City Council Introduction: July 20, 2015
Public Hearing: July 27, 2015 Bill No. 15-89

FACTSHEET

TITLE: CHANGE OF ZONE NO. 15015
AG Agriculture to R-3 Residential -
(5000 South 84th Street)

BOARD/COMMITTEE: Planning Commission

APPLICANT: Matt Langston on behalf of Robert H. and Marjorie E. Birkett and Luxe Lifestyle Innovations, LLC

RECOMMENDATION: Approval (8-0: Beecham, Cornelius, Corr, Hove, Lust, Scheer, Sunderman and Weber voting 'yes'; Harris absent).

STAFF RECOMMENDATION:
Approval.

OTHER DEPARTMENTS AFFECTED: N/A

SPONSOR: Planning Department

OPPONENTS: Yes; See Exhibit A, p. 26-51, and minutes, p.12-13.

REASON FOR LEGISLATION: Request for change of zone from AG Agriculture to R-3 Residential on property generally located at 5000 South 84th Street.

DISCUSSION / FINDINGS OF FACT:

1. This change of zone request was heard before the Planning Commission on July 8, 2014.

2 The purpose of this change of zone from AG Agriculture to R-3 Residential is to develop a 21-lot subdivision for attached, single-family dwellings. The R-3 zoning district allows the type of development proposed, and is consistent with the land use designation of the Comprehensive Plan. It also matches the zoning over the adjacent urban-density developments in Lattimer's Addition and HiMark, both of which are also covered by community unit plans.

3. The staff recommendation to approve the change of zone request is based upon the "Analysis" as set forth on p.3-4, concluding that the Comprehensive Plan designates this area for future Urban-density Residential development. That recommendation was subject to the site plan for the associated community unit plan (CUP) by Special Permit #15028, being revised to show all five lots out of the Pipeline Planning Area (PPA) along South 84th Street. After meeting with neighbors in the area, the number of dwelling units in the CUP was reduced from 34 to 21, a larger detention facility was provided on the east to address drainage issues but three lots still remained in the PPA. Staff were fine with the other changes but still objected to the lots in the PPA. The Planning Commission found that the reduced pipeline pressure in this area along with existing lots in both the adjacent CUP's developed within the last 20 years having lots inside the PPA justified a reduced number of lots within the PPA. Given that, the Planning Commission found a change of zone to R-3 for the subject land to be consistent with the Comprehensive Plan for a 21-lot CUP.

4. The applicant's testimony is found on p.9-10, and the applicant's response to the opposition is found on p.14-15.

5. Testimony in opposition is found on p.12-13, and the record consists of 12 letters of opposition (Exhibits A) found on p.26-51 and 1 letter of support found on p.52.

FACTSHEET CONTINUED

TITLE: CHANGE OF ZONE NO. 15015

6. On July 8, 2015, the Planning Commission also voted 8-0; (Harris absent) to recommend approval on the change of zone, and voted 7-1 (Corr dissenting; Harris absent) on the associated Special Permit No. 15028, as amended to reduce the number of lots based on the applicant's revised site plan (see p.20-23).

FACTSHEET PREPARED BY: Geri Rorabaugh, Administrative Officer **DATE:** July 13, 2015

REVIEWED BY: David R. Cary, Acting Planning Director **DATE:** July 13, 2015

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LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for June 10, 2015 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone #15015 - Erickson Addition

PROPOSAL: Change the zoning from AG Agriculture to R-3 Residential

LOCATION: South 84th Street and Pinehill Lane

LAND AREA: Approximately 5.97 acres

CONCLUSION: The Comprehensive Plan designates this area for future Urban-density Residential development. The R-3 zoning district allows the type of development consistent with this land use designation, and also matches the zoning over the adjacent Pinehill and HiMark developments. This finding is also based upon the approval of a revised site plan associated with Special Permit #15028 which removes all dwelling units from the Pipeline Planning Area (PPA) per the Health Department's recommendation. If so, this request complies with the Zoning Ordinance and is in conformance with the Comprehensive Plan.

RECOMMENDATION:	Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 74 I.T. located in the SW 1/4 of Section 11-9-7 of the 6th P.M., Lancaster County, Nebraska.

EXISTING LAND USE: Undeveloped

SURROUNDING LAND USE AND ZONING:

North:	Residential	AGR, R-3
South:	Residential	R-3
East:	Residential	R-3
West:	Undeveloped, Commercial	R-3 (PUD)

ASSOCIATED APPLICATIONS:

SP#15028 - A special permit for a proposed R-3 community unit plan which creates 34 lots.

HISTORY:

Sept 1997 - Annexation #97004 was approved annexing 78 acres, including the approximate 6 acres involved in this request.

COMPREHENSIVE PLAN SPECIFICATIONS:

Pg 1.9 - The Future Land Use Map designates the area for urban-density residential land uses.

Pg 1.10 - This property is in the Tier I, Priority A of the Growth Tiers with Priority Areas map for the City of Lincoln.

Pg 7.4 - Provide adequate spacing from pipelines and areas where hazardous chemicals could be used and stored; notify property owners and residents along the pipeline about hazards and emergency actions.

Pg 7.8 - Neighborhoods and Housing - Revise the regulations or procedures to provide notice to potential buyers about the location of pipelines and hazardous chemical use and storage, and to encourage adequate spacing be provided from pipelines and areas where hazardous chemicals could be used and stored.

ANALYSIS:

1. This request seeks to re-zone a 5.97 acre tract from AG to R-3. The land is located on the east side of South 84th Street near the intersection of Pine Hill Lane. The tract is mostly surrounded by R-3 zoning, except for a small remaining island of AGR to the north.

2. The subject tract was annexed in 1998 as part of a larger 78 acre annexation approved by the City Council. The property met the City's annexation policy as it was found to be contiguous, urban in character, and could be provided all City services.

3. The Future Land Use Map designates this area for urban-density residential land uses. The R-3 zoning district allows the type of development consistent with this land use designation. R-3 zoning also matches the zoning over adjacent Pinehill and HiMark developments.

4. This application is associated with Special Permit #15028, a request for an R-3 community unit plan (CUP) to allow up to 34 lots/dwelling units. Approval of the CUP is conditioned upon the approval of this change of zone, as R-3 zoning is necessary for the plan under consideration.

5. One of the conditions of approval of the special permit is that no dwellings be located in the PPA. This is based upon the recommendation from the Health Department using the *Report of the Joint Committee on Land Use and Health* of 2006. Two goals of that report were to strongly encourage that new development not build within the Hazard Area of high pressure underground pipelines, and to increase notification efforts at the local level to make residents and businesses more aware of the hazards of these pipelines.

6. Provided the site plan associated with Special Permit #15028 is revised per the recommended conditions of approval with respect to the PPA, this request complies with the Zoning Ordinance and is consistent with the Comprehensive Plan. If the site plan is not revised such a manner, staff recommends denial based upon a finding that re-zoning the property is not appropriate without an associated development plan which respects the recommendations regarding the PPA.

Prepared by:

_____

Brian Will
bwill@lincoln,ne.gov, 402-441-6362
May 27, 2015

APPLICANT/ CONTACT: Matt Langston
Olsson Associates
601 P Street
Lincoln, NE 68508
402-525-9963

OWNER: Robert and Marjorie Birkett
500 South 84th Street
Lincoln, NE 68516

CHANGE OF ZONE NO. 15015

PLANNING COMMISSION MEETING - JUNE 10, 2015:

REQUESTS FOR DEFERRAL:

There were two separate Requests for Deferral by the respective applicants (See below):

1) Request of Matt Langston for a 2-week deferral on Agenda Items 4.6a and 4.6b:

CHANGE OF ZONE NO. 15015, AG AGRICULTURE TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT 5000 SOUTH 84TH STREET,

AND

SPECIAL PERMIT NO. 15028, A REQUEST FOR A COMMUNITY UNIT PLAN FOR A 34-LOT SUBDIVISION, WITH WAIVERS TO SETBACKS, LOT WIDTH, LOT AREA, AND PRIVATE ROADWAY DESIGN STANDARDS ON PROPERTY GENERALLY LOCATED AT 5000 SOUTH 84TH STREET.

June 10, 2015

Members present: Lust, Scheer, Hove, Weber, Corr, Harris, Sunderman and Cornelius; Beecham absent.

There was no one present to provide testimony; therefore, no public hearing was held on these two applications.

Hove moved to defer the public hearing on these two applications; seconded by Cornelius. Motion carried 8-0: Lust, Scheer, Hove, Weber, Corr, Harris, Sunderman and Cornelius voting 'yes'; Beecham absent.

PLANNING COMMISSION MEETING - JUNE 24, 2015:

REQUESTS FOR DEFERRAL:

A written request was submitted by applicant Matt Langston to delay the public hearing and action on Agenda Items 4.1a and 4.1b for an additional two weeks. (See below):

CHANGE OF ZONE NO. 15015, AG AGRICULTURE TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT 5000 SOUTH 84TH STREET,

AND

SPECIAL PERMIT NO. 15028, A REQUEST FOR A COMMUNITY UNIT PLAN FOR A 34-LOT SUBDIVISION, WITH WAIVERS TO SETBACKS, LOT WIDTH, LOT AREA, AND PRIVATE ROADWAY DESIGN STANDARDS ON PROPERTY GENERALLY LOCATED AT 5000 SOUTH 84TH STREET. June 24, 2015

Members present: Lust, Scheer, Harris, Sunderman, Corr, Hove, and Beecham; Weber and Cornelius absent.

Beecham moved to defer the public hearing on these two applications; seconded by Corr. Motion carried 7-0: Lust, Scheer, Hove, Corr, Harris, Sunderman, and Beecham voting 'yes'; Cornelius and Weber absent.

There was no one present to provide testimony; therefore, no public hearing was held on these two applications.

CHANGE OF ZONE NO. 15015, AG AGRICULTURE TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT 5000 SOUTH 84TH STREET,

Staff Recommendation: Approval.

AND

SPECIAL PERMIT NO. 15028, A REQUEST FOR A COMMUNITY UNIT PLAN FOR A 34-LOT SUBDIVISION, WITH WAIVERS TO SETBACKS, LOT WIDTH, LOT AREA, AND PRIVATE ROADWAY DESIGN STANDARDS ON PROPERTY GENERALLY LOCATED AT 5000 SOUTH 84TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: July 8, 2015

Members present: Lust, Hove, Scheer, Weber, Cornelius, Sunderman, Corr, and Beecham; Harris absent.

Staff Recommendation: Conditional Approval.

Final action by the Planning Commission on Special No. 15028.

There were no ex parte communications disclosed.

Staff Presentation: Brian Will of the Planning Department provided an overview of these two applications. These were delayed two weeks ago at the request of the applicant to allow them to make revisions to the site plan after meeting with the neighbors. He believes that the applicant will be providing a revised site plan but reviewed the plan that was included in the Planning Commission's packet. Will referred to the site plan which is the Birkett tract, which is located between Pinehill Lane and Augusta Drive. He referenced the adjacent developments – HiMark which is zoned R-3 consists of single-family detached dwellings and patio homes to the northeast and an older acreage development – Villa Del Rey, which is zoned AG. Pinehill Lane is part of the Latimer's Addition, which is a community unit plan approved several years ago, which is zoned R-3. The original site plan of this proposed development shows 34 lots for patio homes, attached single-family and detached single-family dwellings. In terms of the roadway network, Will stated that Pinehill Lane to the north in the Latimer's Addition is a private roadway. They are proposing to continue this internal street network and making a connection to South 85th Street. He noted that there is an internal street that runs east/west that is a private roadway. Rentfro Drive has subconnections to the north and south of this development and is a public street, which exists in both HiMark and Villa Del Rey. The staff is supportive of the roadway proposal.

Will noted that there are three primary issues. One relates to closing the connection of Pinehill Lane at South 84th Street; another is the pipeline planning area and the placement of lots in that area along South 84th Street, and the final issue relates to drainage along the eastern edge of this development to both Villa Del Rey and HiMark.

In terms of the connection of Pinehill Lane, Will stated that with the approval of Latimer's Addition, a condition was added at the end that states that at such time as Pinehill Lane is connected to Rentfro Drive, the connection to South 84th Street will be removed at the City's expense. Will indicated that some of the neighbors in Latimer's Addition asked if that now means that Pinehill Lane is actually making a connection to Rentfro Drive. The answer is no. It does not meet the strict language of the resolution, which talks specifically about Pinehill Lane being extended to Rentfro Drive. This will not happen until the lots

adjacent to the east are redeveloped and Pinehill Lane is extended to the east to Rentfro Drive. Will identified the location of 85th Street on the site map per the request of Beecham and explained that it extends into Erickson Addition. It will currently not go any farther south.

Next, Will stated that one of the conditions of the staff report is to delineate the pipeline planning area on South 84th Street on the site plan and remove any developable lots and dwellings from it. If it were delineated on the plan, it would be in line with the east line of 85th Street. The special permit conditions indicate that staff is supportive of the change of zone and the community unit plan, subject to this line being delineated and the dwellings being removed n the pipeline planning area, identifying the five dwelling units that would be eliminated. He clarified that the area east of 85th Street are still developable lots. The pipeline planning area is 175 feet from the pipeline to South 84th Street, which extends on both sides of South 84th Street.

The third issue relates to drainage and existing conditions for the most part, which is most problematic to the neighbors. Will indicated that the drainage study was not submitted as part of the special permit. The conditional approval included the submittal of this report with it being subject to the review and approval by Public Works. This condition still stands.

