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City of Lincoln
City Clerk

Document Management Search

| | | | |
|---|---------------------------|------------------------------|------------|
| Type | ORDINANCE | Document Number | 18806 |
| Sub Type | ANNEXATIONS | First Reading | 10/4/2004 |
| Status | PASSED | Second Reading | 10/11/2004 |
| Department Code | PLANNING | Final Date | 9/25/2006 |
| Contractor | | Bill Number | 04-188 |
| Bid | | File Number | |
| Specification | | | |
| Subject Matter | | | |
| ANNEXATION 03001 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 214 ACRES OF PROPERTY GENERALLY LOCATED AT NORTH 56TH STREET AND ARBOR ROAD. (IN CONNECTION 04R-273, 04-189, 04R-272) 10/11/04 - PLACED ON PENDING, 7-0. 9/18/06 - RULES WAIVED TO HAVE PUBLIC HEARING 9/18/06 & TO HAVE CONTINUED PUBLIC HEARING W/ACTION CONT. TO 9/25/06, 7-0. 9/25/06 - AMENDMENT #1 ADOPTED, 7-0; PASSED AS AMENDED, 6-0; MARVIN ABSTAINING. (#18806) | | | |
| Book Number | 202, 203 | Miscellaneous Index | A |
| Book Page Numbers | 1213, 1222, 719, 726, 733 | Instrument Number | |
| Public Hearing Pages | 1219, 720 | Record Control Number | |

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[City Clerk](#)

04-188
Annexation No. 03001 - North Bank Junction

Introduce: 10-04-04

ORDINANCE NO. 18806

1 AN ORDINANCE annexing and including the below described land as part of the
2 City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part
3 of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of
4 Lincoln, Nebraska established and shown thereon.

5 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

6 Section 1. That the land legally described as follows:

7 ~~Lot 2, Finigan Brothers Addition located in the Southeast Quarter~~
8 ~~of Section 29, and Lots 7, 10, 11, 20 and 21 I.T., located in the~~
9 ~~East Half of Section 32, all located in Township 11 North Range 7~~
10 ~~East of the 6th P.M., Lancaster County, Nebraska, containing 214~~
11 ~~acres, more or less; See pages 1A & 1B~~

12 be and it hereby is annexed and included within the corporate limits of the City of Lincoln,
13 Nebraska and is hereby made a part of the City of Lincoln, Nebraska for all purposes.

14 Section 2. That the "Corporate Limits Map" attached to and made a part of
15 Ordinance No. 18208, be and it is hereby amended to extend the corporate limits boundary of
16 the City of Lincoln, Nebraska, to reflect the above extension of the corporate limits boundary of
17 the City of Lincoln. Said map amendment is shown on Attachment "A" which is attached hereto
18 and made a part hereof by reference.

19 Section 3. Pursuant to Article VII, Section 7 of the City Charter, this ordinance
20 shall be posted on the official bulletin board of the City in lieu of and in place of newspaper
21 publication with notice of passage and such posting to be given by publication one time in the
22 official newspaper by the City Clerk. This ordinance shall take effect and be in force from and
23 after its passage and publication as herein and in the City Charter provided.

Amended 9/25/06

**NORTHBANK JUNCTION
ANNEXATION – LEGAL DESCRIPTION**

A portion of Lot 2, Finigan Brothers Addition, located in the Southeast Quarter of Section 29 and Lots 23 & 24 Irregular Tracts and a portion of 17.11± Acres Lower Platte South Natural Resources District, located in the East Half of Section 32, all located in Township 11 North, Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska, more particularly described by metes and bounds as follows.

Commencing at the South ¼ corner of Section 29, Township 11 North, Range 7 East, and the POINT OF BEGINNING;

Thence North 00°12'36" West, on the West line of the Southeast Quarter of Section 29, a distance of 404.53 feet;

Thence ~~South~~ ^{NORTH} 89°47'13" East, a distance of 560.11 feet;

Thence North 00°12'47" West, a distance of 240.00 feet;

Thence North 21°25'43" East, a distance of 58.64 feet;

Thence North 29°47'13" East, a distance of 270.00 feet;

Thence South 60°12'47" East, a distance of 100.00 feet;

Thence North 29°47'13" East, a distance of 110.00 feet;

Thence South 60°12'47" East, a distance of 302.27 feet;

Thence South 00°12'47" East, a distance of 802.76 feet;

Thence South 89°36'40" East, a distance of 158.56 feet;

Thence North 89°14'35" East, a distance of 700.14 feet;

Thence South 89°36'40" East, a distance of 404.05 feet;

Thence North 00°42'49" East, a distance of 1268.39 feet;

Thence North 00°54'00" West, a distance of 551.53 feet;

Thence South 89°26'19" East, a distance of 150.05 feet;

Thence South 00°54'00" East, a distance of 549.81 feet;

Thence South 00°42'49" West, a distance of 1319.66 feet;

Thence South 02°09'17" West, a distance of 695.35 feet;

Thence South 83°55'33" West, a distance of 1401.63 feet;

Thence North 00°23'20" East, a distance of 547.03 feet;

Thence South 35°52'55" West, a distance of 118.58 feet;

Thence South 48°04'39" West, a distance of 114.64 feet;

Thence South 67°53'46" West, a distance of 112.52 feet;

Thence South 85°44'25" West, a distance of 99.26 feet;

Thence North 89°36'40" West, a distance of 128.00 feet;

Thence South 00°23'20" West, a distance of 50.44 feet;

Thence South 01°31'39" East, a distance of 100.06 feet;

Thence South 08°58'20" West, a distance of 400.39 feet;

Thence North 81°01'40" West, a distance of 180.00 feet;

Thence North 08°58'20" East, a distance of 22.20 feet;

Thence North 81°01'40" West, a distance of 100.00 feet;

Thence North 08°58'20" East, a distance of 66.75 feet;

Thence North 06°06'49" East, a distance of 200.50 feet;

Thence North 00°23'20" East, a distance of 418.66 feet;

Thence South 89°36'40" East, a distance of 6.00 feet;

Thence North 00°23'20" East, a distance of 173.00 feet;

Thence North 89°36'40" West, a distance of 186.00 feet;

Thence North 00°23'20" East, a distance of 56.25 feet;

