

## **FACTSHEET**

**TITLE:** **CHANGE OF ZONE NO. 05074**, from AG Agricultural District to R-3 Residential District, requested by Ridge Development Company, on property generally located at 91<sup>st</sup> Street and Leighton Avenue.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 10/26/05 and 11/09/05  
Administrative Action: 11/09/05

**STAFF RECOMMENDATION:** Approval.

**RECOMMENDATION:** Approval (7-0: Esseks, Pearson, Larson, Carroll, Strand, Sunderman and Carlson voting 'yes'; Krieser and Taylor absent).

**ASSOCIATED REQUESTS:** Annexation Agreement (06R-72) and Annexation No. 05017 (06-58).

### **FINDINGS OF FACT:**

1. This proposed change of zone was heard in conjunction with the associated Annexation No. 05017 and Harrison Heights Preliminary Plat No. 05015, which will allow for the development of 318 residential lots.
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 change of zone is in conformance with the Comprehensive Plan.
3. The applicant's testimony is found on p.6-7.
4. There was no testimony in opposition.
5. On November 9, 2005, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend approval (Krieser and Taylor absent).
6. On November 9, 2005, the Planning Commission also voted 7-0 to recommend approval of the associated annexation, subject to an annexation agreement, and voted 7-0 to adopt Resolution No. PC-00964, approving the Harrison Heights Preliminary Plat.

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

**DATE:** April 3, 2006

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

**DATE:** April 3, 2006

**REFERENCE NUMBER:** FS\CC\2006\CZ.05074+

# LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for October 26, 2005 PLANNING COMMISSION MEETING

**\*\*As Revised and Recommended for Conditional Approval by Planning Commission:  
November 9, 2005\*\***

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.

**PROJECT #:**        **Change of Zone # 05074**  
Annexation # 05017

**PROPOSAL:**        Preliminary plat and annex approximately 90 acres to be developed with approximately 318 single-family units. A change of zone is also requested from AG Agricultural to R-3 Residential.

**LOCATION:**         91<sup>st</sup> Street & Leighton Avenue.

**LAND AREA:**       90.6 acres, more or less.

**CONCLUSION:**     The change of zone conforms to the Comprehensive Plan. Provided an annexation agreement is signed, the annexation conforms to the Comprehensive Plan for the following reasons:

- It meets the annexation policies of the Plan;
- The area to be annexed is within the future service limit;
- The area to be annexed is contiguous to the city;
- The area to be annexed is generally urban in character.

**RECOMMENDATION:**

**Change of Zone #05074**

Annexation #05017

**Approval**

Conditional Approval

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:**    Lots 9 and 10 I.T., located in the SW1/4, and Lots 5, 7, 101, and 102 I.T., located in the SE1/4, all in section 14 T10N R7E, Lancaster County, Nebraska.

**EXISTING LAND USE AND ZONING:**    Acreages, undeveloped    AG Agricultural

**SURROUNDING LAND USE AND ZONING:**

North:	Acreages	AG Agricultural
South:	Acreages	AG Agricultural
East:	Acreages	AG Agricultural
West:	Residential	R-3 and R-4 Residential

**ASSOCIATED APPLICATIONS:** Preliminary Plat #05015

**COMPREHENSIVE PLAN SPECIFICATIONS:** The 2025 Future Land Use Plan shows this area as Urban Residential. (F 25)

The proposed annexation is within the City's Future Service Limit. (F 27)

The Comprehensive Plan's Annexation Policy is found on pages F-154 and F-155 of the 2025 Comprehensive Plan. Some relevant excerpts are as follows:

The provision of municipal services shall coincide with the jurisdictional boundaries of the City – in short, it is not the intent of the City of Lincoln to extend utility services (most notably, but not necessarily limited to, water and sanitary water services) beyond the corporate limits of the City. (F 154)

The extension of water and sanitary sewer services shall be predicated upon annexation of the area by the City. City annexation shall occur before any property is provided with water, sanitary sewer, or other potential City services. (F 154)

Land which is remote or otherwise removed from the limits of the City of Lincoln will not be annexed; land which is contiguous to the City and generally urban in character may be annexed; and land which is engulfed by the City should be annexed. (F 154)

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 (e.g., 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. (F 154)

**HISTORY:**

- May 2005 Preliminary Plat #05008, Annexation #05011, and Change of Zone #05034 for Eagleton Heights had public hearing before the Planning Commission. This project did not receive final approval, and has been entirely incorporated into Harrison Heights.
- May 1979 This area was changed from AA Rural and Public Use to AG Agricultural during the zoning update.

