

City Council Introduction: **Monday**, August 6, 2001
Public Hearing: **Monday**, August 13, 2001, at **1:30 p.m.**

Bill No. 01R-213

FACTSHEET

TITLE: **WAIVER OF DESIGN STANDARDS NO. 01011**, requested by Jim C. Hille, to waive street lights within the Tallow Wood Addition, on property generally located at Hickory Crest Road and Jack Pine Court.

STAFF RECOMMENDATION: Denial.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 07/11/01 and 07/25/01
Administrative Action: 07/25/01

RECOMMENDATION: Approval (9-0: Krieser, Hunter, Steward, Newman, Carlson, Taylor, Duvall, Schwinn and Bayer voting 'yes').

FINDINGS OF FACT:

1. The Planning staff recommendation to deny this waiver request is based upon the "Analysis" as set forth on p.3, concluding that the area is inside the city limits and should be developed at city standards in accordance with the City of Lincoln Design Standards; this subdivision should be treated no differently than the adjacent development; the developers should fulfill the commitments they made in the Subdivision Agreement for Tallow Wood Addition; and a waiver of the street light requirements in this urban residential subdivision would not promote health, safety and welfare.
2. The applicant's testimony is found on p.5-6, and the record consists of one letter in support (p.13). The applicant also submitted the signatures of the other property owners in the Tallow Wood Community Unit Plan. Hille submitted that the area is sufficiently lit by the two existing light fixtures.
3. There was no testimony in opposition.
4. On July 25, 2001, the Planning Commission disagreed with the staff recommendation and voted 9-0 to recommend approval of the waiver request. (See Minutes, p.6).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: July 30, 2001

REVIEWED BY: _____

DATE: July 30, 2001

REFERENCE NUMBER: FS\CC\FSW01011

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Waiver of Design Standards #01011

DATE: June 27, 2001

PROPOSAL: Jim C. Hille is requesting waiver of design standards for street lights within Tallow Wood Addition

GENERAL INFORMATION:

APPLICANT: Jim C. Hille
6711 Jack Pine Court
Lincoln, NE 68516

LOCATION: Hickory Crest Road and Jack Pine Court

LEGAL DESCRIPTION: Tallow Wood Addition and Jack Pine Court, located in the SE1/4 of Section 9, T9N, R7E of the 6th P.M., Lincoln, Lancaster County, Nebraska.

SIZE: 4.9 acres, more or less

EXISTING ZONING: R-1 Residential

EXISTING LAND USE: Residential

SURROUNDING LAND USE AND ZONING: R-1 Residential to the north, west and east, with AGR Agricultural Residential to the south across Old Cheney Road. Existing single family residences are on Jack Pine Court and Hickory Crest Road.

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan specifies this area as an urban residential.

HISTORY:

1979 This area was converted from A-A Rural and Public Use to R-1 Residential in the **1979 Zoning Update**.

June 3, 1996 City Council accepted Tallow Wood Preliminary Plat No. 96007, which created 4 lots on a cul-de-sac. At the same time, they approved Special Permit No. 1615 for the Tallow Wood Community Unit Plan.

July 31, 1996 Planning Commission approved Tallow Wood Addition Final Plat No. 96028.

Jan. 6, 1997 City Council changed the name of Tallow Wood Circle to Jack Pine Court.

July 31, 1998 The date by which private street lights were required to be installed per the Subdivision Agreement accompanying the Tallow Wood Addition Final Plat. The improvements are nearly three years overdue.

SPECIFIC INFORMATION:

UTILITIES: Available

TRAFFIC ANALYSIS: Jack Pine Court is not shown in the Existing or Future Functional Street and Road Classification.

PUBLIC SERVICE: The closest fire station is #6, located at Highway 2 and S. 48th Street. The Comprehensive Plan proposes that this station be relocated to S. 70th Street and Pioneers Blvd.