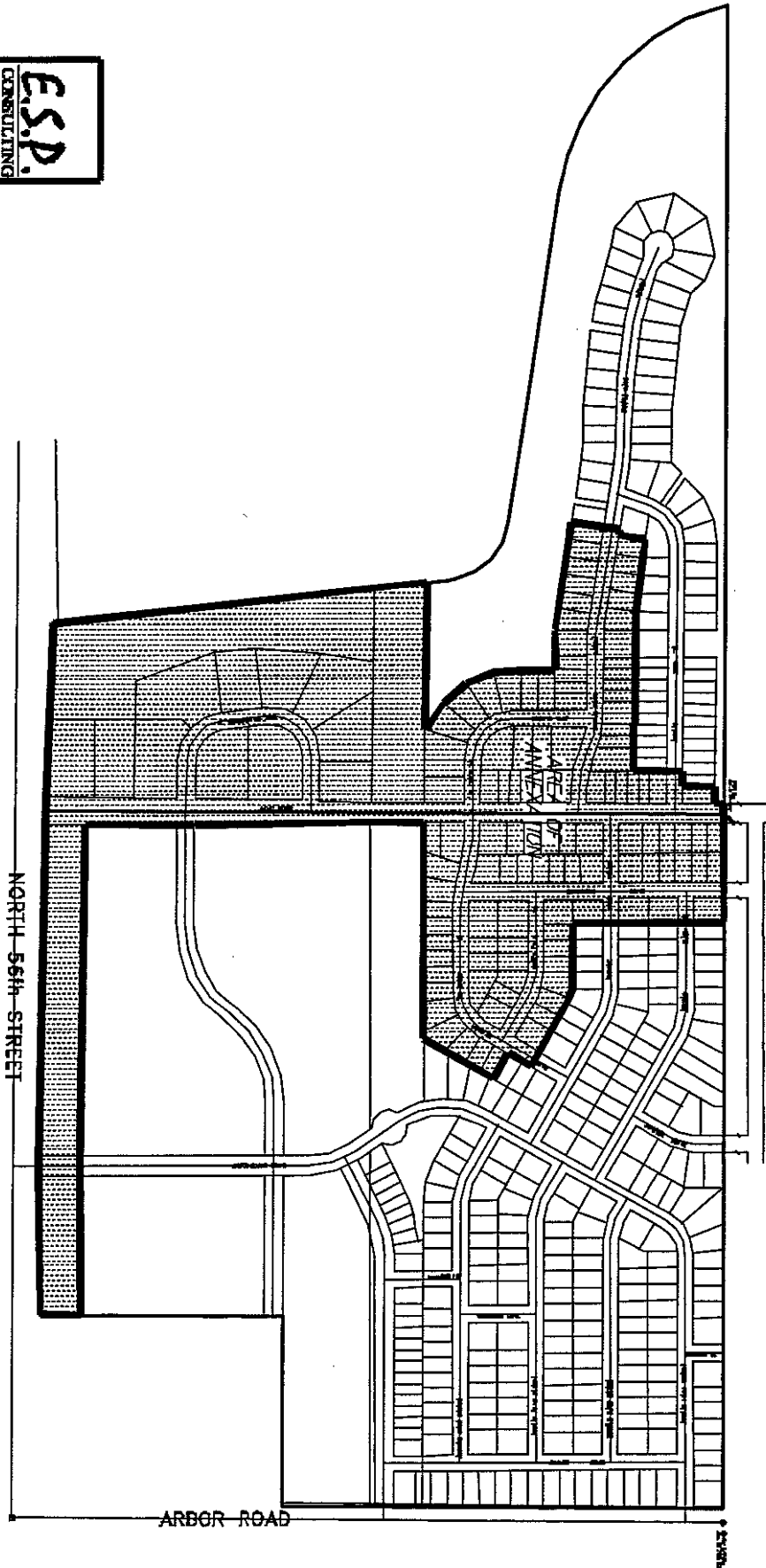
Thence North 89°36'40" West, a distance of 120.00 feet;

Thence North 00°23'20" East, a distance of 63.75 feet;

Thence North 89°36'40" West, a distance of 33.25 feet;

Thence North 00°01'01" East, a distance of 36.00 feet to the POINT OF BEGINNING, and containing a calculated area of 2,730,162.17 square feet or 62.68 acres more or less.

NORTHBANK JUNCTION
ANNEXATION EXHIBIT



E.S.P.
CONSULTING
ENGINEERS
801 OLD
CHENEY RD.,
SUITE 'A',
LINCOLN
NEBRASKA
68512

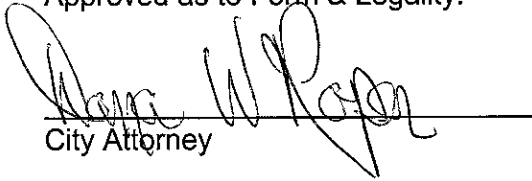


See further Council Proceedings
on next page.

Introduced by:

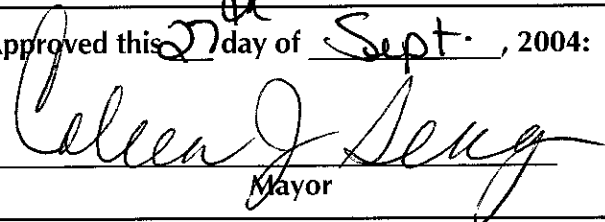


Approved as to Form & Legality:


City Attorney

AYES: Camp, Cook, Eschliman,
McRoy, Newman, Svoboda;
NAYS: None; ABSTAINING:
Marvin.

PASSED
SEP 25 2006
BY CITY COUNCIL

Approved this ^{4th} 27 day of Sept., 2004:

Mayor

See further Council Proceedings
on next page.

04-188

MOTION TO AMEND NO. 1

I hereby move to amend Bill No. 04-188 in the following manner:

- 1. On page 1, lines 7 through 11, delete the legal description and insert in lieu thereof the attached legal description.

Introduced by:

AYES: Camp, Cook, Eschliman,
 Marvin, McRoy, Newman,
 Svoboda; NAYS: None.

Approved as to Form & Legality:

City Attorney

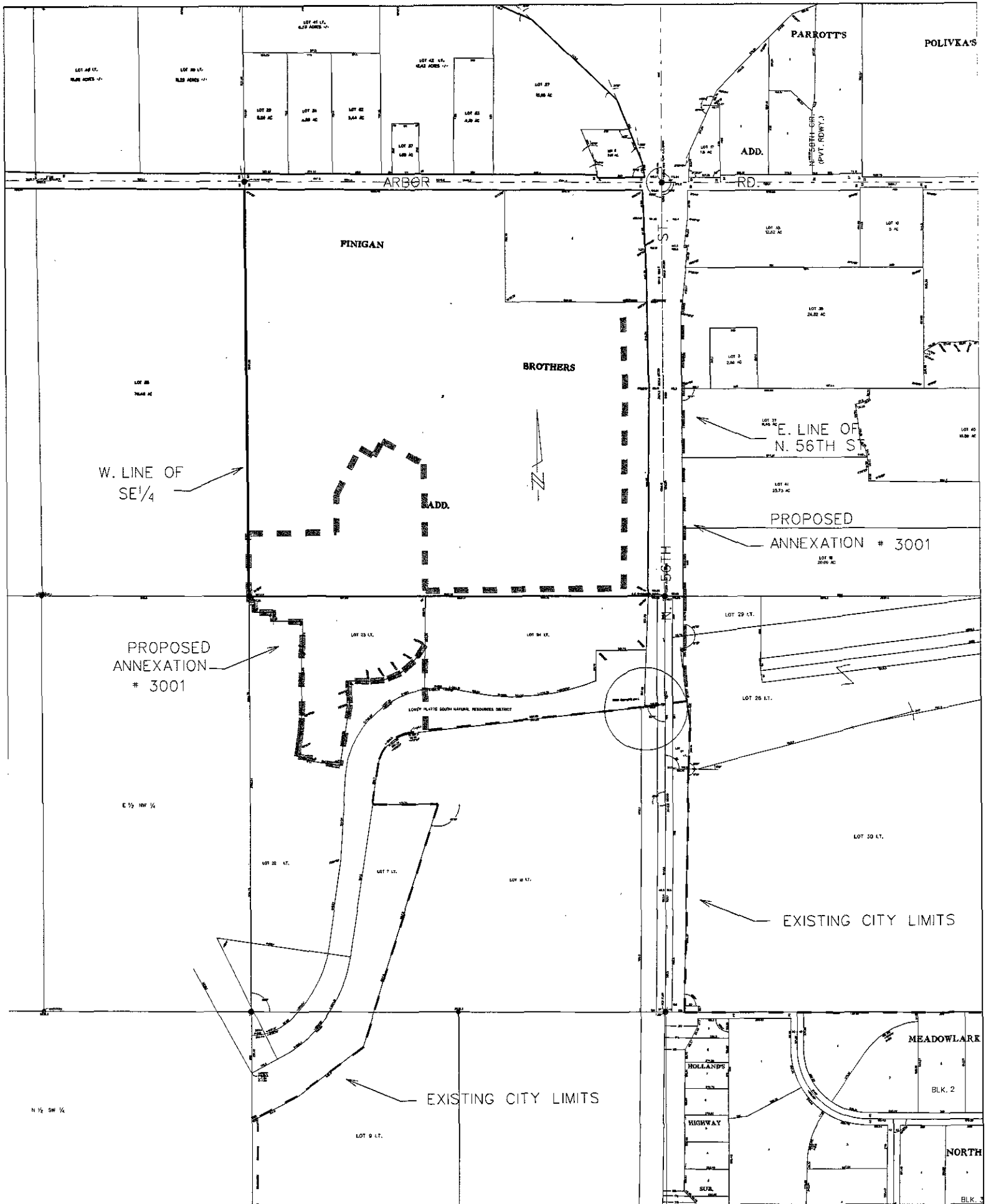
Requested by: Law Department

Reason for Request: The area to be annexed has been reduced in size.

