MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, October 16, 2019, 1:00 p.m., Hearing Room 112, on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Shams Al-Badry Tom Beckius, Tracy Corr, Cristy Joy, Tracy Edgerton, Dennis Scheer and Cindy Ryman Yost; Dick Campbell and Deane Finnegan absent. David Cary, Steve Henrichsen, George Wesselhoft, Brian Will, Tom Cajka, Allan Zafft, Paul Barns, Stacey Hageman, Dessie Redmond, Ed Zimmer, Geri Rorabaugh and Rhonda Haas of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Hearing

Chair Corr called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

Corr requested a motion approving the minutes for the regular meeting held October 2, 2019.

Motion for approval made by Beckius, seconded by Edgerton and carried 7-0: Joy, Ryman Yost, Al-Badry, Scheer, Edgerton, Beckius and Corr voting 'yes'; Campbell and Finnegan absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **October 16, 2019**

Members present: Al-Badry, Beckius, Corr, Joy, Ryman Yost, Edgerton and Scheer; Finnegan and Campbell absent.

The Consent Agenda consisted of the following items: **Annexation 19008, Change or Zone 05068F, Change of Zone 2463F, Change of Zone 19022, Special Permit 18044, Change of Zone 19025, Street and Alley Vacation 19007, Special Permit 19045, Pre-Existing Use Permit 3AI and Miscellaneous 19003.**

There were no ex parte communications disclosed.

Motion for approval, as amended, made by Edgerton, seconded by Al-Badry and carried 7-0: Joy, Ryman Yost, Al-Badry, Scheer, Edgerton, Beckius and Corr voting 'yes'; Campbell and Finnegan absent.

Note: This is **FINAL ACTION** on **Special Permit 19045** unless appealed by filing a letter in the Office of the City Clerk within 14 days**.** This is a recommendation to the City Council for all other items.

Chair Corr stated no Requests for Deferral.

COMPREHENSIVE PLAN CONFORMANCE 19013
TO REVIEW THE PROPOSED LANCASTER COUNTY ROAD AND BRIDGE CONSTRUCTION PROGRAM, FISCAL YEAR 2020 AND 2021-2025, AS TO CONFORMANCE WITH THE 2040 LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN
PUBLIC HEARING: October 16, 2019

Members present: Al-Badry, Beckius, Corr, Joy, Ryman Yost, Edgerton and Scheer; Finnegan and Campbell absent.

Staff Recommendation: In Conformance with the Comprehensive Plan

There were no ex parte communications disclosed.

Staff Presentation: Paul Barns, Planning Department, came forward and introduced Allan Zafft as the new MPO Transportation Planner, who started with the Planning Department in June of this year. Allan formerly worked in Grand Island as their MPO for a couple of years. His previous experience has been in the private and public sectors for the last 18 years. **Allan Zafft, Planning Department,** came forward and stated that annually Lancaster County is required to prepare a County Road and Bridge Construction Program, which is required by State Law. Each year this plan is brought before the Planning Commission for review as to its conformance with the Comprehensive Plan. This covers Fiscal Year 2020 and 2021-2025. Staff has done their review and the program was determined to be in conformance.

Pam Dingman, Lancaster County Engineer, came forward and stated the flooding in March 2019 has had devastating effects and their system no longer has the resiliency to handle these repeated weather events. In March 2019, there was over 50 inches of snow on the ground and then it began to rain, which had devastating effects on the roads. Dingman referenced a PowerPoint presentation showing several roads that they have rebuilt since this event. With the ground in a frozen state, the county began to experience frost boils, which is where the surface is frozen and underneath that frozen surface there is liquefied ground. These frost boils have caused some of the motor graders to sink and get stuck. She explained that it will take years to get the roads back into the shape they were in prior to this event and that these types of weather events are likely here to stay.

Bridge B-133 located on Agnew East of North 56th had ice pushed a crossed the road, which then pushed the gravel off the road and into the field and now the road needs to be rebuilt. She stated that with this year's weather events she has seen things that you would normally only read about when in class, i.e. dramatic embankment failures, which can lead to a road being

unstable -- there have been a lot of unstable roads this year. There was damage to Federal Aid Routes on D-88 Agnew Road East of Hwy 77, as well as K-121 Adams between 84th and 98th. We do expect to see an 80 percent reimbursement from the Federal Highway Administration for the replacement of K-121 on Adams Street and 100 percent reimbursement for the D-88 Bridge on Agnew Road. She stated with Bridge K-121, there was a 4 to 5 foot void under the road and culvert on both sides of the bridge, which was closed because it was too dangerous to drive on.

FEMA has promised that they will be better this year than they were in 2015, where the County is still waiting for $160,000; the current claim to FEMA for 2019 is $1,700,000. She stated that FEMA has determined that there only needs to be 2 inches of gravel on the roads, and the County is currently appealing this decision for the third time. FEMA has also stated that Lancaster County will not see any of the reimbursement funds for 2019 until February or March of next year or even late fall. This continues to create an issue, because of the future funding that they may or may not receive.

She stated during her tenure as County Engineer, the Rock Creek Basin in the northeast area of the county has been a concern. Rock Creek Basin has a flood stage at 23 feet and 4 of the top 5 highest records have been within the last 6 years. With the flooding of 2019, there were 42 critical bridges, which are watched on a regular basis and 20 new bridges have been added to that watch list. Then, there was the flooding of May 2019 when many of the local creeks again reached the 100 year water surface elevations. Pipe Culverts failed at several locations as the ground liquefies. This flooding resulted in Lancaster County Commissioners declaring a second emergency event, with the first being in March. She stated a lot of these things have happened because the infrastructure is old and the County has not had the assets to appropriately take care of and maintain. There are 20 bridges currently closed, 11 bridges in design or construction phase and 9 bridges, and there is no funding source to start the design or construction. Once a bridge has been closed, it can take up to 3 or more years to complete the process before it is reopened.

Current bridge needs before 2019 flooding was determined in a study by Olsson and Associates and they determined that the county had a $200 million funding gap for bridges. How that breaks down: 26 are structurally deficient; 4 are functionally obsolete; 39 scour susceptible; 23 scour critical; 20 with sufficiency rating less than 50. Dingman stated that Lancaster County is 65 out of 93 Counties in Nebraska for percentage of square footage of bad bridges. She stated that she has talked with this Board before on her concerns with subdivisions, where Lancaster County currently maintains about 100 of them and there is another 100 in the cue. Of the taxes generated from an acreage house that is assessed at $500,000.00 in the county, they receive about $48.00 for maintaining the roads. Something needs to be done with the funding, because the county is already behind with what needs to be done. She stated that it is difficult to keep gravel roads maintained with the amount of traffic that is on these roads.

Bridge projects completed or in progress in Fiscal Year 2019 include: 7 bridges constructed; 2 bridges repaired; 8 bridges designed; and 1 bridge awaiting permitting. Additional projects completed or in progress in Fiscal Year 2019 include: 15.2 Miles of asphalt overlay; 2 miles of grading; and 3 miles of engineering for new road. Bridge projects proposed for Fiscal Year 2020 include: 9 bridges to be constructed; 2 bridges to be repaired; and 3 bridges to be designed. Additional proposed projects for Fiscal Year 2020: 21 miles of asphalt overlay; 18.5 miles maintained with either the chip seal, and hot-in-place or fog seal. In addition, the county will be engineering 4 miles of road that will be 98th Street form A Street to O Street and 98th Street Old Cheney to A Street. She stated that she typically requests 1 to 2 percent of the counties infrastructure needs, she further stated during her tenure with the county she has never received that amount--it was always cut.

The Fiscal Years 2021-2025 projects include a focus on North 14th Street where there is a clear and dramatic problem with 4 structure in a 2.5 mile radius that are all very bad. She stated these structures are F-88 bridge to bridge, F-78 Bridge to box culvert, F-82 Bridge to box culvert and F-86 Bridge to box culvert. The south end of the county there are several bridges that will cost well over a million dollars, so they have picked some of the smaller bridge boxed culverts projects. Moving forward, the structures will become more expensive with more complexed permitting and there will be a need for more funds to build bigger but less bridges.