ANALYSIS:

1. This application has come forward as a result of City Attorney work on overdue sureties. The applicant states that, due to pre-existing lighting conditions, the property owners on Jack Pine Circle find additional light objectionable. Lot 1, Tallow Wood Addition has two ornamental light poles located in the courtyard between the house and the garage. They provide bright, even illumination for the private property on Lot 1 but not for Jack Pine Court.
2. The sidewalk is located on the south side of Jack Pine Court and is poorly lit, especially in contrast with the brightly lit private property across the street. A key principle of Crime Prevention Through Environmental Design (CPTED) is to encourage natural surveillance - the placement of physical features, activities and people in such a way as to maximize visibility. This includes lighting public walkways.
3. The Public Works and Utilities Department reports, "the subdivision ordinance requires street lighting and Public Works cannot support the requested waiver."
4. The Police Department states that they would oppose this waiver: "...all subdivisions should be required to provide adequate lighting. We feel that well lit areas provide for a safer environment and also reduce crime. We understand that the current property owners are asking for the waiver but we feel that public safety overrides property owners concerns."
5. Hickory Crest Road in the adjacent subdivision has street lights. Tallow Wood Addition is similar in character to adjacent development and should provide the infrastructure improvements guaranteed in the Subdivision Agreement.

STAFF CONCLUSION:

1. The area is inside the city limits and should be developed at city standards in accordance with the City of Lincoln Design Standards.

2. This subdivision should be treated no differently than the adjacent development.
3. The developers should fulfil the commitments they made in the Subdivision Agreement for Tallow Wood Addition.
4. A waiver of the street light requirements in this urban residential subdivision would not promote health, safety and welfare.

STAFF RECOMMENDATION:

Denial

Prepared by:

Jason Reynolds
Planner

WAIVER OF DESIGN STANDARDS NO. 01011

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 11, 2001

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

Planning staff recommendation: Denial.

Proponents

1. **Mark Hunzeker** appeared on behalf of **Jim Hille** who had to leave today's meeting and thus requests a two-week deferral.

Duvall made a motion to defer, with continued public hearing and administrative action scheduled for July 25, 2001, seconded by Krieser and carried 7-0: Krieser, Newman, Duvall, Carlson, Steward, Schwinn and Bayer voting 'yes'; Taylor and Hunter absent.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 25, 2001

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

Planning staff recommendation: Denial.

Proponents

1. **Jim Hille**, 6711 Jack Pine Court, testified on behalf of the residents of Tallow Wood Addition, a community unit plan comprised of four single family residences. This is a request to waive the design standard for a single light fixture to be located on Jack Pine Court. Hille submitted a letter signed by the other property owners in support.

The reason for the request is that there are two pre-existing light fixtures on private properties. There is a larger residence and associated garage to the north and three other residences. Hille showed photographs of the existing two light fixtures on the property to the north.

The neighbors request to waive the requirement because these two existing fixtures provide ample lighting for Jack Pine Court. Hille noted that the staff report states that the existing sidewalk is poorly lit in contrast with the brightly lit private property across the street. Hille suggested that is because of the brightness of the two existing light fixtures. Hille took readings of the foot candles in the area and the reading on Jack Pine Court was equal to or higher than two other conditions. Lighting is relative to the placement of the fixture, curvature of road, etc., and Hille suggested that he can find a comparable lighting level to Jack Pine Court in many other areas. It is not underlit. The concern is that

it will become an overlit condition by installing the new fixture with the two existing fixtures. Hille has escrowed the funds and acknowledged that he has delayed installing the fixture. This is a community unit plan and if for some reason in the future the two fixtures were removed, it is the responsibility of the residents to address the issue because it is on a private roadway. He accepts that responsibility.

Hille has pursued this waiver because the Law Department has advised him to install the light fixture because it is overdue. Hille then communicated with the neighbors and they have asked him to pursue the waiver. If this is denied, he will install the light.

There was no testimony in opposition.

Carlson asked what would happen if the other two lights would somehow go away. Jason Reynolds of Planning staff stated that it would have to be taken care of outside of the subdivision ordinance because it is a private roadway. A street lighting district does not apply to a private roadway. The neighbors could get together and install the street lighting.

Dennis Bartels of Public Works presumes that if the requirement is waived, there would be no requirement that that street be lit. The neighbors could put one up. The standard procedure on private road street lights is that the engineering plan shows the light intensity that meets design standards and it is enforced through Building & Safety. Building & Safety ascertains that they have installed the fixture and the bond is released. It is private maintenance. The enforcement would be through the Law Department or the special permit where they got permission to install the private road and private lighting.

Public hearing was closed.

