City Council Introduction: **Monday**, December 14, 2015
Public Hearing: **Monday**, December 21, 2015, at 5:30 p.m.

Bill No. 15R-251

FACTSHEET

TITLE: **WAIVER NO. 15018,** request of Dennis Slama to waive the sidewalk requirement adjacent to property generally located at 731 Glenridge Rd.

STAFF RECOMMENDATION: Denial

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 11/18/2015
Planning Commission Action: 11/18/2015

RECOMMENDATION: DENIAL (7-1: Sunderman, Corr, Hove, Harris, Lust, Beecham, and Scheer voting 'yes'; Cornelius dissenting; Weber absent).

OPPONENTS: None present at hearing.

REASON FOR LEGISLATION:
Allow waiver of sidewalk requirement adjacent to property located at 731 Glenridge Road.

DISCUSSION/FINDINGS OF FACT:

1. The staff recommendation of DENIAL is based upon the "Analysis" as set forth on p.6-7, concluding that sidewalks are required by Title 26 along both sides of all streets to provide for safe pedestrian movement. Installing the sidewalk adjacent to this lot will complete the sidewalk system in this neighborhood and would provide a consistent pedestrian connection for residents. The Comprehensive Plan supports sidewalks on both sides of all streets to encourage connectivity and convenient access to surrounding neighborhoods and destinations. Continuous sidewalks also provide paved surfaces, separated from streets, as called for in the Americans with Disabilities Act (ADA). The waiver request is not supported by the Comprehensive Plan. The staff presentation is found on p.9.

2. The applicant's testimony is found on p.9-10, indicating that the installation of this sidewalk would be a significant cost with no benefit to the neighborhood and indicated that in 1997 the developer was to construct both the sidewalk and the retaining wall, but it was not done.

3. There was no testimony in opposition of this application.

4. The Planning Commission discussion with staff is found on p.11.

4. On November 18, 2015, the Planning Commission voted 7-1 to DENY this waiver

5. On November 23, 2015, a letter of appeal was filed by Dennis Slama, 731 Glenridge Road. (p.2). The appellant is requesting that the city allow the waiver of sidewalks located adjacent to the property at 731 Glenridge Road, as it would be a substantial financial burden and they should have been put in previously by the developer.

FACTSHEET PREPARED BY: Geri Rorabaugh, Administrative Officer **DATE**: December 7, 2015

REVIEWED BY: David R. Cary, Acting Planning Director **DATE:** December 7, 2015

F:\DevRev\FactsheetCC\2015\WVR15018 Appeal

APPEAL

of Planning Commission action
to City Council

Today's Date Nov 23, 2015 (this form must be received by the City Clerk within 14 days of the action by the Planning Commission)

To: City Clerk
Teresa Meier
555 S. 10th St., Ste. 103
Lincoln NE 68508
402-441-7436
tmeier@lincoln.ne.gov

Dear Clerk:

I am submitting this letter of appeal to Resolution No. N/A, adopted by the Lincoln-Lancaster County Planning Commission on (Date) Nov 18, 2015, approving ~~Special Permit~~ APPLICATION No. WVR15018 on property generally located at 731 Glenridge Rd., Lincoln, NE 68512.

Please advise me of the hearing date before the City Council.

Signature of person requesting appeal: Dennis L Slama

Printed Name Dennis L. Slama

Address 731 Glenridge Rd. Lincoln NE 68512
Street *City* *State* *ZIP*

Phone Number (402) 560-1173

Email dennis@slamahomes.com

cc: Planning Department
Geri Rorabaugh
555 S. 10th St., Ste. 213
Lincoln NE 68508
402-441-6365
grorabaugh@lincoln.ne.gov

Access this form on the web: http://www.lincoln.ne.gov/city/plan/databank/apforms/cityappeal.pdf
Updated: June 9, 2015

Waiver 15018

RESOLUTION NO. PC-_____

WHEREAS, Dennis and Sandra Slama, owners of Lot 1, Block 1, Wilderness Estates Addition, to be replatted as Lots 1 and 2, Block 1, Wilderness Estates 3rd Addition, Lincoln, Lancaster County, Nebraska, generally located at 731 Glenridge Road, have requested a modification of the Land Subdivision Ordinance (Title 26 of the Lincoln Municipal Code) to waive the required sidewalk along Glenridge Road adjacent to Lot 1, Block 1, Wilderness Estates 3rd Addition, Final Plat #15087; and

WHEREAS, the Planning Director has recommended denial of the requested waiver; and

WHEREAS, the Planning Commission finds that the strict application of the requirement for the installation of the sidewalk at said location would result in actual difficulties or substantial hardship or injustice to the owners.

NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster County Planning Commission of Lincoln, Nebraska:

1. That the requirement in Lincoln Municipal Code § 26.23.095 and § 26.27.020 which require construction of a sidewalk along Glenridge Road adjacent to Lot 1, Block 1, Wilderness Estates 3rd Addition, is hereby waived

2. The City Clerk shall file a copy of this resolution approving the waiver with the Register of Deeds, filing fees to be paid in advance by the owners.

The foregoing Resolution was approved by the Lincoln City-Lancaster County Planning Commission on this ____ day of _____, 2015.

ATTEST:

_____
Chair

Approved as to Form & Legality:

_____
Chief Assistant City Attorney

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for November 18, 2015 PLANNING COMMISSION MEETING

PROJECT #: Waiver #15018 of the Subdivision Ordinance

PROPOSAL: Waive the requirement to install a sidewalk adjacent to a residential lot on Lot 1, Block 1, Wilderness Estates 3rd Addition, Final Plat #15087, as required by Title 26, Land Subdivision Ordinance

LOCATION: 731 Glenridge Road

LAND AREA: The sidewalk length is approximately 150 feet

CONCLUSION: Sidewalks are required by Title 26 along both sides of all streets to provide for safe pedestrian movement. Installing the sidewalk adjacent to this lot will complete the sidewalk system in this neighborhood and would provide a consistent pedestrian connection for residents. The Comprehensive Plan supports sidewalks on both sides of all streets to encourage connectivity and convenient access to surrounding neighborhoods and destinations. The waiver request is not supported by the Comprehensive Plan.

RECOMMENDATION: Denial

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 1, Block 1, Wilderness Estates to be platted as Lots 1 and 2, Block 1, Wilderness Estates 3rd Addition.

EXISTING ZONING: R-2, Residential

EXISTING LAND USE: Single-Family Dwelling/Undeveloped

SURROUNDING LAND USE AND ZONING:

North: Single-Family Dwellings/R-2
South: Single-Family Dwellings/R-2
East: Single-Family Dwellings/R-2
West: Railroad and Wilderness Park/AG and P

HISTORY:
This property was rezoned from A-2, Residential District to R-2, Residential District with the 1979 Zoning Update.

October 1992 This property was platted as Lot 1, Block 1, Wilderness Estates.

December 1997 Wilderness Estates First Addition was approved. This plat dedicated Glenridge Road right-of-way adjacent to this lot.

COMPREHENSIVE PLAN SPECIFICATIONS:

P. 6.2 - Promote activities of daily living within walking distance, and provide sidewalks on both sides of all streets, or in alternative locations as allowed through design standards or review process.

P. 7.4 - Incorporate interconnected networks of streets, transit, trails, and sidewalks with multiple connections within and between neighborhoods and commercial centers to maximize access and mobility to provide alternatives and reduce dependence upon the automobile.

P. 7.4 - Provide sidewalks on both sides of all streets, or in alternative locations as allowed through design standards or review process.

P. 7.4 - Encourage substantial connectivity and convenient access to neighborhood services (stores, schools, parks) from residential areas.

P. 7.5 - Developing Neighborhoods - Developing neighborhoods should have a variety of housing types and sizes, plus commercial and employment opportunities. Developing a pedestrian orientation of buildings and street networks that provides substantial connectivity is also a priority for developing areas.

P. 7.7 - Detailed Strategies for Developing Neighborhoods - (5) Sidewalks on both sides of all streets.

P. 10.6 - Existing Pedestrian and Bicycle Facilities: Walking is an essential part of our daily activities, whether it be trips to work, shop, or play. Lincoln's greatest pedestrian asset is the long standing policy of requiring sidewalks on both sides of all City streets and connectivity between subdivisions. Because of this policy, the vast majority of homes and businesses are served by Lincoln's 1,500 miles of sidewalks.

10.27-Lincoln currently has a well developed sidewalk system, and the requirement of sidewalks on both sides of all streets should continue.

