, and the sidewalk was required along the west side, but we now have a sidewalk constructed along the east side. The homes along the west side were built subsequent, and a portion of the sidewalk was built along a portion of three of those lots but in the incorrect location.

Today, a portion of the sidewalk is built on the east side and a portion is built on the west side, resulting in a mid-block street crossing for pedestrians. The request before the Commission today is to be allowed to leave the sidewalk as it is now constructed. Will pointed out that the house at 5630 Pheasant Run Lane has been constructed, with two curbcut driveways and sidewalk on the east side. 5640 Pheasant Run Lane is currently under construction, with those sidewalks to be constructed at the time of building permit. The staff is objecting because 1) there has been a plan in place for a long time for this CUP stating where the sidewalks are to be located, and people have purchased their property with this understanding; and 2) practical and safety issues – the proposed crossing is mid-point in a curve and, given the choice, that would probably be the last place staff would want to see the crossing. It would be the least visible location for someone making the crossing. Additionally, the city is still holding the money that is guaranteed with the final plat to install the sidewalk. It is currently constructed 2/3rds of the way and it would be a matter of extending the sidewalk at the time of the construction of the house.

Will advised that staff has done a site visit and there is room to miss the existing tree and mailbox to install the sidewalk on the east side of Pheasant Run Lane. Staff has determined that there is no hardship or reason the sidewalk cannot be constructed.

Taylor commented that he visited the area and noticed that throughout that area there is absence of sidewalks. Are those other areas expecting to build sidewalks? Will stated, “no”. There is one sidewalk along Pheasant Run Place, as approved; they will not have to build one along the south side. The waiver also allowed the sidewalk as it exists on Pheasant Run Court. Those sidewalks were waived as part of the preliminary plat in 1987. Staff does not have an argument with the sidewalk on one side or the other. The mid-block crossing is problematic. Even though sidewalks were waived throughout this development, there is nothing that would prevent a homeowner from constructing a sidewalk along their own property. The city just cannot force it because it was waived. Staff is recommending that there be a sidewalk along the entirety of Pheasant Run Lane along the east side per the approved CUP.

Lust confirmed that the goal is to have one contiguous sidewalk on the east side of Pheasant Run Lane. Will agreed. We do not want pedestrians to have to cross mid-block to be able to walk on the sidewalk.

Esseks confirmed that this is a single family development. Will agreed. It is single family throughout. Esseks suggested that at least 20 or more of these homes could use that road and there could be 20 or more children riding bicycles on the sidewalk and he would not want to have them be the first to cross. Esseks also has a concern about establishing a precedent. Has the city recently allowed this type of fulfillment of sidewalk safety standards? Will stated, “no”. He does not believe what is being proposed is the sort of circumstance that staff would support in any situation. This is only unique due to the sidewalk being on the west side instead of the east side. Constructing the sidewalk on the west side was in violation of the approved CUP.

Partington observed that, even if you complete the sidewalk, there will still be residents with two homes that will have to cross the street to get to the sidewalk. Will agreed (6565 and 5615), but we do not want to make the situation worse. Pedestrians would prefer to be crossing somewhere near the intersection as opposed to the middle of the street length.
Will clarified that Pheasant Run Lane is a private roadway (24' to 25' paved width), and it would be considered a local street at 25 mph.

Sunderman inquired whether the $8,500 bond on file would be used to pay for the sidewalk that has not been built. Will explained that the original subdivider is still under requirement to complete the sidewalks. If the city had to construct the sidewalk, that money would be used. It is not the individual lot owner’s responsibility to construct the sidewalk, but rather the subdivider who created the final plat creating the lots.

<u>Proponents</u>

1. Tim Gergen, Olsson Associates, appeared on behalf of the developer, and provided further information on the history of this development. There was a discussion when the homes in Pheasant Run Court were constructed. The three homes on Pheasant Run Lane were not under construction at the time. The home builder had called and asked the city about moving the sidewalk to the west side of the street in order to avoid having to build the sidewalk on the east side which would go through a lot of mature trees. Back in 2004 and 2005, when Pheasant Run Court was

being developed, there were a lot more trees in the then vacant lots. The city does not recall that meeting nor giving the developer approval, but the developer insists that the sidewalk on the west side was to avoid going through mature trees on the east side with the sidewalk extension. Gergen suggested that the safety issue of the mid-block crossing can be easily resolved with conditions requiring signing, striping and detector plates on the ramps. The developer would not be opposed to this condition.

