City Council Introduction: December 7, 2015
Public Hearing: December 14, 2015, 3:00 p.m.

Bill No. 15-149

FACTSHEET

TITLE: CHANGE OF ZONE NO. 15033
(South 27th Street and Rokeby Road)

BOARD/COMMITTEE: Planning Commission

APPLICANT: Mike Eckert on behalf of VerMaas & Sons, LLC

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

STAFF RECOMMENDATION: Approval

OTHER DEPARTMENTS AFFECTED: None.

SPONSOR: Planning Department

OPPONENTS: None present at hearing.

REASON FOR LEGISLATION:

To change the zoning from AG Agriculture District and R-3 Residential District, on property generally located at South 27th Street and Rokeby Road.

DISCUSSION/FINDINGS OF FACT:

1. This change of zone request and the associated Special Permit No. 15069 had public hearing before the Planning Commission on November 18, 2015.

2. The purpose of this change of zone from AG to R-3 is to allow for the development of a Community Unit Plan consisting of up to 37 attached, single-family dwelling units, as requested by Special Permit No. 15069.

3. The staff recommendation for approval of the change of zone request is based upon the "Analysis" as set forth on p.3, concluding that this property is located at the southern edge of the City limits, to the south of existing residential development. The R-3 district is consistent with the 2040 Future Land Use Plan which shows this area as urban residential. The proposed change of zone is consistent with the zoning pattern in the area and is in conformance with the Comprehensive Plan. The staff presentation is found on p.5-7.

4. The applicant's testimony is found on p.7-9.

5. There was no testimony in opposition; however, two communications were received on behalf of Marilyn Sonenberg (see p.13-14).

6. On November 18, 2015, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval of this change of zone request.

7. On November 18, 2015, the Planning Commission also adopted Resolution No. PC-01474, approved Special Permit. No. 15069, as amended with conditions.

FACTSHEET PREPARED BY: Geri Rorabaugh, Administrative Officer **DATE:** November 23, 2015

REVIEWED BY: David R. Cary, Acting Planning Director **DATE:** November 23, 2015

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LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for November 18, 2015 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No. 15033

PROPOSAL: From AG Agriculture to R-3 Residential

LOCATION: S. 27th Street and Rokeby Road

LAND AREA: 5.44 acres more or less

EXISTING ZONING: AG Agriculture

CONCLUSION: This residential property is located at the southern edge of the City limits, to the south of existing residential development. The R-3 district is consistent with the 2040 Future Land Use Plan which shows this area as urban residential. The proposed change of zone is consistent with the zoning pattern in the area and is in conformance with the Comprehensive Plan.

RECOMMENDATION: Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 85, I.T., located in the NE 1/4 of Section 36-9-6, Lancaster County, Nebraska

EXISTING LAND USE: Single family detached residential

SURROUNDING LAND USE AND ZONING:

North: Single Family Attached Residential; R-3
South: Single Family Detached Residential; AG
East: Agricultural; AG
West: Agricultural; AG

ASSOCIATED APPLICATIONS:
SP15069 Special Permit for a Community Unit Plan for up to 37 dwelling units.

HISTORY:
AN08012 This site was annexed in March 2009.

COMPREHENSIVE PLAN SPECIFICATIONS:

P. 1.9 - This property is shown as urban residential on the 2040 future land use map.

P. 7.2 - Neighborhoods and Housing Guiding Principles:

- Provide a wide variety of housing types and choices for an increasingly diverse and aging population.
- Provide flexibility to the marketplace in siting future residential development locations.
- Strive for predictability for neighborhoods and developers for residential development and redevelopment.

UTILITIES: All utilities are available at this site.

TRAFFIC ANALYSIS: 27th Street is classified as a Principal Arterial and Rokeby Road is classified as a Minor Arterial in the 2040 Comprehensive Plan.

PUBLIC SERVICE: The nearest Lincoln Fire & Rescue Station is located at S. 27th Street and Old Cheney Road.

ANALYSIS:

1. This is a request for a change of zone over a parcel on the southwest corner of S. 27th Street and Rokeby Road from AG Agriculture to R-3 Residential. This rezoning is requested in association with an application for a Special Permit for a Community Unit Plan over the same area.

