

City Council Introduction: **Monday**, July 2, 2001  
Public Hearing: **Monday**, July 9, 2001, at **1:30 p.m.**

Bill No. 01-107

## FACTSHEET

**TITLE: CHANGE OF ZONE NO. 3238**, from AGR Agricultural Residential to R-1 Residential, requested by Olsson Associates, on property generally located south and west of South 70<sup>th</sup> Street and Old Cheney Road.

**STAFF RECOMMENDATION:** Approval.

**ASSOCIATED REQUEST:** Preliminary Plat No. 00001, Hawkswood Estates (01R-171).

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 07/26/00; 09/06/00; 10/04/00; 10/18/00;  
02/21/01; and 03/21/01

Administrative Action: 03/21/01

**RECOMMENDATION:** Approval (7-0: Krieser, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Duvall and Schwinn absent).

### FINDINGS OF FACT:

1. This change of zone and the associated preliminary plat were heard at the same time before the Planning Commission. There were six public hearings. The Minutes of the Planning Commission meetings are found on p.8-24. Originally, there were two changes of zone with the associated preliminary plat (Change of Zone No. 3238 from AGR to R-3 and Change of Zone 3239 from R-1 to R-3); however, on October 13, 2000, Change of Zone No. 3239 was withdrawn and this change of zone application was amended to be AGR to R-1 (instead of R-3). See p.28-29.
2. The Planning staff recommendation of approval is based upon the "Analysis" as set forth on p.5-7.
3. The applicant's testimony is found on p.8-10; 13-15; and 19-20. Testimony in support is found on p.10-11; 16-17; and 20-22, and the record consists of four letters in support of the development as resubmitted and proposed by the applicant (p.31-34). Please also see correspondence attached to the Factsheet for the preliminary plat (p.70-80, 01R-171).
4. There was no testimony in opposition. The record consists of one letter in opposition from Zane C. Fairchild (p.30); however, the minutes reflect testimony on behalf of the Fairchilds in support (p.11; 17; and 22).
5. The associated preliminary plat was revised and resubmitted with public hearing on February 21, 2001. Therefore, the minutes which apply to this revised change of zone and the revised preliminary plat proposal are found on p.13-24.
6. On March 21, 2001, the Planning Commission voted 7-0 to agree with the staff recommendation to approve the change of zone from AGR to R-1.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** June 25, 2001

**REVIEWED BY:** \_\_\_\_\_

**DATE:** June 25, 2001

**REFERENCE NUMBER:** FS/CC/FSCZ3238

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

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**P.A.S.:** Change of Zone #3238

**DATE:** February 13, 2001

**PROPOSAL:**

To change the zoning map from AGR to R-1 (#3238)

**GENERAL INFORMATION:**

**APPLICANT:**

Jack Lynch, Olsson Associates  
1111 Lincoln Mall  
Lincoln, NE 68508  
474-6311

**CONTACT:**

Jack Lynch

**LOCATION:**

Old Cheney Road and S. 70<sup>th</sup> Street

**REQUESTED ACTION:**

Change the Zone Map from AGR to R-1

**PURPOSE:**

To develop single family housing

**LEGAL DESCRIPTION:**

See attached sheet

**SIZE:**

28.63 acres

**EXISTING ZONING:**

AGR Agricultural Residential

## **EXISTING LAND USE:**

Seven single family acreage housing.

## **SURROUNDING LAND USE AND ZONING:**

R-1 zoned single family residential to the north,  
R-3 zoned vacant land to the northeast,  
AGR zoned acreage lots to the east across S. 70<sup>th</sup> St. and,  
AGR zoned acreage housing to the south and southwest.

## **COMPREHENSIVE PLAN SPECIFICATIONS:**

The Land Use Plan shows the area as Low Density Residential.

Low density residential encompasses residential areas with densities which usually range from 1 to 5 acres per dwelling unit with a typical density of 3 acres per dwelling unit, also referred to as acreages. The associated Hawkswood Estates Preliminary Plat #00001 indicates an average lot size of 1 acre.

Low density residential areas within the Lincoln City Limits, should be designed to become incorporated into the City.

Neighborhoods are one of Lincoln's great strengths and their conservation is fundamental to this plan. The health of Lincoln's varied neighborhoods and districts depends on implementing appropriate and individualized policies.

As Lincoln grows, it should respect its important environmental resources and use them to enhance the quality of urban and rural development.

## **HISTORY:**

On **September 4, 1962**, City Council approved the Sheldon Heights Final Plat, which platted seven lots on property to the west.

On **January 3, 1977**, City Council approved Change of Zone#1509, which changed the zoning east of S. 70<sup>th</sup> from A-A Rural and Public Use to A-1 Single Family.

On **March 13, 1979**, City Council approved the Edenton South Preliminary Plat, on property to the east.

The **1979** Zoning Update changed this area from A-A Rural and Public Use to R-1 Residential and AGR Agricultural Residential.

On **August 4, 1980**, City Council approved the Hickory Crest Preliminary Plat on property to the north. This was superseded by the Hickory Crest 1<sup>st</sup> Addition Preliminary Plat in 1991.

On **February 10, 1986**, City Council approved the Hickory Crest Final Plat on property to the north.

On **April 11, 1988**, City Council approved the Southfork Estates Preliminary Plat on property to the south.

On **October 24, 1988**, City Council approved the Edenton South Preliminary Plat on property to the east. This replaced the Edenton South Preliminary Plat which had exceeded the 10 year time limit.

On **April 10, 1989**, City Council approved the Southfork Estates Final Plat on property to the south.

On **December 2, 1991**, City Council approved the Hickory Crest 1<sup>st</sup> Addition Preliminary Plat on property to the north.

On **May 18, 1992**, City Council approved the Hickory Crest 1<sup>st</sup> Addition Final Plat on property to the north.

On **December 29, 1995**, the Planning Director approved the Hickory Crest 2<sup>nd</sup> Addition Administrative Final Plat on property to the north.

On **July 22, 1996**, City Council approved Special Permit #1607, the Edenton South 1<sup>st</sup> Addition CUP, which allowed the construction of 39 dwelling units on property east of S.70th. At the same time, Council approved Change of Zone #2982, which changed the zoning at the southeast corner of S. 70<sup>th</sup> and Old Cheney from R-1 Residential to R-3 Residential, and the Edenton South 1<sup>st</sup> Addition Preliminary Plat.

On **January 15, 1997**, Planning Commission approved the Hickory Crest 4<sup>th</sup> Addition Final Plat on property to the north.

On **October 18, 1999**, City Council approved Change of Zone #3181, which changed the zoning on the southwest corner of S. 70<sup>th</sup> and Old Cheney from R-1 Residential to R-3 Residential and the Fairchild Estates Preliminary Plat.

On **October 18, 2000**, Planning Commission placed this item on pending at the request of the applicant.

### **SPECIFIC INFORMATION:**

#### **UTILITIES:**

At the present time there is no outlet for the proposed sanitary sewer in Old Cheney Road. If a satisfactory route is found this development may be responsible for the cost to construct this outlet.

The outlet to the south also requires construction outside this plat to reach the existing sewer is Southfork.

There are no public water mains in Pinecrest Drive and 68th Street where they are extended into this plat. The water mains in Southfork south of this plat are private and are served by a well. This development will need to extend public water to and through this plat and may be liable for the total cost.

**TOPOGRAPHY:**

The northern portion of the plat slopes to the northwest.

The southern portion of the plat slopes to the southwest.

**PUBLIC SERVICE:**

The nearest City fire station is located at 27<sup>th</sup> & Old Cheney Road.

**REGIONAL ISSUES:**

When and how will this entire area between Old Cheney Road, HWY 2 and S. 70<sup>th</sup> Street be redeveloped 30 or more years from now.

**ENVIRONMENTAL CONCERNS:**

The preservation of the existing tree masses.

**AESTHETIC CONSIDERATIONS:**

The preservation of the existing character of the area but planning now for the orderly redevelopment 30 or more years from now.

**ANALYSIS:**

1. The Comprehensive Plan lists criteria for the review of zoning proposals. These include portions of Nebraska Revised Statutes Section 15-902;
  1. Safety from fire, flood and other dangers;
  2. Promotion of the public health, safety, and general welfare;
  3. Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development;
  4. Conservation of property values; and
  5. Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.

There are seven specific criteria established in the Plan for review including;

**a. Infrastructure: the availability of the water, sewer, drainage and the transportation systems.**

City water and sanitary sewer can be extended to the site.

**b. Compatibility: harmony and suitability with the surrounding land uses and the natural environment.**

The associated preliminary plat (Hawkswood Estates) is compatible to the surrounding dwellings.

**c. Health and Safety: protection against natural and man-made hazards including noise; air, ground and water pollution; flooding; and hazards from industrial or agricultural processes or products.**

The Public Works & Utilities Department is concerned about flooding created by a 100 year storm.

**d. Physiographic Features: the topography, suitability of proposed land uses with streams, lakes, soil types, natural vegetation or wildlife habitat.**

The associated preliminary plat (Hawkswood Estates) preserves the character of the area.

**e. Accessibility: availability, or lack thereof, of public transportation, arterial connections and pedestrian linkages.**

The application for the associated preliminary plat requested waivers to the block lengths and length of dead end streets

**f. Open Space: availability of sufficient open space and recreational areas to accommodate a project's residents and employees.**

Holmes Lake is located approximately 2 miles from the site. The associated preliminary plat proposes on average just over one acre per lot.

**g. Fiscal Impacts: whether the proposed use does not create a burden to local tax revenues and/or available resources.**

The Public Works & Utilities Department has agreed to a rural street cross section with ditches provided the land owners agree to maintain the ditches and the driveway culverts.