Gergen also pointed out that the speed limit on Old Cheney Road is 45 mph. Due to space restrictions when Old Cheney Road was widened, and with a 10' trail, there was not the ability to put a right turn deceleration lane into the development. With this circumstance, you sometimes get a faster speed coming into the development than when there is a right turn lane. The reality of having the sidewalk on one side of the road is approved, but the safety concerns may be more of a concern by having the crossing at Old Cheney Road than at the mid-block as proposed. Pheasant Run Lane is a narrower street at 24'. The mid-block crossing would allow the vehicles to slow down from the 45 mph into the 25 mph.

2. Philip Euler, President of Pheasant Run Road Association, submitted written comments and a petition in support of this proposal. The petition states:

> The existing sidewalks along Pheasant Run Lane are satisfactory as is. We feel it is not necessary to have additional sidewalks on the east side. However, at the homeowner's option, east side sidewalks may be constructed when they are constructed in conformance with general city construction specifications. We support the approval of the proposed Amendment CUP #1114E.

Euler reiterated that this is a private road. There is no access in and out of the development other than Pheasant Run Lane at Old Cheney Road. There is the possibility of 33+ cars that normally navigate this road. There is no outlet. He has lived in this neighborhood since 2006. He does not have young children but does have grandchildren and they do ride their bicycles and scooters on the sidewalks that are available and he has not found it to be a dangerous situation. He agrees about the corner of Pheasant Run Lane and Old Cheney Road being a little more on the dangerous side because of the speed coming off of Old Cheney Road. The proposal is very acceptable from his perspective. Twenty-one of the 33 lots are in support – the balance he was unable to contact. He disagrees that the crossing is in the middle of the curve – it is more at the beginning. There are no shrubs or anything along that part of the road that would block vision. The homeowners know it is a residential street and they slow down.

2. Steve Schmidt also appeared on behalf of the **Pheasant Run Road Association** and echoed Euler's comments. We need to give consideration to the homes that were built in 2008 – when those homes were constructed and they did their landscaping they were under the understanding that there would not be a sidewalk on that side of the street. There is room to construct the sidewalk, if the homeowners choose, but a fair amount of landscaping and planting has gone on in the existing conditions and we need to respect those homeowners. Schmidt also pointed out that the one vote in abstention on the petition is not a vote in opposition.

Francis inquired wether the intersection of Old Cheney Road and Pheasant Run Lane is the only way in and out of this subdivision. Euler confirmed that to be true.

There was testimony in opposition.

Even though this is a private road in a CUP, Francis inquired whether it is typical when lots are platted that the lot does not come clear out to the street. When you survey a property in any other neighborhood, the lot line usually starts about 2-3 feet behind the sidewalk. Will explained that the lot line is one and the same as the edge of the right-of-way (in this case, the outlot where the roadway is located). Typically in a public street, the back of sidewalk is about 3' off the lot line. In this situation, he did not know exactly but it looks like something along those lines. Francis then suggested that the owner who built in 2008 at 5650 did some extensive landscaping – did he landscape further than he should have under the assumption there would be no sidewalk? Will believes that to be true. That owner has landscaped fully to the front lot line with a mistaken assumption that the sidewalk was not required because there was a sidewalk on the west side.

ACTION BY PLANNING COMMISSION: July 27, 2011

Taylor moved approval of the application as requested, with the conditions set forth in the staff report, seconded by Larson.

Taylor stated that he is normally in favor of sidewalks and connectivity, but he has traveled the subject area and he just does not see that the sidewalk is necessary because of the way it is developed and the trees. It is a private roadway. You don't speed in that area. He would think that going from one sidewalk to another would not be that much of an inconvenience because of the way it is situated before the curve. It appears that the sidewalks are not necessary. He does not see the hazard.

Esseks commented that even though this is a private road, it is subject to city standards. What he likes about our city is that we are concerned about the need to use sidewalks. Here we have a road that is used by 33 separate dwelling units – the only road they can use to get out to Old Cheney Road and the rest of the city, so there is not an insignificant amount of traffic here. If we are going to require sidewalks, he would like to have them on both sides. However, if only on one side, it should be on a consistent side--the same side. A pedestrian should not have to cross from one to the other. He believes in sidewalks and consistent standards. This is a very bad precedent. We are not talking about an enormous amount of money. He does not believe we are talking about people who have been mislead. It is a rule where they have agreed to have the sidewalk on the east side. He will vote against the motion.

