

FACTSHEET

TITLE: ANNEXATION NO. 06020, requested by Firethorn Investment, to annex approximately 303.66 acres, more or less, generally located northeast of the intersection of South 84th Street and Pioneers Boulevard.

STAFF RECOMMENDATION: Approval, subject to an Annexation Agreement.

ASSOCIATED REQUESTS: Annexation Agreement, Change of Zone No. 06077 (07-12), Street Name Change No. 06010 (07-13) and Special Permit No. 872F (07R-2).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 12/20/06
Administrative Action: 12/20/06

RECOMMENDATION: Approval, subject to an Annexation Agreement (8-0: Esseks, Carroll, Strand, Taylor, Krieser, Larson, Cornelius and Carlson voting 'yes'; Sunderman absent).

FINDINGS OF FACT:

1. This request to annex approximately 303.66 acres northeast of the intersection of South 84th Street and Pioneers Boulevard was heard before the Planning Commission in conjunction with the associated Change of Zone No. 06077 from AGR to R-1 and Special Permit No. 872F, an amendment to the Firethorn Community Unit Plan.
2. This annexation is being requested voluntarily by Firethorn Investment and seeks to have all the residences and a portion of the golf course within the Firethorn Community Unit Plan annexed by the City.
3. The staff recommendation to approve the annexation, subject to an annexation agreement, is based upon the "Analysis" as set forth on p.4-7, concluding that the proposed annexation is generally consistent with the Comprehensive Plan and adopted policies. The applicant, per the agreement, will construct new water mains and connect to the City system, leaving the existing private water system to be used for irrigation purposes. The existing private wetlands wastewater treatment plant will be closed down, and the private wastewater lines instead will be connected to the City sewer system through a pump station/force main until the Stevens Creek sewer interceptor is extended to allow a gravity connection. The area is located in Tier 1, Priority C, so the pump station will need to operate for a longer period than recommended in the Temporary Pump Station policy. However, the existence of a community in this location since 1985 with an approved private sewer system is a unique circumstance, and the proposal otherwise meets the criteria in the policy. The area is contiguous to the City limits, generally urban in character, can be served by City utilities, does not present any other extra-ordinary public service costs, and should generate a significant net fiscal surplus to the City. The staff presentation is found on p.8-9.
4. The applicant's testimony and other testimony in support is found on p.9-11. Four neighborhood meetings were held. Each homeowner will be assessed an annexation fee of \$4,000 by the applicant, representing approximately 30% of the actual annexation costs. The new developed lots in the associated amendment to the Firethorn Community Unit Plan will absorb the remaining 70% of the annexation costs. 77.5% of the homeowners voted in favor of the annexation. The additional information submitted by the applicant is found on p.29.
5. Testimony in support by Jeff Schumacher, President of the Firethorn Homeowners Committee, is found on p.10.
6. Testimony in opposition is found on p.11-12, and the documentation submitted for the record by Charles E. Wright is found on p.31-46. The record also consists of one e-mail communication in opposition (p.30).
7. On December 20, 2006, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval, subject to an annexation agreement (Sunderman absent).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: January 9, 2007

REVIEWED BY: _____

DATE: January 9, 2007

REFERENCE NUMBER: FS\CC\2007\ANNEX.06020+

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for December 20, 2006 PLANNING COMMISSION MEETING

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.

- PROJECT #:** *Annexation #06020 - Firethorn*
Change of Zone #06077 - From AGR to R-3 R-1 (Revised by the applicant at public hearing before Planning Commission: 12/20/06)
- PROPOSAL:** A request to annex and change the zoning from AGR to R-3 for approximately 303.66 acres.
- LOCATION:** Northeast of the intersection of South 84th Street and Pioneers Blvd.
- LAND AREA:** Approximately 303.66 acres.
- CONCLUSION:** A pump station is needed to connect to the City's sanitary sewer system, and the area is located in Tier 1, Priority C. However, it is a unique circumstance that meets most all the criteria of the Policy on Temporary Pump Stations, and is also one of the unique circumstances envisioned as an exception for serving Priority C areas in Tier 1. The area is contiguous to the city limit, generally urban in character, and can be served by City utilities. Additionally, the annexation is voluntary and a net benefit to the City. The request is consistent with the Comprehensive Plan and adopted policies.

RECOMMENDATION:

AN#06020
CZ#06077

Conditional Approval
Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached legal - same legal for both applications.

EXISTING ZONING: AGR Agricultural Residential

SURROUNDING LAND USE AND ZONING:

North	Vacant, Golf Course, Open Space	AGR, O-3
East	Agriculture, Residential	AG
West	Residential. Office, Churches	R-1, O-3
South	Residential, Golf Course	AG, AGR

EXISTING LAND USE: Residential, Golf Course

COMPREHENSIVE PLAN SPECIFICATIONS:

Pg 5 - The following principles are based on this One Community Vision and describe the desired end state:

- All of the communities and people of Lancaster County work together to implement a common plan providing for mutual benefit.
- Lincoln remains a single community. The policies of a single public school district, drainage basin development, and provision of city utilities only within the city limits continue to be a positive influence and help shape the City for decades to come. These policies are sustained in order to preserve our ability to move forward as one community.

Pg 17 - Future Land Use Map - This area is designated for open space and urban residential land use.

Pg 25 - Principals for priority areas - It is anticipated that there may be some unique circumstances to warrant consideration of development of land in Priority B or C, prior to the full completion of improvements in Priority A. Once a year, during the CIP public hearing, proposals for changes from Priority B and C to A should be evaluated and considered. That review should consider the following items:

- 1) the project is contiguous to the City and proposed for immediate annexation, and is consistent with principles of the Comprehensive Plan;
- 2) the developer provides information demonstrating how the necessary infrastructure improvements to serve the sub-basin would be provided and financed. The City shall contact other public agencies to obtain their report on the infrastructure necessary to serve the sub-basin including utilities, roads, fire service, public safety, parks, trails, schools and library needs.
- 3) the impact that development in the sub-basin will have on capital and operating budgets, level of service, service delivery and Capital Improvement Programs is addressed, including impact of financing, utility rates, and other revenue sources and to what degree the developer is willing to finance improvements.
- 4) there is demonstrated substantial public benefit and circumstances that warrant approval of the proposal in advance of the anticipated schedule.

Pg 154 - Annexation Policy - The annexation policies of the City of Lincoln include but are not limited to the following: 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 sewer services) beyond the corporate limits of the City.

- 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.
- 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.
- 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.
- The character of existing residential areas should be respected as much as possible during the annexation process. When low density "acreage" areas are proposed for annexation due to the City's policy, additional steps should be taken to ease the transition as much as possible, such as public meetings, advance notice and written explanation of changes as a result of annexation. In general, many aspects of acreage life may remain unchanged, such as zoning or covenants. However, any annexation of existing residential areas will include some costs which must be the responsibility of property owners.
- Annexation to facilitate the installation of improvements and/or possible assessment districts is appropriate if it is consistent with the annexation policies of the Plan listed above.
- Plans for the provision of services within the areas considered for annexation shall be carefully coordinated with the Capital Improvements Program of the City and the County.
- Each town in Lancaster County will have their own procedures for annexation.

ASSOCIATED REQUEST: Special Permit #872F for Firethorn Community Unit Plan.