2. Rezoning the property to R-3 would allow for a maximum of 37 dwelling units with approval of Special Permit No. 15069 for a Community Unit Plan. The applicant is not asking for additional dwelling units with this application. Special Permit No. 15069 contains a total of 24 buildable lots and 24 dwelling units, and the developer requests to reserve the right to utilize the remaining 13 dwelling units.

3. R-3 zoning is appropriate at this location. This property is located south of an existing R-3 district containing single family attached and detached residential dwellings. The proposed change of zone is consistent with the zoning pattern in the area. In addition, 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.

Prepared by:

Rachel Jones, Planner
402-441-7603 or rjones@lincoln.ne.gov

DATE: November 4, 2015

APPLICANT: VerMaas & Sons, LLC, 1900 SW 6th Street, Lincoln, NE 68522

OWNER: John D. & Janice K. VerMaas, 1900 SW 6th Street, Lincoln, NE 68522

CONTACT: Mike Eckert, Civil Design Group, Inc., 8535 Executive Woods Drive, Suite 200, Lincoln, NE 68512

CHANGE OF ZONE NO. 15033

CHANGE OF ZONE NO. 15033
FROM AG TO R-3 ON PROPERTY GENERALLY LOCATED AT
SOUTH 27TH STREET AND ROKEBY ROAD

Staff recommendation: Approval.

and

SPECIAL PERMIT NO. 15069
FOR A CUP TO ALLOW FOR UP TO 37 DWELLING UNITS
GENERALLY LOCATED AT SOUTH 27TH STREET AND ROKEBY ROAD
PUBLIC HEARING BEFORE PLANNING COMMISSION November 18, 2015

Staff recommendation: Conditional Approval.

Staff Presentation: **Rachel Jones of the Planning Department** came forward to state that north of this proposed CUP are several existing townhomes. To the south, there is one single-family home. The plan requests approval for up to 37 dwelling units, however, there are only 24 shown on the site plan. They are all single-family, attached units, or traditional townhomes. Access would be taken off Rokeby Road to the north and come down 26th Street in the center and it would be a public street. Sievers Lane would create east/west connectivity and would also be public. Farther east is Sievers Court, which would be a private cul-de-sac.

She went on to say there are four waivers requested as part of this application. The first is a waiver to the zoning ordinance for double frontage lots. Then there are three waivers for design standards which include waiving the requirement to provide stormwater detention, allowing for the radius of the cul-de-sac to be reduced to 30 feet and to allow rollover curbs on the private roadway.

There was a public meeting held on November 11, 2015. Based on feedback from that meeting and an email from the property owner to the south, a set of additional conditions for approval have been submitted. They primarily relate to landscaping and screening along the north and south sides. The neighbors to the north also expressed concerns about their properties facing the rear yards of the proposed townhomes across Rokeby Road. Based on that and comments from the neighbor to the south, additional landscape screening was added to both the north and the south.

There is also a condition emphasizing the fact that accessory buildings are not allowed in what would be the front yards of the new units. The area is the functional backyard to the new townhomes but is technically considered front yard along Rokeby Road.

The proposed amendments for additional conditions to Special Permit No. 15069 are as follows:

Site Specific Conditions:

2. Before a final plat is approved, the permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including **3** copies with all required revisions and documents as listed below:

   2.1 Change title of site plan to "Sievers Landing C.U.P. Special Permit #15069".

      2.1.2 Add a label to the site plan indicating the front yards of the lots with a front yard adjacent to Rokeby Road that states "note: The zoning ordinance does not allow any accessory buildings in the front yards of the double frontage lots adjacent to Rokeby Road and this requirement may not be amended administratively."

      2.1.3 Submit a landscape plan showing planned landscape screening to be installed by the developer along the north and south sides of the Community Unit Plan.

         a. Show the trees adjacent to the Rokeby Road right-of-way adjacent as per the attached exhibit.

         b. Show a 6-foot high screening fence on the neighboring southern property adjacent to Lots 9 through 12, Block 2 and the South 26th Street right-of-way, and note that the screening and fence are not required if the land to the south is rezoned from AG Agricultural to another district.

   2.2 Make the following changes to the General Site Notes:

      2.2.8 Add a note stating that "Note: The zoning ordinance does not allow any accessory buildings in the front yards of the double frontage lots adjacent to Rokeby Road and this requirement may not be amended administratively."