Francis agreed with Esseks. She believes that the people building on the east side had plenty of notice of the administrative changes made in 1997 and about the location of the sidewalk. She has lived in neighborhoods where sidewalks were partially on one side and partially on the other, and you end up with people walking down the street rather than using the sidewalks. There is enough traffic since this is the main thoroughfare into this area. She thinks the sidewalk needs to be connected all on one side.

Cornelius also expressed concern about the potential for precedent. He is opposed to changing the approval of an agreement after the sidewalk has been built in the wrong place.

Sunderman stated that he is torn. He believes there is a reason that the sidewalk was built on the west side – not just because he decided to build it there. He believes perhaps that the builder may have talked to city staff about that; however, if in the business long enough he should have known that it has to be documented. Sunderman would prefer the sidewalk all on one side. There might be a possibility to extend the sidewalk on the east side further to the south and get away from that

curve, but he is not willing to make an amendment to go that direction at this point.

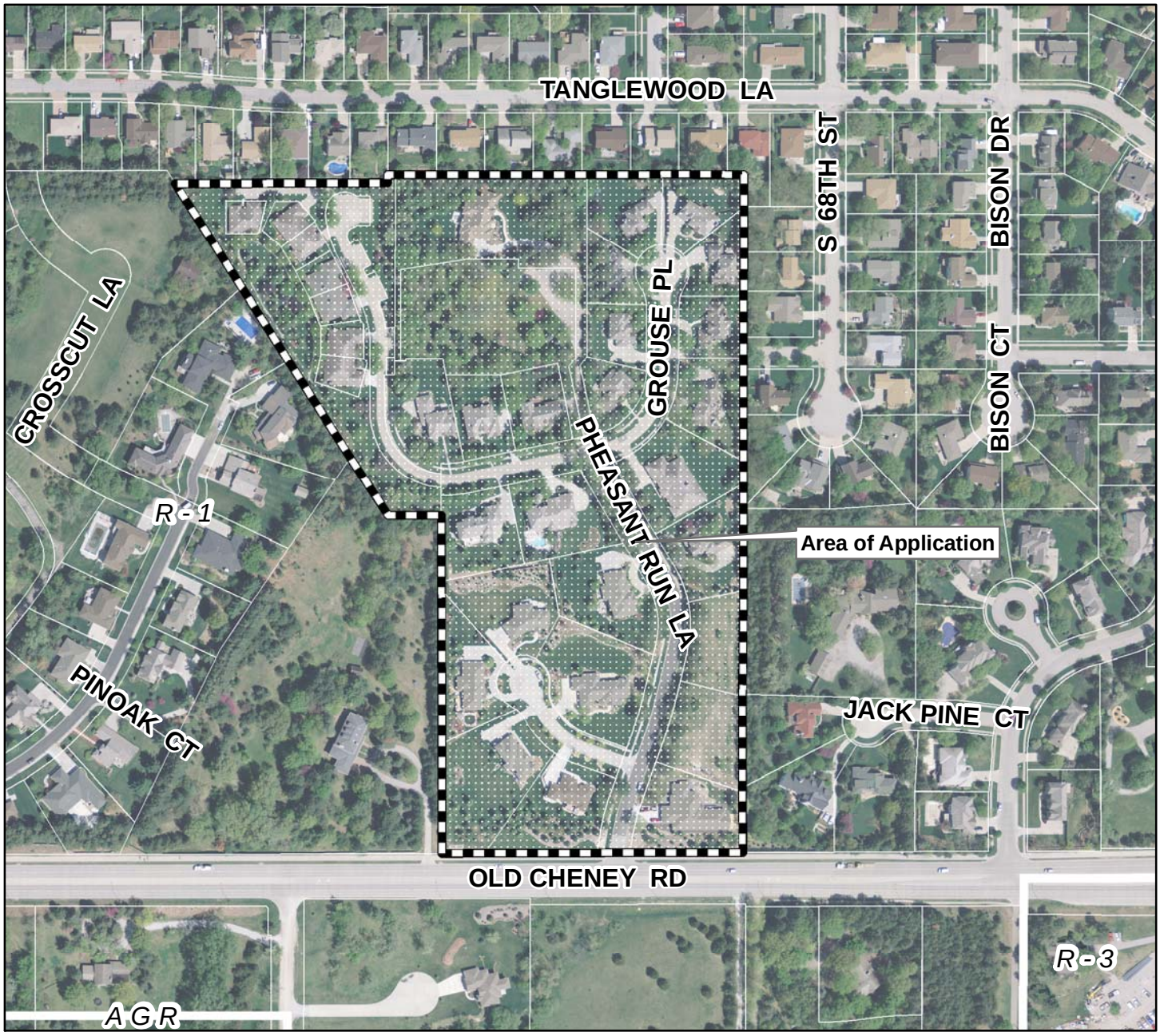
Motion for approval failed 3-5: Taylor, Partington and Larson voting ‘yes’; Esseks, Francis, Lust, Cornelius and Sunderman voting ‘no’; Gaylor Baird absent.