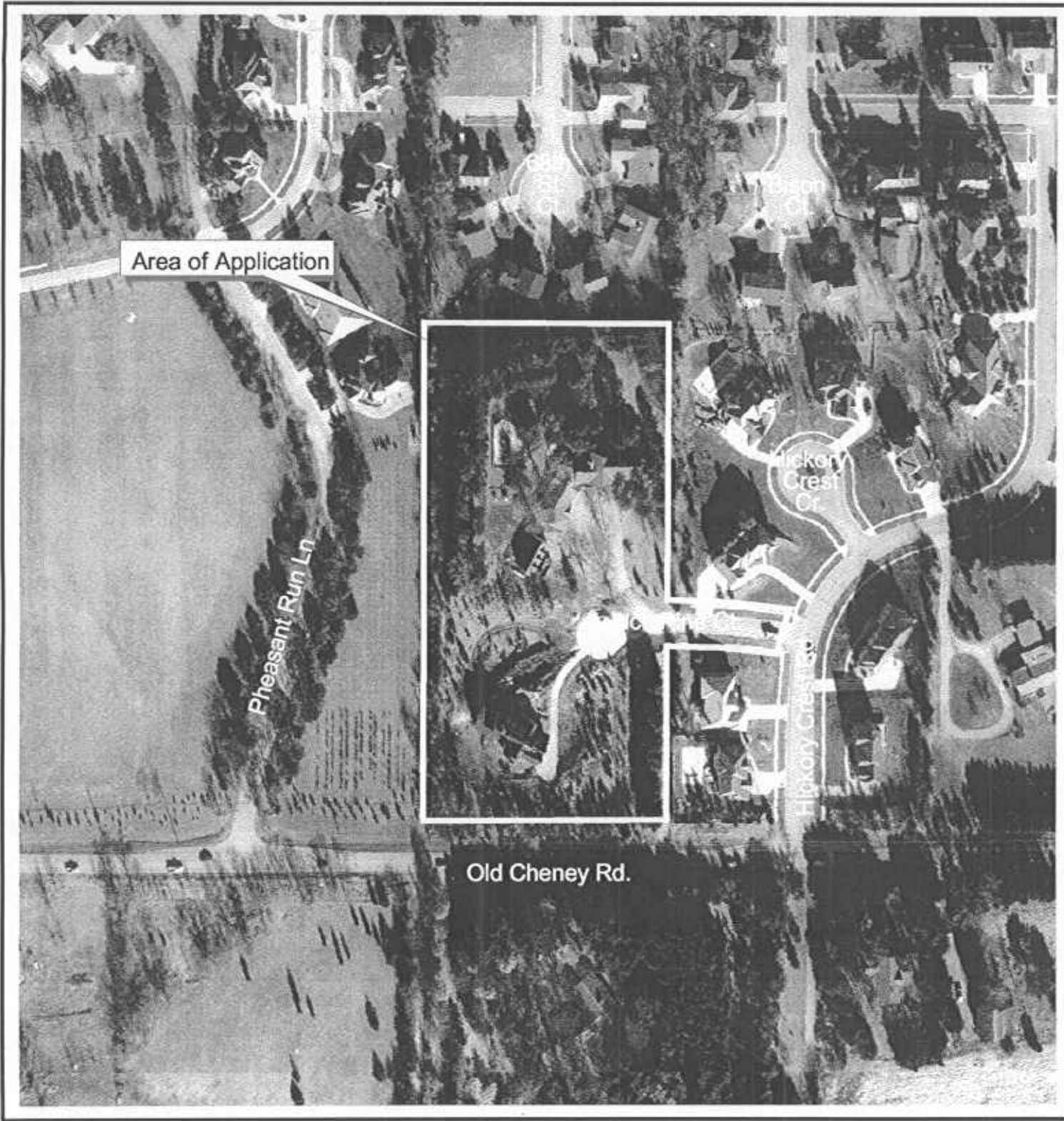
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 25, 2001

Schwinn moved approval of the waiver, seconded by Duvall.

Newman believes that street lights are a personal preference. If this is their land, let them take care of it.

Motion for approval carried 9-0: Krieser, Hunter, Steward, Taylor, Newman, Duvall, Carlson, Schwinn and Bayer voting 'yes'.