ADOPTED
SEP 25 2006
BY CITY COUNCIL

MTA#1

18906



W. LINE OF SE 1/4

PROPOSED ANNEXATION # 3001

E 1/2 NW 1/4

N 1/2 SW 1/4

PINIGAN

BROTHERS

PARROTTS

POLIVKA'S

ARBOR RD

RD

N. 56TH ST

E. LINE OF N. 56TH ST

PROPOSED ANNEXATION # 3001

EXISTING CITY LIMITS

EXISTING CITY LIMITS

MEADOWLARK

BLK. 2

NORTH

BLK. 3

HOLLANDS

HIGHWAY

SUN

LOT 46 LT. 6.29 ACRES -1-

LOT 45 LT. 12.42 ACRES -1-

LOT 27 12.88 AC

ADD.

ADD. (PVT. RDWY.)

LOT 27 1.88 AC

LOT 48 LT. 11.88 ACRES -1-

LOT 49 LT. 11.88 ACRES -1-

LOT 39 8.88 AC

LOT 38 8.88 AC

LOT 42 5.48 AC

LOT 43 5.48 AC

LOT 15 12.82 AC

LOT 16 5 AC

LOT 28 24.88 AC

LOT 3 2.88 AC

LOT 32 2.88 AC

LOT 40 12.88 AC

LOT 41 15.72 AC

LOT 8 20.88 AC

LOT 23 LT.

LOT 24 LT.

LOT 29 LT.

LOT 25 LT.

LOT 30 LT.

LOT 22 LT.

LOT 7 LT.

LOT 18 LT.

LOT 9 LT.

LOWER PLATE SOUTH NATURAL RESOURCES DISTRICT

04-188

10/11/04 Council Proceedings:

COOK Placed Bill No. 04-188 on pending.
Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

9/11/06 Council Proceedings:

Request to remove from Pending for P.H. 9/18/06, with Action 9/25.

9/18/06 Council Proceedings:

MARVIN Moved to waive the rules to remove Bill No. 04-188 from Pending to have Public Hearing this date, 9/18/06, and to continue Public Hearing with Action on 9/25/06.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

9/25/06 Council Proceedings:

SVOBODA Moved to amend Bill No.04-188 in the following manner:

1. On page 1, lines 7 through 11, delete the legal description and insert in lieu thereof the attached legal description.

A Portion of Lot 2, Finigan Brothers Addition, located in the Southeast Quarter of Section 29 and Lots 23 & 24 Irregular Tracts and a portion of 17.11± Acres Lower Platte South Natural Resources District, located in the East Half of Section 32, all located in Township 11 North, Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska, more particularly described by metes and bounds as follows.

Commencing at the South 1/4 corner of Section 29, Township 11 North, Range 7 East, and the POINT OF BEGINNING:

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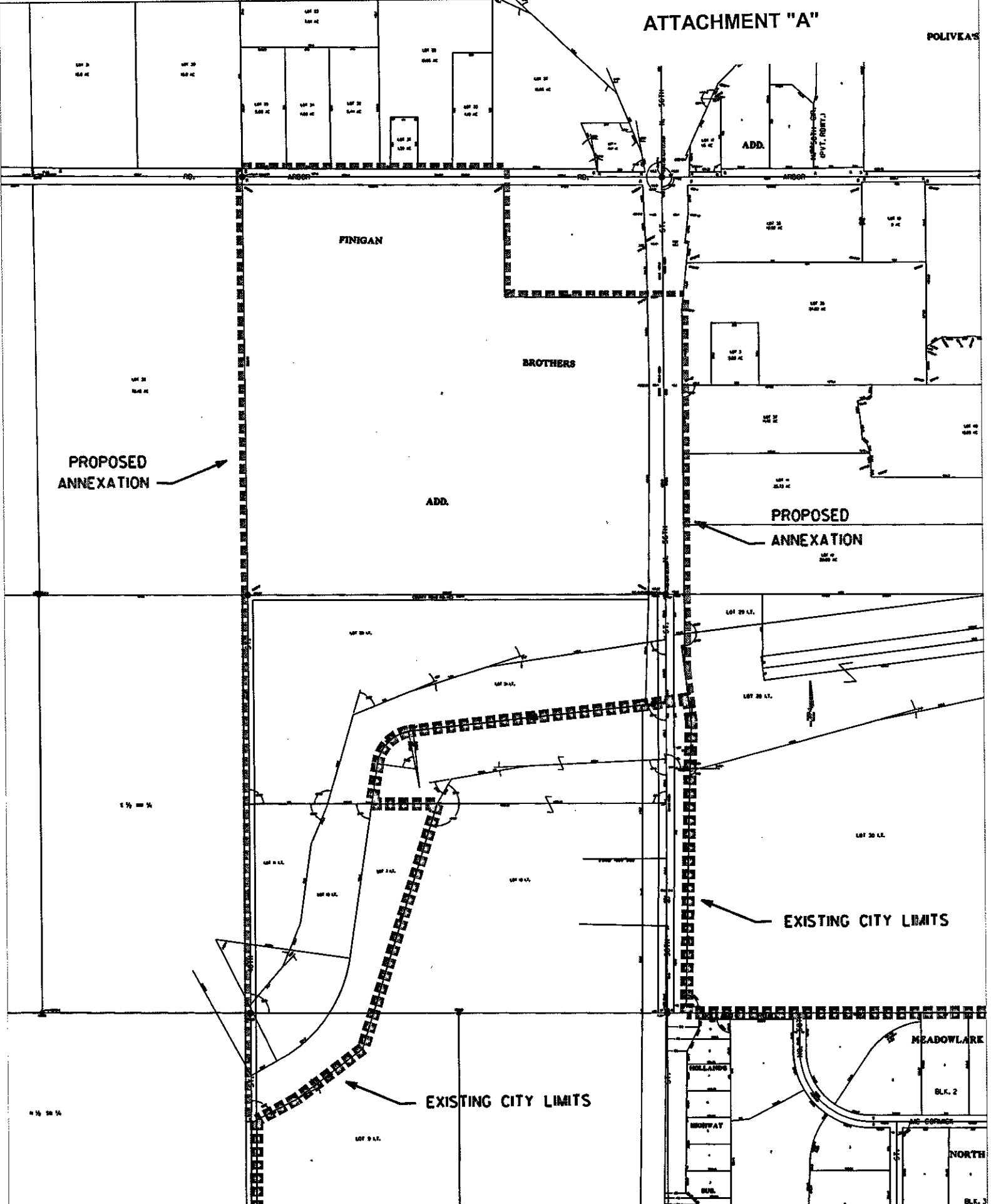
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Thence North 89°14'35" East, a distance of 700.14 feet;
Thence South 89°36'40" East, a distance of 404.05 feet;
Thence North 00°42'49" East, a distance of 1268.39 feet;

Thence North 00°54'00" West, a distance of 551.53 feet;
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Thence South 00°54'00" East, a distance of 549.81 feet;
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Thence North 00°23'20" East, a distance of 63.75 feet;
Thence North 89°36'40" West, a distance of 33.25 feet;
Thence North 00°01'01" East, a distance of 36.00 feet to the POINT OF BEGINNING, and
containing a calculated area of 2,730,162.17 square feet or 62.68 acres more or less.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

ATTACHMENT "A"

POLIVKA'S



CITY OF LINCOLN

Request for: Ordinance
 Resolution

(Do Not Write in this Space)

Bill Control No. *04-188* Date: *9/24*

Docketing Date *10/4* PH: *10/11*

(To Be Entered by City Clerk)

| | | |
|--|---|------------------------|
| DATE September 24, 2004 | REQUEST MADE BY Marvin S. Krout, Director | DEPARTMENT Planning |
| DESIRED DOCKET DATE: October 4, 2004 | IF EMERGENCY, GIVE REASON (See Art. 6, Sec. 2 of Charter) | |
| Emergency Measure Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | |

REASONS OR JUSTIFICATION FOR PROPOSED LEGISLATION

Request for Ordinance for Council action on ANNEXATION NO. 03001, requested by Brian D. Carstens and Associates on behalf of Hartland Homes, Inc. and Rodger and Eldonna Schwisow, to annex approximately 214 acres, more or less, generally located at North 56th Street and Arbor Road.