Lust moved denial, seconded by Cornelius.

Taylor believes it is unfortunate to deny this application, especially since the sidewalk is constructed on the west side and the area is pretty well developed. He just does not see where it is going to be good. It is unfortunate that it has gotten to this point. He likes the way it is today. He likes the landscaping and the way that street is situated. It may appear to be a precedent but he does not believe that it would be.

Sunderman pointed out that the applicant does have an opportunity to appeal to the City Council if denied by the Planning Commission. He suggested that perhaps the applicant should explore moving the crossing away from the curb.

Motion to deny carried 6-2: Esseks, Francis, Larson, Lust, Cornelius and Sunderman voting ‘yes’; Taylor and Partington voting ‘no’; Gaylor Baird absent. <u>This is final action unless appealed to the City Council within 14 days.</u>



2010 aerial

Special Permit #1114E
Pheasant Run Addition CUP
Old Cheney Rd & Pheasant Run Ln

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

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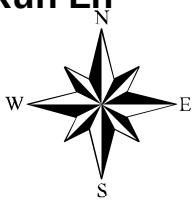
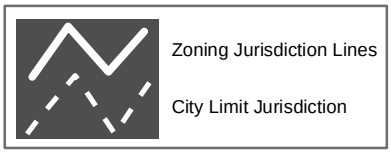
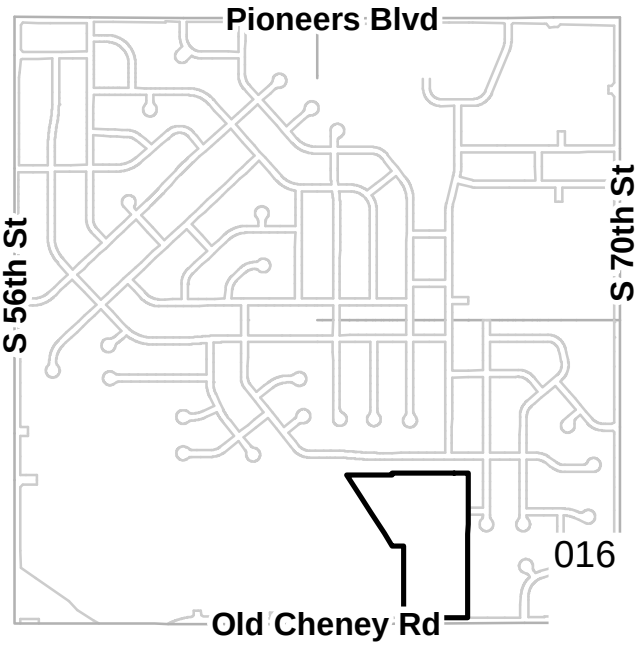


One Square Mile
Sec. 09 T09N R07E





LEGAL DESCRIPTION

OUTLOT "B", AND LOTS 2 THROUGH 7, BLOCK 1, PHEASANT RUN ADDITION; OUTLOT "B", AND LOTS 2 THROUGH 9, PHEASANT RUN 1ST ADDITION; LOT 1 PHEASANT RUN 2ND ADDITION; LOT 1, PHEASANT RUN 3RD ADDITION; LOTS 2 THROUGH 4, PHEASANT RUN 4TH ADDITION; LOTS 1 AND 2, PHEASANT RUN 5TH ADDITION; OUTLOT "A", LOTS 1 THROUGH 6, BLOCK 1, AND LOTS 1 THROUGH 3, BLOCK 2, PHEASANT RUN 7TH ADDITION; OUTLOTS "A", "B", AND "C", PHEASANT RUN 8TH ADDITION; LOT 3, PHEASANT RUN 9TH ADDITION; LOTS 1 AND 2, PHEASANT RUN 10TH ADDITION; ALL LOCATED IN THE SE 1/4 OF SECTION 9, T9N, R7E, OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA. SAID TRACT CONTAINS A CALCULATED AREA OF 21.08 ACRES MORE OR LESS.