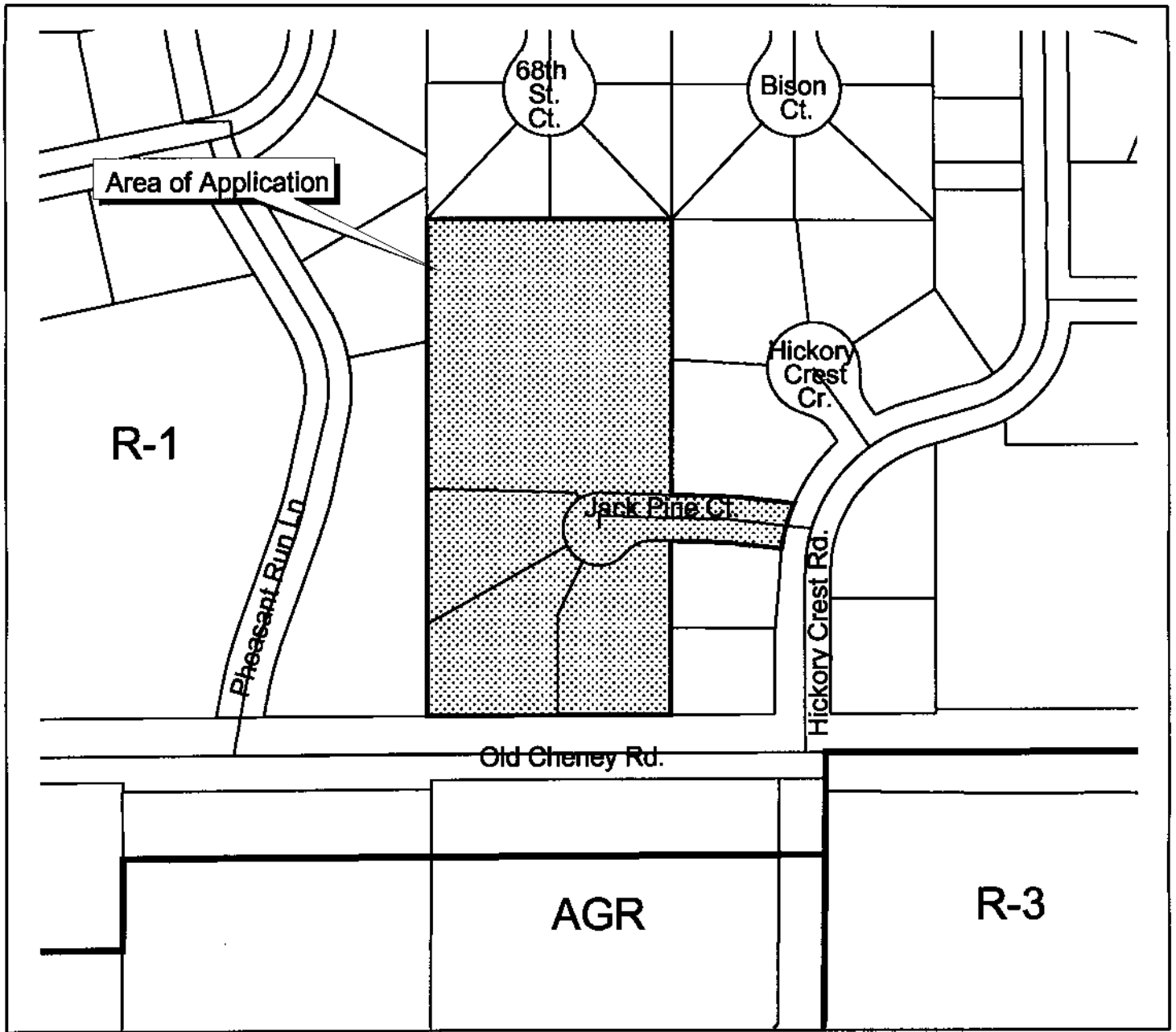
**Waiver of Design Standards #01011
70th & Old Cheney Rd.**



6-27-01

Photograph Date: 1997 007

Lincoln City - Lancaster County Planning Dept.

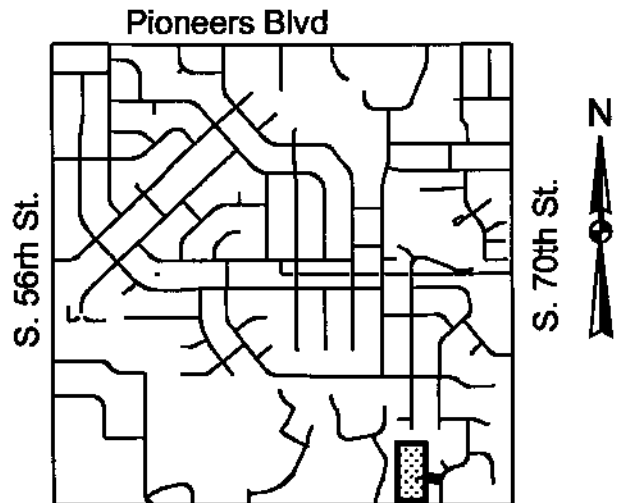
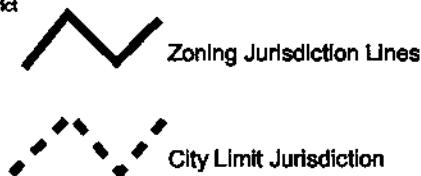


