

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 06046**, from AG Agricultural District to R-3 Residential District, requested by Hartland Homes, Inc., on property generally located southwest of the intersection of N.W. 56th Street and W. Adams Street.

STAFF RECOMMENDATION: Approval

ASSOCIATED REQUESTS: Annexation No. 06011 (06-158) and Letter of Appeal to Special Permit No. 2045A, Resolution No. PC-01013 (06R-185).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 08/16/06
Administrative Action: 08/16/06

RECOMMENDATION: Approval (8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent).

FINDINGS OF FACT:

1. This proposed change of zone request was heard in conjunction with the associated Annexation No. 06011 and Special Permit No. 2045A, an amendment to the Hartland's Cardinal Heights 2nd Addition Community Unit Plan.
2. The staff recommendation to approve this change of zone request is based upon the "Analysis" as set forth on p.4, concluding that the proposed annexation and change of zone are in conformance with the Comprehensive Plan and the annexation policy. All utilities are available to serve the area. However, substantial grading is required to provide acceptable water pressure and to serve the area with sanitary sewer. The requirement of a maximum 1280 foot street elevation, established on adjacent land two years ago, will not result in the homes on these lots achieving the Water Department's current water pressure standard of 45 psi. Therefore, staff suggested a maximum main floor elevation of 1280 feet in proposed Condition #3.1.1.11. This will require that the grading plan be revised.
3. The staff presentation is found on p.6-7.
4. The applicant's testimony is found on p.7-9. The issues raised by the applicant related to the conditions of approval on the associated amendment to the community unit plan relative to the condition of approval requiring the maximum main floor elevation of 1280.
5. There was no testimony in opposition.
6. On August 16, 2006, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval of this change of zone request (Strand absent).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: September 5, 2006

REVIEWED BY: _____

DATE: September 5, 2006

REFERENCE NUMBER: FS\CC\2006\CZ.06046+

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for AUGUST 16, 2006 PLANNING COMMISSION MEETING

PROJECT #: Annexation #06011 and ***Change of Zone No.06046***

This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application.

PROPOSAL: Change of zone from AG, Agricultural to R-3, Residential on approximately 22 acres and annexation of approximately 28.26 acres.

LOCATION: Southwest of the intersection of NW 56th St. and W. Adams St.

LAND AREA: Annexation- 28.26 acres, more or less
Change of Zone- 22 acres, more or less

EXISTING ZONING: AG Agricultural

CONCLUSION: The annexation and change of zone are in conformance with the Comprehensive Plan and annexation policy. All utilities are available to serve the area. However, substantial grading is required to provide acceptable water pressure and to serve the area with sanitary sewer.

RECOMMENDATION:

Annexation

Change of Zone

Approval

Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: see attached

EXISTING LAND USE: Agriculture/undeveloped

SURROUNDING LAND USE AND ZONING:

North:	R-3, Residential	Undeveloped
	AG, Agricultural	Undeveloped
South:	AG, Agricultural	Undeveloped
East:	R-3, Residential	Single family and attached single-family
West:	AG, Agricultural	Undeveloped

ASSOCIATED APPLICATIONS:

Special Permit #2045A Hartland's Cardinal Heights 2nd Addition Community Unit Plan
Administrative Amendment #06072 to Special Permit #1740-View Pointe West CUP.

HISTORY:

- November 8, 2004 Final Plat #04086, Hartland's Cardinal Heights 7th Addition for 56 residential lots was approved by the Planning Director.
- July 12, 2004 Annexation #03008, Change of Zone #04013 and Special Permit #2045, Hartland's Cardinal Heights 2nd Addition CUP for 72 residential lots was approved by City Council.
- March 18, 2002 Preliminary Plat #01017 and Special Permit #1940, Hartland's Cardinal Heights 1st Addition for 209 residential lots on the east side of NW 56th St. was approved by the City Council.
- Dec. 21, 1998 Preliminary Plat #97027, Hartland's Cardinal Heights Addition was approved by City Council.