SPECIFIC INFORMATION:

UTILITIES & SERVICES:

- A. **Sanitary Sewer:** The development is served by a community wetland treatment system. The system drains to the northeast corner of the development where a pump station sends it via force main to the wetland treatment system. A new pump station and force main will be installed and connected to the City's sanitary sewer system at Pioneer Greens south of South 86th Street and Pioneers Blvd. The internal sewer lines will continue to be used and the entire system will remain private after annexation. To provide adequate capacity, approximately 1,240' of public sewer line east of South 84th Street will be up-sized from 8" to 10".
- B. **Water:** The development is also served by a private community water system. A new internal public system of water lines will be installed along with new water meters to connect to the City's system. The 16" water main in Pioneers Blvd will be extended to Thorn Court. The old private system will be left in place and can be used for watering lawns or other outdoor uses.
- C. **Roads:** Firethorn is accessed via South 84th Street, Pioneers Blvd, Van Dorn Street, and South 98th Street. South 84th Street is an improved, four-lane arterial street, Pioneers Blvd is a two-lane rural asphalt road east of South 86th Street, as is Van Dorn Street east of South 84th Street, and South 98th Street is a gravel road. The internal asphalt street system is private. Sidewalks and street lights were waived when the Firethorn CUP was originally approved, and the streets will remain private after annexation.
- D. **Parks and Trails:** The area to be annexed contains a portion of the Firethorn golf course, but there is no public park in this area. The bike/trail system is built in this area and extends along South 84th Street.
- E. **Fire Protection:** Fire protection will become the responsibility of the Lincoln Fire Department upon annexation. The nearest station is at South 84th and South Streets.
- F. **Schools:** The area is in District #145 (Waverly, Eagle), and after annexation it will be in Lincoln Public Schools District #1.

ANALYSIS:

1. This annexation is being requested voluntarily by Firethorn Investment. The other Firethorn entities involved include the Firethorn Golf Company, and the Firethorn Utility Service Company (FUSC). The request seeks to have all the residences and a portion of the golf course within the Firethorn community unit plan (CUP) annexed by the City.
2. The applicant and city staff have had ongoing discussions and several meetings regarding annexation over the last year or so. The applicant has also had several meetings with the

property owners within the area proposed to be annexed. Staff contacted the neighborhood representative and offered to attend a meeting to discuss annexation, but the group declined noting there had been several meetings about annexation and they felt well informed.

3. The proposed change of zone to R-3 is compatible with surrounding land uses, and is consistent with the Urban Residential/Open Space Future Land Use Map designations.

4. The City's annexation policy as contained in the Comprehensive Plan states:

-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."

5. The west boundary of the proposed annexation is adjacent to the city limit just east of South 84th Street. Several properties on the east side of South 84th Street are already annexed, including Lincoln Benefit Life Insurance Company, five residences, and two churches.

6. Due to its location, Firethorn cannot be served by a gravity-flow sanitary sewer into the City's system. It is now served by a community treatment system, where effluent flows to a pump station and is forced back to the southwest to a wetland area for treatment. The treatment facility is in need of repair or upgrades, and the applicant has concluded it is more efficient to connect to the City's system. To connect to the City, the applicant is proposing to replace the existing pump station and install a new force main to pump effluent back to near South 84th Street & Pioneers Blvd. The pump station, force main and internal sewer lines will remain private. At such time as the City's sewer system from the Steven's Creek trunk is available, Firethorn may request the City to accept the system.

7. Even though Firethorn is in Tier 1, Priority C, the annexation complies with the 2030 Plan's Priority policy. That policy encourages development and services to Priority A before developing in other areas. However, the plan acknowledges there may be some "unique circumstances" which warrant serving a Priority C area such as Firethorn. The policy states that it is acceptable to serve a Priority B or C area if it will not impact other service provisions, and there is a public benefit. Firethorn has addressed the costs and agreed to build an entirely new water system to meet city standards which will reduce long term maintenance costs of the system. Additionally, there is a substantial benefit to the City to having Firethorn within the city limits.

8. On December 6, 2004 the City Council adopted a “Policy on Temporary Pump Stations & Force Mains” by Resolution A-83112. That policy allowed for limited use of temporary pump stations and force mains based on 21 criteria. In general the criteria addressed the circumstances in which temporary pump stations would be allowed, how they would be operated, how other owners could be served and what happens after the eventual removal of the station.

The proposed Firethorn annexation and temporary pump station is a unique circumstance. The temporary pump station policy was created based on the potential for new wastewater facilities and new homes being built. In this case, there is an existing pump station and force main and existing homes being served.

The Firethorn service proposal generally complies with most of the Pump Station policy criteria. It is serving nearly 500 acres of area, will flow into a receiving line with adequate capacity and the developer is paying for the cost of improvements, operation and maintenance. It does not meet the policy’s definition of temporary, since the station will probably be in place for more than 6 years. The land to be served is also not in Tier I, Priority A – it is designated as Tier I, Priority C in the 2030 Comprehensive Plan.

Since Firethorn complies with most of the criteria, is a unique circumstance of being an existing subdivision generally urban in character, and adjacent to the city limits and already using a pump station/force main, it is acceptable to allow the facility to operate for more than 6 years. It would not be advisable to approve a new subdivision with a new pump station that would be in place for more than 6 years. In this circumstance, since a pump station and force main have been in use for over 20 years, it is acceptable to provide an exception in this case. This annexation brings a somewhat urban subdivision into the city limits, and is consistent with the spirit of the Plan’s “one community” policy.

9. The existing sewer line that Firethorn will connect to is an 8" line, and does not have adequate capacity to handle the maximum potential flow that the 300-acre annexation represents. The applicant will upgrade a 1,240'-long segment of public sewer main from 8" to 10" to provide the necessary capacity to accommodate up to 545 dwelling units in this area. Both the annexation agreement and the special permit for the community unit plan limit the number of dwelling units so capacity will not be exceeded.
10. Firethorn is served by a community water system which does not meet City of Lincoln standards for either design or fire flow. The applicant is proposing to install a new water system throughout the development, including new water meters at each connection to the City’s system. It requires the extension of a 16" water main in Pioneers Blvd from approximately South 86th Street to Thorn Court. The annexation agreement allows two years from the date of annexation for the new water system to be installed, during which time it would not provide required fire flow but the Lincoln Fire Department will be responsible for fire protection. The Fire Department stated they will make it a part of their area plan, and will request mutual aid from the rural fire districts if necessary to provide the necessary equipment to respond to fire emergencies.

11. This property is in School District #145 which includes Waverly and Eagle. Upon annexation, this area would transfer from District #145 to Lincoln Public School District #1 (LPSD#1). Property owners would no longer pay the District #145 general levy but would instead pay the LPSD#1 general levy. State statutes require that any property in a school district at the time of a bond election must continue to pay that district's bond until it is retired, even if that property transfers to another district.

The City of Lincoln and LPSD#1 have approved an agreement that allows any area annexed by the City of Lincoln to not be required to pay for existing LPS school bonds while it still has to pay for the school bond of another school district. All property annexed will be subject to all future bonded indebtedness of LPS that are approved after the date of annexation.

CONDITIONS:

AN#06020

1. Firethorn Golf Company and Firethorn Utility Service Company shall enter into an annexation agreement with the City of Lincoln prior to approval.

Prepared by:

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Planner
December 6, 2006

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**ANNEXATION NO. 06020,
CHANGE OF ZONE NO. 06077
and
SPECIAL PERMIT NO. 872F,
AMENDMENT TO THE FIRETHORN COMMUNITY UNIT PLAN**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 20, 2006

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

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

Ex Parte Communications: Strand disclosed that her stepdaughter was counsel to the applicants but that they had not had any ex parte communications and there is no financial interest to her family. Carlson disclosed a telephone message on his answering machine but he did not reach the caller.

Staff presentation: **Brian Will of Planning staff** submitted a letter in opposition from Dr. Steven Lehr, 9230 Pioneer Court. He also submitted a letter from the applicant revising the change of zone request to R-1 (as opposed to R-3) dated December 20, 2006.