**STAFF CONCLUSION:**

The change of zone is in conformance with the Comprehensive Plan based on the associated preliminary plat. However there are no guarantees that the area will not be re-subdivided by an owner into smaller lots in the future based on the R-1 regulations.

**STAFF RECOMMENDATION:**

Approval

Prepared by:

Ray Hill  
Principal Planner

**CHANGE OF ZONE NO. 3238  
and  
PRELIMINARY PLAT NO. 00001, HAWKSWOOD ESTATES,**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

July 26, 2000

Members present: Steward, Carlson, Newman, Taylor, Duvall and Schwinn; Hunter, Bayer and Krieser absent.

Planning staff recommendation: Approval of the changes of zone and conditional approval of the preliminary plat.

Ray Hill of Planning Staff submitted a correction to page 109, Item #4, of the staff report. The word "interior" should be stricken. This should apply to all streets including abutting 70<sup>th</sup> Street and Old Cheney Road.

Proponents

**1. Kent Seacrest** appeared on behalf of 7 different property owners. This is a very unique piece of real estate bound by 70<sup>th</sup>, Old Cheney Road and Hwy 2. It is a very, very wooded area. It is an old acreage development and the city has grown and engulfed this area. These are very large 5+ acre tracts and the owners came to him about a year ago in an effort to protect this neighborhood. Their vision is to attempt, through protective covenants, to not become urbanized but break the property up into smaller lots at an average of 1 acre, with city water and city sewer. It would be more dense than today but it would not wipe out the tree masses.

There are two roads that the staff wants this development to plan and create. Seacrest needs additional time to work with the property owners to come to a common position with regard to the staff conditions of approval.

There was no testimony in opposition.

Duvall moved to defer with continued public hearing and administrative action scheduled for September 6, 2000, seconded by Newman and carried 6-0: Steward, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'; Hunter, Bayer and Krieser absent.

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Schwinn, Taylor, Carlson and Bayer; Steward absent.



## Proponents

1. **Kent Seacrest** representing six property owners seeking this preliminary plat explained that this is an application by existing acreages trying to survive with the City surrounding them. The developer has staff support of the proposed layouts and they have worked everything out except the road network. It is very problematic because some people are not going to like the staff solution which will not then carry out the vision of the applicants. Seacrest requested additional time to work on the neighborhood to solve this dilemma. Southfork is opposed to the road network so we they will need to work with them as well.

Seacrest requested a four week deferral until October 4, 2000.

Hunter moved to defer, with continued public hearing and administrative action scheduled for October 4, 2000, seconded by Krieser and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

There was no other public testimony.

## **CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 4, 2000

Members present: Duvall, Schwinn, Steward, Carlson and Hunter; Krieser, Taylor, Newman and Bayer absent.

Ray Hill of Planning staff submitted a memo from the Fire Department indicating that they have agreed to the waiver of the street lengths as long as there are additional fire hydrants and that parking is limited to one side of the street.

## Proponents

1. **Kent Seacrest** appeared on behalf of 6 property owners as the applicant coalition. There was a Comprehensive Plan Amendment done in 1994 that added low density residential. There was new language added that says we've got a lot of acreages and what we're going to do when the acreages are in the city limits. It says that 1-5 acres for a home site is appropriate inside the city. This application at 70th & Old Cheney Road is low density residential. The property is annexed. It is all acreages. What was envisioned was that in some instances it is appropriate to go down to 1 acre and give them city water and city sewer. This was one of the areas that Tim Stewart, former Planning Director, had envisioned--that we could have acreages on city water and city sewer and let them go to 1-acre. It was even envisioned that we were going to do a new zone dubbed AGR-1. AGR takes three acres. Seacrest thought that it was going to be AGR-1 but the staff has never brought that concept forward even though it is inferred in the Comprehensive Plan.

This group of property owners has done that vision. They have bound themselves together in a covenant where they are saying they want one acre or larger. Most of them have 5 acres today. This also says that they can also do clustering to protect some sensitive environmental areas as long as they average one acre per dwelling. The staff report suggested and assumed that they were going to turn this into regular urban residential, with 5-6 homes per acre.

Seacrest requested to amend Change of Zone 3238 to R-1 instead of R-3, and to withdraw Change of Zone No. 3239. In addition, Seacrest submitted proposed amendments to the conditions of approval on the preliminary plat. The staff wanted the applicant to put more roads in the development, but the property owners and neighbors do not desire those roads. The Fire Department now agrees with the applicant. The solution is the long cul-de-sac with parking on only one side. The Fire Department now supports the applicant's original proposed road network. Public Works is also in support of the original road network now that the Fire Department is satisfied.

Seacrest requested to add Condition #1.1.20, to remove South 68th Street and show a South 68th Street cul-de-sac (radius 60') between Lot 18, Block 2 and Lot 2, Block 3. 68<sup>th</sup> Street starts in Southfork to the south and dead-ends at their development. This development does not need that road. Southfork has requested that 68<sup>th</sup> Street not be extended. They have reached an agreement with key property owners in Southfork to put in a cul-de-sac at the end of their road. Three of the lots in this development then get access and there is no need to circulate back and forth. The Fire Dept. agrees with this amendment. This is an attempt to keep a rural character for this area without a lot of through traffic movement.

Seacrest further explained that this is a preliminary plat so that each of the property owners can go forward and start final platting if they so choose. Seacrest concurred with Schwinn that all the owners with a variety of acreages will have the ability to sell off portions of their property.

Seacrest noted that there were other neighborhoods in support of the new road network. We have moved the major street called Stevens Ridge Road which is used to connect to Old Cheney Road. We are now proposing that it be connected to Old Cheney across the street from Pheasant Run. Seacrest submitted a letter from the President of Pheasant Ridge Association in support of the proposal and agreeing to move the road across the street from them.

Seacrest stated that there is also support from two neighbors to the west who were not able to stay this afternoon.

**2. Warren Johnson**, 6801 Hickory Crest Road, immediately across Old Cheney on the northwest corner of 70<sup>th</sup> & Old Cheney, testified in support. He has lived there for 35 years. At the time that they all started out in this area, everybody had 5+ acre lots. This proposal has been reviewed with the property owners in Hickory Crest Addition and they are 100% in favor of this proposal. This is very compatible and it does not change the neighborhood any more because it has already changed on the north side of the road. He pointed out that they are moving the connection into Old Cheney from Hickory Crest to Pheasant Run. This is a very important and positive change. Hickory Crest Road and Old Cheney is a disaster waiting to happen. Hickory Crest Road as it goes north within a period of two blocks makes four 90 degree turns and it is not suitable for any kind of additional traffic. Where Hickory Crest Road comes in there is a big rise and you take your life in your own hands when you try to turn on there. It would require a light; it delays the traffic of four lanes; and it is low on the priorities for maintenance during the winter but they understand that.

**3. Dick Dam**, 5310 Thies Cove Drive, testified in support on behalf of the Board of the Edenton Association which runs roughly from Glenoaks Dr. to Old Cheney Road. They are 72 townhouses and 125 single family homes. They are concerned about the development of the southwest corner of 70<sup>th</sup>

and Old Cheney. Diane Oldfather called him and some of the board members met and went over the plans and the three of them agreed wholeheartedly to support this application. They do not have another board meeting until next Monday. They would agree with R-1 or R-3 and are pleased to have it maintained as a residential area.

**4. Mike Rierden** appeared on behalf of **Zane and Ethel Fairchild**, who are the owners of Lot 70, which is technically not part of this plat. They support this proposal, but the one concern they have is Condition #1.1.7, which the applicant is requesting be amended to relocate Hawkswood Road to intersect with Old Cheney Road and line up with Pheasant Run (instead of Hickory Crest Road). His clients would like to have the Hickory Crest connection that staff is recommending. His clients do not know how their property would ultimately develop but it is a better connection because of the median cut to Hickory Crest to the north. We don't think it would be a good idea to have the traffic from our property going through this residential development.

Dennis Bartels of Public Works clarified the issue of 68<sup>th</sup> Street out of Southfork. Public Works would continue to recommend that 68<sup>th</sup> Street be connected to Stevens Ridge Road. That is why that stub street was platted in Southfork--with the intention that it be continued. Southfork is 20+ lots. You have one long cul-de-sac with one way in and out of there. If traffic got heavy enough on 70<sup>th</sup> we would end up signaling a T intersection. If connected to Stevens Ridge Road, it is probably a better signaled location. The staff would like to see 68<sup>th</sup> Street continued as originally submitted with this plat. He has mixed reactions on the other street requests. Pine Crest Drive exceeds our typical length for a cul-de-sac. The terrain is fairly difficult. The staff assumed that Hickory Crest had to be there. Hickory Crest is closer to 70<sup>th</sup> Street than the staff would like but that is where it ended up. In the long term we are likely to have to signalize the intersection and the city would prefer it be at Hickory Crest if this were the case. We do not like to signalize T intersections at major streets. Pheasant Run is a dead-end street. If you had a signal there it would serve a limited amount of vehicles on the north side.

Carlson inquired about having two outlets on 70<sup>th</sup> Street--Pheasant Run and Hickory Crest--that way the R-3 portion could serve itself. Bartels agreed that it could probably function but typically we like to limit the number of intersections. Once you get past Hickory Crest it is proposed as a five-lane section with a common left turn as opposed to median divided. Functionally it would probably work with both. But, as you go further west there are at least two other intersections between the subdivision and Hwy 2 (62<sup>nd</sup> and one other named street further west).