Will indicated that the applicant likely has additional information to share about a revised site plan and a motion to amend the conditions of approval.

Questions of Staff:

Lust asked if there are dwelling units along Pinehill Lane that are located in the pipeline protection area. Will stated that there are. Within the community unit plan to the north, there are four lots that are within the pipeline area, three of which have houses on them. In HiMark, there are also single-family dwellings on lots that are located within the pipeline planning area.

Beecham asked if Pinehill Lane is one of access points into the new development and asked if there is anything that they need to consider when reviewing a project with a private lane to access a neighborhood. Will stated that if this development would have been approved today, it wouldn't be a private roadway because it is going to wind up connecting to a larger internal street network which will be used by other developments. However, it is a private roadway and, at the time, the applicant argued for it to be private and it was approved that way. It will remain private.

Hove asked if the neighbors could ask that it be changed to a public roadway. Will stated that they can ask but he would not speak for Public Works. He noted that there would be some concern for doing this. First, private roadways are generally not built to the same

standard as public streets. We would likely be assuming maintenance responsibility for a street that is substandard. There was likely no inspection conducted by city staff, so it would be difficult to verify what standard it was built to.

Lust referenced the condition of approval in the staff report that suggests that everything in the pipeline protection area be removed. Will indicated that the original site plan was acceptable if they made the changes in the recommendations of approval to delineate the pipeline planning area and remove any dwellings from within it.

Beecham asked for clarification on the roadway automatically becoming a public street once Pinehill Lane is extended to Rentfro. Will stated that even then, it will still be a private roadway. Pinehill Lane is a private roadway today and will remain private even if properties to the east subdivide and if it is extended to Rentfro Drive; the portion that exists today is private and it will remain private most likely. At such time access to 84th Street is made, the condition is that this will go away. Will further stated that these are the conditions of approval of the community unit plan, which were adopted by the city council, noting that they could be modified by city council.

Proponents:

1. Mark Palmer and Matt Langston, Olsson Associates, 601 P Street, appeared as the applicant and distributed a copy of a motion to amend. Palmer indicated that Darren Erickson is the developer/builder of this project. The motion to amend includes a reduction in units, reduction in the density, and a reduction in the number of units within the pipeline planning area but not a full elimination of all the units within that zone. They have invited representatives from Black Hills Energy to attend the meeting to describe this pipeline in more detail.

Palmer stated that they started with a town home development and made the mistake of not meeting with the neighbors. They recently met with them and they heard their concerns. This revised site plan reflects the dialogue of the meeting held on Monday. He believes that the majority of the neighbors seemed to be happy with the revised plan. This is an infill project and they have to connect with the existing roads. The basic connection of the roadway system has not been revised. They want to respect the drainage concerns of the neighbors. Some things that occurred in HiMark to the south are concerning in terms of the amount of water that is coming down and this has been communicated by the neighbors. The elimination of the lots on the east side of Rentfro and the expansion of a detention cell to hold more water than what is required to protect the neighbors down stream. Matt Langston has conducted a drainage analysis, which has been recently submitted to the city. This development will consist of patio homes with detached town homes with similar architect. Erickson will be building the houses and will be using common colors and materials, which will be complimentary to the HiMark area. They have reduced the density and have kept a couple units in the pipeline planning area. There has not been a formal city vetting process for the pipeline planning area; it is a preference. He believes that it is density based. There are approximately 30,000 vehicles that drive over this line everyday. They are asking for

two homes that are encroaching into this area. He believes that this is adequate for this area. The neighbors to the north and south are at least two lots deep into the area.

Scheer asked how many lots have been cut from the original proposal. Palmer stated that they started at 34 and are down to 21 lots.

Beecham asked for clarification on the drainage and how it has been changed in their proposal. Langston referred to a site map, stating that there is an area that drains through the Birkett property. The neighbors have indicated that this area gets inundated frequently. The site to the south in HiMark was designed to be extended to pick up the water; however, there is a low spot in there and every time it rains, water pools there. The original design included a detention cell that make the larger storm events go down the street per design standards. He noted that the new design includes the elimination of some lots to make a larger detention cell than what is required by city design standards. They will be containing twice the amount of water that they are required to in order to help the neighbors to the south. Palmer reported that the drainage criteria manual was not an ordinance when HiMark was developed. The pipe for drainage in this area was only sized for a 10-year storm. This is a restraint for them. If this was developed today, they would have to pipe for a 100-year storm and not detain anything. Any connection to the existing pipe would put the water into the road. They are looking to hold as much as they can. Based on their calculations, there is approximately 145,000 cfs in a 100-year storm and they will be discharging about 110 cfs. The new runoff as a result of this developed property is only about 5 cfs.

The Planning Commission adjourned at 3:12 p.m. for a short break and reconvened at 3:18 p.m.

General Information:

1. Brandy Johnson, Community Affairs Manager, and Randy Kreifels, Construction Coordinator, with Black Hills Energy, 1600 Windhoek, appeared to provide additional information. They are neither in support or opposed to this proposed development. Johnson indicated that the pressure of the pipeline along 84th Street is 200 psi and is classified as a distribution line. The pipeline along Yankee Hill Road is 600 psi and is classified as a transmission line.

Lust asked about the difference in the blow area of a 200 psi line compared to a 600 psi line. Johnson stated that pipelines are regulated by the Department of Transportation. A distribution line has different requirements than a transmission line. The area around a distribution line is not classified as a high consequence area. The 84th Street line has operated without incident since it was installed in 1973.

Lust stated than that it is not as critical to keep residence out of this area since it is not a high capacity line such as the one along Yankee Hill. Johnson stated that it is not in any federal regulations that regulate the pipeline industry. Even with the line along Yankee Hill, there is a portion that is classified as a high consequence area but this doesn't mean that you cannot have dwellings within that area. However, Johnson noted that they do have to follow additional requirements for maintenance, notifications, and overall pipeline integrity process. They own easements to protect the pipeline and allow them to manage to the maintenance of them.

Beecham asked about the public notification process, i.e. if she moved into a house and there is a pipeline nearby or under her property, would she be informed of this. Johnson reported that they follow a pipeline notification process including a variety of things. If you live in a high consequence area, then pipeline markers are placed and are visible. In addition, they also send out mailings – targeted to individuals who live within that area and some general information that is provided in their bills. Beecham asked if there are differences in terms of the notification in high consequence areas versus low consequence areas. Johnson indicated that they do a notification but she was not sure about the specifics.

Corr asked if the bill insert specifically indicates that an individual is located in a high consequence area or is it just part of a newsletter. Johnson stated that the insert generally provides information that you need to know to be safe around the pipe lines; however, if you live in a high consequence area, you would specific insertion. They are in full compliance of all the Department of Transportation rules and they do have to report all of this.

2. Chris Schroeder, Lincoln-Lancaster County Health Department, came forward to address questions of the Planning Commission.

Lust stated that she understands that the Health Department is recommending that there be no dwelling units around this pipeline and that the Planning Commission not approve the site plan as submitted. She asked if it makes a difference if this pipeline is 200 psi versus the 600 psi on Yankee Hill Road. Schroeder indicated that is doesn't matter. They use a federal equation that calculates the pipeline planning area relating to the diameter of the pipeline and the maximum allowable operating pressure. The number between these two references pipelines is just less for South 84th Street.

Cornelius stated that the formula provides different results and those are reflected in the designated pipeline planning area. Schroeder indicated that this is correct.

Lust asked if the pipeline planning area is larger along Yankee Hill Road than it is on 84th Street; Schroeder indicated that this it is – Yankee Hill is 221 feet and South 84th Street is 175 feet.

Lust asked why the Health Department believes this is important. Schroeder stated that when you consider the federal definition for the potential impact radius, if there is a potential failure of the pipeline, there is a significant impact to people and property within the projected pipeline planning area. They recommend not locating residential structures, schools, daycares or retirement facilities as well.

Lust stated that there are already residential structures along the pipeline. Schroeder indicated that he is aware of this. He stated that in 2006 they started to be consistent in making this recommendation. A lot of the existing structures were built prior to this recommendation of not locating within these pipeline planning areas.

Hove asked if there is any data available in terms of accidents that have occurred in regard to gas pipelines. Schroeder indicated that he doesn't believe there have been any major incidences in Lancaster County. However, across the country there have been occurrences, including San Bruno, California and even in Fremont, Nebraska.

Corr asked what happens if a pipeline has an occurrence. Is there a fire or an explosion? Schroeder indicated that he is not a hazmat specialist but if there is a third party damage to the line and residents can hear or smell the natural gas, they should call 9-1-1. It really depends on the situation; they may be told to house in place or evacuate based on the situation.

Beecham asked **Rick Peo of the City Law Department** regarding the difference in terms of a recommendation versus an ordinance that is in place and the Planning Commission's responsibility. Peo stated that because this is a special permit, they need to consider the adverse impact that this development imposes on public health, safety and welfare. They have looked at these as being a legitimate condition of approval and whether or not the risk is sufficient enough that they should not permit development within the pipeline area. This is a discretionary function on the part the Planning Commission or the city to impose this or not; although they believe it is the appropriate thing to do. Property owners feel differently because they are losing some value of their property and the ability to utilize it to the extent of other property. Peo further stated that better knowledge and more awareness of a problem doesn't mean you continue to exasperate it. These are not by-right developments, they are discretionary and the Planning Commission has the ability to impose reasonable conditions.

Beecham asked if the city is looking into creating an ordinance. He indicated that is has been looked at and they had a meeting about a year ago with the development community to discuss it but it hasn't moved forward.

<u>Opponents</u>:

1. Austin Mackrill, 5000 Rentfro Drive, came forth and noted that his property borders the northeast corner of this property. He indicated that he was initially in opposition but he believes that the developer has made some big contingencies with the revised plan in terms of density and the drainage plan. Mackrill showed a couple of

short video clips that illustrate the level of drainage in this area, particularly on the east side of Rentfro Drive. Mackrill stated that the initial concern was that there would be drainage coming from the north and east with quite on bit of water, as shown on June 11 during the 3-inch rain event. He wanted to get this on record that there is a significant amount of water here that is not on the map. He also showed a picture showing the Rentfro Drive connection basically showing the Ridgeway property on HiMark. He believes that the applicant has done a good job of mitigating by abandoning the townhomes on the east side. He believes that they have a good plan at this point with the reduction in density. Mackrill asked about the connection up to the Rentfro Drive up to the property, as there is a 100-foot piece on Rentfro Drive which is just grass and he asked who is responsible for paving this. Lust asked Mr. Mackrill to talk to staff regarding this question.

2. Judy Shuttz, 5001 Rentfro Drive, came forward and stated that they own property west across the top of the development. She thanked the developers and Olsson Associates for revamping the plan, as it is helped. They were not privy to the Watershed report but she noted that there are a lot of trees down there and they absorb a lot of water. She would like them to keep these trees for this purpose. There is a lot of extra water coming off there. They have lived adjacent to this property and all the property to the north drains into this area. She asked about the setback requirements for the units on this street. Lust indicated that staff can address this when they are called back up. She noted that there is a house in HiMark that is setback 25 feet, which is a requirement for that development. She would not want to see the new units setting forward of that setback. Their property would be impacted by the paving. The paving has to be connected to the road in front of their property, which is a dead end. Who's cost would be this be?

3. Janet Wollsoncroft, 8730 Augusta Circle, stated that their property joins the corner of the proposed development. She expressed concern about the back of her property and the drainage, which comes from the HiMark town homes and the property to the east of them. She doesn't want anything that would dam the water, which would backup the water onto her property. They haven't seen how much area this water comes from but they have heard that it could be anywhere from 19 to 25 acres. She showed a picture which showed water from a typical rain that was taken on September 30, 2014, indicating that it doesn't take a once in every10-year event for the water to backup.

<u>Staff Questions</u>:

Scheer asked staff if he had a chance to review the recently submitted amended conditions of approval. Will stated that he has. Scheer asked him to comment on the strikes in the introductory sentence. Will stated that staff is supportive of modifying this plan so that the waivers are not needed. Staff still has an issue with 1.1.3 based on the findings of the Health Department.

Lust stated that the revised plan would not be acceptable due to the dwellings in the pipeline planning area. Will stated that this is correct.

In terms of the neighbors' questions, Will explained that Ben Higgins with Watershed Management is present to address the water questions. As for the setback, Will stated that the front setback for the HiMark community unit plan is 25 feet. The typical setback for the R-3 district is 20 foot front, 5 foot side, and 20 feet in the rear. This is what is being proposed for this development. The front yard setback is 5 feet less than the lots that are adjacent in HiMark. HiMark imposed a higher setback than was it is required. As for the cost of paving the strip of road, Will indicated that Public Works will review the Executive Order for the improvements and make sure that this connection is being made. It will be the developer's responsibility to make these connections so that the street works.

Ben Higgins, Public Works/Watershed Management, stated that he has not seen the detailed analysis yet, as he just received it late this morning. He is not sure if the trees are being removed but if they are, it won't make a huge difference for a major rain event. As for the drainage analysis, he has not read the report yet.

Lust stated that one of the conditions of approval is the approved the drainage plan. Higgins stated that this is part of the eminent conditions.

Corr asked who will pay for the paving of the road. Will stated that it would be the developer's responsibility.