On April 14, 2004, the Planning Commission recommended approval, subject to an Annexation Agreement.

ASSOCIATED REQUESTS: The following applications are associated requests and should be scheduled for hearing at the same time with action in the following sequence:

- Annexation No. 03001 *04-188*
- Annexation Agreement (to be submitted by Law Department) *04R-273*
- Change of Zone No. 3398 *04-189*
- Special Permit No. 2004, Planned Service Commercial. *04R-272*

FILED
CITY CLERK'S OFFICE
2004 SEP 24 A 10:28
CITY OF LINCOLN
NEBRASKA

| | | | |
|---|--|--|------------------------|
| REQUESTOR <input checked="" type="checkbox"/> DOES <input type="checkbox"/> DOES NOT | WISH TO REVIEW AND APPROVE THIS ORDINANCE PRIOR TO ITS INTRODUCTION | <i>Marvin S. Krout</i> DIRECTOR'S SIGNATURE | <i>9/24/04</i> DATE |
|---|--|--|------------------------|

TO BE USED BY THE FINANCE DEPARTMENT

| | | | | | |
|---------------|-------|---|-------------------------------|----------------------------|-------|
| BUDGET REVIEW | DATE: | ACCOUNT NUMBER AND APPROPRIATE BALANCES | DATE: | FUND AVAILABILITY APPROVED | DATE: |
| | | | DIRECTOR OF FINANCE SIGNATURE | | |

DISTRIBUTION

Return two (2) copies to City Clerk for Docket Number

City Council Introduction: **Monday**, October 4, 2004
Public Hearing: **Monday**, October 11, 2004, at **1:30 p.m.**

Bill No. 04-188

FACTSHEET

TITLE: ANNEXATION NO. 03001, requested by Brian D. Carstens and Associates on behalf of Hartland Homes, Inc. and Rodger and Eldonna Schwisow, to annex approximately 214 acres, more or less, generally located at North 56th Street and Arbor Road.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 04/14/04
Administrative Action: 04/14/04

STAFF RECOMMENDATION: Approval, subject to an Annexation Agreement

RECOMMENDATION: Approval, subject to an Annexation Agreement (9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes').

ASSOCIATED REQUESTS: Change of Zone No. 3398 (04-189) and Special Permit No. 2004 (04R-272).

FINDINGS OF FACT:

1. This annexation request and the associated change of zone, planned service commercial special permit and preliminary plat were heard at the same time before the Planning Commission. The proposal is to annex approximately 214 acres to develop 391 residential lots, 11 commercial lots and 8 outlots.
2. The staff recommendation of approval, subject to an annexation agreement, is based upon the "Analysis" as set forth on p.5, concluding that the proposal is in conformance with the zoning ordinance and the Comprehensive Plan.
3. The applicant's testimony is found on p.6-9.
4. There was no testimony in opposition.
5. The Planning Commission discussion with staff and the applicant is found on p.7-9. There was considerable discussion about the wetlands. The applicant indicated that the wetlands are being restored as part of the 404 permit, to which the Army Corps of Engineers and the NRD have agreed.
6. On April 14, 2004, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval, subject to an Annexation Agreement.
7. On April 14, 2004, the Planning Commission also adopted Resolution No. PC-00857, approving the Northbank Junction Preliminary Plat.
8. The applicant is expected to contest the annexation agreement drafted by staff, including the amount and timing of reimbursement for certain infrastructure improvements that he may construct ahead of the City's Capital Improvement Program, the maintenance of temporary sewer improvements that he may install and the need for secondary access to the addition. Staff is preparing a separate memo for the Council that will summarize the points of disagreement.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: September 27, 2004

REVIEWED BY: M. Knout

DATE: September 27, 2004

REFERENCE NUMBER: FS\CC\2004\ANNEX.03001 flu

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for April 14, 2004 PLANNING COMMISSION MEETING

This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application.

P.A.S.: Northbank Junction, Annexation #03001, Change of Zone #3398, Special Permit #2004 for Planned Service Commercial.

PROPOSAL: To annex approximately 214 acres, change the zoning from AG, Agriculture to R-3, Residential and H-4, and obtain a special permit for planned service commercial for the H-4 area with waivers to side and rear yards.

LOCATION: Generally located at N. 56th Street and Arbor Road.

WAIVER REQUEST:

Side yard setback from 50' to 10'
Rear yard setback from 50' to 20'

LAND AREA: 214 acres, more or less.

CONCLUSION: With conditions this annexation, change of zone, special permit and waivers are in conformance with the Zoning Ordinance and Comprehensive Plan.

RECOMMENDATION:

| | |
|-----------------------------------|--|
| Annexation | With a recommendation of <u>conditional approval</u> , these applications shall not be scheduled on the City Council agenda until the Capital Improvements Program is also on the City Council agenda. |
| Change of Zone | |
| Special Permit | |
| Side yard setback from 50' to 10' | <u>Recommend Approval</u> |
| Rear yard setback from 50' to 20' | <u>Recommend Approval</u> |

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached legal descriptions.

EXISTING ZONING: AG, Agriculture.

EXISTING LAND USE: Undeveloped.

SURROUNDING LAND USE AND ZONING:

| | | |
|--------|-------------------------|--|
| North: | Commercial, agriculture | AG, Agriculture, H-1, Highway Commercial |
| South: | Salt creek, undeveloped | P, Public |
| East: | Highway commercial | H-4 |
| West: | Undeveloped | AG, Agriculture |

ASSOCIATED APPLICATIONS: Northbank Junction Preliminary Plat #03004 (final action).

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan identifies this area as urban residential, commercial and environmental resources. (F-23)

Environmental Resources: Land and water masses which are of particular importance for maintenance and preservation, such as saline wetlands, native prairie, and some floodway and riparian corridors. Such areas may be either publicly or privately owned. (F-22)

Saline Wetlands – This feature refers to those locations in the county where wetlands having a high salt content can be found. Saline wetlands have four distinguishing characteristics: a type of soil usually associated with damp or soggy areas; the presence of water during most of the year; a high occurrence of saline (otherwise know as salt); and plants that are adapted to wet, salty soils. Eastern Nebraska saline wetlands are rare, with perhaps 1,200 acres remaining in the county. They tend to be found along Little Salt Creek and Rock Creek to the north and northeast of Lincoln. They provide habitat to a number of threatened and endangered species of plants and animals – the Salt Creek Tiger Beetle and the Salt Wort in particular.(F-52-53)

Floodplains – This feature refers to land that is susceptible to flooding or that has flood prone soils. Floodplains provide multiple benefits to both the natural (flood storage, habitat, water quality) and built (recreation, public health and safety, economic) environments. (F-53)

Three “Core Resource Imperatives” were identified. These imperatives were selected as those that should receive the greatest consideration in the long range planning process. Their selection does not mean that the other features are unimportant, inconsequential, or expendable. (Saline and Freshwater Wetlands are one of the three core resource imperatives)

The “Core Resource Imperatives” uniquely contribute to the natural resource heritage of the region and whose safeguarding for future generations is indispensable. The other features remain important to the long term environmental and economic viability of the community and should not be inordinately discounted.