P. 10.31 - Pedestrian connections to transit must be direct and the sidewalk system must have continuity.

P. 10.48 - Pedestrian and Bicycle Facilities - Develop and implement a coordinated system of well connected pedestrian and bicycle facilities that serve both new and older neighborhoods and provide access to activity centers such as schools, parks, employment areas and shopping.

ANALYSIS:

1. This is a request to waive the installation of a sidewalk which is associated with the final plat of Wilderness Estates, 3rd Addition, and which is required by the Land Subdivision Ordinance. That plat would create two lots. The requested waiver affects the sidewalk to be installed adjacent to Lot 1 (see attached final plat).

2. Sidewalks are required along both sides of all public streets by the Lincoln Municipal Code. The standard is intended to provide a separation between pedestrians and motor vehicles primarily for public safety. It provides pedestrians the ability to move freely throughout the City using the sidewalk system with minimal interaction with motor vehicles. It also reduces distractions for drivers thereby making vehicle trips safer.

3. This property was originally platted as Lot 1, Block 1, Wilderness Estates in 1992. Glenridge Road provided access to this lot, but it did not extend the full length of Lot 1. The remaining portion of the plat was platted in an Outlot. The City Council approved a requested a waiver from installing sidewalks on the south side of Old Cheney Road at approximately S. 6th Street, under the condition that the sidewalk along Old Cheney Road be installed at the time Lot 1 was replatted. A final plat to subdivide Lot 1 is now under review, so the remaining portion of sidewalk along Old Cheney Road should be installed as a condition of approval of Wilderness Estates 3rd Addition.

4. Wilderness Estates First Addition was approved in 1997 and extended Glenridge Road further west to connect with S. 7th Street. The Planning Commission resolution required that all sidewalks be installed within that plat, and specifically required the sidewalk on the south side of Glenridge Road be constructed. The sidewalk was to be installed within 4 years of the Planning Commission's approval.

   A bond to guarantee installation of the sidewalks with Wilderness Estates First Addition was submitted and held by the City. A letter from November 2010 was sent to the bond company asking that a check be issued to the City of Lincoln to pay for installation of the sidewalks. It was later found that the developer filed for bankruptcy and abandoned the project. A request was sent to the bonding company requesting the bond, but the statute of limitations had run and the bonds were cancelled in 1998. The bonds were written off as uncollectible.

5. The owner's request to subdivide Lot 1, Block 1, Wilderness Estates is a new application and should comply with the current development standards. A waiver of sidewalks along Glenridge Road was not approved in the past and is not supported at this time.

6. The missing portion of sidewalk along S. Glenridge Road is approximately 150 feet long. This is the only piece of sidewalk that does not exist in the neighborhood. Sidewalks are otherwise installed on both sides of all streets in this area. A sidewalk has been built on the west side of S. 7th Street and provides a pedestrian connection to 7 homes. Installing this sidewalk would provide a consistent pedestrian connection for these residents on S. 7th Street.

7. The applicant sites obstacles with constructing the sidewalk at this location, including a street light, a tree, and a steep grade. These are not legitimate obstacles to installing the sidewalk. The grading or retaining walls necessary are routine and similar to what might be needed in other areas where sidewalks are built.

   A. Street lights and sidewalks exist in all other locations throughout this development.

   B. The Parks and Recreation Department notes that the western tree will need to be removed to construct the sidewalk, and a new street tree should be planted as a replacement.

   C. The final plat under review will create a new lot on undeveloped property. Grading and other improvements will need to be done to construct a new house on this lot, and any significant grade issues impacting the sidewalk location could be addressed at the same time.

8. Additional City departments have reviewed this application and do not support the waiver request. The Public Works and Utilities Department does not agree with the applicant's analysis. They state that building a sidewalk at this location would not be impractical. The Health Department does not support the waiver and states that sidewalks are an important part of the community that help to encourage physical activity. Continuous sidewalks also provide paved surfaces, separated from the streets, as called for in the ADA standards.

9. The Comprehensive Plan is supportive of continuous sidewalks built on both sides of all streets. This long-standing requirement has developed a network of over 1,500 miles and is a significant asset to our community. The waiver is not supported by the Comprehensive Plan.