Carlson noted that the Fire Department does not have a fire safety issue with the cul-de-sac. That is what Dennis Bartels was told today, but the plat he had reviewed up to today always showed 68<sup>th</sup> connecting Stevens Ridge Road to that existing stub street in the Southfork Addition. Southfork is limited on access now. They only have one access out to 70<sup>th</sup> Street. Bartels' assumption is that there will be more cars coming out of Southfork into this subdivision. Bartels was not party to the Fire Department comments. Both circulation and operational problems are Bartels' issues. We don't want to signalize both Southfork Blvd. and Stevens Ridge Road.

Hill clarified that Lot 70 is currently zoned R-3.

With regard to closing off of 68<sup>th</sup> Street, Hill advised that to be a waiver of design standards that was not included in the original request. The staff did not have an opportunity to discuss this request in the staff report. Hill does not know whether that can be considered because it was not part of the original proposal. When Southfork was proposed it was intended that street continue to the north. The stub street was extended to the property to the south with the indication that road connection would be made.

Steward inquired whether staff has had the opportunity to review all the requested amendments. Hill only received the proposed amendments at this meeting so he could only review them quickly. However, he also advised that the staff has had discussions with the developer and the staff knew something like this was coming in. They basically agreed to disagree about the street system and most of the proposed amendments relate to the street system. The change of zone to R-1 rather than R-3 is not a problem. However, the legal ad provided no notice that the change to 68<sup>th</sup> Street was going to be made. Condition #1.1.20 that was proposed to be added has not had any staff review and comment and it was not advertised for this hearing.

Rick Peo of Law Department was not sure whether the South 68th Street issue is a waiver or not. It could be just an argument of whether they need to have a through street. It's just a question of whether it has to totally connect to provide access to the abutting property. Peo would need time to review this issue.

Steward inquired of the applicant as to how much stress is involved if the Commission defers this for two weeks. He is concerned that we have a representative of sets of property owners who are not together; we have staff and the applicant who are not together; and we have a potential legal question. Seacrest does not think there is any legal requirement for the waiver. His concern is that there is a lot of neighborhood support here. He is real surprised Southfork wasn't here about not extending 68<sup>th</sup> Street. He thought that the Fire Department's agreement would make it acceptable. He just doesn't think that the staff likes the concept of acreages inside the city limits. If it makes the Commission more comfortable, it could be deferred for two weeks but he would ask that the public hearing remain open.

Steward moved to defer with continued public hearing and administrative action on October 18, 2000, seconded by Hunter.

Steward observed that this is an exceptionally creative solution to a very difficult problem we are going to face more than once because of short vision on location of acreages, but he is concerned that there be a full Commission in order to have the best deliberation because it does set a precedent.

Schwinn likes the proposal, especially moving Hickory Crest down. The south side of the road has very dense vegetation and that road never thaws in the winter. However, he agrees that there is a need to have the comfort level with staff and he would also like to have more Commissioners voting.

Hunter wants more of an opportunity to review the proposed amendments.

Motion for continued public hearing and administrative action on October 18, 2000, carried 5-0: Duvall, Schwinn, Steward, Carlson and Hunter voting 'yes'; Krieser, Taylor, Newman and Bayer absent.

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

The applicant withdrew Change of Zone No. 3239.

The applicant requested that Change of Zone No. 3238 and Preliminary Plat No. 00001 be placed on pending.

Motion was made by Krieser, seconded by Steward, to place the change of zone and plat on pending to allow the applicant the opportunity to resubmit. Motion carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION  
UPON RESUBMITTAL:**

February 21, 2001

Members present: Krieser, Duvall, Carlson, Steward, Taylor, Schwinn and Bayer; Hunter and Newman absent.

Planning staff recommendation: Approval of the change of zone and conditional approval of the revised preliminary plat.

Jennifer Dam of Planning staff submitted a letter from Zane Fairchild dated November 22, 2000, indicating that he is listed as one of the property owners and developers; however, this was without his knowledge or approval. Dam pointed out the Fairchild property on the map. Any changes to remove the Fairchild property from this plat would require significant changes that would need to be resubmitted and reviewed by the staff. Therefore, the staff is requesting an 8 week deferral. Dam clarified that the Fairchild Estates preliminary plat has been approved. There is an outlot of Fairchild Estates that is included within this preliminary plat as part of two of the proposed lots in Hawkswood Estates.

Proponents

**1. Kent Seacrest** requested to testify prior to the Commission taking action on the staff request for an 8-week deferral. Seacrest appeared on behalf of a coalition of six property owners (formerly 7 property owners with Fairchild having gone a separate way). This development was before the Commission in October of last year, four months ago, with two outstanding issues, one being the access issue raised by Fairchild. Seacrest indicated that they have been working on this issue. There are people trying to close real estate sales out here and it is problematic to have an eight-week delay. Because of the access issue, they resubmitted this plat.

Seacrest submitted that this is one of those unique neighborhoods full of trees and 5-acre acreages. In 1994, the Comprehensive Plan was amended to create a new category called "low density residential" to be inside the city limits. As Lincoln has grown to the south and east, we have all those acreages "in the way". In 1994, we figured out that we had to address that in order to absorb acreages into the city, so we created the "low density residential" at one acre with city water and city sewer. Then

Planning Director, Tim Stewart, thought he would do a new zoning classification for “low density residential”. But, that has not occurred and developers have had to do this through waivers because we do not have that zoning classification. This really should be known as AGR-1. We’re taking a square peg and putting it through a round hole and have protective covenants that have been executed for one-acre size with clustering in order to protect the tree masses.

Seacrest noted that there are four different transportation issues. Staff, because they don’t have AGR-1, has to look at this as if it is urbanized in the future. They want more road network than we want.

Seacrest submitted a motion to amend:

He requested a new Condition #1.1.1 as follows: Pursuant to the Fire Department request, provide fire hydrants pursuant to the City of Lincoln’s Design Standards and add a note stating that the applicant understands and agrees to limit parking to only one side of Pinecrest Drive. The staff condition proposes two extensions of the roads. Seacrest requested to delete the staff condition because it will cut through all sorts of tree masses. With the covenants and the Comprehensive Plan saying this is supposed to be unique, we should not have to do an urban type network in this area. Most importantly, fire protection is the issue. Our streets get too long. Back in October, we handed out a letter from the Fire Department in support, “..... they have agreed to limit parking to only one side of the street. This solution to my concerns is acceptable to the large lots and separation between structures”. Seacrest believes that the Fire Dept. supports this present design.

Seacrest requested to delete Condition #1.1.14, which requires that So. 68<sup>th</sup> Street be extended north through the area to Stevens Ridge Road. The Southfork Homeowners Association submitted a letter in October requesting that 68<sup>th</sup> Street not be extended. This applicant does not want 68<sup>th</sup> Street to go through. It is not needed. The Fire Dept. states, “...we also discussed a possible cul-de-sac to redo 68<sup>th</sup> Street. Fire Dept. has no objection to this concept.”

Seacrest requested to add Condition#1.1.18 to deal with the Fairchild property:

“Revise the preliminary plat and legal description to remove any properties owned by Zane and Ethel Fairchild. Add a T-turn around on the south end of the South 68th Street stub located southwest of Stevens Ridge Road on Lot 70 I.T. located in the Northeast Quarter of Section 26, Township 9 North, Range 7 East of the 6th P.M., City of Lincoln, Lancaster County, Nebraska. Revise the lot configuration of Lots 17 through 23, inclusively and circulation access thereto to the South 68th Street Circle, the T-turn around on the south end of the South 68th Street or to Stevens Ridge Road to the satisfaction of Public Works & Utilities Department and the Planning Department.”

This applicant will agree that if Fairchild does not want to be part of the plat, they will not force him. This applicant has supported the Fairchild preliminary plat with an extended care facility. That facility has not proved viable and Fairchild’s representatives have indicated that he would like to do office, although his property is shown in the Comprehensive Plan as residential. Removing the Fairchild property causes access problems to the acreage lots. Staff is asking us to give up access to 70<sup>th</sup> Street, which would get us access. Now they are telling us to delay this thing for 8 weeks when that was one of the issues in October. We tried to work with Fairchild; we then asked staff to call a meeting to help the relationship and staff chose not to call that meeting; Rierden did help us facilitate a meeting

with the Fairchilds and we could not agree with regard to access so Fairchild does not want to be included in this plat. The access point that Fairchild wants will encourage him to come in for office zoning. Staff is supporting the access at Pheasant Run instead of Hickory Crest Point, and for those reasons we have not worked out an agreement with Fairchild. Meanwhile, where is our access? We knew this was an issue in October and now because Fairchild would not agree, staff wants eight weeks to keep working on it.

Seacrest purported that the issue is whether 68<sup>th</sup> Street should go through. Or should we be putting T turnarounds or cul-de-sacs and dead-end both directions of 68<sup>th</sup> Street? This applicant does not want to extend 68<sup>th</sup> Street.

Rierden gave a request in October that this developer give the Hickory Crest access. Seacrest stated that this developer is not in favor of that for several reasons: 1) staff does not want the Hickory Crest access. There will be a lot of turn movements at the 70<sup>th</sup> & Old Cheney Road major intersection and the Hickory Crest access is too close to that intersection; 2) the Hickory Crest access point is at the crest of the hill and there is poor sight distance; 3) Hickory Crest is not desirable because it will encourage cut-through traffic into the neighborhood; and 4) this developer does not want to be assisting Fairchild's effort to make it easier to rezone his property contrary to the Comprehensive Plan.