**UTILITIES:**

- A. **Sanitary Sewer:** Sanitary Sewer is provided with the Regent Heights Trunk Sewer. However, a sewer must be constructed across land not owned by Applicant. In addition, downstream sections of existing sewer must be upsized to accommodate this development, some of which will occur in front of developed residential lots.
- B. **Water:** A 12" water main is proposed to be extended in Leighton Avenue.
- C. **Roads:** This property is served by Leighton Avenue, which is currently a 2-lane county cross-section with asphalt paving. This portion of Leighton Avenue is shown as a collector street in the Comprehensive Plan. Leighton is proposed to have 72' right of way with approximately 34' paving. The Harrison Heights preliminary plat identifies new public streets to serve future development.

- D. **Parks, Trails, and Public Service:** A trail is identified in Adams Street and has been provided through the Prairie Village Community Unit Plan. The Parks Department indicated that a neighborhood park is proposed to be provided in conjunction with a school site. The Lincoln Public Schools owns land directly north of this project for a potential school. The closest City parks are JayCee-Kahoa, Tyrell, and Mahoney Golf Course. Bethany Library is located at 1801 N. Cotner. StarTran provides weekday and Saturday service to 70<sup>th</sup> Street and Leighton Avenue. The closest hospital is Saint Elizabeth Regional Medical Center, located just south of 70<sup>th</sup> and “O” Streets.
- E. **Fire and Police Protection:** This property is currently served by the Southwest Rural Fire District and Lancaster County Sheriff. The developer will be required to reach an agreement with the rural fire district to assume any financial obligations of terminating service before the City annexes this area. Upon annexation, the Lincoln Fire and Police Departments will be responsible for providing protection to this property. For fire protection, it is anticipated that first responders would be from Station #9 (901 North Cotner Boulevard) or Station #12 (2201 S. 84<sup>th</sup> Street). The Lincoln Fire Department indicated that they find the application acceptable, but noted that limited facilities in the area may cause greater response times as development continues.
- F. **School:** This property is in the Waverly Public School District. Upon annexation, this property would become part of the Lincoln Public School District.

**ANALYSIS:**

1. This is a request to annex approximately 90 acres to be developed with 318 residential lots in order that they can be provided city services, and to change the zoning on the property from AG Agricultural to R-3 Residential.
2. The Comprehensive Plan indicates an Urban Residential designation for the area, and the R-3 district is consistent with that designation.
3. The annexation policy of the Comprehensive Plan states:

**To not extend water and sanitary sewer services beyond the city limits. Annexation shall occur before any property is provided water, sanitary sewer, and other city services.**

Water will be extended in Leighton Avenue. Sanitary sewer will be extended from the north as identified in the annexation agreement.

**Land which is contiguous and generally urban in character may be annexed.**

The area is contiguous and urban in character.

**Annexation generally implies the opportunity to access all City services.**

The area is within the future service limit and city services are accessible.

**Plans for the provision of services within the areas considered for annexation should be carefully coordinated with the Capital Improvements Program of the city.”**

Water and sanitary sewer services will be extended by the developer.

4. As a condition of the annexation agreement, the property owner will be required to compensate the public service districts from which they will be removed. This includes, but may not be limited to, the Southeast Rural Fire District.

