

FACTSHEET

TITLE: CHANGE OF ZONE NO. 09003, Yankee Hill Apartments Planned Unit Development, requested by Yankee Hill Townhomes, on property generally located at South 84th Street and Yankee Hill Road.

STAFF RECOMMENDATION: Conditional Approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 02/11/09
Administrative Action: 02/11/09

RECOMMENDATION: Conditional Approval (7-0: Sunderman, Taylor, Partington, Esseks, Gaylor Baird, Francis and Carroll voting 'yes'; Cornelius and Larson absent).

FINDINGS OF FACT:

1. This is a request for a Planned Unit Development over approximately 37 acres, for 84 townhomes, 348 apartments and 30,000 square feet of commercial land uses, on property generally located at South 84th Street and Yankee Hill Road. The proposal includes a change of zone from AG Agricultural, R-3 Residential and R-4 Residential to R-4 Residential PUD. The proposal includes a development plan which proposes to modify standards of the underlying zoning district, the subdivision ordinance and design standards as set forth on p.2.
2. The staff recommendation of conditional approval, including approval of the waiver requests, is based upon the "Analysis" as set forth on p.4-6, concluding that changing the zoning to R-4 PUD allows a higher density for more efficient use of the site, and also allows for a small commercial component to potentially provide for approximately 30,000 square feet of neighborhood commercial uses. This request complies with the Zoning Ordinance and is consistent with the Comprehensive Plan. The staff presentation is found on p.10-11.
3. The applicant's testimony is found on p.11.
4. Testimony in opposition by the owner of Lot 110, I.T., is found on p.11-12. Initially, the boundaries of the PUD included a small portion of Lot 110, I.T., located to the north of this proposed development. The applicant has since removed the inclusion of any portion of Lot 110, I.T., from this PUD proposal (See letter from Tom Huston, p.25).
5. On February 11, 2009, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend conditional approval (Cornelius and Larson absent). The conditions of approval are found on p.6-9.
6. Condition #1.1 and #1.2 have been satisfied. A revised legal description has been submitted, deleting any portion of Lot 110, I.T. (See letter and attachments from Tom Huston, p.25-30).
7. This application was not previously scheduled on the City Council agenda at the request of the applicant.
8. On January 6, 2010, the Director of Planning sent a 30-day expiration notice to the applicant (p.24).
9. On January 11, 2010, Tom Huston, on behalf of the applicant, requested that this planned unit development request be scheduled on the City Council agenda and placed on the Council's pending list on first reading until an amendment to the existing Annexation Agreement can be brought forward (p.25-26).
10. **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
REVIEWED BY: _____
REFERENCE NUMBER: FS\CC\2010\CZ.09003 PUD

DATE: January 19, 2010
DATE: January 19, 2010

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT
for February 11, 2009 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No. 09003 - Yankee Hill Apartments
PROPOSAL: From AG, R-3 and R-4 to R-4 Planned Unit Development
LOCATION: South 84th Street and Yankee Hill Road
LAND AREA: Approximately 37.15 acres.
EXISTING ZONING: R-3 Residential and R-4 Residential

WAIVER /MODIFICATION REQUEST:

- LMC 27.17.080(a) Adjust the minimum average lot width from 50' to 27'.
- LMC 27.17.080(a) Adjust the minimum lot area to less than 5,000 square feet
- LMC 27.17.080(a) Adjust the front, side and rear setbacks
- LMC 26.23.140(a) Exceed 3:1 lot depth to width ratio

CONCLUSION: The requested waivers apply to the townhome portion of the PUD, and were granted as part of the previous special permit which approved the same townhome layout. Changing the zoning to R-4 PUD allows a higher density for more efficient use of the site, and also allows for a small commercial component to potentially provide for approximately 30,000 square feet of neighborhood commercial uses. This request complies with the Zoning Ordinance and is consistent with the Comprehensive Plan.

RECOMMENDATION:

CZ#09003 Yankee Hill Apartments PUD Conditional Approval

Waivers:

- | | | |
|------------------|--|----------|
| LMC 27.17.080(a) | Adjust the minimum average lot width to less than 50' | Approval |
| LMC 27.17.080(a) | Adjust the minimum lot area to less than 5,000 square feet | Approval |
| LMC 27.17.080(a) | Adjust the front, side and rear setbacks | Approval |
| LMC 26.23.140(a) | Exceed 3:1 lot depth to width ratio | Approval |

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached legal description.

EXISTING LAND USE: Townhomes under construction, vacant.

SURROUNDING LAND USE AND ZONING:

North:	Railroad right-of-way, Commercial	B-5
South:	Agriculture	P, AG
East:	L.E.S. Substation, vacant	AG, AGR
West:	Residential	AGR

HISTORY:

Mar 2007 - Special Permit #07005 for Jensen Park Estates was approved for 156 townhomes.

Feb 2006 - Annexation #04012 was annexing approximately 65.92 acres.

Feb 2006 - Change of Zone #04079 was approved changing the zoning from AG to R-3 and R-4.

Feb 2006 - Preliminary Plat #04030 for Jensen Park preliminary plat creating 151 lots was approved.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page 16 - This site is designated as urban residential land use in the Land Use Plan.

Page 21 - Urban Growth Tiers - This site is in Tier 1, Priority A of the City's Future Service Limit.

Page 24 - Priority Area Plan for Tier 1.

Page 55 - The Greenprint Challenge - Seek early identification of areas to be preserved – While planning for future growth is integral to this Comprehensive Plan, it is equally important that environmental resource features be accorded similar attention. The community should invest planning resources into the early identification of those areas most valued as part of the Greenprint Challenge. This principle supports the notion of “getting ahead of the game” by knowing what resources are most valued, where they are located, and what actions should be made within the broader planning process to secure their future for the community.

- Make “green space” an integral part of all environments – “Green space” can come in a wide variety of forms. The policies of the Comprehensive Plan should strive to incorporate such uses in the full range of urban and rural landscapes.

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

Page 66 - Guiding Principles for New Neighborhoods

- Encourage a mix of housing types, single family, townhomes, apartments, elderly housing all within one area;
- Similar housing types face each other: single family faces single family, change to different use at rear of lot;
- Parks and open space within walking distance of all residences;
- Multi-family and elderly housing nearest to commercial area;

- Encourage shopping and employment uses to be at within the neighborhoods and within walking distance to most residences (which may also serve as locations for transit stops.)

Page 72 - Strategies for New Residential Areas - Revise the regulations or procedures to provide notice to potential buyers about the location of pipelines and hazardous chemical use & storage as well strongly encourage adequate spacing be provided from pipelines and areas where hazardous chemicals could be used and stored.

Page 85 - Transportation Planning Principles - A Connected City. In Lincoln and Lancaster County, the unifying qualities of transportation will be emphasized. The transportation network will sustain the One Community concept by linking neighborhoods together. Neighborhoods, activity and employment centers, rural communities, and open lands will be connected by a continuous network of public ways.

Page 95 - The Bicycle and Trails Plan shows the trail along Yankee Hill Road and the railroad right-of-way.

Page 156 - Subarea Planning - By reference the Southeast Lincoln/Highway 2 Subarea Plan is included in the Comprehensive Plan.

Southeast Lincoln/Highway 2 Subarea Plan:

Page 8 - Designates urban residential land use for this site.

UTILITIES: Streets - The area is bounded by South 84th Street to the west, and by Yankee Hill Road on the south. Yankee Hill Road and South 84th Street are both classified as principal arterial streets. South 84th Street is a paved county road, while Yankee Hill Road has a gravel surface. The new Yankee Hill Road alignment has not been graded or surfaced.

Sanitary Sewer - Sewer is now available to this site with the completion of the new main that extends between South 70th & South 84th Streets south of the railroad tracks.

Water - There is a 24" water main in South 84th Street to serve this site.

ANALYSIS:

1. This is a request for Planned Unit Development over approximately 37 acres, and includes 84 townhomes, 348 apartments, and 30,000 square feet of commercial land uses.
2. A preliminary plat and special permit for a community unit plan (CUP) for townhome development were previously approved in 2006 and 2007. Those approvals allowed up to 164 townhome units, and several of the townhomes are now under construction. This request leaves the approximate west one-half of the approved townhome development plan intact, but deletes 80 townhome units on the east one-half of the site and instead shows 384 apartments in 8 buildings, and a small neighborhood commercial center for up to 30,000 square feet of commercial floor area.
3. Four waivers are requested: adjust minimum average lot width; adjust minimum lot area; adjust front, side and rear setbacks; and adjust the 3:1 lot depth to width ratio. These adjustments were granted as part of the original special permit for the CUP to support the townhome development. As the west one-half of the site will still be developed with these townhomes, the waivers need to be brought forward and approved as part of this PUD. The setbacks were depicted on the original approved plans by including 'typical detail' drawings on the site plan. That information must be brought forward and shown on the site plan of this PUD.