The other amendments to the conditions of approval (add Condition #8 and #9, and delete Condition #3) have to do with block lengths.

Seacrest requested that the Commission vote on this application and give direction on the motions to amend. He does not know if his clients should be pretending 68<sup>th</sup> Street should go through without some direction from the Planning Commission. We are chasing our tail here. We need some direction and this application has already been deferred four months.

Carlson inquired whether the covenants will create 1-acre parcels to prohibit further subdivision. Seacrest concurred. They roll over every five years. It is not one-acre, it's average one-acre because they encourage clustering. It does not absolutely forbid further subdivision down the road, but it would require amending the covenants and it takes a 2/3rds vote to kill the covenants.

Carlson then referred to the Hickory Crest access and the rezoning potential. What about higher density residential? Seacrest would encourage Fairfield to go single family, urban residential, quality duplex. When you go from acreages to office on a corner that wasn't planned, it is not in anybody's interest.

Carlson then asked whether assurance of R-3 Residential would allay the concerns about cut-through traffic. Seacrest has more confidence that they will not amend the covenants than he does a future Council that will not rezone this property.

Bayer has not heard anyone come in and try to change the Southeast Lincoln/Hwy 2 Subarea Plan proposal for that corner to anything other than Urban Residential. We are beginning to support subarea plans. He asked Seacrest if he has been told that they want office there. Seacrest stated that he has been in a meeting with representatives of Fairchild showing an office design and asking for support.

**2. Warren Johnson**, 6801 Hickory Crest Road, immediately north of this proposed property (the northwest corner of 70<sup>th</sup> & Old Cheney), testified in support. He has lived there for 36 years and has witnessed the development of this area. The Hickory Crest Addition property owners met and are enthusiastic about this application. They think it is a unique and superb way to convert these 5-acre parcels into a lower density, yet still not a high density area for traffic control. The Hickory Crest Addition property owners are opposed to the Hickory Crest access. If you start to let traffic cross that close to 70<sup>th</sup> Street, there will be accidents. He suggested a traffic light, but without a light it will not work. Why do we have to butcher up these little communities trying to cut through the entire way? We've got four lanes on Old Cheney; four lanes on 70<sup>th</sup>; four lanes on Hwy 2 to the south. The communities that are there are there because of the kind of development that is proposed. Here is a chance to do something to control traffic.

In addition, Johnson stated that the Hickory Crest neighborhood is very much against any commercial development on the Fairchild property. We saw a plan that showed 55 parking spaces. What will that do to the traffic?

**3. DeLoyd Larsen**, President of the **Edenton Homeowners Association**, submitted a prepared statement by the Edenton Homeowners Association Board of Directors in favor. The Edenton Homeowners Assn. consists of 72 townhouses and 150 single family homes in the area of 70<sup>th</sup> Street, south of Glynoaks Drive, north of Old Cheney Road. The Edenton Homeowners Association has voted to approve the Hawkswood Estates plan, including the proposed Old Cheney Road access at the intersection across from Pheasant Run Lane, rather than access across from Hickory Crest. The Association also supports 68<sup>th</sup> Street ending as a cul-de-sac in this development. The Edenton Board is strongly opposed to any commercial development of the Fairchild property in the area of South 70<sup>th</sup> and Old Cheney Road.

**4. Ernest Henry**, 5600 Pheasant Run Lane, testified in support of the plan to put the access on Pheasant Run Lane. He is opposed to any commercial on 70<sup>th</sup> & Old Cheney.

**5. Art Zygielbaum**, 6601 Pinecrest, testified in support and submitted letters in support from the **Southfork Homeowners Association** and the **Edenton South Homeowners Association**. He applauded the efforts of the developer to involve the neighbors very early on in the planning stages.

The Southfork Homeowners Association supports the plan, specifically for 68<sup>th</sup> Street to be made a cul-de-sac. They believe the rest of the development will blend in well with the adjacent neighborhoods. Southfork is opposed to any commercial development on the Fairchild property.

The Edenton South Homeowners Association supports this development, particularly the plan to have their rural route road run from Stevens Ridge Road and outlet at Pheasant Run. They are also strongly opposed to commercial development of the Fairchild tract.

Zygielbaum is a member of Comprehensive Plan Committee and he worked on the Beal Slough Master Plan. He came to Lincoln for the quality of life and the expectations of that quality of life. The citizens have a right to maintenance of the expectations of the area into which they move. He supports the modified R-1 zoning that is proposed in Hawkswood Estates and they will probably do the same thing for Sheldon Heights. Zygielbaum is opposed to anything other than a cul-de-sac for Pinecrest and for 68<sup>th</sup> Street. There is adequate access for the low density housing. There is an expectation,



there is a reason we bought our property and there is a reason we live there, and he looks to the city to help support maintaining the quality of life he has come to expect. He is also opposed to any commercial development of the Fairchild tract.

In response to a question by Carlson concerning establishment of future easements if the properties are further subdivided, Zygielbaum stated that he is arguing for the cul-de-sac for the low density because it does not violate the safety of the people involved and will maintain what they now have.

**6. Jack Lynch of Olsson Associates** appeared to address the Fairchild property in this plat. Stevens Ridge Road was designed over a year ago to accommodate the properties to the south and those two slivers of Fairchild property were always intended to be added to those properties to the south. Whenever we design anywhere in this community we are asked to show how properties adjoining us will be accommodated by access. We are using a preliminary plat of record now to show access to the property to the south. Those two 5-acre parcels to the south currently have access along a sliver of land and are now forced to come up into the Fairchild Estates and out that access point. Without these parcels in this plat, those two parcels have absolutely no access. He cannot believe the staff will leave two parcels without access. The only access they have now is through the Fairchild property.

Steward asked Lynch why they didn't incorporate the private roadway right-of-way in the design that would have resulted in no slivers. In other words, why is this not a straight going into a curve that is 50-100' further to the south? Lynch responded that according to the city design standards, the access point located for the Fairchild property is across the street from Stevens Ridge Road, which the design of 70<sup>th</sup> wanted to accommodate. We cannot get down into the property quick enough with the city design standards. We could have gotten a little further to the south; however, this is a preliminary plat that we don't control. If they would like to shove that road further to the south, we could accommodate that. Right now those two parcels have no access if the Fairchilds don't belong to this preliminary plat.

**7. Mike Rierden** appeared on behalf of the **Fairchilds** in support. This is a good proposal that is well-planned; however, his client desires to have the connection at Hickory Crest. It was his recollection that city staff was recommending that connection some time ago. It is the city's policy to align streets the best they can from one side to the other. He believes that staff might be soft on their proposal as far as where that connection should be and they would probably say it could be at either location. The concern about use of the Fairchild name on this plat was voiced as early as November of last year. That issue has been on the table and the Fairchilds have made it clear that they do not want to be part of this plat. The question is whether you can be part of one plat (Fairchild Estates was approved in 1999) and then be a part of another plat? The Fairchilds are not opposed to this development.

As far as any office use on the Fairfield tract, Rierden acknowledged that his clients have received the message that that would not be favored. They had simply shown a conceptual plan to Seacrest and his clients some time ago and as far he knows there is no serious proposal coming forward showing office, but rather more likely the existing R-3 or back to the assisted living.

Schwinn commented that the Fairchild preliminary plat is water over the dam. So, there are two houses on the Fairchild property that are already platted as lots. Rierden agreed. Schwinn then noted that when Old Cheney is rebuilt, the house furthest on the east side will only have a right-in and right-out to their property unless Stevens Ridge Road is built.

Steward inquired how long the Fairchilds have owned the property. Rierden guessed 40 years. It has been in the family for a long, long time, and certainly during the time when the original acreage plats were created. Steward asked Rierden whether it is conceivable that there is any chance for collaboration between these property owners left? This is an acreage issue. This is an issue that no one expected when they originally purchased the property. Yet, to get the most out of the property, both economic and quality of life, it seems there has to be some mechanism of negotiation that something better can come out of it in a win-win situation if there is more cooperation. Rierden agreed. He has grown very frustrated with this matter and he would like to take a shot at that, and that would not be for the purpose of delaying this project. The Fairchilds would like to get this thing resolved. Steward further commented that this is an important intersection and it is an important residential lifestyle. It is very precious in both economic and aesthetic terms and he would like to see if they can't explore some other alternatives.

There was no testimony in opposition.

#### Staff questions

Steward questioned whether staff is optimistic that a more effective relationship between these property owners can be worked out to the benefit of both with the requested delay. Jennifer Dam of Planning staff stated that she has not been the staff person involved in the review process on this plat. However, she is willing to commit the Planning staff to work with both parties to try to reach a solution.

Schwinn observed that this corner (Fairchild property) has been approved, so he assumes that where Stevens Ridge Road is shown is where it is going to be built. Our only problem is the two slivers of Fairchild land that are currently in "no man's land". Dam clarified that she did look up the Fairchild Estates preliminary plat. The parcel adjacent to 70<sup>th</sup> Street is shown as an outlot with a note attached to the triangle at the intersection of 68<sup>th</sup> & Stevens Ridge Road that indicates that that parcel would be either dedicated as r.o.w. or attached to a lot to the south at some point in the future. The owner of that property has indicated that they don't want to be a part of this plat. Dennis Bartels of Public Works clarified that Fairchild Estates is just a preliminary plat and those outlots are not created at this point in time. Fairchild could come back and revise his preliminary plat however he wants. We have no ability to force him to final plat.