Will presented the three applications, including an annexation and change of zone covering approximately 304 acres, and the community unit plan amendment, which covers an area of approximately 498 acres. The boundary of the special permit is different than the annexation and change of zone because the amendment to the community unit plan includes the property out to S. 98th and up to Van Dorn. Will noted that the annexation is a voluntary request by the developer. The city reviews these requests for consistency with the annexation policy of the Comprehensive Plan, and staff has found that this property is contiguous to the city limits and generally urban in character. The question is whether the city can provide this area with utilities.

Currently, the properties immediately adjacent to South 84th Street are in the city. The rest of the property to the east is not. Firethorn proper is served by a community well and septic system. The question becomes: How will the property be served by city sewer? Will explained that the community septic system currently has a pump station and collects the effluent and pumps it back to the southwest. The applicant is proposing to replace that pump station and force main, and pump the sewage back and connect to the city's sewer system located south of Pioneers east of South 84th Street. The staff has found that this proposal generally complies with the city's pump station policy. However, there are two significant areas where it does not - it is not in Priority A (but actually in Priority Area C), and thus is not currently or planned to be served, and it is not in the CIP. Staff is saying that it "generally" complies with the policy. And it certainly complies with the intent of the policy. It is an existing development. The developer is suggesting to make the improvements to the sewer and the water system at their cost, and it won't be a financial burden to the city. Based upon that, staff has made the finding that it is consistent with the Comprehensive Plan and is recommending conditional approval.

In reviewing the community unit plan, one of the questions becomes: if we can accommodate this development, is there a limitation on capacity? There is a limitation on capacity, but there does not appear to be any danger; however, the Planning staff has recommended a cap of 545 units on the community unit plan, which is the maximum amount the city can accommodate with the existing sewer system.

The only other issue is relative to the community unit plan and relates to an extension or connection with South 88th Street. There is opposition to this connection from other property owners in the area. Staff is suggesting that making that connection is consistent with the Comprehensive Plan. Staff is recommending that South 88th Street be shown extended to the southern limit of the CUP.

Esseks inquired as to the implications of R-1 versus R-3 in terms of density. Will stated that R-3 allows upwards of 3,000 units. R-1 would accommodate approximately 1900 units, well in excess of what is being requested.

Esseks inquired about the comment in the staff report that having Firethorn within the city limits is a substantial benefit to the city. Will responded, stating that primarily, it is a development that is on the edge of the city that would be made a part of the community. Once annexed, then that portion of the city tax levy would be paid to the city. It would also come within the LPS school system versus the Waverly/Eagle school district. And the city would have additional water customers.

In relation to R-1 versus R-3, Carlson observed that the capacity of the sewer discharge is the controlling factor as opposed to the density. Will agreed. The CUP is regulating the density of the development and that is why the staff is recommending a cap as part of the CUP.

Proponents

1. Mark Palmer of Olsson Associates appeared on behalf of **Mark Wible**, managing member of **Firethorn Golf, LLC**. The homeowners have been kept informed of the negotiations through their Web site. There have been four neighborhood meetings. Each home owner is being assessed a \$4,000 annexation fee. This totals about 30% of the actual annexation costs being incurred. The new developed lots will be covering the other 70% of the costs. The improvements will be the extension of a 16 inch water main along Pioneers Boulevard, internal 12 inch water mains and complete new 6 inch water mains to all existing homes. There will be new water services constructed to each of the existing homes. A new pump station and force main will be constructed. When all complete, the existing roadways will be new asphalt overlay. Mark Wible represented to the residents of Firethorn when this process began that he would not proceed with the annexation without a majority vote from the residents. A vote was taken on May 20th and showed a 77.5% approval of the annexation.

Palmer agreed with the conditions of approval set forth in the staff report, except for two changes:

- 1) The request submitted by the applicant today revising the change of zone request to R-1 is a result of neighborhood feedback. The applicant knew the density was being controlled by other means, and the R-1 (as opposed to R-3) can be accommodated in the new lots being developed.

2) Delete Condition #3.1.1.3 (the 88th Street connection). A lot of landscaping has occurred in this area. The neighbors are concerned that the existing trees would be removed and the aesthetics would be impacted by that street connection. The plan has been redesigned to provide for other access as described on the map.

Palmer also distributed an additional e-mail that Mark Wible sent to the homeowners earlier today, explaining this change. The question came up regarding the number of lots allowed. The limitation to 545 lots is a sewer capacity issue and is all that is being requested. If the developer is paying to upsize the sewer line, Firethorn should be eligible for that capacity. There are no plans for any additional lots, but there is reserve capacity for some time in the future.

Strand suggested that rather than delete Condition #3.1.1.3, it should be revised to require a street connection to the west. Palmer pointed out that the plan is showing a street connection to the west but this developer does not own all the property. They will show the connection to the median opening, but this developer does not control the properties.

Esseks referred to Mr. Wible's e-mail noting the discussion about the conservation easements, and inquired about those that will be terminated. Wible explained that there are conservation easements over all portions of the golf course today. There are some minor portions that would need to be vacated as explained at the map. Esseks asked what steps would need to be taken to terminate a conservation easement. Wible stated that he is working with the Law Department to go through those steps and it will be included in the package that goes to the City Council with the annexation agreement.

If the connection to the south is removed, Carlson wanted to know what facilitates movements onto Pioneers Boulevard. Palmer explained that there would not be an access onto Pioneers. There are other areas around town that do not have through connectivity. The golf course somewhat limits the connectivity in this area.

2. Jeff Schumacher testified in support. He has been President of the Firethorn Homeowners committee. When Firethorn was established in the mid-80's, the covenants provided for a formal homeowners association, but unfortunately, it never got off the ground. When Mark Wible came in 2005, he asked Schumacher to chair a Firethorn homeowners committee, and four other members and Schumacher have been on that committee for the last couple of years. He explained the process that they have gone through. Their goal was to do what was in the best interest of the Firethorn homeowners. Some problems developed with the wetland system in early 2005, and at that point in time, they had to start looking at alternatives to rebuild or replace the wetland system. One of the other alternatives was to consider the annexation issue. They held four homeowner meetings, all of which were very well attended, and one of which was attended by Steve Henrichsen of the Planning staff. About a year ago, they conducted a ballot vote, even though they are not a formal legal entity. 77% of the Firethorn homeowners authorized Mark Wible to proceed forward with the annexation. The property owners were also provided with a lot of financial information regarding the annexation.

3. Roger Massey, 4130 Taliesin Drive, which is located in the subdivision immediately to the south and next to 88th Street, testified in support. He expressed appreciation to the developer for working with his neighborhood to attempt to make sure that it is compatible with what they like to see in the area. He requested that the Planning Commission delete Condition #3.1.1.3, deleting the street

connection to 88th Street. There is a letter in the record from the homeowners dated September 6th requesting that this connection be eliminated. He referred to the map on page 5 which shows where 88th Street comes north off of Pioneer. The 20 acres above it was school land and in the 1960's, LPS had a policy of land banking land in Stevens Creek in anticipation that it would be needed. That school land has since been declared excess by the schools. 88th Street was dedicated all the way to that school land, but the whole remaining section was agriculture at that time and the only way you could get to the school land was from Pioneers up 88th, and we were happy to do that. In the 70's the Planning Commission and City Council changed the zoning ordinance to allow a CUP in the AG district, so we have had development completed all the way over to 84th and now they are urbanizing to the north of us. He is not objecting to the additional development, but the platting of 88th Street from Pioneers up to that school land was for the school. There were two other means of egress provided and he urged the Commission to delete the 88th Street connection.

