

City Council Introduction: **Monday**, June 6, 2005
Public Hearing: **Monday**, June 13, 2005, at **1:30 p.m.**

Bill No. 05-65

FACTSHEET

TITLE: CHANGE OF ZONE NO. 05024, from AG Agricultural District to R-3 Residential District, requested by Brian D. Carstens and Associates on behalf of Hartland Homes, Inc., on property generally located north of Fletcher Avenue and west of North 14th Street.

STAFF RECOMMENDATION: Approval

ASSOCIATED REQUESTS: Annexation No. 05006 (05-64); Street Vacation No. 05002 (05-66) and Letter of Appeal to Special Permit No. 05015, Hartland's Garden Valley Community Unit Plan (05R-109).

FINDINGS OF FACT:

1. This proposed change of zone request was heard before the Planning Commission at the same time as the associated Annexation No. 05006, Hartland's Garden Valley Community Unit Plan (Special Permit No. 05015) and Street Vacation No. 05002.
2. The staff recommendation to approve the change of zone request is based upon the "Analysis" as set forth on p.4, concluding that the proposed change of zone to R-3 Residential is in conformance with the Comprehensive Plan designation of Urban Residential.
3. Testimony on behalf of the applicants is found on p.5-7.
4. Testimony in opposition to the proposed development is found on p.7-9, and the written information submitted in opposition to the proposal is found on p.17-23. The issues of the opposition include lack of infrastructure, density with the smaller lot sizes, the road network and traffic, and the impact upon existing wells.
5. The applicant's response to the opposition is found on p.10, pointing out that the Comprehensive Plan shows this property as being converted into an urban area over time. All of the infrastructure will be built and paid for by the developer.
6. On April 27, 2005, the majority of the Planning Commission agreed with the staff recommendation and voted 8-1 to recommend approval of the change of zone request. Commissioner Carlson was the dissenting vote.
7. The Planning Commission also recommended approval of the associated annexation request, subject to an annexation agreement, and found the associated street vacation request to be in conformance with the Comprehensive Plan. The Planning Commission also adopted Resolution No. PC-00922 approving the associated Hartland's Garden Valley Community Unit Plan (which has been appealed to the City Council).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 04/13/05, 04/27/05
Administrative Action: 04/27/05

RECOMMENDATION: Approval (8-1: Carroll, Pearson, Marvin, Krieser, Sunderman, Taylor, Larson and Bills-Strand voting 'yes'; Carlson voting 'no').

FACTSHEET PREPARED BY: Jean L. Walker

DATE: May 31, 2005

REVIEWED BY: _____

DATE: May 31, 2005

REFERENCE NUMBER: FS\CC\2005\CZ.05024

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for April 13, 2005 PLANNING COMMISSION MEETING

PROJECT #: Annexation #05006, Change of Zone No. 05024, Hartland's Garden Valley

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

PROPOSAL: To annex approximately 90 acres and change the zoning district from AG, Agricultural to R-3, Residential.

LOCATION: Generally located north of Fletcher and west of N. 14th Street.

LAND AREA: Approximately 90 acres, more or less.

CONCLUSION: With conditions, the request is in conformance with the Comprehensive Plan.

RECOMMENDATION:

Annexation

Conditional approval

Change of Zone

Approval

GENERAL INFORMATION:

LEGAL DESCRIPTIONS: See attached.

EXISTING ZONING: AG, Agricultural.

EXISTING LAND USE: Undeveloped/acreage.

SURROUNDING LAND USE AND ZONING:

North:	Undeveloped	AG
South:	Undeveloped/acreage	AG
East:	Residential/undeveloped	AG
West:	Acreage	AG

ASSOCIATED APPLICATIONS: Special Permit #05015 and Street and Alley Vacation #05002.

COMPREHENSIVE PLAN SPECIFICATIONS: The ANNEXATION POLICY is found on pages F-154 and 155 of the 2025 Comprehensive Plan.

F-25 This area is shown as urban residential.

F-29 Most of the area is shown in Tier 1, however it appears a small northwest portion is in Tier 2.

F-31 The extreme eastern portion is shown in Priority A, the remainder of the area shown in Tier 1 is indicated as Priority B. Tier 2 does not delineate priority areas.

HISTORY: This area was zoned AA, Rural and Public Use until it was updated to AG, Agricultural during the 1979 zoning update.

UTILITIES: The Public Works and Utilities Department indicated that there is currently no project identified in the 2004-2010 Capital Improvement Program showing the extension of the trunk sewer into this area. An agreement must address the phasing and financial responsibility of the extensions required to serve this plat.

Water is available to the area. The extension of mains into and along this site is required.

There is an existing 70' easement for overhead electrical powerlines.

The Lincoln Fire Department did not indicate any concerns.

TOPOGRAPHY: There is an existing drainage swale which is identified as a flood corridor. The site plan indicates this area in the required flood corridor easement.

TRAFFIC ANALYSIS: Humphrey and Pennsylvania Avenues are shown to be improved to 2 lanes plus a center turn lane. The Comprehensive Plan indicates Humphrey Avenue to have 120' of right of way. The Public Works and Utilities Department worked with the developer to design road improvements and right of way widths to facilitate the flow of traffic coming from and going to the east and west of this property. The City agreed to a boulevard concept on both Humphrey and Pennsylvania Avenues each with 84' of right of way. The site plan reflects this agreement.