Schwinn asked Bartels about the signalization of the intersection at Hickory Crest. Bartels stated that it is probably closer to 70<sup>th</sup> Street than Public Works would like. When the city approved Hickory Crest to the north, it was closer to 70<sup>th</sup> than desired but it was approved

there and it is anticipated that it would be a four-way intersection. Thus, when the Fairchild plat came in, it implied that that was where the location was going to be for the access to 70<sup>th</sup> Street. When this plat came in, it showed the access to Old Cheney. We can make either location work. It would be desirable to have another signal.

Carlson asked whether Stevens Ridge Road at 70<sup>th</sup> would be signalized. Bartels did not think there were any plans to do so; that is where the median opening is; the access is located there now; there is a street that extends on east and the street return and turn lanes are in there for future extension to the west at that location. Carlson pondered that if this were residential, what about people wanting to move north on South 70<sup>th</sup>? He thinks that would be a difficult maneuver. Bartels suggested that as traffic picks up on 70<sup>th</sup> a signal could be warranted at that location.

In the spirit of compromise, Steward made a motion to defer for four weeks, until March 21, 2001, seconded by Duvall. Steward does not believe that it is acceptable for the Planning Commission to be put into a position of taking speculative action on behalf of a conflict of strategy and direction that needs to be worked out at staff and property owner level. In the best interests of the Comprehensive Plan, he does not believe there is any alternative but to take time for some negotiations to take place.

Motion to defer, with continued public hearing and administrative action on March 21, 2001, carried 7-0: Krieser, Duvall, Carlson, Steward, Taylor, Schwinn and Bayer voting 'yes'; Hunter and Newman absent.

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 21, 2001

Members present: Krieser, Hunter, Taylor, Steward, Carlson, Newman and Bayer; Duvall and Schwinn absent.

Proponents

**1. Kent Seacrest** appeared on behalf of the Hawkswood neighborhood group comprised of five property owners, in support of this development. This is the third public hearing. The issues have gotten clearer but are not crystal clear. The subject property is a portion of a triangle shown on the Comprehensive Plan in light yellow—acreages, not normal urban residential. The property is also within the urban future service limits and is annexed. This is a series of 5-acre owners, turning their property into 1-acre lots with rural characteristics, i.e. minimum sidewalks, etc. The Comprehensive Plan supports this idea, but our standards are not used to this idea and that is the tension the developer is having with city staff.

This group of property owners started working with the Fairchild property and is still attempting to working out an agreement. Fairchild was originally part of this group of property owners. Fairchild started out on an extended care facility and surrounded their facility with one-acre tracts. The Seacrest clients signed covenants and came to the Fairchild development hearing in support of the extended care facility. Some differences broke out after that fact and Seacrest believes we now have a situation where everyone is back together. He believes the property owners have an oral outline of an agreement on all the key points, except one friendly disagreement. They do anticipate having a written

agreement between now and the time this application is heard by the City Council. There are three traffic issues upon which the developer and the staff disagree. One is the Pinecrest extension. This application shows cul-de-sacs because of the large tree mass and city staff is trying to plan an urban setting and not an acreage setting. We do not want the additional roads to go through. It will destroy the tree masses. We have signed restrictive covenants limiting the acreages to one acre so this will not be traditional urban development. Seacrest agrees that extension of the road network is a life safety issue, but the Fire Dept. is indicating support of not extending the roads as long as we limit parking on the one side. This issue is reflected in Seacrest's proposed amendment to Conditions #1.1.1, and to add Conditions #2.2.8 and #2.2.9.

The next traffic issue is the Hickory Crest versus Pheasant Run access. The applicant agrees with the staff on this one. This was the issue with Fairchild. Seacrest believes that the goals are different. The applicants are concerned because the Fairchilds have shown commercial plans and the access at Hickory Crest that Fairchild is requesting would encourage more commercial. 70<sup>th</sup> & Old Cheney has a traffic light . Putting the access at Hickory Crest gets an intersection too close to a major arterial intersection. Cars on Old Cheney will get impatient and cut through the neighborhood to avoid the light. This is the area where we disagree with Fairchild and Seacrest requested the Commission's support.

The South 68th Street extension is an issue with the staff. Fairchild supports the applicant on this issue. No one wants to see 68th Street connected--extended from Southfork into this neighborhood--but staff is opposed and is requesting that extension. Southfork does not want this connection. It is a life safety issue. And again, the Fire Dept. is comfortable with this road not going through. This application shows a cul-de-sac and the Fire Dept. has no objections to this concept. This solves it from a health safety point of view. Seacrest requested that Condition #1.1.14 deleted.

The most affected neighbors, including the Fairchilds, support this development, except the Fairchilds have a difference of opinion on the Hickory Crest versus Pheasant Run. We have had two subsequent meetings with all the neighborhoods and the consensus has been what is being proposed with the amendments proposed by Seacrest today.

Seacrest expressed appreciation to Mark Hunzeker and the Fairchilds for their cooperation. Carlson asked about the down side of not putting the roadways in, but the easement instead on the Pinecrest option. Seacrest believes that Pinecrest totally destroys Lot 10 because it goes right through the middle. It is hard to get six neighbors to agree and we've got it. We would have to go back to the major drawing board if we have to redo Lot 10. We plan to go forward and our view is that if government has the easement, tomorrow they could put the road in and special assess us. Our view is that the government has condemnation powers. We would rather not make it easy on them.

**2. Mark Schorr**, attorney, testified as a citizen and resident of Hickory Crest Subdivision to the north across Old Cheney Road. The Hawkswood Estates neighbors have been very involved in talking to all of the neighbors. He supports the proposal as presented by Seacrest and against the notion of further creating problems where Hickory Crest Road comes out of his neighborhood into Old Cheney. The Hawkswood Estates neighbors have held social gatherings to unveil the plans, they have answered questions, and they have invited us to meetings. He also knows that Southfork and Edenton South wholeheartedly support this plan but have some concerns about the road network. As far as the

potential Hickory Crest connector, Schorr's entire neighborhood would be very concerned. That is a very busy and dangerous area. There were numerous accidents when Hickory Crest Road was put in. There is very poor visibility. We would be very concerned, given the amount of traffic, that we will have even more difficulty navigating in and out of our neighborhood if the Hickory Crest Road connection were required. Edenton South is very concerned about the Hickory Crest connection. It makes much more sense to do the ingress and egress out of Hawkswood where it is shown in the plan coming in and out across from Pheasant Run as opposed to taking down the trees along Old Cheney and going in and out of Hickory Crest.

**3. Arthur Zygielbaum**, 6601 Pinecrest, testified in support. He stated that he is also testifying on behalf of Stan Maley who lives north of him. Zygielbaum read a letter from Jim Abel and Janice Goracke in support, including the applicant's wishes not to extend 68<sup>th</sup> Street. Zygielbaum believes in the maintenance of expectation and quality of life and that what we leave is a legacy. He strongly supports the rezoning. He anticipates that they will be doing something similar in Sheldon Heights to the west. He is opposed to any commercial nonresidential use of the Fairchild Estates.

If 68<sup>th</sup> Street is extended, all of the traffic would change and it would cause a significant threat to the safety of the Southfork neighborhood and would change the characteristics of Southfork. There is no reason to extend 68<sup>th</sup> Street.

Zygielbaum spoke specifically about maintaining Pinecrest as proposed. There is little benefit in putting Pinecrest through. Safety can be accommodated with what exists. It will maintain the character of what we have.

**4. Jan Schwenke**, resident of Frontier Road, voiced opposition to the Pinecrest extension. Frontier Road is a nonpaved road and all of her neighbors enjoy the acreage situation and the rural atmosphere. She believes the Pheasant Run access makes much more sense with regard to traffic control for the Frontier Road residents.

**5. Charles Green**, 5650 Hickory Crest Road, testified in support. He has lived on Hickory Crest Road since February, 1998. Currently, the city is widening Old Cheney and will take about 20' of his property plus cut down his trees. An issue for his family and his neighborhood is the ability to get in and out at Hickory Crest Road. He supports the access road being across the street from Pheasant Run. If we are looking for partnership between homeowners and developers to insure and maintain quality of life, he believes the proposal of using the Pheasant Run access provides a quality partnership between the landowners and the business interests of Fairchild. Business growth is an important part of progress, however, it should be mutually beneficial to all citizens.

Newman asked Green whether it takes him a long time to get out of Old Cheney and whether a traffic light might work to his interest. Green's response was that currently, there is a moderate amount of traffic depending upon the time of day. If the Fairchild plan is included, then they would have a lot of traffic. With the widening of Old Cheney, it will lower the road about 5' so people coming up the hill will be able to see what's happening. We are pleased with Hickory Crest as it is now.

**6. James Seacrest**, 6901 Kings Court, testified in support of the proposal as requested by the applicant. Kent Seacrest is his nephew, but he has not discussed this development with Kent until briefly today. With regard to the Pinecrest extension, the neighbors have worked hard and think it is a good use of the land. He is personally against the Hickory Crest extension onto Old Cheney because it is a very dangerous intersection. More traffic will be a hindrance. He does not believe it would be appropriate to have two traffic lights within one block of each other in a residential neighborhood. Bringing the extension out from Hawkswood at Pheasant Run does help move the traffic around and does keep the residential flavor of the neighborhood complete and intact.

**7. Mark Hunzeker** appeared on behalf of **Mr. and Mrs. Zane Fairchild**, the owners of the property at the intersection of 70<sup>th</sup> and Old Cheney. They had one very productive meeting where they outlined the terms of an agreement between Fairchilds and the other property owners within this plat. The Fairchilds are in support of their general scheme for this area and specifically in support of their not wanting to make a connection to Southfork. The Fairchilds definitely support leaving this plat in its current configuration.