Opposition

1. Charlie Wright, 4020 Thorn Court (in Firethorn), testified in opposition. He will be requesting a two-week deferral because of the complexity of the issues involved and his need to do further research before finalizing his position. He submitted a letter dated September 20, 2005, and other correspondence he has had with Mr. Schumacher. The two principal issues are putting a pump station and force mains in an area that is designated Tier I, Priority C, when the provisions in the city's resolution and ordinances and the design standards say that these facilities are permitted only in Tier I, Priority A. He questions whether it is even proper for the Planning Commission to recommend a transfer from a C priority into a situation like this where that is pretty well etched in stone by the resolution and definitions. He understands that there is a 30-year plan but the specific definition of pump station design states very objectively that the transfer of wastewater from one watershed to another by any means, such as a lift station or construction of a sanitary sewer which runs through the edge of separating wetlands, shall not be permitted.

The other issue he wants to address needs some history. The resolution approving the Firethorn CUP required the developer in this case to enter into a contract with the city to operate and maintain the sanitary sewer system and the water system for the benefitted residents. This is the only thread that we as residents have. We have to have this sanitary sewer and we have to have the water. When we purchased our lots, that was part of the deal, and we were aware that this was the requirement that the developer had promised to the city. What is happening is that Firethorn, in essence, wants to get out of the sanitary wastewater business and the water business and have the residents pay for a new system. Whether that will be allowed or not will depend in part upon the recommendation of this Planning Commission and the final decision on the zoning and annexation by the City Council. If that happens, we homeowners need to have some protection from the city as to how these costs are to be apportioned. There have been some attempts to discuss those matters. He believes that eventually they will reach an agreement, but it has not yet happened. He needs to have a comfortable feeling that these costs are going to be fairly apportioned among the people in Firethorn, including the golf course and the clubhouse.

In addition, the developer must demonstrate how the necessary infrastructure improvements could be provided and financed. Wright has had no information on how they are going to pay for it. He has requested information concerning the estimated cost of the new sewage treatment and water, information on the estimated cash flow, and information on how the costs will be allocated. He needs

that information in order to assess his position on these applications. To his knowledge, there has been no explanation or meetings with the landowners since last April or May. During that time, there have been numerous meetings between the developer and staff and none of the information has been made available to the property owners.

Wright requested a two-week deferral.

2. Mike Donlan, 9270 Pioneer Court (located in the Fairway townhouse development on the south end of Firethorn), testified in opposition. He agrees with the change to R-1 zoning. But even with R-1 zoning, there will be an additional 400 units and up to 1700 units down the road, which severely increases the density in this area. Several months ago, the homeowners approved the development north of South 88th Street on the west side of Firethorn. The homeowners also approved the annexation of the entire area. He would like clarification as to why the entire Firethorn area is being changed from AGR to R-1. He is concerned about a change that does not address the future development that would severely impact the value of the existing properties. He wants some assurance that the golf course will not be abandoned, in part or in full, and turned it into another subdivision.

Response by Staff

With regard to the 88th Street connection, Will stated that staff is sensitive to the fact that maybe there are some improvements along the dedicated right-of-way to South 88th Street and it does not have to be at the specific location. It could perhaps be relocated to the east of the existing development. We need to be consistent in asking for these types of connections in terms of the Comprehensive Plan.

With regard to the pump station, Will suggested that it is important to bear in mind that the pump station policy is just that – a policy. It was adopted to give us guidance but it is not a hard and fast rule. Staff is suggesting that this application generally complies, and complies with at least 19 of the 21 criteria.

With regard to revising the change of zone to R-1 as opposed to R-3, Will advised that this change does not require readvertising.

Esseks understands why the current owners of homes adjacent to the golf course are concerned that the conservation easement on the golf course can be terminated, making them next to urban density subdivisions. He asked Will whether he knew the status of those easements. Will stated that the intent is to have that process determined when this proposal goes to the City Council. He understands that it is a conservation easement granted to the City. It would be the City that would have to terminate it. Esseks believes that to be a very important provision in the annexation agreement. Will suggested that it is more important relative to the CUP in terms of the neighbors seeking some sort of long term guarantee of the golf course. The long term guarantee of the golf course is more an issue for the developer and the homeowners.

Esseks inquired at what point the Planning Commission can exercise the obligation to protect the interests of the property owners. Will suggested that it could be made a condition of approval on the CUP.

Carroll asked staff to explain again the difference between the boundaries of the annexation versus the CUP. Are we changing the zone on some of the property that we are not annexing? Will stated that all of the property being annexed is also being rezoned. All of the property within the CUP, however, is not being annexed and rezoned. Originally, the Firethorn CUP was defined by a certain boundary. This is an amendment to that original CUP. They are coming forward with an annexation and change of zone for something less than the CUP boundaries. The city was in agreement to something less because it does not include those adjacent arterial streets which are not improved and not planned to be improved. The area within the change of zone and annexation could be something less than what is being proposed; however, we need to make sure everyone served by city sewer and water are annexed.

Carroll confirmed that the owners to the east are not included in the annex but are included in the CUP. If those property owners would ask for annexation, why not include them now? Why would you allow Firethorn to have the controlling spectrum of the sewer and water versus the city? Will explained that Firethorn is making the improvements at their cost, and just about everyone that can be served is being included in the annexation. If there is another party that wants to be annexed and can be served or is willing to pay for the utilities, the city would be more than happy to include them. If they cannot be served, either they have to extend those utilities to their property or join with Firethorn and connect to their private system. There has to be some cost-sharing mechanism and the city is not involved in that.

Carroll inquired whether any part of the new sewer or water system is going to be dedicated to the City. Will explained that the water line in Pioneers Boulevard will be a public system. The sewer system internal to Firethorn will remain private for the time-being, but it will connect to the public system south of Pioneers.

Palmer clarified that they are proposing a full public water system. The sewer system will be private and run by the Firethorn utility company. The water system will be dedicated to the city.

Carroll wondered whether the property owners on the east can get the water service if they want it. Will suggested that if they can be served by it, yes, they could be annexed without paying Firethorn.

Response by the Applicant

With regard to the conservation easement issue, Palmer explained that there are actually two separate conservation easements - one covering the new nine holes and one covering the original eighteen holes of the golf course. The criteria for the new nine is different than the original golf course. The conservation easement dissolves when city gravity sewer becomes available to the new nine holes and can be incorporated and potentially changed in use, but that is not until the Stevens Creek trunk sewer is connected. The conservation easement for the original 18 holes is 100 years. They are considering vacating a section of the conservation easement that will expire when the sewer comes there, and then some minor modifications to allow for a couple of lots to be moved around – nothing that takes away the use of the golf course or eliminates the use of the golf course.

Wible stated that he would not object to having the conservation easement re-established around the new homes. The golf course will be reconfigured on the north side and that is the portion that at some future date may sunset the conservation easement. The earliest that would occur is 2015, and only on the latest development within Firethorn. They do not plan to change any of the conservation easements on the original 18 holes and all existing homes, except where they are adding a couple lots here or there.

With regard to the costs of annexation, Palmer noted that Wible did represent to the home owners that there would be a cost of \$4,000 per lot. The actual cost of the annexation to Firethorn over and above that \$4,000 per lot has nearly been determined, and he estimated that there will be approximately \$9,500 per lot that is being subsidized for each of the 129 existing lots and covered by the developer.

Palmer also explained that they need to change the zoning to residential because of the annexation into the City. We need to get all residential lots annexed to provide them with the public water service and fire protection. Firethorn is not currently at the city's required flow rates for fire protection so that is why they are annexing and changing the zone on all the lots.

