City Council Introduction: **Monday**, February 11, 2013
Public Hearing: **Monday**, February 25, 2013, at **5:30** p.m.

Bill No. 13-22

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 12021**, the **Interstate Land Planned Unit Development,** requested by Interstate Land, LLC, on property generally located at N.W. 12th Street and Cornhusker Highway.

STAFF RECOMMENDATION: Denial

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 12/12/12
Administrative Action: 12/12/12

RECOMMENDATION: Denial (5-0: Lust, Weber, Butcher, Hove and Cornelius voting 'yes'; Gaylor Baird, Francis and Sunderman absent).

FINDINGS OF FACT:

1. This proposed ***Interstate Land Planned Unit Development*** requests a change of zone from I-1 Industrial to R-3 Residential PUD on approximately 88 acres, more or less, generally located at N.W. 12th Street and Cornhusker Highway. The application offers two options: Option A identifies 2 hotels, campground, cemetery, outdoor recreational area and employment center; Option B is the same as Option A, except it replaces a portion of the recreational area/employment center with 678 multi-family dwelling units and shows a new street access to Cornhusker Highway.

2. The staff recommendation to deny the proposed PUD is based upon the "Analysis" as set forth on p.4-6, concluding that the proposed development is not in conformance with the 2040 Comprehensive Plan. The area is designated as part of an industrial center and shown as industrial in the Comprehensive Plan. The area is not appropriate for residential uses, including a campground. This area should remain for light industrial or employment center type uses. All of the proposed uses are allowed in the I-1 Industrial District except the multi-family and campground. Thus, a PUD is not needed for the other uses requested. This proposal is not an appropriate use of the PUD. The staff presentation is found on p.11-12.

3. The Lincoln Airport Authority and Health Department indicated this tract is not suitable for residential development, and the Fire Department expressed concern that emergency access could be blocked by trains whether there is one or two at-grade crossings. Public Works expressed opposition to creating an additional at-grade rail crossing at this location.

4. The applicant's testimony is found on p.12-14. Peter Katt, on behalf of the applicant, submitted that a) access is indeed a problem; however, a private owner cannot fix access, and Katt urged that the City needs to provide assistance in that regard; b) that the PUD actually proposes the underlying zoning district of H-3 as opposed to R-3 for the ability to have all H-3 uses and R-5 uses (multi-family); and that H-3 is a good use to provide transition between industrial and residential and interstates (See Minutes, p.13-14).

5. Testimony in opposition on behalf of Union Pacific Railroad and Pfizer, Inc., is found on p.14, and the record consists of two letters in opposition from the same opponents (p.31-34). Union Pacific is opposed to an at-grade crossing and Pfizer is opposed to an access road to the proposed development across Pfizer property.

6. On December 12, 2012, the Planning Commission agreed with the staff recommendation and voted 5-0 to recommend **denial** of the proposed PUD (See Minutes, p.16-17).

FACTSHEET PREPARED BY: Jean L. Preister **DATE**: February 4, 2013

REVIEW ED BY: Marvin Krout, Director of Planning **DATE**: February 4, 2013

REFERENCE NUMBER: FS\CC\2013\CZ12021 PUD

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for DECEMBER 12, 2012 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No.12021, Interstate Land Planned Unit Development

PROPOSAL: From I-1, Industrial to R-3 Planned Unit Development (PUD)

LOCATION: NW 12th St and Cornhusker Highway

LAND AREA: 88 acres, more or less

EXISTING ZONING: I-1, Industrial

WAIVER /MODIFICATION REQUEST:

1. To submit information accompanying a preliminary plat with a future administrative amendment.

CONCLUSION: The proposed development is not in conformance with the 2040 Comprehensive Plan. The area is designated as a industrial center and shown as industrial in the Comprehensive Plan. The area is not appropriate for residential uses, including the campground. This area should remain for light industrial or employment center type uses. all of the proposed uses are allowed in the I-1 District except, the multi-family and campground. Thus, a PUD is not needed for the other uses. This proposal is not an appropriate use of the PUD.

RECOMMENDATION:	Denial
Waivers:	
1. For information accompanying a preliminary plat for a PUD to be submitted with an administrative amendment	Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION:

EXISTING LAND USE: Undeveloped/Agricultural

SURROUNDING LAND USE AND ZONING:

North:	P, Public	Nebraska Public Power District sub station.
	I-1, Industrial	Undeveloped
South:	I-1, Industrial	Oak Creek
	R-2, Residential	Single family dwellings south of Oak Creek.
East:	I-1, Industrial	railroad tracks and manufacturing
West:	P, Public	Interstate 80 and the Lincoln Airport

HISTORY:

August 21, 2002	CPC #02005 for a conservation easement over part of the applicant's site was approved by the Planning Commission.
October 23, 2006	Miscellaneous #06013 for the Northwest Corridors Redevelopment Area: Blight Study was approved by the City Council.
November 6, 2006	CPC #06013 for the Northwest Corridors Redevelopment Plan was approved by the City Council.
July 3, 2008	Las Brisas final plat located directly to the north was approved by the Planning Director.

COMPREHENSIVE PLAN SPECIFICATIONS:

LPlan 2040 is the basis for zoning and land development decisions. It guides decisions that will maintain the quality and character of the community's new and established neighborhoods. (p. 1.2)

The community's present infrastructure investments should be maximized by planning for well-designed and appropriately-placed residential and commercial development in areas with available capacity. (p. 2.7)

Mixed use redevelopment, adaptive reuse, and well-designed and appropriately-placed infill development, including residential, commercial and retail uses, are encouraged. These uses may develop along transit routes, at major nodes, and near employment centers to provide residential opportunities for persons who do not want to or cannot drive an automobile. (p. 2.8)

Moderate to Heavy Industrial Centers should be over 80 acres in size. Moderate to Heavy Industrial centers are primarily for manufacturing, processing and assembly. (p. 5.16)

New industrial centers should be distant from existing or planned residential areas.(p. 5.16)

This site is shown as a proposed Moderate to Heavy Industrial Center on Map 5.2 Existing and Proposed Industrial Centers in the 2040 Lincoln/Lancaster County Comprehensive Plan. (p. 5.17)

Mixed Use Redevelopment should: (p. 6.2)

- Target existing underdeveloped or redeveloping commercial and industrial areas in order to remove blighted conditions and more efficiently utilize existing infrastructure.
- Occur on sites supported by adequate road and utility capacity.
- Enhance entryways when developing adjacent to these corridors.
- Help to create neighborhoods that include homes, stores, workplaces, schools and places to recreate.
- Encourage preservation or restoration of natural resources within or adjacent to mixed use redevelopment areas.

Strategies for housing include:(p. 7.4)

- Discourage residential development in areas of environmental resources such as endangered species, saline wetlands, native prairies, and in floodplain corridors.
- Provide adequate spacing from pipelines and areas where hazardous chemicals could be used and stored.
- Encourage substantial connectivity and convenient access to neighborhood services (stores, schools, parks) from residential areas.

Eliminating at-grade vehicular-train conflicts is a primary objective of LPlan 2040 through the Railroad Transportation Safety District.. Removal of such conflicts will enhance safety, reduce delays, and improve emergency access. (p.10.19)

This area is identified as Industrial on the 2040 Lincoln Area Future Land Use Plan in the 2040 Lincoln/Lancaster County Comprehensive Plan. (p. 12.3)

This following is from the Northwest Corridors Redevelopment Plan. The Redevelopment Plan identifies several guiding principles, including:

> 1. Areas that require redevelopment, including areas with obsolete land uses or unresolvable land use conflicts, should be developed in ways that strengthen existing commercial, industrial, and residential investments.
>
> 2. establish defensible edges between residential and non-residential uses. Use streets or green ways to provide boundaries, thus realizing the benefits of mixed use while screening the negative effects of commercial and industrial growth on residential environments.

UTILITIES:
All utilities are available to serve this site.

PUBLIC SERVICE:
The nearest elementary school is West Lincoln located at NW 7th St. and West Dawes Ave.

ENVIRONMENTAL CONCERNS:
A portion of the site is within the 100 year flood plain.

ANALYSIS:

1. This application is for a Planned Unit Development (PUD). There are 2 options.(see attached) Option A identifies 2 hotels, campground, cemetery, outdoor recreational area and employment center. Option B is the same as Option A except it replaces a portion of the recreational area with 678 multi-family dwelling units and has a new street access to Cornhusker Highway.

2. The site is bounded by Interstate 80 on the west, railroad tracks on the east, Oak Creek to the south and industrial zoning to the north. The site is fairly isolated with N.W. 12th St. being the only access.

3. The site is not suitable for residential uses. The Lincoln-Lancaster County Health Department (LLCHD) recommends denial to both options. LLCHD recommends denial due to the proposed campground and the proposed multi-family's location to the industrial zoning. LLCHD recommends a 300 foot separation between residential populations and industrial zoning. A goal of the Comprehensive Plan is that industrial and residential should be separated.

4. The City Fire Department does not support residential populations with the only access being across a railroad track.

5. A second access is shown on Option B. It would be an at-grade crossing to Cornhusker Highway. The Planning Department and Public Works and Utilities Department do not support the at-grade crossing. Creating a new at-grade crossing is contradictory to the efforts of the Railroad Transportation Safety District of eliminating at-grade crossings. Eliminating at-grade crossings is also an objective of the 2040 Comprehensive Plan. It also does not remove the problem of both access points being blocked by a train. A report from the U.S. Department of Transportation shows that there are 2 trains per day that use these tracks.