4. As with the previously approved preliminary plat and CUP, it is necessary to show internal street connections to the two adjacent residential lots (Lots 110 and 111) to the north. Both lots now have driveways onto South 84th Street, but the City will want to eliminate the drives when the lots are redeveloped and require use of an internal street network for access as part of the City's larger effort to limit the number of access points onto arterial streets. The proximity of Lot 111's driveway to the railroad crossing at South 84th Street is also a safety concern for Public Works, and is another reason the City will want to eliminate it.

South 86th Street is again being shown extended to Lot 110 and is appropriate. A connection to Lot 111 is also shown, but will need to be shown as a private roadway instead of as a private driveway because the general public will be granted access and have use of it.

5. The townhome component of the development is under construction and is not phased, but the apartment component is divided into two phases. If Lots 110 and 111 are redeveloped and take access to South 86th Street prior to development of Phase II, the connection to Lot 111 through the apartment complex can be eliminated. However, in this event the total number of dwelling units on Lots 110 and 111 cannot exceed 40, which is the maximum number of units allowed in a development with one access point. If Phase II develops prior to the redevelopment of Lots 110 and 111, the connection will need to be made.
6. The site plan shows a portion of the apartment complex extending onto Lot 110, making for a better site layout. At the time of application, the applicant did not own Lot 110, but was encouraged by city staff to show it understanding applicant would attempt to purchase all or a portion of the lot for inclusion into this project. Prior to advancing to City Council, the applicant needs to demonstrate whether the land has been purchased or not so the application/legal description can be revised accordingly.
7. Prior to development of the apartment Phase II, the Phase I units need to be provided more than one access point. Phasing Plans need to be revised to show a connection to Dunrovin Road as part of Phase I.
8. The area designated as 'B-2 Area' is intended for up to 30,000 square feet of neighborhood commercial uses. Application of the B-2 standards (uses, signs, landscaping) is appropriate with two exceptions. Excluding gasoline sales and drive-through facilities will limit the intensity of trip generation and help ensure the center is neighborhood oriented. Also, prohibiting pole signs and limiting allowed signs to ground signs will also help ensure compatibility with the neighborhood.
9. This PUD provides for a mix of housing types, and includes a small neighborhood commercial component. It allows for a more efficient use of the site while maintaining compatibility among uses, and is consistent with the intent of the PUD ordinance.
10. Advisory comments from the Health Department are also attached, including a comment also noted during the prior review of Special Permit #07005 for Jensen Park Estates concerning the presence of the high-pressure gas pipeline in South 84th Street. At that time, staff required the approximate location of the gas pipeline to be shown and labeled on the site plan, a condition which is also included with this report.

There are no specific regulations regarding pipelines that apply to a development such as this, however the Joint Committee on Health and Land Use recommended that hazard areas, such as pipelines, should be avoided to the extent possible. In this case, the townhome portion of this development is nearest the pipeline, but the previously approved layout per SP#07005 is not being changed with this request, and has been final platted with several units already under construction. As before, it is noted in the conditions that the pipeline needs to be labeled.

11. There are several minor changes/corrections needed, and are included as recommended conditions of approval.

This approval permits 517 dwelling units and 30,000 square feet of commercial floor area with waivers to adjust the minimum average lot width to less than 50'; adjust the minimum lot area to less than 5,000 square feet; adjust the front, side and rear setbacks; and adjust the 3:1 lot width to depth ratio.

CONDITIONS OF APPROVAL:

Site Specific:

1. Prior to City Council:
 - 1.1 Applicant must demonstrate ownership of all or a portion of Lot 110.
 - 1.2 Verify legal description of the PUD.
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 below upon approval of the planned unit development by the City Council before receiving building permits or before a final plat is approved:
 - 2.1 Correct the phasing plan on Sheet 1 of 3 to show correct phasing.
 - 2.2 Include the 'Typical Details' for the townhome dwellings/lots on Sheet 1 of 3 from Special Permit #07005.
 - 2.3 Define the building envelope for the B-2 Area with the following setbacks: 20 front; 10' side - east, 5' side - west, 0' rear.
 - 2.4 Label the 25' perimeter setback from lot lines for the apartment complex.
 - 2.5 Label Lot 111.
 - 2.6 Revise General Note #14 to state: "THE RECREATION FACILITY SHALL BE IDENTIFIED ON THE SITE PLAN AT THE TIME OF BUILDING PERMIT AND SHALL CONSIST OF A ½ BASKETBALL COURT AND A TOT LOT IN COMPLIANCE WITH THE NATIONAL CONSUMER SAFETY GUIDELINES, FOR USE BY ALL THE RESIDENTS. AS AN ALTERNATIVE, TWO AREAS SHALL BE

SHOWN, ONE PROVIDED FOR THE TOWNHOMES AND ONE PROVIDED FOR THE APARTMENTS.

- 2.7 Revise the Phasing Plan to show Phase I on the south and Phase II on the north, and to show a connection to Dunrovin Road as part of Phase I.
- 2.8 Revise the calculations in General Notes #6 and 7 using 37.15 acres of land area consistent with the site plan and legal description.
- 2.9 Revise General Note #7 to include 'Unused Available Units - 85', and 'Commercial Floor Area - 30,000 square feet'.
- 2.10 Add a general note that states: "USES ALLOWED IN THE B-2 AREA ARE AS PER LMC 27.31, EXCEPT THAT GASOLINE SALES AND DRIVE-THROUGH FACILITIES ARE PROHIBITED."
- 2.11 Revise General Note #16 to state: 'SIGNS ARE NOT REQUIRED TO BE SHOWN ON THIS PLAN, DETAILS OF ALL SIGNS, INCLUDING TYPE, EXACT LOCATION, HEIGHT AND SIZE WILL BE SUBMITTED SEPARATELY AT THE TIME OF SIGN PERMIT IN ACCORDANCE WITH THE APPLICABLE REQUIREMENTS OF LMC 27.69 FOR THE R-4 DISTRICT, EXCEPT LMC 27.69.046 FOR THE B-2 ZONING DISTRICT SHALL APPLY TO THE 'B-2 AREA' WITH THE LIMITATION THAT NO POLE SIGNS ARE ALLOWED.'
- 2.12 Revise General Note #18 to state: "ALL REQUIRED LANDSCAPING TO BE PROVIDED IN COMPLIANCE WITH THE CITY OF LINCOLN DESIGN STANDARDS AND LMC. ALL REQUIRED LANDSCAPING, SCREENING, AND STREET TREES TO REVIEWED AT THE TIME OF BUILDING PERMITS OR FINAL, AS APPROPRIATE.
- 2.13 Add sidewalks in the apartment area to the satisfaction of the Planning Department.
- 2.14 Revise General Note #24 to state: "THE SALE OF ALCOHOL IN THE B-2 AREA SHALL CONFORM TO THE REQUIREMENTS OF LMC 27.31. FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH REQUIRED CRITERIA, THE DEFINED BOUNDARY OF THE B-2 AREA SHOWN ON THE SITE PLAN SHALL BE CONSIDERED AS A B-2 ZONING DISTRICT BOUNDARY.
- 2.15 Revise General Note #29 to state: BUILDING FOOTPRINTS, DRIVEWAY, AND PARKING LAYOUTS ARE CONCEPTUAL AND MAY VARY AT THE TIME OF BUILDING PERMIT. ALL PARKING TO BE DESIGNED AND PROVIDED IN COMPLIANCE WITH LMC AND DESIGN STANDARDS.
- 2.16 Delete General Note #27, LMC defines the director's authority regarding amendments.
- 2.17 Show water and sewer extended to Lot 111.