Staff Questions:

Beckius asked at what point the projects that are not showing up on the plans constitute a lack of conformance to the Comprehensive Plan. Dingman stated that one thing the Infrastructure Task Force recommended was that they create an overall County CIP. She further stated that such a small amount of their infrastructure needs are funded and this will help to convey more of the overall needs. She stated that she has no budget authority and no ability to acquire money, other than to keep going out and finding grants. Zafft mentioned that the Comp Plan ties with LRTP (Long Range Transportation Plan) and typically this relates to system preservation and system maintenance. He further stated that they don't identify specific projects and generally support maintenance projects and system preservation. Dingman further stated that the highway fund did not have any property tax dollars revenue in it until Fiscal Year 2015. It was strictly Federal Highway Allocation dollars that funded that department, which has now changed and more is getting done with the roads.

David Cary, Planning Department, came forward and stated the City has asked the same question with regards to transportation needs and the available funding, and he further stated he wanted to echo Dingman's comment about more getting done in recent years --they are more in conformance than they have been, but the reality is that there is not enough funding to meet the needs that we have and the plan already states that. There is also a call in the plan for finding and talking about more funding to have the ability to get more done. There is a need for more money to have the ability to do more.

Scheer stated this question comes up every year, and this is a valid question.

Joy inquired if there were any project plans around the county to change the drainage ways or any type of process to encourage this, with the current flooding trend. Dingman stated with some of these weather events, some of the surrounding communities should be celebrated for their efforts. Waverly, for example, implemented a 1 percent sales tax in their community, which was dedicated to the infrastructure. They used that sales tax to build the dry dam on the south side of I-80. During the March 2019 flooding event, that dry dam filled and functioned exactly as it should. The building of this dam helped Waverly take 100 houses out of their flood plain. She stated that communities will need to do more things like this in the future to be more resilient.

Corr inquired about the amount of gravel the county is wanting on the road even though FEMA has stated that 2 inches is sufficient. Dingman referred to the State standard that Nebraska Department of Transportation follows for roads, which she explained has several layers to it and it should be 6 inches to 8 inches thick. Corr inquired how long the Federal reimbursement takes in comparison to FEMA. Dingman stated that with the Federal Government, it is multiple sources and the Federal Hwy Administration has a program for the Federal Aid routes--they typically see these funds within the same year.

Support

No one came forward.

Opponents:

No one came forward.

COMPREHENSIVE PLAN CONFORMANCE 19013
ACTION BY PLANNING COMMISSION: **October 16, 2019**

Motion for approval made by Beckius, seconded by Joy.

Beckius commented while the plan before the Commission does conform to the Comprehensive Plan, he feels it should be noted that the plan also leaves off a number of infrastructure projects that need attention but cannot be met due to the funding limitations presented by the County Board. Ultimately, those limitations, if they continue, will continue to be problematic for our community in terms of meeting its goals of conforming to the Comprehensive Plan.

Scheer agreed with Beckius' statement, but also wanted to point out the staff report does state that aspects of this plan are in "general conformance" with the Comprehensive Plan. He stated that we are better off than we have been and, in general, since we are in conformance, and he is in favor.

Corr stated that she is saddened to hear that out of 93 counties our county was ranked 65 – this hits home because we have more density than a lot of those 93 counties. She encourages the County Board to leave the amount that has been asked for in the budget so we can hopefully move forward on these items instead of continually falling behind. She stated that she thinks this is a solid plan.

Motion carried 7-0: Joy, Ryman Yost, Al-Badry, Scheer, Edgerton, Beckius and Corr voting 'yes'; Campbell and Finnegan absent.

COMPREHENSIVE PLAN AMENDMENT 19001
TO AMEND THE LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN TO INCLUDE CHANGES TO REVISE THE FUTURE LAND USE MAP AND COMMERCIAL CENTER DESIGNATIONS ON APPROXIMATELY 150 ACRES, MORE OR LESS, GENERALLY LOCATED AT THE SW CORNER OF NORTH 27TH STREET AND ARBOR ROAD.
AND
ANNEXATION 19001
ASSOCIATED WITH THE PROPOSED STONE BRIDGE CREEK COMMERCIAL PUD (PLANNED UNIT DEVELOPMENT), ON PROPERTY GENERALLY LOCATED AT THE SW CORNER OF NORTH 27TH STREET AND ARBOR ROAD.
AND
CHANGE OF ZONE 19002
STONE BRIDGE CREEK COMMERCIAL PUD (PLANNED UNIT DEVELOPMENT), FOR A CHANGE OF ZONE FROM AG (AGRICULTURAL DISTRICT), B-2 (PLANNED NEIGHBORHOOD BUSINESS DISTRICT), R-3 (RESIDENTIAL DISTRICT) AND I-3 (EMPLOYMENT CENTER DISTRICT) TO R-3 PUD (PLANNED UNIT DEVELOPMENT) THAT WILL INCLUDE UP TO 850,000 SQUARE FEET OF COMMERCIAL FLOOR AREA, 1,102 MULTI-FAMILY DWELLING UNITS, AND 50 SINGLE-FAMILY DWELLING UNITS, FOR APPROVAL OF A DEVELOPMENT PLAN WHICH PROPOSES MODIFICATIONS TO THE ZONING AND SUBDIVISION ORDINANCES, ON PROPERTY GENERALLY LOCATED AT THE SW CORNER OF NORTH 27TH STREET AND ARBOR ROAD.
PUBLIC HEARING: **October 16, 2019**

Members present: Al-Badry, Edgerton, Beckius, Corr, Joy, Ryman Yost and Scheer; Finnegan and Campbell absent.

Staff Recommendation: Approval of Comprehensive Plan Amendment
Conditional Approval of Annexation 19001 and Change of Zone 19002

There were no ex parte communications disclosed.

Rorabaugh noted that for Change of Zone 19002 staff has presented a memo to the Planning Commission in regards to a Motion to Amend.

Staff Presentation: **Rachel Jones, Planning Department,** came forward and stated this is for the proposed Stone Bridge Creek Planned Unit Development (PUD) and related Annexation and Comprehensive Plan Amendment located north of Interstate 80 and to the west of N. 27th Street.

There will be up to 1,102 multi-family dwellings, 50 single-family dwellings, and 850,000 square feet of commercial floor area under the PUD. This annexation includes approximately 120 acres in the PUD boundary that are outside City limits. Waivers have been requested for the standards for setbacks, lot dimensions, building height and roadway dimensions. There are also changes proposed to the future land use and commercial center designations in the Comprehensive Plan. This property is contiguous to the City limits on the south. The proposed land uses and density align with the 2040 Comprehensive Plan, pending approval of the related Comprehensive Plan Amendment, to revise the future land uses and change the commercial center designation to community center. With the annexation, any time land is annexed, the adjacent right-of-ways are also annexed. Jones further stated that they are aware that the County Engineer will be in opposition to the placement of the annexation because the county is wanting the City to annex and take over maintenance of the bridge in the area. The City is not legally obligated to annex this portion of land and the City does not wish to take on the extra maintenance and costs. Jones noted that a motion to amend that was submitted to the Commission which includes several minor changes to the conditions of approval for the change of zone. The most significant change is to Item 3.6 that requires a traffic calming measure along Humphrey Avenue, between the trail crossing and Quandary Road, to the satisfaction of the Transportation and Utilities Department.

Edgerton asked if Humphrey Avenue extend to Quandary Road. Jones said yes.

Beckius asked what the traffic calming measures would be. Jones stated the wording on the application was left out so that the applicant would be able to work something out with Transportation and Utilities Department on traffic calming.

Corr asked if there was a 300-foot buffer between the residential and industrial on three sides. Jones said yes, for safety reasons. Corr asked if the current building in the industrial area was also 300 feet from the property line. Jones stated that was a good question for applicant to answer, but she believes that there is still a 300-foot separation that they had built into this. Corr asked for an example of what “bottle works” means. Jones shared that she thought it would be soft drink plant and manufacturing. Corr asked if that would apply to local brewers or if it was considered something separate. Jones stated that is something she would need to look into. Corr inquired whose responsibility for installing the 16-inch water main from Alvo Road to Arbor Road. Jones stated the City would install that water main. Corr inquired who would be responsible for the smaller water lines. Jones stated based on the size of the pipe, it would be the developers’ responsibility. Corr asked if the average lot width was normally 60 feet. Jones stated that in the standard R-3 for a two-family dwelling, with the waiver, the 40 feet for a single family with attached would meet the standard. Corr asked what the normal minimum lot area is. Jones stated 5,000 square feet for 2-family dwellings in the R-3. Corr inquired if this development was considered a B-2 PUD or an R-3 PUD. Jones stated it is an R-3 PUD.