The Comprehensive Plan indicates a trail to be located along Humphrey Avenue. Planning and Parks Department staff met and discussed the best location for the trail. Staff determined that either the north side of Humphrey Avenue or Alvo Road would be the best location. The north portion of Humphrey Avenue is not part of this project.

ANALYSIS:

1. Annexation policy:

- ! Land which is remote from the limits of the City of Lincoln will not be annexed; land which is contiguous and generally urban in character may be annexed; and land which is engulfed by the City should be annexed.
- ! Annexation generally implies the opportunity to access all City services. Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (i.e., water, sanitary sewer) and may include specific or general plans for the private financing of improvements to the

infrastructure supporting or contributing to the land uses in the annexed area.

! Plans for the provision of services within the areas considered for annexation should be carefully coordinated with the Capital Improvements Program of the city and the county."

2. This request meets the annexation policy, provided that the annexation agreement provides for the extension of utilities necessary to serve this project.
3. The request for R-3, Residential is in conformance with the Comprehensive Plan designation of Urban Residential.

Prepared by:

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

DATE: March 31, 2005

APPLICANT: Hartland Homes, Inc.

OWNER: Hartland Homes, Inc. John and Linda Hershberger
PO Box 22787 1000 Fletcher Avenue
Lincoln, NE 68542 Lincoln, NE 68521
(402)477-6668 (402)477-7142

CONTACT: Brian D. Carstens and Associates
601 Old Cheney Road, Suite C
Lincoln, NE 68512
(402)434-2424

**ANNEXATION NO. 05006,
CHANGE OF ZONE NO. 05024,
SPECIAL PERMIT NO. 05015,
HARTLAND'S GARDEN VALLEY COMMUNITY UNIT PLAN
and
STREET & ALLEY VACATION NO. 05002**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 13, 2005

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

Staff recommendation: Approval of the annexation, subject to an annexation agreement; approval of the change of zone; and conditional approval of the community unit plan.

Ex Parte Communications: None.

Becky Horner of Planning staff submitted a letter from the applicant asking for a two-week deferral to advertise an additional waiver.

Taylor moved to defer two weeks, with continued public hearing and action scheduled for April 27, 2005, seconded by Carroll and carried 9-0: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 27, 2005

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

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Becky Horner of Planning staff submitted additional information for the record, including an e-mail in opposition and the Public Works recommendation on the additional waiver of curb and gutter.

Proponents

1. Brian Carstens appeared on behalf of **Hartland Homes**, and explained that this is a proposed community unit plan for 324 sf lots located on N. 14th Street (with Fletcher to the south, Humphrey is a platted ½ street that is not open, Pennsylvania is a platted street that is not open), surrounded by existing acreages on two sides and undeveloped land to the north, with Stone Bridge Creek to the east.

This project consists of 24 acres of common and green space. An overhead electric line bisects the site diagonally, with existing wetlands and flood corridor easement. There will be a 2.65-acre park as part of the project.

The developer has met with the neighbors on two occasions.

Carstens submitted proposed amendments to the conditions of approval on the community unit plan and the street vacation.

As part of original submittal, staff had requested the additional street because of the block length waiver. The neighbor to the west is opposed to the additional street because of his ideas for future development. Carstens revised the block length waiver request to delete Blocks 4 and 5, and add Block 15. Block 15 is the only block length waiver that the developer is now requesting. The developer is also requesting to add the waiver of pedestrian easement in Block 15 as the neighbor does not want the easement.

The proposed amendments included language to clarify the location of sidewalks:

to complete the installation of sidewalks along both sides of the internal streets and along the south side of Humphrey, north side of Fletcher, west side of N. 14th and east side of 7th Streets as shown on the final plat within four (4) years following the approval of the final plat.

Carstens requested that Condition #2.1.1.4 be amended with regard to the requirements of the Parks Department:

- (3) A visible and accessible neighborhood park needs to be located ~~at 1.6 acres on Block 8, Lots 1 through 6 on Outlot A, Lots 36 and 37, Block 4, containing a total of approximately 2.85 acres.~~
- (4) All landscaped boulevards and medians shall be maintained by the City of Lincoln ~~developer and/or future homeowner's association.~~

With regard to the street vacation, Carstens advised that the developer will be doing a typical exchange as opposed to paying for the right-of-way on 11th Street:

4. The applicant indicated a willingness to ~~pay for~~ exchange proposed right of way for the vacated right of way.

Carlson asked for an explanation of how pedestrians will walk to the park. Carstens stated that it would basically be all of the street rights-of-way, with sidewalks on both sides. There will be common areas. The creeks are not heavily treed and it is more of a small channel. There are two culverts but they are not very large so you would be able to cross Humphrey and Pennsylvania.

2. Peter Katt appeared on behalf of **Hartland Homes**, stating that Hartland Homes is the builder in Lincoln of affordable housing. The neighbors have some concerns including the smaller lot sizes in this development that will be 42 ft. wide. Katt submitted that as land values and lot prices have increased,

in order to still meet the needs of its customers, Hartland Homes has been forced to make some difficult choices and changes in terms of lot sizes and configurations in order to keep housing affordable. There is a mix of lot sizes in this development, but it allows for some of the homes in the neighborhood to continue to be more affordable with the smaller lot size. Lots are priced based upon how much the underlying dirt costs plus the costs to bring improvements, which is generally computed on a front foot basis.