Prepared by:

Paul Barnes, Planner
402-441-6372
pbarnes@lincoln.ne.gov

DATE: November 4, 2015

APPLICANT/OWNER/CONTACT: Dennis and Sandra Slama
731 Glenridge Road
Lincoln, NE 68512

WAIVER NO. 15018

WAIVER NO. 15018 - WAIVE SIDEWALK REQUIREMENTS ON PROPERTY GENERALLY LOCATED AT 731 GLENRIDGE ROAD.
PUBLIC HEARING BY PLANNING COMMISSION: **November 18, 2015**

Staff Recommendation: Denial

STAFF PRESENTATION:

Paul Barnes of the Planning Department, came forward and stated that this requested waiver is in conjunction with a final plat that is currently under review. This property is near the intersection of South 7th and Glenridge Road. Barnes stated that there is a history in terms of how this area was developed and how it was platted. Referring to a site map, this property is located in Lot 1, Block of Wilderness Estates – the original addition. At that time, Glenridge Road ended and the remainder of the area was platted into an outlot. Sidewalks, street trees and traditional improvement that are part of a residential subdivision, were required and installed. A few years later, the 1st Addition of Wilderness Estates came in and Glenridge was platted right-of-way, continuing with 7th Street north. There was a subdivision agreement as part of the this next addition that required all the traditional improvements be installed, including sidewalks. Therefore, sidewalks should have been installed. Over a period of a time, the developer had some issues and eventually went bankrupt. The city tired to get the bond to install the sidewalk but the bonds had expired and were essentially written off. Today, there is a new request to further subdivide this property, which is currently under review against the subdivision ordinance. Barnes noted that sidewalks are a requirement at the time of subdivision. In terms of the surrounding neighborhood, there are sidewalks on both sides of the street. There is a gap in the sidewalk, which really should be installed as part of this plat. There are seven houses on the west side of 7th Street with sidewalks in front of their properties. If the sidewalk is constructed, there would be a consistent path to continue further to the east. The city's sidewalk policy states that sidewalks are a requirement to be installed on both sides of the streets whenever subdivisions are reviewed to provide a separation between pedestrians and vehicular traffic in a consistent manner and ensures that we are meeting ADA standards. The applications states that there is some obstacles to putting in the sidewalk in this area, consisting of street lights, street trees and some grading. The staff views this as undeveloped land. In order to build a house, grading will likely need to be done. In terms of the street light being an obstacle, there are street lights and sidewalks located throughout the rest of the neighborhood and there is adequate separation between the two. Parks and Recreation has noted that there is one street tree that will probably need to be removed for the sidewalk to be installed. Barnes noted that it is standard requirement to also replace the street tree as part of the final plat.

PROPONENTS:

Dennis Slama, 731 Glenridge Road, the applicant, stated he is requesting the waiver, as putting a sidewalk and retaining wall here would be a great financial burden on them. It is estimated to cost between $7,000 and $10,000. This piece of missing sidewalk has not been a problem for anyone in the neighborhoods in the 15 years that they have been there. The sidewalk would not benefit anyone in the neighborhood. Referring to a picture of the lot looking from east to west, he pointed out the street light and the street tree that would need to be removed. The sidewalk would go into

an adjacent property owner's side yard and really would go nowhere. The grading differential is about four feet. The property on the other side of the fence is where he is going to build a house which will face to the west. There will be no grading that would affect this area at all. Slama stated that this lot has been designated as Wilderness Estates 3rd Addition, which makes it sound like it is going to contain several lots, when it is in fact a single lot. He suggested that a more appropriate name would be Wilderness Estates Addition, Block 1, Lot 4, since it is a single lot. He asked if there were any questions regarding his statement previously provided to the Planning Commission. None were asked. In the staff "Analysis", references the Planning Commission's resolution of 1997, requiring sidewalks to be installed within the plat, specifically requiring the sidewalk on the south side of Glenridge Road to be constructed, but it never was. The fact that the developer failed to install the sidewalk and retaining wall, and poor oversight to ensure that this was done, occurred before they purchased the property. The installation of this sidewalks makes no commonsense in their neighborhood. Planning practice was not followed when this area was developed and a sidewalk was required to be put in at that time and should now not become their burden.