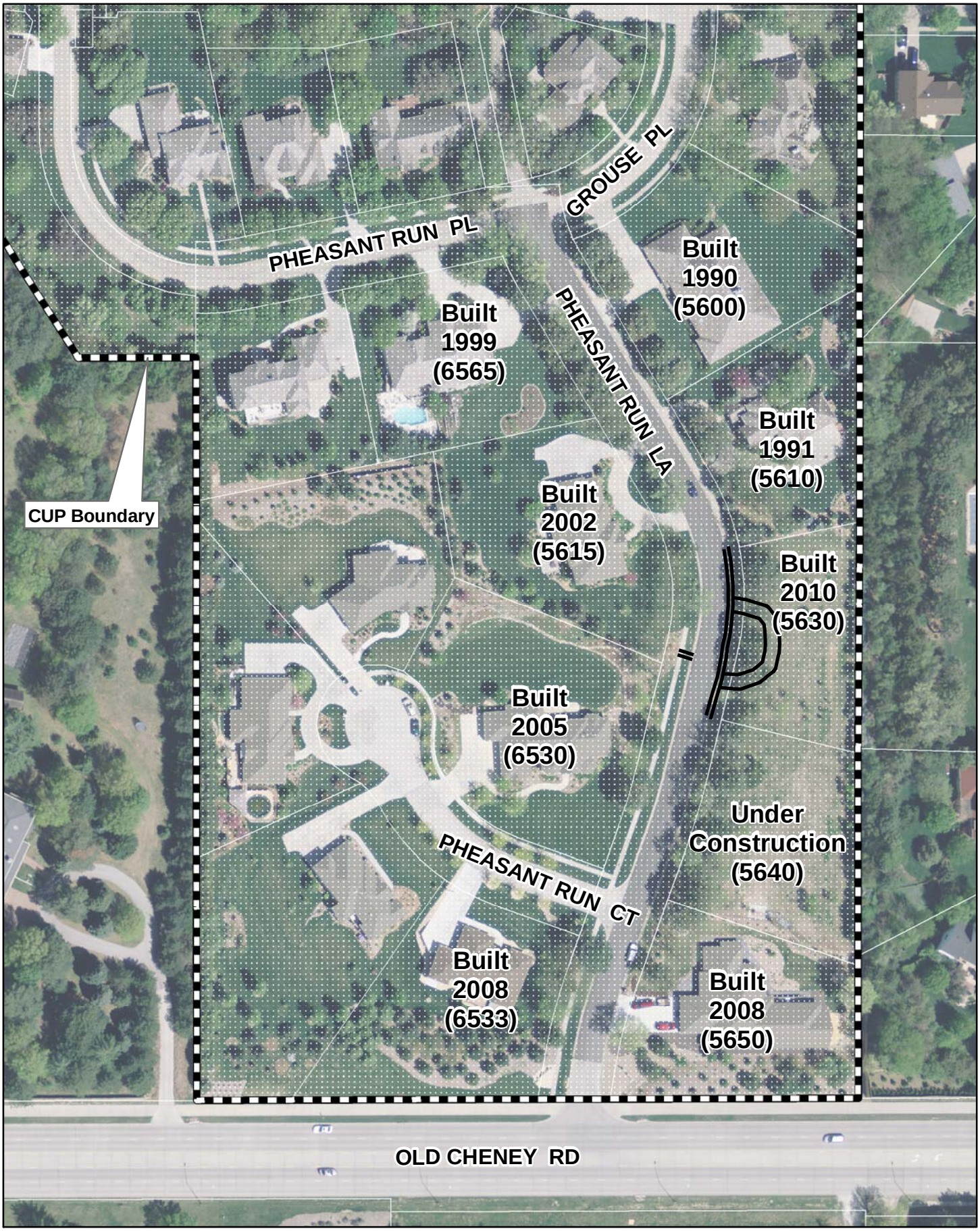


Exhibit for Special Permit #1114E
Pheasant Run Addition CUP
Old Cheney Rd & Pheasant Run Ln