COMPREHENSIVE PLAN SPECIFICATIONS:

The Land Use Map of the 2025 Comprehensive Plan identifies the proposed annexation area as Agricultural and is outside the future service limits. (F-23)

The land use plan displays the generalized location of each land use. It is not intended to be used to determine the exact boundaries of each designation. The area of transition from one land use is often gradual. (F-27)

Future Service Limit: The land use plan also displays the future service limit for the City of Lincoln. Land inside this line represents the anticipated area to be provided with urban services within the planning period. (F-28)

The provision of municipal services shall coincide with the jurisdictional boundaries of the City—in short, it is not the intent of the City of Lincoln to extend utility services (most notably, but not necessarily limited to, water and sanitary sewer services) beyond the corporate limits of the City. (F-154)

The extension of water and sanitary sewer services shall be predicated upon annexation of the area by the City. City annexations shall occur before any property is provided with water, sanitary sewer, or other potential City services. (F-154)

Land which is remote or otherwise removed from the limits of the City of Lincoln will not be annexed; land which is contiguous to the City and generally urban in character may be annexed; and land which is engulfed by the City should be annexed.

Annexation generally implies the opportunity to access all City services. Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (e.g. water, sanitary sewer) and may include specific or general plans for the private financing of improvements to the infrastructure supporting or contributing to the land uses in the annexed area. (F-154,155)

UTILITIES:

- A. **Sanitary Sewer:** There is an existing 8" sewer main in NW 57th St. and W. Thatcher Lane to serve this addition.
- B. **Water:** There is an existing 6" water main to serve this addition.
- C. **Roads:** The proposed roads for this addition are all local roads. NW 56th St. is a rural gravel road. There are no plans to improve the street in the Capital Improvements Program.

D. **Parks and Trails:** There are no parks or trails planned in this area.

E. **Fire Protection:** The nearest fire station is located at 3401 NW Luke St.

ANALYSIS:

1. This is a request for annexation of 28.26 acres, more or less, and change of zone from AG to R-3 on 22 acres, more or less, located southwest of NW 56th St. and West Adams St. A portion of the area to be annexed is already zoned R-3.
2. The proposed annexation area is contiguous to the city limits and the adjacent property is zoned R-3. Hartland's Cardinal Heights 7th Addition and View Pointe West subdivisions are located east of the proposed annexation and change of zone.
3. Special Permit #2045A Hartland's Cardinal Heights 1st Addition CUP and Administrative Amendment #06072 to View Pointe West CUP have been submitted in association with this application.
4. An annexation agreement is not required for this development. All utilities are available.
5. This area is outside the future service limits and shown as agricultural in the land use plan. The comprehensive plan states that the future service limit line is an anticipated line, not an exact line. The comprehensive plan also states that the future land use plan displays generalized locations and is not intended to be used to determine exact boundaries of each land use designation. With substantial grading, up to 30 feet in some areas, this area can be served with water and gravity sanitary sewer.
6. Annexation policy:
 - ! Land which is remote from the limits of the City of Lincoln will not be annexed; land which is contiguous and generally urban in character may be annexed; and land which is engulfed by the City should be annexed.
 - ! Annexation generally implies the opportunity to access all City services. Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (i.e., water, sanitary sewer) and may include specific or general plans for the private financing of improvements to the infrastructure supporting or contributing to the land uses in the annexed area.
 - ! Plans for the provision of services within the areas considered for annexation should be carefully coordinated with the Capital Improvements Program of the city and the county."

Prepared by:

Tom Cajka

Planner

DATE: August 2, 2006

APPLICANT: ESP on behalf of Hartland Homes
601 Old Cheney Rd. Suite A
Lincoln, NE 68512

OWNER: Hartland Homes
P.O. Box 22787
Lincoln, NE 68512
(402) 477-6668

CONTACT: Lyle Loth
ESP
601 Old Cheney Rd. Suite A
Lincoln, NE 68512
(402) 421-2500

**ANNEXATION NO. 06011,
CHANGE OF ZONE NO. 06046
and
SPECIAL PERMIT NO. 2045A**

PUBLIC HEARING BEFORE PLANNING COMMISSION

August 16, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor; Strand absent.