Hunzeker advised that the Fairchilds do have some modified plans for their property which do not conform to what is shown on the Seacrest plat. The Fairchild application has not been submitted, but it is a retirement type townhouse development and will involve some sort of elderly residential care type facility. They do intend to cooperate with getting access into the area shown as being an access off of a stub street that was originally preliminarily platted. In reconfiguring the roadway they will provide access to the lots shown on the Hawkswood plat.

The one issue where Fairchilds differ with this proposal is that they think that Hickory Crest is the place that access should be taken to Old Cheney Road. There is only one access on Old Cheney that reaches up to Colonial Hills, and that is Hickory Crest. It is difficult to get out to Old Cheney from the interior of that section. There is another access point yet to be built that is part of the Black Forest Estates plat (Carveth) which has a connection that goes to Colonial Hills; however, that access is very close to what will be a signalized intersection at the road that goes in east of Brewskys and accesses the office park and hotel off of Old Cheney. It will be much too close to that signalized intersection to ever warrant a signal. Hickory Crest is actually 850' from 70<sup>th</sup> Street and while closer than Public Works would like, it is the only other place that is rational to put a signal to get people out of Colonial Hills and onto Old Cheney Road. There are only about 2 dozen homes that access Old Cheney at Pheasant Run on the north side. We have this problem in a number of places in town. The fact is that lining these access points up so that in effect you have collectors across from collectors giving access back into the interior makes a lot of sense. He believes the staff's first preference is Hickory Crest and he thinks there is a reason for it. The Fairchilds have agreed to disagree with the applicant on this connection.

Hunzeker also stated that the Fairchilds will insist that the agreements be finalized before City Council action on this plat. He believes that they can reach agreement.

There was no testimony in opposition.

Additional comments by the Applicant

Seacrest informed the Commission that he was told in a staff meeting that Public Works and Planning that staff could support either access, Hickory Crest or Pheasant Run. The issue here is that both access points are on this applicant's land. The best solution is Pheasant Run so they get their right-in and right-out movements. If the access is Hickory Crest, it tempts Fairchild to seek commercial rezoning. The Comprehensive Plan shows their property as acreage residential.

Seacrest also observed that if another light is added at Hickory Crest, it makes it easier for cut-through traffic to avoid the light at 70<sup>th</sup>. 800' does not meet the standard for separation of lights.

Steward pondered that if that intersection became a signalized intersection, and Old Cheney is widened and becomes a much more high volume traffic carrier, does that not put some pressure on change of zone and use at the intersection on the four corners? Seacrest's response was that the Hickory Crest access would encourage more opportunity to seek commercial.

Seacrest also informed the Commission that his clients do not want both access points. An acreage does not need two access points and this would require reconfiguring their lots again.

Public hearing was closed.

**CHANGE OF ZONE NO. 3238**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

March 21, 2001

Steward moved approval, seconded by Newman and carried 7-0: Krieser, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Duvall and Schwinn absent.

**PRELIMINARY PLAT NO. 00001, HAWKSWOOD ESTATES**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

March 21, 2001

Hunter moved to approve the Planning staff recommendation of conditional approval, with the amendments as requested by Seacrest, seconded by Steward.

Hunter commented that this is one of the first times she has seen the Fire Dept. not want streets put in, but maybe it makes sense with acreage development. In listening to this whole situation this brings back the Colonial Hills discussion when street accesses were not put in and nobody wanted accesses going into Pheasant Run.

Steward is convinced that there would be increased avoidance traffic from Old Cheney to South 70<sup>th</sup> if the access were the more near intersection, whether signalized or not. But basically, he is supporting this as presented on three points: merit, principle and precedence. As pointed out earlier by Seacrest, we are beginning to face the issues of acreages being annexed and incorporated and revised to a more urban density. This neighborhood has done an exceptional job of working with surrounding neighbors and working through this process. It seems that the city has some responsibilities that don't fit the ordinary standard in these cases and that's the principle. If we put these acreages this close, then we have responsibility to the original landowners that is different than if it was a raw development.

This sets a precedence for what, how and what flexibility and diversity we are willing to project for the next one.

Newman echoed Hunter's comments. We are all still smarting a little bit from Colonial Hills in that there was no connectivity and if it would have been thought about ahead of time, we wouldn't come up against that 20 years later. We need to keep the character of the neighborhood and respect the neighborhoods. The outcry from the neighbors for the Pheasant Run connection is overwhelming.

Carlson noted that Colonial Hills is left with Hickory Crest and he wonders if that is going to continue to be a traffic issue. Will the Pheasant Run connection eliminate the light at Hickory Crest? He agrees that the testimony of the neighbors is compelling, but he is not sure it's clear.

Hunter further observed that the development that was trying to be passed at the time was a development that was south of Colonial Hills and they proposed an access on Pheasant Run which would come out on Old Cheney. If that development would still go through, that connector would be in place. But, the big difference is that this is an acreage development and Colonial Hills is not. Bayer echoed the precedence point. He is thrilled that we have come up with something that preserves the acreage environment in the urban area.

Motion for conditional approval, with amendments requested by the applicant, carried 7-0: Krieser, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Duvall and Schwinn absent.

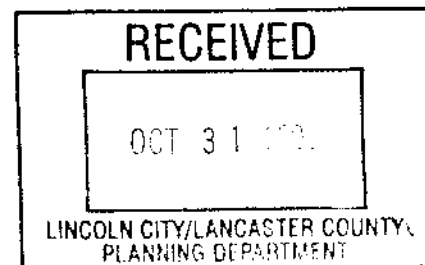


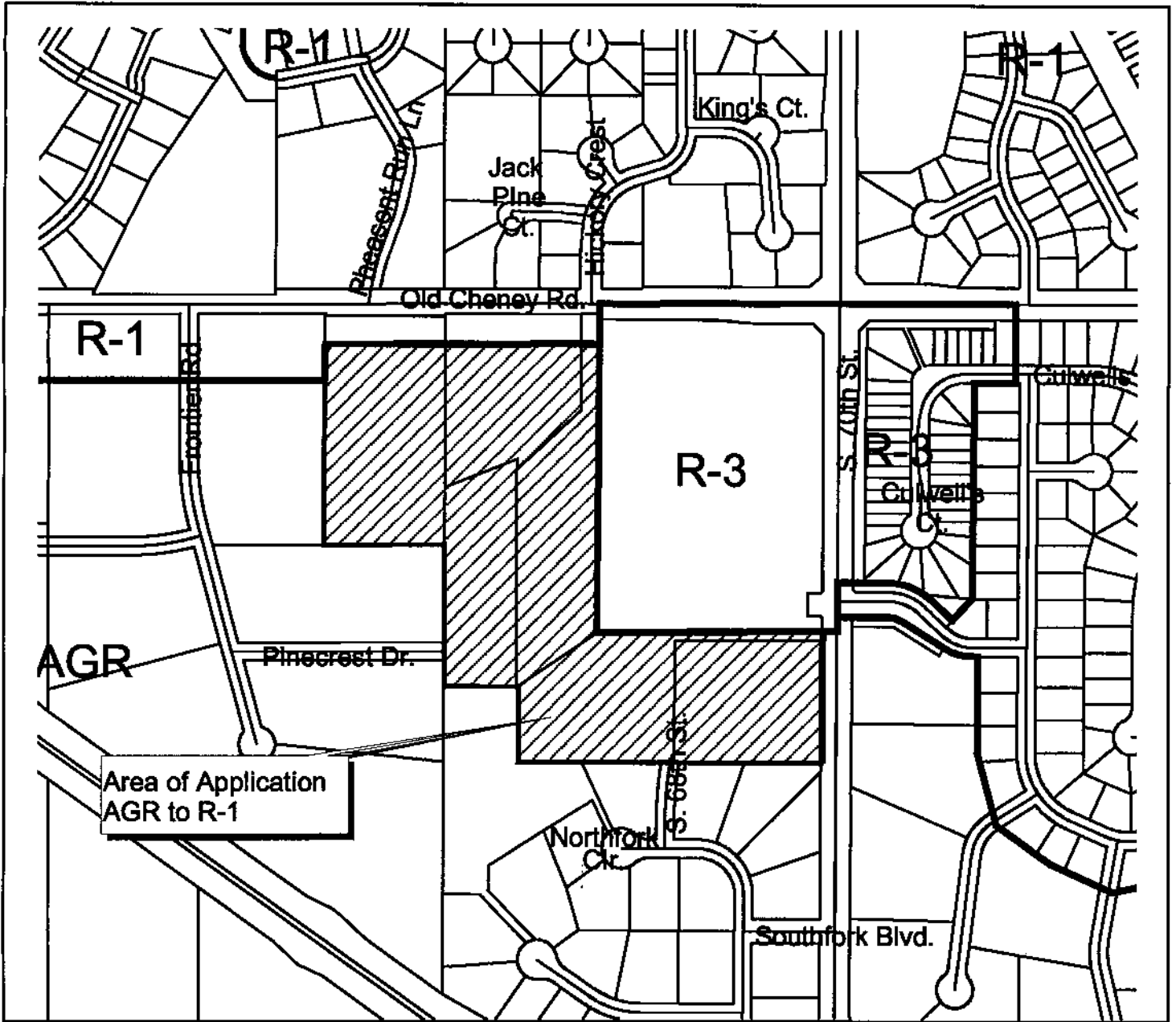
**LEGAL DESCRIPTION**  
**PARCEL 2**  
**CHANGE OF ZONE**  
**("AGR" TO "R-1")**