With regard to the sewer, Palmer noted that the developer is agreeing to dedicate easements where future sewers would go. In the meantime this is a pump station operated and controlled by Firethorn.

With regard to the comments by Mr. Wright in opposition, Wible noted that the protective covenants on the property today allow for the owner (Wible) to charge back maintenance costs for the sewer infrastructure, water facilities, etc. The new development will have city water and will not have Firethorn water, but all of Firethorn will be served by the sanitary sewer, so the sewer costs will be apportioned to all of the lots, including the new lots. The new lots will not absorb any costs associated with the water system because it will be a city system.

Carlson inquired about the potential on 88th Street for any modifications that might avoid the improvements but still give a connection. Palmer does not believe there would be room on the east side to put a road through. He referred to HiMark to the south where there is no potential for any access from north to south. They looked at HiMark as being a precedent.

Palmer stated that the developer is not interested in a two-week delay, as requested by Mr. Wright. The cost is being capped at \$4,000 per lot, with the standard assessments done by Firethorn utility company, but those assessments will diminish once they are out of the wastewater treatment business.

Wible advised that the committee assembled three highly respected financial people within the community to discuss the economics and whether it was an equitable distribution to the homeowners. This is what they arrived at and that was their recommendation back to the homeowner group.

ANNEXATION NO. 06020

ACTION BY PLANNING COMMISSION:

December 20, 2006

Carroll moved approval, subject to an annexation agreement, seconded by Strand and carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 06077

ACTION BY PLANNING COMMISSION:

December 20, 2006

Carroll moved approval of R-1, seconded by Strand and carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 872F

ACTION BY PLANNING COMMISSION:

December 20, 2006

Esseks moved to approve the staff recommendation of conditional approval, with amendment adding a condition that the current conservation easement on the 18-hole golf course be retained, subject to minor modifications through agreement by the Planning Department. He wants to give property owners adjacent to the land some protection, seconded by Cornelius.

Carroll made a motion to amend to revise Condition #3.1.1.3 to "Show a street connection to Pioneers Boulevard.", seconded by Strand and carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent.

Main motion, as amended, carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent. This is final action, unless appealed to the City Council within 14 days.



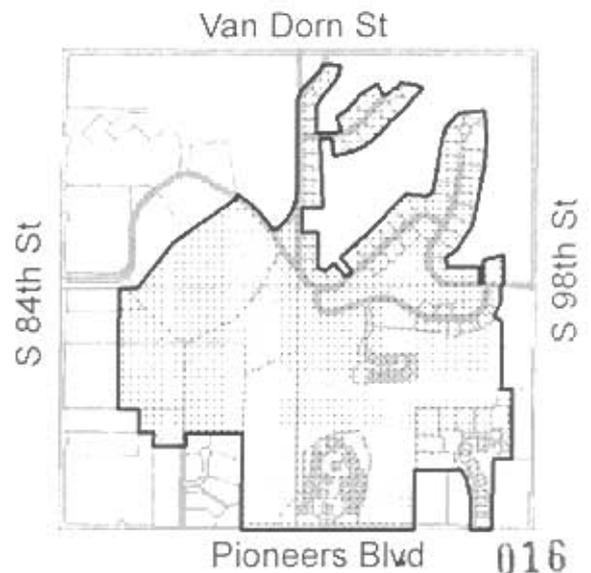
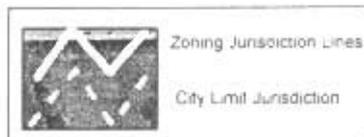
2005 aerial

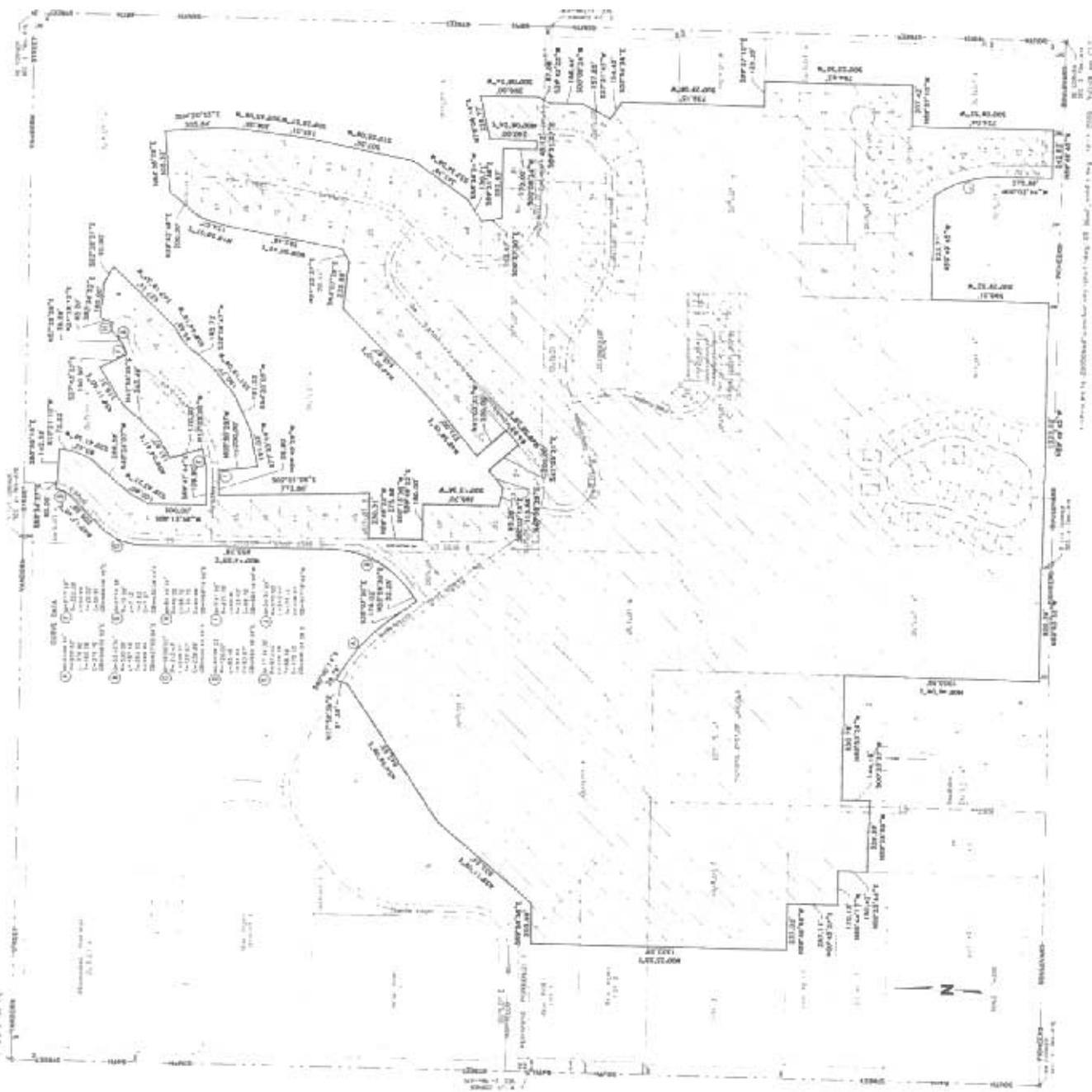
Change of Zone #06077 & Annexation #06020 S 84th & Pioneers Blvd

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-6 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. 2 T09N R07E






 PROPOSED ANNEXATION / CHANGE OF ZONE
 LEGAL DESCRIPTION EXHIBIT





November 8, 2006

Mr. Marvin Krout
Planning Department
555 South 10th St., Suite 213
Lincoln, NE 68508

Re: Firethorn
Amendment to the Community Unit Plan / Annexation / Change of Zone
OA Project No.: 2005-0662

Dear Marvin:

On behalf of the developers, Firethorn Investment, A Nebraska General Partnership, we are requesting annexation into the City of Lincoln for the Firethorn Development (see attached annexation exhibit). We are also requesting a change of zone for the property from AGR to R-3, and an amendment to the Firethorn Community Unit Plan, and a street name change for Montello Road west of Firethorn Lane.