Edgerton stated if the pedestrian town center is not built if that reduces the square footage on the commercial side. Jones said that was correct. Edgerton asked what the rational was for the numbers as to what was required going from 850,000 to 700,000, if there was not a pedestrian-friendly town center

and the number of dwellings that are allowed. Jones stated the reason that they were allowed up to the 850,000 square feet, is because they were including a lot of the incentive criteria. Edgerton asked if 700,000 square feet is more than what is typically required. Jones said yes. **Steve Henrichsen, Planning Department,** stated that the Comprehensive plan is just a guide, but they try to adhere to it as much as they can. In this circumstance, they are taking into consideration that this was already a center that included commercial space and together it was already approaching that 700,000 square feet. Edgerton asked where the office space would be located in this development. Jones stated that it could be throughout the development.

Henrichsen answering a previous question on "bottling work", stated that this is found in the manufacturing section of the use groups and applies to areas that are generally an acre or more in size. In the Food and Drink Establishments use group, there is text that addresses that circumstance. The Food and Drink also includes small scale production and distribution of food and beverages in facilities that are generally less than 1 acre in size; for example, craft brewery or bakery; a large plant fits more in industrial area.

Corr stated that a smaller craft brewery would still be allowed in the PUD. Jones said yes.

Edgerton inquired about a term in the staff report that discourages 4-corner commercial developments. Jones stated that when commercial is located on all four corners, it becomes auto-oriented and there are not a lot of mix of uses.

Beckius inquired if there has been any type of discussion about the dedicated use of impact fees with the City of Lincoln and the developer. Jones stated that some of the impact fees would be directed towards adjacent street improvements. Beckius asked which streets. Jones stated that would be something that she would need to check on within the annexation agreement. Henrichsen stated the main improvement is the large round-a-bout at the intersection of Alvo Road and Arbor Road. Generally, other turn lanes would be included if they were meeting the criteria and not in the site improvement but overall improvements to the arterial street system. These are the types of things that were talked about with the annexation agreement. This development will generate enough impact fees to repay the developer for these improvements. The City is agreeing, as part of the annexation agreement, that there are some other off-site improvements, one is at the intersection of I-80 and 27th Street that the City will do. With this agreement, the developer will make some of the improvements and the City will do other improvements.

Edgerton inquired about the DOTs (Department of Transportation) denial and noise impacts in the area. Jones explained that the DOT recommended denial because of concerns with additional lanes added to the Interstate in the future and that could create new noise impacts on the residential that is proposed. Jones further stated that there are no regulations currently in place that would prevent the developer from coming forward with this plan.

Applicant:

Brad Marshall, Olsson Associates, Stone Bridge Creek LLC, 601 P Street, came forward on behalf of Stone Bridge Creek, LLC, and stated this is for 190 acres of R-3 PUD. There will be 3 designated areas for apartments consisting of up to 1,100 apartment units and 50 single-family dwellings, with the intent of matching what is currently being built in the residential areas. The overlay B-2 and "B-2 Plus" zoning districts includes commercial/office uses. The "B-2 Plus" area is requesting additional permitted and conditional uses to provide additional flexibility with some uses that are more highway commercial oriented, stating this area is a little larger than what would usually be brought forward. There have been meetings with city staff and HOA (Home Owner Associations) and all neighbors in the area, as they want to be good neighbors. Planning was done around the pipeline that runs parallel along Alvo Road through the property. He stated that there was a significant traffic study done because of its proximity to the Interstate system, and they have worked through some of the improvements that were identified. Marshall shared that the east side of the property is vastly green space in the designated wetland and flood plain areas. This is also a water detention area that will be utilized and expanded with this project. They have engaged all the appropriate agencies and have had discussions on the wetlands. He stated that there are industrial setbacks to the property in the I-3 Zoned District and that there is a private agreement with Stone Bridge Creek, LLC and a property owner that designates they have a shared setback between them.

Corr asked if that would be on all 3 sides of the industrial property. Marshall stated that it is and they do not show the residential on the north, because neither plan considered the north setbacks.

Joy asked if the traffic study included Arbor Road and continued to 14th Street. Marshall said yes, that the study did look at that intersection and nothing was designated at that intersection to be done. Joy stated that no improvements are included outside the boundaries with this development. Marshall said no.

Edgerton asked what the plans are for the town center. Marshall said it will include incentive criteria outlined. The intent was to use some of the H-3 uses that the developer wanted to include. Edgerton said assuming that the town center develops as envisioned with a smaller walkable space, and she asked if there were plans to have this connected with the existing residential areas. Marshall stated that the trails will be a good use and this is something that they heard in the HOA meetings. He shared that there will be sidewalks along Humphrey Avenue to also get to this area. Edgerton asked if the area just to the west of the substation was residential. Marshall stated that some of it would be residential with some office and commercial too.

Marshall stated that he also wanted to discuss the traffic calming in this development. The history on this is that it goes back to when the CUP was brought forward for Stone Bridge Creek and, at that time, there was a request for traffic calming. He shared that one was at the trail crossing with a splitter island and the other was about 150 feet to the west of Centurion Drive and Humphrey Avenue where two new street connections were being proposed. They include circles that are placed in the middle of an intersection for people to drive around, but they should not be confused with round-a-bouts. He stated that there is a current request from LTU to add something for traffic calming from the trail to Quandary Road. He stated that this is a longer stretch of road and it is hard

to say what they will do at this point. With some of the design, there is some curvature to the roads and make drivers move towards the round-a-bout in the middle of intersecting streets. The developer and the applicant have agreed to maintain that circle or some other type of traffic calming in the development plan and there is some flexibility with its placement.

Marshall submitted a motion to amend (see Exhibit "1") that states the traffic calming measure along Humphrey Avenue between the trail crossing and Quandary Road excludes the intersection of Centurion Drive and Humphrey Avenue. He stated that he does agree with the motion to amend that Jones has submitted today as well.

Beckius inquired where the intersection was located on the site plan. Marshall showed the Commission members the placement of that intersection referenced.

Corr stated that it is not at exactly at Centurion Drive and Humphrey Avenue. Marshall said correct. Corr inquired how many apartments will be in that R-5 section area. Marshall stated 242 apartments units. Corr inquired about the B-2 area. Marshall stated that it is an area that was brought back into this plan. Corr stated that the height waiver is only on the R-5 area, and she asked if that was correct. Marshall said that was correct. Corr stated to the north of Quandary Road is where the big box sore will be. Marshall said correct. Corr asked what would be across the road from the town center. Marshall stated they would be supporting pads, like retail pads that will help support the commercial center and they could be anything. Corr inquired what was on the other side of Alvo Road. Marshall stated there are two designated areas with the south side being B-2 and an R-5 pocket in the northwest corner. Corr stated with the requested waiver on the center line radius that is in the R-3 section in the south, and asked why the radius can't be met there. Marshall stated that 150 foot is the standard radius and wanting to provide some density between that area and the I-3, and, while getting the lots configured and being consistent with what is to the west in Stone Bridge Creek, created a loop road way. With this the radius works better with the 125 foot, which is a slight reduction.

Beckius inquired about the developer wanting final approval of building materials. Marshall stated that they have agreed to the ones that are included on the plan.

[Break at 2:50 P.M. Resumed at 3:00 P.M.]

Proponents:

No one came forward.

Opponents:

1. Tom Ackley, Koley Jessen Law Firm, 1125 S 124th Street, Ste. 800, Omaha, came forward representing Kuck Investments. He stated that his client is to the east of where the apartments are proposed. He stated with the discovery of the initial plans that were submitted that there would be a lot of residential going in next door, which is a violation of their private agreement to what could be developed in and around the site. He stated that the private agreement states that the

development around the property is not to violate the 300-foot permit that they have. He stated that the established policy in the Comprehensive Plan recommends against new residential uses within 300 feet of industrial zoning and that this entire area was designed for Industrial Zoning; this is not protecting the current property owner and the 300-foot buffer. Ackley referenced a letter dated March 15, 2019, as marked and attached as Exhibit "2". He shared that the Planning Department does not seem concerned with maintaining the business that is there and encouraged the City to recognize the private agreement. The owner does request if this moves forward that something is put into the plans to protect his client's property and the industrial-zoned area. He stated that they do have objections with the traffic calming devices proposed because of all of the semi-trucks that will be going in and out of the business, which is something that you would expect to see in an Industrial District. He shared that during the break there was discussion about doing 3 stripes down the road as a way to help truck traffic turn and let other drivers know that they need to slow down. He stated that this area was originally designed for an I-3 corridor and doesn't work for the current business that is located there. Finally, he stated that the State of Nebraska Roads has opposed this plan.