6. Currently Union Pacific Railroad (UPPR) owns property and has an active line in close proximity to the proposed site. Only right-of-way, approximately 100 feet wide, owned by Burlington Northern Railroad separates the UPPR property form the site. The applicant has not approached UPPR about crossing their tracks. According to UPPR, Interstate Land has no right to place a crossing over UPPR's property and tracks at this location. This issue is presently being litigated before the District Court of Lancaster County, Nebraska (see letter dated July 23, 2012 from Austin McKillip)

7. The PUD is an overlay intended to promote the public convenience and necessity; protect the health, safety, and welfare, to implement the goals and policies of the Comprehensive Plan.

   The PUD is to be used when it is necessary or appropriate to
   (a) permit flexibility in the regulation of land development;
   (b) encourage innovation in land use, variety in design, layout, and type of construction;
   ©) encourage the economy and efficiency in land use, natural resources, the provision of public services and utilities and the preservation of open space.

8. The proposed PUD does not protect the health, safety and welfare by putting residential and a campground in close proximity to a railroad track and industrial zoning. In an emergency there is a possibility that emergency vehicles could not get to the site because of a train blocking the access.

9. The PUD is not in conformance with the 2040 Comprehensive Plan. This site is shown as industrial in the Future Land Use Map and is also shown as a site for proposed Moderate to Heavy Industrial Center on Map 5.2 Existing and Proposed Industrial Centers in the 2040 Lincoln/Lancaster County Comprehensive Plan.

10. The Comprehensive Plan supports mixed use developments. However, this site is deficient in regard to several criteria listed in the Comprehensive Plan for mixed-use projects: adequate road capacity, connecting to existing neighborhoods, and strengthening opportunities for walkability. This area is not shown as a mixed use node in the Comprehensive Plan.

11. The Lincoln Airport Authority notes that this area is located in the inner approach of Runway 32. All construction within the area shall be subject to height limitations and shall require a height permit. The area is also within the Airport Environs District. A noise and avigation easement will be required with any future final plat.

    A portion of the site is within noise contours 60 to 65 DNL. This area is on the extended centerline of a runway. The subject site will be overflown by aircraft on approach to, and departure from the Lincoln Airport at relatively low altitudes and generating noise that approaching and departing planes make. While not precluded, the Airport Authority does not recommend residential development in this area.

12. This site is next to railroad tracks, Interstate 80, industrial zoning, sub station, floodplain and is within airport noise zones with only one access to the site that crosses a railroad tracks. All of this combined results in a poor site for residential uses and/or camping.

13. The applicant has requested a waiver to block length. A block length may exceed 1,320 feet if a major street, other man-made barrier, lake or other natural barrier forms one boundary of the block. This block has a railroad track on its east boundary and a creek on its south boundary. Therefore, the waiver is not required.

If the City Council approves this approval, permitting 678 multi-family dwelling units, campground and any use allowed in the I-1 District, it should be subject to the following conditions:

Since the City Staff finds the Developer's request to waive or modify the requirements of the Land Subdivision Ordinance is justified and acceptable the Planning Commission has the authority to grant the following waivers or modification

1. For information accompanying a preliminary plat for a PUD to be submitted with an administrative amendment

CONDITIONS OF APPROVAL:

Site Specific Conditions:

1. Before a final plat is approved 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.

    1.1 Delete Note #3. This note would allow any conditional or special permitted uses by right. No special permit would be required.

    1.2 Delete Notes 9, 22, 23 and 24 as they are not necessary.

    1.3 Identify the limits of the100 year flood plain.

    1.4 Add a note that the grading, drainage and floodplain information required must be approved by Public Works & Utilities.

2. Before receiving building permits, the developer shall provide the following documents to the Planning Department:

    2.1 Verification from the Register of Deeds that the letter of acceptance as required by the approval of the planned unit development has been recorded.

    2.2 Verification that an avigation and noise easement to the Lincoln Airport Authority on all or that part of the land located within the Airport Environs Noise District has been received by the Lincoln Airport Authority.

3. Prior to the issuance of a building permit:

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

4. Before issuance of building permits, final plat(s) shall be approved by the City.

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

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

Before a final plat may be approved, Developer agrees, as subdivider, must enter into an agreement with the City whereby Developer agrees:

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

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

to complete the installation of sidewalks along both sides of the streets as shown on the final plat within four (4) years following the approval of the final plat.

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

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

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

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

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

to complete the installation of public street lights along streets within this plat within two (2) years following the approval of the final plat.

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

to complete the planting of the street trees along streets/private roadways within this plat within six (6) years following the approval of the final plat.

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

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

to timely complete any other public or private improvement or facility required by the Land Subdivision Ordinance which inadvertently may have been omitted from the above list of required improvements.

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

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

to complete the public and private improvements shown on the Planned Unit Development.

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

to maintain the outlots on a permanent and continuous basis.

to maintain the private improvements in good order and condition and state of repair, including the routine and reasonable preventative maintenance of the private improvements, on a permanent and continuous basis.

to maintain the street trees along the private roadways including replacement and replanting as reasonably necessary, on a permanent and continuous basis.

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

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

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

to inform all purchasers and users of land located within the 100 year floodplain and that the grading of the lots and outlots within the 100 year floodplain shall be in conformance with the grading plan approved with the Interstate Land PUD change of zone #12021 or as amended by the Director of Planning. The volume of fill material brought into each lot and outlot from outside the floodplain shall not exceed that shown on the approved grading plan accompanying the PUD.

to inform all prospective purchasers and users of land located within the Airport Environs Noise District, that such land is subject to an avigation and noise easement granted to Lincoln Airport Authority, and that the land is potentially subject to aircraft noise levels which may affect users of the property and interfere with its use.

Standard Conditions:

5. The following conditions are applicable to all requests:

5.1 Before occupying the dwelling units/buildings all development and construction shall substantially comply with the approved plans.

5.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established association approved by the City Attorney.

5.3 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.

5.4 The terms, conditions, and requirements of the ordinance shall run with the land and be binding upon the permittee, its successors and assigns.

5.5 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. 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 therefore to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.

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

Prepared by:

Tom Cajka
Planner

DATE: November 28, 2012

APPLICANT: Interstate Land, LLC
260 Regency Parkway
Suite 200
Omaha, NE 68114
800-465-1249

OWNER: Same as applicant

CONTACT: Mike Eckert
Civil Design Group
8535 Executive Woods Dr.
Suite 200
Lincoln, NE 68512
402-434-8494

CHANGE OF ZONE NO. 12021,
INTERSTATE LAND PLANNED UNIT DEVELOPMENT

PUBLIC HEARING BEFORE PLANNING COMMISSION: December 12, 2012

Members present: Lust, Weber, Butcher, Hove and Cornelius; Gaylor Baird, Francis and Sunderman absent.

There were no ex parte communications disclosed.

Staff recommendation: Denial.

Staff presentation: **Tom Cajka of Planning staff** explained that this is a proposal for change of zone from I-1 Industrial to a R-3 PUD. The site is located southeast of I-80, with Capitol Beach to the south and railroad tracks on the east side. The applicant has submitted two options for development of this property. Option A shows two hotels, a campground, cemetery and recreational employment center. Option B is similar except that it shows multi-family and a new road accessing Cornhusker Highway.

Cajka explained that the residential uses include multi-family and the campground. The Health Department does not support these types of uses at this location, specifically because of the proximity to other industrial zoned land and the railroad tracks. The new street in Option B would be an at-grade crossing at the railroad tracks and it would also cross a piece of property that is owned by Pfizer. There is a letter from Pfizer's attorney in the record stating that they have not consented to such a road and Pfizer is opposed to the application. The Planning Department has also received a letter from the representative of Union Pacific Railroad, also stating that Union Pacific does not consent to any crossing and the issue of the crossing is currently being litigated in the District Court of Lancaster County. Union Pacific also notes that the development does not meet their guidelines for separation between residential and other similar type uses, which is 1,000 feet. In addition, the at-grade crossing would be contradictory to the efforts of the Railroad Transportation Safety District to eliminate at-grade crossings. They have worked for years to eliminate at-grade crossings and do not support adding one. Eliminating at-grade crossings is also an objective of the 2040 Comprehensive Plan. Subsequent to the writing of the staff report, the Planning Department received information from the Department of Transportation reporting total daily train movements of 2 trains per day on this track.

Cajka pointed out that the only uses proposed that are not allowed in the I-1 district are the residential and the campground. The other uses proposed are allowed by right in the I-1 district.

Cajka reminded the Commission that the intent of a planned unit development is to promote public convenience necessity; protect the health, safety and welfare; to implement the goals and policies of the Comprehensive Plan; to permit flexibility in the regulation of land development; encourage innovation in land use, variety in design, layout and type of construction; and encourage the economy and efficiency in land use, natural resources, the provision of public services and utilities and the preservation of open space. A PUD is usually used for mixed use type developments with the mixed uses generally being a combination of residential/commercial/office, and not necessarily all three. The staff's opinion is that this proposal does not promote the health and safety by locating

residential uses and a campground in close proximity to railroad tracks and industrial zoning. A train could block both access points.

Cajka went on to state that this site is also shown as industrial in the future land use plan and is shown as a moderate-to-heavy industrial center. The site lacks adequate road capacity and connection to existing neighborhoods and walkability. It would be fairly isolated.

Cajka pointed out that the Lincoln Airport Authority also has concerns – the area is located in an inner approach zone and is on an extended centerline of the runway. They would have low flying aircraft overhead on takeoffs and landings.