- 2.18 Add a note to Sheet 3 of 3 stating: "GRADING PLAN WILL BE REVISED PRIOR TO PHASE II IN ORDER TO CONSTRICT ACCESS TO LOT 111, UNLESS OTHERWISE NOT REQUIRED PER NOTES ON SHEET 1 OF 3.
 - 2.19 Revise the plan to show a connection to Lot 111 to via a private roadway.
 - 2.20 Add a general note that states: "THE PRIVATE ROADWAY CONNECTION TO LOT 111 MAY BE ELIMINATED BY ADMINISTRATIVE AMENDMENT PROVIDED: 1 - LOT 111 HAS ACCESS TO A PRIVATE ROADWAY VIA LOT 110; 2 - THE MAXIMUM NUMBER OF DWELLING UNITS ON LOTS 110 AND 111 COMBINED DOES NOT EXCEED 40."
 - 2.21 Make revisions to the satisfaction of Public Works Engineering Services and Watershed Management.
 - 2.22 Show approximate location of the high-pressure gas line in South 84th Street, labeled with bold type.
 - 2.23 Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the planned unit development has been recorded.
3. Prior to the issuance of a building permit:
- 3.1 The construction plans substantially comply with the approved plans.

Standard:

- 4. The following conditions are applicable to all requests:
 - 4.1 Before occupying the dwelling units/buildings all development and construction is to substantially comply with the approved plans.
 - 4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
 - 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 ordinance'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 change of zone, provided, however, said 60-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the ordinance approving the change of zone and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

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

Prepared by:

Brian Will, 441-6362
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Planner
January 27, 2009

APPLICANT/

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CHANGE OF ZONE NO. 09003, YANKEE HILL APARTMENTS PLANNED UNIT DEVELOPMENT

PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 11, 2009

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

Ex Parte Communications: None.

This application was removed from Consent Agenda and had separate public hearing.

Staff recommendation: Conditional approval.

Staff presentation: **Brian Will of Planning staff** stated that the property for this proposed PUD is located northeast of the intersection of South 84th Street and Yankee Hill Road. This property was previously approved within the Yankee Hill Townhomes Community Unit Plan project. This request includes an apartment complex on the eastern portion of the Yankee Hill Townhomes site. There were waiver requests for modifications of the requirements of the zoning ordinance and design standards in that CUP approval which are being carried over into this PUD proposal, and staff supports those waiver requests.

Esseks noted the reference in the staff report to a pipeline on South 84th Street, and how it should be identified. Esseks also recalled that two weeks ago there were one or two cases on the Planning Commission agenda where, in addition to identifying the pipeline on the site plan, there was also an effort in the staff recommendation to alert future purchasers and users of the property of the possible threat to health from a pipeline leak. Shouldn't there be something similar in this application? Will explained that the reason not all of that language was brought forward in this application is because the western portion of this development was previously approved and most of it has been final platted. There is not any change there. The only change is the eastern portion. In addition, he advised that staff has been working with Health and Law Departments on potential amendment to the subdivision ordinance to include some sort of standardized notification to give better notice to the property owners. This area was previously approved and those same conditions approved previously are brought forward in this PUD.

Will further explained that the only change in the previous proposal is deletion of the remaining townhomes on the eastern portion and replacing the townhomes with apartments. That townhome CUP was approved prior to the joint task force between the Planning Commission and the Board of Health. The staff has been attempting to live up to the spirit and intent of those recommendations. With regard to Lots 110 and 111, Will suggested that one or both of those lots may develop in the future and at that point in time there would, at a minimum, be the language here or something that becomes more clearly defined in the ordinance.

Gaylor Baird inquired whether a potential buyer would be required to look at a site plan in order to become aware of the pipeline. And, if the ordinance is amended in the future, what would be the difference for the consumer? Will pointed out that the City's GIS system has a layer showing those pipelines. But he agreed that it would most likely require one to review the site plan to see that note about the pipeline. There has been some discussion about an amendment to require some more formal notification in the future, such as recording against the property where it would show up in a title search.

Esseks stated that in those deliberations about such a text amendment, he would appreciate consideration of some type of regulation that could prohibit development where there is a high risk of personal injury. The Health Department comments note that this project has a possibility of injury, and here they are recommending a 221 ft. buffer. It sounds as though there are some empirical parameters here that can guide us, or some sort of measure to improve the pipeline's capacity so that it will not rupture.

Carroll stated that the Planning Commission and the Board of Health reviewed this for over a year and put forth some recommendations which are being reviewed by staff. There will be some sort of text amendment in the future, but he does not want to delay this application.

Proponents

1. Tom Huston, 233 S. 13th Street, Suite 1900, appeared on behalf of **Cameron Townhomes, LLC**. This area was approved for a community unit plan of 164 townhomes 18 months ago. Since that time, sewer has been brought down so that the first phase of the townhomes is currently being developed, with 84 units being in the first phase. His client has considered the current economic conditions and recognized that there are fewer townhome purchasers and potentially more renters of apartments. This phase two is proposed as a conversion of townhomes to apartments, is adjacent to the major arterials of 84th and Yankee Hill Road, in close proximity to Highway 2 and next to a railroad track.

Because of the requirement to show connectivity to neighborhoods, the proposed site plan shows a connection to Lot 110 and Lot 111, if and when those owners ever choose to sell and develop for a higher intensity use. One of the other variables is the southeast corner of Lot 110 which is included in this PUD. The developer does not own this property and may need to revise the legal description and site plan to exclude that southeast corner prior to City Council if the developer cannot purchase that property. That southeast corner is separated from the improvements to Lot 110 by a natural wetlands area. It is possible that the developer will have an agreement to acquire this ½ acre in the southeast corner before this application goes to the City Council. It would help square off the lines of this development.

The connection to Lots 110 and 111 are through S. 85th Street. Planning and Public Works also wants the developer to show a connection on the east side of those lots in the event there is no 85th Street. The general standard is that the developer is required to show a projected "ghost" connection if Lot 110 were developed for high intensity use.

Opposition

1. Richard Johnston, 8140 S. 84th Street, the owner of Lot 110, testified in opposition. The first he learned of this application to change from townhomes to apartments was when he received the

letter from the city about this hearing. He has had no contact with the developers. He is disappointed and concerned about all of the traffic that will be added to this area with the number of apartments that are going to be built. He was pleased with the townhome development previously approved for this area. He has not entered into any negotiations about selling the southeast corner of his lot to the developer.

Johnston acknowledged that he has had some conversations with the engineer over the past couple of years, and he did receive a letter from the Yankee Hill Townhomes with an offer to purchase that southeast corner. He has not yet formally responded to that offer and certainly with this new proposal he may not be quite so inclined to favorably consider it.

Francis asked Mr. Johnston to describe the landscape barrier from his house to where the apartment complex would be built. Johnston stated that his acreage is one acre wide by five acres deep from west to east. The westernmost half of that acreage is landscaped and he has two outbuildings and a residence. To the east is mainly wetlands except for the southeast corner proposed in the Yankee Hill Apartments. The southeast corner is not wetlands, but developable land. He has access to the wetland area and has potential to enjoy it.

Staff questions

Esseks asked staff to discuss the southeast corner issue. Will explained that not including that southeast corner makes for a more difficult layout of this site. Staff had suggested that the developer should investigate including that southeast corner to provide for a better layout and better access and traffic flow. By doing it now, it allows some time between this public hearing and City Council hearing for those parties to have some discussion. It can be deleted if they cannot reach agreement.

Esseks inquired about access for the larger number of residents. Will stated that there are two main accesses, i.e. Dunrovin and Sutherland. And both Yankee Hill Road and 84th Street are arterial streets designed to handle that sort of traffic.

Dennis Bartels of Public Works stated that there is a requirement in an annexation agreement that by the end of next year Yankee Hill Road would be extended from the intersection of 84th Street east. With directed impact fees, the developer was supposed to develop it to the railroad tracks. The City has been planning to subsidize the project to close the gap between the railroad tracks and 91st Street. He anticipates that this year or next year that gap would be closed. There was also a requirement for temporary turn lanes in 84th Street to provide right-turn lanes, but that requirement has not been completed at this time. By the time construction of the apartments would occur and be occupied, the paving project should come together to add to the access. 84th and Yankee Hill will be busy roads, but development within the allowed density does not require any additional traffic study.

Response by the Applicant

Huston added that his client is aware of their obligation to build out Yankee Hill Road to make the connection to 91st Street, and that would have to be done prior to issuance of a certificate of occupancy for any apartments. The apartments are intended to be developed in two phases but the road improvements would be installed and constructed prior thereto.