Staff recommendation: Approval of Annexation No. 06011 and Change of Zone No. 06046. Conditional Approval of Special Permit No. 2045A

Ex-Parte Communications: None

Staff presentation: Tom Cajka of Planning staff presented the three applications to extend the boundary of the previously approved community unit plan to the west by approximately 12 acres and to add 57 dwelling units to the CUP. That area to the west was not included with the CUP originally due to constraints of getting water and sanitary sewer to serve the area because of elevations. In order to serve this area now, the developer is proposing a grading plan that shows cuts up to 30 feet in some areas in order to bring the street elevation to 1280. This is recommended by Public Works for adequate water pressure.

The one major concern in this area is water pressure. The area to the east where lots have already been platted with houses built upon them, there have been complaints about low water pressure in this area.

One of the conditions of approval requires that the maximum floor elevation on the main floor be 1280. Page 46 of the staff report under condition #3.1.1.11 states "revise grading plan so that the "maximum" elevation of the main floor is at or below 1280". 1280 elevation is what the Water Dept has determined to be able to have adequate water pressure for residential.

The subdivision ordinance also requires the subdivision to provide a desirable building site. Having the elevation for the homes no higher than 1280 would result in a desirable building site and solve some of the water pressure problems in this area.

Carroll questioned the elevation of those existing homes having water pressure problems. Cajka replied the elevation is 1280 to 1284. Nick McElvain of Lincoln Water System stated that the area that is being talked about is served by the Belmont pressure district which talks about hydraulic radiant being at 1380. It takes 100 feet of head to be equivalent for 45 psi. We have had complaints throughout the Belmont system in the Highlands area, and the Aspen development, just west of N.W. 48th with 45 psi. They are not satisfied, partly because they came from another area of town that had greater water pressure. It is a customer service issue and we do get complaints all over town. Our standard used to be 35 psi and people are not happy with that and we have gone to some pretty big expense to rectify that in some locations. There are no other pressure districts to which to connect in this area of town.

Carroll wondered about the elevations for the existing homes next to this project. McElvain replied it is the higher elevation that causes the problem. It calculates 43.5 psi. That is why we have set the maximum elevation at 1280. Cajka noted that even if you have a ground elevation of 1282, if your building is a split-level, two-story home, this decreases the pressure quite a bit by the time you get water to the upper levels.

Chad Blahak of Public Works stated that the street elevation is actually below 1280, so pressure should be better. Some of the existing houses are at 1278 and 1276 elevation in some of the areas of complaints.

45 psi is based on customer preference and expectations. We have areas of town that are as low as 35 psi.

Esseks believes it looks as though this is a potentially serious problem. He questioned if the development review process had failed. Cajka replied in the original review of the first CUP, it was decided as long as the street elevation was at 1280 or less, that would be adequate. Now that houses have been built, staff has found that the water pressure is not adequate and we are trying to rectify that problem in this addition.

Esseks questioned if there should be a formal change in the design standards so that it does not happen again. McElvain believes it could be clearer in the design standards. McElvain would be happy to recommend language to bring about the change. Cajka believes that in the past instead of a 3/4 inch water service to the house, the answer has been to increase it to a 1 inch service; however, the problem for new houses is that the impact fee for the water main would go up \$1,000. Esseks believes they might be happy to pay the additional fee. Cajka believes the issue can be resolved by revising the grading plan.