Cajka also stated that although fill has been brought into certain parts, the land is still designated in the floodplain. The owner has not done a letter of map revision to take those areas out of the 100-year floodplain.

In summary, Cajka observed that the site is next to railroad tracks, I-80, and industrial zoning; there is an electric substation to the north; and it is in the floodplain with only one access point that crosses a railroad track. All of this combined results in a poor site for residential and campground. The area should remain for light industrial or employment center type uses and remain I-1 zoning. Therefore, staff is recommending denial of this application.

Proponents

1. Peter Katt appeared on behalf of the applicant, explaining that this is a conceptual plan, not one that has a lot of detail. Jim Sherrets has owned the property for over a decade, and there is not a whole lot of difference today than 10 years ago.

2. Jim Sherrets, owner of the property, stated that he has made substantial investments in the site, a number of which have been for public benefit, e.g. nearly two million dollars and land has gone for the widening of Oak Creek for flood protection; it was done in good faith by interlocal agreement and he essentially paid for half of the project. The site was also used as a good faith effort for a fill location for Capitol Beach, which was silting in and they needed a place to put the soil. He has waited 12 years for someone to express an interest in acquiring the property. The City was showing it all as floodway, which he believes was a mistake on their maps,. He literally had to sue the Corps to get them to change their map. The new Arena will help with the demand. It is a good site for hotels, some multi-family, for some assisted living and some nursing home locations. He has been in contact with an Omaha developer who is interested in putting in some low income housing, assisted living and nursing homes.

Sherrets stated that the site is “next to the planes” in the corridor. He is not worried about height restrictions.

In the time he has held this ground, we have all seen Waverly at the intersection of Hwy 6 be developed substantially. He has not been able to get the level of cooperation because the maps were wrong and because the City has not worked with him to develop it. The access has

been deemed adequate – it was tested early on. He would like some assistance from the City on the uses which he believes are appropriate for this site.

Katt then reappeared and cited the meaning of "insanity - doing the same thing over and over again and expecting different results". He has driven by this site for over 30 years and it has always been a cornfield. Why? Here is an opportunity to take a cornfield at two of the key intersections in our community. Why is it a cornfield?

He started this process by meeting with the City staff. The reality is that the City has spent money out there before, such as the Northwest Corridors Blight Study and Redevelopment Plan. Access is the problem according to staff. He has met with staff and they agreed – the problem is access. The problem is that a private owner cannot fix access. The City needs to help. In the end, staff stated, "they will not lead that effort but they will be at the table." Two months later, the applicant gets the report back – no at-grade crossing – the City will not help the applicant get any more access to this site. We have a cornfield at a key place in our community that should be something more. The staff recommendation is to do nothing.

Katt then presented the proposed PUD. Contrary to staff's characterization, the PUD proposes the underlying H-3 (not R-3) zoning district with the ability to have all H-3 uses and R-5 uses (multi-family). H-3 is a very good use to provide transition between industrial and residential and interstates. It is an appropriate zoning for this purpose.

Katt then pointed out that the staff report talks about an 80–acre site. In reality, it is three separate components which are all out of the floodplain. There is water to the site and there is existing sanitary sewer that bisects the site. There is high dollar residential property at Capitol Beach and there is a successful multi-family student housing project which abuts the existing railroad and abuts the industrial property. These are examples within ½ mile radius of the site which contradict the staff's objections.

The surrounding land uses include H-3. This is a problem property that the city has identified and wants something done, but what is it? We have a lot of investment in this location. The industrial area abuts against one of the highest dollar value residential properties in the City; it is adjacent to an interstate; the Commission just approved a salvage yard along the Interstate. The Comprehensive Plan provides that mixed use redevelopment should target underdeveloped or redeveloping commercial and industrial areas. Katt believes that the PUD conceptual plan of underlying H-3 with R-5 permitted uses provides the necessary tools for the owner to try a different approach in the market place to get the investments necessary to be made.

Condition #1.1 of the staff recommendation to "Delete Note #3" (which provides for the H-3 and R-5 uses) guts the PUD.

Hove inquired about the current access points, Katt pointed to Cornhusker Highway (where there is a new convenience store) coming through N.W. 12th is currently the only access. According to the staff report, it appears that you can build all the property you want with one access point. Katt suggested that to be disingenuous because the market place has said industrial does not want to go here. We need to change the momentum and the mind set inside City Hall so that they will be receptive to the concept of finding some better access. Katt stated that they are not asking the city to pay for it, but to make some commitment to this location.

Hove wondered why the proposed access over the railroad crossing is the best one. Katt believes there are other potential areas, but talking about creating access depends on who you are having the conversation with. The one location included in this plan is the road that cuts across the Pfizer property, and if they oppose it, it is not going to happen. This is a conceptual location. There are other options, but they all seem a little bit more difficult to get done. Pfizer has an access on Cornhusker Highway; Burlington Northern has a vacated road right-of-way that should be converted and connect through the new roadway. There are a lot of creative solutions but one private landowner can't solve those types of problems without the public being involved, and we've not found the public that has been willing to engage. This proposal is the best that can be accomplished with the tools they have to work with. Katt stated that they will continue to work on the access to Cornhusker Highway. Burlington Northern has recently indicated that they will settle and allow a road crossing on their property, so they are halfway there.

Hove inquired whether the applicant has applied for a letter of map revision to get the filled areas out of the floodplain. It is Katt's understanding that is all done. The City fought fill on this area for years. The owner had to sue the Corps to get the right to do that. At the end of the day, the staff report tells you there is a conservation easement on file, the terms of which clearly indicate that the City, NRD and Corps agree to protect the old crossbow. It is no surprise that this floodplain has been filled, whether or not all the map amendments have been done. It is difficult to get those map amendments filed because they don't want their maps to change. The fact is that it is filled and it is out of the floodplain.

Lust inquired whether the current access point crosses the railroad tracks. Katt responded, "yes, it is a public street crossing."

Lust inquired about the proposed nursing home use. Katt stated that the applicant has thought that that might be a good use in the multi-family area.

<u>Opposition</u>

1. Austin McKillip, of the Cline Williams Law Firm, appeared on behalf of the **Union Pacific Railroad.** The primary objection is that this application proposes an additional at-grade crossing from the property to Cornhusker Highway. Union Pacific does not consent to that crossing. There is no easement of record to cross the railroad. The easement crosses the property now owned by Pfizer and was released of record. Union Pacific opposes the additional at-grade crossing. The uses proposed do not line up with the minimum standards for development set forth by Union Pacific. Beyond that, Union Pacific has no objection to the development of the property.

Butcher inquired whether in general, McKillip would expect that any at-grade crossing along there would be opposed by Burlington Northern. McKillip answered in the affirmative. It is also inconsistent with federal development standards.

2. Terry Grennan, of the Gotch law firm, 9290 West Dodge Road, Suite 302, in Omaha, appeared on behalf of **Pfizer, Inc.** Grennan agreed with the staff recommendation of denial. It is in litigation and he believes they have some very strong defenses in that litigation.

Staff Questions

Butcher sought confirmation from staff that the recreational employment center could exist currently with the existing access point. Cajka concurred. The property already has I-1 zoning so we cannot prohibit them from developing those uses that are permitted in the I-1 district with the current access point.

Butcher asked what portion of the property is in the floodplain. Cajka believes that pretty much all of it is still classified as in the floodplain. **Dennis Bartels of Public Works** recalled some second hand conversations that there was a permit negotiated with the improvements down to the creek bringing all or a majority of this out of the floodplain. If they bring it up in accordance with that plan and get all the certification done, most, if not all would be removed from the floodplain. It has not all been finalized at this point in time. He does not know that the whole area has been filled in accordance with the plan that was approved.

Butcher asked staff to provide another example where we have a similar access issue with railroad crossings where there is no other access. Essentially this is on an island. Do we have any other such situations where we have railroad access that may block the ability for emergency vehicles to access an area like this? Cajka couldn't think of any.

Hove asked whether there is a point of access that could make it work. Is there a place that would make sense to the southeast? Cajka suggested that the site is pretty constrained. Capitol Beach is to the south; Capitol Beach Road is a private road; you have to cross the creek; further east you have the railroad track that extends quite a ways from there. An overpass had been discussed at one time but there are limitations because LES has some pretty heavy overhead power lines in this area. The owner's engineers also considered an underpass, but they determined that it would not work either. It is a constrained site with one access point and that's how it was developed.

Hove suggested that there is obviously a higher and better use than farm land. What would make more sense? Cajka stated that a lot of people like I-1 because it is the most permissive in the zoning code, allowing almost any type of commercial, retail, office, industrial type uses, warehouses, contractor storage yards – a multitude uses are allowed in I-1. The one use not allowed is residential type uses such as the housing and campgrounds. He believes I-1 would allow the highest and best use.

Weber wondered whether the trains ever stop. Cajka did not know.

Cornelius asked for staff's reaction to the assertion that this is not a R-3 PUD on I-1 but a H-3 PUD. Cajka explained that the reason this was put in the report as a R-3 PUD is because the application letter submitted states, "The proposed R-3 PUD application shows a mixed use development including H-3, H-4 and R-5 uses in three areas. Based on that letter, the staff believed they were applying for the R-3 PUD. However, Cajka pointed out that bottom line, the underlying zoning doesn't mean a whole lot because the PUD is what approves the uses, setbacks, density, etc. Regardless of R-3 or H-3, you are still going by whatever the PUD allows.