Huston acknowledged that he should have contacted the Johnstons prior to this meeting. When he became aware of the requirement to acquire that southeast corner in the staff report, he did write the Johnstons a letter but they have probably not received it yet. His client would like to be able to negotiate with the Johnstons. If the Johnstons are not willing to sell the southeast corner, then his client would revise the site plan to exclude that portion prior to advancing this proposal to the City Council.

Francis inquired how many units would be lost without the southeast corner. Huston has not done the calculations, but he believes they would lose five apartment units. The biggest challenge is that ultimately they will be required to show a connection on the east side of Lot 111 with a private roadway or public street. So it will just result in a weird angle on the street.

Francis understands that the economy is driving the apartments, but isn't it just as easy to build townhomes and turn them into rentals as opposed to apartment buildings? Huston indicated the issue is basically cost and his client looks to serve a more affordable market.

ACTION BY PLANNING COMMISSION:

February 11, 2009

Sunderman moved to approve the staff recommendation of conditional approval, seconded by Taylor.

Sunderman believes this to be good use of the land and potential use of the southeast corner. One of the conditions of approval is that the applicant must demonstrate ownership of Lot 110, so that owner is protected at this point. The two parties need to negotiate.

Francis indicated that she has mixed feelings about the fact that they do not own the part of Lot 110 that they need to for this plan, and she is concerned about the increase in density.

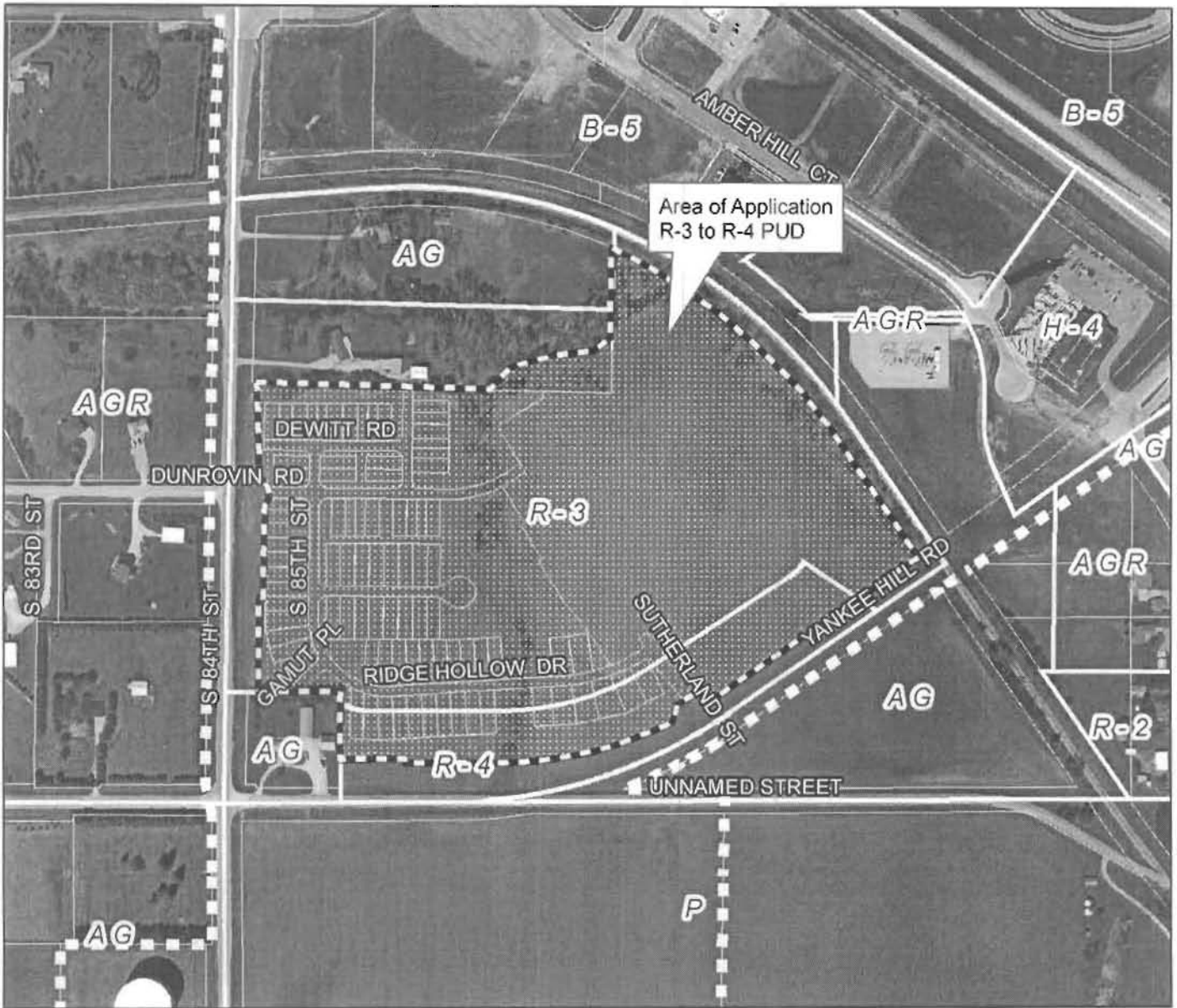
Esseks asked whether the Planning Commission has been flexible with owners of property for residential development and commercial development in the past from the standpoint of economic conditions and the market. He could only think of one case.

Carroll did not have specific cases as examples, but he believes the Planning Commission has always attempted to be flexible as long as they are staying within the realm of density factors and not putting more traffic into the neighborhood.

Sunderman stated that he is comfortable with the increased density to a great deal because of the B-5 that exists around it.

Carroll pointed out that the applicant and the Johnstons will still have an opportunity to negotiate about the southeast corner of Lot 110. If the Johnstons do not want to sell, the applicant can make adjustments that are necessary. Carroll does not believe the Planning Commission needs to be in that discussion. He does not believe that this development is that big of an increase in intensity and he agrees that there is a need to consider the economy and the need for affordable housing.

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

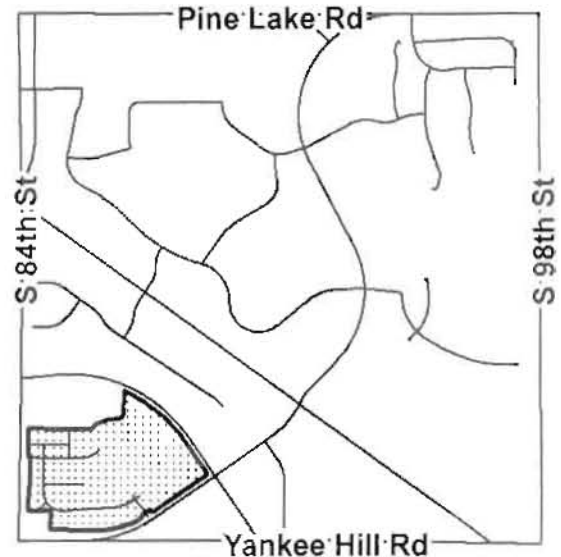
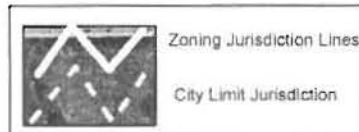