Katt when on to state that this 90 acres was purchased last August at \$47,000/acre. Of that 90 acres, only 70 acres is buildable, making this some of the most expensive dirt per lot in Lincoln, but Hartland Homes had little other choice in terms of availability for a reasonable chance to put lots on the market yet this year. What we see on the map in terms of green space areas is the direct result of the Southeast Upper Salt Creek requirements that preserve minimum flood corridor widths up to the 150 acres. The green space is devoted to those requirements. Previous to those new watershed requirements, most of this green space would have been able to have been developed with more lots and the lots could have been bigger. Thus, there is a cost and consequence in terms of what happens in development as a result of other choices that we make, and this development is a clear indication of that. This is a good illustration of what happens when costs are increased and more standards are put in place.

In addition, Katt pointed out that the 324 homeowners that will move into this subdivision will be obligated through their association to maintain this green space in perpetuity. That is another consequence and another choice.

Opposition

1. Keith Spilker, 900 Fletcher Avenue, challenged that the developer knew about the green spaces when he purchased this property. The developer also had a choice whether to purchase the property at \$47,000/acre.

Spilker is opposed to the project as a whole because of lack of infrastructure. It would be a novel idea if this Planning Commission would actually do some planning and get some infrastructure in place before these developments come about. We have Fallbrook to the west, Stone Bridge Creek to the east and the recently approved Links development, and yet the infrastructure for traffic is not there. He suggested that this development at least be delayed for 3-5 years to allow that infrastructure to be put in place.

Spilker urged that the additional street recommended by the staff is not needed. That street would result in loss of green space and trees.

Spilker is opposed to the smaller lot sizes. It comes down to more of a difference in vision between the neighbors and the developer. This is an area surrounded by acreages and acreage development. The minimum lot size waiver is needed for 90 of the lots. The neighbors believe the developer should be required to maintain the 50' width, 6000 sq. ft. lots. Spilker believes the developer can do affordable housing on a slightly larger lot, which will increase values and improve the neighborhood.

Spilker is hopeful that the drainage issues can be worked out so that future development towards the west would not have to be redone or add to the drainage. It is already there naturally through the green spaces.

Spilker is requesting that there be some sort of left turn lane on Pennsylvania Avenue so people coming from the east could make a left hand turn into his property.

2. James Zimmer, 6320 N. 7th, testified in opposition with concerns about the pollution to the wells that could be generated from the new lots. His property is sort of surrounded by this development and he depends on a well. He is concerned about the confusion that already exists between County and City as to who is going to respond to emergencies. The attitude at the meeting with the developer was that "I should have known that the city was going to grow into this area and should have been prepared for these issues". He is also concerned about traffic. If we already have these traffic problems in other places, why would we want to create another traffic problem? How are all of these people going to get out? 14th is going to be closed for 22 months. The 7th Street bridge is going to be abandoned. Apartments are being developed at 1st & Fletcher. Why would we do this without the infrastructure in place?

Zimmer is also opposed to the smaller lot sizes. There is no reason to drag down his property values because of Mr. Hartman's business decision. Hartman told the neighbors at the meeting that they should "get over it". That is the wrong attitude. If the city would give him city water, Zimmer would not be opposed, but the city does not have the money and is not going to bring the water to his property. Zimmer also believes that this subdivision should be delayed until the infrastructure is in place. The traffic is a huge issue. There is nothing between 1st and 14th, and 14th Street will be closed for 22 months.

3. Charlie Vogel, 921 Fletcher, testified in opposition. He has lived in his very nice, unique home in a very good neighborhood since 1976. The infrastructure is the most important thing. There are four developments all the way around his property. The 7th Street bridge is going to be closed, so that takes one access, bringing 7th Street down to Fletcher. 14th Street will be taken out in 2006-2008 and they are going to be shut off from going that direction. Then at 1st & Fletcher with The Links, they are going to close off that road. Which way are we going to go? We have to go to 14th, back north to Arbor Road, then back to 27th, and wherever we can get back on the interstate to head west or south. The neighbors have had two meetings and everyone has objected. They are going to put a water main down Fletcher Street, so that will close half of that road. There are a lot of problems coming out to this area and he believes the Planning Commission should consider delaying this project. There is no reason to have anything smaller than a 50' lot. The Commissioners need to drive down Fletcher between 1st and 14th before making a decision.

4. Bruce Spilker, 280 Pennsylvania Avenue, agreed with previous testimony regarding the infrastructure, lot sizes and water. If this developer could bring in a nice development and put the infrastructure in place like Abel did with Fallbrook, it would be more acceptable. He does not understand the rush. By putting in more green space, they are needing the smaller lots. Spilker suggested that there are already problems with green space in Bicentennial as far as maintenance.

If you bring in smaller lots, you bring in smaller incomes who cannot pay their homeowner association dues. The neighbors know the property is going to be developed, but they are requesting that the time be taken to put the infrastructure in place first.