Response by the Applicant

Katt stated that the key issue on this request has to do with the ability to use some amount of this ground for residential purposes. That's the fundamental change that we are asking. If you look at the site, that corner is a phenomenal corner for residential use – you won't find a better view of the Capitol from that point; it's in the middle of wetlands habitat, etc.; it's across from Capitol Beach Lake – so if you carve this site into its component parts and if you look at what we have proposed, with some separation, and if you ignore what Union Pacific wants (1,000 ft. buffer), is it an appropriate use? Can that be justified? Residential districts are within all of those uses in those areas within ½ mile of this site. You are not placing anyone in jeopardy in allowing that residential component to develop. The H-3 is extremely flexible. Try to sell a motel developer a site in an I-1 district where a tannery can go in next-door, or a salvage yard, or any of the list of horrible uses that can happen with an industrial zoning district. That is a significant factor why people have not invested here. Zoning provides the protections. We have to change the zoning here. We can talk about some variations and tweaks on the uses, but Katt urged residential is a more than fair use of the back part.

In terms of the fill, Katt stated that the front area has not fully been filled, thus the recreational use.

Katt requested support of this proposed PUD and to allow a component of it to be used for residential purposes.

Butcher asked whether the applicant has looked at any way to find access off of or under I-80. Katt suggested that at this point, access is not the biggest fundamental issue. The market, the people that want to invest in this location, are not concerned about the access point – it's the ability to have the residential use. As long as it remains industrial, nothing will be built. We need to get to the point where staff believes it is a credible possibility that this property might be developed.

Butcher stated that the emergency access is his concern. With a train on the track we have no emergency access. Katt suggested that as a practical matter, emergency vehicles can get there. He then referred to the rail line on Hwy 2. We have the benefit of that not having any trains right now, but if they start to ship coal again, there are going to be mile long trains. In other words, we take reasonable risks all the time. This is not an active main rail line. It is a spur used to store additional trains and to service the Airpark – two trains a day – not a high level of risk. If we're talking about establishing some additional emergency access points, that might be accomplished but that is irrelevant until there is support of a project.

ACTION BY PLANNING COMMISSION: December 12, 2012

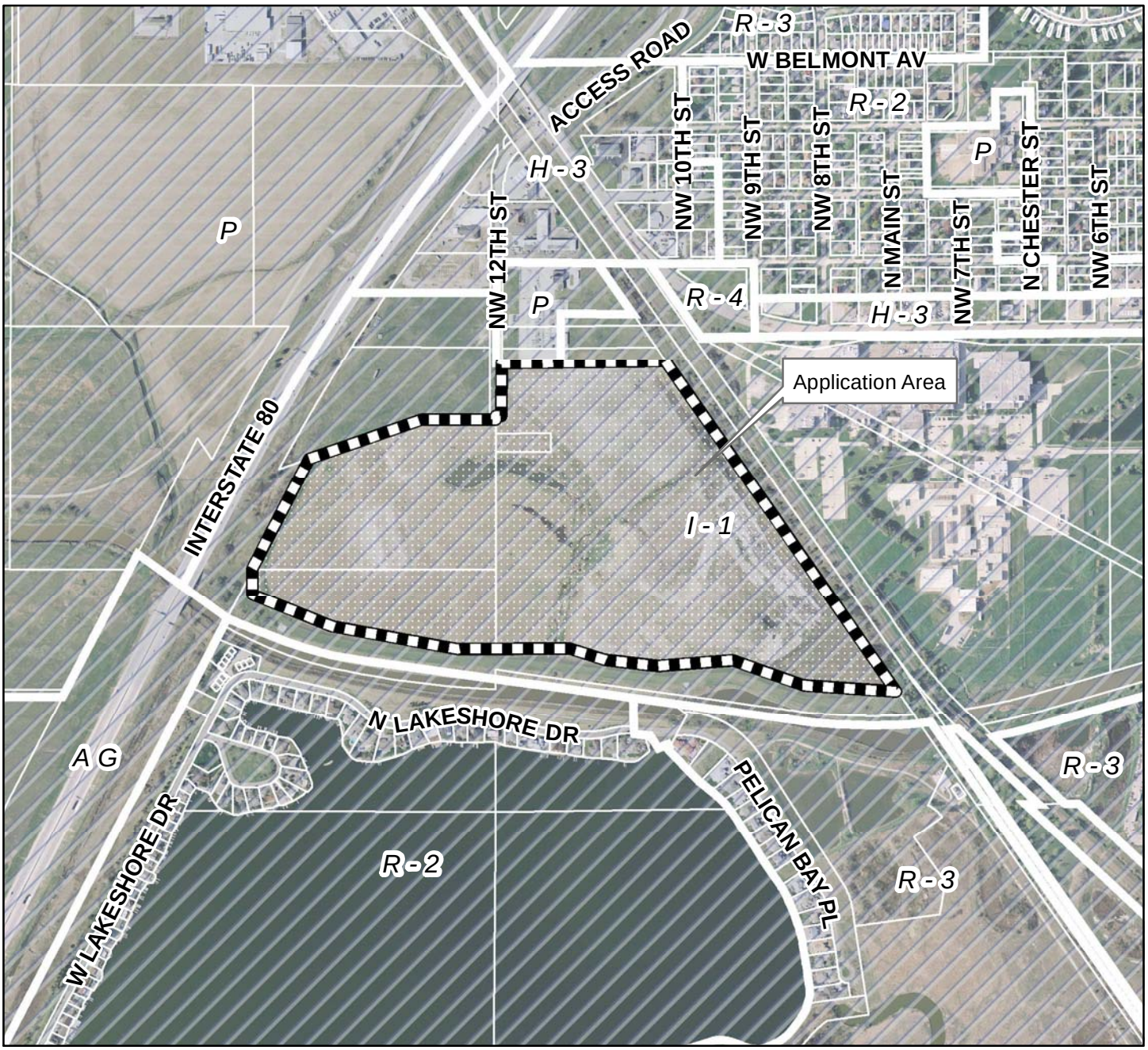
Lust moved to deny, seconded by Butcher.

Lust supports the staff analysis that residential is not appropriate in this area. Specifically, Analysis #4 in the staff report states that, "The City Fire Department does not support residential populations with the only access being across a railroad track."

Cornelius is excited for the possibilities for this land, and he is sympathetic that there has been no action there. It is an interesting place – it's got the development downtown; it's got Capitol Beach to the south – but we are in the position of having to deal with a chicken and egg problem. This

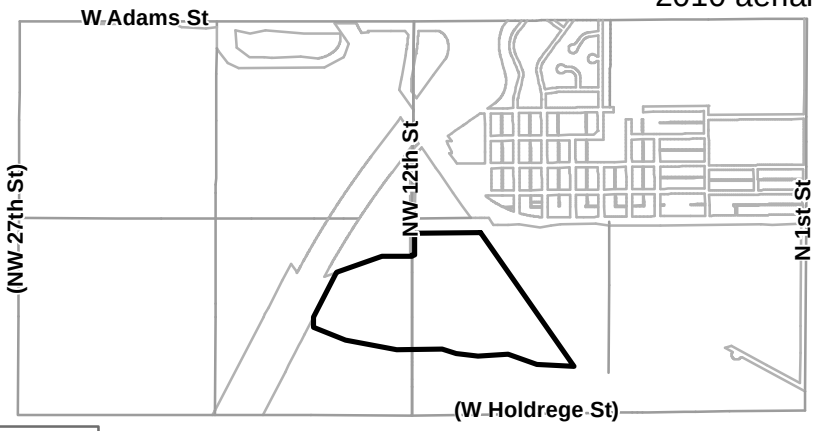
looks like a place for some exciting residential development but we have a variety of voices telling us this is not appropriate because of the level of access. He has concerns approving a PUD with the loose ends that this has.

Motion to deny carried 5-0: Lust, Weber, Butcher, Hove and Cornelius voting ‘yes’; Gaylor Baird, Francis and Sunderman absent. This is a recommendation to the City Council.



2010 aerial

Change of Zone #12021
NW 12th St & Cornhusker Hwy
Interstate Land PUD



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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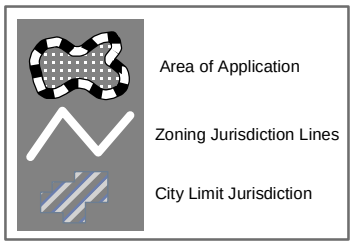


Two Square Miles
Sec. 15 T10N R06E
Sec. 16 T10N R06E

P.U.D. LEGAL DESCRIPTION

DESCRIPTION OF A TRACT OF LAND COMPRISED OF LOT 44, LOT 94 AND LOT 95 OF IRREGULAR TRACTS IN THE SOUTHWEST QUARTER OF SECTION 15 AND LOT 38 AND PART OF LOT 49 OF IRREGULAR TRACTS IN THE SOUTHEAST QUARTER SECTION 16, ALL IN TOWNSHIP 10 NORTH, RANGE 6 EAST OF THE 6TH P.M., LINCOLN, LANCASTER COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 15; THENCE IN A SOUTHERLY DIRECTION, ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 15, FOR A DISTANCE OF 489.97' TO THE POINT OF BEGINNING

THENCE IN AN EASTERLY DIRECTION, ON AN ASSUMED BEARING OF N 89°59'13" E FOR A DISTANCE OF 32.73'

THENCE N 00°03'33" E FOR A DISTANCE OF 290.22'