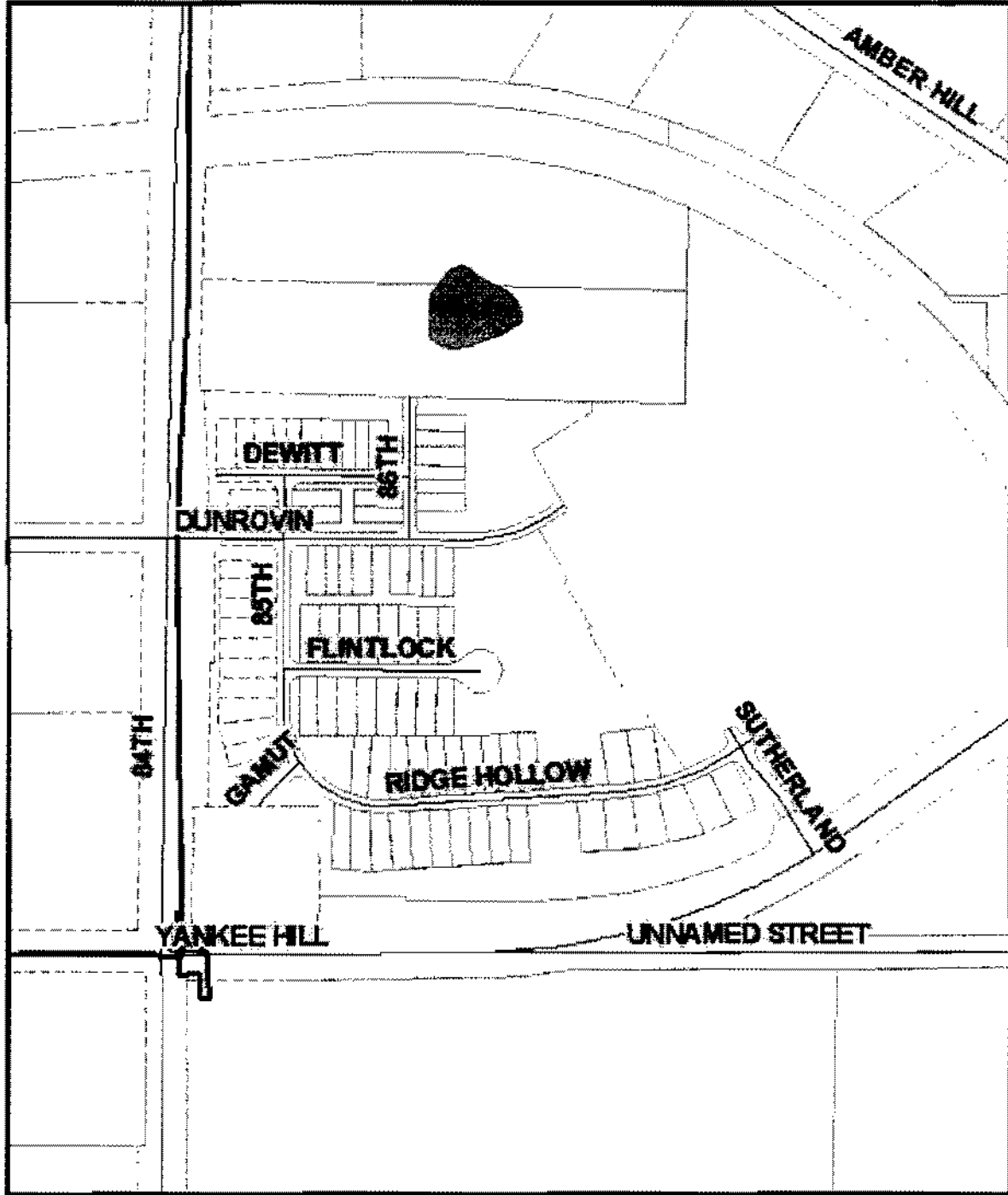
**Change of Zone #09003
Yankee Hill Apartments PUD
S 84th St & Yankee Hill Rd
Zoning:**

2007 aerial

One Square Mile
Sec. 23 T09N R07E

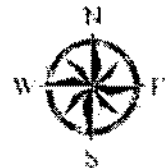
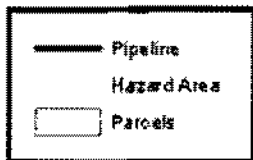
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial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





Yankee Hill Apartments

84th & Pine Lake RD



GENERAL NOTES

1. SANITARY SEWER AND WATER LINES TO BE 8" PIPE AND 6" PIPE RESPECTIVELY UNLESS OTHERWISE SHOWN AND TO BE BUILT TO CITY OF LINCOLN SPECIFICATIONS. SANITARYSEWER TO BE PUBLIC AND WATER MAINS TO BE PRIVATE.
2. THE CURRENT ZONING IS R-3 AND R-4.
3. THE DEVELOPER AGREES TO COMPLY WITH THE DESIGN STANDARDS OF THE CITY OF LINCOLN FOR EROSION CONTROL AND SEDIMENTATION DURING AND AFTER LAND PREPARATION AND FURTHER TO SUBMIT A SEEDING AND MAINTENANCE SCHEDULE BEFORE SITE GRADING IS COMPLETE.
4. ALL DIMENSIONS ALONG CURVES ARE CHORD DISTANCES.
5. ALL PAVING RADII TO BE 20' UNLESS OTHERWISE NOTED.
6. TOTAL AREA OF PUD = 36.48 ACRES.
36.48 ACRES X 13.93 UNITS PER ACRE = 508 MAX UNITS.
7. TOTAL UNITS: 432
MULTI-PLEX UNITS: 348
TOWNHOUSES UNITS: 84
DENSITY = 432 UNITS / 36.48 ACRES = 11.84 UNITS PER ACRE
8. ALL INTERSECTION ANGLES SHALL BE 90° ±10° UNLESS OTHERWISE NOTED.
9. ALL DISABLED PARKING STALLS SHALL BE IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, (FEDERAL REGISTER/VOL. 58, NO. 144/RULES AND REGULATIONS).
10. ALL ELEVATIONS ARE BASED ON NAVD 1988.
11. THE DEVELOPER AGREES TO COMPLY WITH PROVISIONS OF THE LAND SUBDIVISION ORDINANCE REGARDING LAND PREPARATION.
12. THE DEVELOPER RESERVES THE RIGHT TO BUILD ANYWHERE WITHIN THE BUILDABLE LOT IN COMPLIANCE WITH THE SETBACKS AND ALLOWED EXCEPTIONS FOR THE R-4 ZONING DISTRICT PER LINCOLN MUNICIPAL CODE TITLE 27.
13. BUILDING HEIGHT SHALL NOT EXCEED 35 FEET IN HEIGHT.
14. THE RECREATIONAL FACILITY SHALL BE A 1/2 BASKETBALL COURT AND A TOT LOT IN COMPLIANCE WITH THE NATIONAL CONSUMER SAFETY GUIDELINES.
15. DIRECT VEHICULAR ACCESS TO YANKEE HILL ROAD AND SOUTH 84TH STREET IS RELINQUISHED EXCEPT AS SHOWN.
16. DETAILS OF ALL SIGNS, INCLUDING TYPE, EXACT LOCATION, HEIGHT AND SIZE, WILL BE SUBMITTED SEPARATELY AT TIME OF BUILDING PERMIT. THEY WILL BE DESIGNED IN ACCORDANCE WITH CITY OF LINCOLN DESIGN STANDARDS PER ORDINANCE 27.69.
17. ACCESSORY BUILDINGS ARE NOT SHOWN ON THE SITE PLAN BUT MAY BE CONSTRUCTED IF THEY ARE 25' BY 25' OR SMALLER AND ARE CONSTRUCTED OUTSIDE THE SETBACKS, SIGHT TRIANGLES, EASEMENTS AND REQUIRED MINIMUM PARKING, AND ARE IN CONFORMANCE WITH ALL OTHER APPLICABLE REQUIREMENTS.
18. ALL REQUIRED LANDSCAPING TO BE PROVIDED IN COMPLIANCE WITH THE CITY OF LINCOLN DESIGN STANDARDS. REQUIRED LANDSCAPING AND SCREENING TO BE REVIEWED AT TIME OF BUILDING PERMITS.
19. SIDEWALKS SHALL BE CONSTRUCTED ON BOTH SIDES OF STREETS AND PRIVATE ROADWAYS. INTERNAL PEDESTIAN SIDEWALKS TO BE PROVIDED IN COMPLIANCE WITH THE CITY OF LINCOLN DESIGN STANDARDS AT THE TIME OF BUILDING PERMITS AND FINAL BUILDING DESIGN IS COMPLETE.
20. ALL PARKING LOT ISLANDS SHALL BE RAISED CONCRETE CURB AND GUTTER MEDIANS.
21. ALL OUTLOT AREAS ARE TO BE MAINTAINED BY THE DEVELOPER AND/OR FUTURE HOMEOWNERS ASSOCIATION.
22. UTILITY EASEMENTS TO BE PROVIDED AS REQUESTED BY L.E.S.
23. ALL DRIVES SHALL BE 24' WIDE TYPICAL UNLESS OTHERWISE NOTED.
24. THE SALE OF ALCOHOL SHALL CONFORM WITH THE ZONING ORDINANCE IN THE PROPOSED B-2 AREA.
25. STREET TREES TO BE REVIEWED AT TIME OF FINAL PLAT AND ASSIGNED BY PARKS AND RECREATION. STREET TREES ON PRIVATE STREETS SHALL BE PLANTED AT LEAST FIVE (5) FEET FROM THE BACK OF SIDEWALK.
26. TOWNHOME DECKS AND PATIOS SHALL NOT BE ENCLOSED OR COVERED IF THEY ARE WITHIN THE FRONT OR SIDE YARD SETBACKS.
27. ANY REQUIREMENT IN THE YANKEE HILL APARTMENTS P.U.D., EXCEPT FOR NON-PERMITTED USES, MAY BE AMENDED BY ADMINISTRATIVE AMENDMENT APPROVED BY THE PLANNING DIRECTOR. A SITE PLAN IS REQUIRED WITH THE ADMINISTRATIVE AMENDMENT.
28. PUBLIC ACCESS EASEMENTS WILL BE GRANTED OVER PRIVATE DRIVES TO PROVIDE ACCESS TO I.T. LOT 111 AT TIME OF BUILDING PERMITS PHASE II.
29. BUILDING FOOT PRINTS ARE CONCEPTUAL AND MAY VARY AT TIME OF BUILDING PERMITS.
30. IMPACTS TO WETLANDS AND MITIGATION ARE PROCEEDING IN ACCORDANCE WITH THE 404 PERMIT FOR YANKEE HILL TOWNHOMES.