Applicant Rebuttal:

Mark Palmer indicated he recognizes that there are flooding issue. He noted that there are a number of trees that need to be removed, as they are constricting flow and blocking the flow into the pipe. They will leave the large cottonwood. They will be excavating the cell to create as much storage as possible. The existing storage today is about 43,875 cubic feet and the proposed storage is 71,469 cubic feet, which is doubling the storage that they can have there. He noted that there are some houses that are elevation of the right-of-way and there is some concern about that. They will provide Ben Higgins the necessary draining computations. Palmer noted that there is also an electrical line easement that runs along the north side of the property and they are dealing with the PPA on the west side. The gas line is in the city right-of-way. Someone purchasing property in this area would not know it is there. They will disclose the fact that it is there. There has been other development to the north and south that has occurred within this zone. They believe that they are doing the right thing. They are doing low density. As for commercial development being permitted in the pipeline planning area, he questioned the reasoning for that. If there would be a gas line leak, which would likely be due to construction, it would normally occur during the day when residents aren't home and commercial areas would be occupied. Lower density areas get lower maintenance and higher density get higher density and he believes that this is a good compromise.

Matt Langston stated that he has been certified as a hazmat technician. He noted that if there was a pipeline leak or a failure, at least half of the development would be evacuated. The pipeline planning area really has nothing to do with this.

Beecham noted the drop in density of this proposal and asked if it was the result of the drainage concerns or design, or the pipeline. Palmer stated that they listened to the concerns of the homeowners in terms of what they wanted in this area. They tried to be responsive to these concerns. Beecham indicated that she appreciates the applicant taking the time to meet with the neighbors.

Beecham asked if it the lots were slightly smaller if they could move the two dwellings out of the pipeline. Palmer stated that they have provided a setback. They can put in a berm or some kind of buffer in a portion of that area. They plan to berm and screen because they are next to 84th Street so it makes sense. This is about the best they can do in terms of making the project work economically.

Corr asked about the drainage and coming over Augusta Drive. Palmer indicated that Rentfro drains to Augusta Drive. Corr noted that in the original plan there were issues with driveway locations at 85th & Birkett and asked if this has been resolved. Palmer stated that these were eliminated with the new design.

ACTION BY PLANNING COMMISSION: July 8, 2015

CHANGE OF ZONE NO. 15015, AG AGRICULTURE TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT 5000 SOUTH 84TH STREET.

Staff Recommendation: Approval.

Beecham moved to recommend approval as proposed by the applicant's amendment for this application; seconded by Hove.

Beecham stated that the gas line issue has come up before and the safety of citizens is important. She is frustrated by the lack of rules and ordinances in place and feels caught in terms of having to make a decision about safety that she is not qualified to make, especially when there is conflicting information. She is on the fence because of this. She likes the revised plan and appreciates the developer's effort in terms of drainage and design.

Lust is generally supportive of the planning pipeline area; however, the goal is to limit the density in those areas. They have gone down from five units to two units in an area, which isn't quite as critical as along Yankee Hill Road. She is persuaded a little bit as she is not sure what the policy is accomplishing when they would allow a commercial district but not two dwelling units, which would have the potential for having a lot fewer people present at critical hours for the pipeline area. In this particular case and getting this down to two dwelling units, may be a good compromise for this development,

especially with the significant drainage problems by the developers and the outreach they did with the neighbors in this area. In addition, they have reduced the number of dwelling units from 34 to 21 units, which limits the density in this area as well.

Cornelius agreed with Lust's comments. It is not clear on the intent of the recommendations with regard to what is allowed and what is not in the pipeline planning area. In addition, he believes that the developer has made a good faith effort to try to mitigate the problems that are created within the pipeline planning area. They have a situation that appears to be low risk but relatively high consequence in the case of a worse case scenario and 84th Street.
He is not compelled by the fact that there is already development in the pipeline planning area because they shouldn't keep making the same mistake over and over again. He is inclined to support this because of the reasons outlined.

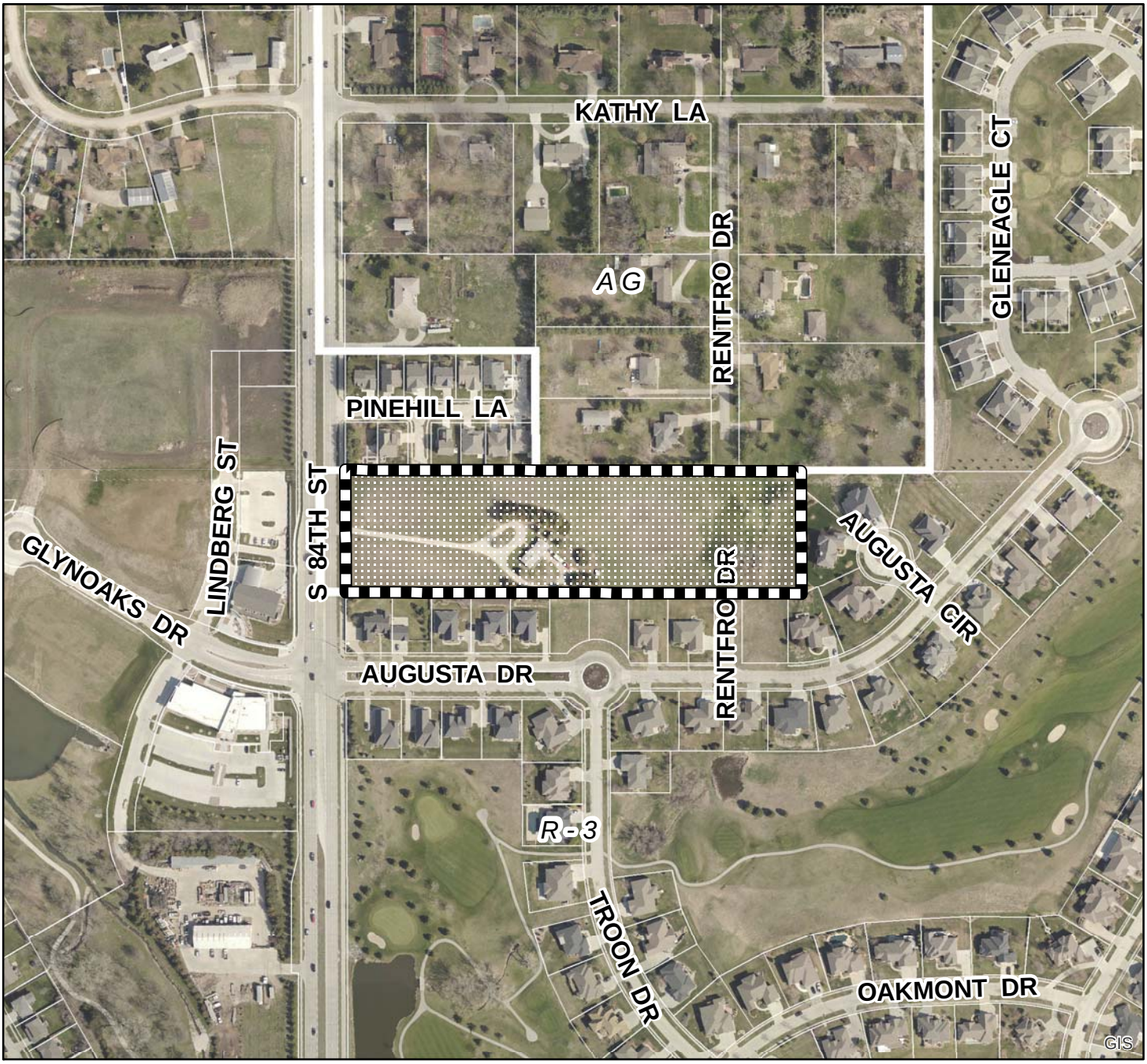
Scheer stated that he appreciates every time that the pipeline planning area comes into play with a project. All of the proposals that they have recently approved and have reviewed, they have seen an attempt by the developer to mitigate as much as possible this condition. He agreed with comments of Lust and Cornelius and is inclined to support this. Weber stated that he appreciates the work that the applicant has went through to try to make this good project with the hand he was dealt.

Sunderman stated that in terms of the pipeline planning area, they need to have some regulations. There needs to be something on paper so everybody is on the same page and they are not piece mealing this and trying to guess what is best. The applicant did a wonderful job in trying to address issues, which is appreciated. This puts people in a bad position by not having clear regulations on the pipeline planning area.

Corr appreciates all the challenges presented in developing this property – drainage and the pipeline – it is really limiting. They need to clarify and codify these pipeline regulations so that they can uniformly apply them across the board. She understands that commercial buildings were okay because it is harder to get people out when they are sleeping. She supports the change of zone to R-3 but she is not comfortable with putting homes in the pipeline area. She will vote no on that part of the application.

Cornelius stated that he is comfortable knowing that homeowners are going to be informed – it is a big help. He likes the low density and that the units will be bought by individuals who have been told they are in a pipeline planning area. Corr stated that this still causes her concern because the fliers that are received in the mail seem like it is going out to everyone and may not apply to them specifically. Cornelius indicated that the developer is required to disclose this information. Corr had concerns about the subsequent sale of the property and whether or not it would be disclosed. Cornelius indicated that he would like to see some sort of motion toward a requirement for realtors to disclose this as well.

Motion for recommending approval of the change of zone carried 8-0; Corr, Scheer, Cornelius, Hove, Lust, Weber, Sunderman and Beecham; Harris absent.

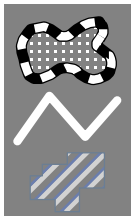


2013 aerial

Change of Zone #: CZ15015 (AG to R-3)
and Special Permit #: SP15028
Erickson Addition CUP
S 84th St & Pinehill La
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

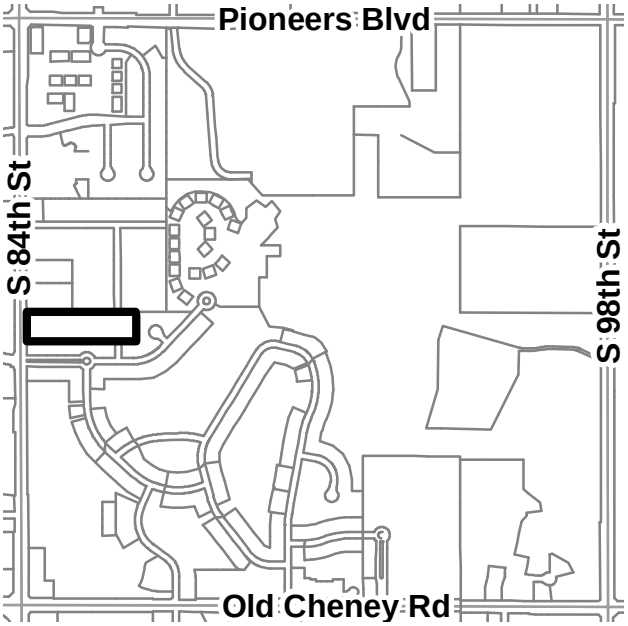
One Square Mile:
Sec.11 T09N R07E



Area of Application

Zoning Jurisdiction Lines

Lancaster County Jurisdiction



PDF: F:\Boards\PC\Internet\out\

File: F:\DevReview\PlannerPacket\MXD\Agendadrawings.mxd (CZ15015)

OLSSON
ASSOCIATES

May 13, 2015

Brian Will
Lincoln Lancaster Planning Department
County-City Building
555 South 10th Street, Suite 213
Lincoln, NE 68508

Re: Erickson Addition
Change of zone

Dear Brian

On behalf of the owner, Robert H. & Marjorie E. Birkett and the developer, Luxe Lifestyle Innovations, LLC . We are requesting a Change of Zone from 'AG' to 'R-3' for the property located at 5000 South 84th Street, Lincoln, Nebraska

The areas surrounding the 5.97 acre site are developed residential neighborhoods and zoned 'R-3', with the exception of a portion of the north boundary which is zoned AG. We feel the 'R-3' zoning fits well in the area and will make the best utilization of the site.

Please let me know if you have any questions or comments.