Proponents

1. Peter Katt appeared on behalf of Hartland Homes, the applicant and developer of virtually this entire area of northwest Lincoln along N.W. 56th Street and Adams on both sides. This particular project and this amendment is not controversial. The one issue that we have is Condition #1.1.11, which is a decision by staff to change midstream the requirements for this development. When this area was started to be planned four years ago, there were extensive discussions with the owner, the engineer and city staff. We discussed the elevation that could be adequately served in this area. A range was agreed upon and the established elevation being adequate was established. If the roads were established at a 1280 grade, that should be close enough, and that is the standard that has been applied to this entire development. This change is now applied to this amendment based on anecdotal evidence of a few customers in this area complaining about water pressure. That is not a standard to develop a significant change. Katt submitted a proposed amendment to delete Condition #3.1.1.11 with regard to a change in the main floor elevation of 1280. Even if there is some inclination to change the elevation at which things need to be constructed in this area, he would not suggest imposing a main floor elevation requirement because that will require a survey on each main floor elevation. One of the beauties of the 1280 street standard was that there was nothing more to be done.

It is not just customers of the water system but customers of Hartland Homes that will purchase that his client needs to keep happy. These lots will be more inclined to put a ranch style at the lower elevations so they do not create problems.

He is one of the persons in the Highlands who has suffered from low water pressure, but it has not been that bad. It is not a health and safety issue. This is a “we don’t want to be bothered at the water department about water pressure questions”.

Carroll questioned if the development will be all ranch houses. Katt replied not all will be ranches, but in terms of those lots and the types of home styles that will be built on the upper elevation lots, the developer will encourage ranch as opposed to two-story dwellings. We are not imposing a restriction. The street elevation at 1280 was the agreement. He agreed that the floor elevations will be above that level and will lower the water pressure. We don’t even know what the psi is on the homes of the people complaining. It is anecdotal evidence and that is all we have in the staff asking for this change. There are no hard facts.

Carlson wondered in this particular portion of the development if it was left out in the first place because of these elevation challenges. Katt replied yes. Carlson proposed dropping the street elevation to make up the difference. Katt replied you have to understand that the developer has incurred significant engineering expense to design the streets at 1280. It would require significant expense to change it. This is a change in the standard mid-stream as opposed to prospectively. This does not appear to be an issue that is at a level of health and safety concern as far as fighting fires, etc. It is a perception issue that the “water coming out of my shower is not strong enough”. He does not believe that this issue rises to the level that the city needs to weigh in upon.

Esseks believes this is an addition to the development and this is the time for us to represent health and safety issues. Katt agrees that the Planning Commission has the authority, but he does not believe it is fair in this circumstance based upon anecdotal evidence of concerns about water pressure and a change in past policy to impose a significant cost on a developer in this situation.

There was no testimony in opposition.

Staff response and questions

Esseks stated that the challenge presented by the attorney is that the city does not have sufficient evidence to make this recommendation. Cajka stated he has not gone out and checked the water pressures at the three existing homes. The recommendation is based on the policy of the 1280 elevation. You need a ground elev of 1280 to get minimum of 45 psi. Anything above 1280 ground elevation will be less than 45 psi. He reiterated that he does not believe this is a change to the standard in mid-stream. This area was not included in the original CUP because it could not get the water pressure. He does not believe the staff is attempting to rectify this problem so that the water dept does not have to hear complaints. Part of the Planning Department job is to look out for the best interests of the public.

McElvain believes 4-5 years ago, the Facilities Master Plan acknowledged that the 45 psi was a much better elevation to design to. E.g. Timber Ridge on West A Street was designed to 35 psi and no one was happy. He disagrees that it is anecdotal information. We get complaints system-wide in every area where it is below 45 psi. It is a customer service issue. The contour was laid out in the planning maps. They are accomplishing the 1280 by 30 foot cuts.

Larson wondered if the 45 psi generally cut down the complaints. McElvain replied yes.

Taylor questioned the water pressure in the Highlands before the improvements. McElvain replied it was 35 on the highest areas at N.W. 12th St., north of Fletcher. Our intention is to increase it from 35

to 60 psi. 35 was the worst pressure before the change. They were able to make improvements because of the Fallbrook development.

Esseks wanted to know the practical consequences of falling below 45 psi. Is it trivial or serious? McElvain replied it would not put them in the category of serious lifestyle costs, but the matter of appliances and plumbing fixtures are designed to function at 40 psi or greater. It is probably not a health and safety issue – it is a customer expectation.