Harris asked about the comment regarding the ability of fire and rescue to respond to the location within 8 minutes for ambulance service and 4 minutes for fire rescue. She wondered if an approximate response time was available. Jones said she did not have that information. That was a comment that was submitted.

Harris asked where the closest station is. Hove said it is the station at Old Cheney and 27th. Jones agreed.

Corr wondered if the fire station relocation that has been discussed recently would decrease the response times. Jones responded that this is based on what exists now and the response time in this location would be a little bit longer than preferred.

Corr asked for clarification about the location of Wilderness Creek. Jones said it is a drainage way that runs south of the property between 150 to several hundred feet to the south. There is an associated floodplain and conservation easement but there is not floodplain on this property.

Proponents:

1. Mike Eckert, Civil Design Group, came forward on behalf of the applicant, VerMaas & Sons, LLC. This area was the home of John VerMaas, and his son, Gary, is now helping them to develop the area. This process began in 2012 and was put on hold. Discussions were reinitiated with Planning staff earlier this year. Several iterations were considered for the layout of the long, narrow piece that abuts what is a section line road and how we could best lay that out and meet the desires of the City, the neighbors, and the VerMaas family.

The VerMaas piece is roughly five acres. The Sonenberg property is directly to the south of a twin 5-acre lot. The Sievers property and railroad tracks are to the west and much of that land falls within the floodplain and has the conservation easement.

As mentioned, we went through several iterations. It would have been our preference to have a twin cul-de-sac on the west side with a public street going through the middle. Planning staff emphasized a desire to create connectivity to the west with the Sievers' land because there is a swath of developable land outside of the floodplain.

We also worked with several layouts showing how the Sonenberg property could potentially develop in the exact same fashion with the 26th Street road extending and curving out to an access on South 27th Street. The neighbors to the north asked why they were not able to connect to South 27th Street so we reviewed the Access Management Policy and quarter-mile spacing.

Eckert acknowledged that it is unusual to have the lots backing to Rokeby Road but, given the nature of this property, there were not too many viable layout options. The owners were very willing to add the heavier landscape plan showing street trees and spruce trees. Neighbors preferred that option over a fence. We applaud the Planning Department for recognizing that the area along Rokeby Road is technically the front yard, allowing for the limiting of accessory buildings, which was another concern of neighbors.

To the south, there is landscape screening. It was most important to them to have a 6-foot high fence from the right-of-way to a tree-filled area to the east and that is a good arrangement. The fence will fall on their property so they have more control over it and

will maintain it. The bigger issue is the double row of trees, which the fence will go between. We appreciate their comments and concerns because this is a big change for them and they do not plan to develop any time soon. Everything appears to be satisfactory to them.

Corr asked if the existing treeline along the south will be preserved. Eckert said yes. They are on the Sonenberg property and overhang in some areas, so there may be some trimming when LES installs utilities which will be on the VerMaas side. Trees on the Sonenberg property will be retained.

Corr went on to say that she noticed a “John Court” and wondered if that had been changed. Eckert said that name was already used so everything was switched to Sievers Lane and Sievers Court.

Opponents: None present at hearing.

Staff Questions:

Corr said this will be an approval for 37 units even though only 24 are shown. She wondered if the applicants would have to come before Planning Commission again if they chose to change plans to add multifamily or another option allowed under R-3 constraints, or if it would be an Administrative Amendment. Jones said that with the note being on the site plan, they would be able to increase the number of dwelling units up to 37 administratively but that would be under the discretion of the Planning Director. If changes are significant enough, it would be determined that it should go through the Planning Commission process, including a public hearing. Often with Administrative Amendments that are more significant or could have an impact to neighbors, a notice is sent out.

Corr noticed that under the Agency Review Report it talks about the fact that lots will only be permitted to be attached, single-family units and asked if the developer wants detached units and, if so, they should ask for a waiver. Jones said that she has been told that the developer is not interested in constructing anything but attached, single-family units.