Prepared by:

Greg Czaplewski  
441-7620, gczaplewski@lincoln.ne.gov  
Planner

**Date:** October 13, 2005

**Applicant:** Ridge Development  
8020 "O" Street  
Lincoln, NE 68510  
421.1627

**Owners:** Developments Unlimited, LLP  
8644 Executive Woods Drive  
Lincoln, NE 68512

Michael Berg, et al  
770 168 Rd  
Pleasant Dale, NE 68423

Mary Jo Swarts  
9209 Leighton Avenue  
Lincoln, NE 68507

**Contact:** DaNay Kalkowski  
Seacrest & Kalkowski  
1111 Lincoln Mall, Suite 350  
Lincoln, NE 68508  
435.6000

**ANNEXATION NO. 05017,  
CHANGE OF ZONE NO. 05074  
and  
PRELIMINARY PLAT NO. 05015,  
HARRISON HEIGHTS**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 26, 2005

Members present: Pearson, Carroll, Krieser, Sunderman, Taylor, Esseks, Larson and Carlson; Strand absent.

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

Ex Parte Communications: None.

The Clerk announced that the applicant has submitted a written request for two-week deferral.

Carroll moved to defer two weeks, with continued public hearing and action scheduled for November 9, 2005, seconded by Larson and carried 8-0: Pearson, Carroll, Krieser, Sunderman, Taylor, Esseks, Larson and Carlson voting 'yes'; Strand absent.

There was no public testimony.

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

November 9, 2005

Members present: Esseks, Pearson, Larson, Carroll, Strand, Sunderman and Carlson; Taylor and Krieser absent.

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

Ex Parte Communications: None.

Proponents

1. **DaNay Kalkowski** appeared on behalf of **Developments Unlimited**, which either owns or has a contract interest in approximately 90 acres located south of Leighton between 88<sup>th</sup> to 94<sup>th</sup> Streets. This is a request for annexation, change of zone to R-3 and a preliminary plat consisting of 318 single family lots, so the entire area will be shown as single family, which is in conformance with the Comprehensive Plan.

The developer held a neighborhood meeting on October 25<sup>th</sup>. They mailed to 90 addresses and had about 15 people attend. Their primary concern was when the sewer might get there. They are all primarily 5-acre lots to the south and east so they were curious about some of those issues. Another issue was their interest in a traffic light at 84<sup>th</sup> & Leighton Avenue.

Kalkowski submitted proposed motions to amend the annexation conditions and the preliminary plat conditions. She requested to delete Condition #2.3 on the preliminary plat because the developer is withdrawing the request to waive the pedestrian access easements. The pedestrian access easements will be shown where there are streets in excess of 1,000 feet.

Kalkowski requested to add Condition #3 to the annexation. In order to provide sewer service to this development, it may require a section of sewer that already exists in the Prairie Village development to the north to be upsized and reconstructed. While all of the work would occur in the City right-of-way, Public Works was concerned about giving the neighbors some notice. The developer has met with Public Works and the potential neighbors. Subsequent to the meeting with Public Works, the developer provided additional information to see if we do need to upsize that sewer. To give Public Works extra time to review that issue, Kalkowski requested that a condition be added to the annexation which provides that if Public Works determines it is necessary to do the upsizing, this developer will show that they have met with the neighbors and talked about what that reconstruction project might mean. This would have to be done prior to scheduling the annexation on the City Council agenda. That could affect about 12 lots. All of the reconstruction would take place within the right-of-way. It would simply be a courtesy of letting the neighbors know what might happen.

Kalkowski believes that staff agrees with these amendments.

Kalkowski believes that this will be a development that will add some nice lots to northeast Lincoln.

It was confirmed that the sewer will be gravity flow.

There was no testimony in opposition.

Greg Czapski of Planning staff agreed with the proposed changes to the conditions. He clarified that the Public Works comment, #5.2 on page 3 of the staff report, raised the issue about notifying the neighbors prior to any public hearing. Since this condition has been added to the annexation, it would need to be satisfied as part of the annexation prior to scheduling on the City Council agenda.

**ANNEXATION NO. 05017**

**ACTION BY PLANNING COMMISSION:**

November 9, 2005

Strand moved approval, with conditions, with the amendment requested by the applicant, seconded by Carroll and carried 7-0: Esseks, Pearson, Larson, Carroll, Strand, Sunderman and Carlson voting 'yes'; Krieser and Taylor absent. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 05074**

**ACTION BY PLANNING COMMISSION:**

November 9, 2005

Strand moved approval, seconded by Larson and carried 7-0: Esseks, Pearson, Larson, Carroll, Strand, Sunderman and Carlson voting 'yes'; Krieser and Taylor absent. This is a recommendation to the City Council.