THENCE N 89°24'06" E, ALONG THE NORTH LINE OF SAID LOT 95, FOR A DISTANCE OF 895.97' TO THE NORTHEAST CORNER OF SAID LOT 95

THENCE S 34°56'26" E, ALONG THE NORTHEASTERLY LINE OF SAID LOT 95, FOR A DISTANCE OF 2204.15' TO SOUTHEAST CORNER OF SAID LOT 95

THENCE N 86°23'49" W, ALONG THE SOUTHERLY LINE OF SAID LOT 95, FOR A DISTANCE OF 507.81'

THENCE N 70°33'22" W, ALONG THE SOUTHERLY LINE OF SAID LOT 95, FOR A DISTANCE OF 409.58'

THENCE S 85°55'20" W, ALONG THE SOUTHERLY LINE OF SAID LOT 95, FOR A DISTANCE OF 408.87'

THENCE N 83°33'47" W, ALONG THE SOUTHERLY LINE OF SAID LOT 95, FOR A DISTANCE OF 292.98'

THENCE N 72°34'59" W, ALONG THE SOUTHERLY LINE OF SAID LOT 95, FOR A DISTANCE OF 201.96'

THENCE S 89°47'36" W FOR A DISTANCE OF 613.13'

THENCE N 79°50'24" W FOR A DISTANCE OF 699.90'

THENCE N 68°04'03" W FOR A DISTANCE OF 469.33'

THENCE N 00°16'13" E, ALONG THE WESTERLY LINE OF SAID LOT 49, FOR A DISTANCE OF 142.21'

THENCE N 27°12'53" E, ALONG THE NORTHWESTERLY LINE OF SAID LOT 38, FOR A DISTANCE OF 678.51'

THENCE N 70°46'26" E, ALONG THE NORTHWESTERLY LINE OF SAID LOT 38, FOR A DISTANCE OF 651.34'

THENCE N 89°55'42" E, ALONG THE NORTHERLY LINE OF SAID LOT 38, FOR A DISTANCE OF 404.86'

THENCE N 00°11'14" W FOR A DISTANCE OF 17.64' TO THE POINT OF BEGINNING AND CONTAINING A CALCULATED AREA OF 87.95

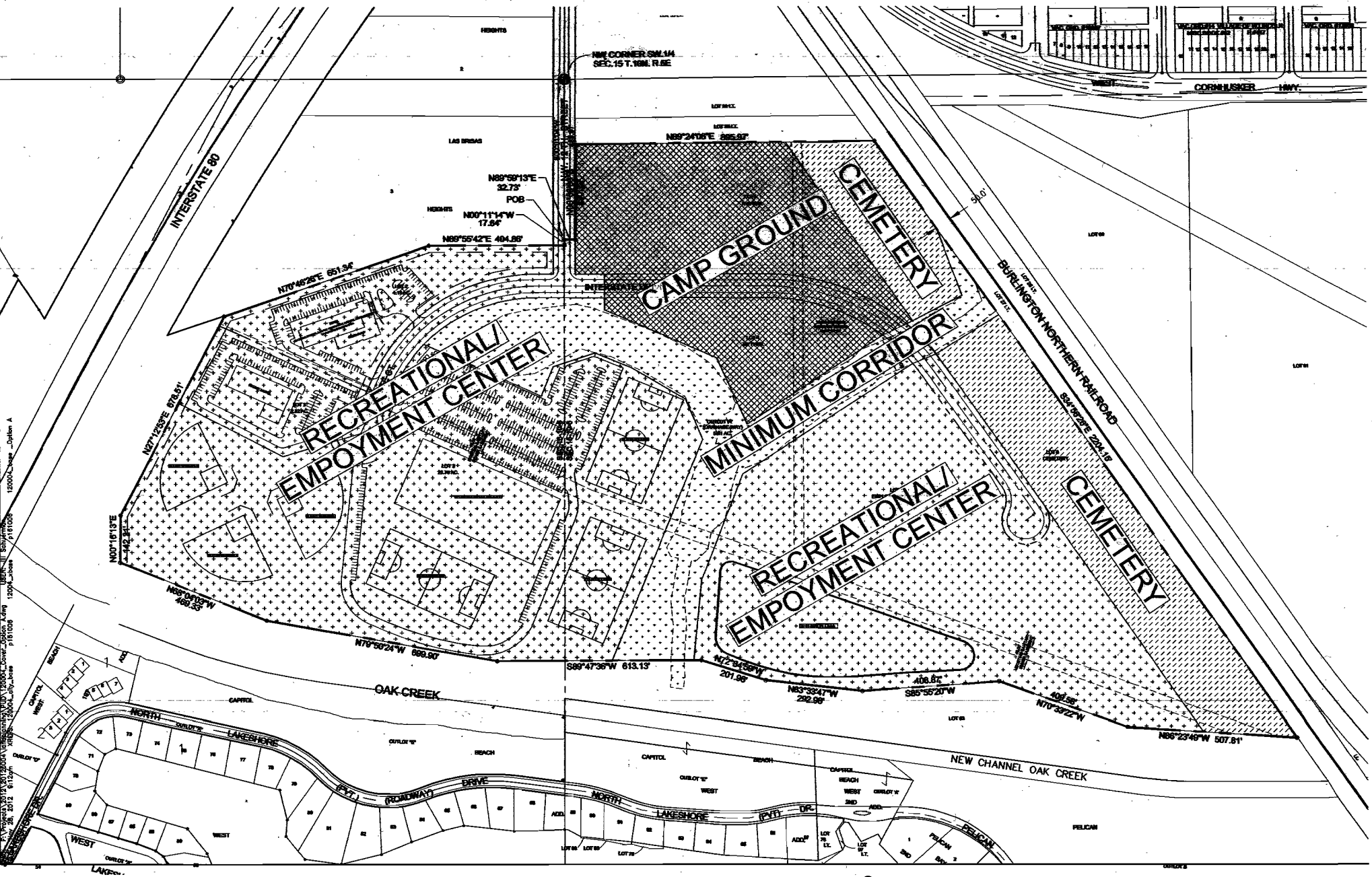
SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE UNDER MY DIRECT SUPERVISION AND THAT I AM A LICENSED SURVEYOR UNDER THE LAWS OF THE STATE OF NEBRASKA.