Sincerely,

Matt Langston

CHANGE OF ZONING
SITE PLAN

LEGAL DESCRIPTION

LOT 74 SW, IN THE NW¼ OF THE SW¼, 11-9-7

LEGEND

- LIMITS OF PROPOSED CUP
- PROPERTY LINE
- UTILITY AND ACCESS EASEMENT
- BUILDING SETBACK
- SECTION LINE
- RIGHT OF WAY LINE
- PROPOSED SANITARY SEWER
- PROPOSED WATER MAIN
- EXISTING SANITARY SEWER
- EXISTING STORM SEWER
- EXISTING WATER MAIN

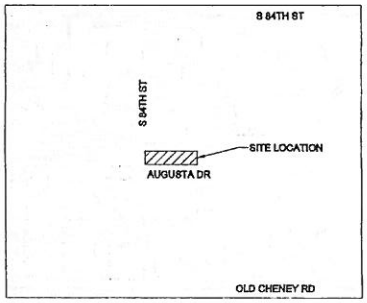
AREA OF CHANGE OF ZONE REQUEST FROM "AG" TO "R-3"

ENGINEER & PREPARER

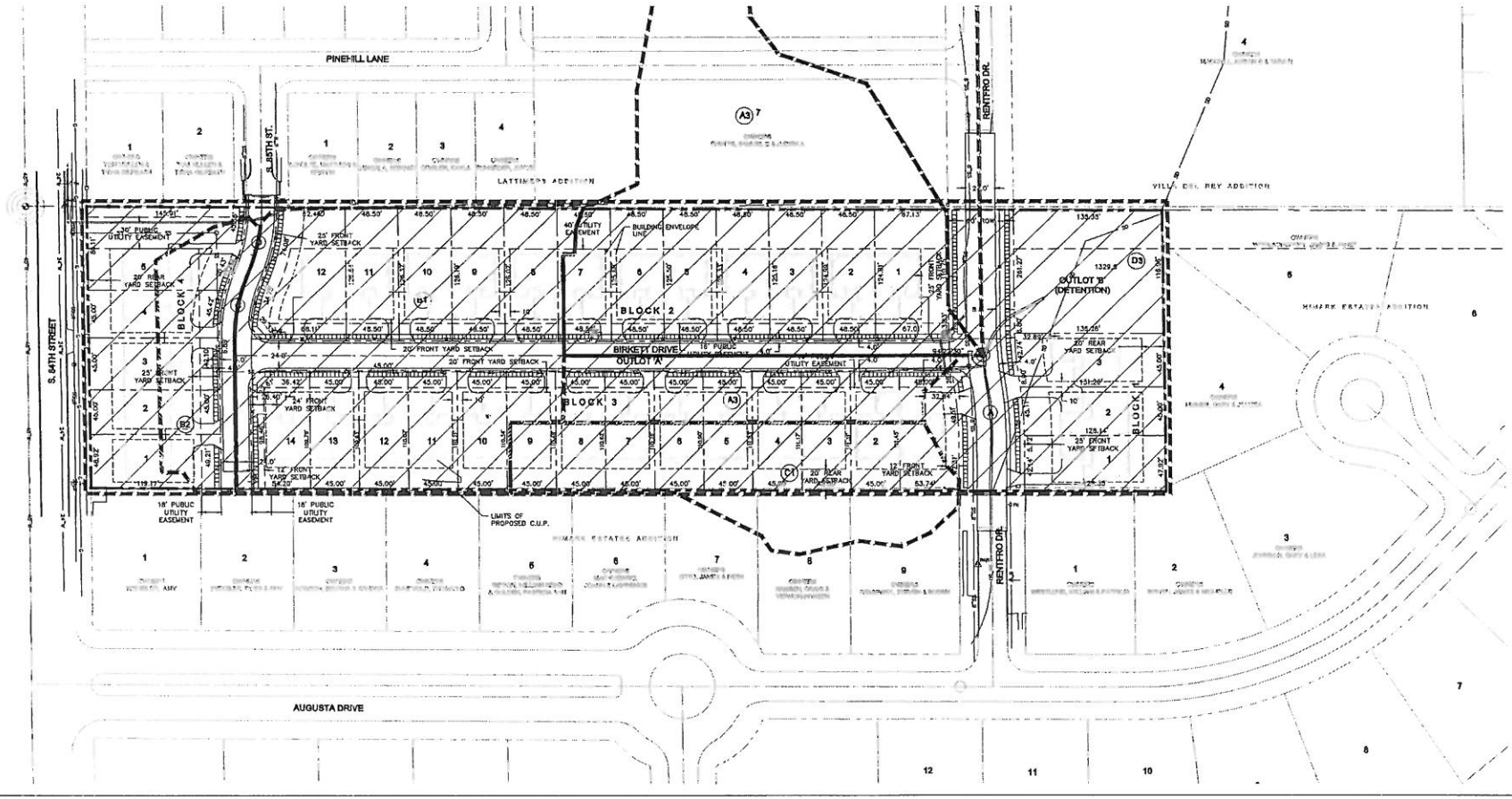
OLSSON ASSOCIATES
601 P STREET, SUITE 200
LINCOLN, NE. 68508
PHONE: (402) 474-6311

OWNER

BIRKETT, ROBERT H & MARJORIE E
5000 S 84 ST
LINCOLN, NE 68516



VICINITY MAP



OLSSON ASSOCIATES

ERICKSON ADDITION

84TH AND AUGUSTA DR
CHANGE OF ZONING

LINCOLN, NEBRASKA

REVISIONS

REV. NO.	DATE	REVISIONS DESCRIPTION

2015

SHEET 1 of 1

DWG: F:\Projects\015-1922\4-Design\AutoCAD\Preliminary Plans\Sheets\LAYOUT-CUP-150922.dwg USER: mlangston
DATE: May 14, 2015 10:03am XREFS: C-BASE-DTT-150922 C-BASE-150922 C-PLOT-150922 C-BASE-150922 110907

CONDITIONS OF APPROVAL

This approves a community unit plan for ~~34~~21 lots ~~with adjustments to the front yard setback from 25' to 12', to the average lot width from 50' to 45', and to the average lot area from 6,000 to 5,000 sq. ft.~~

Site Specific:

1. The developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 4 copies with all required revisions and documents as listed below upon approval of the community unit plan before receiving building permits:

   1.1 Revise the plans as follows:

   1.1.1 Revise 'Waiver Requests' to 'Waiver Table', and revise the table to include the lot width and lot area adjustments.

   1.1.2 Revise Note #18 to state 'All setbacks per the R-3 zoning district except as adjusted.'

   1.1.3 Delineate the 175' Pipeline Planning Area along South 84th Street~~, and revise the site plan to show no dwelling units located within it.~~

   1.1.4 Remove the property owner's names from the site plan.

   1.1.5 Revise the site plan, private roadway cross section, and typical lot detail to show sidewalks set back at least 8' from the back of curb.

   1.1.6 Delete Notes #8, 10-16, 19, and 21 which are either redundant or re-state current requirements.

   1.1.7 Delete the lot setbacks table, waivers are covered by 'Waivers Table'.

   1.1.8 Add a note which states, 'The minimum set back from the back of curb to the garage shall be 22' in those case where the garage faces a street. Otherwise setbacks are per the CUP'.

   1.1.9 Show the sidewalks connecting around the end of the paving at the south end of South 85th Street.

   1.1.10 Add a note which states 'Parking is prohibited on one side of Birkett Lane and South 85th Street, to be determined by the Homeowner's Association.'

   1.2 Submit a drainage study and revised grading, drainage, and utility plans to the satisfaction of Public Works and Utilities and Watershed Management.

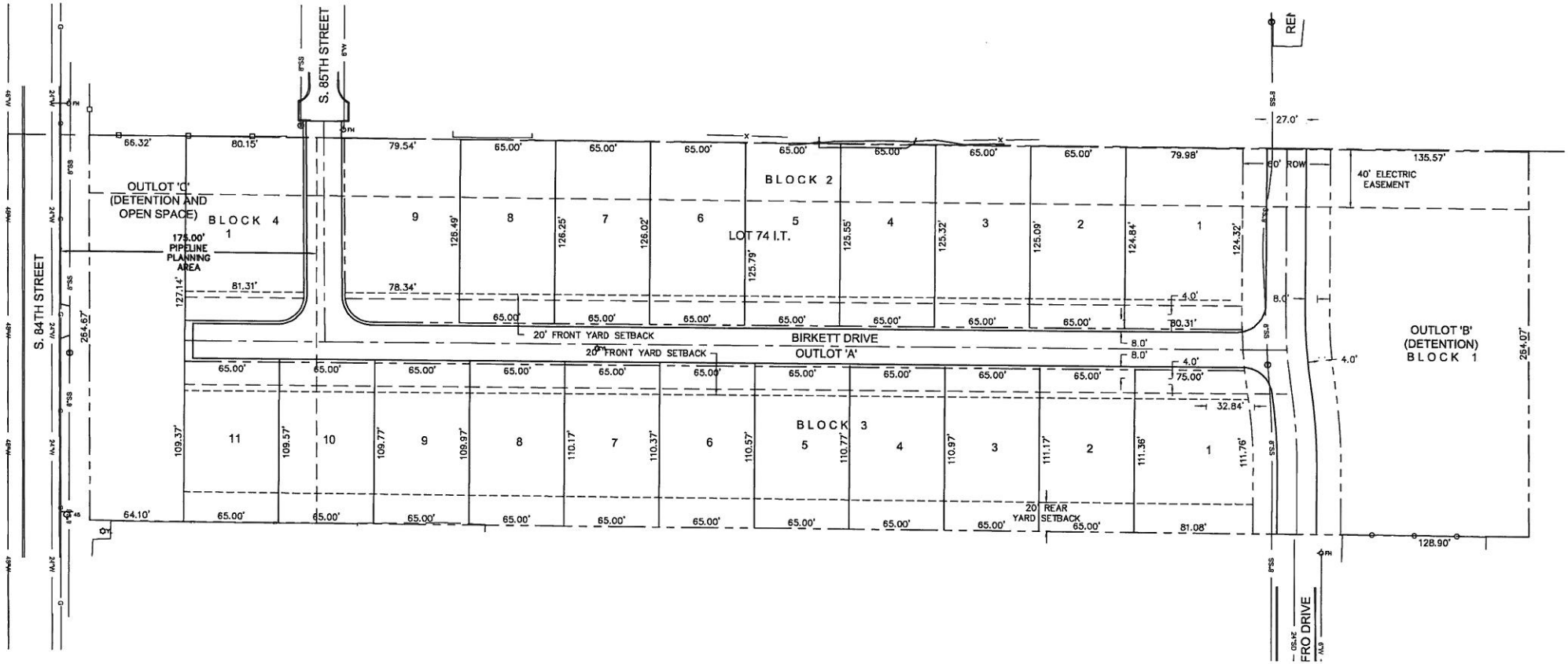
1.3 Provide documentation of approval of deviation requests approved by Public Works and Utilities for driveway locations.

1.4 City Council approves associated request CZ#15015.

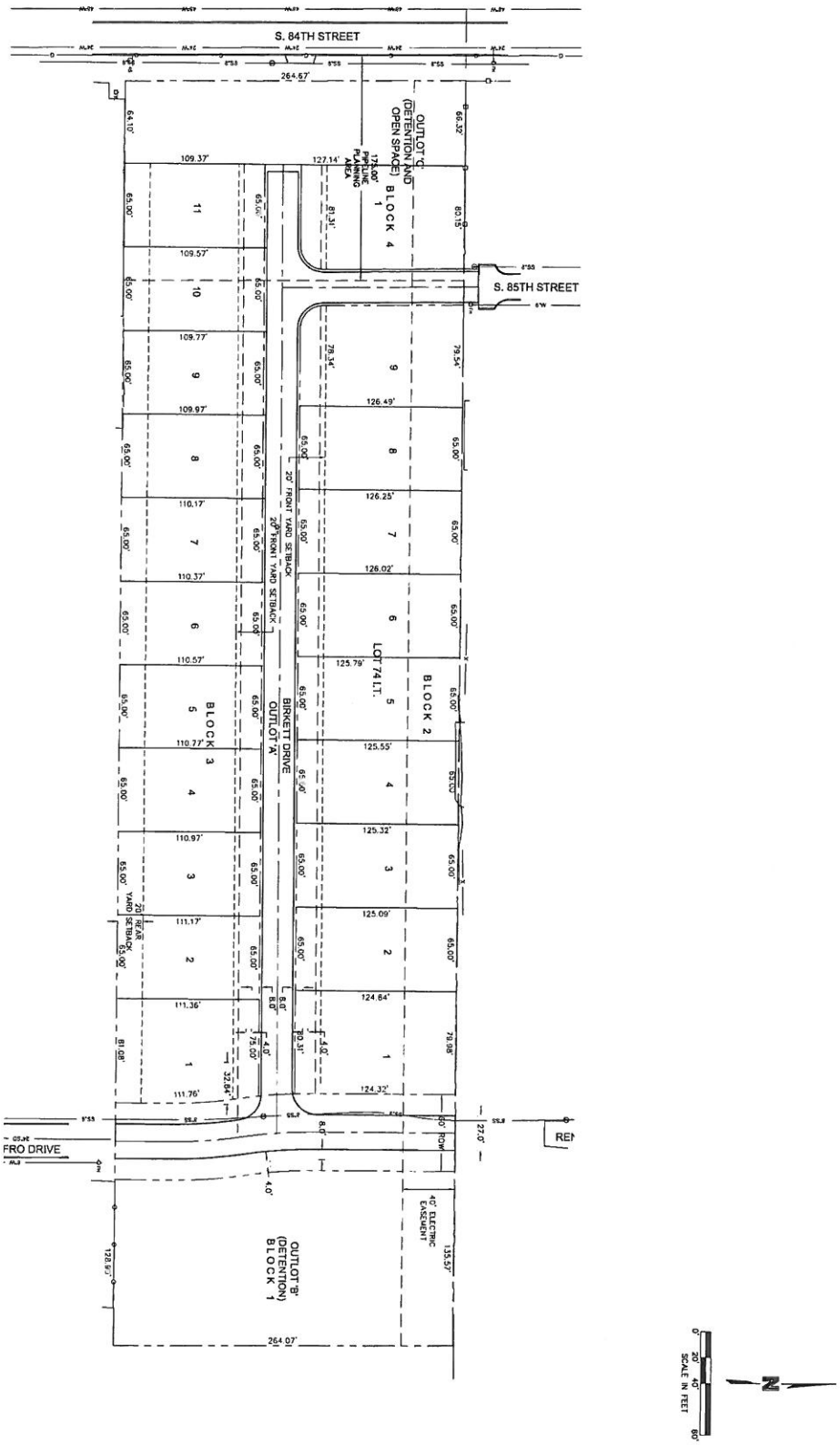
1.5 The construction plans shall comply with the approved plans.