Saline and Freshwater Wetlands – Wetlands provide distinctive habitat opportunities for various plants and animals, as well as offering flood control and water filtration benefits. Lancaster County is home to about 1,200 acres of very rare Eastern Nebraska Saline Wetlands. These wetlands offer a specialized habitat to several threatened and endangered species, including the Saltwort and Salt Creek Tiger Beetle. Lancaster County is the only place in the world where the Tiger Beetle exists. Owing to a dwindling Beetle population and the growth of the city, the National Fish and Wildlife Service is considering placing the Beetle on the Federal Threatened and Endangered Species list.

The City and County are investigating ways to protect and preserve the unique habitat offered by the saline wetlands. This may include a blend of land uses stressing education, parks, floodplain, and low intensity development. (F-54-55)

A future trail is identified along the creek in the Trails and Bicycle Facilities Plan. (F-95).

This area is shown in the future service limit, in Tier 1, Priority A. (F-31)

Areas designated for near term development are generally contiguous to existing development and should be provided with basic infrastructure within 12 years of the adoption of the Plan. Some of the infrastructure required for development may already be in place. This area includes some land already annexed, but is still undeveloped and without significant infrastructure. Areas with this designation are the next priority for infrastructure programming. Some infrastructure improvements may be done in the near term while others, such as road improvements that are generally more costly, may take longer to complete. (F-29)

HISTORY:

| | |
|---|-------------------|
| Date when preliminary plat was submitted: | February 24, 2003 |
| The plat was rejected due to incomplete information for review: | March 17, 2003 |
| Preliminary plat was submitted with complete information: | June 6, 2003 |

Date when Planning Director's letter was sent:
Date when revised preliminary plat was submitted:

July 3, 2003
December 15, 2003

Many developer negotiation meetings were held to discuss the annexation agreement.

TRAFFIC ANALYSIS: N. 56th Street and Arbor Road are classified as an Urban Principal Arterial.(F-103). Arbor Road connects to the west under Interstate-80 presently. Arbor Road is existing two lane rural asphalt and gravel. This area is subject to impact fees.

UTILITIES: Sanitary sewer is not available at this time. The developer is considering the following options: 1. Build the trunk sewer with their own money and request refund from the city at a later date, or 2. Construct a temporary sewer line that would be abandoned after the trunk sewer is constructed. The final location and size of the proposed trunk sewer is subject to Public Works Waste Water Department approval. This will need to be determined before the plat and annexation are voted upon by City Council.

The Public Works and Utilities Department indicates the City of Lincoln CIP 2004-2009 for Public Works/Streets and Highways shows Funding Year Greatest Activity for Arbor Road paving from 40th to 56th in 2009.

The City of Lincoln CIP 2004-2009 for Waste Water shows Funding Year Greatest Activity for the Northeast Salt Creek Basin Trunk Sewer from N. 56th to North 70th north of Salt Creek in 2007-2008.

The City of Lincoln CIP 2003-2009 for Water Supply & Distribution shows Funding Year Greatest Activity for water mains in 56th from Fletcher Avenue to Arbor Road in 2005-2006.

The time frames stated represent the years that the greatest activity is likely to take place based on funding projections. The time frames do not represent actual construction start dates or completion dates. Projected funding availability and timing will be subject to future rate increases.

PUBLIC SERVICE: The Fire Department indicated that this development stretches their ability to provide adequate service times. The closest fire station is located at 3640 Touzalin Avenue in Havelock approximately 8 minutes from this area.

The Parks and Recreation Department determined that they will collect impact fees from this development and acquire parkland in another location.

ENVIRONMENTAL CONCERNS: The Comprehensive Plan will need to be addressed with this plat as all of the property shown in the plat south of Alvo Road and a portion of the property north of Alvo Road is currently labeled Environmental Resources. The environmental resources in this area represent the saline wetland, the floodplain and the 500' buffer to the saline wetlands. Unfortunately, the developer previously obtained fill and grading permits to grade and fill the site. Natural resources in the area have been degraded such that restoration of the Category III saline wetlands is probably not possible. The western portion of this plat still encroaches into the 500' buffer, however, there are no subdivision ordinance regulations to prevent the plat from encroachment.

ANALYSIS:

1. This is a request to annex approximately 214 acres, change the zoning from AG, Agriculture to R-3, Residential and H-4, and obtain a special permit for planned service commercial for the H-4 area. The applicant requests waivers to Side yard setback from 50' to 10', and the rear yard setback from 50' to 20' as part of the special permit for planned service commercial.
2. The request to waive setbacks in the planned service commercial is acceptable because this area backs onto a drainage way. The side yard setback is acceptable because this area is a "commercial center". Many commercial centers are located on one large lot, and setbacks are required from lot lines, so commercial centers do not deal with internal setbacks unless each site is on a separate lot. This area will have separate lots, but is still being treated as a commercial center, rather than commercial pad site on autonomous lots.
3. The Public Works and Utilities Department had several comments which are included in the report.
4. The Watershed Management Department had several comments which are included in the back of this report.
5. The annexation agreement will deal with the reimbursement of costs that are being advanced by the developer. The annexation agreement is tied to the proposed CIP and for this reason should be delayed until the CIP is heard at City Council.

ANNEXATION CONDITIONS:

1. Sign an annexation agreement.

Prepared by:

Becky Horner
441-6373, rhorer@ci.lincoln.ne.us
Planner

DATE: April 1, 2004

APPLICANT: Hartland Homes, Inc. Rodger and Eldonna Schwisow
PO Box 33787 1354 Pelican Bay Place
Lincoln, NE 68542 Lincoln, NE 68528

OWNER: Same

CONTACT: Brian D. Carstens and Associates
601 Old Cheney Road, Suite C
Lincoln, NE 68512
434-2424

**ANNEXATION NO. 03001,
CHANGE OF ZONE NO. 3398,
SPECIAL PERMIT NO. 2004
and
PRELIMINARY PLAT NO. 03004,
NORTHBANK JUNCTION**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 14, 2004

Members present: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand.

Staff recommendation: Approval of the annexation, subject to an annexation agreement; approval of the change of zone; and conditional approval of the special permit and preliminary plat.

Ex Parte Communications: Marvin stated that he had a conversation with Peter Katt about the number of units and the time it will take to bring these units onto the market.

Proponents

1. Peter Katt, appeared on behalf of **Hartland Homes**, one of the co-applicants. This has been a long time coming. The benefit of this project to the city is that it opens up an entire new basin of development in Lincoln for both commercial and residential development. As you know, there is an increasing concern about the ability for affordable lots on the market and he believes that over the last 6-9 months, the city staff has made a concerted effort to get this project moving forward. The history of this project dates back to the 1995-96 Comprehensive Plan. At that point in time, this part of north Lincoln was shown as a desirable growth area. At that time, Hartland Homes was looking for a place to project its future growth and used the Comprehensive Plan as a planning tool. Hartland acquired the 140 acres in this project in 1998.

In about 1999, Katt's office started the efforts to encourage the city to begin the process of extending the water and sewer into this area. Today, the water lines that will serve this area are approximately ½ mi. south of Salt Creek, as well as the main trunk sewer line. From 1999-200, Hartland Homes was not actively pursuing but was having discussions with the city and encouraging that these improvements occur. In about 2000, in order to help bring a greater critical mass, and since there was not a whole lot of success getting water and sewer lines, a greater coalition was formed, called the "Star City Combine" consisting of 26 property owners controlling 600 acres lying north of Salt Creek, south of the Interstate from 70th Street to ½ west of 56th Street. For the next two years, Star City negotiated with the city to get water and sewer, but never get over the hurdle.

About 1 ½ years ago, it was becoming critical for Hartland to open up a new area in Lincoln. Mr. Schwisow, who acquired the property on the south side of Alvo Road, joined with Mr. Hartland and brought forward this proposal.

Katt stated that the conditions of approval are acceptable to the applicants. The developers are excited about reaching the next phase of their challenge, that being to find a way to get the water and sewer actually extended up so that they can connect to it. Currently, these improvements are not even in the CIP. The proposal from staff is to include them in the next CIP. Arbor Road would be improved in 2009, with wastewater in 2007-08 and the water in 2005-06. The developers are hopeful to find a way to somehow get those improvements put in sooner rather than later. They continue those negotiations with city staff in the annexation agreement.