KERRY W. SIMONDS RLS #333

CZ 12021

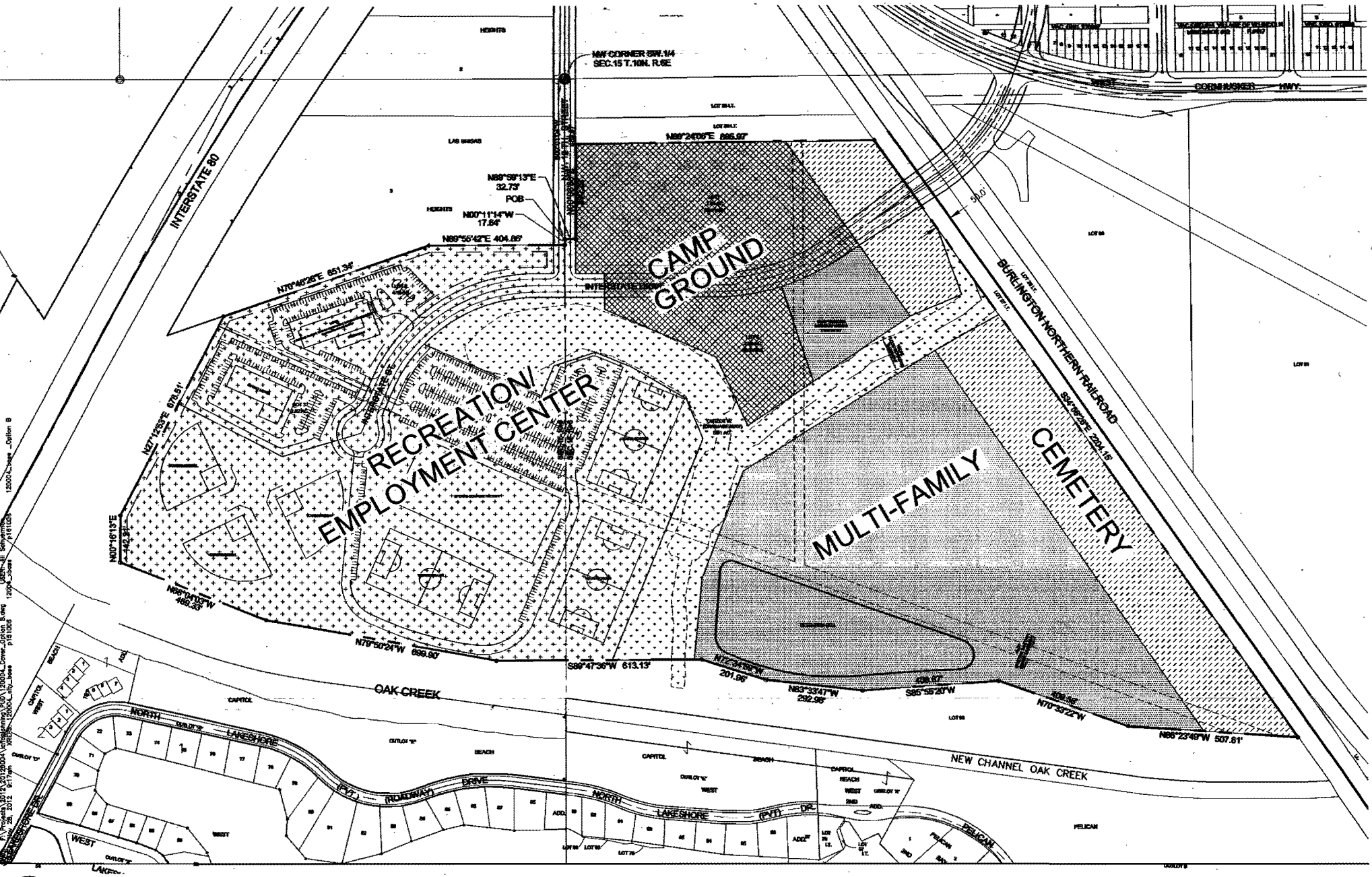
INTERSTATE LAND PUD



CZ 12021

Option A

INTERSTATE LAND PUD



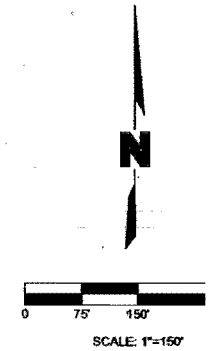
CZ 12021

Option B

021

NOTES

1. THE EXISTING ZONING IS I-1, THE PROPOSED ZONING IS H-3 P.U.D.
2. DIRECT VEHICULAR ACCESS SHALL BE RELINQUISHED FROM INTERSTATE 80.
3. ALL PERMITTED, CONDITIONAL, AND SPECIAL PERMITTED USES AS DEFINED IN LMC CHAPTER 27.43 (H-3) ARE ALLOWED AS PERMITTED USES.
4. ALL OUTLOT AREAS AND OPEN SPACE SHALL BE MAINTAINED BY THE DEVELOPER AND OR FUTURE BUSINESS ASSOCIATION.
5. ADMINISTRATIVE AMENDMENTS SHALL BE REQUIRED FOR FUTURE CHANGES TO GRADING, DETENTION, STREET ALIGNMENTS, UTILITY LOCATIONS, STREET PROFILES, ETC. ADMINISTRATIVE AMENDMENTS ARE NOT REQUIRED REGARDING COMMERCIAL SQUARE FOOTAGE ALLOCATION. SITE PLANS FOR OFFICE/COMMERCIAL USES, SITES FOR OTHER THAN RESIDENTIAL USES, TO BE APPROVED BY ADMINISTRATIVE AMENDMENT.
6. LOTS MAY BE CREATED WITHOUT FRONTAGE TO A PUBLIC STREET IF THEY ABUT A PUBLIC ACCESS EASEMENT.
7. EXISTING AND PROPOSED EASEMENTS TO BE IDENTIFIED AND SHOWN AT TIME OF FINAL PLATTING.
8. EXACT LOCATIONS OF WATER, SEWER, DRAINAGE AND PAVING WILL BE SUBMITTED WITH INDIVIDUAL SITE PLANS AT TIME OF BUILDING PERMIT IN ACCORDANCE WITH CITY OF LINCOLN DESIGN STANDARDS.
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. FENCES, DUMPSTERS, DECORATIVE STRUCTURES AND ACCESSORY BUILDINGS ARE NOT SHOWN ON THE PLANS IF THEY ARE 1000 SQUARE FEET OR SMALLER AND ARE OUTSIDE OF THE SIGHT TRIANGLES AND SETBACKS AND ARE IN CONFORMANCE WITH ALL APPLICABLE ORDINANCES AND CODES.
11. STREET TREES TO BE REVIEWED AT TIME OF FINAL PLAT AND ASSIGNED BY PARKS AND RECREATION.
12. ALL REGULATIONS OF THE UNDERLYING ZONING DISTRICT SHALL APPLY, EXCEPT AS PROVIDED HEREIN AND/OR SPECIFICALLY MODIFIED BY THE CITY COUNCIL THROUGH THE ADOPTION OF THE DEVELOPMENT PLAN.
13. ALL SIGNAGE SHALL CONFORM TO SECTION 27.69.340 OF THE L.M.C., UNLESS SPECIFICALLY MODIFIED BY THE CITY COUNCIL. SUBDIVISION SIGNS SHALL BE ILLUMINATED 5' HIGH AND 32 SQUARE FEET GROUND SIGNS. DETAILS OF SIGNAGE SHALL BE SHOWN AT THE TIME OF BUILDING PERMITS.
14. PRIVATE ROADWAYS SHALL BE PERMITTED BY ADMINISTRATIVE AMENDMENT.
15. ALL TOPOGRAPHICAL ELEVATIONS ARE BASED ON NAVD 1988.
16. LOCATIONS OF WATER, SANITARY SEWER, STORM SEWER, GRADING & DRAINAGE, PAVING, STREETS, LOT LINES AND SIDEWALKS SUBJECT TO APPROVAL BY ADMINISTRATIVE AMENDMENT IN COMPLIANCE WITH THE LINCOLN MUNICIPAL CODE AND THE DESIGN STANDARDS EXCEPT AS SPECIFICALLY MODIFIED BY THE CITY COUNCIL WITH THIS P.U.D.. MINIMUM OPENING ELEVATIONS SHALL BE SET AT TIME OF ADMINISTRATIVE AMENDMENT FOR THOSE LOTS ADJACENT TO FLOODPLAIN/FLOOD PRONE AREAS, FLOOD CORRIDORS AND/OR OTHER DRAINAGE DITCHES. THE PARKING AND LANDSCAPING TO BE APPROVED AT THE TIME OF BUILDING PERMITS IN COMPLIANCE WITH LINCOLN MUNICIPAL CODE AND THE DESIGN STANDARDS.
17. THE SALE OF ALCOHOL FOR CONSUMPTION ON AND OFF THE PREMISES SHALL BE PERMITTED IN THOSE AREA DESIGNATED FOR COMMERCIAL USES CONSISTENT WITH LMC SECTION 27.31.040. FOR THE PURPOSE OF SEPARATION DETERMINATION, AREAS NOT DESIGNATED FOR COMMERCIAL USES SHALL BE CONSIDERED RESIDENTIAL DISTRICTS AS DEFINED IN LMC SECTION 27.31.040.
18. 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 TO SUBMIT A SEEDING AND MAINTENANCE SCHEDULE BEFORE SITE GRADING IS DONE. THE DEVELOPER WILL BE RESPONSIBLE FOR CONTROLLING OFF—SITE DUST EMISSIONS IN ACCORDANCE WITH LINCOLN—LANCASTER COUNTY AIR POLLUTION REGULATIONS AND STANDARDS ARTICLE 2, SECTION 32
19. EASEMENTS AS SHOWN SHALL BE GRANTED FOR PUBLIC USE AND FOR SIDEWALKS. ALL SIDEWALKS ADJACENT TO STREETS ARE TO BE IN PUBLIC R.O.W. EXCEPT AS NOTED ALL OTHER WALKS ARE TO BE IN PEDESTRIAN EASEMENTS. PEDESTRIAN EASEMENTS TO BE 5 FEET WIDE IN PEDESTRIAN AREAS AND BIKE PATH EASEMENTS ARE TO BE 20 FEET WIDE. ALL SIDEWALKS ARE TO BE 4 FEET WIDE AND BIKE PATHS ARE TO BE 8 TO 12 FEET WIDE. EXACT LOCATION OF ALL EASEMENTS SHALL BE SHOWN AT THE TIME OF FINAL PLATS.
20. SANITARY SEWER MAINS TO BE 8 INCH PIPE SIZE, UNLESS OTHERWISE SHOWN. WATER MAINS TO BE 8 INCH FOR COMMERCIAL FRONTAGE AND 6 INCH FOR RESIDENTIAL FRONTAGE UNLESS OTHERWISE SHOWN. WATER & SEWER MAINS TO BE BUILT TO CITY OF LINCOLN SPECIFICATIONS. ALL SANITARY SEWER AND WATER MAINS TO BE PUBLIC.
21. FINAL DESIGN FOR GRADING OF THE OPEN DITCHES AND DETENTION FACILITIES SHALL CONFORM TO THE CITY OF LINCOLN DESIGN STANDARDS REQUIRING PROVISIONS TO LIMIT DEGRADATION OF THE CHANNEL AND TO MAINTAIN A STABLE SLOPE BASED ON URBANIZED RUNOFF FROM THE WATERSHED.
22. ALL WETLANDS ON THE SITE NOT SHOWN TO BE MITIGATED ARE TO BE PRESERVED SUBJECT TO ANY WETLANDS IMPROVEMENTS OR WETLANDS EXPANSION. THE WETLANDS, NATURAL DRAINAGE WAYS, AND FLOOD CORRIDORS SHOWN ON THE GRADING AND DRAINAGE PLAN SHALL BE PROTECTED AND FUTURE MAINTENANCE AND STORM WATER/DRAINAGE IMPROVEMENTS CARRIED OUT WITH MINIMUM IMPACT.
23. ORNAMENTAL LIGHTING ALONG ALL PUBLIC STREETS AND PRIVATE ROADWAYS SHALL BE IN ACCORDANCE WITH L.E.S. REGULATIONS.
24. EVES, OVERHANGS, WINDOW SWINGS, DOOR SWINGS, AIR CONDITIONER UNITS ETC. MAY ENCROACH OVER THE SETBACK LINES. ENCROACHMENTS ARE NOT ALLOWED OVER PROPERTY LINES AND MUST CONFORM TO BUILDING AND LIFE SAFETY CODES.
25. INTERSTATE DRIVE CONNECTION TO CORNHUSKER HWY TO BE A FULL ACCESS INTERSECTION.