Corr asked if the developer was required to have the 300-foot buffer on their side of the property would that elevate some of the concerns about infringing on the property owners Industrial Zoning. Ackley stated the real question would be do you want residential by an Industrial Zoning, and that it would really depend. He shared with the apartments in the area and if there was on-street parking that could be a problem. The trucks are 53 feet long and, at times, they have to pull out and swing around. He stated that they would ask to not have parking on the east or west side of Humphrey Avenue, and that they developer would be required to have the 300 foot buffer and the traffic calming portion for this development. He stated that the owner wants to protect the ability to get into and out of a business that has been here for 14 years. He stated that this is an important area in the Master Plan and maybe this should be postponed to work through these issues.

2. Pam Dingman, Lancaster County Engineer, 444 Cherry Creek Road, Bldg. C, came forward and stated that years ago when she was in the private sector she had worked on this development. She stated that she is against this annexation, because the city does not help with the upkeep of bridges that are in both the city and county jurisdiction. She explained that according to Statute 18-1716.01 for Annexation -- any property continuous to or abutting county road; any city or village annexing property contiguous to or abutting upon any part of a county road, shall be deemed to have annexed, without further action, all of the contiguous or abutting road at the time of such annexation, except that this section shall not apply to county roads separating counties. She stated that the annexation that has been provided to the Commission is incorrect, she further stated that the initial annexation boundary that was proposed included two-thirds of the bridge. The County is proposing that the bridge is annexed in its entirety into the City.

<u>Staff Questions:</u>

Henrichsen came forward and said that there was a difference in opinion between the City and County on these bridges, agreeing that it is not a good idea to annex half a bridge. Legally, the City Attorney has advised the Planning Department that, in this case, the County right-of-way was

annexed and that it is just the abutting land that needs to be annexed, so the bridge and intersection would not be included with this annexation. Although with both roads are in city limits and not the intersection for those roads, it was decided to annex the intersection for those roads but not the bridge.

Corr asked how the city made its decision for annexation on the east. Henrichsen stated that it is the edge of the right-of-way line on the east for the property.

Joy asked when an intersection jogs, is there any language that deals with that jogging intersection. Henrichsen stated the State statue just states when you annex land, you need to annex the adjacent right-of-way.

Beckius stated that 27th Street dead ends at Arbor as a 4-lane street, and he asked what kind of traffic they were anticipating. Henrichsen stated that he is not sure what the traffic volume has shown on this intersection. Beckius inquired what would happen if in the future this development grows and then something were to happen to that bridge, the county has decided not to fix the bridge and just close the road, and he asked if the city would be fine with this. Henrichsen stated that they would need to have discussions on the bridge closing, and that the city would be willing to have conversations on any and all bridges when needed with the county.

Henrichsen stated that Use Permit 139 was from 14 years ago, and the I-3 boundary has shifted over time. The initial idea was the I-3 was an employment center along the Interstate, thinking that it would be good site for light industrial development. Some of the property in this area was owned by another developer and that is why there is commercial and residential also shown in the area. In 2005, the adjacent land was rezoned from I-3 to R-3 and included the restriction that any use within the use permit shall not be allowed within 300 feet of a residential dwelling. As noted in the staff report, the 300-foot setback is in the I-3 zoned area today, and that is why there is not a 300-foot setback shown outside the I-3 Zoning. He explained with the traffic calming and the round-a-bouts discussion for this project, that there are several round-a-bouts in Lincoln that trucks currently use.

Scheer stated that the motion to amend from Mr. Marshall states that it excludes the traffic calming, and deletes “to the satisfaction of Lincoln Transportation and Utilities”, and asked if the department was in favor of this. Henrichsen stated that would be a better question for LTU. **Bob Simmering, Lincoln Transportation and Utilities (LTU),** came forward and stated if you leave that statement in, you will have an agency that is going to look out for the truck traffic and nearly 1200 residential units there and stated it is a critical part of the statement.

Corr inquired if LTU is okay with excluding the intersection of Centurion Drive. Simmering stated they are not requiring that it be at that point.

Beckius asked if the city has standards on traffic calming. Simmering stated they have several different systems that have been used. Some of them are not written in the standards and they do not use speedbumps.

Corr asked besides a round-a-bout, what are some of the other traffic calming measures that the city uses. Simmering stated they use medians, streets where the street narrows, and there are speed tables which are elongated speedbumps. Corr asked if there was on-street parking on Humphrey Avenue. Simmering said that he thinks there could be and process of looking out for the existing uses will be taken into account for what is done on that section of Humphrey. Corr asked if they can park on that street now. Simmering stated that legally they can currently park on Humphrey Avenue.

Applicant Rebuttal:

Marshall stated that if they were required to have a 300-foot setback that would conflict what was set up with that use permit requirement from 2005. Marshall stated another thing to consider is that it is in the Comprehensive Plan and that this sits very low from the Interstate and there are retaining walls on the property. He stated with the traffic calming they have agreed to install some and what they are asking is to decide what the traffic calming really is and where it is. With the proposed commercial area, there could be truck traffic anywhere along Humphrey and not wanting to get into round-a-bouts.

Beckius asked if prior to the staff report coming out there was discussion to traffic calming. Marshall stated that they had discussed it and agreed to carry over the traffic calming on the trails and thinking that the second one would be eliminated because the development had eliminated the connecting streets.

Corr asked if the developer would feel better if it was added to exclude a full round-a-bout. Marshall said that if they take it out from the intersection of Centurion and Humphrey, which was the hope for the motion to amend, and then he said yes. He stated that it makes more sense to put something at the bottom of the hill.

Edgerton asked what is driving the timing. Marshall said nothing, that they have everything done and it is time to move this forward.

Joy asked about the street parking with the Change of Zone and if they would be willing to keep it commercial along some of the main traffic ways for the Industrial Use. Marshall stated that the primary concern with Kuck Investments is the parking on Humphrey. He stated that with the development they provide more parking than is required to help alleviate street parking.
Corr stated that they are saying that it is out of their hands to post no parking signs along Humphrey or Centurion. Marshall said correct. Corr asked how wide Humphrey would be. Marshall stated that

it is an industrial standard, 38 feet wide. Corr stated that when no parking signs are posted, it usually does increase the speed of the road and they want traffic calming.

COMPREHENSIVE PLAN AMENDMENT 19001
ACTION BY PLANNING COMMISSION: October 16, 2019

Motion for approval made Beckius, seconded by Scheer.

Beckius said that this is a huge site and will continue to change over time, and he further stated the two issues with the road calming and bridge could be settled before it goes before City Council. He explained that it is important for the City of Lincoln to think about traffic in and out of the center that could potentially be this size and how important, if at all, continuing north of Arbor and how important that is in this center, and perhaps shared maintenance on the bridge. He stated with the traffic calming the applicant should understand before they commit to anything, as to what they are agreeing to. He stated that he moves to approve a possible great addition to the City of Lincoln.

Scheer said that he does agree and that he supports this motion. He thanked Henrichsen for the context of what was done 14 years ago, and he further stated that he agrees with Beckius' statement on the bridge and that these are issues that can be addressed; he supports the motion.

Joy stated that she supports the motion. She stated that she wanted on record to say that this Board is representing the City and County, she further stated looking at 27th as a holistic intersection, she strongly encourages discussion on this, because there is traffic and there is a lot of traffic that heads to Highway 77 using the gravel road and that intersection. She wants to make sure that it is on record that they are recommending this even if it is a good will and not in the State Statute.

Motion carried 7-0: Joy, Ryman Yost, Al-Badry, Scheer, Edgerton, Beckius and Corr voting 'yes'; Campbell and Finnegan absent.