There was no testimony in opposition.

Carroll referred to #5 in the analysis regarding the annexation agreement, which suggests that this proposal be delayed until the CIP is heard by the City Council. Becky Horner of Planning staff stated that the CIP is scheduled later this year and the Planning Department would like to hold this application on pending so that this proposal can be heard at the same time as the CIP/budget because this project could possibly alter the CIP.

Carroll noted that there is discussion in the staff report about part of the property being in an environmental resource area and the different street problems with turning radius, grading, etc. Dennis Bartels of Public Works explained that some of the Public Works comments are just details and corrections normally seen with a preliminary plat and we can take care of most of them with revisions to the grading plan. Part of the property drains toward the south toward Salt Creek where there are wetlands, floodplain and floodway, and it was identified as a natural resource area in the Comprehensive Plan. The Comprehensive Plan defines a 500 ft. buffer. In Mr. Schwisow's project, he had permits to do some grading that already got into that 500 ft. buffer before the plan was adopted. In these plat negotiations, the cul-de-sac that went south toward that area was reduced in length and Public Works thought it was a reasonable accommodation of the natural resource area. Public Works and Watershed Management were making some suggestions to work out issues such as water quality and quantity that goes into those wetlands. Public Works is satisfied with what they submitted, subject to the specific provisions that Public Works is requesting be done. By providing the detail being requested, Bartels believes they would meet the present design standard and floodplain ordinance requirements.

Carlson commented that if the Comprehensive Plan does not provide enough guidance to protect environmentally sensitive areas, when will we have rules that give us enough guidance to protect these areas? Bartels stated that a lot of sensitive areas are identified in this area next to Salt Creek between 27th and 56th. There is a committee of technical people working to provide some of that guidance now. Mike DeKalb of Planning staff also indicated that there are several efforts going on and there are some meetings scheduled with landowners in the areas to get a better refinement of the policy established by the Comprehensive Plan. Beyond that, staff is working with Game & Parks, Parks & Recreation and the UNL entomologist for better refinement and the need for the buffer. Carlson hopes that we have some environmental resources left by the time we get the rules established.

Pearson inquired as to which applicant owns the property that was filled. It was indicated that Schwisow owned the property, purchasing it in 2000. They did the fill in 2001. Pearson stated that she intends to make an amendment that, "the applicant will rebuild and restore, to the best of their ability, the Category III wetlands, the floodplain and the 500 ft. buffer to the saline wetlands." Jeff Wagner, engineer for the south part of this project, explained that the applicant applied to the Corps of Engineers and went through an individual permit process which goes through DEQ – that permit has been approved. They have mitigated the existing wetlands at the ratios required. The plan shows two mitigation areas, one to the very south and one along the west property line. The cells they have developed have met the mitigation requirements for the areas that were disturbed.

Pearson wants to know if the applicant would accept her proposed condition. Wagner believes that what is being proposed as a condition has already been met. The proposed grading plan shows that they have compensated for the wetlands that have been disturbed.

Peter Katt then responded to the proposed amendment. His concern is whether it means mitigation of the original wetlands (which is irrelevant at this point), or mitigation of the mitigated wetlands that are in place and shown in the grading plan. It needs to be clear. This has been reviewed by those agencies that have expertise in protection of the environmental resources. The project on the Schwisow property was a creative use of that property. There were concerns about bank stability. The engineers went in and looked at the site and vastly improved its environmental performance, had a cost-sharing arrangement with the NRD, and got full approval of the Army Corps of Engineers. That stability and improvement are not the kind of things that can be done unless there is some economic value created in this property. It is this plat that allows some economic value for our community. Katt believes that what Pearson is attempting to amend into the conditions is already assumed in the staff recommendation. Environmental resource protection is not one that staff has overlooked on this project.

Wagner further responded, stating that a floodplain permit was obtained prior to any of the fill being placed on that development. The fill was not placed in the existing wetlands. Wagner suggests that the wetlands have been degraded because the area was farmed prior to this development.

Pearson again asked whether the applicant would accept such an amendment as she is proposing. Brian Carstens then spoke on behalf of Schwisow, stating that they have already been through the process of getting a floodplain fill permit and the architect has worked to get the Corps permit. The Corps is satisfied, the NRD is satisfied, and staff is satisfied. This developer has done everything that he can. Pearson was concerned about the statement in the staff analysis that, "...Unfortunately, the developer previously obtained fill and grading permits to grade and fill the site. Natural resources in the area have been degraded such that restoration of the Category III saline wetlands is probably not possible." Carstens stated that the wetlands are being restored as part of the 404 permit. When you add the word "floodplain", it has a broader interpretation. There is probably 40' along the western 500 ft. buffer on the western side. Then further south it does approach probably 200'.

Roger Schwisow, the owner and applicant, stated that the ground was farmed right up to the edge. It is not anything he destroyed or disturbed. There never was a 500' buffer. It was

farmed right within 10' of the fence line. This whole field was farmed before he bought it. He has not disturbed anything at all. There were some minor areas that had wetlands, which is even questionable because they were man-made ditches.

Pearson then asked Planning staff to respond. Horner stated that staff would have preferred that no fill had been done and that the area had been maintained as what it was classified by Game and Parks, which was Category III saline wetlands. The Watershed Management comments talked about re-categorization, which is a possibility. The applicant could have asked for re-categorization. The staff was using the most current map. Then during review, the staff obtained the materials indicating the completed 404 permit and information with regard to floodplain fill. The environmental resources represent floodplain and saline wetlands. The number 500' was suggested because of the Mayor's Tiger Beetle policy. Game and Parks is currently working on studies to gather better scientific information as to the amount of buffer needed. In this proposal, areas that would have been part of the 500' buffer would have been degraded and if we amended the Comprehensive Plan, we would have removed this area from environmental resources. This area still encroaches a little bit to the west because the floodplain goes up to the property line. They would be within the 500' buffer to the west, but there are no design criteria standards by which to review this.

Carroll acknowledged that the new floodplain standards are not in effect, but inquired whether this plat would comply. Horner indicated that this plat would be grandfathered as an approved preliminary plat. Bartels did not believe the staff has the information to compare this proposal with the new standards. The area graded met all of the standards but he does not know whether it would meet the no net rise standard without further information from the developer. Wagner offered that in order to obtain the floodplain permit, they were required to do a no rise permit for the area of floodway and floodplain. There is no net rise in the floodplain.

Peter Katt also pointed out that Conditions #1.1.1 and #1.1.2 on the preliminary plat are required before going forward. The developer must make revisions to the plans to the satisfaction of Public Works. As far as the concern about environmental resource designation and the 500' buffer, Katt reminded the Commission that these property owners are participating in the current process. There is a group called SWAT (saline wetlands action team), jointly funded by the city, the NRD and Game and Parks, and Katt has been active in pushing them to come forward with a plan on behalf of his client. They are making progress. However, the components in this area are not the high category wetlands, but there are some in the vicinity. This development will not have a material impact on those wetlands. The owners are committing to do what they can. If there was a plan, they would agree to comply, but there is no consensus, no plan, no nothing in terms of deciding what it needs to be. It seems unfair to hold anyone back while there is no consensus as to the amount of the buffer, etc. This project is not the problem. The next ones that come will create more challenges. These owners are both cooperative in that process.

Pearson again stated that she intends to make an amendment and wondered where it would apply. Horner suggested that it would be a condition of the preliminary plat.

Rick Peo of the City Law Department suggested that the amendment be clear as to whether the intent is to restore the property back to the prior status quo. Pearson stated that she was going to propose that the applicant rebuild and restore, to the best of their ability, the saline wetlands

and the appropriate buffer. Peo cautioned that "rebuild and restore" could be at a different location based upon a mitigation plan.