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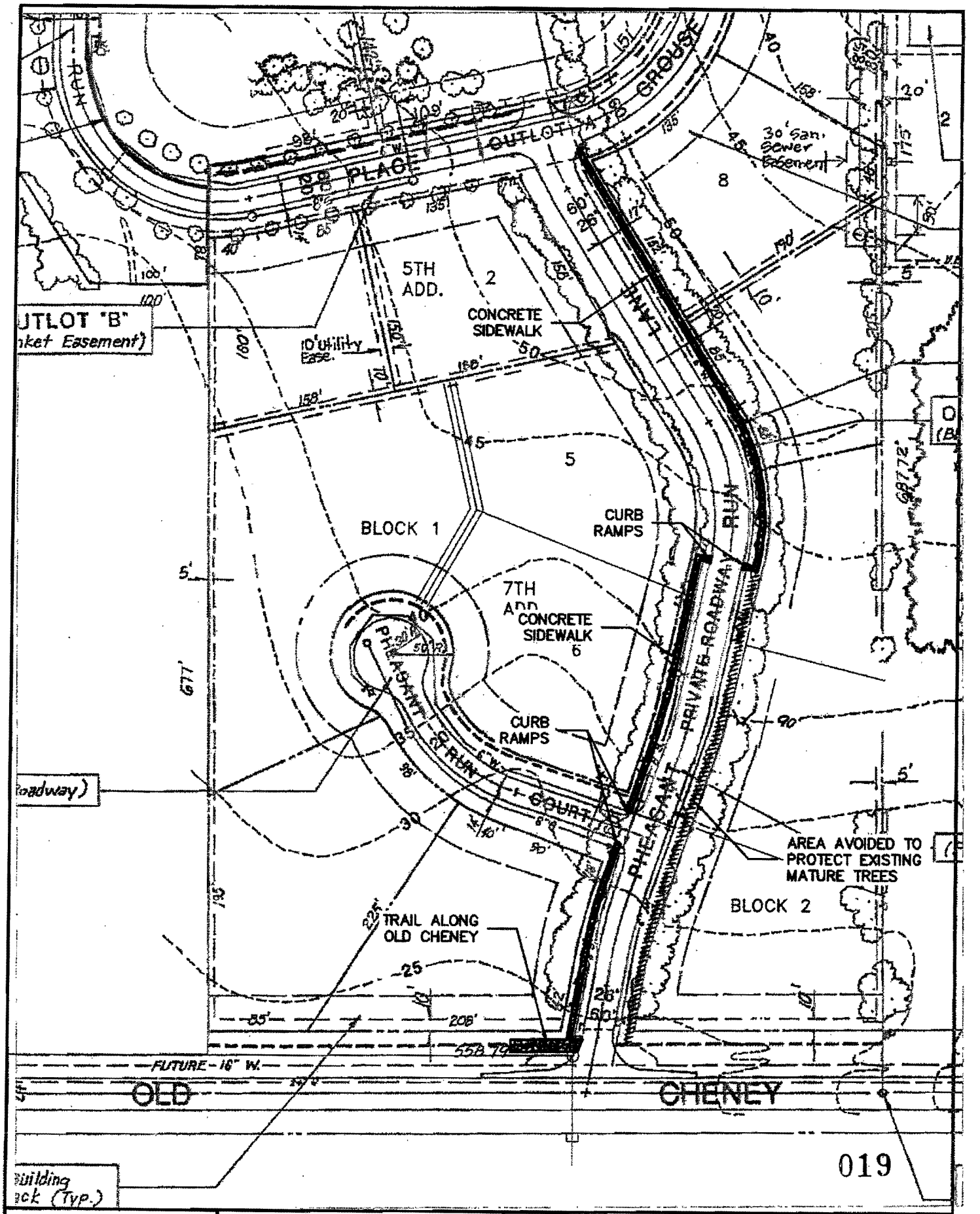
N