5. Melinda Kramer, 6300 N. 7th, is opposed to this development because of the traffic problems. You are going to have people coming out of this development onto a dirt road having to go through the county roads back into city roads. There will be construction traffic in front of her house on a dirt road. The infrastructure is a concern. Have there been any studies done on the maximum density? Will there be enough fire service available with acceptable response time? These people are going to be paying taxes for services that might not even be available. They are going to have tiny houses right next to each other with 5' setbacks. The schools are already overcrowded. There are other homeowners in the area that are opposed. There needs to be some kind of buffer zone.

6. Larry Ogden, 1300 Fletcher, agreed with the previous testimony in opposition. He is the closest acreage. The first lot will be 50' from his. Most of the people in the area have purchased their homes within the last 15 years as acreages. They did not want neighbors that close. His is an acreage development on AG land. The main concern is the small lot sizes. There will be congestion with people parking on the streets. This is an agricultural area consisting of acreages.

Staff questions

Pearson inquired as to the typical lot dimensions in R-3 zoning. Horner advised that the R-3 zoning is 6,000 sq. ft. lot size with 50' minimum width. There is a minimum depth of 90' in the subdivision ordinance.

Carlson asked staff to address the discussion in the staff report about changing the street layout for pedestrian function. Horner responded, stating that the applicant showed the Planning Commission a layout that added the street south of the proposed Bobby Lane. The addition of this street (which the applicant is proposing to eliminate), will shorten the block length and provide better pedestrian orientation to facilitate pedestrian movement when the adjacent property develops. The staff report indicates that the Comprehensive Plan specifically calls for shorter block lengths. The recommendation to deny the extended block length and pedestrian easement comes directly from the Comprehensive Plan.

Horner also advised that the children would go to Fredstrom School. She believes that LPS plans to build a school in Fallbrook. LPS did receive this application and did not oppose it.

Carlson is worried about pedestrian motions through the development.

Carroll inquired about the proposed amendments. With the exception of the block length waiver and pedestrian easement waiver, staff agrees with the motions to amend. This proposal is approximately three dwelling units per acre, and the R-3 density for a community unit plan is 6.96 dwelling units per acre. There is quite a bit of the area that could be developed that is being utilized as open and green space.

Bills-Strand inquired whether there is any other place in the community with this kind of density abutting other acreages. Horner suggested that the density is quite low and the community unit plan is intended for situations like this where you would do a cluster development. The overall density is consistent with the typical residential subdivision in Lincoln. Hartland Homes has several developments across Lincoln with 42' wide lots, e.g. Cardinal Heights. Thirty percent of this development is the smaller lots. The majority of the lots are larger than the 42' wide lot.

Response by the Applicant

Katt reminded the Commission that this property is shown in the Comprehensive Plan as being converted over time into an urban area in the City of Lincoln; it is one of our natural sewer basins; the infrastructure is there; at the boundaries of this property, the infrastructure is in place, and in order for this development to proceed, all of the city infrastructure will be built and paid for by the applicant. This proposal will be developed in phases. This will be Hartland Homes' newest development in Lincoln. In terms of phasing, it will start in the corner where the sewer connection is; the water line is being extended as part of Stone Bridge Creek. This development will have two accesses to N. 14th Street before going to the next phase, and the very last phase will be that which will connect to 7th Street. Through the phasing of this project, the neighbors will have the timing that they are requesting and the infrastructure will be extended in a logical fashion.

With regard to the proximity to acreages, Katt pointed out that the Comprehensive Plan does not contemplate that acreages will remain in this area. It contemplates that these acreages will be converted over time to urban density lots—it is a much more efficient land use. This is a low density development, under four dwelling units per acre. The current Comprehensive Plan strategies talk more about 5-6 dwelling units per acre. While the lots are small, the overall density of the development is below where the Comprehensive Plan targets the goal.

With regard to delay, Katt advised that Hartland Homes bought this property because his project on N. 56th has been on hold for 6-7 years. He is out of land. He does not have a place to build homes. If you delay this approval, you put Hartland Homes out of business.

ANNEXATION NO. 05006.

ACTION BY PLANNING COMMISSION:

April 27, 2005

Marvin moved approval, seconded by Krieser.

In a nutshell, Marvin believes this represents the conflicts we are going to have with acreage owners. You have to balance the infrastructure with the fact that the city is growing and we have to add lots. He believes it is a issue of balancing. You are not ever going to get a perfect situation where a five lane road is out there and all the amenities you expect are in place. There is not going to be a place where it does not conflict with acreages. He believes this proposal balances that as well as it can.

Motion for approval carried 8-1: Carroll, Pearson, Marvin, Krieser, Sunderman, Taylor, Larson and Bills-Strand voting 'yes'; Carlson voting 'no'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 05024

ACTION BY PLANNING COMMISSION:

April 27, 2005

Carroll moved approval, seconded by Krieser and carried 8-1: Carroll, Pearson, Marvin, Krieser, Sunderman, Taylor, Larson and Bills-Strand voting 'yes'; Carlson voting 'no'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 05015

ACTION BY PLANNING COMMISSION:

April 27, 2005

Carroll moved to approve the staff recommendation of conditional approval, with the amendments requested by the applicant, except for the block length waiver on Block 15, seconded by Marvin.

Pearson made a motion to amend to deny the waivers of average lot width and lot area. Motion died for lack of a second.