ANNEXATION 19001
ACTION BY PLANNING COMMISSION: October 16, 2019

Motion for approval made by Beckius, seconded by Scheer.

Corr thanked the applicant with being proactive and visiting with the neighbors and surrounding property owners, which is very important. She stated that she is not too concerned about the Department of Transportation's comments about the noise. She explained the reason being that the interstate was there first and any residential owner will know that the interstate was there first. She stated she wanted to echo Scheer's comments that the additional comments that Henrichsen added that were pre-existing for the area; she supports the annexation.

Motion and carried 7-0: Joy, Ryman Yost, Al-Badry, Scheer, Edgerton, Beckius and Corr voting 'yes'; Campbell and Finnegan absent.

CHANGE OF ZONE 19002
ACTION BY PLANNING COMMISSION: October 16, 2019

Motion for approval made by Beckius, as amended as identified in the staff memo dated October 15, 2019; seconded by Scheer.

Scheer stated that he supports the staff motion to amend wholeheartedly, especially the language including the LTU Department in the discussion. He further stated that LTU has a lot of expertise in this, which consultants need to take into consideration that they are really good at providing that kind of information. He explained that the comment that Simmering made is that the calming is important and there is an overall traffic component to this, which includes the on-street parking to accommodate the existing user all goes together. He stated that he is in support of the amendment as the staff wrote it, and that it is a really important piece.

Edgerton stated that she agreed with Scheer's statement, and she further stated that LTU can play a role in ensuring that the rights of the property owners in the area are preserved, including the industrial property, that is very important as well.

Beckius stated that a design standard for traffic calming would be helpful in these situations to be fair to developers so that they have an understanding to what is expected of them prior to accepting and agreeing to conditions of an annexation and redevelopment agreement.

Joy stated that she will support this motion with the same comments, reiterating what her fellow Commissioners have said.

Corr stated she agrees and echoes Joy's comments from before saying that they represent the City and County, and with the annexation that has already been approved, wishing that there was a standard agreement to deal with this in the future so that it is consistent, from her on out.

Motion carried 7-0: Joy, Ryman Yost, Al-Badry, Scheer, Edgerton, Beckius and Corr voting 'yes'; Campbell and Finnegan absent.

The Chair stated that anyone wishing to speak on an item not on the agenda, may come forward and do so; no one came forward.

Joy moved to adjourn the Planning Commission Meeting of October 16, 2019, seconded by Edgerton and carried 7-0: Al-Badry, Joy, Ryman Yost, Edgerton, Scheer, Beckius and Corr voting 'yes'; Campbell and Finnegan absent.

Meeting adjourned 4:07 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, October 30, 2019.

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MOTION TO AMEND #2

I hereby move to amend the Conditions recommended by the Lincoln City/Lancaster County Planning Staff Report for Change of Zone #19002, Stone Bridge Creek Commercial, to read as follows:

CONDITIONS OF APPROVAL:

The Stone Bridge Creek CUP west of Centurion Drive included two traffic calming measures between the trail crossing and Centurion Drive. The applicant is agreeable to address LTU's concern to maintain reasonable speeds along Humphrey Avenue, but would like to specify similar improvements that was shown in the CUP for this PUD.

Site Specific Conditions:

3.6 Provide a traffic calming measure along Humphrey Avenue between the trail crossing and Quandary Road, excluding the intersection of Centurion Drive and Humphrey Avenue. ~~to the satisfaction of the Transportation and Utilities Department.~~

Introduced by:

_____

Approved as to Form & Legality:

_____
City Attorney

Staff Review Completed:

_____
Administrative Assistant

KOLEY JESSEN PC, LLO
1125 SOUTH 103RD STREET
SUITE 800
OMAHA, NE 68124
PHONE: 402.390.9500
FAX: 402.390.9005
koleyjessen.com

KOLEY JESSEN

ATTORNEYS

March 15, 2019

VIA E-MAIL RJONES@LINCOLN.NE.GOV
AND REGULAR U.S. MAIL

City of Lincoln Planning Department
Attn: Rachel K. Jones, Planner
555 S. 10th Street, Suite 213
Lincoln, NE 68508

Re: Stone Bridge Creek Commercial PUD Application(s)
Our File No. 6051-0003

Dear Rachel:

Our Firm represents Kuck Investment Partners, LLC f/k/a Kuck Investment Partners, L.P. ("Benefitted Owner") with regard to certain real estate that it owns in the Stone Bridge Creek Commercial Development. In follow-up to our exchange of emails on March 4, 2019, I want to make you aware of the following information as it has potential impacts on any Stone Bridge Creek Commercial PUD application(s) which I understand are pending for an April 3, 2019 hearing:

1. Attached is a Memorandum of Land Use Agreement which contains a copy of the Land Use and Improvement Agreement and Notice, dated August 25, 2005 (the "Agreement"), which was executed by Stone Bridge Creek LLC ("Developer") for the benefit of our client the Benefitted Owner. With regard to the Agreement, please note the following:

a. Section 3 is an agreement for the Developer not to have any additional residential development "within 300 feet measured from the I-3 setback line of Lot 2, Block 5, Stone Bridge Creek Addition as shown on the attached Exhibit "C"."

NOTE: The 300 foot restriction would apply to the east side of Outlot "G", Stone Bridge Creek Addition, City of Lincoln, Lancaster County, Nebraska ("Outlot G"), which we believe is one of the properties subject to the upcoming Stone Bridge Creek Commercial PUD application(s).

b. Section 4 is an agreement for the Developer to maintain a 150 foot setback to the rear of any residential structure to be located on the north side of Lot 1, Block 5,

THOMAS F. ACKLEY
DIRECT. 402.343.3756
TOM.ACKLEY@KOLEYJESSEN.COM

Stone Bridge Creek Addition, City of Lincoln, Lancaster County, Nebraska ("Lot 1, Block 5").

NOTE: I am not sure if this parcel is involved in the proposed Stone Bridge Creek Commercial PUD application(s), but wanted to make you aware of the agreed upon 150 foot setback.

c. Section 6 provides that Outlot "B", Stone Bridge Creek 5th Addition, City of Lincoln, Lancaster County, Nebraska ("Outlot B") would maintain commercial zoning.

NOTE: I am not sure if this parcel is involved in the proposed Stone Bridge Creek Commercial PUD application(s), but wanted to make you aware of the commercial zoning limitation.

2. With regard to any future development of Outlot G and/or Lot 1, Block 5 and/or Outlot B, to the extent that the Stone Bridge Creek Commercial PUD application(s) impacts any of these lots, please note that we intend to enforce the rights of the Benefitted Owner for any restrictions as referenced in the Agreement. At the time that the Agreement was entered into, the Developer and Benefitted Owner made certain promises and covenants to each other in a manner that benefitted both parties; however, without being familiar with the context of the Stone Bridge Creek Commercial PUD application(s), we want to ensure that the City of Lincoln Planning Department, the Planning Commission and the City Council are aware of these private restrictions which could impact any applications currently pending for development of Outlot G and/or Lot 1, Block 5 and/or Outlot B.

If you have any questions with regard to the enclosed Agreement or the contents of this letter, please do not hesitate to contact me. Although I'm sure that the Stone Bridge Creek, LLC developer has made you aware of these restrictions as set forth in the Agreement, in an abundance of caution I wanted to make sure that you were aware of them in the event that it impacts the pending Stone Bridge Creek Commercial PUD application(s).

Please include this letter and a copy of the enclosed Agreement with any application materials that are provided to the Planning Commission and/or the City Council. Additionally, we would appreciate being kept informed of any public hearing dates coming up with regard to the Stone Bridge Creek Commercial PUD application(s) so that we may attend to ensure that the Benefitted Owner's interests are being properly protected.

Sincerely,

Thomas F. Ackley

Thomas F. Ackley

TFA/bw

cc: Michael Cox (via email)
Scott and Susan Kuck (via email)

EXHIBIT A

Inst # 2019006960 Tue Mar 05 10:02:43 CST 2019
Filing Fee: $58.00 Exempt 13 cpodal
Lancaster County, NE Assessor/Register of Deeds Office MEMAGR
Pages. 9

MEMORANDUM OF LAND USE AGREEMENT

THIS MEMORANDUM OF LAND USE AGREEMENT (the "Memorandum") is made and entered into as of February 26, 2019, by the undersigned Kuck Investment Partners, LLC f/k/a Kuck Investments Partners, L.P. ("Benefitted Owner").