2010 aerial



PRJT NO: 011-1401 (09-0265)	AMENDMENT TO CUP#1114D	OLSSON ASSOCIATES	1111 Lincoln Mall, Suite 111 P.O. Box 84608 Lincoln, NE 68501-4608 TEL 402.474.6311 FAX 402.474.5160	EXHIBIT
DRAWN BY: NKB	SITE EXHIBIT			1
DATE: 06.28.11				

OLSSON ASSOCIATES

June 29, 2011

Mr. Marvin Krout, Planning Director
Lincoln-Lancaster County Planning Department
555 South 10th Street, Room 213
Lincoln, NE 68508

Re: Pheasant Run Addition
Pheasant Run Lane and Old Cheney Road
Amendment to CUP #1114D

Dear Mr. Krout:

Enclosed find the following revised drawing for the above-mentioned project:

1. Site Exhibit
2. City of Lincoln Zoning Application
3. Application Fee ($300.00)

On behalf of the Developer and the Home Owners Association for the Pheasant Run development, we are requesting an Amendment to the existing CUP #1114D for Pheasant Run Addition.

The existing CUP site plan shows sidewalks to be built on one side of the street only. The site plan specifically shows the sidewalk to be built on the east side of Pheasant Run Lane. However, during construction of the homes along Pheasant Run Lane the sidewalk was built on a portion of the west side of Pheasant Run Lane to protect existing mature trees that would have been in the way of constructing the sidewalk on the east side of the street. The Home Owners in this development and the Developer would like to amend the site plan to show the sidewalk built on a portion of the west side of Pheasant Run Lane and a portion built on the east side of Pheasant Run Lane as it is built today. See attached exhibit for the exact locations of how the sidewalk is built on Pheasant Run Lane.

Please contact me if you require further information or have any questions.

Sincerely,

Tim Gergen

Enclosures
CC: File

1111 Lincoln Mall, Suite 111
P.O. Box 84608
Lincoln, NE 68501 4608

TEL 402.474.6311
FAX 402.474.5160

www.oaconsulting.com

City of Lincoln - Lancaster County
PLANNING DEPARTMENT

555 S. 10th Street, Suite 213
Lincoln, NE 68508
Ph: (402) 441-7491
Fax: (402) 441-6377

ePlan
ePlan Submittal

Application Information			
Application #	SP1114E	Title	PHEASANT RUN
Associated Requests			

Planning Department Use Only			
Submission Date	6/30/2011	Review Due	7/10/2011
Project Planner	Brian Will		

Review Agencies (Planning Department Use Only)

Review Agencies	<Choose Entry>	<Choose Entry>	

Development Review Manager:	Steve Henrichsen (shenrichsen@lincoln.ne.gov)	☐ Remove Agency Reviewer
Public Works:	Buff Baker (cbaker@lincoln.ne.gov)	☐ Remove Agency Reviewer
Public Works:	Dennis Bartels (dbartels@lincoln.ne.gov)	☐ Remove Agency Reviewer
Public Works:	Harry Kroos (hkroos@lincoln.ne.gov)	☐ Remove Agency Reviewer

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Review Comments

Planning	◉ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ○ Recommend Approval ○ No Review Required Review 1:	
Development Review Manager (Steve Henrichsen)	Corrections Needed for Review Insufficient Information for Review Recommend Denial Recommend Approval with Conditions Recommend Approval No Review Required Review 1:	
Public Works (Buff Baker)	Corrections Needed for Review Insufficient Information for Review Recommend Denial Recommend Approval with Conditions Recommend Approval No Review Required Review 1: 6/30/11 It appears that the walks installed along the east side of Pheasant Run abutt the curb and may not be 4' wide, or overgrown with ground cover in a few areas. Verify the location and widths. The site plan submitted does not reflect the location of those existing walks. With the Street curveature along with being in the middle of the block, it seems appropriate to install Ped Xing Signs and Cross Walk Markings in the street for pedestrian safety. Trunkated Domes are required at the Cross walks to meet ADA Standards. See Harry's comments for additional requirements and thoughts.	
Public Works (Dennis Bartels)	Corrections Needed for Review Insufficient Information for Review Recommend Denial Recommend Approval with Conditions Recommend Approval No Review Required Review 1: See Buff Baker comments.	
Public Works (Harry Kroos)	Corrections Needed for Review Insufficient Information for Review Recommend Denial Recommend Approval with Conditions Recommend Approval No Review Required Review 1: Pheasant Run Lane is a private roadway and the sidewalk Office does not become directly involved with locating and inspecting the sidewalk construction. Our office does not have any record if the developer contacted us to request alternate sidewalk locations and the final plat records do not denote the specific required sidewalk location. With sidewalk only required on one side of the street, the reality is that residents on the opposing side of the street would have to cross the street to use the sidewalk or more likely walk in the street. Without a consistent requirement for sidewalk construction along private streets, these situations have become more prevalent. If the homeowners along Pheasant Run Lane, Pheasant Run Court, Pheasant Run Place and Grouse Court are not opposed to amending the requirements, the Sidewalk Office does not object to the request.	