Motion for conditional approval, with amendments, carried 7-2: Carroll, Marvin, Krieser, Sunderman, Taylor, Larson and Bills-Strand voting 'yes'; Pearson and Carlson voting 'no'. This is final action, unless appealed to the City Council within 14 days.

STREET & ALLEY VACATION NO. 05002

ACTION BY PLANNING COMMISSION:

April 27, 2005

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



2002 aerial

Change of Zone #05024 N. 14th & Humphrey Ave.

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. 35 T11N R6E



Zoning Jurisdiction Lines

City Limit Jurisdiction



0012

HARTLAND'S GARDEN VALLEY

CHANGE OF ZONE FROM 'AG' TO 'R-3'

LEGAL DESCRIPTION:

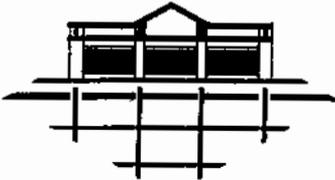
Lots 1 through 4, Block 1, Lots 1 and 4, Block 2 and the North Half of Lot 2, Block 2, and That part of North 11th Street which lies between Blocks 1 and 2, Garden Valley, Located in the Southeast Quarter of Section 35, Township 11 North, Range 6 East of the 6th. P.M., Lincoln, Lancaster County Nebraska, and more particularly described as follows:

Beginning at the Northeast corner of said Block 1; thence along the East line of said Block, said line also being the West Right-of-Way line of North 14th Street S 00°12'41" W a distance of 1267.75' to the Southeast corner of said Block 1; thence along the North Right-of-Way line of Southwick Avenue, now known as Pennsylvania Avenue, N 89°51'18" W a distance of 1946.44' to the Southwest corner of said Lot 4, Block 2; thence along the West line of said Lots 4 and 1, N 00°21'42" E a distance of 949.20' to a point on the West line of said Lot 1; thence N 89°54'10" W a distance of 626.06' to a point on the East line of said Lot 2; thence along said line, said line also being the East Right-of-Way line of North 7th Street N 00°25'29" E a distance of 316.23' to the Northwest corner of said Lot 2, Block 2; thence along the North line of said Blocks 2 and 1, said line also being the South Right-of-Way line of Humphrey Avenue S 89°55'07" E a distance of 2568.83'; to the point of beginning, having an area of 2661359.87 square feet or 61.096 acres, more or less.

and

Lot 2 and Lot 3 except the South 7.00 feet, Block 4, and the East Half of Lots 1 and 4 except the South 7.00 feet, Block 3, and That part of North 11th Street which lies between Blocks 3 and 4, Garden Valley, Located in the Southeast Quarter of Section 35, Township 11 North, Range 6 East of the 6th. P.M., Lincoln, Lancaster County Nebraska, and more particularly described as follows:

Beginning at the intersection of the East line of said Lot 3, Block 4 and the North Right-of-Way line of Fletcher Avenue; thence along the North Right-of-Way line of Fletcher Avenue N 89°46'39" W a distance of 1004.56' to a point on the North Right-of-Way line of Fletcher Avenue; thence N 00°18'05" E a distance of 1255.54' to a point on the North line of said Lot 1, Block 3; thence along the North line of said Blocks 3 and 4, said line also being the South Right-of-Way line of Southwick Avenue S 89°51'18" E a distance of 1003.83' to the Northeast corner of said Lot 2, Block 4; thence along the East line of said Lots 2 and 3, Block 4 for the next three calls S 00°17'39" W a distance of 599.34'; thence S 00°21'07" W a distance of 374.41'; thence S 00°06'04" W a distance of 283.15' to the point of beginning, having an area of 1261076.4 square feet or 28.95 acres, more or less.



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

March 15, 2005

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

RE: HARTLAND'S GARDEN VALLEY – NORTH 14TH AND HUMPHREY AVE.
ANNEXATION- CHANGE OF ZONE- SPECIAL PERMIT (C.U.P.)-
AND ASSOCIATED STREET AND ALLEY VACATIONS

Dear Marvin,

On behalf of Hartland Homes, Inc, we are pleased to finally submit the above mentioned applications for your review. As you are aware, we have been working with City Staff for several months to address various issues regarding this project. It appears we have all come to the same understanding and therefore, we submit this application.

Hartland's Garden Valley is located on the West side of North 14th Street from Fletcher Avenue to Humphrey Avenue. The site contains 90.05 acres and it currently zoned 'AG'. The site is bisected by a small drainage area with delineated wetlands. We will be crossing these wetlands in only 4 locations. There is also a high transmission power line running through the southeastern portion of the site.

We are proposing a change of zone from 'AG' to 'R-3' with a C.U.P. for 326 single family residential lots, ranging in size from approximately 41' x 110' to 99' x 125'. This will allow for a varied mixture of different home sizes to be built within the neighborhood. All streets, water and sewer will be 'public' infrastructure.

We are proposing the 'Boulevard Concept' for the future 'collector' streets of Humphrey Avenue and Pennsylvania Avenue. This will allow for on street parking in front of the homes, as well as permitting one thru lane of traffic. Left turning lanes will be installed in the medians at all intersections.

We are also requesting annexation of the Hartland's Garden Valley project at this time.

We will also be requesting a street and alley vacation for the existing North 11th Street from Fletcher Avenue to Humphrey Avenue.