Staff Questions:

Commission Corr asked Barnes if the last house that sits on 7th Street, if that sidewalk goes all the way up to the border. Barnes that this sidewalk would have to go to the edge of the existing sidewalk on that property. The site plan that the applicant referred to may be using the stub as a driveway but essentially the sidewalk would come across the property and connect to the existing sidewalks on both sides. It is a gap.

Beecham asked if it is common practice currently for sidewalks to go in at the time a property is developed? This didn't happen earlier because nothing was built on the property yet. Barnes stated that there have been a couple of changes on that over the years. He understands that in the past, generally sidewalks required a bond, whether it was a commercial development, industrial or residential. Now, with residential subdivisions, sidewalks are required to be installed when a building permit is pulled.

Cornelius asked there is any kind of public access across the parcel from north to south? Barnes stated that this has been discussed quite a bit in the past. There were some earlier plans that would have continued South 7th farther to the south. Cornelius asked if there was any pedestrian right-of-way or easement? Barnes stated no there is not.

Cornelius stated that there is a cul-de-sac to the south and asked how is the area to the west of the cul-de-sac is zoned. Barnes stated that he believes it is R-2 also, which is the same as the area in question.

Applicant Rebuttal:

Mr. Slama returned and referenced Item No. 4 of the staff "Analysis" requiring that the sidewalk should have been done. This should have been done and this discussion should not be taking place. The sidewalk should be there and it is not their fault that it was not put in.

WAIVER NO. 15018
ACTION BY PLANNING COMMISSION: **November 18, 2015**

Lust moved DENIAL, seconded by Corr.

Corr stated that it has been a longstanding practice of the city that we promote sidewalks and connectivity for walking and I support that so that means we need to connect the two here.

Cornelius stated that in an unusual position for him, he disagrees. He is a huge advocate of sidewalks in almost all cases. However, here he sees that on the north side of Glenridge there is a sidewalk. On the south side, there are stubs on the east and west area of where we are talking about but, if there is no means of crossing this parcel, it won't connect to anything to the south and it is not going to go any farther to the west because of the railroad tracks. I think that the needs of the pedestrians in the area are likely served by the sidewalk to the north. Requiring the sidewalk after a result of sort of malfunction in the system which places the burden on this one property owner, is unnecessary.

Beecham respectfully disagreed with Cornelius. When we are looking at a subdivision that has sidewalks on both sides throughout, as this one does; she feels very sympathetic for the applicant, as this is a tricky and not a problem of their making. However, I think when you purchase land, unfortunately, you are purchasing the problems that come along with that land and you are needing to deal with them as part of the development of that piece of land. If we had a developer coming in here platting something, I think we would be requiring sidewalks and this connectivity. If I am in a wheelchair and I'm on the south side of the street and it is a snowy day, I shouldn't have to take my wheelchair across a snowy street to get to the sidewalk on the north side when there are sidewalks. This seems to me to be a very straightforward connection and I think it is important that we complete it. I am going to support Lust's motions.

Lust stated that she is going to echo what Beecham said. Unfortunately, the cost of development is sidewalk installation. We always require it for more traditional developers and while I understand that the burden is falling on just one particular property here, it is still the cost of developing this property further, and I don't see a compelling reason to waive what is a standard in the city for sidewalk connectivity in this case.

Hove stated that he plans to support the motion. He is very sympathetic to the folks but the fact is that the sidewalk does connect to other sidewalks.

Motion for DENIAL carried 7-1: Beecham, Corr, Harris, Lust, Sunderman, Scheer and Hove voting 'yes; Cornelius dissenting; Weber absent.