WHEREAS, the Benefitted Owner purchased Lot 2, Block 5 Stone Bridge Creek Addition, City of Lincoln, Lancaster County, Nebraska ("Lot 2") from Stone Bridge Creek L.L.C. ("Developer");

WHEREAS, Developer entered into a Land Use and Improvement Agreement and Notice, dated August 25, 2005, all as set forth on Exhibit "A" attached hereto (the "Agreement and Notice"), for the benefit of Benefitted Owner's development of Lot 2;

WHEREAS, the Agreement and Notice was supposed to be filed of record by Developer in accordance with the Developer's August 25, 2005 letter, all as set forth on Exhibit "B" attached hereto;

WHEREAS, the continued use and development of Lot 2 is dependent upon the Developer's agreements as set forth in the Agreement and Notice; and

WHEREAS, the Benefitted Owner desires to ensure that the Agreement and Notice is filed of record on each property referenced in such Agreement and Notice.

NOW, THEREFORE, the undersigned Benefitted Owner hereby files this Memorandum against each of the following properties in the Stone Bridge Creek Addition for purposes of providing written notice of Developer's Agreement and Notice as set forth therein:

1. Lot 1, Block 5, Stone Bridge Creek Addition, City of Lincoln, Lancaster County, Nebraska.

2. Lot 2, Block 5, Stone Bridge Creek Addition, City of Lincoln, Lancaster County, Nebraska.

3. Outlot "G", Stone Bridge Creek Addition, City of Lincoln, Lancaster County, Nebraska.

4835-6921-7416.1

4. Outlot "B", Stone Bridge Creek 5th Addition, City of Lincoln, Lancaster County, Nebraska.

For any additional information with regard to this Memorandum and/or the attached Agreement and Notice, the undersigned Benefitted Owner can be reached at:

Kuck Investment Partners, LLC
692 West Lakeshore Court
Lincoln, NE 68526

KUCK INVESTMENT PARTNERS, LLC

By: Susan J. Kuck
Susan J. Kuck

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing was acknowledged before me on February 26, 2019, by Susan J. Kuck, as Manager of Kuck Investment Partners, LLC, a Delaware limited liability company, on behalf of company.

Michael C Cox
Notary Public

GENERAL NOTARY - State of Nebraska
MICHAEL C. COX
My Comm. Exp. February 28, 2020

4835-6921-7416.1

EXHIBIT "A"

AGREEMENT AND NOTICE

LAND USE AND IMPROVEMENT AGREEMENT AND NOTICE

The undersigned (Owners) are the title holders of the following described real estate:

Lot 1, Block 5, Stone Bridge Creek Addition, Lincoln, Lancaster County, Nebraska

This Land Use and Improvement Agreement and Notice are established upon the real estate. It will be the cost and responsibility of Stone Bridge Creek L.L.C. and its successors to:

1. Provide an 8' concrete fence on the south lot line of the proposed outlot A as shown on the attached exhibit 'E'. This fence is to be constructed prior to the approval of building permits. The maintenance of the fence shall be at the cost of the Stone Bridge Creek Homeowners Association, except in the event that the maintenance is caused by the owner of Lot 2, Block 5 Stone Bridge Creek Addition.

2. Final plat outlot 'A' as shown on the attached exhibit 'A', and deed that property to the owner of Lot 2, Block 5 Stone Bridge Creek Addition.

3. Agree to no additional residential within 300 feet measured from the I-3 setback line of Lot 2, Block 5, Stone Bridge Creek Addition as shown on the attached exhibit 'C'.

4. Provide 150 feet of setback to the rear of any residential structure on lots in Stone Bridge Villas Addition as shown on the attached exhibit 'B'.

5. Provide commercial zoning of outlot B, Stone Bridge Creek 5th Addition, as shown on exhibit 'D'.

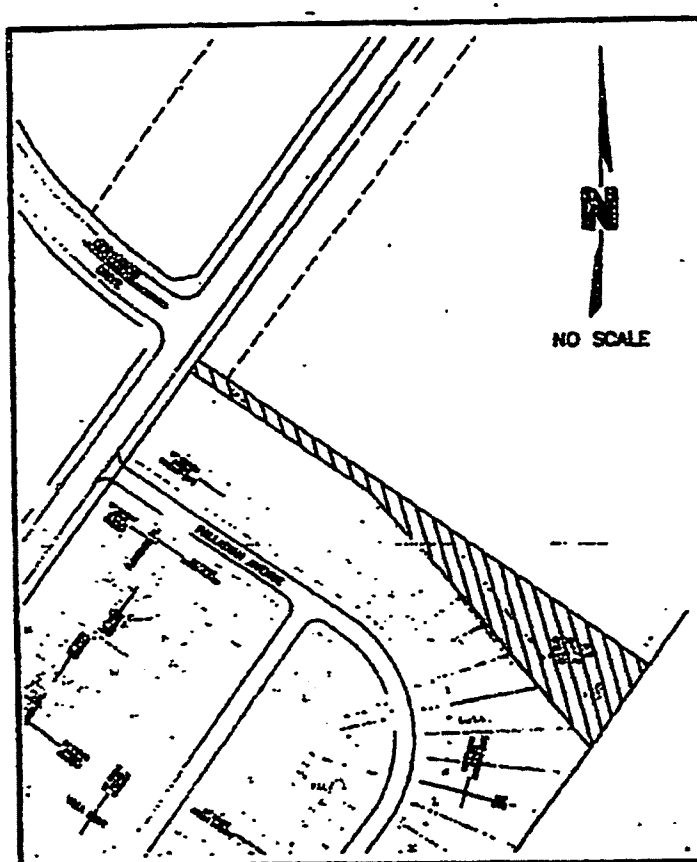
Dated ~~June 25th~~ Aug 25th, 2005

Stone Bridge Creek L.L.C.

STATE OF NEBRASKA)
) ss:
COUNTY OF LANCASTER)

On August 25, 2005, before me, the undersigned a Notary Public duly commissioned for and qualified in said County, personally came Fred J.

4835-6921-7416.1



LEGAL DESCRIPTION

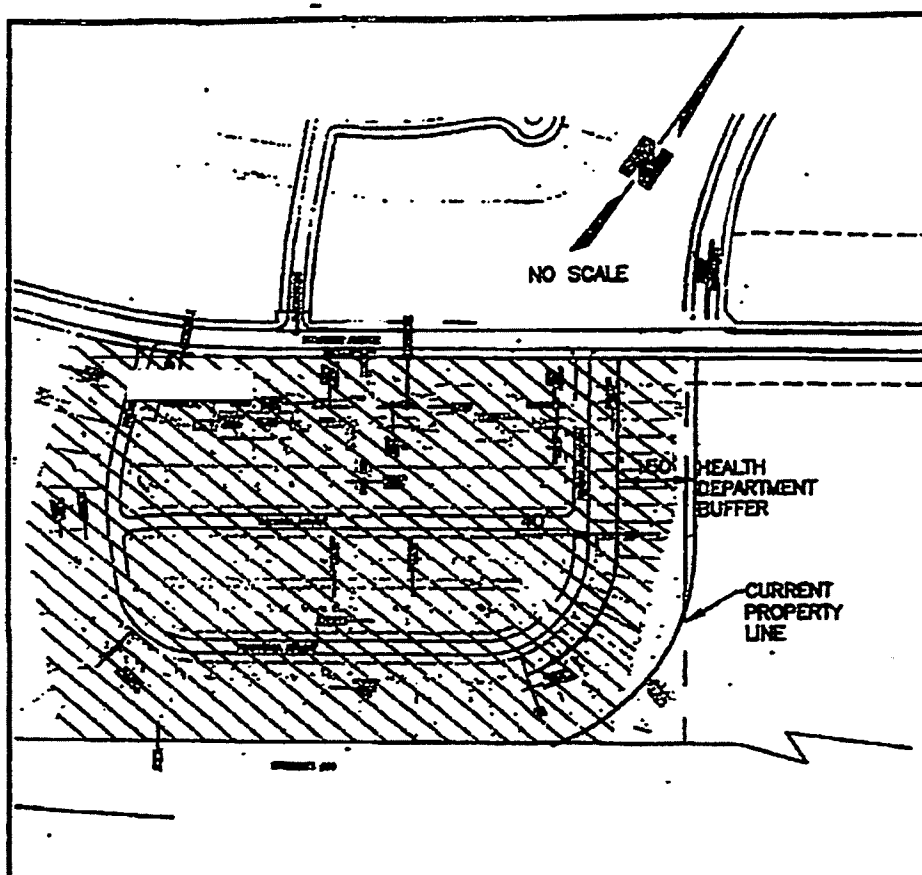
A PORTION OF LOT 1, BLOCK 5, STONE BRIDGE CREEK ADDITION LOCATED IN THE NORTH HALF OF SECTION 36, TOWNSHIP 11 NORTH, RANGE 6 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE ON THE EAST LINE OF SAID LOT 1, ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF INTERSTATE 80, S35°44'12"W, 142.52 FEET; THENCE N39°41'49"W, 488.71 FEET; THENCE N54°14'58"W, 310.93 FEET TO THE NORTHWEST LINE OF SAID LOT 1, ALSO BEING ON THE SOUTHEAST RIGHT-OF-WAY LINE OF HUMPHREY AVENUE; THENCE ON SAID SOUTHEAST RIGHT-OF-WAY LINE, N35°44'42"E, 20.28 FEET TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE ON THE NORTH LINE OF SAID LOT 1, S54°14'49"E, 781.89 FEET TO THE POINT OF BEGINNING, CONTAINING 44,634.15 SQUARE FEET (1.02 ACRES) MORE OR LESS.