0014

Page 2

We are requesting the following waivers to the subdivision ordinance;

1. Waiver of the preliminary plat process, as the Special Permit/ C.U.P. plans show the same information.
2. Waiver of Block Length in Blocks 2, 4, 7 & 15, as these waivers minimize the crossing of the wetland/ creek areas.
3. Average lot width, from 50 feet to 41 feet, to promote a mix of housing types.
4. Lot area from 6,000 square feet to 4,500 square feet, to promote a mix of housing types. There is also a large amount of open space within this C.U.P., due to drainage areas and the overhead power line.
5. Double frontage lots in Blocks 1 and 2. This will allow for fewer driveways to access the collector streets.
6. Pedestrian easements in Blocks 7 and 15. These blocks back up to existing drainage ways.
7. Sanitary sewer running opposite of street grade in Garden Valley Road and North 10th Street. This waiver is required to accommodate pavement and storm sewer flow to the existing drainage ways.

We are excited about this new project and look forward to working with City Staff as this project moves forward.

Please feel free to contact me if you have any further questions.

Sincerely,



Brian D. Carstens

cc. Duane Hartman- Hartland Homes
Peter Katt
Lyle Loth- ESP

Enclosures: Application for a Special Permit, Change of Zone, Street & Alley Vacation
Application Fees of \$3,245.00
24 copies of Sheet 1 of 11
8 copies of Sheets 2 thru 11 of 11
Certificate of Ownership
8-1/2" x 11" reductions of the plans
2 copies of Culvert Calculations
2 copies of Stormwater Detention Calculations

0015

REQUEST FOR 2-WEEK DEFERRAL

(p.105 - Public Hearing - 04/13/05)

ITEM NO. 3.3a,b,c;d: ANNEX.05006

CHANGE OF ZONE 05024

SPECIAL PERMIT 05015

SAV 05002



"Brian Carstens"
<brian@carstensandasociates.com>

04/12/2005 04:28 PM

To: <RHomer@ci.lincoln.ne.us>, <JWalker@ci.lincoln.ne.us>, <SHenrichsen@ci.lincoln.ne.us>, "Duane Hartman (E-mail)" <dhartman@hartlandhomes.com>, "Andrew Hartman (E-mail)" <ahartman@neb.rr.com>, "Peter Katt" <LawKatt@Pierson-Law.com>, "Lyle L. Loth (E-mail)" <lyle@espeng.com>

cc:

Subject: Harland's Garden Valley- North 14th and Humphrey

Everyone,

As per my recent phone conversation with Becky, and Duane, I am requesting that the following zoning applications be placed on pending for 2 weeks;

Annexation No. 05006
Change of Zone No. 05024
Special Permit No. 05015

We need to request an additional waiver to the subdivision ordinance to waive the installation of new curb and gutter pavement along Fletcher Ave., as there is newly installed County section asphalt paving in this area.

Also, Mr Spilker to the west of the project has requested an additional meeting with Hartland Homes to discuss the project. He has asked for the 2 week delay of Staff.

Please contact me if you have any further questions.