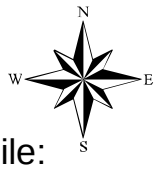
2013 aerial

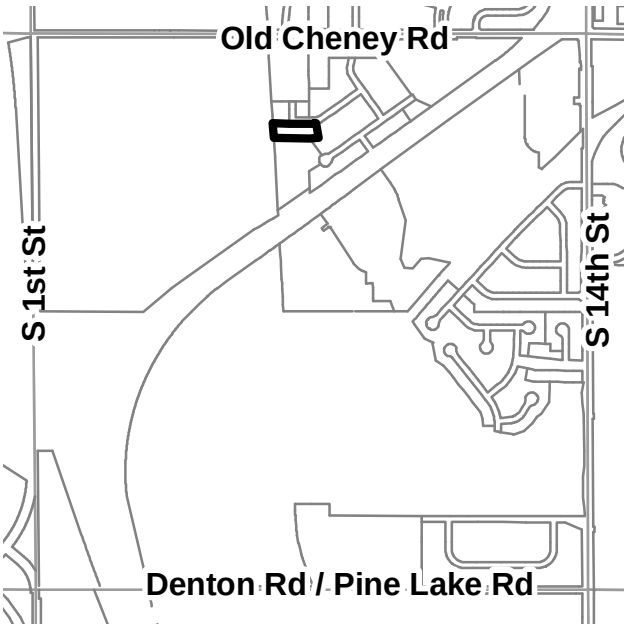
Waiver #: WVR15018
Sidewalk Waiver
S 7th St & Glenridge Rd

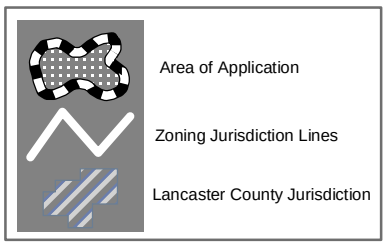
Zoning:

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.14 T09N R06E







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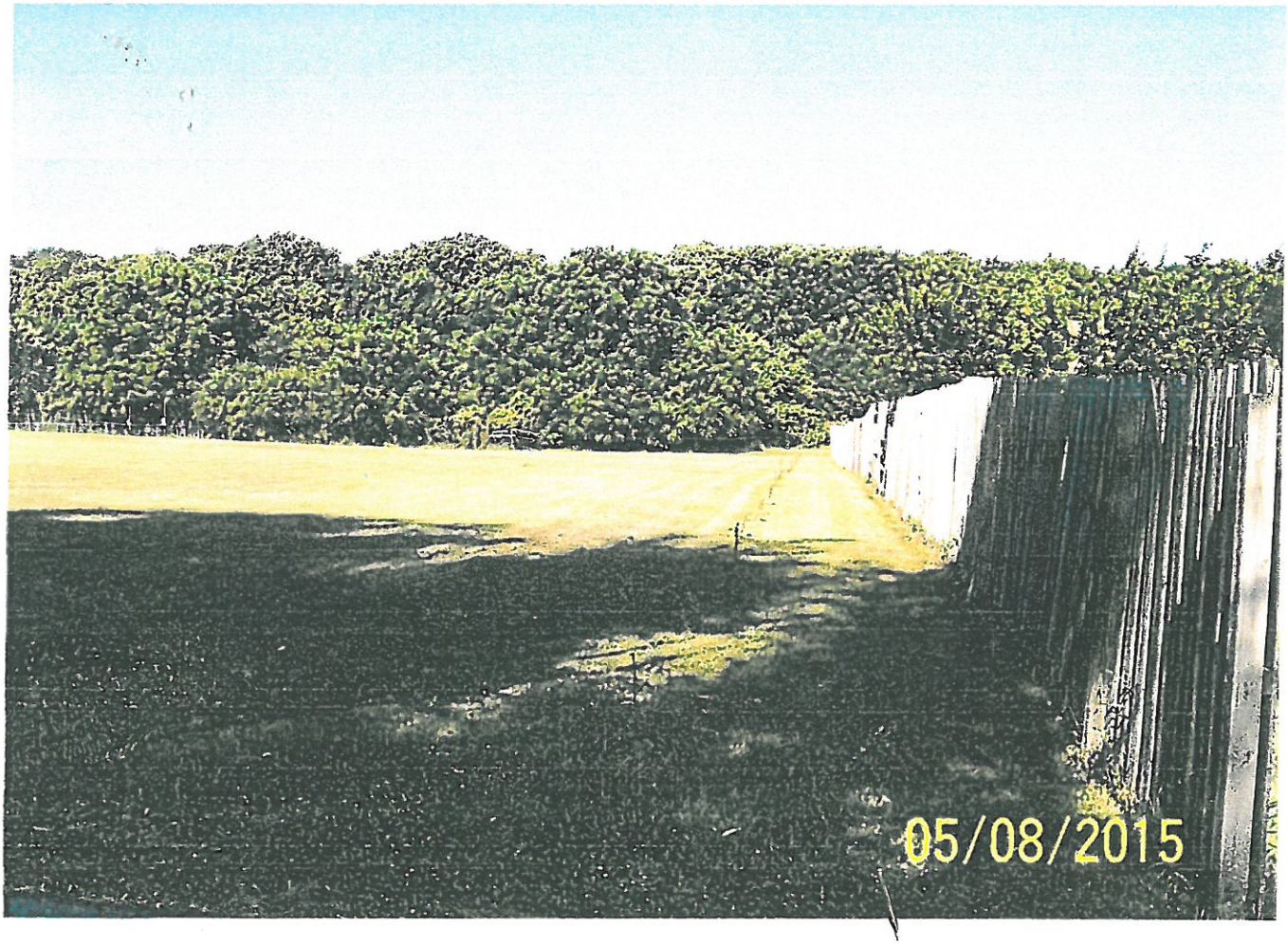
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WILDERNESS ESTATES 3RD ADDITION