ANNEXATION NO. 03001

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 14, 2004

Marvin moved approval, seconded by Larson and carried 9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 3398

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 14, 2004

Larson moved approval, seconded by Sunderman and carried 9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 2004

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 14, 2004

Larson moved to approve the staff recommendation of conditional approval, seconded by Krieser and carried 9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

PRELIMINARY PLAT NO. 03004

NORTHBANK JUNCTION

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

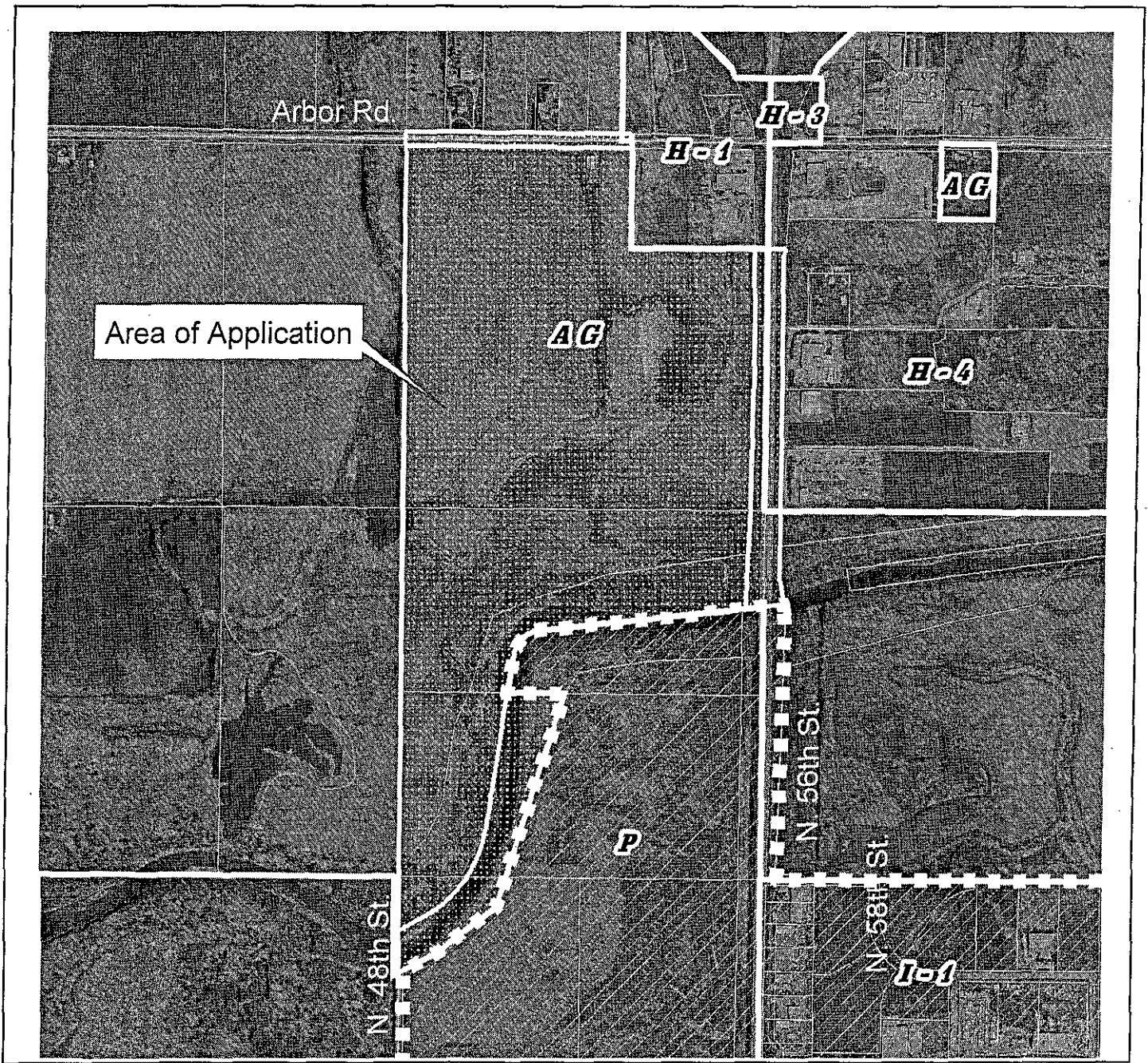
April 14, 2004

Prior to any motion being made, Marvin Krout, Director of Planning, approached the Commission to discuss the amendment Pearson indicated she was intending to make. He believes that such amendment is going to create real difficulties in interpretation. He does not know what "best of their ability" means, but if you say they will restore the 500' buffer to the best of their ability and at the same time you are approving a plat with lots in the 500' buffer, that is not a clear direction for the staff. The developers have gone through a mitigation process; we are looking at the 500' area being a degraded area; they have mitigated to some extent for that; we think that the 500' buffer rule is an arbitrary number that needs to be looked at more carefully in terms of protecting habitat; and we don't have standards, so we are getting into that area of approving a plat without design standards in order to justify a goal that we have in the Comprehensive Plan that we have not fleshed out. He believes the amendment is premature. As we move west in this half section of land, we are entering the area that really is more critical in terms of habitat and that is why we are trying to get the scientists to sit down and figure out what we really need, and try to get the property owners involved before they submit plats. In the end, it probably has more to do with a revenue source to buy the land if we need those buffers. He is concerned that the suggested amendment is not possible for the staff to interpret. If the intent is not to approve lots in a 500' buffer area, he suggested that be the motion; however, Planning and Public Works do not believe there is enough justification legally or in terms of what is on the ground today to support that.

Pearson was offended because she wanted to get a motion on the floor before hearing comments.

Larson moved to approve the staff recommendation of conditional approval, seconded by Krieser and carried 6-3: Larson, Marvin, Taylor, Sunderman, Krieser and Bills-Strand voting 'yes'; Carroll, Carlson and Pearson voting 'no'. This is final action, unless appealed to the City Council by filing a notice of appeal with the City Clerk within 14 days of the action by the Planning Commission.

Pearson expressed her dissatisfaction because she was intending to make an amendment as previously discussed and believes the vote was taken too quickly. She was unsure when she should have made the motion to amend. The Clerk explained that the appropriate time to make a motion to amend is once the main motion has been moved and seconded. There was no motion to reconsider.



**Annexation #03001
N 56th & Arbor Rd.
Northbank Junction**

2002 aerial

Zoning:

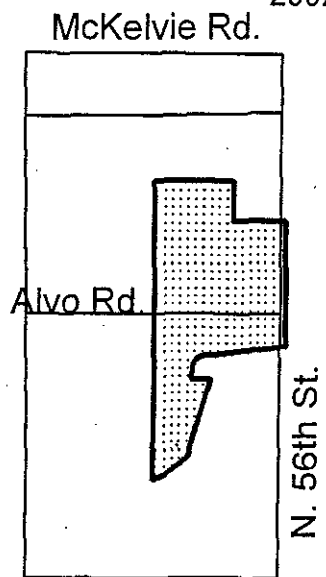
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Convervation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned 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. 32 T11N R7E



Zoning Jurisdiction Lines

City Limit Jurisdiction



Fletcher Ave.
Lincoln City - Lancaster County Planning Dept.

1. **ANNEXATION NO. 03001**, to annex property legally described as Lot 2, Finigan Brothers Addition and Lots 7, 10, 11, 20 and 21 I.T., all located in the E ½ of Section 32-11-7 and the SE ¼ of Section 29-11-7, Lancaster County, Nebraska, generally located at N. 56th Street and Arbor Road.