**PRELIMINARY PLAT NO. 05015**

**ACTION BY PLANNING COMMISSION:**

November 9, 2005

Strand moved approval, with conditions, with the amendment as requested by the applicant, seconded by Carroll.

Pearson stated that she is opposed because it looks like a classic case of a bulldozer and putting in little boxes for homes. It just doesn't appear to her to fall into the principles of pedestrian friendly and multi-use.

Motion for conditional approval, with amendment, carried 6-1: Esseks, Larson, Carroll, Strand, Sunderman and Carlson voting 'yes'; Pearson voting 'no'; Taylor and Krieser absent. This is final action, unless appealed to the City Council.





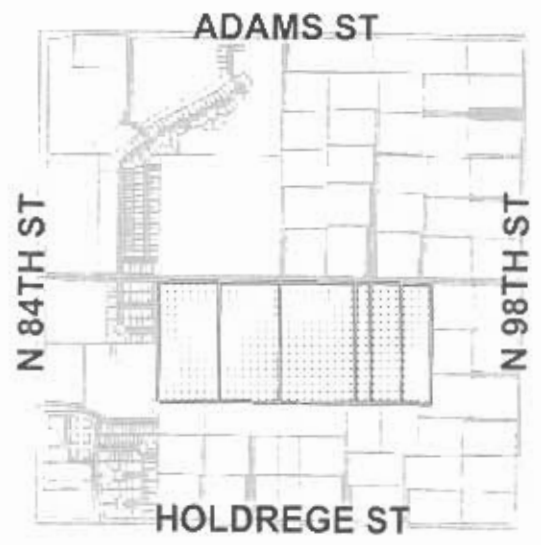
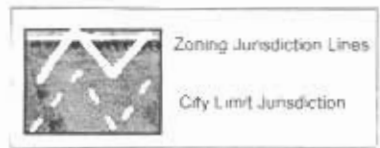
**Annexation #05017, Preliminary Plat #05015  
& Change of Zone #05074  
Harrison Heights  
N 91th St & Leighton Ave**

2005 aerial

**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. 14 T10N R07E



# SEACREST & KALKOWSKI, P.C.

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

TELEPHONE (402) 435-6000  
FACSIMILE (402) 435-6100

KENT SEACREST  
E-MAIL: kent@sk-law.com

DANAY KALKOWSKI  
E-MAIL: danay@sk-law.com

September 29, 2005

## **HAND DELIVERY**

Mr. Marvin Krout  
Planning Department  
County-City Building  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: Harrison Heights – East of 88<sup>th</sup> Street and South of Leighton Avenue

Dear Marvin:

Our office represents Developments Unlimited, LLP (“Developments”), who own or have agreements to purchase approximately 88 acres of property legally described as Lots 9 and 10, Irregular Tracts located in the Southwest Quarter, and Lots 5, 7, 101 and 102, Irregular Tracts located in the Southeast Quarter, all within Section 14, Township 10 North, Range 7 East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska (the “Property”). Developments is requesting annexation, a change of zone from AG to R-3, and a residential preliminary plat for the Property.

The west 20 acres of the Property is included within the Eagleton Heights Preliminary Plat that has been approved by Planning Commission. Developments is proposing to revise that layout to integrate it with the remainder of the Property. The enclosed applications include all of the Property and are intended to supersede the Eagleton Heights Preliminary Plat. Consequently, by means of this letter we are requesting the withdrawal of the Eagleton Heights Preliminary Plat, as well as the associated change of zone and annexation requests.

Enclosed herein please find the following:

1. Application for a Preliminary Plat.
2. Application fee.
3. Change of Zone application with submittal requirements.
4. Change of Zone fee.
5. Change of Zone legal description and exhibit.
6. Site Plan – 21 copies.
7. Drainage and Grading Plans – 9 copies.
8. Street Profile Plans – 5 copies.
9. Ownership Certificate – 1 copy.
10. Soils Report – 1 copy.
11. Off-site Sanitary sewer exhibits – 3 copies

Mark Palmer from Olsson Associates and I met with staff on September 14, 2005, to review the proposed site plan and gain preliminary comments. Staff requested that we remove the proposed pedestrian corridors through blocks that exceed the 1,000 ft. maximum length. They also requested that we show a conceptual roadway network for the existing acreages to the south and east of this development.