January 14, 2008

Mr. Marvin Krout
Planning Department
555 South 10th St., Suite 213
Lincoln, NE 68508

Re: Yankee Hill Apartments
Planned Unit Development (P.U.D)
Olsson Project No. 008-2860

Dear Marvin:

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

1. Special Permit Application
2. Legal Description and Exhibit
3. Special Permit Submittal Fee (\$3,720.00)
4. 1 copy of the Ownership Certificate
5. 21 copies of the Cover Sheet and Site Plan
6. 9 copies of the Grading Plan
7. 1 - 8 ½ x 11 copy of the cover sheet, site plan, and general notes

We are submitting this Planned Unit Development on behalf of the owner and developer, Yankee Hill Townhomes LLC, The P.U.D consists of Yankee Hill Townhomes Addition, Lot 124 I.T. and a portion of Lot 110 I.T, located in Section 23, Township 9 North, Range 7 East of the 6th P.M., City of Lincoln, Lancaster County, Nebraska.

The property is currently zoned R-3 and is being developed in accordance with the Yankee Hill Townhomes Community Unit Plan which was approved in March 2007. The property is subject to the Jensen Park Estates Annexation and Zoning agreement. The western area of the development has been platted as Yankee Hill townhomes Addition and townhomes are under construction. The owners propose to change the site plan for the eastern property and plan to construct apartments on this remaining land. The storm water detention cell and existing wetlands create a natural divide between the two residential uses.

We are requesting a change of zone to R-4 PUD over the entire property to maximize the allowable density for the apartments. The PUD also allows for a potential commercial parcel to be constructed west of Sutherland Street at the Yankee Hill road intersection. The developer would like to test the market interest in this commercial space and reserves the option to construct townhomes if this commercial space is not financially feasible. An administrative amendment to the PUD site plan will be required by the Planning department that shows the proposed commercial site plan prior to approval of building permits for the commercial property.

The developer is in the process of finalizing an agreement with the owner of lot 110 I.T. to acquire the southeastern portion of his property which is inaccessible to him due to drainage channels and wetlands. This property is being incorporated in the R-4 P.U.D.

We have met with Steve Henrichsen and Brian Will on a number of occasions to gain Planning department feedback on this proposed change to the development. We have discussed the

Mr. Marvin Krout
January 14, 2009
Page 2

apartment layout, required amenities, access to neighboring properties, potential commercial uses, and future access to Jensen Park. We have also met with Dennis Bartels at Engineering Services to review the proposed utility service to the apartment development and future development to the south.

We propose to phase the development as shown on the PUD site plans. This will allow time for the access issues to Lot 111 I.T. to be resolved. We have two potential access locations shown for this property and it is a matter of timing as to which access will be necessary when Phase 2 is developed.

The following waivers to the Lincoln Municipal Code and City Design Standards were approved with the previous C.U.P, and we are requesting they be transferred to this P.U.D:

Lincoln Municipal Code:

1. Adjust minimum average lot width to less than 50'.
2. Adjust the minimum lot area to less than 6,000 square feet.
3. Adjust front, side, and rear setbacks.
4. Allow lots without frontage to a public street or private roadway.

Design Standards:

1. Allow sanitary sewer to flow opposite street grades.

If you require further information or have any questions, please call either myself at (402) 458-5632, or Tom Huston at Cline, Williams, Wright, Johnson, and Oldfather, LLP at (402) 479-7134

Sincerely,



Mark C. Palmer P.E.

CC Breck Collingsworth, Yankee Hill Townhomes, LLC
Tom Huston, Cline, Williams, Wright, Johnson and Oldfather LLP
Brad Marshall, Olsson Associates

**Review Comments for
Application #: CZ09003**

S 84TH & YANKEE HILL RD

Comments as of: Thursday, January 29, 2009

Status of Review: Approved

01/16/2009 2:30:21 PM

Reviewed By: Building & Safety

ANY

Comments: approved

Status of Review: FYI

01/16/2009 3:03:39 PM

Reviewed By: Building & Safety

Terry Kathe

Comments: How do you require development to maintain a driveway for any new development from the northeast connection from the apts. Probably would have to be a private roadway.

Reviewed By: Health Department

ANY

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

TO: Brian Will DATE: January 23, 2009

DEPARTMENT: Planning FROM: Chris Schroeder
ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: Yankee Hill
EH Administration Apartments PUD
CZ #09003

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

According to the LLCHD's Geographic Information System (GIS) records, a high pressure underground natural gas pipeline is located along the western 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 221 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 serious 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. Active recreation areas which would regularly draw large groups of people, such as playgrounds and baseball/soccer fields should not be placed in the Hazard Area as well. 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.

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.

A portion of the proposed development is located within the Pine Lake Wellhead Protection Area. Best management practices (BMP) should be utilized to decrease

the risk of groundwater contamination. For example, being conscientious regarding the use of lawn chemicals/ fertilizers and ensuring the proper the storage of chemicals and/or fuels.

Status of Review: Active

Reviewed By: Lincoln Electric System

JIM HENNESSY

Comments:

Status of Review: Active

Reviewed By: Parks & Recreation

ANY

Comments:

Status of Review: Active

Reviewed By: Planning Department

BRIAN WILL

Comments:

Status of Review: Routed

Reviewed By: Planning Department

COUNTER

Comments:

Status of Review: Complete

01/28/2009 3:35:43 PM

Reviewed By: Public Works - Development Services

SIETDQ

Comments: M e m o r a n d u m

[
[

To: Brian Will, Planning Department
From: Chad Blahak, Public Works and Utilities
Subject: Yankee Hill Townhomes PUD Change of Zone #09003
Date: January 22, 2009
cc:

[

Engineering Services has reviewed the submitted plans for the Yankee Hill Townhomes PUD, located on the northeast corner of 84th and Yankee Hill Road and has the following comments:

"1 Public Works approves the requested waiver of design standards to construct sanitary sewer opposite of street grade provided that minimum and maximum depths are not exceeded.

"□The proposed public water main extensions near the intersection of Sutherland and Ridge Hollow will need to be revised at the time construction plans are submitted for approval. The private 6" service for the apartment complex will begin near the intersection tapping part of the existing public main.

"□A private roadway needs to be extended to Lot 111 prior to the construction of Phase I as shown in the Phasing Plan on sheet 1 of 3 in the PUD plan set.

Status of Review: Active

Reviewed By: Public Works - Long Range Planning

ANY

Comments:

Status of Review: Complete

01/29/2009 9:28:51 AM

Reviewed By: Public Works - Watershed Management

NCSBJW

Comments: Brian,

As I mentioned yesterday, I think that Oulot E which was shown as detention on the Yankee Hill Townhome plan should be noted as a detention area on the Yankee Hill Apartments PUD.

Devin Biesecker, PE
City of Lincoln
Public Works and Utilities
Watershed Management
441-4955

023



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

January 6, 2010

Brad Marshall
Olsson Associates
1111 Lincoln Mall, Suite 111
Lincoln, NE 68508

RE: **Change of Zone No. 09003, Yankee Hill Apartments PUD**
(South 84th Street and Yankee Hill Road)

Dear Brad:

On February 11, 2009, the Planning Commission recommended conditional approval of the Yankee Hill Apartments Planned Unit Development, as set forth in the staff report dated January 27, 2009, to develop 517 dwelling units and 30,000 sq. ft. of commercial floor area, on property generally located at South 84th Street and Yankee Hill Road. I believe the approval of this PUD also required an amendment to the Jensen Park Estates Conditional Annexation and Zoning Agreement.