EDC	Stone Bridge Creek - Exhibit "A" OUTLOT A, STONE BRIGE CREEK - VILLAS Lincoln, NE	Drawn By: SPD Dwg: Outlot Date: 03-09-05 Job#: 04-033	SHEET 1 OF 1

4835-6921-7416.1

4837-5671-6681.1



LEGAL DESCRIPTION

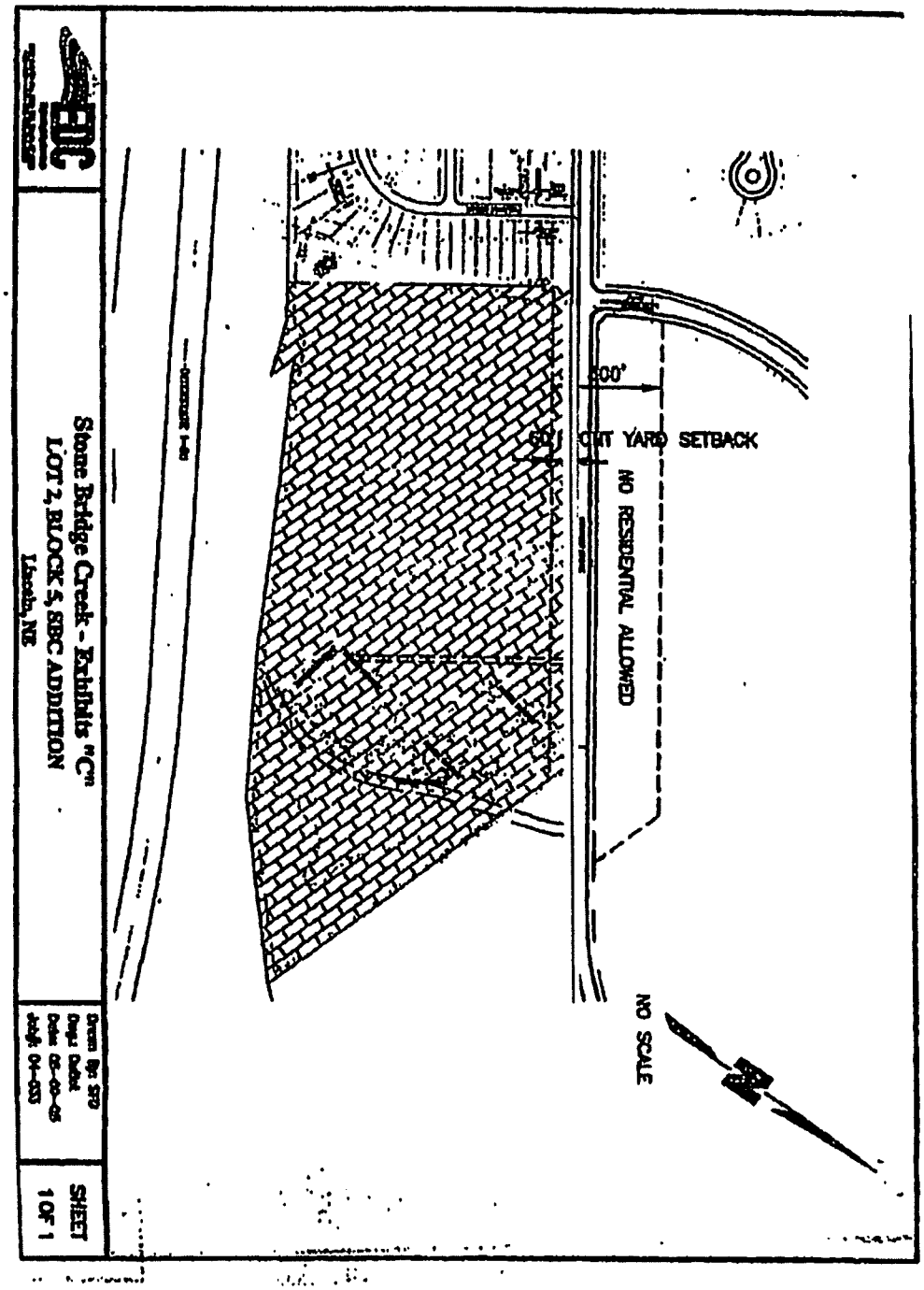
A PORTION OF LOT 1, BLOCK 5, STONE BRIDGE CREEK ADDITION LOCATED IN THE NORTH HALF OF SECTION 18, TOWNSHIP 11 NORTH, RANGE 6 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1, ALSO BEING ON THE SOUTHEAST RIGHT-OF-WAY LINE OF HUMPHREY AVENUE; THENCE ON SAID SOUTHEAST RIGHT-OF-WAY LINE FOR THE NEXT 3 COURSES, N50°04'15"E, 26.89 FEET; THENCE NORTHEASTERLY ON A 1,236.00 FOOT RADIUS CURVE TO THE LEFT, AN ARC LENGTH OF 307.20 FEET (LONG CHORD BEARS N42°52'12"E, 306.41 FEET); THENCE N35°44'12"E, 850.23 FEET; THENCE S54°14'58"E, 310.93 FEET; THENCE S38°41'49"E, 488.71 FEET TO THE SOUTHEAST LINE OF SAID LOT 1, ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF INTERSTATE #80; THENCE ON SAID NORTH RIGHT-OF-WAY LINE, S35°44'12"W, 1,082.14 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1; THENCE ON THE SOUTHWEST LINE OF SAID LOT 1 FOR THE NEXT 2 COURSES, N85°05'17"W, 424.84 FEET; THENCE N40°00'54"W, 422.75 FEET TO THE POINT OF BEGINNING, CONTAINING 947,220.00 SQUARE FEET (21.75 ACRES) MORE OR LESS.