We have met on numerous occasions with staff from various departments to discuss the annexation issues and address the departments concerns. We are awaiting an annexation agreement that is currently being prepared by the City Law Department.

We are proposing to maintain the private wastewater collection system for existing and proposed lots. This system will discharge via force main to the existing city sanitary sewer main at approximately 86th & Pioneers Blvd. We have agreed to increase the size of a 400' section of sanitary sewer main, west of 84th Street to allow for the Firethorn sewerage flow. We will be constructing a public water main system to serve all lots within Firethorn (existing and proposed). The roadways and storm sewer system will be privately owned and maintained.

We request all the waivers that have previously been approved for Firethorn to apply to the new development area. These include: rural asphalt roadway cross sections with limited storm sewer, no sidewalks, no street lights, street trees, block lengths longer than 1,000', and cul-de-sacs longer than 1,000'.

We have met with the residents of Firethorn and many of the neighbors to discuss this annexation and C.U.P. amendment. The neighbors in the Ikiru Acreage Development east of 88th and Pioneers Blvd. have requested that 88th Street not be continued northward into the new Firethorn Development. 88th Street is platted right-of-way; however, a street has not been constructed. There are a number of large established trees along the eastern side of the right-of-way that would be removed if a roadway was constructed. We propose to maintain the 88th street right-of-way corridor for a 12" water main to service the development.

018

We are also requesting a street name change of Montello Road to Firethorn Lane from 84th Street to the existing Firethorn Lane intersection. We propose to reconfigure the Montello Road/ Firethorn Lane intersection as shown on the site plan. This will create a more direct access to the Clubhouse from 84th Street.

Enclosed find the following documents for the above-mentioned project:

1. 21 copies of the Site Plan (Sheets 1-3)
2. 9 copies of the Drainage and Grading Plan (Sheet 4)
3. 5 copies of the Paving Profile Sheets (Sheets 5-7)
4. City of Lincoln Zoning Application (AG-R to R-3)
5. Change of Zone Submittal Fee (\$370)
6. City of Lincoln Special Permit Application
7. Special Permit Submittal Fee (\$125)
8. Street Name Change Fee (\$250)
9. 1 copy of the Ownership Certificates (8 Properties)
10. 1 copy of the Legal Descriptions for C.U.P and Annexation
11. 3 copies of a Drainage Study Memorandum
12. 1 - 8 ½ x 11 site plan

Please let me know if you have questions or require additional information.

Sincerely,



Mark C. Palmer

Cc Mark Wible, Firethorn Investment
John Rallis, Rallis Construction
Tim Tewes, Facts Management
Jennifer Strand, Woods & Aitken
Roger Severin, Olsson Associates

**LEGAL DESCRIPTION
ANNEXATION/CHANGE OF ZONE**

F

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF LOT 5 I.T., A PORTION OF LOT 38 I.T., A PORTION OF SOUTH 88TH STREET RIGHT-OF-WAY, A PORTION OF OUTLOT "C" FIRETHORN ADDITION, OUTLOTS "B", "D" AND "E", FIRETHORN ADDITION, LOTS 1 THROUGH 4, BLOCK 1, FIRETHORN ADDITION, LOTS 1 THROUGH 3, BLOCK 2, FIRETHORN ADDITION, LOTS 8 THROUGH 10, BLOCK 2, FIRETHORN ADDITION, LOTS 13 THROUGH 37, BLOCK 2, FIRETHORN ADDITION, AND LOTS 41 THROUGH 51, BLOCK 2 FIRETHORN ADDITION, OUTLOT "B" AND CLUB HOUSE AREA, FIRETHORN 2ND ADDITION, LOT 3 BLOCK 1, FIRETHORN 2ND ADDITION, LOTS 4 THROUGH 24, BLOCK 2, FIRETHORN 2ND ADDITION, OUTLOT "C" FIRETHORN 3RD ADDITION, A PORTION OF LOTS 1 AND 2, FIRETHORN 3RD ADDITION, LOTS 1 THROUGH 7, AND LOTS 9 THROUGH 40, FIRETHORN 6TH ADDITION, OUTLOT "A", FIRETHORN 7TH ADDITION, OUTLOT "C", FIRETHORN 7TH ADDITION, LOTS 1 AND 2, BLOCK 1, FIRETHORN 7TH ADDITION, LOTS 2 AND 3, BLOCK 2, FIRETHORN 7TH ADDITION, LOT 1 BLOCK 3, FIRETHORN 7TH ADDITION, OUTLOT "A" FIRETHORN 8TH ADDITION, LOT 1 FIRETHORN 8TH ADDITION, LOT 1 FIRETHORN 10TH ADDITION, A TRACT OF LAND COMPOSED OF VACATED ORDINANCE NO. 98-2670, FIRETHORN 10TH ADDITION, LOT 1 FIRETHORN 11TH ADDITION, OUTLOT "A", AND LOT 1, FIRETHORN 12TH ADDITION, OUTLOT "A" FIRETHORN 13TH ADDITION, LOT 1 FIRETHORN 13TH ADDITION, A PORTION OF OUTLOT "A" FIRETHORN 15TH ADDITION, LOTS 2 THROUGH 8, BLOCK 1, FIRETHORN 15TH ADDITION, OUTLOT "D" FIRETHORN 17TH ADDITION, A PORTION OF OUTLOT "E" FIRETHORN 17TH ADDITION, OUTLOTS "A" AND "B" FIRETHORN 18TH ADDITION, A PORTION OF OUTLOT "A" FIRETHORN 20TH ADDITION, LOTS 1 THROUGH 14, BLOCK 1, FIRETHORN 20TH ADDITION, OUTLOT "A", AND LOT 1, FIRETHORN 22ND ADDITION, LOTS 1 AND 2 FIRETHORN 23RD ADDITION, ALL LOCATED IN SECTION 2, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 2, THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER ON AN ASSUMED BEARING OF NORTH 89 DEGREES 49 MINUTES 45 SECONDS WEST, A DISTANCE OF 449.82 FEET TO A POINT, THENCE NORTH 00 DEGREES 10 MINUTES 15 SECONDS EAST ALONG A LINE PERPENDICULAR FROM THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 50.00 FEET TO THE SOUTHEAST CORNER OF OUTLOT "A", FIRETHORN 20TH ADDITION, SAID POINT BEING ON THE NORTH LINE OF PIONEERS BOULEVARD RIGHT-OF-WAY, SAID POINT ALSO BEING **THE TRUE POINT OF BEGINNING**; THENCE NORTH 89 DEGREES 49 MINUTES 45 SECONDS