This application has not previously been scheduled on the City Council agenda at the request of Tom Huston.

Please be advised that pursuant to ordinances previously adopted by the Lincoln City Council, this planned unit development application will expire and become null and void on **February 11, 2010**, unless a request is received by the Planning Director from the applicant to remove this application from pending status and schedule on the City Council agenda.

If you have any questions, please do not hesitate to contact the project planner, Brian Will, at 441-6362, or bwill@lincoln.ne.gov.

Sincerely,

Marvin S. Krout
Director of Planning

q:\shared\wpj\lu\expiration letters\CZ09003

cc: Tom Huston, 233 S. 13th Street, Suite 1900, 68508
Yankee Hill Townhomes, LLC, 8040 Eiger Drive, 68516
Richard Johnston, 8140 S. 84th Street, 68517

CLINE WILLIAMS
WRIGHT JOHNSON & OLDFATHER, L.L.P.

ATTORNEYS AT LAW
ESTABLISHED 1857

233 SOUTH 13 STREET
1900 U.S. BANK BUILDING
LINCOLN, NEBRASKA 68508-2095

(402) 474-6900 • FAX (402) 474-5393

www.clinewilliams.com

January 11, 2010

L. BRUCE WRIGHT
JAMES M. BAUSCH
ROBERT J. ROUIM
DAVID R. BUNTAIN
STEPHEN H. NELSEN
MICHAEL C. MUELLER
DANIEL R. STODSDILL
SCOTT D. KELLY
TERRY R. WITTLER
MARK A. CHRISTENSEN
RICHARD P. GARDEN, JR.
SHAWN D. KENNER
JOHN C. WILES
MARY KAY O'CONNOR
THOMAS C. HUSTON
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SUSAN KUBERT BAMP
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ANDREW D. STROTSMAN
CARY K. BATENHORST
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ANDREW R. WILLIS
TARA A. STINGLEY
BRANDON K. DICARSON
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DARIN L. WHITMER
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RICHARD P. JEFFRIES

ALVIN COLLERAN, 1941-2005

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

Re: Change of Zone #09003
Yankee Hill Apartments R-4 Planned Unit Development
Our File: 3502.031

Dear Mr. Krout:

This firm represents Yankee Hill Townhomes, LLC, which is the applicant for Change of Zone #09003 (PUD) for the property located at South 84th Street and Yankee Hill Road. The Lincoln City/Lancaster County Planning Commission made a recommendation of conditional approval of this Change of Zone on February 11, 2009. To date, my client has not proceeded to take this matter to the City Council due to the need to further amend the existing Annexation Agreement. However, to avoid having the recommendation of the Planning Commission expire, my client has requested that the matter be placed on the agenda of the Lincoln City Council and be classified as a "pending" matter until we can bring the Amendment to the Annexation Agreement forward.

In connection with the conditions of approval imposed by the Planning Commission's recommendation, my client needed to address items 1.1 and 1.2. Initially, the boundaries of the Planned Unit Development included a small portion of Lot 110, located to the north of this development. My client has determined to not include a portion of Lot 110 and thus I enclose:

1. A legal description for the boundaries of the PUD which excludes any portion of Lot 110, Irregular Tract; and

1121258.1

ONE PACIFIC PLACE
1125 SOUTH 103RD, SUITE 320
OMAHA, NE 68124-1900
(402) 397-1700

1267 M STREET
P.O. BOX 510
AURORA, NE 68818
(402) 654-8314

RAILWAY OFFICE PLAZA
115 RAILWAY STREET, SUITE A-115
SCOTT'S BLUFF, NE 69381
(308) 635-1020

OPERA GALLERIA
123 N. COLLEGE AVENUE, SUITE 300
FORT COLLINS, CO 80524
(970) 221-2637

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JAN 12 2010

Lincoln City/Lancaster County
Planning Department

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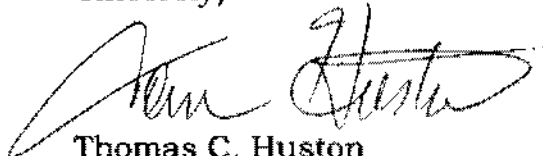
January 11, 2010
Page 2

2. A drawing of Lot 124, Irregular Tract, located in the Southwest Quarter of Section 23, Township 9 North, Range 7 East of the 6th P.M., City of Lincoln, Lancaster County, Nebraska, which contains 36.48 acres.

Since the small portion of Lot 110, Irregular Tract, has been removed from the boundaries of the PUD, we will not be submitting any ownership evidence that my client owns any portion of Lot 110.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tom Huston".

Thomas C. Huston
For the Firm

Enc.
C: Breck Collingsworth
Mark Palmer

1121258.1

LEGAL DESCRIPTION

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF LOT 124 I.T., OUTLOTS "A", "B", "C", "D", "E", "F", "G" AND "H" YANKEE HILL TOWNHOMES, LOTS 1 THROUGH 12 BLOCK 1, LOTS 1 THROUGH 4 BLOCK 2, LOTS 1 THROUGH 6 BLOCK 3, LOTS 1 THROUGH 10 BLOCK 4, LOTS 1 THROUGH 36 BLOCK 5, AND LOTS 1 THROUGH 16 BLOCK 6, YANKEE HILL TOWNHOMES, ALL LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF OUTLOT "A", YANKEE HILL TOWNHOMES, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTH 84TH STREET, SAID POINT ALSO BEING THE **TRUE POINT OF BEGINNING**; THENCE EASTERLY ALONG THE NORTH LINE OF SAID OUTLOT "A", A NORTH LINE OF OUTLOTS "H" AND "C", YANKEE HILL TOWNHOMES, AND A NORTH LINE OF LOT 124 I.T., SAID LINE BEING THE SOUTH LINE OF LOT 110 I.T., ON AN ASSUMED BEARING OF SOUTH 88 DEGREES 29 MINUTES 05 SECONDS EAST, A DISTANCE OF 969.88 FEET TO THE SOUTHEAST CORNER OF SAID LOT 110 I.T., SAID POINT BEING A NORTH CORNER OF SAID LOT 124 I.T., THENCE NORTH 00 DEGREES 56 MINUTES 06 SECONDS EAST ALONG A WEST LINE OF SAID LOT 124 I.T., SAID LINE BEING THE EAST LINE OF SAID LOT 110 I.T., AND THE EAST LINE OF LOT 111 I.T., A DISTANCE OF 394.85 FEET TO THE MOST NORTHERN CORNER OF SAID LOT 124 I.T., SAID POINT BEING A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A RADIUS OF 1,550.44 FEET, A CENTRAL ANGLE OF 28 DEGREES 23 MINUTES 00 SECONDS, AN ARC DISTANCE OF 768.06 FEET ALONG A NORTHEAST LINE OF SAID LOT 124 I.T., A TANGENT LENGTH OF 392.08 FEET, A CHORD BEARING OF SOUTH 51 DEGREES 14 MINUTES 05 SECONDS EAST, AND A CHORD DISTANCE OF 760.23 FEET TO A POINT; THENCE SOUTH 34 DEGREES 46 MINUTES 57 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 124 I.T., A DISTANCE OF 438.99 FEET TO THE MOST EASTERN CORNER OF SAID LOT 124 I.T., SAID POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF YANKEE HILL ROAD; THENCE SOUTH 55 DEGREES 20 MINUTES 07 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID LOT 124 I.T., SAID LINE BEING A NORTHWEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 676.74 FEET TO A SOUTHEAST CORNER OF SAID LOT 124 I.T.; THENCE NORTH 34 DEGREES 40 MINUTES 17 SECONDS WEST ALONG A SOUTHWEST LINE OF SAID LOT 124 I.T., SAID LINE BEING A NORTHEAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 13.74 FEET TO A POINT; THENCE NORTH 78 DEGREES 11 MINUTES 39 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 124 I.T., SAID LINE BEING A NORTH LINE OF