**Waiver of Design Standards #01011
70th & Old Cheney Rd.**

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

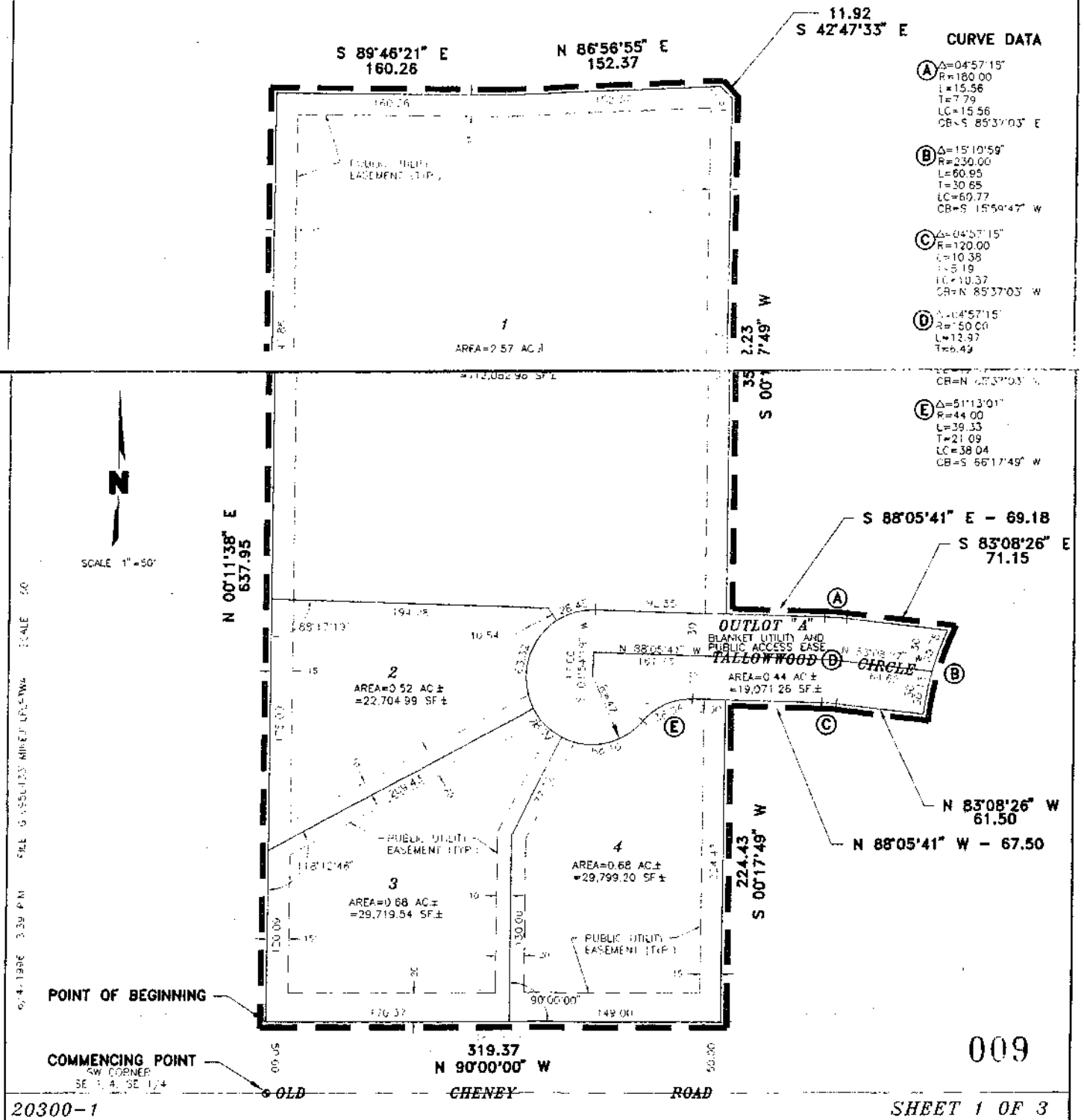
One Square Mile
Sec. 9 T9N R7E



6-27-01 008

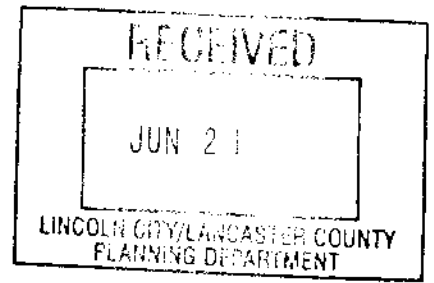
TALLOW WOOD ADDITION

FINAL PLAT



009

M e m o r a n d u m



[REDACTED]

To: Jason Reynolds, Planning Department
From: Charles W. Baker, Public Works & Utilities *CB*
Subject: Waiver of Design Standards - Revision
Date: June 21, 2001
cc: Roger Figard, Nicole Fleck-Tooze

Public Works has reviewed the request of the Waiver of Design Standards for the elimination of the street light in Tallow Wood Court in Tallow Wood Addition north of Old Cheney Road at Hickory Crest Drive. The subdivision ordinance requires street lighting and Public Works cannot support the requested waiver.



MICHAEL WOOLMAN
<lpd737@CJIS.CI.LIN
COLN.NE.US >

To: Jason Reynolds <JReynolds@ci.lincoln.ne.us >
cc:
Subject:

06/21/2001 10:44
AM

Jason,

The Lincoln Police Department would oppose the Tallow Wood waiver of street light conditions. We feel that all sub divisions should be required to provide adequate lighting. We feel that well lit areas provide for a safer environment and also reduce crime. We understand that the current property owners are asking for the waiver but we feel public safety overrides property owners concerns.

Michael S. Woolman
Planning Sergeant
Lincoln Police Department

June 5, 2001

RECEIVED
JUN 06 2001
LAW DEPT.
DC9486

Nina Vejnovich
City of Lincoln Law Department
575 South 10th Street
Lincoln, NE 68508

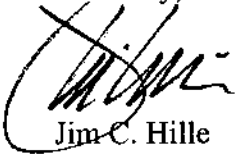
Re: Tallow Wood Addition

Dear Ms. Vejnovich:

Relating to Resolution No. PC-00302, the plat associated with Tallow Wood Addition, I have received a bid proposal for the street light as per the plat requirement. After reviewing the light location with the court property owners, they have unanimously asked that I pursue a waiver of the streetlight. Due to pre-existing lighting conditions, they find the additional light objectionable.

I have spoken with Rick Peo about this and he advised me that a waiver may be a possibility. To that end, I will be processing such a request.

Sincerely,



Jim C. Hille

Principals

John E. Sinclair
Jim C. Hille
JoAnne Kissel

Associate Principal

Daniel J. Grasso

Senior Associates

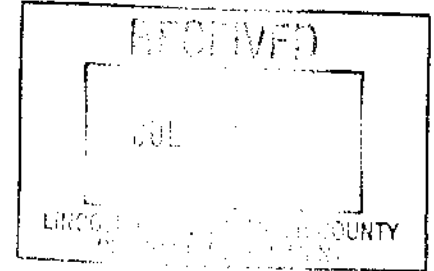
Christopher Beardslee
Gordon Hardle
Richard B. Toren

Associates

Kevin A. Clark
John F. Kay
Lizabeth A. Kuhlman

KURT W. SONDEREGGER

June 30, 2001



Lincoln-Lancaster County Planning Dept.
555 South 10th Street
Suite 213
Lincoln, NE 68508

RE: WAIVER OF DESIGN STANDARDS NO. 01011
S. 70th Street and Old Cheney Road

To Whom It May Concern,

Today I received notice of Jim Hille's WAIVER OF DESIGN STANDARDS NO. 01011 to waive the subdivision requirement for street lights, on property legally described as Tallow Wood Addition and Jack Pine Court, located in the SE ¼ of Section 9, T9N, R7E, Lancaster Country, Nebraska, generally located at Hickory Crest Road and Jack Pine Court.

My property is located at 6700 Jack Pine Court, at the west end of the circle. Both my wife Susan and I are in favor of this waiver as we see no need for a street light on our circle. My neighbor to the north, Scott Krause, has two street lights on his property which we believe give adequate light to the circle, which is slightly smaller than the standard residential street circle anyway.

Sincerely,

Kurt Sonderegger

cc: Jim Hille