Brian D. Carstens

SUBMITTED AT CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION BY

Exhibit 1 - original submission for April 13th meeting,

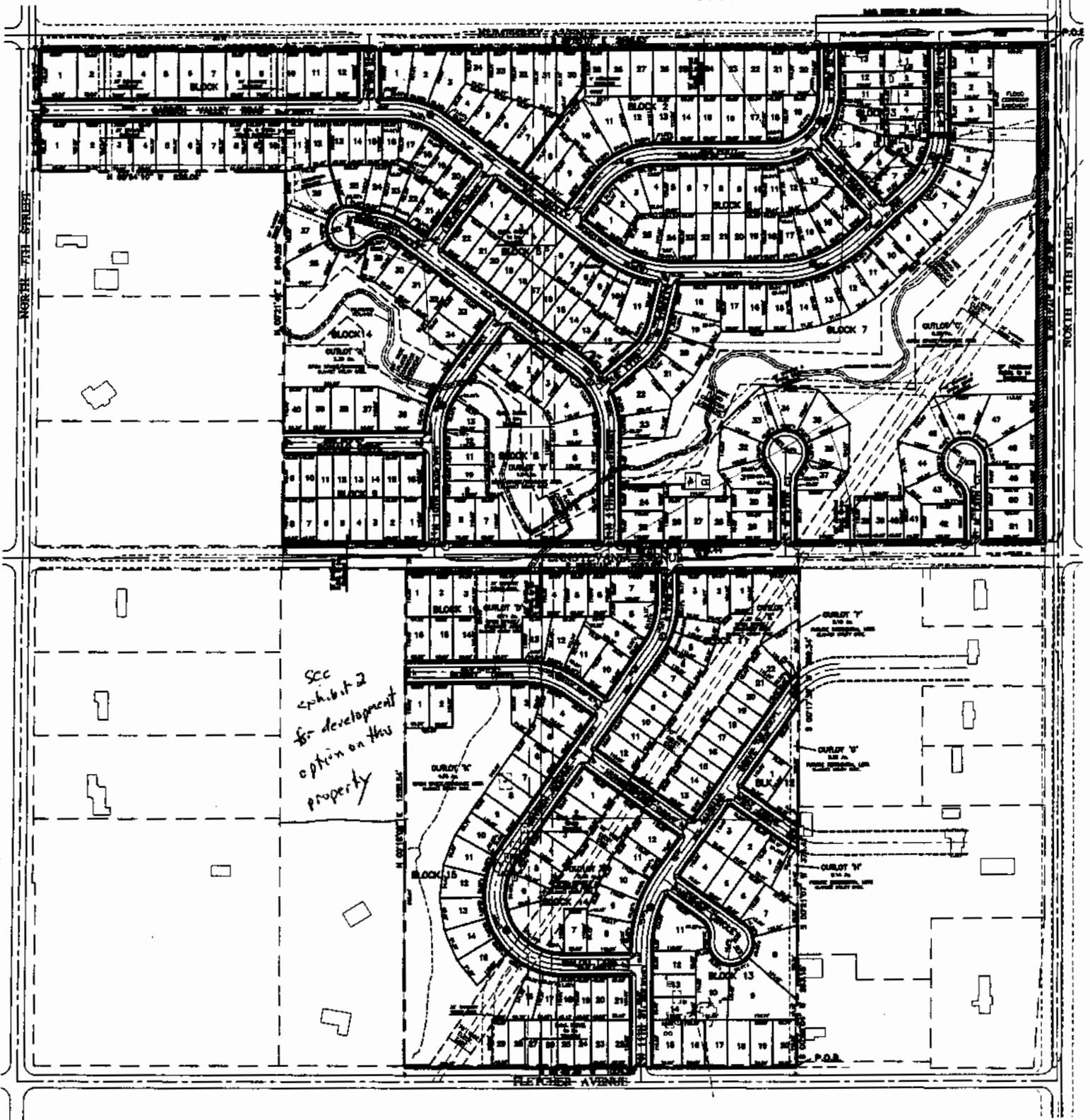
KEITH SPILKER: 4/27/05

ANNEXATION NO. 05006

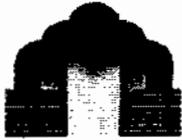
CHANGE OF ZONE NO. 05024

SPECIAL PERMIT NO. 05015

SAV.05002



Submitted 0017



Jean L Walker
04/27/2005 09:05 AM

To: "KSpilker" <kspilker@secmut.com>(p.105-Cont'd Public Hearing-4/27
cc: Marvin S Krout/Notes@Notes, Ray F Hill/Notes@Notes, Rebecca D 05)
Horner/Notes@Notes, rpeo@netinfo.ci.lincoln.ne.us@Notes, Dennis D
Bartels/Notes@Notes, Chad E Blahak/Notes@Notes,
Brian@CarstensandAssociates.com, (bcc: Jean L Walker/Notes)
Subject: Re: April 27 Planning Commission Agenda item - Hartland's Garden
Valley NO. 05006, 05024, 05015 and 05002

Dear Mr. Spilker:

Thank you for your comments, which have now become part of the record. A copy has been forwarded to each Planning Commission member via e-mail this morning, and a copy will be submitted at the beginning of today's continued public hearing.

A new notification letter advising of this continued public hearing, including the additional waiver of "street design standards for curb and gutter" for Special Permit No. 05015, was mailed from the Planning Department offices on April 15, 2005. Your name does appear on our list of property owners which were notified. I do not know why you did not receive the letter addressed to Keith and Jana Spilker. This special permit also appeared in the legal ad published in the Lincoln Journal Star on April 19, 2005, including the additional waiver of curb and gutter. It is true that the staff report on the internet is the original staff report and it is my understanding that the Public Works department will be making their recommendation on the additional waiver of curb and gutter at today's hearing.

--Jean Walker, Administrative Officer
City-County Planning Department
441-6365
"KSpilker" <kspilker@secmut.com>



"KSpilker"
<kspilker@secmut.co
m>
04/27/2005 08:40 AM

To: <plan@lincoln.ne.gov>
cc:
Subject: April 27 Planning Commission Agenda item - Hartland's Garden Valley
NO. 05006, 05024, 05015 and 05002

I submit the following comments on these items.

1. Action on these applications should at a minimum be deferred. Public hearing and action was deferred from the April 13th meeting to advertise an additional waiver. The advertisement has not been completed. Information about the waiver is not available on the internet prior to this meeting. Letters were allegedly sent to neighbors in close proximity. This development is adjacent to my property and I have not received such notification. Planning staff was called on April 22 at which time a letter was promised. I am still waiting for the waiver notice.

2. I am opposed to this development at this time. The area currently has three developments under way - Fallbrook at 1st & Fletcher, Stone Bridge at 14th & Humphrey, The Links at 1st & Fletcher. Additional development is before this body today in the Stone Bridge area. Total new housing units from these developments approaches 2,000. All of this is taking place without the infrastructure to support the developments. This development should be delayed for 3-5 years giving the city time to build the infrastructure necessary. This would include street improvements scheduled for 14th street, water and sewer work on Fletcher Ave, intersection improvements at 1st and Fletcher. Approval of this development would encourage additional development north of Humphrey street. Again, the area is not ready to handle all of this

development.