Applicant Rebuttal:

Eckert addressed Commissioner Corr’s question, stating that this is a solid plan with every intention of building the way it is shown. Typically, Administrative Amendments are allowed to increase density up to 20%. The applicant would be willing to accept a note that would limit the amount that could be increased administratively. Given the level of neighborhood involvement, it is his guess that the Planning Director would probably request a Public Hearing on changes, if they were made.

Corr had a question about the water issue. There is also a remark that since you will drain onto someone's property, are they okay with that? Eckert stated yes; we met with the Sievers Family. We also had to acquire a sanitary sewer easement from them in addition to the discharge of the stormwater, so we are working with them.

CHANGE OF ZONE NO. 15033
ACTION BY PLANNING COMMISSION **November 18, 2015**

Beecham moved approval, seconded by Harris.

Corr thanked the developer for working with neighbors to alleviate some of the concerns. That goes a long way.

Hove stated he agreed and believes this is a good development.

Motion carried 8-0: Beecham, Cornelius, Corr, Harris, Hove, Lust, Scheer, and Sunderman voting 'yes'; Weber absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 15069
ACTION BY PLANNING COMMISSION **November 18, 2015**

Cornelius moved approval. Harris asked if that was with the conditions. Cornelius said yes. Seconded by Beecham.

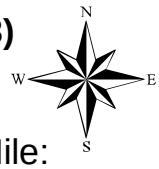
Motion carried 8-0: Beecham, Cornelius, Corr, Harris, Hove, Lust, Scheer, Sunderman and Weber voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

2013 aerial

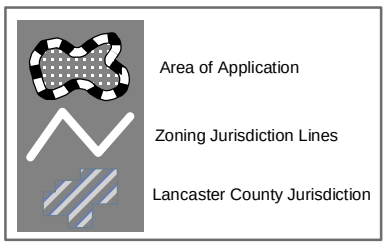
Special Permit #: SP15069 and
Change of Zone #: CZ15033 (AGR to R-3)
Sievers Landing CUP
S 27th St & Rokeby Rd

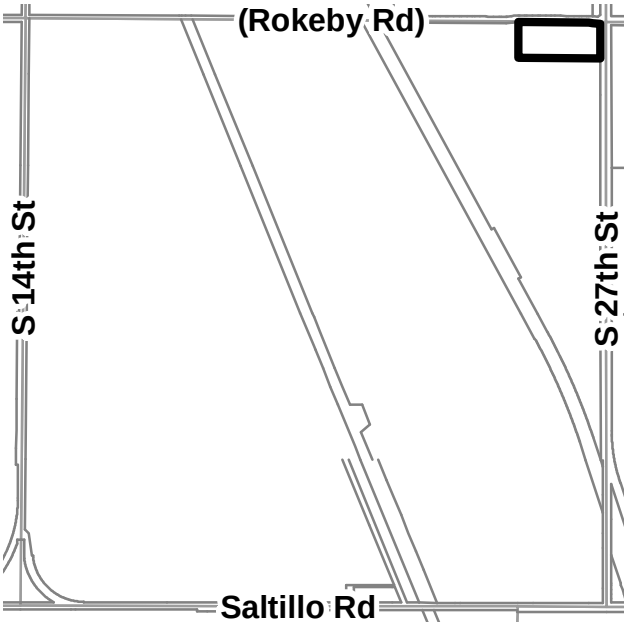
Zoning:

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.36 T09N R06E





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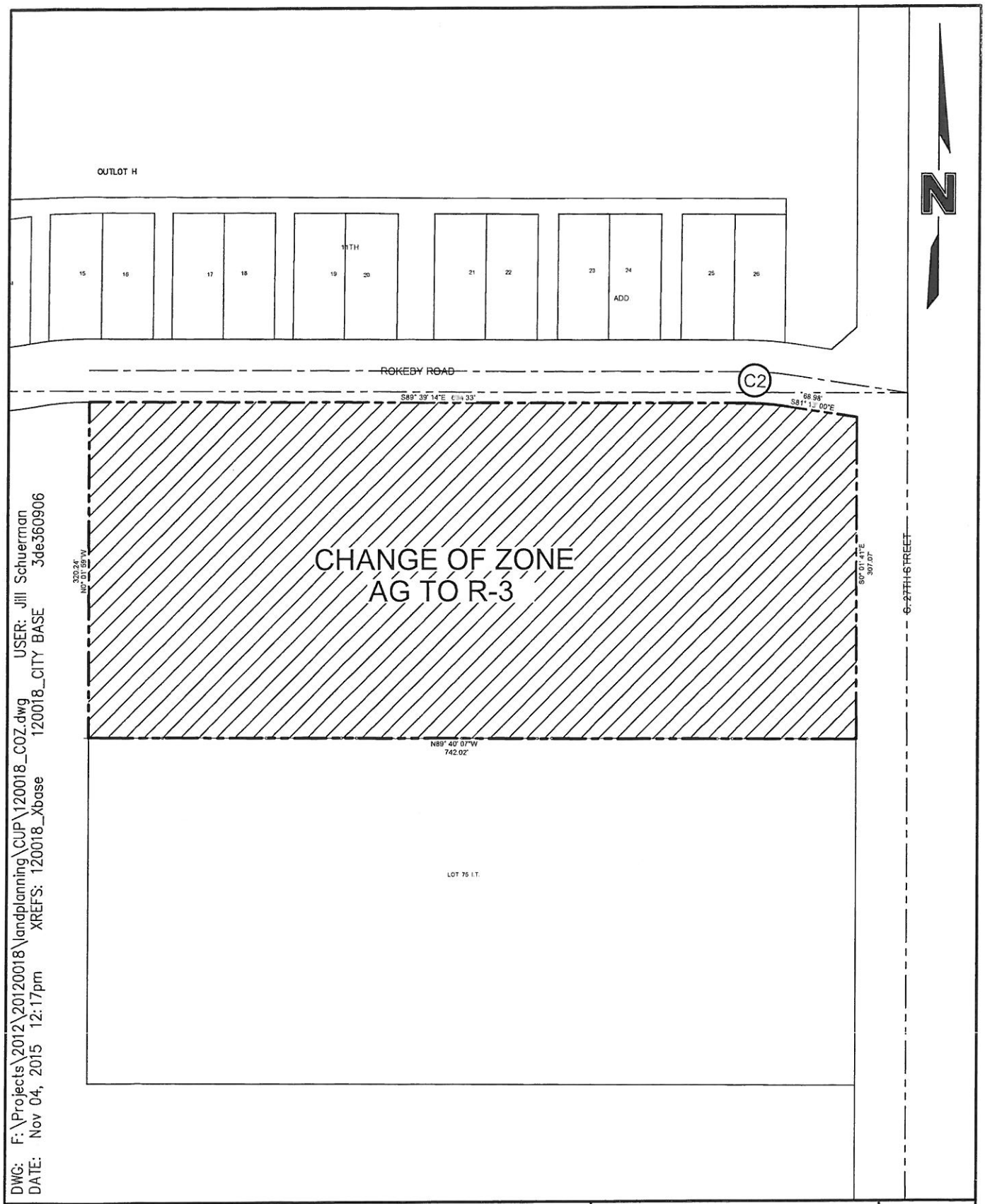

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DATE: Nov 04, 2015 12:17pm XREFS: 120018_Xbase 120018_CITY BASE 3de360906

drawn by: jds checked by: - project no.: 2012-0018 date: 10/20/2015	**CHANGE OF ZONE EXHIBIT SIEVERS LANDING LINCOLN, NEBRASKA**	Civil Design Group, Inc. 8535 EXECUTIVE WOODS, DR., SUITE 200 Lincoln, Nebraska 68512 Ph. 402-434-8494 Fax 866-215-8747 www.civildg.com CONSULTING ENGINEERS • LAND USE PLANNERS CIVIL DESIGN • SITE DEVELOPMENT • PLANNING AND ZONING	EXHIBIT **1 OF 2**

LEGAL DESCRIPTION - CHANGE OF ZONE

A subdivision of Lot 85 of Irregular Tracts, located in the Northeast Quarter of Section 36, Township 9 North, Range 6 East, of the 6th P.M., Lincoln, Lancaster County, Nebraska and more particularly described as follows:

Beginning at the Northwest Corner of Lot 85 said point being 10.00 South of the North Line of the Northeast Quarter, Thence on an assumed bearing of S 89°39'14" E parallel to the North Line of the Northeast Quarter for a distance of 634.33'; Thence with a curve turning to the right with an arc length of 39.72', with a radius of 270.10', with a chord bearing of S 85°31'21" E, with a chord length of 39.68'; Thence S 81°13'00" E for a distance of 68.98' to a point on the Westerly 50.00' Right-of-way Line of South 27th Street; Thence S 00°01'41" E on the Westerly 50.00' Right-of-way Line of South 27th Street for a distance of 307.07' to the Southeast Corner of Lot 85; Thence N 89°40'07" W on the South Line of Lot 85 for a distance of 742.02' to the Southwest Corner of Lot 85; Thence N 00°01'59" W on the West Line of Lot 85 for a distance of 320.24' to the Point of Beginning, and having a calculated area of 5.44 acres more or less.

Subject to any and all easements and restrictions of record.

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DATE: Oct 20, 2015 1:25pm XREFS: 120018_Xbase 120018_CITY BASE 3de360906

drawn by: jds checked by: - project no.: 2012-0018 date: 10/20/2015	**CHANGE OF ZONE EXHIBIT SIEVERS LANDING LINCOLN, NEBRASKA**	Civil Design Group, Inc. 8535 EXECUTIVE WOODS, DR., SUITE 200 Lincoln, Nebraska 68512 Ph. 402-434-8494 Fax 866-215-8747 www.civildg.com CONSULTING ENGINEERS• LAND USE PLANNERS CIVIL DESIGN• SITE DEVELOPMENT• PLANNING AND ZONING	EXHIBIT **2 OF 2**	

OPPOSITION

CHANGE OF ZONE NO. 15033/SPECIAL PERMIT NO. 15069
(PUBLIC HEARING/ACTION 11/18/15)

11/16/15

Dear Planning Commission,

My name is Marilyn Sonenberg and I am the owner of 10101 S. 27 St. - the home directly south of the proposed Sievers Landing project.

I was first notified of the proposed development this Friday, November 13th. Due to the short notice, I am unable to attend today's hearing and would like to submit the following comments.

I have lived on the acreage directly south of the proposed development for almost 20 years. My family moved to an acreage for the quiet and privacy that it could provide. We love our home and have no plans of moving in the near future.

The proposed Sievers Landing project will have a dramatic impact on our home. The construction alone will disrupt the peace, quiet and privacy we have experienced for 20 years. Twenty-four dwelling units will replace the one house that was our closest neighbor. Our side yard will now be directly next to 11 dwelling units and a street. No matter how the project is pitched, our home will be permanently altered.

Therefore, I respectfully request that certain conditions be added to the current development plan to minimize the effect of the project's construction and development on the use and enjoyment of our home. Specifically, I request conditions requiring a privacy fence and landscape screening on Mr. Vermaas' south property line to preserve some of our home's peace and privacy. I support the City's new growth and development, but believe the character of existing properties needs to be preserved. These conditions will achieve both goals.

Thank you for your time,

Marilyn Sonenberg

OPPOSITION

CHANGE OF ZONE NO. 15033/SPECIAL PERMIT NO. 15069 (PUBLIC HEARING/ACTION 11/18/15)

To: Lincoln/Lancaster County Planning Commission
From: Meghan Sonenberg
Date: 11/16/15
Re: Change of Zone (#15033); Special Permit Number (#15069)

The following parties met on November 16, 2015 to discuss Applications CZ15033 and SP15069 and their impact on the adjacent landowner, Marilyn Sonenberg's property located at 10101 S. 27th Street.

Meghan Sonenberg – Representative of Adjacent Landowner Marilyn Sonenberg, herein referred to as "**Landowner**"
Gary VerMass – herein referred to as "**Applicant**"
Mike Eckert - Civil Design Group, Inc.

Landowner expressed concerns over the scale of Applicant's project and how it might negatively impact the privacy and essential character of Landowner's property. Applicant and Landowner agreed to the the following:

1. Applicant will construct a 6' opaque privacy screen fence between Block 2 lots 9-12 and the area south of the S. 26th St. ROW. This will be noted in the CUP. Applicant will construct such privacy fence at the very onset of demolition and construction on Applicant's property.

2. Applicant will construct landscape screening along the area of the property line not screened by privacy fence between the two properties. This will be noted in the CUP.