SR/ **CHANGE OF ZONE FROM 'AG' TO 'H-4' & SPECIAL PERMIT**
LEGAL DESCRIPTION:

A portion of Lots 20 and 21 Irregular Tracts, located in the East Half of Section 32, Township 11 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska, more particularly described as follows:

Commencing at the North Quarter Corner of said Section 32;

Thence on the North Line of the Northeast Quarter of said Section 32, on an assigned bearing of South 89°36'40" East, a distance of 1317.99 feet, to the Point of Beginning;

Thence continuing on assigned bearing of South 89°36'40" East, a distance of 1214.15 feet, to a point on the westerly right-of-way line of North 58th Street;

Thence on said westerly right-of-way line, South 2°09'17" West, a distance of 695.35 feet, to a point on the southerly line of said Lot 21;

Thence on said southerly line for the next four (4) courses, South 83°55'33" West, a distance of 1200.35 feet;

Thence North 0°23'20" East, a distance of 830.13 feet, to the Point of Beginning, said tract containing an area of 916,988.18 square feet or 21.05 acres, more or less.

CHANGE OF ZONE - FROM 'AG' TO 'R-3'
LEGAL DESCRIPTION:

A portion of Lot 2, Finigan Brothers Addition in the Southeast Quarter of Section 29 and Lots 10 & 11 Irregular Tracts and a portion of Lots 20 & 21 Irregular Tracts, located in the East Half of Section 32, all located in Township 11 North Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska. More particularly described by metes and bounds as follows:

Commencing at the South ¼ corner of Section 29 Township 11 North Range 7 East, and the POINT OF BEGINNING:

Thence North 00°12'36" West, on the West line of the Southeast Quarter of Section 29, a distance of 2585.82 feet;

Thence South 89°28'34" East, and parallel to the North line of the Southeast Quarter of Section 29, on the South Right of Way of Arbor Road, a distance of 1120.09 feet;

Thence South 00°12'47" West, a distance of 2583.18 feet;

Thence on the South Line of said Section 29, on an assigned bearing of S 89°36'40"E, a distance of 217.01 feet;

Thence in a southerly direction, South 0°d23'20" West, a distance of 830.13 feet, to a point on the southerly line of said Lot 21;

Thence on said southerly line, South 83°55'33" West, a distance of 280.48 feet, to a point on a circular curve to the left, having a radius of 367.30 feet and a central angle of 4°32'00";

Thence on the chord of said curve, South 81°34'45" West, a distance of 29.05 feet, to a point of compound curvature with a circular curve to the left having a radius of 244.99 feet and a central angle of 70°50'00";

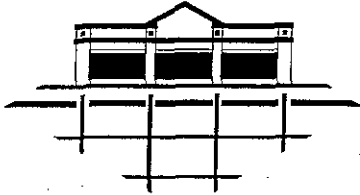
Thence on the chord of said curve, South 43°53'45" West, a distance of 283.95 feet, to a point of tangency; Thence on said tangent, South 8°28'45" West, a distance of 250.70 feet, to the easterly corner common to said Lots 10 and 21;

Thence on the easterly line of said Lot 10, for the next three (3) courses, South 8°28'45" West, a distance of 984.60 feet, to a point of curvature of a circular curve to the right, having a radius of 855.40 feet and a central angle of 55°14'00";

Thence on the chord of said curve, South 36°05'45" West, a distance of 793.05 feet, to a point of compound curvature with a circular curve to the right, having a radius of 638.30 feet and a central angle of 15°08'40";

Thence on the chord of said curve, South 71°17'05" West, a distance of 188.23 feet, to the southerly most corner of said Lot 10, said point being on the West line of the East Half of said Section 32;

Thence on said West line, North 0°01'01" East, a distance of 2994.19 feet, to the Point of Beginning, said tract containing an area of 5,393,522.43 square feet or 123.82 acres, more or less.



BRIAN D. CARSTENS AND ASSOCIATES
LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN
601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

March 3, 2004

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

RE: NORTHBANK JUNCTION- NORTH 56TH STREET AND ALVO ROAD
PRELIMINARY PLAT #03004, SPECIAL PERMIT#2004, CHANGE OF ZONE #3398

Dear Marvin,

On behalf of Hartland Homes, Inc. and Roger Schwisow, we are resubmitting the above mentioned application to be scheduled onto the Planning Commission Agenda. From the numerous meeting with the City Staff, the following revisions have been made to the plans last submitted in December, 2003.

1. North 52nd Street north of Alvo Road has been extended directly south to align with North 52nd Street south of Alvo Road, as requested by the Planning Department and Public Works.

Do to the realignment, the waiver of block length for Block 14 has been removed from the waivers. A waiver is now requested for the pedestrian easement in Block 14 since it backs up to a drainage area.

2. North 49th Street south of Alvo Road has been extended farther south and then connects with North 50th Street. This revision allows the cul-de-sac length of North 50th Place to be 992.45 feet which is less than the 1,000 feet requirement. The waiver of the cul-de-sac length has been removed from the waivers.

Do to the realignment, North 49th Street has been added to the waiver of the sanitary sewer running opposite the street grades.

3. All the plans have been revised to reflect the above changes.

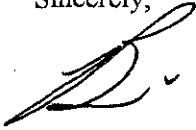
MAR 3 2004

014

Page 2

With these comments and revisions, we respectfully request that this application be scheduled onto the Planning Commission Agenda. Please feel free to contact me if you have any further questions.

Sincerely,



Brian D. Carstens

CC: Duane Hartman- Hartland Homes, Inc.
Roger Schwisow
Peter Katt/ Star City Combine

ENCLOSURES: 12 Sets of Sheets 1 through 16
8-1/2" x 11" reductions/ exhibits
2 - Revised Drainage Study - South of Alvo Road
List of revised waivers

MAR 3 2004

015

ORDINANCE NO. _____

1 AN ORDINANCE annexing and including the below described land as part of the
2 City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part
3 of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of
4 Lincoln, Nebraska established and shown thereon.

5 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

6 Section 1. That the land legally described as follows:

7 Lot 2, Finigan Brothers Addition located in the Southeast Quarter
8 of Section 29, and Lots 7, 10, 11, 20 and 21 I.T., located in the
9 East Half of Section 32, all located in Township 11 North Range 7
10 East of the 6th P.M., Lancaster County, Nebraska, containing 214
11 acres, more or less;

12 be and it hereby is annexed and included within the corporate limits of the City of Lincoln,
13 Nebraska and is hereby made a part of the City of Lincoln, Nebraska for all purposes.

14 Section 2. That the "Corporate Limits Map" attached to and made a part of
15 Ordinance No. 18208, be and it is hereby amended to extend the corporate limits boundary of
16 the City of Lincoln, Nebraska, to reflect the above extension of the corporate limits boundary of
17 the City of Lincoln. Said map amendment is shown on Attachment "A" which is attached hereto
18 and made a part hereof by reference.

19 Section 3. Pursuant to Article VII, Section 7 of the City Charter, this ordinance
20 shall be posted on the official bulletin board of the City in lieu of and in place of newspaper
21 publication with notice of passage and such posting to be given by publication one time in the
22 official newspaper by the City Clerk. This ordinance shall take effect and be in force from and
23 after its passage and publication as herein and in the City Charter provided.

ORDINANCE NO. 18806

AN ORDINANCE Annexation 03001 - Amending the Lincoln Corporate Limits Map by annexing approximately 214 acres of property generally located at North 56th Street and Arbor Road. (In connection 04R-273, 04-189, 04R-272)

Read First Time October 4, 2004
Read Second Time OCT 11 2004
Read Third Time SEP 25 2006
Passed SEP 25 2006
Published in Lincoln Journal Star
on OCT - 6 2006

CERTIFICATE

State of Nebraska)
 SS
County of Lancaster)

I, the undersigned, City Clerk of the City of Lincoln, Nebraska, do hereby certify that the within ordinance is the original Ordinance No. 18806 as passed by the City Council of said City, as indicated above, and as approved by the Mayor of said City and as the same appears of record in my office and is now in my charge remaining as City Clerk aforesaid.

IN WITNESS WHEREOF, I have herunto set my hand officially and affixed the seal of the City of Lincoln, Nebraska this 27th day of September, 2006.

John E Ross
City Clerk of Lincoln, Nebraska