3. I believe one the requirements for a developer is to work with the neighbors during the planning process. This developer, to his credit, held a preliminary meeting with neighbors on November 4th. The purpose of the meeting was to let people know he had purchased land and would be going through the development process. A rough sketch of the development was presented. The developer and his representative promised those in attendance that when a more refined plan was in place it would be presented before it went before the planning commission. This promise was not kept. The neighbors had to organize their own meeting, which was held April 26th, and invite the developer. Many of the concerns in this e-mail were conveyed. However, the ability to work out concerns with the neighbors has been forfeited as the plans are now before this body. The developer was able to work with planning staff for over five months but had no time for the neighbors who ultimately will be living beside this development. Only those who contacted the developer directly had advance access to these plans.

4. The original application to the planning department did not contain the road directly south of Bobby Drive. I will have copies of this for the meeting today titled exhibit 1. A waiver of block length was requested. Planning staff recommended denial of the block length waiver and the second street was added. I strongly oppose this second street. What was gained by the additional road 220 feet from Bobby Drive? I believe the only gain is that planning staff has a plan that contains no block waiver. Green space is desired in a neighborhood. This additional street will require removal of trees and loss of green space. The green space in question is also a natural waterway in this area. It also adds to the cost of this development. The street also has an impact on the development of property to the west. Please refer to exhibit 2. While not contemplating development I've considered options. Exhibit 2 depicts one of those options. The second street actually constrains development of this property by increasing costs and reducing the number of potential lots. The value of this property is reduced due to the increased costs. Planning staff can work on an exit on my west boundary if and when such development occurs. There is no need for the second street. In fact, one option to eliminate the block waiver would be to not vacate the south portion of 11th street at Fletcher Avenue. Earlier I asked what is gained with this street. Here is what is lost - trees and green space as well as increased costs to this and future development. All of that so that motorists can save 220 feet of driving to move in a westwardly direction. In the end a block waiver seems like a reasonable compromise for all involved.

5. The applicant is asking for a waiver of block length and square footage. A quick count of the lots shows that nearly 90 of the 324 lots proposed require a waiver. I feel that the lot waivers will add to the stereotype of NW Lincoln as a less desirable neighborhood in which to live. This in turn reduces property values in the area. A mix of housing can be achieved without the waivers. This developer specialized in first time homes and home buyers. This objective is not compromised if lots are used which conform to the zoning without the waivers. Waivers should be granted to special circumstances. The number of lots requiring the waiver indicates that this is not for an exception but rather a planned increase in density. Since that is the case maybe some other type of zoning should have been requested.

6. There is natural drainage/retention of water in this area. Applicant should be required to incorporate into the plan that this continues and that any future development to the west would not need to duplicate or add additional drainage/retention.

7. I would request that a left turn lane be incorporated into the plans off of Pennsylvania into my property. This is also shown on exhibit 2.

8. Developer and planning staff made all of the decisions concerning Pennsylvania and Humphrey Avenue without neighborhood input. Neighborhood involvement may have come to the same conclusion but we'll never know since they did not have the chance to participate in the process.

In conclusion I thank you for your time today. However, I believe the plan should be denied and placed on hold until appropriate infrastructure is in place. You have a chance to do some forward planning and better prepare the neighborhood for development. I urge you to take that step and really act as planners. You can save all current and future residents of the area the pain involved with coming back later to implement the needed infrastructure. Beyond that there are issues as defined above of concern to me which should be addressed before approval of these items.

Keith Spilker
900 Fletcher Ave.



"KSpilker"
<kspilker@secmut.com>

04/27/2005 09:04 AM

To: <plan@lincoln.ne.gov>
cc:
Subject: FW: April 27 Planning Commission Agenda item - Hartland's Garden Valley NO. 05006, 05024, 05015 and 05002

Some additional thoughts on item #5 concerning the block waivers. Consideration should be given to at least restricting the number of lots to which the waiver applies. A suggestion would be that any lots which are adjacent to other owners would not be allowed a waiver. This would leave options open to adjacent owners. In the plan submitted this type of denial of the waiver would apply to lots 1-8 in block 11, lots 13-21 in block 13, lots 38-41 in block 9. There are likely others.

Thanks again.

Keith Spilker

This letter is in reference to the meeting held April 13, 2005, concerning the proposals to build houses by Hartland Homes. Our home is at 6321 North 14th St, and we were told by Mr. Hartland that when the houses were built north of us, we would have to pay for half of the road which will be Pennsylvania Avenue.

After checking with the Planning Department we were told that it would be at the expense of the contractor since it would be of no benefit of us. We really don't want houses built there but that's beside the point.

Mr. Hartland was at our house last week and left a note to call him. When I talked to him, he advised me that the location of houses north of our home would not be built right away and won't be discussed at the meeting (April 13), and I would not have to worry about paying for Pennsylvania Ave at this time.

We don't feel we should have to pay for any of the road since it will not benefit us and would like to go on record that we object to his suggestion and want you to know how we feel. We feel the impact fees should all be assessed to the builder to pay for the road.

We don't feel it would be right to waive the lot sizes for the convenience of Mr. Hartland. It would cause the homes to be built too close together and cause more congestion in this area.

Another concern to the city should be the building of homes near a high powered electrical line. Studies have shown that it can cause cancer.

Thanks you for taking time to read this and we hope you will understand our concern about Mr. Hartland advising us that we would be responsible to pay for half of Pennsylvania Ave.

Sincerely

Roger and Judy Groetzinger
6321 N 14th St
Lincoln NE 68521

Home Phone – 742-0966