A LEGAL DESCRIPTION FOR CHANGE OF ZONE PURPOSES FOR A TRACT OF LAND COMPOSED OF LOTS 52 I.T., 55 I.T., AND 71 I.T., AND A PORTION OF LOTS 54 I.T., 57 I.T., 139 I.T., ALL LOCATED IN THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6<sup>TH</sup> P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 139 I.T., THENCE ON AN ASSUMED BEARING OF SOUTH 00 DEGREES 13 MINUTES 24 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 139 I.T., A DISTANCE OF 93.00 FEET TO A POINT, SAID POINT BEING THE TRUE POINT OF BEGINNING, THENCE NORTH 89 DEGREES 48 MINUTES 25 SECONDS EAST ALONG A LINE 133.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 914.49 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID LOT 54 I.T., THENCE SOUTH 00 DEGREES 24 MINUTES 44 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 54 I.T., A DISTANCE OF 953.35 FEET TO THE SOUTHEAST CORNER OF SAID LOT 54 I.T., THENCE NORTH 89 DEGREES 48 MINUTES 25 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 71 I.T., A DISTANCE OF 762.04 FEET TO THE NORTHEAST CORNER OF SAID LOT 71 I.T., THENCE SOUTH 00 DEGREES 25 MINUTES 58 SECONDS WEST ALONG THE EAST LINE OF SAID LOTS 71 I.T., AND 55 I.T., A DISTANCE OF 439.45 FEET TO THE SOUTHEAST CORNER OF SAID LOT 55 I.T., THENCE NORTH 89 DEGREES 50 MINUTES 46 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOTS 55 I.T., AND 71 I.T., A DISTANCE OF 1021.74 FEET TO THE SOUTHWEST CORNER OF SAID LOT 71 I.T., THENCE NORTH 00 DEGREES 11 MINUTES 25 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 71 I.T., A DISTANCE OF 250.75 FEET TO THE NORTHWEST CORNER OF SAID LOT 71 I.T., THENCE NORTH 89 DEGREES 51 MINUTES 49 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 52 I.T., A DISTANCE OF 249.88 FEET TO THE SOUTHWEST CORNER OF SAID LOT 52 I.T., THENCE NORTH 00 DEGREES 14 MINUTES 27 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 52 I.T., A DISTANCE OF 467.58 FEET TO THE SOUTHEAST CORNER OF SAID LOT 139 I.T., THENCE SOUTH 89 DEGREES 50 MINUTES 24 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 139 I.T., A DISTANCE OF 400.13 FEET TO THE SOUTHWEST CORNER OF SAID LOT 139 I.T., THENCE NORTH 00 DEGREES 13 MINUTES 24 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 139 I.T., A DISTANCE OF 666.58 FEET TO THE TRUE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 28.63 ACRES, OR 1,247,249.73 SQUARE FEET MORE OR LESS.

JANUARY 31, 2000 (10:16AM)  
F:\Projects\980600\mikej\ZONEP2.I.01



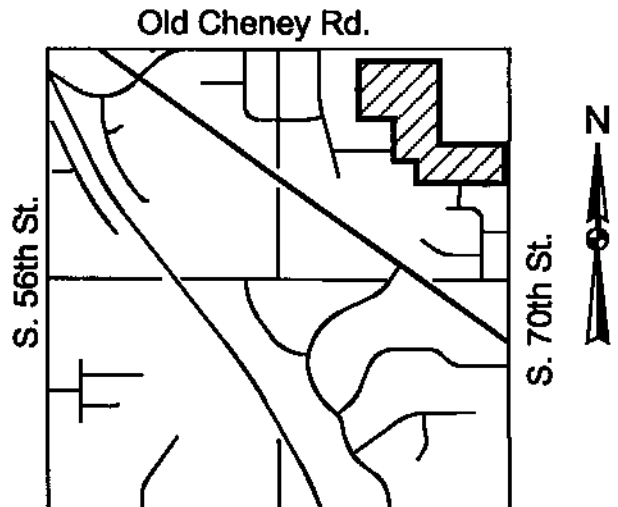
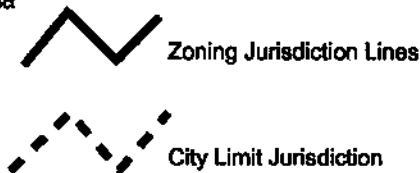


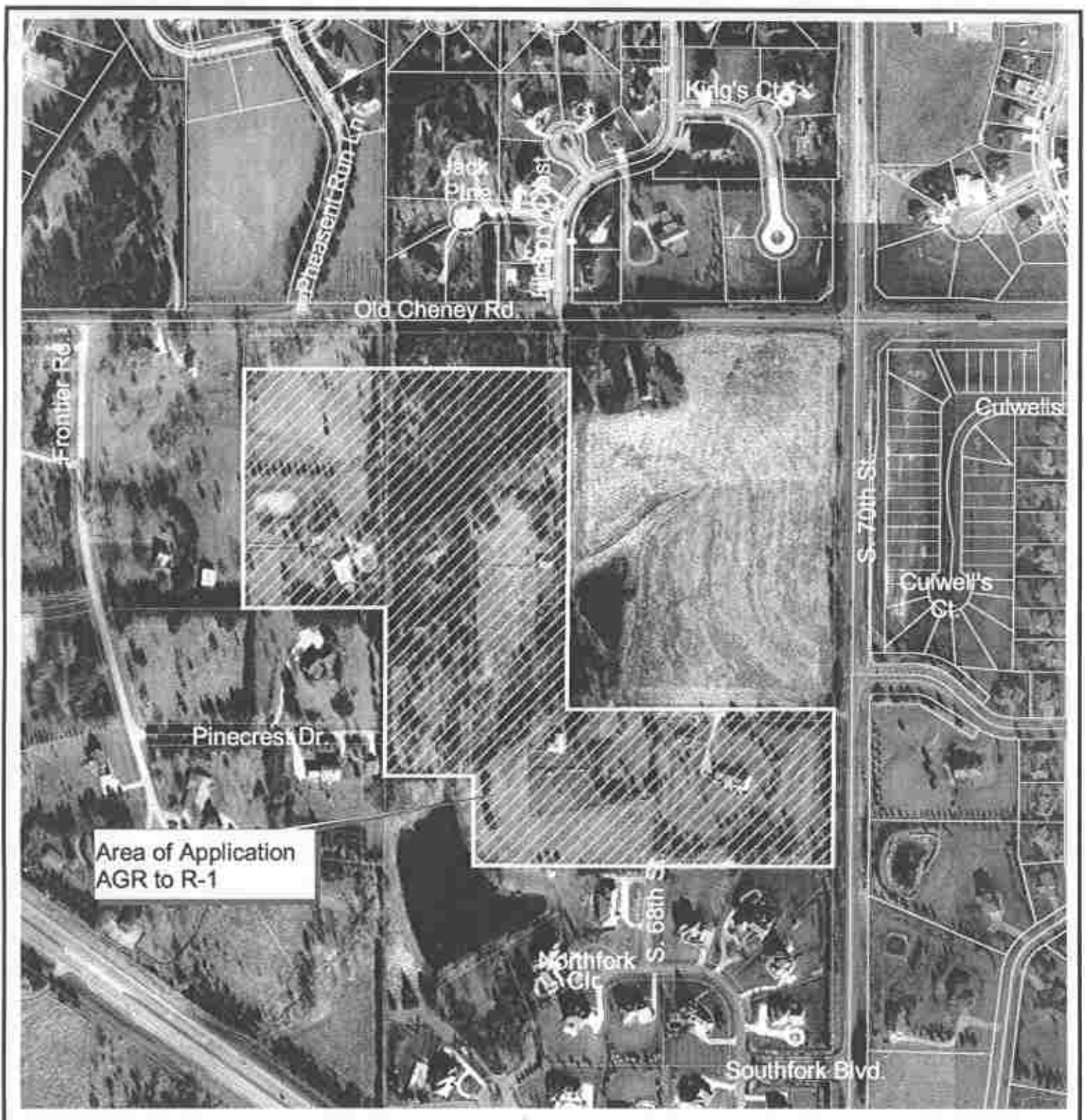
**Change of Zone #3238  
Hawkswood Estates  
S. 70th & Old Cheney Rd.**

**Zoning:**

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation 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. 16 T9N R7E





**Change of Zone #3238  
Hawkswood Estates  
S. 70th & Old Cheney Rd.**



Sheet 2 of 2

Date: 2/13/01

Photograph Date: 1997 027

(p.151 - Cont'd Public Hearing - 10/18/00)

KENT SEACREST  
DANAY KALKOWSKI

**SEACREST & KALKOWSKI, P.C.**

1111 LINCOLN MALL, SUITE 350  
LINCOLN, NEBRASKA 68508-3905

TELEPHONE (402) 435-6000  
FACSIMILE (402) 435-6100  
E-MAIL: sk@sklaw.inetnebr.com

October 13, 2000

Kathleen Sellman, Director  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: Change of Zone 3238, Change of Zone 3239 and Preliminary Plat 00001  
Hawkswood Estates

Dear Kathleen:

We have been advised by the Planning Department that our request to add a cul-de-sac on South 68<sup>th</sup> Street requires our office to resubmit our Preliminary Plat showing the cul-de-sac. In the next week we will be resubmitting the Preliminary Plat for staff review and comments. Therefore, we ask that you withdraw Change of Zone 3239 and put Change of Zone 3238 and Preliminary Plat 00001 on pending until our revised Preliminary Plat can be scheduled for public hearing.