SCALE: 1" = 30'
SHEET 1 OF 1

▲=TEMP. POINT
●=FOUND AS NOTED
■=SET #5 REBAR OR AS NOTED
M=MEASURED
P=PLATTED
R=RECORD

SURVEYORS CERTIFICATE

I hereby certify that I have caused to be surveyed the subdivision to be known as "WILDERNESS ESTATES THIRD ADDITION", a subdivision of LoT 1, Block 1, Wilderness Estates, located in the Northwest Quarter of Section 14, Township 9 North, Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska. More particularly described as follows:

Beginning at the northeast corner of said lot 1; thence along the easterly line of said lot 1, S 08°20'57" E a distance of 143.30' to the southeast corner of said lot 1; thence along the south line of lot 1 S 89°42'05" W a distance of 90.08'; thence along the south line of lot 1 N 89°53'09" W a distance of 340.72'; to the southwest corner of said lot 1; thence along the westerly line of said lot 1 N 03°13'19" W a distnce of 140.58' to the northwest corner of said lot 1; thence along the northerly line of said lot 1 S 89°53'15" E a distance of 347.47'; thence N 89°50'16" E a distance of 45.38' to a curve to the left, said curve has a radius of 180.00', a chord bearing of N 85°56'52" E, and a chord length of 25.10' to the point of beginning.

Together with and subject to covenants, easements, and restrictions of record. Said property contains 0.65 acres more or less.
Permanent monuments have been found or set at all boundary corners, lot corners, street intersections, block corners, points of tangency and curvature as shown on this Final Plat in accordance with Title 26 of the Lincoln Municipal Code. All dimensions are chord measurements unless otherwise shown, and are in feet and decimals of a foot.