Esseks questioned if staff has received 10-20 complaints or more from this area. McElvain did not have a good estimate. We generally discuss with the customer whether or not something can be done. There are not that many homes in this area that are now occupied. There are no CIP solutions for this area.

Response by the Applicant

Katt stated that his Highlands address was N.W 12th St. and Fletcher and he had 35 psi. he problem it created is that if my sprinklers were running, and I was taking a shower on the 2nd floor, and the washer kicks in, it wasn't a good shower. But on the average the 35 psi served me just fine. This is not a health and safety issue. He requested that under these circumstances this be recognized and allow the standard established in this subdivision be continued and that this development not be required to put significant cost to reach a customer preference.

ANNEXATION NO. 06011

ACTION:

August 30, 2006

Carroll moved approval, seconded by Esseks and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

This is a recommendation to the City Council.

CHANGE OF ZONE NO. 06046

ACTION:

August 30, 2006

Carroll moved approval, seconded by Taylor and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

Carroll moved approval, with staff conditions, as amended by staff, seconded by Esseks.

This is a recommendation to the City Council.

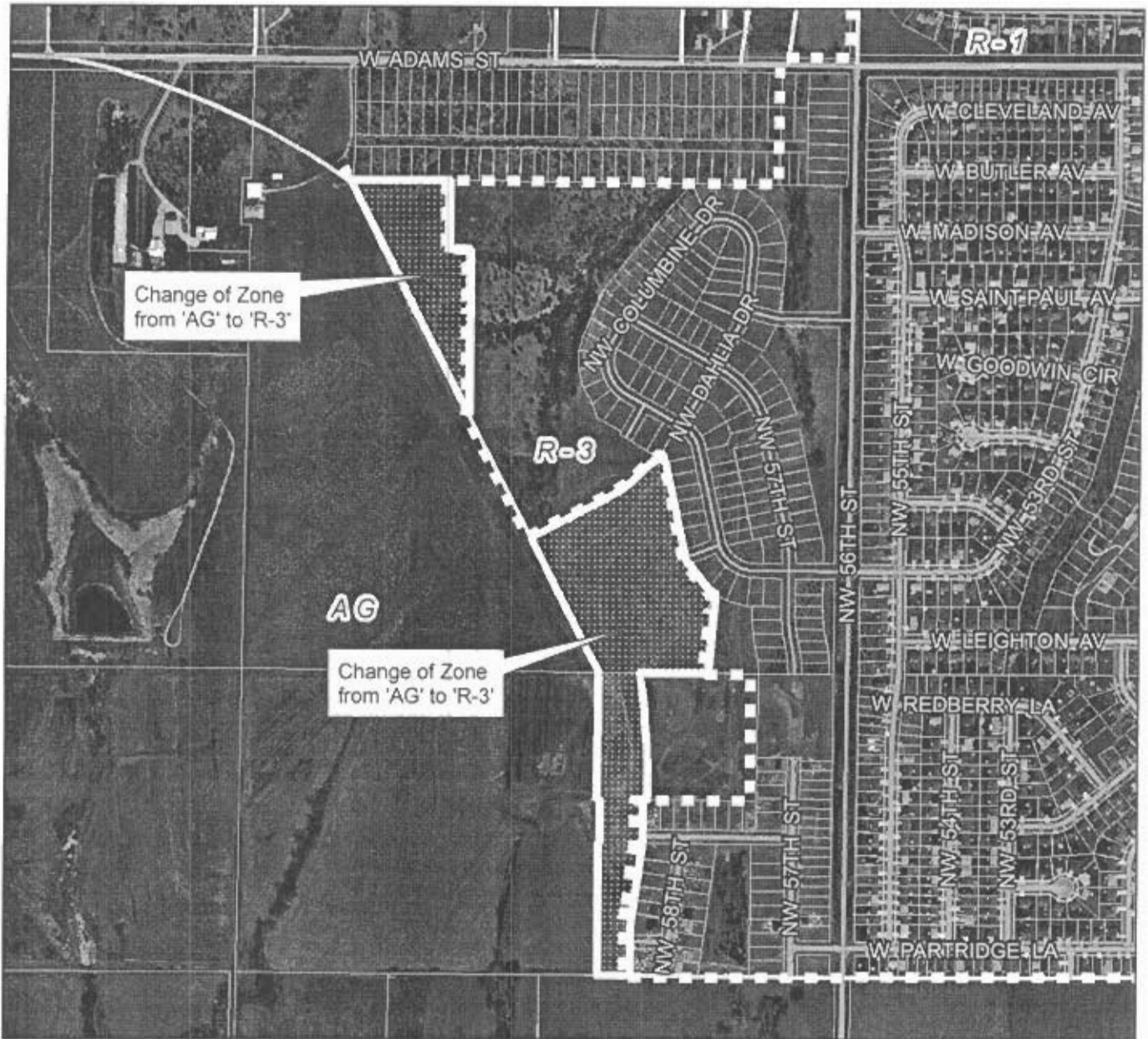
SPECIAL PERMIT NO. 2045A

ACTION:

August 30, 2006

Carroll moved approval, seconded by Taylor and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

This is final action unless appealed to the City Council within 14 days.



Change of Zone #06046 NW 58th & W Partridge La

2005 aerial

Zoning:

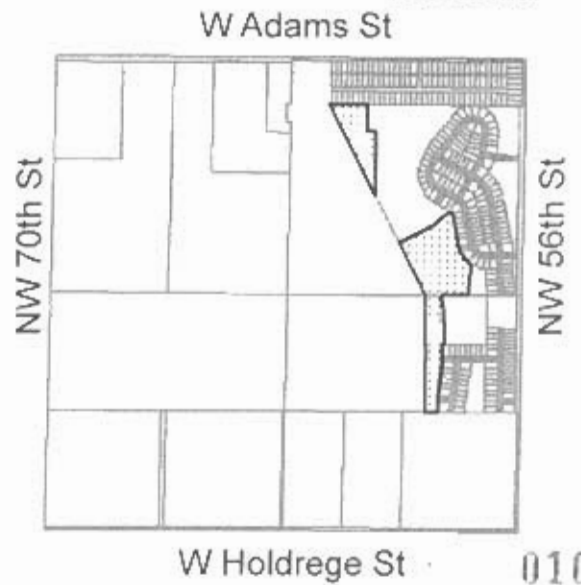
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business 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. 35 T11N R6E



Zoning Jurisdiction Lines

City Limit Jurisdiction



**LEGAL DESCRIPTION
CHANGE OF ZONE & ANNEXATION
PARCEL 'A'**

A legal description of a portion of Outlot 'D', View Pointe West 1st Addition, located in the NE ¼ of Section 13, Township 10 North, Range 5 East, of the 6th P.M., Lancaster County, Nebraska, more particularly described as follows:

Commencing at the Northeast Corner of said Section 13 and extending thence S. 00°00'00" W. along the east line of said Northeast Quarter, 520.00 feet;

Thence N. 89°57'35" W., 2216.06 feet to the true point of beginning;

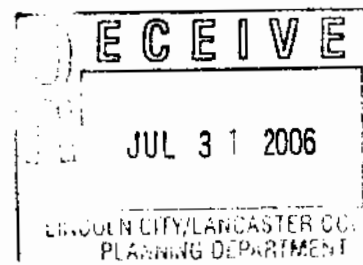
Thence S. 27°51'42" E., 1150.02 feet;

Thence N. 00°02'25" E., 716.33 feet;

Thence N. 89°57'35" W., 94.89 feet;

Thence N. 00°02'25" E., 300.00 feet;

Thence N. 89°57'35" W., 443.27 feet to the point of beginning containing an area of 5.62 acres, more or less.