WEST ALONG A SOUTH LINE OF SAID OUTLOT "A", AND THE SOUTH LINE OF OUTLOT "A" FIRETHORN 22ND ADDITION, SAID LINE BEING THE NORTH LINE OF SAID RIGHT-OF-WAY, SAID LINE ALSO BEING 50.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 242.93 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT "A", THENCE NORTH 00 DEGREES 03 MINUTES 04 SECONDS WEST ALONG A WEST LINE OF SAID OUTLOT "A", A DISTANCE OF 275.86 FEET TO A POINT OF CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 570.00 FEET, ARC LENGTH OF 343.44 FEET, DELTA ANGLE OF 34 DEGREES 31 MINUTES 20 SECONDS, A CHORD BEARING OF NORTH 17 DEGREES 18 MINUTES 44 SECONDS WEST ALONG S WEST LINE OF SAID OUTLOT "A", AND A CHORD LENGTH OF 338.27 FEET TO SOUTHEAST CORNER OF LOT 8, BLOCK 1, FIRETHORN 15TH ADDITION, THENCE NORTH 89 DEGREES 49 MINUTES 45 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 523.71 FEET TO THE SOUTHWEST CORNER OF SAID LOT 8, SAID POINT BEING ON A EAST LINE OF OUTLOT "A" FIRETHORN 15TH ADDITION, THENCE SOUTH 00 DEGREES 29 MINUTES 32 SECONDS WEST ALONG A EAST LINE OF SAID OUTLOT "A", A DISTANCE OF 598.51 FEET TO A SOUTHEAST CORNER OF SAID OUTLOT "A", THENCE NORTH 89 DEGREES 49 MINUTES 45 SECONDS WEST ALONG A SOUTH LINE OF SAID OUTLOT "A", AND THE SOUTH LINE OF OUTLOT "A" FIRETHORN 12TH ADDITION, SAID LINE BEING ON THE NORTH LINE OF PIONEERS BOULEVARD RIGHT-OF-WAY, SAID LINE BEING 50.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 1,323.02 FEET TO SOUTH CORNER OF SAID OUTLOT "A", THENCE NORTH 89 DEGREES 53 MINUTES 33 SECONDS WEST ALONG A SOUTH LINE OF SAID OUTLOT "A", AND A SOUTH LINE OF OUTLOT "A" 15TH ADDITION, SAID LINE BEING THE NORTH LINE OF SAID RIGHT-OF-WAY, SAID LINE BEING 50.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2, A DISTANCE OF 600.39 FEET TO A SOUTHWEST CORNER OF SAID OUTLOT "A", THENCE NORTH 00 DEGREES 40 MINUTES 06 SECONDS EAST ALONG A WEST LINE OF SAID OUTLOT "A", A DISTANCE OF 1,003.59 FEET TO A SOUTHEAST CORNER OF LOT 5 I.T., THENCE NORTH 89 DEGREES 53 MINUTES 26 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 5 I.T., A DISTANCE OF 630.78 FEET TO THE NORTHEAST CORNER OF SOUTH 88TH STREET RIGHT-OF-WAY, THENCE SOUTH 00 DEGREES 33 MINUTES 37 SECONDS WEST ALONG A EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 144.19 FEET TO A POINT, THENCE NORTH 89 DEGREES 26 MINUTES 59 SECONDS WEST, A DISTANCE OF 359.96 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF LOT 38 I.T., THENCE NORTH 00 DEGREES 33 MINUTES 44 SECONDS EAST ALONG A WEST LINE OF SAID LOT 38 I.T., A DISTANCE OF 150.42 FEET TO NORTHEAST CORNER OF LOT 42 I.T., THENCE NORTH 89

DEGREES 44 MINUTES 17 SECONDS WEST ALONG A NORTH LINE OF SAID LOT 42 I.T., A DISTANCE OF 170.13 FEET TO THE SOUTHEAST CORNER OF LOT 40 I.T., THENCE NORTH 00 DEGREES 45 MINUTES 37 SECONDS EAST ALONG A EAST LINE OF SAID LOT 40 I.T., A DISTANCE OF 257.11 FEET TO THE NORTHEAST CORNER OF SAID LOT 40 I.T., THENCE NORTH 89 DEGREES 49 MINUTES 56 SECONDS WEST ALONG A NORTH LINE OF SAID LOT 40 I.T., A DISTANCE OF 237.02 FEET TO THE SOUTHWEST CORNER OF OUTLOT "C" FIRETHORN 3RD ADDITION, THENCE NORTH 00 DEGREES 23 MINUTES 35 SECONDS EAST ALONG A WEST LINE OF SAID OUTLOT "C" AND THE EXTENSION OF THE WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 1,322.05 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF THE REMAINING PORTION OF LOT 1 FIRETHORN 3RD ADDITION, THENCE SOUTH 89 DEGREES 55 MINUTES 38 SECONDS EAST ALONG A NORTH LINE OF SAID REMAINING PORTION OF LOT 1, AND A NORTH LINE OF OUTLOT "A" FIRETHORN 18TH ADDITION, A DISTANCE OF 203.99 FEET TO A NORTH CORNER OF SAID OUTLOT "A", THENCE NORTH 39 DEGREES 11 MINUTES 09 SECONDS EAST ALONG A NORTHWEST LINE OF SAID OUTLOT "A", A DISTANCE OF 632.24 FEET TO A NORTHWEST CORNER OF SAID OUTLOT "A", THENCE NORTH 54 DEGREES 59 MINUTES 09 SECONDS EAST ALONG A NORTHWEST LINE OF SAID OUTLOT "A", A DISTANCE OF 842.65 FEET TO THE NORTH CORNER OF SAID OUTLOT "A" THENCE NORTH 17 DEGREES 56 MINUTES 39 SECONDS EAST, A DISTANCE OF 61.35 FEET TO THE SOUTHEAST CORNER OF LOT 4 BLOCK 1 FIRETHORN 17TH ADDITION, THENCE SOUTH 60 DEGREES 00 MINUTES 14 SECONDS EAST ALONG A NORTHEAST LINE OF OUTLOT "E" FIRETHORN 17TH ADDITION, A DISTANCE OF 26.79 FEET TO A POINT, TO A POINT OF CURVATURE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 23 DEGREES 56 MINUTES 44 SECONDS, A RADIUS OF 906.62 FEET, AN ARC LENGTH OF 378.90 FEET, A TANGENT LENGTH OF 192.26 FEET, A CHORD LENGTH OF 376.15 FEET, AND A CHORD BEARING OF SOUTH 48 DEGREES 01 MINUTES 52 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "E" TO A POINT OF TANGENCY, THENCE SOUTH 36 DEGREES 03 MINUTES 30 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "E", A DISTANCE OF 176.02 FEET TO A NORTH CORNER OF SAID OUTLOT "E", THENCE NORTH 53 DEGREES 56 MINUTES 30 SECONDS EAST ALONG A NORTHWEST LINE OF SAID OUTLOT "E", A DISTANCE OF 52.25 FEET TO A POINT OF CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 53 DEGREES 42 MINUTES 51 SECONDS, A RADIUS OF 520.00 FEET, AN ARC LENGTH OF 487.49 FEET, A TANGENT LENGTH OF 263.32 FEET, A CHORD LENGTH OF 469.84 FEET, AND A CHORD BEARING OF NORTH 27 DEGREES 05 MINUTES 04 SECONDS EAST ALONG A NORTHWEST LINE OF SAID OUTLOT "E" TO A POINT OF INTERSECTION WITH THE WEST LINE OF OUTLOT "C" FIRETHORN ADDITION, THENCE NORTH 00 DEGREES 14