022

CZ 12021

City of Lincoln - Lancaster County
PLANNING DEPARTMENT

ePlan
ePlan Submittal

Application Information			
Application #	CZ12021	Title	INTERSTATE LAND PUD
Associated Requests			

Planning Department Use Only			
Submission Date	6/28/2012	Review Due	7/8/2012
Project Planner	Tom Cajka		

Review Comments		
Planning	◉ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ○ Recommend Approval ○ No Review Required Review 1: Review 2:	
Airport Authority (Jon Large)	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ◉ Recommend Approval ○ No Review Required Review 1: This area is located in the inner approach of Runway 32, as defined in Chapter 27.59, and shown on the associated Lincoln Airport Zoning Map. All construction within the area shall be subject to the height limitations of the inner approach and shall require a height permit for all structures. This area is located within the Airport Environs District. While not required for a change of zone, we will require an avigation easement over the enitre property at the time of a final plat. A portion of the area is within the noise contours described in 27.58 and shown on the Airport Environs Noise District Map. Please consult the matrix shown in Figure 27.58.050 for the permitted uses within the contours. As a general note, this area is generally "across the street" from the Lincoln Airport and on the extended centerline of Runway 14/32. This area will be overflown by aircraft on approach to, and departure from, the Lincoln Airport at relatively low altitudes and generating the noise approaching/departing aircraft make. While not precluded, we would not recommend residential development in this area. Review 2:	
	○ Corrections Needed for Review ○ Insufficient Information for Review	

Building & Safety (Terry Kathe)	○ Recommend Denial ○ Recommend Approval with Conditions ○ Recommend Approval ○ No Review Required Review 1: Review 2:	
County Health (Chris Schroeder)	○ Corrections Needed for Review ○ Insufficient Information for Review ● Recommend Denial ○ Recommend Approval with Conditions ○ Recommend Approval ○ No Review Required Review 1: Review 2: The Lincoln-Lancaster County Health Department (LLCHD) recommends denial for both option A and option B. Denial is recommended for option A due to the proposed camp ground's proximity to industrial zoning with the potential for exposure to hazardous materials. In addition, camp grounds typically do not have central warnings systems nor afford campers protection via house-in-place scenarios. Denial is recommended for option B again due to the proposed camp ground and the proposed multi-family's proximity to industrial zoning. The LLCHD has historically recommended at least a 300 foot separation between residential populations and industrial zoning.	
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: Review 2:	
Lower Platte South NRD (JB Dixon)	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ○ Recommend Approval ○ No Review Required Review 1: Review 2:	
Parks & Recreation (Mark Canney)	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ○ Recommend Approval ○ No Review Required Review 1: Review 2:	
Public Works (Jared Nelson)	○ Corrections Needed for Review ● Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ○ Recommend Approval ○ No Review Required Review 1: 1) The PUD does not have enough information accompanying it to determine the effect floodwaters will have on the development/use and the effect of such development/use may have on floodwaters. If the proposed development and use designation in the floodplain are desired, additional waivers to Title 26-Section 26.15.040 and 26.24.030 would need to be requested to waive the requirements of	

	Flood Regulations for Existing Urban Areas. In areas of floodplain, some of the items that need to be addressed include: minimum floor elevations on lots other than outlots, provisions that building sites will be 1 FT above BFE, safe access through site in the event of flood, and information that future grading & fill in the floodplain will meet floodplain requirements. 2) Portions of the proposed cemetery are in and near the floodplain. Provide provisions to protect contents of the cemetery against hydrostatic water pressures during flooding. 3) Show and label FEMA floodplain and floodway boundaries & cross-sections. Review 2:	
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:	
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: Review 2: See 11/20/12 email to you concerning this application.	

Completed Review Comments:

Building & Safety (Bob Fiedler)	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ◉ Recommend Approval ○ No Review Required Review 1: Review 2:
Emergency Communications (Kelly Davila)	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ○ Recommend Approval ○ No Review Required Review 1: Review 2:
Emergency Communications (Tara Garza)	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ◉ Recommend Approval ○ No Review Required Review 1: Review 2:
Fire Department (Patrick Borer)	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ◉ Recommend Approval ○ No Review Required Review 1: LRF recommends approval of this application. Review 2:

LES (Mike Petersen)	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ◉ Recommend Approval with Conditions ○ Recommend Approval ○ No Review Required Review 1: 7-05-2012; LES has added existing Transmission easements and a proposed parimeter easement to the plat plan. See MISC Doc folder for a redlined plan. LES has contatcted Civil Design Group regarding the Transmission line along the BNSFRR ROW. Mike P. Review 2:
Lincoln Police Department (Sgt Jeri Roeder)	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ◉ Recommend Approval ○ No Review Required Review 1: Lincoln Police has no objection to this proposal Review 2:
School District - Lincoln (Scott Wieskamp)	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ○ Recommend Approval ○ No Review Required Review 1: Review 2:
Stronger Safer Neighborhoods (Jon Carlson)	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ○ Recommend Approval ○ No Review Required Review 1: Ball fields look like an improvement to I-80 entryway corridor. Hotel(s) and RV park should be designed / landscaped to enhance I-80 entryway. Review 2:
United States Post Office (Kerry Kowalski)	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ◉ Recommend Approval with Conditions ○ Recommend Approval ○ No Review Required Review 1: Recommend approval with the condition all new deliveries be serviced by Centralized Box Units(CBUs) which will be purchased and installed at the develpers expense in a location agreed upon by the develper and US Postal Service. Review 2:
Windstream (Ken Adams)	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ○ Recommend Approval ○ No Review Required Review 1: Review 2:

Tom J. Cajka

From: Dennis D. Bartels
Sent: Tuesday, November 20, 2012 10:13 AM
To: Tom J. Cajka
Cc: Roger A. Figard; Randy W. Hoskins
Subject: FW: Draft Comments to Planning Concerning Interstate Land PUD at NW 12th and Cornhusker.

Please use these previously prepared comments for the Interstate Land PUD response to your recent request for comments now that the application is again active.

From: Dennis D. Bartels
Sent: Tuesday, September 11, 2012 3:29 PM
To: Miki Esposito; Roger A. Figard; Randy W. Hoskins
Subject: Draft Comments to Planning Concerning Interstate Land PUD at NW 12th and Cornhusker.

The following are my draft comments that I propose to send to Planning concerning the subject application. Please get back to me with any suggested additions or corrections that you may have. Planning would like the comments by September 14th.

The Interstate Land PUD, CZ12021, located at NW 12th and Cornhusker has been submitted with 2 conceptual options. As submitted neither option has been submitted with the required information to address "the impacts and needs of the proposed development on existing and proposed streets and utility systems" as required by 27.60.020(b) of the LMC. 27.60 requires the application to submit information in the same format and concept as a preliminary plat or community unit plan per 27.60.30. While the applicant agrees to submit this information after approval of this application, Public Works cannot respond to what impacts this application has to streets, utilities and drainage and grading without making assumptions about the potential wide range of land uses shown as potential uses and the impacts they may have.

The required information per 27.60 includes showing the proposed sewer and water systems, street grades and geometry, flood plain, grading and drainage plans and calculations, and potentially a traffic impact study. Potential impacts that I envision to the existing infrastructure include:

1. Option A shows extending a street system from NW 12th which presently has only one access point to Cornhusker Highway. The existing NW 12th Street paving is a substandard 27' wide paving serving this commercial and industrial area. A traffic impact study will likely be required once the land uses are better defined to identify the adequacy or deficiency of the existing and proposed streets with the proposed land uses. Street improvements may be necessary over and above constructing the new street extensions. Option A may require construction of a second water connection to Cornhusker Highway to serve the new development.
2. Option B shows a road to be constructed over private property outside this development connecting to Cornhusker Highway. Public Works objects to constructing this road because of the necessity of constructing an at grade rail crossing. The Union Pacific Railroad has also expressed written opposition to this crossing. The RTSD has been working to eliminate at grade crossings in the city and county and it seems counterproductive to create a new crossing. No details concerning the grading necessary to build this road have been provided. This road must be built under existing LES overhead power lines where vertical clearance may be an issue. I also question the design of the intersection with Cornhusker Highway located on a super elevated horizontal curve. No information has been submitted to enable Public Works to provide a recommendation about the feasibility or conditions of approval if it can be built.
3. This PUD is in a flood plain area that is being filled. There is a permit for the fill that has been done but the development that is shown likely does not match the approved permit filling and no grading plan has been provided for the proposed development as shown on the 2 options submitted.

4. There are several existing sanitary sewers that cross the area of this PUD. I anticipate that this plat can be served by extensions from the existing systems.

Tom J. Cajka

From: Patrick V. Borer
Sent: Friday, September 07, 2012 6:26 AM
To: Tom J. Cajka
Subject: RE: Interstate Land

Tom,

I logged into project dox and could not locate option A and option B for project cz12021. We are still interested in redundant access pathways. We currently working through a situation in the SW 1,2,and 3 hundred block of D, E, and F where this neighborhood has redundant access pathways but both of them could be blocked by trains. It's not a good situation in times of an emergency.

I don't know what kind of train traffic the grade crossing near the CZ12021 development carries. If it is any at all, I don't want to get into a situation where a train is blocking our only access to a development.