Public Works expressed concerns regarding the roadway width for Leighton Avenue. The recent Andersons Place Special Permit and Preliminary Plat (directly to the west of this plat) shows a 66' wide right-of-way and a 32' wide roadway section for Leighton Avenue. We are proposing the same roadway cross section and that parking be permitted on the roadway.

The following waivers are being requested for the above-mentioned project. The justification for each waiver is listed below.

1. A waiver to design standards to allow sanitary sewer mains to flow opposite street grades.

There are numerous locations that we are proposing to flow the sewer opposite street grades to avoid building a sewer main in the rear yards.

2. A waiver to the Lincoln Municipal Code to not construct pedestrian sidewalks for blocks that exceed 1,000 ft.

Our block lengths are approximately 1,100'. We have not shown pedestrian sidewalk connections due to the feedback received from the Planning Department.

We would like to request that a developer negotiation meeting be scheduled to discuss the infrastructure necessary to serve the Property and to determine whether an annexation agreement is needed. It doesn't appear that development of the Property will require the construction of any "Impact Fee Facilities".

Please contact us if you have any questions or require additional information. We thank you for your consideration of our request.

Very truly yours,

  
DANAY KALKOWSKI  
For the Firm

Enclosures

Cc: Ridge Development Company  
Southview, Inc.

## LEGAL DESCRIPTION

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF LOTS 5 I.T., 7 I.T., 9 I.T., 10 I.T., 101 I.T., AND 102 I.T., ALL LOCATED IN THE NORTH HALF OF THE SOUTH HALF OF SECTION 14, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6<sup>TH</sup> P.M., LANCASTER COUNTY, STATE OF NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 14, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID LOT 101 I.T., SAID POINT BEING **THE TRUE POINT OF BEGINNING**; THENCE EAST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, SAID LINE BEING THE NORTH LINE OF SAID LOT 101 I.T., AND THE NORTH LINE OF SAID LOTS 102 I.T., 5 I.T., AND 7 I.T., ON AN ASSUMED BEARING OF SOUTH 89 DEGREES 21 MINUTES 08 SECONDS EAST, A DISTANCE OF 1,651.60 FEET TO THE NORTHEAST CORNER OF SAID LOT 7 I.T., THENCE SOUTH 00 DEGREES 22 MINUTES 11 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 7 I.T., A DISTANCE OF 1,326.93 FEET TO THE SOUTHEAST CORNER OF SAID LOT 7 I.T., THENCE NORTH 89 DEGREES 18 MINUTES 32 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOTS 7 I.T., 5 I.T., 102 I.T., AND 101 I.T., A DISTANCE OF 1,647.60 FEET TO THE SOUTHWEST CORNER OF SAID LOT 101 I.T., SAID POINT BEING THE SOUTHEAST CORNER OF SAID LOT 9 I.T., THENCE NORTH 89 DEGREES 25 MINUTES 19 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 9 I.T., A DISTANCE OF 662.43 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9 I.T., SAID POINT BEING THE SOUTHEAST CORNER OF SAID LOT 10 I.T., THENCE NORTH 89 DEGREES 27 MINUTES 52 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 10 I.T., A DISTANCE OF 661.72 FEET TO THE SOUTHWEST CORNER OF SAID LOT 10 I.T., THENCE NORTH 00 DEGREES 07 MINUTES 09 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 10 I.T., A DISTANCE OF 1,328.14 FEET TO THE NORTHWEST CORNER OF SAID LOT 10 I.T., THENCE SOUTH 89 DEGREES 20 MINUTES 20 SECONDS EAST ALONG THE NORTH LINE OF SAID LOTS 10 I.T., AND 9 I.T., SAID LINE BEING THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 14, A DISTANCE OF 1,325.96 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 3,945,872.98 SQUARE FEET OR 90.5848 ACRES, MORE OR LESS.

Thursday, September 29, 2005  
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