1.6 Final plats shall be approved by the City.

1.7 The revised site plan shall be as shown on attached Exhibit A.


S. 84TH STREET
S. 85TH STREET
OUTLOT 'C'
(DETENTION AND
OPEN SPACE)
BLOCK 4
175.00'
PIPELINE
PLANNING
AREA
BLOCK 2
LOT 74 I.T.
20' FRONT YARD SETBACK
BIRKETT DRIVE
OUTLOT 'A'
BLOCK 3
20' REAR
YARD SETBACK
60' ROW
40' ELECTRIC
EASEMENT
OUTLOT 'B'
(DETENTION)
BLOCK 1
FRO DRIVE

DWG: F:\Projects\015-0922\40-Design\AutoCAD\Exhibits\site concept 6-30-15.dwg USER: svossler
DATE: Jun 30, 2015 4:36pm XREFS: C-XBASE-150922 I110907



SHEET 1 of 1	SITE PLAN	REV. NO.	DATE	REVISIONS DESCRIPTION
	ERICKSON ADDITION			
	LINCOLN, NE 2015	REVISIONS		

OLSSON ASSOCIATES
601 P Street, Suite 200
P.O. Box 84608
Lincoln, NE 68508
TEL 402.474.6311
FAX 402.474.5160
www.olssonassociates.com

OLSSON
ASSOCIATES

June 12, 2015

To: Neighboring Property Owners

Re: Burket Property Development
Erickson Townhomes CUP & Change of Zone
Olsson Project No. 015-0922

Dear Neighbors:

I would like to apologize for the lack of information that has been provided to you regarding the Burket Property Development. Architectural renderings of the townhome units were planned on being supplied, however, they were not completed in time for distribution ahead of the original Planning Commission hearing. The Planning Commission hearing has been delayed by 2 weeks in order for us to address comments and meet with you to share the intent of the project. Hopefully, the information contained in this letter, along with the building renderings will address your questions and concerns.

Enclosed is a revised site plan that reduces the overall density of the project by six (6) units. The reduction results in larger lot sizes, more green space, and open areas. Building renderings are still being drafted and will be forwarded to you ahead of the neighborhood meeting. The intent is to build quality higher-end townhomes that appeal to the "empty nesters" and/or families looking to streamline/downsize, or simplify living. Basic covenants are:

- 1,500 SF minimum unit size
- 50% brick/stone on front of building
- Cement board or stucco for remaining sides, limited vinyl siding may be an option in lower visibility areas
- Single story townhomes with basements

Questions have been asked regarding the installation of a traffic signal at 84th & Augusta/Glynoaks. The City intends to install a signal at this intersection. Currently, the poles for the traffic signals have been installed and function as street lights. The City of Lincoln will determine the exact timing for when the signal arms are to be installed.

The street configuration has been dictated by the surrounding development and the City is requiring a connection be made to the existing adjacent roadways.

The drainage of this property has been dictated by the HiMark development to the south. Grading of the property will direct major storm drainage to the roadways and minimize storm

601 P Street, Suite 200
P.O. Box 84608
Lincoln, NE 68508
TEL 402.474.6311
FAX 402.474.5160
www.olssonassociates.com

water channeled along the rear of the property lines. An additional area for storm water detention has been added abutting 84th Street at the west end of the development.

Olsson Associates will hold a public meeting to discuss the project in more detail. The meeting will be held on Monday, June 22, 2015 at 5:30 p.m. at St. Mark's United Methodist Church, 8550 Pioneers Blvd., Lincoln, Nebraska.

Regards,

Matt Langston
Olsson Associates

cc: Darin Erickson, Luxe Lifestyle Innovations, Erickson Homes
Brian Will, Planning Department

Exhibit A to Factsheet

Letters of Opposition
Change of Zone No. 15015 and Special Permit No. 15028, Birkett Development/Erickson Addition

Change of Zone No. 15015 - Bill #15-89
(1st Reading: 7/20/15; Public Hearing: 7/27/15)

Special Permit No. 15028
(Planning Commission Resolution PC-01462, adopted 7/8/2015)

OPPOSITION

Geri K. Rorabaugh

Items: 4.6a and 4.6b: CZ15015 and SP15028
pg.# 131 (Public Hearing/Action - 6/10/15)
Birkett Townhome Development

From: Joyce A. Heimes <jaheimes@hotmail.com>
Sent: Sunday, May 31, 2015 9:05 PM
To: Mayor; Jon Camp; Geri K. Rorabaugh
Subject: Proposed Burket Property Development
Attachments: IMG_20140607_072146_936.jpg

May, 31, 2015

To: Honorable Mayor Buetler, City Council Members and City of Lincoln Planning Commission

Re: Burket Property Development
Erickson Townhomes CUP and Change of Zone
Olsson Project No. 015-0922

Homeowners in the area of the proposed development wish to express some serious concerns about the proposed development.

1. Why would we propose high density housing right in the middle of already existing low density housing communities. A density that is so tight that some of the lots don't appear to meet the minimum square footage requirements, even with a waiver being requested to reduce street widths and setbacks. It appears that most of the units on the north side of Burkett drive will have their back side of the structure within about 20 feet of the existing high voltage power line (115,000 volts) centerline. Once homeowners start landscaping their back yards there is potential to violate FERC-NERC standards governing power line right of ways.

2. What does your future traffic impact studies show if this proposal is allowed? Current conditions have Augusta Drive backed up through the Cul-de-Sac to the east of 84th street during rush hour traffic as well as with events at the HiMark Club House.

3. A half million dollar home just completed on the corner of Renfro Dr. and Augusta Dr. This proposal allows a condo within 5 feet of their back property line. This doesn't seem like reasonable and logical development of new housing areas for the City of Lincoln.

4. All construction East of Renfro Dr. will impact the natural drainage of surrounding housing areas. See attached photo taken in the summer of 2014 after a significant rainfall that was mild compared to the record rains we have seen this month of May. The area in question has been a virtual running stream this past month. Will the detention pond really hold the run off or be a damming effect that proposes to flood existing homes and property in the

area? Maybe the entire area East of Renfro Drive would better serve everyone if it was developed into a park area or green space that doesn't threaten property loss in times of heavy rains?

5. Let's continue promoting development and growth in such a way that allows reasonable profit margins for our developers while protecting the property values of existing homes and associations. This proposal appears to have great potential to devalue existing properties in the area.

Attachment (drainage photo)

Sincerely,

Gary and Joyce Heimes
8720 Augusta Cir.
Lincoln, NE 68526

OPPOSITION

Items: 4.6a and 4.6b: CZ15015 and SP15028
pg.# 131 (Public Hearing/Action - 6/10/15)
Birkett Townhome Development

Geri K. Rorabaugh

From: James S. Bowen <James@GoNines.com>
Sent: Monday, June 01, 2015 8:35 AM
To: Mayor; Geri K. Rorabaugh; Jon Camp
Cc: James S. Bowen
Subject: Burkett property proposal for Hi Mark

Please see the picture below. There is currently a proposal which is going to the planning committee and then onto the City Council for approval which would insert extremely high-density housing right in the middle of two low-density neighborhoods. This plan doen't seem to pay any respect to the existing homes and homeowners, nor does it provide for any greenspace for the new townhomes.

My wife and I have spoken to many people on our street and everyone is very alarmed by this proposal and the immediate effect it would have on the value of our homes, not to mentioun the huge increase in traffic on our street and the unknown impact of future flooding, as the proposal places multiple houses right in the middle of where a sizable pond shows up after any meaningful rainfall.

Please do not authorize this plan or the change in zoning which enables it. There has to be a better way to develop the Burkett property and provide for additional homes which wouldn't have the negative effects of the current proposal.

Sincerely,

James Bowen and family.

Thanks,

JAMES S. BOWEN | Chief Information Officer
FIVE NINES | james@gonines.com
(p) 402.817.2634 | (m) 402.202.6597

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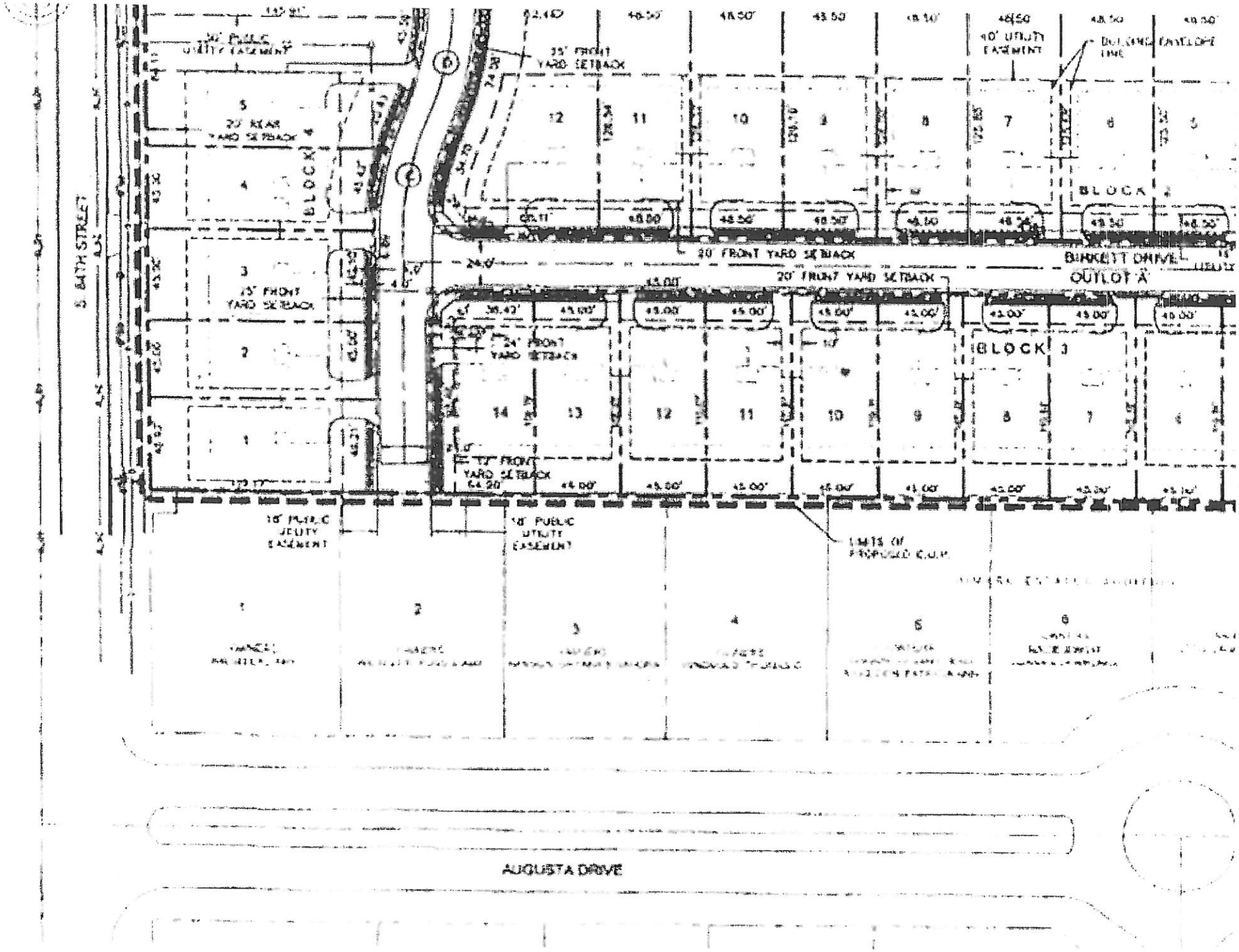
S. BATH STREET
BLOCK 4
BLOCK 3
BLOCK 2
BLOCK 1
20' FRONT YARD SETBACK
BURKETT DRIVE
OUTLOT A
AUGUSTA DRIVE
10' UTILITY EASEMENT
LIMITS OF PROPOSED C.U.P.

OPPOSITION

Items: 4.6a and 4.6b: CZ15015 and SP15028
pg.# 131 (Public Hearing/Action - 6/10/15)
Birkett Townhome Development

Geri K. Rorabaugh

From: Brian Will
Sent: Tuesday, June 02, 2015 1:52 PM
To: Geri K. Rorabaugh
Subject: FW: Birkett Townhome Development Opposition

Geri,

Opposition to SP15028 Erickson Addition.

From: Mike Wittmann [mailto:mike@mikewittmann.com]
Sent: Tuesday, June 02, 2015 1:35 PM
To: Brian Will
Subject: Birkett Townhome Development Opposition

Hello, Brian. It was a pleasure speaking with you this morning. I have laid out my concerns about the high density Birkett townhome development below.

As I mentioned when we spoke, my family and I reside at 8430 Pinehill Lane. My neighbors and I are all very concerned about the development plans that have been proposed for the land to the South of our quiet little street.

As it stands, Pinehill lane is a short, narrow, private drive. We have many families with small children in our neighborhood, many of whom are of pre-school age or younger. The proposed development would route traffic from 34 townhome units through our neighborhood and onto 84th Street. Not only is this a safety concern for our children, it also creates some serious traffic flow difficulties.

There is a median dividing 84th Street where Pinehill intersects with it, with no traffic signal. During busy commute times you will have dozens of cars seeking to turn North, with no traffic signal to break up the flow of cars on 84th Street. It is not hard to imagine backups at this intersection snaking back through the Pinehill neighborhood.