EDC	**Stone Bridge Creek - Exhibit "B"** **LOT 1, BLOCK 5, SBC ADDITION** Lincoln, NE	Drawn By: SFG Dwg.: Outlot Date: 05-09-05 Job#: 04-033	SHEET 1 OF 1

4833-6921-7416.1

4837-5671-6681.1



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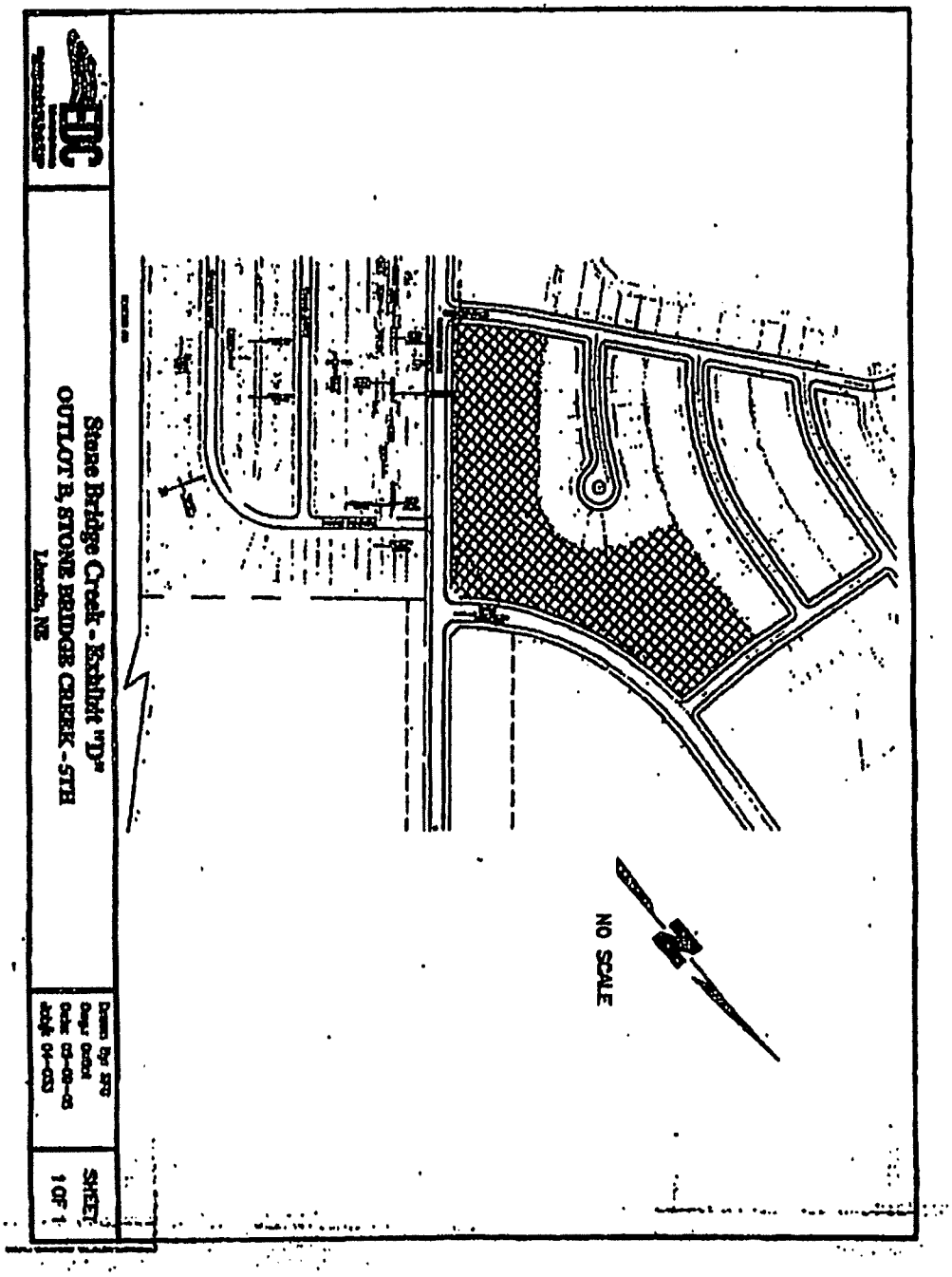

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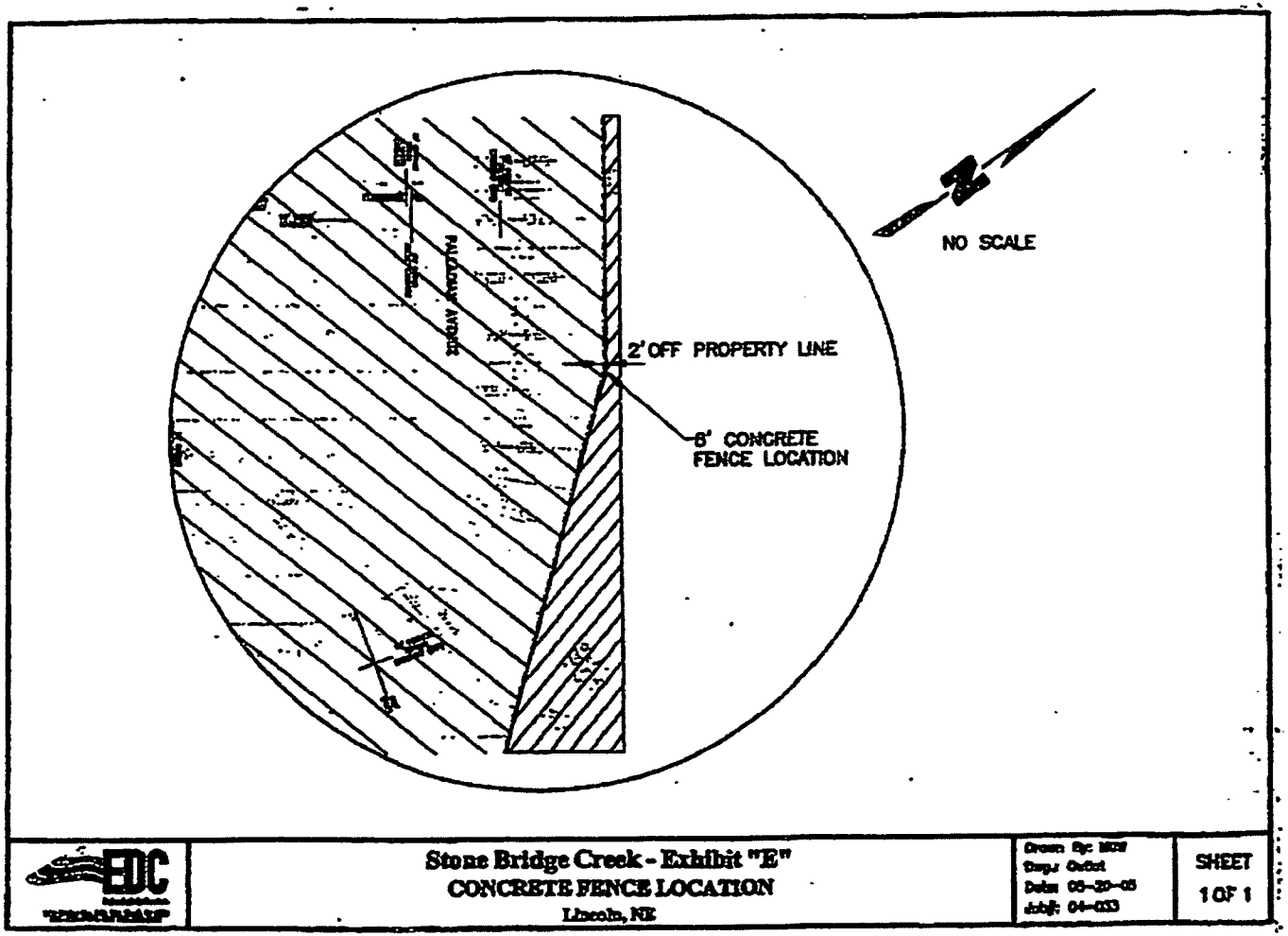

EDC	Stone Bridge Creek - Exhibit "E" CONCRETE FENCE LOCATION Lincoln, NE	Drawn By: [illegible] Dwg.: Outlot Date: 05-20-05 Job#: 04-033	SHEET 1 OF 1

4835-6921-7416.1

4837-5671-6681.1

EXHIBIT "B"

DEVELOPER LETTER

HDS

Stone Bridge Creek *Marsh Creek* *Village Heights*
Williamsburg Village *Ridge Point* *Thompson Creek*

Dedicated to creating the finest neighborhoods.

August 25, 2005

Mr. Gary L. Kuck
3300 Folkways Cr.
Lincoln, NE 68504

Re: Land Use Agreement

Dear Gary:

Here is a copy of the agreement and exhibits that will be filed at the register of deeds in the next day or two.

We would also like to move forward on installing the fence as per the agreement. How would you like us to coordinate this with you?

Please call at 434-5650 at your convenience, or if you have any questions.

Sincerely,

Bob Lewis

Bob Lewis

Enclosures

Hampton Development Services, Inc.
3801 Union Drive, Suite 102 ◆ Lincoln, Nebraska 68516
Office: (402) 434-5650 ◆ FAX: (402) 434-5654
Email: hds@hamptonlots.com ◆ Web Site: www.hamptonlots.com

4835-6921-7416.1