**LEGAL DESCRIPTION
CHANGE OF ZONE
PARCEL 'B'**

A legal description of a portion of Outlot 'D', View Pointe West 1st Addition, located in the NE ¼ and a portion of Lot 23 I.T., located in the SE ¼ of Section 13, Township 10 North, Range 5 East, of the 6th P.M., Lancaster County, Nebraska, more particularly described as follows:

Commencing at the Northeast Corner of said Section 13 and extending thence S. 00°00'00" W. along the east line of said Northeast Quarter, 2647.25 feet;

Thence S. 89°56'40" W., 610.57 feet to the true point of beginning;

Thence N. 04°30'46" E., 352.20 feet;

Thence N. 58°44'48" W., 40.77 feet;

Thence N. 38°48'15" W., 152.55 feet;

Thence N. 12°30'00" W., 437.06 feet;

Thence N. 58°55'31" W., 36.01 feet;

Thence S. 49°53'16" W., 81.77 feet;

Thence S. 44°19'54" W., 75.88 feet;

Thence S. 53°14'12" W., 79.38 feet;

Thence S. 60°57'08" W., 69.56 feet;

Thence S. 62°08'16" W., 360.00 feet;

Thence S. 27°51'42" E., 655.37 feet;

Thence S. 00°00'00" W., 556.13 feet;

Thence N. 90°00'00" E., 16.40 feet;

Thence S. 00°00'00" W., 190.00 feet;

Thence S. 90°00'00" W., 6.34 feet;

Thence S. 00°00'17" E., 574.07 feet;

Thence N. 89°59'43" E., 150.00 feet;

Thence N. 00°00'17" W., 224.10 feet;

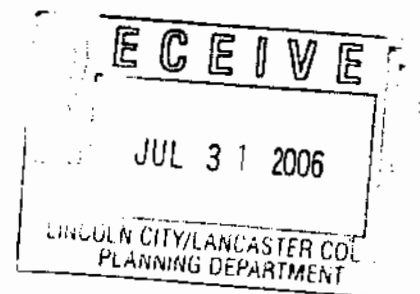
Thence N. 07°22'36" E., 352.88 feet;

Thence N. 00°00'00" E., 190.00 feet;

Thence N. 90°00'00" E., 18.00 feet to a point on a circular curve to the left having a central angle of 08°22'54", a radius of 3807.20 feet, and whose chord (556.45 feet) bears N. 03°40'13" W.;

Thence along the arc of said curve 556.94 feet;

Thence N. 89°56'40" E., 292.35 feet to the point of beginning containing an area of 16.41 acres, more or less.





July 13, 2006

LYLE L. LOTH, P.E./L.S.

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Phone (402) 421-2500
Fax (402) 421-7096

Email: lyle@espeng.com

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

**RE: CHANGE OF ZONE FROM 'AG' TO 'R-3' & ANNEXATION
HARTLAND'S CARDINAL HEIGHTS 2nd ADDITION
& VIEW POINTE WEST**

Dear Marvin,

On behalf of Hartland Homes, Inc., we submit the above mentioned application for your review. We are requesting that the remaining area in View Pointe West which is now zoned 'AG' be changed to 'R-3'. We also request the same for the additional area included in the recent amendment submittal for Hartland's Cardinal Heights 2nd Addition.

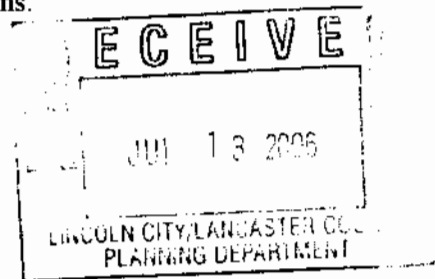
Currently an administrative amendment to View Pointe West Special Permit #1740 and an amendment to Hartland's Cardinal Heights 2nd Addition Special Permit #2045A has been submitted to the Planning Department. The submittals show grading along the west line of both projects which will allow utilities to be supplied to the areas in question.

We are also asking for annexation at this time.

Please do not hesitate to contact me if you have additional questions.

Sincerely,

Marcia L. Kinning



Cc: Hartland Homes, Inc.
Enclosures: ~~3~~ 4 Copies of Exhibit
Application for a Change of Zone
Application Fee of \$740.00
Legal Descriptions