Additionally, the proposed development is extremely dense, shoe-horning 34 units of single family attached housing into a small tract of land. The lot size is actually on the absolute minimum edge of the R-3 zoning requirements, with some lots being even too small by those standards. On top of that, our area is characterized with lower density housing throughout, especially on the Augusta side of the proposed development. The proposed development will be a severe departure from the neighborhoods surrounding it.

I'm told there's also a high pressure gas line that runs under the Western edge of the proposed development. Modern planning guidelines include a formula for calculating the recommended distance between the pipeline and residential dwellings. The proposed development has 5 to 7 lots that will be situated inside of the "danger zone" of the pipeline. I realize the developer wants to cram as many units in as possible in order to make more money, but doing so while ignoring safe zoning guidelines seems reckless.

The Eastern edge of the development has a very small space allocated for water detention. One of the characteristics of the development is that the lots will have very small yards, meaning that almost all of the

space will be impermeable to water. The run off from the development will cause water and flooding concerns for existing homeowners, something that recent rains have shown can be a disaster if not addressed in the planning and development process. The proposed development virtually ignores these concerns.

Finally, the whole plan depends on a second property owner selling his acreage on the North side of the development so Pinehill Lane can eventually connect to Rentfro. It is my understanding that this homeowner has no intention of selling and is adamantly opposed to the idea. If that should happen the whole layout of the streets will be a mess and won't work how they have it drawn up, as bad as their plan may be.

Please consider these extensive concerns as the planning commission evaluates the proposed development plan. I'm sure you will agree that there some major issues that would prevent the plan from being approved without significant revision. Please contact me with any questions you may have.

Thank you, Mr. Will. I appreciate your help!

Mike Wittmann
8430 Pinehill Lane
Phone: 402-570-0648

OPPOSITION

Items: 4.6 and 4.6b: CZ15015 and SP15028
pg.#131 (Public Hearing/Action 6/10/15)
Erickson Addition

OPPOSITION

Items: 4.6a and 4.6b CZ15015, SP15028
Page # 131 (Public hearing/action -6/10/15)
Birkett Townhome Development

TO: Brian Will, Lincoln Planning Department

FROM: William R Gibson
8440 Augusta Drive

SUBJECT: CZ15015, SP15028

I own the property at 8440 Augusta Drive which is immediately south of the existing structure on the property identified for townhome development known as Erikson Addition at 84th and Pinehill Lane. I am strongly opposed to this development for a number of reason.

1. This high density development will devalue my property. The surrounding properties to the north, east and south are single family homes. To place a 34 unit townhome development in the middle of single family home neighborhoods is incompatible with the surrounding neighborhoods. If I had wanted to live next to a townhome I would have bought a unit up at the HiMark golf course when I moved here 10 years ago.
2. Your analysis identifies that the five units on the western end of the property cannot be placed there because of the Pipeline Planning Area (PPA) in 84th Street. That reduces the number of units to 29 which is still too many.
3. Access to this development is either through Renfro Drive to the south and north on the east end of the property and through Pinehill Lane on the west end of the property. Pinehill Lane is a private street. The developer plans to develop the east end of the property first and then the west end in a second phase. That means that the initial development will enter and exit the development through either Villa Del Ray via Kathy Lane to the north or Augusta Drive to the south. To go south on 84th people will go through Augusta Drive. There is no light at Augusta Drive and it is impossible during some times of the day to turn left out of HiMark from Augusta onto 84th. Traffic backs up in front of my house every morning already as there are only two ways in and out of HiMark; Augusta Drive or south 88th. This development will only aggravate this situation. People will quickly learn to go around the roundabout, go south on Troon Drive and right on 88th Street to get to Old Cheney to go west or then go left at the light at Old Cheney and 84th Street to go south. Thus the traffic from this development will affect much more of HiMark than just Augusta Drive. Traffic from this development will also go north on Renfro Drive to get to Kathy Lane to go north on 84th. If this development is approved, we must have a light at Augusta Drive and 84th. The intersection is equipped for a light and one must be installed if this is to go forward.
4. The houses along the north side of Augusta Drive from the roundabout to 84th, including mine, sit a good 12 to 14 feet below grade of the proposed property development. There is only a 20 foot back yard setback from the property line for the proposed units. That means the units directly behind my neighbors to the west properties and mine will be within 40 feet of the rear of our houses looking straight down into our yards, decks and patios. This will surely have a negative effect on the value of our homes.
5. There is very little green space on the proposed site plan for lawns. That means there will be considerable run off during a heavy rain. The proposed retention pond on the northeast corner of the proposed development is insufficient to contain a heavy rain runoff. In addition, not all of the runoff with go to the east. The existing house currently on the property sits at the high point of the property and the grading is both to the east and west. There is no provision for the runoff to the west. The houses along the north side of Augusta Drive from the roundabout to 84th, including mine, already have a problem with run off from the proposed development property when there is a heavy rain. Such a lack of green space will further exacerbate this problem.

6. The units on the north side of the proposed Birkett Drive will have a LES high voltage power line in their back yards. I question the marketability of them with that encroachment.
7. The width of the roads in the proposed development are too narrow and parking will only be allowed on one side of them. In HiMark, if cars park on both sides of the street, only one car at a time can fit between them. The traffic from the proposed development will further exacerbate the existing traffic problems.
8. The homes along Augusta Drive have market values in excess of $300,000. How will the proposed units be priced?

In short, this development is inappropriate for this site. Please add this correspondence to the other letters of opposition.

OPPOSITION

Items: 4.6 and 4.6b: CZ15015 and SP15028
pg.#131 (Public Hearing/Action 6/10/15)
Erickson Addition

Austin Mackrill
5000 Rentfro Dr.
402-326-8369

----- Forwarded Message -----
From: Austin Mackrill <austinmackrill@yahoo.com>
To: Jared L. Nelson <JLNelson@lincoln.ne.gov>
Sent: Thursday, June 4, 2015 3:42 PM
Subject: Drainage Pics Re: 5000 Rentfro

Hey Jared,

I wanted to follow-up our phone call with some pictures of the concerns that our HOA has as well as the bordering neighbors in the HiMark neighborhood (primarily on the Eastern/Southeastern border of the proposed development). Attached are a series of pictures showing years of drainage issues as the property has been developed around. The first picture was taken last year from Gary Heime's house. It is looking West and you can see the Pinehill homes in the upper right. This picture shows the drainage area backed-up on the property proposed for this development. The right side of the picture is where the Detention Cell is proposed (our land is the right/North of that) and the left side of the flooded area on the picture is where the three townhomes are proposed.

The other pictures are just more visual proof of years of natural drainage starting with the pre-HiMark development with natural cattails showing a wetland-type area. The other pictures show the years of standing water after rain as the property around HiMark was developed (pictures are titled with the description as all were provided recently by the previous homeowner Jim Nissen). As we discussed on the phone it appears that there are about 25 acres of partially impervious ground (East, North, and Northeast) now draining into this area that over the years was just farmland. Our concern is that more impervious ground developed along with the new Rentfro connection acting as a quasi-dam could accentuate the draining issues reflected in these pictures. You are obviously the expert but I would think the best use of the proposed development to the East of the Rentfro Drive connection should remain open green-space for drainage and safety.

Would love to have you over sometime to walk the property if that is appropriate.

Austin

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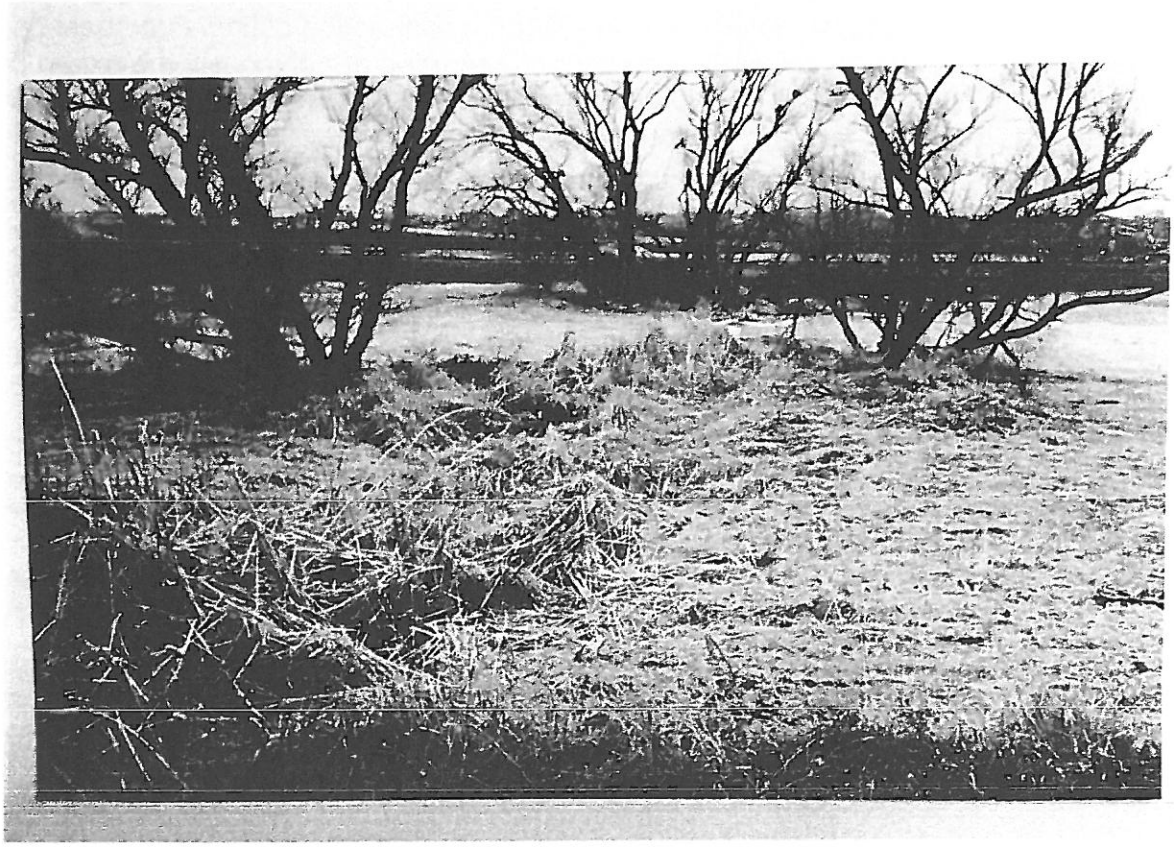
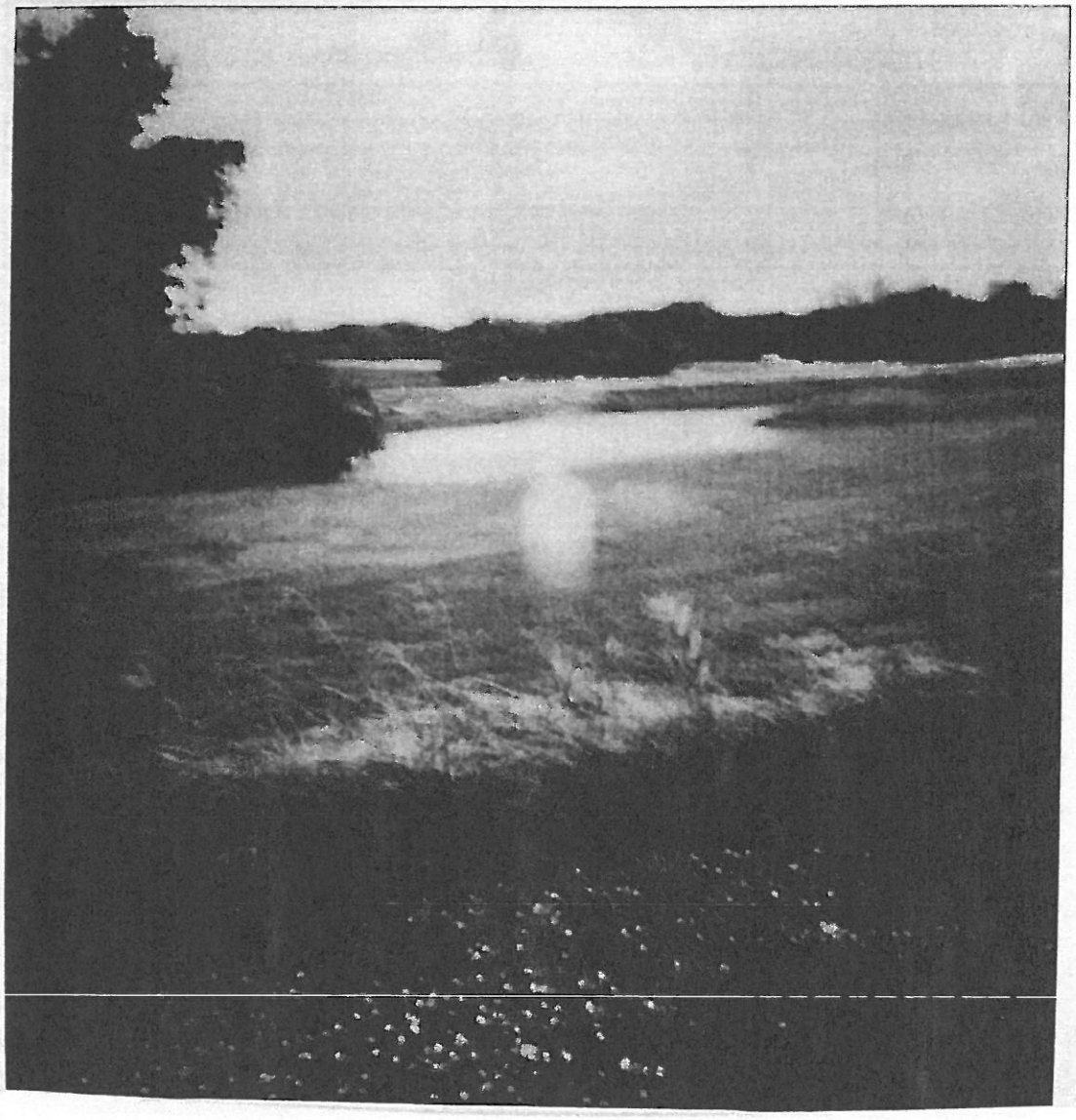
Drainage in summer of 2014 looking West from Gary Heime's house. You can see the Pinehill development to in the upper right of the picture.