Signed this ____ day of _____ 20___

_____
Kyle E. Catt L.S. #609
WNK Surveying
PO Box 154, Panama, NE

ACKNOWLEDGEMENT

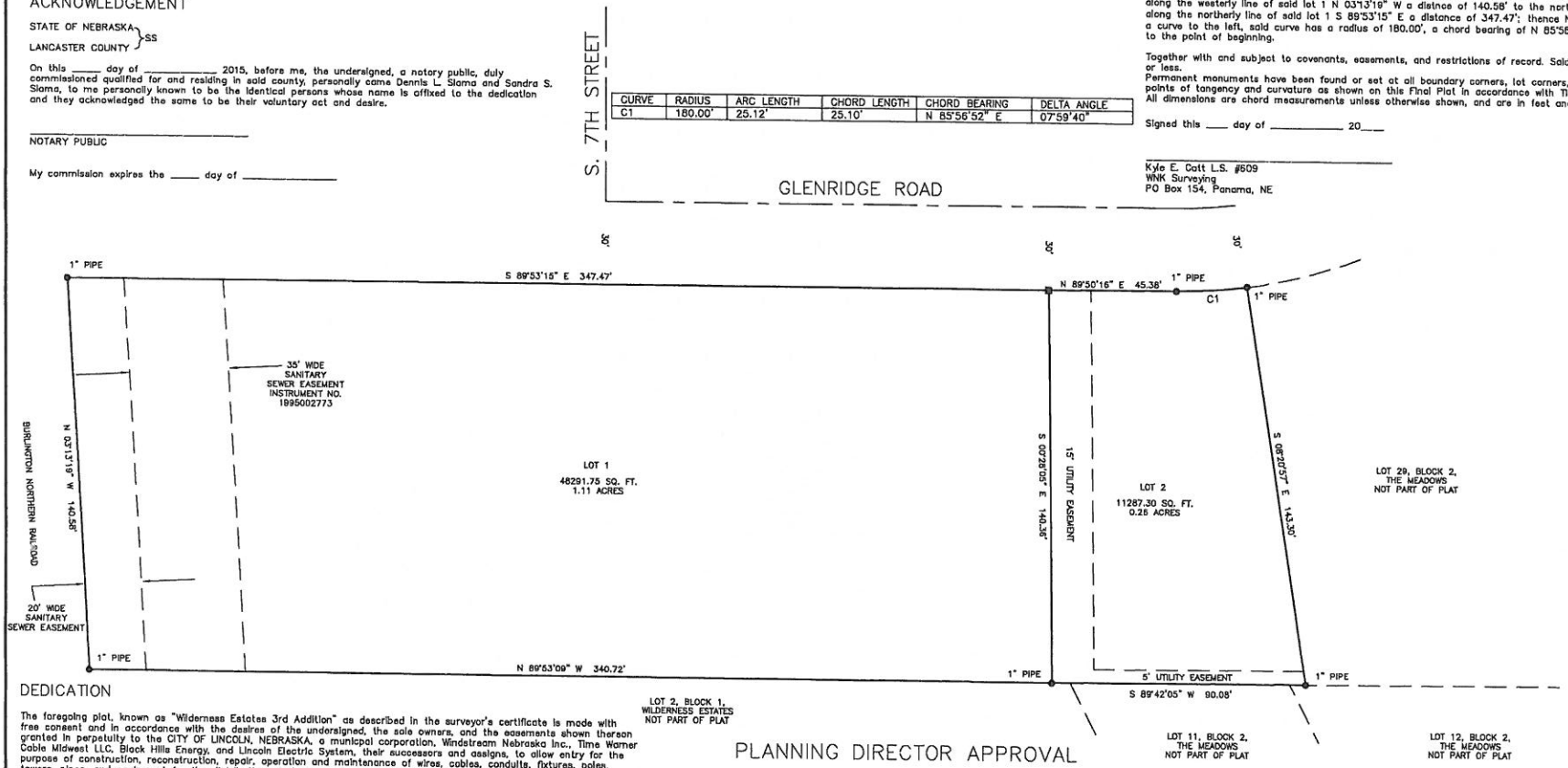
STATE OF NEBRASKA
LANCASTER COUNTY } SS

On this ____ day of _____ 2015, before me, the undersigned, a notary public, duly commissioned qualified for and residing in said county, personally came Dennis L. Slama and Sandra S. Slama, to me personally known to be the identical persons whose name is affixed to the dedication and they acknowledged the same to be their voluntary act and desire.

_____
NOTARY PUBLIC

My commission expires the ____ day of _____

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	180.00'	25.12'	25.10'	N 85°56'52" E	07°59'40"



DEDICATION

The foregoing plat, known as "Wilderness Estates 3rd Addition" as described in the surveyor's certificate is made with free consent and in accordance with the desires of the undersigned, the sole owners, and the easements shown thereon granted in perpetuity to the CITY OF LINCOLN, NEBRASKA, a municipal corporation, Windstream Nebraska Inc., Time Warner Cable Midwest LLC, Black Hills Energy, and Lincoln Electric System, their successors and assigns, to allow entry for the purpose of construction, reconstruction, repair, operation and maintenance of wires, cables, conduits, fixtures, poles, towers, pipes, and equipment for the distribution of electricity and gas; telephone and cable television; wastewater collectors; storm drains; water mains and all appurtenances thereto, over, upon, or under the easements as shown on the foregoing plat.
The construction or location of any building or structure, excluding fences, over, upon, or under any easement shown thereon shall be prohibited.

The City of Lincoln, Nebraska, its successors and assigns, are hereby held harmless for the cost of replacement or damage to any improvement or vegetation over, upon, or under any easement shown thereon.

WITNESS MY HAND

_____ _____
Dennis L. Slama Sandra S. Slama

PLANNING DIRECTOR APPROVAL

The Planning Director, pursuant to Section 26.11.060 of the Lincoln Municipal Code, hereby approves this final plat.

Signed this ____ day of _____ 2015

_____
PLANNING DIRECTOR