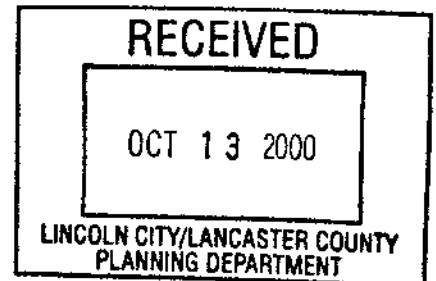
Thank you for your attention to this matter. If you have any questions, please do not hesitate to call our office.

Sincerely,



KENT SEACREST  
For the Firm

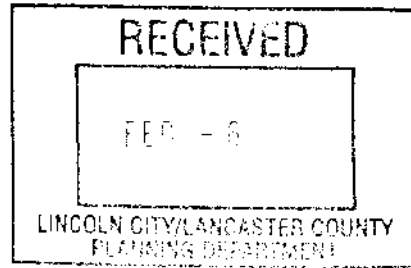
cc: Jack Lynch  
Diane Oldfather



# SEACREST & KALKOWSKI, P.C.

1111 LINCOLN MALL, SUITE 350  
LINCOLN, NEBRASKA 68508-3905

TELEPHONE (402) 435-6000  
FACSIMILE (402) 435-6100  
E-MAIL: sk@sklaw.inetnebr.com



KENT SEACREST  
DANAY KALKOWSKI

February 6, 2001

## HAND DELIVERY

Ray Hill  
Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: Change of Zone 3238, Hawkswood Estates

Dear Ray:

We hereby request that Change of Zone 3238 be amended to reflect changing AGR to R-1 instead of R-3. If you have any questions regarding this request, please do not hesitate to contact our office.

Very truly yours,

A handwritten signature in cursive script that reads "Kent".

KENT SEACREST  
For the Firm

IN OPPOSITION

ITEM NO. 4.1a&b:

CHANGE OF ZONE NO. 3238

PREL. PLAT NO. 00001 - Hawkswood Estates

(p.141 - CONT'D PUBLIC HEARING - 2/21/01)

6805 Old Cheney Rd.  
Lincoln, NE 68516  
November 22, 2000

Mr. Ray Hill  
Lincoln/Lancaster Planning Dept.  
555 So. 10th St.  
Lincoln, NE 68508

Dear Ray:

We have just viewed the most recent Preliminary Plat Site Plan of Hawkswood Estates, dated 10/31/00.

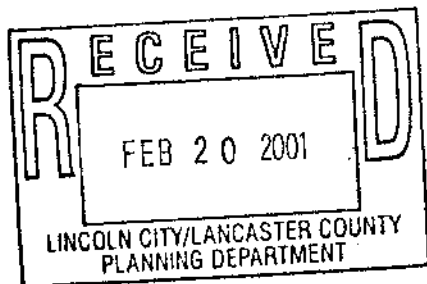
Please be aware that we are not a part of that entity. Our names should not appear on their "Owners & Developers" list. Also, our property should have been deleted from their "Legal description".

The Hawkswood Estates Preliminary Plat Site Plan also shows parts of our property being added to Lots 20 & 21 of Block 2. This was not with our knowledge & approval.

Please share this information with the Planning Commission.

Sincerely,

*Jane C. Fairchild*  
Jane C. Fairchild



(Item No. 4.1a&b: p.79: Cont'd Public Hearing 3/21/01)

**Arthur I. Zygielbaum**  
**6601 Pinecrest Dr.**  
**Lincoln, NE 68516**

February 20, 2001

City of Lincoln Planning Commission

Ref: February 21, 2001, Agenda Item: 4.1b Preliminary Plat No. 00001, Hawkswood Estates

We live at 6601 Pinecrest Drive in Sheldon Heights. Our property abuts the area being considered for rezoning. We are writing in strong support of the planned change. In addition we wish to comment on issues of street routing and use of property.

As demonstrated by my helping the City develop a strong Beale Slough Master Plan and my current membership on the Comprehensive Plan Committee, I am strongly committed to Lincoln as my home.

The citizens of Lincoln have faith that their City government will insure their quality of life. Lincoln has an obligation to maintain their expectations of community and environment. Expansion must not be done at the untoward expense of the warm character of the older parts of town. Nor must it be done at the undue expense of those of us who settled into newly annexed low-density areas.

Overall, we strongly support the modified R-1 zoning for the affected area. In fact, we expect to pursue a similar zoning change for the Sheldon Heights area with our neighbors. This change protects and maintains the rural environment that we sought when we purchased our house three years ago. It allows us to continue the life-style that helped bring us to Lincoln.

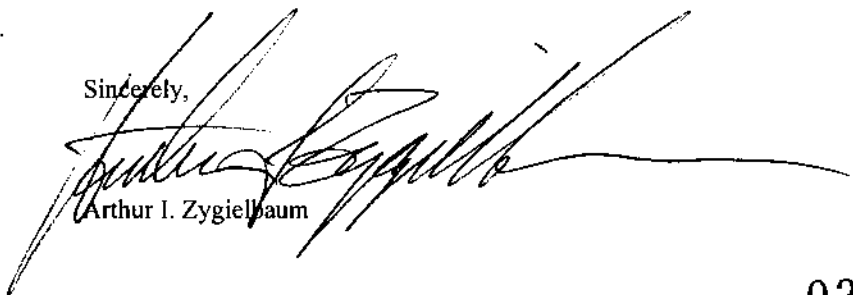
We understand that Planning Department staff disagrees with some of the provisions of the proposed change. With due respect to their talent and dedication, we ask that the proposed Hawkswood estate plan be adopted intact. In particular, the quality of the life we have come to expect would be severely compromised if Pinecrest is not platted as shown. We are willing to accept parking restrictions to only one side of the street, as requested by the fire department. We believe that the cul-de-sac arrangement will serve the area's low density housing well and will not adversely impact our neighbors or us.

We likewise lend our support to other specifics of the proposed plan. We do not believe it in the interests of the community to extend 68<sup>th</sup> Street north. Rather it should remain as a cul-de-sac. Further, to avoid potential traffic problems, noise, and accident hazards we are strongly support the Pheasant Run Lane northern access to Hawkswood Estates rather than the suggested access at Hickory Crest Road.

Finally, we wish to protest any action that would place the property on the southwest corner of 70<sup>th</sup> Street and Old Cheney into commercial use. Given the new development at 70<sup>th</sup> and Highway 2 as well as the commercial activity at Old Cheney and Highway 2, the community need for local services has been appropriately accommodated.

Thank you for considering our views.

Sincerely,

  
Arthur I. Zygielbaum

## Southfork Homeowners Association

February 20, 2001

Planning Commission  
Lincoln, Nebraska

The Southfork Homeowner's Association is supporting the development proposed for the Hawkswood Neighborhood. Specifically, we support the plan for 68<sup>th</sup> Street to be made a Cul-de-sac. This plan will help retain the quiet nature of our neighborhood. This is extremely important to us.

Additionally, we believe that the rest of the development as proposed will blend in well with the other adjacent neighborhoods. This includes Pinecrest being developed into a Cul-de-sac and Pheasant Run connecting to Old Cheney Road. We also support the Fairchild land being developed as non-commercial.

Thank you for your attention to Neighborhood Associations and our investment in our community.

Sincerely,



Christena Baker  
President



**EDENTON SOUTH HOMEOWNERS ASSOCIATION  
P.O. BOX 67084  
LINCOLN, NE 68506**

February 19, 2001

Planning Commission Chair  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508

Dear Planning Commission Chair:

Edenton South subdivision is located directly across 70<sup>th</sup> Street from the Fairchild Tract of land at the intersection of Old Chaney and 70<sup>th</sup> Street. This letter is to confirm that the majority of the Board members of the Edenton South Homeowners Association (ESHA) support the Hawkswood Estate proposal. In particular their plan to have their rural route road running from Stevenson's Ridge Road and having the outlet at Pheasant Run. We feel that this may help to eliminate some of the current traffic congestion at the Hickory Crest Street's intersection with Old Chaney. We are also strongly opposed to any commercial development of the Fairchild Tract. We hope you will support the Hawkswood proposal and wish to make it know for the record that the ESHA supports its.

If anyone should have any questions about our support of your proposal, feel free to direct them to me. I can be reached by phone at 402-483-7898 or by e-mail at [MJS4835665@aol.com](mailto:MJS4835665@aol.com).

Best wishes,



Marc J. Schniederjans, President  
Edenton South Homeowners Association

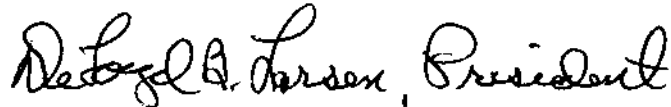
Planning Committee, Chairperson  
555 South 10th Street  
Lincoln, Nebraska

February 18, 2001

The Edenton Homeowners Association (consisting of 72 Townhomes and 150 Single Family Homes in the area east of 70th street and south of Glynoaks Drive and north of Old Cheney Road) Board of Directors have voted to approve the Hawkswood Estates Development Plan. This approval includes the proposed Old Cheney Road access at the intersection across from Pheasant Run Lane. We support this access rather than an access across from Hickory Crest Road. The Edenton Board of Directors also favors 68th street ending as a culdesac in this development and not extending through to Stevens Ridge Road.

In addition the Edenton Board of Directors are strongly opposed to any Commercial Development of the Fairchild property in the area of South 70th Street and Old Cheney Road.

Respectively,



Edenton Homeowners Association  
Board of Directors

*Board of Directors:*

Kuno Smits	Lynn Murman
Dayle Williamson	Dennis Rader
John Cedarberg	William Reinsch
Richard Dam	Robert Sittig