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SUBMITTED AT PUBLIC HEARING
BEFORE PLANNING COMMISSION: 7/27/11
IN SUPPORT

SPECIAL PERMIT NO. 1114E

Date: July 27, 2011
To: Lincoln Planning Commission
Re: Special Permit No. 1114E, Old Cheney Road and Pheasant Run Lane

From: Members of the Pheasant Run Road Association listed below wish to testify that:

The existing sidewalks along Pheasant Run Land are satisfactory as is. We feel it is not necessary to have additional sidewalks on the east side. However, at the homeowner's option, east side sidewalks may be constructed when they are constructed in conformance with general city construction specifications.

We support the approval of the proposed Amendment CUP #1114E."

Sincerely,

Phil Euler,
President of the Pheasant Run Road Association
5520 Grouse Pl, Lincoln NE 68516

Cosigned by:

PHEASANT RUN ROADWA2 ROSTER Position on Special Permit No. 1114E on Sidewalks

Lincoln NE 68516 — 1=today, 2=6/21/11

	Last Name	First Names	Address	Support	Don't Support	No Response
1	Abele	Norm and Carol	6515 Pheasant Run Ct			1
2	Allman	Thomas	6560 Pheasant Run Pl.			1
3	Arends	Connie	5510 Grouse Pl.	1		
4	Arndt	Ardean and Eloise	6530 PheasantRun Ct.	2		
5	Ba2le2	Cherie	5511 Grouse Pl.	1		
6	Beverage	Kathy D.	6527 Pheasant Run Pl.			1
7	Carlson	Donald	5500 Grouse Pl.	1		
8	Euler	Phillip and Barbara	5520 Grouse Pl.	1		
9	Fast	Charles & Wend2	6600 Pheasant Run Pl			1
10	Geis	Pat	6533 Pheasant Run Pl.			1
11	Gerrard	John and Nanc2	5521 Grouse Pl.	1		
12	Green	Ron and Jane	6539 Pheasant Run Pl.			1
13	Heath	Michael	6533 Pheasant Run Ct.	1		
14	Henry	Herbert and Ruth	5600 Pheasant Run Ln.	2		
15	Huber	Charles and Dr.Vicki Treat	5610 Pheasant Run Ln.			1

16	Killingsworth	Kim and Christ2	65402-40 Pheasant Run Pl.	2		
17	Lamphere	Robert and Carrie	6521 Pheasant Run Pl.	1		
18	Luetchens	Brent & Shar	6555 Pheasant Run Pl.	2		
19	Lusk	Karen	5531 Grouse Pl.	1		
20	McCown	Gary and Mark	6501 Pheasant Run Ct.			1
21	McDonald	Mark and Kim	5530 Grouse Pl.			1
22	McLoughlin	James T. and Sarah	5600 Pheasant Run Ct.	2		
23	McPherren	Edward and Linda	5615 Pheasant Run Ln.	1		
24	Miller	Tom and Norma	6501 Pheasant Run Pl.	2		
25	Mlinek	Dr. Edward and Dara	5501 Grouse Pl.			1
26	Moors	Jack and Helen	6507 Pheasant Run Pl.	2		
27	Rallis	John and Pamela	6602 Pheasant Run Pl.			1
28	Schmidt	Steve and Jo	6565 Pheasant Run Pl.	1		
29	Stephan	Judge Kenneth and Sharon	6550 Pheasant Run Pl.		1	
30	Stork	Del and Roxie	5640 Pheasant Run Lane	1		
31	Wiedman	Jean	6515 Pheasant Run Pl.	2		
32	Wilnes	Douglas and Wanda	5650 Pheasant Run Lane	1		
33	Wilson	Steve & Kerry	5630 Pheasant Run Lane	2		
				21	1	11