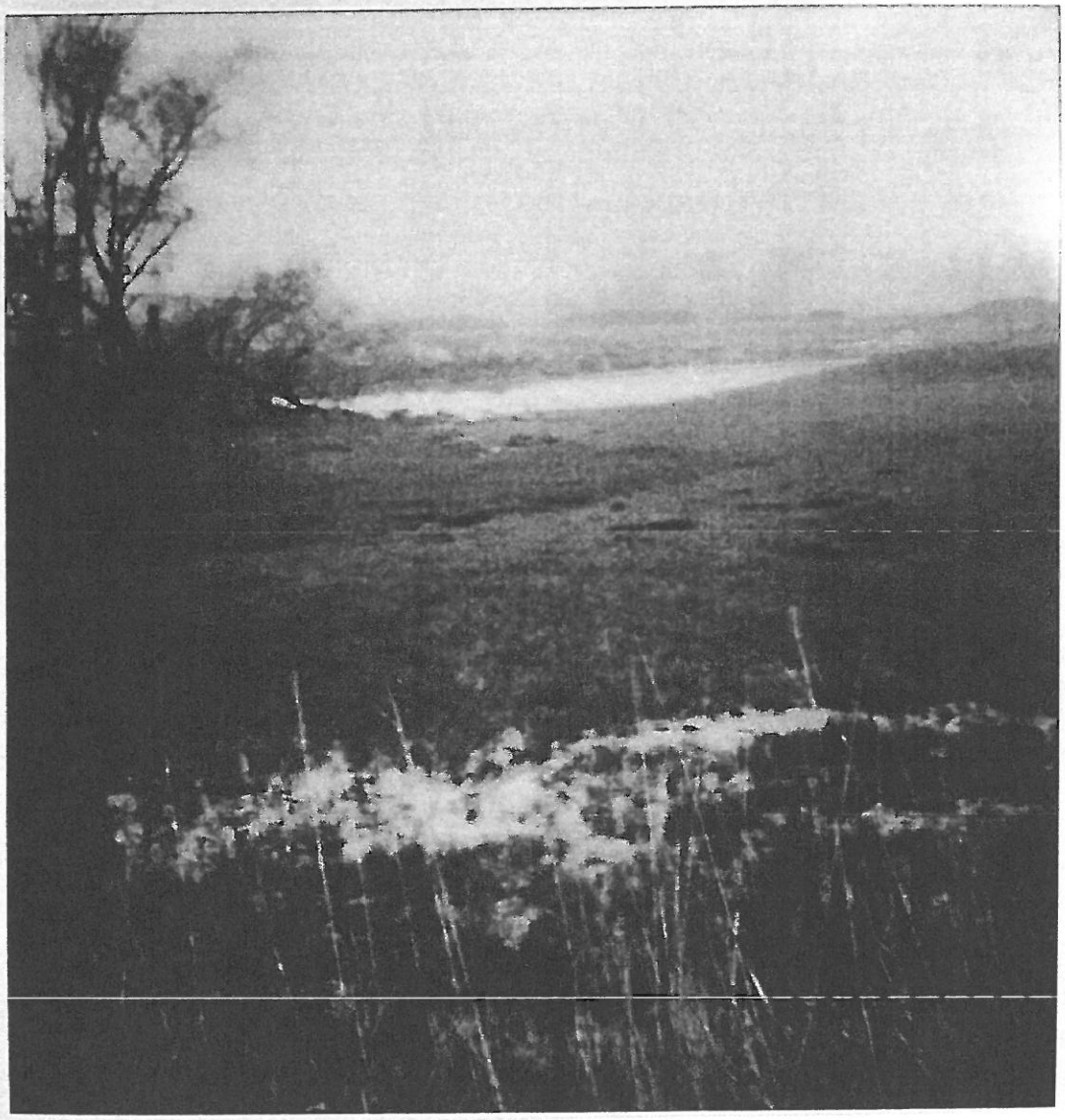
Natural Cattail showing drainage ongoing in this area as August Drive is being developed in background



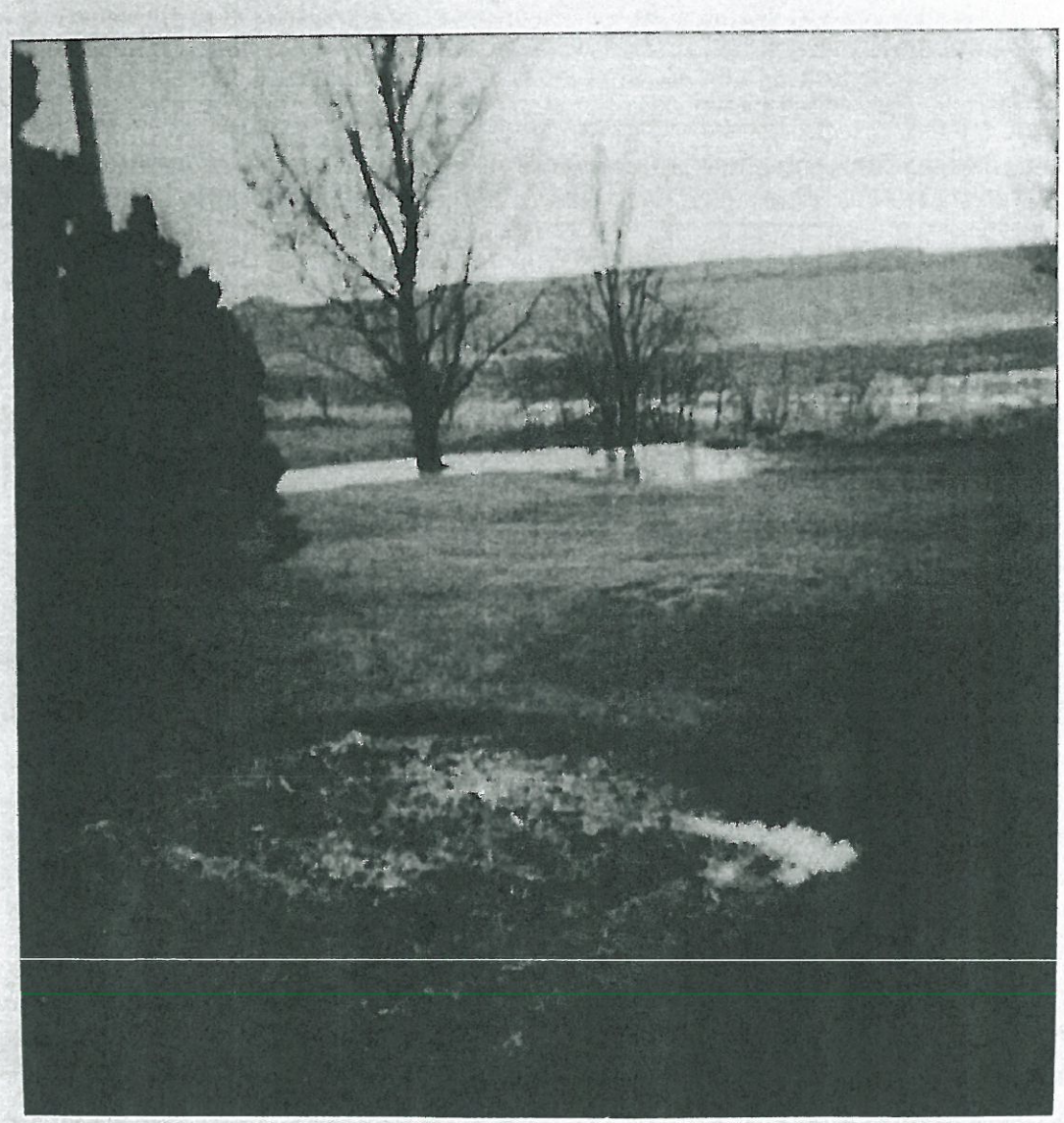
Picure from Mackrill's property looking South at drainage area with Augusta Dr. in background



Picure from Mackrill's property looking South at drainage area with Augusta Dr. in background



Picure taken on Mackrill's property of flooded area before it hits the drainage area on proposed develoment. Gary Heime's house would be on that back dirt slope to the right of picture.



Guy lammle [mailto:guylammle@gmail.com]
Sent: Friday, June 05, 2015 12:57 PM
To: Brian Will; info@ericksonhomesll.com; mlangston@olssonassociates.com; AMY WIESELER; Tim Gergen
Subject: Proposed Burkett Property Development CUP and Change of Zone Olsson Proj. 015-0922

Please be advised we have issues with proposed Burkett plan for following reasons.

In addition to being a participant in the development of HiMark Real Estate on both sides of Augusta Dr. at 84th Street.

A family member owns a home and two lots on the North East Corner of 84th and Augusta Dr.

Please see attached picture which shows how there are plans to dead end 85 St. immediately to the North of the Russ and Amy Wieseler home and lots which we feel is very undesirable.

Also the proposed Burkett Development Project is turning 6 lots and causing them to back up to 84th Street. This then causes lot 1 in Block 4 and lot 6 Block 4 to be in very close visual proximity to homes and lots on North and South side of the Burkett development plan. This East West orientation is made worse by the fact that lot 1 Block 4 is approximately 10 ft. higher in elevation and will be looking down and into our home, deck, living room and kitchen on the corner of 84th and August Dr.

We are also very concerned about the high density being created with 45' lots with attached duplex homes when they back up to 80-90' Single Family homes. Many of these duplex town homes also are on higher ground looking down into the neighbors back yards.

Our proposed solutions:

Increase width of lots to minimum of 60' to be more consistent with immediate neighbors with built homes and go to Single Family residences with shared driveways which is what the majority of homes on the entrance of 84th and Augusta Dr. have as a standard feature.

Dead end Burkett Drive short of 84th Street and eliminate a dead end 85th street on Russ and Amy Wieseler property line.

Stay consistent with existing neighbors to the North and to the South of Burkett Proposed Development with all homes in all blocks of the Burkett Development with North South Orientation vs. turning 6 lots to a East West Orientation and having these six lots back up to 84th Street. This really impacts 4 other homeowners negatively because this puts two of these lots and their side yards in very close proximity to other single family residences.

Guy Lammle
Developer Himark GC

Geri K. Rorabaugh

From: Brian Will
Sent: Friday, June 05, 2015 7:58 AM
To: Geri K. Rorabaugh
Subject: FW: Drainage Pics Re: 5000 Rentfro
Attachments: Drainage pictures.docx

Mr. Mackrill would like this forwarded to the PC as well.

From: Austin Mackrill [mailto:austinmackrill@yahoo.com]
Sent: Thursday, June 04, 2015 4:35 PM
To: Brian Will
Subject: Re: Drainage Pics Re: 5000 Rentfro

Thanks for getting back to me Brian.

Yes, that would be great if you don't mind. Here is a Word doc with the pics attached with descriptions as well.

Austin

From: Brian Will <bwill@lincoln.ne.gov>
To: 'Austin Mackrill' <austinmackrill@yahoo.com>
Sent: Thursday, June 4, 2015 4:26 PM
Subject: RE: Drainage Pics Re: 5000 Rentfro

Austin,

FYI - If you attend the meeting and want to speak, there is a viewer that will allow you to also show these images to the Planning Commission and the viewing audience.

Did you want me to forward your email and pics the Planning Commission?

From: Austin Mackrill [mailto:austinmackrill@yahoo.com]
Sent: Thursday, June 04, 2015 3:59 PM
To: Brian Will
Subject: Fw: Drainage Pics Re: 5000 Rentfro

Hi Brian,

Thanks again for your time on the phone first thing Monday morning. I wanted to include you in on this conversation that I had with Jared Nelson in Watershed. I plan on attending your meeting on the 10th but wanted you to have these pictures electronically along with the text of explanation below. Again, I don't want to appear to be an expert on this but rather just wanted to share my concerns with the visual aids. I have a self-interest concern of course for my property but also for those three townhomes proposed on the SouthEast corner of the proposal.

From: chris logston [mailto:hickmannavy@hotmail.com]
Sent: Friday, June 05, 2015 1:57 PM
To: Brian Will
Subject: Birkett Townhome Development Opposition

Mr. Will - We are writing to express our opposition to the proposed plan for the Birkett Townhome Development.

- Pinehill Lane is a narrow, private street. If cars are parked on either side of the street it is very difficult to squeeze another vehicle between them.
- As a private street, the homeowners are responsible for all needed repairs to our street. The additional traffic that will be routed to our street is going to speed up the wear and tear that we will then be responsible for repairing.
- Even without the additional 34 units, turning north onto 84th street from either Pinehill Lane or Augusta can be very difficult. Trying to turn south onto 84th from Augusta is next to impossible.
- By far our biggest concern is the number of young children (14 under the age of 11) that live here. The parents of these children moved here because this is a quiet, private street. The number of children, coupled with a narrow street with greatly increased traffic, is a recipe for a tragic accident.