Pat

Patrick V. Borer
Assistant Fire Chief
Lincoln Fire and Rescue
1801 Q st., Lincoln 68508
402-441-8351 - o
402-326-1346 - c
402-441-8292 - f

CITY OF LINCOLN NEBRASKA

From: tcajka@lincoln.ne.gov [mailto:tcajka@lincoln.ne.gov]
Sent: Thursday, September 06, 2012 10:52 AM
To: Patrick V. Borer
Subject: Interstate Land

ProjectDox - Team Mail

Project:	CZ12021
Author:	Tom Cajka
Project Access | Login to ProjectDox	

Civil Design Group, Inc.

Consulting Engineers & Land Use Planners
Civil Design • Site Development • Planning & Zoning

June 27, 2012

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

Re: Interstate Land Planned Unit Development (PUD) application, NW 12th & Cornhusker Hwy. CDG Project #2012-0004

Dear Mr. Krout:

On behalf of Interstate Land, LLC we submit the above mentioned Interstate Land PUD application. This PUD contains 88 acres of land current annexed and zone I-1. The proposed R-3 PUD application shows a mixed use development including H-3, H-4 and R-5 uses in three areas. An existing conservation easement and anticipated minimum corridor areas are also shown. We are requesting a waiver of the block length design standard due to our proximity to railroad ROW and the Oak Creek floodplain.

Due to the PUD's size and trip generation capacity, an additional roadway connection to Cornhusker Hwy is shown, generally located at what would be the intersection of NW 9th Street & Cornhusker Hwy. Initial discussion and review of this connection have taken place with Public Works and Planning Staff. We have also had preliminary discussion with Burlington Northern RR regarding a potential crossing at this location.

In conjunction with this submittal we have included the following:

PUD Fee - $3,720.00
PUD Application Form

I hope that this letter and the plan sheets provide you with enough information to review this PUD application. In an effort to facilitate the review process, please call me at (402) 434-8494 if you have questions.

Sincerely,

Mike Eckert, AICP

Encl

cc: Interstate Land, LLC
JD Burt
Peter Katt

F:\Projects\2012\20120004\landplanning\Doc\PUD-planning_06-27-12.doc

L. BRUCE WRIGHT
JAMES M. BAUSCH
ROBERT J. ROUTH
DAVID R. BUNTAIN
STEPHEN H. NELSEN
MICHAEL C. MUELLER
DANIEL R. STOGSDILL
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RICHARD P. JEFFRIES
TRACY A. OLDEMEYER
PAMELA EPP OLSEN
TRENT R. SIDDERS

CLINE WILLIAMS
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ATTORNEYS AT LAW
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JONATHAN J. PAPIK
ADAM W. BARNEY
GREGORY S. FRAYSER
COADY H. PRUETT
CRISTIN McGARRY BERKHAUSEN
LAURA L. ARP
GRANT T. MAYNARD
COLIN J. BERNARD
KARA J. RONNAU

FREDRIC H. KAUFFMAN
DONALD F. BURT, RETIRED
STEPHEN E. GEHRING

CHARLES M. PALLESEN, JR., 1937-2011

July 23, 2012

RECEIVED
JUL 24 2012
Lincoln/Lancaster Co.
Planning Department

Ms. Jean Preister
Administrative Officer
Lincoln-Lancaster County Planning
Commission
555 South 10th Street, Room 213
Lincoln, Nebraska 68508

Re: Interstate Land, LLC Planned Unit Development Application
at Northwest 12th and Cornhusker Highway
Our File No.: 14624.003

Dear Ms. Priester:

I represent Union Pacific Railroad ("UPRR"). It has come to my attention that Interstate Land, LLC ("Interstate Land") has submitted an application to the Lincoln-Lancaster County Planning Commission for a Planned Unit Development ("PUD") near Northwest 12th and Cornhusker Highway. UPRR owns property, and has an active railroad line, in very close proximity to this proposed development. In fact, UPRR's property and railroad line are separated from the development by only the right-of-way owned by Burlington Northern Railroad ("BNRR"), which runs adjacent to UPRR's property. The BNRR right-of-way presently has no tracks located upon it and is not active.

The PUD cover sheet submitted by Interstate Land does not clearly identify UPRR's property or tracks, but the tracks are identified near the top of the site plan. It is clear that Interstate Land anticipates placement of an at-grade crossing over UPRR's tracks southwest of approximately Cornhusker Highway and Northwest 9th Street. Interstate Land has not submitted an application to UPRR for placement of an at-grade crossing at this location. Furthermore, Interstate Land has no right to place a crossing over UPRR's property and tracks at this

4839-5068-3920

ONE PACIFIC PLACE
1125 SOUTH 103RD, SUITE 600
OMAHA, NE 68124-6019
(402) 397-1700

1207 M STREET
P.O. BOX 510
AURORA, NE 68818
(402) 694-6314

NORTHERN HEIGHTS PROFESSIONAL PLAZA
416 VALLEY VIEW DRIVE, SUITE 304
SCOTTSBLUFF, NE 69361
(308) 635-1020

330 SOUTH COLLEGE AVENUE
SUITE 300
FORT COLLINS, CO 80524-2760
(970) 221-2637

location. This issue is presently being litigated before the District Court of Lancaster County, Nebraska in Case CI 11-1700.

In addition to the issue of a crossing over UPRR's tracks, the development proposed in Interstate Land's application does not comply with UPRR's guidelines for developments in proximity to existing rail facilities. Enclosed is a copy of the Minimum Land Use Planning Guidelines recommended by UPRR for such developments. UPRR would appreciate the Planning Commission's consideration of these guidelines, and the crossing issue raised above, when considering the application filed by Interstate Land. Also, please let me, and Madeline Roebke of UPRR (mroebke@up.com), know of any future hearings regarding Interstate Land's application.

Should you have any questions about this matter, please feel free to contact me at 402-474-6900 or amckillip@clinewilliams.com.

Sincerely yours,

Austin L. McKillip
For the Firm

Enclosure

MINIMUM LAND USE PLANNING GUIDELINES –

NEW DEVELOPMENT IN PROXIMITY TO EXISTING RAIL FACILITIES

Governing Principle: Developers of new projects – particularly residential development – in proximity to existing rail facilities should be responsible for avoiding or mitigating the potential impacts created by the development on rail facilities and rail services. Those potential impacts include safety as more cars and pedestrians are attracted to areas around the rail facilities resulting in people trespassing on railroad right of way and more vehicles using at-grade crossings, disruption of rail service as trains are forced to proceed more slowly or to make more frequent emergency stops, and use conflicts associated with the natural and unavoidable features of rail service including noise, mechanical odors and vibration.

Minimum Guidelines:

- **Residential and similar development (such as schools and hospitals) should not be allowed in proximity to existing rail facilities and, in general and depending on the circumstances, no closer than 1000 feet to the rail facilities.**

- **Where impacts from a proposed development (including, but not limited to, residential and similar developments) cannot be avoided, the developer should be required to mitigate impacts to the extent possible, including the following mitigation measures:**

  1. Barrier walls or fences, pavement markings and/or "no trespassing signs" designed to prevent trespassing on the railroad right of way, and public education on safe conduct near rail facilities and at at-grade crossings.

  2. Sound walls, landscape buffers and setbacks, and use of sound-proofing and vibration-dampening materials and techniques in constructing the development.

  3. Disclosure by the developer to all purchasers and occupants of the proximity to the rail facilities and the features of rail facilities.

- **All developers, as part of the traffic study for the development, should be required to analyze development-related increases in vehicular traffic over existing at-grade crossings and to construct, at the developer's expense, any grade separations needed to accommodate increased vehicular traffic.**

- **No new at-grade crossings should be allowed.**

OPPOSITION

ITEM NO. 4.4: CHANGE OF ZONE NO. 12021
(p.135 - Public Hearing - 12/12/12)

Charles F. Gotch
Michael F. Kinney*
Terry J. Grennan
Patrick B. Donahue*
Ronald F. Krause
Dennis R. Riskenberg*
David A. Blagg*
Brian M. Welch
Michael K. Huffer
Michael F. Scahill
James D. Garriott
Daniel J. Epstein
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John R. Douglas (Of Counsel)

Edwin Cassem (1902-1980)
Lawrence J. Tierney (1908-1999)
Robert K. Adams (1911-2003)
Daniel J. Duffy (1942-2011)
Theodore J. Stouffer (Retired)

*Also Admitted In Iowa

December 10, 2012

VIA FAX AND REGULAR MAIL
FAX 402.441.6377
Ms. Jean Preister
Administrative Officer
Lincoln-Lancaster County Planning Commission
555 South 10th Street, Room 213
Lincoln, Nebraska 68508

RECEIVED
DEC 10 2012
Lincoln/Lancaster Co.
Planning Department

RE: Application for Change of Zone No. 12021 of Interstate Land Planned Unit Development at Northwest 12th & Cornhusker Highway

Dear Ms. Preister:

I represent Pfizer, Inc., who owns Lots 60, 61, 62, and 67 of irregular tracts in the South half of Section 15, Township 10 North, Range 6 East of the 6th PM, Lancaster County, Nebraska. Pfizer and its predecessors have constructed a number of buildings on this property where they are primarily manufacturing animal health products. Pfizer employs approximately 500 people at this location.

One of the alternatives proposed by Interstate shows a road across Pfizer's property. Pfizer has not consented to such a road, and they oppose this application. Interstate's purported easement across Pfizer's property is presently being litigated before the District Court of Lancaster County, Nebraska in Case CI 11-1700.

Should you have any questions concerning this matter, please contact me at 402.390.0300, or cgotch@ctagd.com.

Yours truly,

Cassem, Tierney, Adams,
Gotch & Douglas

By Charles F. Gotch

CFG:ckm