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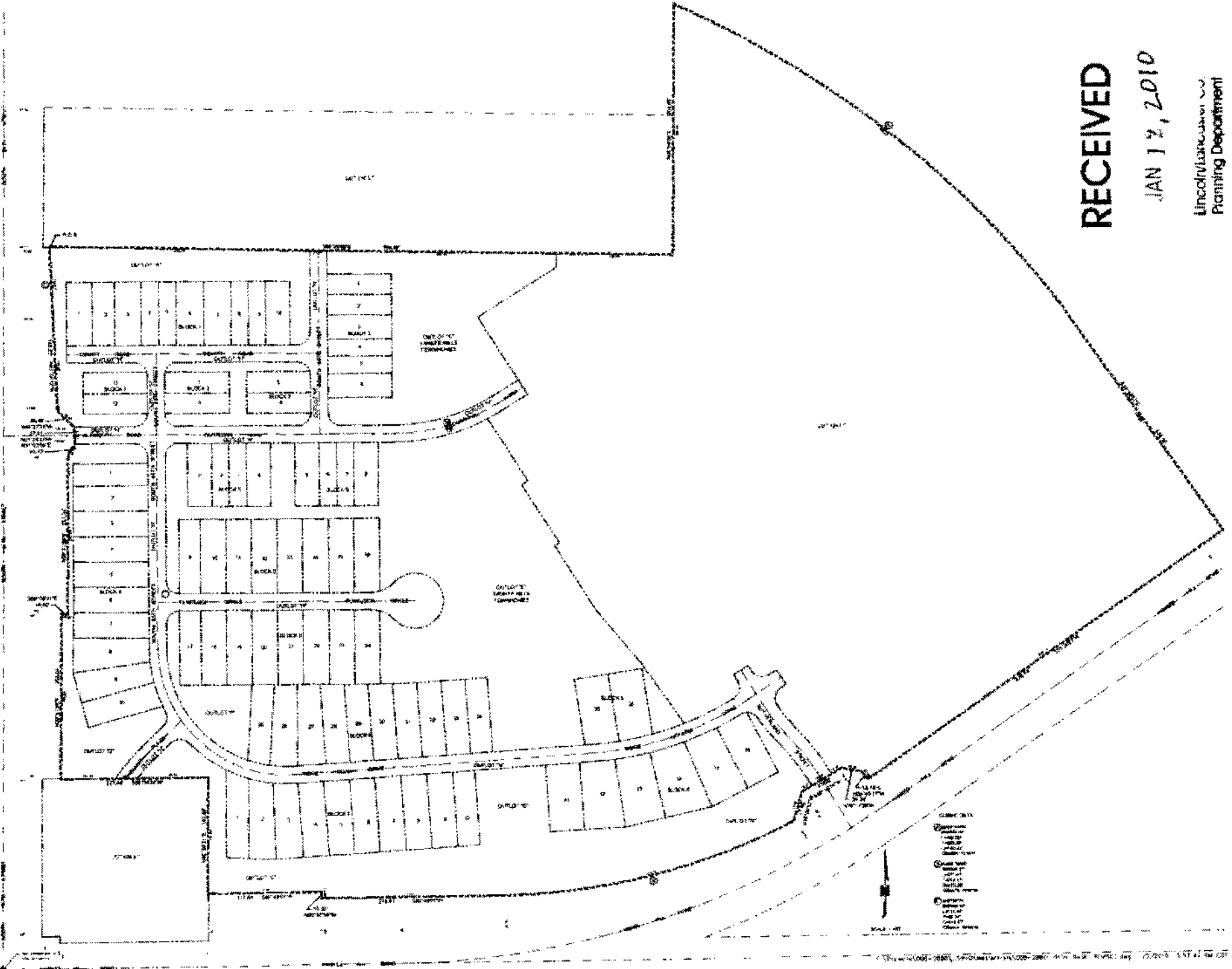
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SAID RIGHT-OF-WAY, A DISTANCE OF 34.34 FEET TO A POINT; THENCE SOUTH 59 DEGREES 16 MINUTES 04 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID LOT 124 I.T., AND A SOUTHEAST LINE OF OUTLOTS "H" AND "G", YANKEE HILL TOWNHOMES, SAID LINE BEING A NORTHWEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 73.00 FEET TO A POINT; THENCE SOUTH 16 DEGREES 09 MINUTES 52 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID OUTLOT "G", SAID LINE BEING A NORTHWEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 47.68 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A RADIUS OF 1,029.27 FEET, A CENTRAL ANGLE OF 26 DEGREES 34 MINUTES 45 SECONDS, AN ARC DISTANCE OF 477.47 FEET ALONG A SOUTH LINE OF SAID OUTLOT "G", SAID LINE BEING A NORTH LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 243.11 FEET, A CHORD BEARING OF SOUTH 76 DEGREES 31 MINUTES 44 SECONDS WEST, AND A CHORD DISTANCE OF 473.20 FEET TO A POINT; THENCE SOUTH 89 DEGREES 49 MINUTES 01 SECONDS WEST ALONG A SOUTH LINE OF SAID OUTLOT "G", SAID LINE BEING A NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 275.61 FEET TO A POINT; THENCE NORTH 00 DEGREES 10 MINUTES 59 SECONDS WEST ALONG A WEST LINE OF SAID OUTLOT "G", SAID LINE BEING A EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 10.00 FEET TO A POINT; THENCE SOUTH 89 DEGREES 49 MINUTES 01 SECONDS WEST ALONG A SOUTH LINE OF SAID OUTLOT "G", SAID LINE BEING A NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 177.88 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT "G"; THENCE NORTH 00 DEGREES 50 MINUTES 31 SECONDS EAST ALONG A WEST LINE OF SAID OUTLOT "G", A DISTANCE OF 182.89 FEET TO A WEST CORNER OF SAID OUTLOT "G"; THENCE SOUTH 89 DEGREES 50 MINUTES 24 SECONDS WEST ALONG A SOUTH LINE OF SAID OUTLOT "G", AND A SOUTH LINE OF OUTLOTS "H" AND "D", YANKEE HILL TOWNHOMES, A DISTANCE OF 227.68 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT "D", SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTH 84TH STREET; THENCE NORTH 00 DEGREES 51 MINUTES 59 SECONDS EAST ALONG A WEST LINE OF SAID OUTLOT "D", SAID LINE BEING A EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 258.04 FEET TO A POINT; THENCE SOUTH 89 DEGREES 08 MINUTES 01 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "D", SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 10.00 FEET TO A POINT; THENCE NORTH 00 DEGREES 51 MINUTES 59 SECONDS EAST ALONG A WEST LINE OF SAID OUTLOT "D", SAID LINE BEING A EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 251.34 FEET TO A POINT; THENCE NORTH 31 DEGREES 22 MINUTES 54 SECONDS EAST ALONG A NORTHWEST LINE OF SAID OUTLOT "D", SAID LINE BEING A SOUTHEAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 20.73 FEET TO A SOUTHWEST CORNER OF OUTLOT "H", YANKEE HILL TOWNHOMES, SAID POINT BEING ON THE EAST LINE OF SAID RIGHT-

OF-WAY; THENCE NORTH 01 DEGREES 08 MINUTES 13 SECONDS WEST ALONG A WEST LINE OF SAID OUTLOT "H", SAID LINE BEING A EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 27.01 FEET TO A SOUTHWEST CORNER OF OUTLOT "A", YANKEE HILL TOWNHOMES; THENCE NORTH 44 DEGREES 37 MINUTES 31 SECONDS WEST ALONG A SOUTHWEST LINE OF SAID OUTLOT "A", SAID LINE BEING A NORTHEAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 36.46 FEET TO A POINT; THENCE NORTH 01 DEGREES 55 MINUTES 12 SECONDS WEST ALONG A WEST LINE OF SAID OUTLOT "A", SAID LINE BEING A EAST LINE OF SAID SAID RIGHT-OF-WAY, A DISTANCE OF 140.20 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A RADIUS OF 7,940.00 FEET, A CENTRAL ANGLE OF 00 DEGREES 50 MINUTES 31 SECONDS, AN ARC DISTANCE OF 116.67 FEET ALONG A WEST LINE OF SAID OUTLOT "A", SAID LINE BEING A EAST LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 58.34 FEET, A CHORD BEARING OF NORTH 01 DEGREES 59 MINUTES 49 SECONDS WEST, AND A CHORD DISTANCE OF 116.67 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 1,588,952.11 SQUARE FEET OR 36.48 ACRES, MORE OR LESS.

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