We are not against developing the Birkett property. We just believe there has to be a better way to accomplish it.

Thank you for your time.

Sincerely,

Chris & Rebecca Logston
8420 Pinehill Lane

Subject: FW: Opposition to SP 15028 & CZ15015: Drainage Pics Re: 5000 Rentfro
Attachments: Ridgeway photo of flooding.jpg

From: Austin Mackrill [mailto:austinmackrill@yahoo.com]
Sent: Monday, June 08, 2015 1:30 PM
To: Steve S. Henrichsen
Cc: Brian Will
Subject: Re: Opposition to SP 15028 & CZ15015: Drainage Pics Re: 5000 Rentfro

Hello Steve,

Thanks for the email. I would like to include this additional photo that I received Saturday. It is a photo provided by the Ridgeway's who reside on Augusta Drive just on the west side of the Rentfro connection. You can see the water is right up to their hot tub. For reference sake, the dead-end to Rentfro (in front of our property) is in the upper right corner of this picture. So, this water was backed up from their property all the way down where those three town-homes are proposed and then back through our drainage. Thanks for your consideration.

Austin

From: Steve S. Henrichsen <shenrichsen@lincoln.ne.gov>
To: '"austinmackrill@yahoo.com"' <austinmackrill@yahoo.com>
Cc: Matt Langston <mlangston@olssonassociates.com>; Brian Will <bwill@lincoln.ne.gov>
Sent: Friday, June 5, 2015 2:03 PM
Subject: Opposition to SP 15028 & CZ15015: Drainage Pics Re: 5000 Rentfro

Dear Austin Mackrill,

Thank you for submitting your comments, which have now become part of the record on these applications. A copy is being submitted to each Planning Commission member for their consideration prior to the public hearing.

The public hearing has been delayed, at the request of the applicant, to Wednesday, June 24, 2015, at 1:00 p.m. on the first floor of the County-City Building. I am also providing a copy to the staff planner and the applicant for their information.

If you have any questions about this process or the public hearing, please do not hesitate to contact Brian Will with the Planning Department at 402 –441 – 6362 or at bwill@lincoln.ne.gov .

Stephen Henrichsen, Development Review Manager
Lincoln/ Lancaster County Planning Department
555 S. 10th Street, Suite 213
Lincoln, NE 68508 402 -441- 6374

Subject: FW: Special Permit#: SP15028

From: Joyce Schneider <joyceeschneider@gmail.com>
Date: June 17, 2015 at 9:10:09 PM CDT
To: **bwill@lincoln.ne.gov**
Cc: "mlangston@olssonassociates.com" <mlangston@olssonassociates.com>
Subject: Special Permit#: SP15028

Dear Mr Will,
This letter is in regard to Special Permit #15028, Erickson Addition CUP, S 84th St & Pinehill La zoning change proposed by Luxe Lifestyle Innovations, LLC; Darin Erickson.
This proposed development abuts my single family home @ 8515 Pinehill Ln, and I oppose it for the following reasons:
1. There is already an excessive saturation of townhouses within a four block radius of this development, and within that area the number of townhouse units already exceeds the number of single family dwellings. ie. 48 units abutting this proposal in Hi Mark, 50 units across 84th St and off Glenoaks, and 40 units two blocks North on 84th in Pioneer Greens. I apologize if these #'s are slightly more or less due to my drive-by count.
2. The density of townhouses of this proposed development does not uphold the integrity of the surrounding property. This will devalue our homes and negativity impact tax collections because this proposal in far inferior to that of Hi Mark townhouses.
3. The variance waiver request on street setback should be denied, as well as roadway variance. This will be a safety hazard for utility vehicles, sanitation services, and fire/rescue (which is likely to be frequent due to the population likely dwelling there).
4. Drainage on the east end of this property is a large problem. All the acreages to the immediate North drain there. I expect it is again becoming a swamp, as has in past years when I resided in Villa Del Ray.
5. The "Charter" for Pinehill Ln I do not believe entitles another developer to dump all their traffic onto our road which is privately owned and maintained by our Pinehill Homeowners Assn. By City authorizing an adjacent development because there is a second entry through private property is an assumption of City liability which could be argued in the courts.

Thank you for considering this opposition to the proposal.

Sincerely,
Joyce E. Schneider
Sent from my iPad

Subject: Birkett Property flooding lines
Attachments: 5000 RentfroDr elevations 1341 flood zone.pdf; Birkett elevations 1341 flood zone.pdf; MEETING.pdf

From: Austin Mackrill [mailto:austinmackrill@yahoo.com]
Sent: Monday, June 22, 2015 11:33 PM
To: Matt Langston; Brian Will; Ben J. Higgins; Jared L. Nelson; Geri K. Rorabaugh
Cc: Darin Erickson; Natalie Bachmeier; pioneerwoods@hotmail.com; guy lammle; Don Freeman; hickmannavy@hotmail.com; jaheimes@hotmail.com; 'mike@mikewittmann.com'; 'nickel@inebraska.com'; 'navratildan@yahoo.com'; 'beth.scholz@woddsbros.com'; 'dfreeman@lps.com'; 'johnclyne1@gmail.com'; 'bandmschultz@schultzconstruction.com'; 'tomtiegen@aol.com'; donnaj967@aol.com; sshutts@neb.rr.com; Jon Camp
Subject: Birkett Property flooding lines

Darin and Natalie,

Thanks for organizing the neighborhood informational meeting tonight. I do not have everyone's email address so please forward this on if you don't mind to those I missed. I wanted to get this email out tonight as it sounds like you are meeting with Watershed tomorrow morning. You mentioned this evening that "if" the proposed detention cell on the NE corner of the property hits capacity that it will then flood the overground path down Rentfro Dr South towards Augusta. I have attached two PDF documents that show the topo elevations of the Birkett property and surrounding properties as well as my property and then just North of mine. As you can see from the attached PDFs, the North Rentfro connection is at a elevation of 1341 (give or take a foot) and the South Rentfro connection is at an elevation of 1329. So, when the detention cell hits capacity and then goes overground over Rentfro Dr. anything at the elevation of at least 1341 and lower will flood in that area correct? This is currently not the case as the water now pools down at the 1329 elevation mark and then flows out the 24" drain very slowly. If you build any of the townhomes on that East portion you will then effectively build up the ground above the new Rentfro street level creating a dam which will move that natural low area flooding to the NE detention cell bordering my property.

Here is where my concern comes into play. The two PDF attachments show a red line drawn at the 1341 elevation. I assume anything inside those red lines (apart from West of the new Rentfro connection) would be under water. As you can see, that elevation would then flood my shop under 2-3 feet of water, it would then back up North to my home and flood my basement as well as Tim and Donna Janssen's garage, etc. This to me looks to create more possible risk of flooding onto neighboring properties contrary to what was mentioned tonight.

Am I missing something? I realize I am not the expert in this whatsoever and the drainage study should show this. I am just passing on the things I see to be a major concern for any development on the East side of the Rentfro Dr. connection. We realize you need to make a certain ROI on this project and getting rid of those 4 townhomes would be a profit-crush. However, there are some major red-flags on this that I think need to be visited as we all discussed this evening. We realize you can't please everyone on this project so thanks for listening to our concerns and taking into account the existing homes in the area.

Austin Mackrill
5000 Rentfro Dr.

402-326-8369

From: Matt Langston <mlangston@olssonassociates.com>
To: "bwill@lincoln.ne.gov" <bwill@lincoln.ne.gov>
Cc: "austinmackrill@yahoo.com" <austinmackrill@yahoo.com>; Darin Erickson <ericksonhomes@icloud.com>; Natalie Bachmeier <nbachmeier@me.com>; "pioneerwoods@hotmail.com" <pioneerwoods@hotmail.com>; guy lammle <guylammle@gmail.com>; Don Freeman <dfreeman69@neb.rr.com>; "hickmannavy@hotmail.com" <hickmannavy@hotmail.com>; "jaheimes@hotmail.com" <jaheimes@hotmail.com>; "James@GoNines.com" <James@GoNines.com>; "'mike@mikewittmann.com'" <mike@mikewittmann.com>; "'nickel@inebraska.com'" <nickel@inebraska.com>; "'navratildan@yahoo.com'" <navratildan@yahoo.com>; "'beth.scholz@woddsbros.com'" <beth.scholz@woddsbros.com>; "'dfreeman@lps.com'" <dfreeman@lps.com>; "'johnclyne1@gmail.com'" <johnclyne1@gmail.com>; "'bandmschultz@schultzconstruction.com'" <bandmschultz@schultzconstruction.com>; "'tomtiegen@aol.com'" <tomtiegen@aol.com>
Sent: Monday, June 15, 2015 3:24 PM
Subject: Birkett Property

There have been several inquiries into the proposed development on the Birkett Property. Please see the attached letter addressing some of the reoccurring questions and the notice of our upcoming public meeting.

Please feel free to contact me if you have any questions.

Matt Langston | Land Development | Olsson Associates
601 P Street | Suite 200 | Lincoln, NE 68508 | mlangston@olssonassociates.com
Tel 402.474.6311
Cell 402.525.9963

OLSSON ASSOCIATES

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RENTFRO DR
AUGUSTA DR

Subject: Birkett Property water problems

-----Original Message-----
From: Judith Shutts [mailto:sshutts@neb.rr.com]
Sent: Tuesday, June 23, 2015 5:34 PM
To: Darin Erickson
Cc: Austin Mackrill; Matt Langston; Brian Will; Ben J. Higgins; Jared L. Nelson; Geri K. Rorabaugh; Natalie Bachmeier; pioneerwoods@hotmail.com; guy lammle; Don Freeman; hickmannavy@hotmail.com; jaheimes@hotmail.com; mike@mikewittmann.com; nickel@inebraska.com; navratildan@yahoo.com; johnclyne1@gmail.com; bandmschultz@schultzconstruction.com; tomtiegen@aol.com; donnaj967@aol.com; Jon Camp; Mark Palmer
Subject: Birkett Property water problems

Thank you for organizing a neighborhood meeting on Mondqy.

Here are some of the problems with the Birkett development as I see them. I have 45 years of experience in residential and commercial construction and have experience with these issues.

— We moved to Villa del Rey in 1995 and we saw the area south of us as a wetland being inundated with water and the water standing behind the properties on east side of Rentfro Drive. But, the wetlands absorbed the water. When the area was disturbed by the Himark addition, there were planning errors made and the homeowners along August pay a big price with water in their basements. This is not, as was suggested in the meeting, a "once every 10 years" problem. It is a continuing issue.

— Rain water is not the only water flowing into this area; there are also springs and other underground water sources caused by undulating deadpan.

—Trees were removed and the wetland area was "moved' at the time of the Himark developed to a retention pond on 84th Street. But, the wetland is still there and the underground water is still flowing. The 24-inch storm sewer pipe does not prevent standing water and flooding. With even more run-off, this will become an extreme problem for the surrounding homes.

— Bob Birkett said in Monday's meeting that his sump pump ran all day Monday. That should raise a red flag in evaluating the water problems. Bob's home sits at the high point of his property and has a walk-out basement, and it has not rained lately. This problem will carry over into the proposed development.

—There is a hard pan under this area. The percolation tests for this area are insufficient and septic tanks permits were denied to people who wanted to build there. The hard pan causes water to build up pressure until it finds a place to rise through the ground, often at unexpected places. This should be taken into consideration when doing a "big picture" evaluation of the water issues.

— All these water problems will be a major issue for the homes in the proposed development. The new roadway extending Rentfro Drive and the proposed homes east of Rentfro Drive will be sitting on the wetland and the underground water. I would not develop, build or sell properties under these circumstances. It would also cause serious problems for the homes to the north, east and south.

— All of these water issues will exacerbate the problems for both for existing homes and the proposed town homes. We realize that you are following codes, but that doesn't make it the right thing to do. it would be prudent to avoid the errors that cause the problems to become critical.

— These are the problems as I view them. Thank you for your consideration.

Sam Shutts
sshutts@neb.rr.com
5001 Rentfro Drive
402-484-7443

Subject: Erickson Addition/Birkett Development

From: Bill Westlund [mailto:osageacres@yahoo.com]
Sent: Tuesday, July 07, 2015 9:17 AM
To: Geri K. Rorabaugh
Cc: Jon Camp
Subject: Erickson Addition/Birkett Development

Good Morning
After meeting last night (7-6-15) with those involved in the proposed new development and seeing the revised plans that cut the density down to
21 units and allow for the east side of Rentfro dr to be used for water retention and run-off, I think the developers have taken the neighbors concerns
seriously and addressed all of the major objections we had to the original submitted plans. My back property line adjoins the SE corner of the
development and the south side of the existing Rentfro drive is my west property line, so the lake that forms when we get substantial rains(as has
happened this spring) is right below my back property line. I think the new plans address that situation satisfactorily and I have no objections to the
development as it is currently proposed. The property was going to be developed at some point in time, and this new design fits in with the existing
neighborhood about as well as any could, and also respects the water issues that could arise if done improperly or with too much density.
Thank You for hearing me out.
Bill and Pat Westlund
8600 Augusta Dr
Lincoln NE 68526
402-484-5126