MINUTES 05 SECONDS EAST ALONG A WEST LINE OF SAID OUTLOT "C", A DISTANCE OF 953.78 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION, HAVING DELTA ANGLE OF 45 DEGREES 00 MINUTES 03 SECONDS, A RADIUS OF 313.43 FEET, AN ARC LENGTH OF 246.17 FEET, A TANGENT LENGTH OF 129.83 FEET, A CHORD LENGTH OF 239.89 FEET, AND A CHORD BEARING OF NORTH 22 DEGREES 43 MINUTES 44 SECONDS EAST ALONG A NORTHWEST LINE OF SAID OUTLOT "C" TO A POINT OF TANGENCY, THENCE NORTH 45 DEGREES 13 MINUTES 46 SECONDS EAST ALONG A NORTHWEST LINE OF SAID OUTLOT "C", A DISTANCE OF 209.38 FEET TO A POINT OF CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 40 DEGREES 48 MINUTES 23 SECONDS, A RADIUS OF 120.00 FEET, AN ARC LENGTH OF 85.46 FEET, A TANGENT LENGTH OF 44.64 FEET, A CHORD LENGTH OF 83.67 FEET, AND A CHORD BEARING OF NORTH 24 DEGREES 49 MINUTES 34 SECONDS EAST ALONG A NORTHWEST LINE OF SAID OUTLOT "C" TO A POINT, THENCE SOUTH 85 DEGREES 34 MINUTES 37 SECONDS EAST, A DISTANCE OF 60.00 FEET TO A POINT, THENCE SOUTH 85 DEGREES 59 MINUTES 15 SECONDS EAST, A DISTANCE OF 142.56 FEET TO A POINT, THENCE SOUTH 10 DEGREES 21 MINUTES 10 SECONDS WEST, A DISTANCE OF 72.22 FEET TO A POINT, THENCE SOUTH 20 DEGREES 41 MINUTES 38 SECONDS WEST, A DISTANCE OF 85.42 FEET TO A POINT, THENCE SOUTH 40 DEGREES 24 MINUTES 07 SECONDS WEST, A DISTANCE OF 266.59 FEET TO THE EAST CORNER OF LOT 1 BLOCK 2 FIRETHORN ADDITION, THENCE SOUTH 29 DEGREES 43 MINUTES 21 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID LOT 1, A DISTANCE OF 105.90 FEET TO THE NORTHEAST CORNER OF LOT 2 BLOCK 2 FIRETHORN ADDITION, THENCE SOUTH 00 DEGREES 13 MINUTES 38 SECONDS WEST ALONG A EAST LINE OF SAID LOT 2, AND THE EAST LINE OF LINE OF LOT 3 BLOCK 2 FIRETHORN ADDITION, A DISTANCE OF 300.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 3, THENCE SOUTH 89 DEGREES 47 MINUTES 44 SECONDS EAST ALONG A NORTH LINE OF OUTLOT "C" FIRETHORN ADDITION, A DISTANCE OF 109.90 FEET TO A POINT OF CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 17 DEGREES 34 MINUTES 35 SECONDS, A RADIUS OF 573.02 FEET, AN ARC LENGTH OF 175.78 FEET, A TANGENT LENGTH OF 88.59 FEET, A CHORD LENGTH OF 175.10 FEET, AND A CHORD BEARING OF NORTH 81 DEGREES 24 MINUTES 59 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "C" TO THE SOUTHWEST CORNER OF LOT 1 BLOCK 1 FIRETHORN 7TH ADDITION, THENCE NORTH 17 DEGREES 26 MINUTES 00 SECONDS WEST ALONG A WEST LINE OF SAID LOT 1, A DISTANCE OF 170.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 1, THENCE NORTH 59 DEGREES 04 MINUTES 41 SECONDS EAST ALONG A NORTHWEST LINE OF SAID OUTLOT "A", A DISTANCE OF 121.67 FEET TO A NORTHWEST CORNER OF SAID LOT 1, THENCE NORTH 41 DEGREES

36 MINUTES 35 SECONDS EAST ALONG A NORTHWEST LINE OF SAID LOT 1, AND A NORTHWEST LINE OF LOT 2 BLOCK 1 FIRETHORN 7TH ADDITION, A DISTANCE OF 243.49 FEET TO A NORTHWEST CORNER OF SAID LOT 2, THENCE NORTH 58 DEGREES 11 MINUTES 50 SECONDS EAST ALONG A NORTHWEST LINE OF SAID LOT 2, A DISTANCE OF 219.31 FEET TO THE NORTH CORNER OF SAID LOT 2, THENCE SOUTH 27 DEGREES 43 MINUTES 33 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 2, A DISTANCE OF 150.00 FEET TO THE EAST CORNER OF SAID LOT 2, SAID POINT BEING ON THE NORTH LINE OF OUTLOT "C" FIRETHORN ADDITION, SAID POINT BEING A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION, HAVING DELTA ANGLE OF 08 DEGREES 17 MINUTES 29 SECONDS, A RADIUS OF 352.09 FEET, AN ARC LENGTH OF 50.95 FEET, A TANGENT LENGTH OF 25.52 FEET, A CHORD LENGTH OF 50.91 FEET, AND A CHORD BEARING OF NORTH 66 DEGREES 09 MINUTES 35 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "C" TO A NORTH CORNER OF SAID OUTLOT "C", THENCE NORTH 57 DEGREES 29 MINUTES 59 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "C", A DISTANCE OF 39.69 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING DELTA ANGLE OF 27 DEGREES 14 MINUTES 38 SECONDS, A RADIUS OF 15.00 FEET, AN ARC LENGTH OF 7.13 FEET, A TANGENT LENGTH OF 3.63 FEET, A CHORD LENGTH OF 7.07 FEET, AND A CHORD BEARING OF NORTH 39 DEGREES 29 MINUTES 13 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "C" TO A POINT OF REVERSE CURVATURE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION, HAVING A DELTA ANGLE OF 84 DEGREES 45 MINUTES 32 SECONDS, A RADIUS OF 60.00 FEET, AN ARC LENGTH OF 88.76 FEET, A TANGENT LENGTH OF 54.75 FEET, A CHORD LENGTH OF 80.88 FEET, AND A CHORD BEARING OF NORTH 68 DEGREES 14 MINUTES 40 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "C" TO THE WEST CORNER OF LOT 8 BLOCK 2 FIRETHORN ADDITION, THENCE NORTH 21 DEGREES 18 MINUTES 12 SECONDS EAST ALONG A WEST LINE OF SAID LOT 8, A DISTANCE OF 65.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 8, THENCE SOUTH 83 DEGREES 34 MINUTES 52 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 8, A DISTANCE OF 180.00 FEET TO A NORTH CORNER OF SAID LOT 8, THENCE SOUTH 62 DEGREES 36 MINUTES 01 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 8, A DISTANCE OF 90.00 FEET TO THE EAST CORNER OF SAID LOT 8, THENCE SOUTH 43 DEGREES 18 MINUTES 35 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID LOT 8, AND THE SOUTHEAST LINE OF LOT 9 BLOCK 2 FIRETHORN ADDITION, A DISTANCE OF 427.24 FEET TO THE SOUTH CORNER OF SAID OUTLOT 9, SAID POINT BEING THE SOUTHEAST CORNER OF LOT 10 BLOCK 2 FIRETHORN ADDITION, THENCE SOUTH 58 DEGREES 44 MINUTES 18 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID LOT 10, A DISTANCE OF 95.68 FEET TO THE

EAST CORNER OF LOT 2 FIRETHORN 23RD ADDITION, THENCE SOUTH 39 DEGREES 06 MINUTES 47 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID LOT 2, A DISTANCE OF 185.73 FEET TO THE SOUTH CORNER OF SAID LOT 2, SAID POINT BEING THE EAST CORNER OF LOT 1 FIRETHORN 23RD ADDITION, THENCE SOUTH 51 DEGREES 19 MINUTES 08 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID LOT 1, A DISTANCE OF 190.77 FEET TO THE EAST CORNER OF LOT 13 BLOCK 2 FIRETHORN ADDITION, THENCE SOUTH 64 DEGREES 20 MINUTES 05 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID LOT 13, A DISTANCE OF 191.03 FEET TO THE SOUTH CORNER OF SAID LOT 13, SAID POINT BEING THE SOUTHEAST CORNER OF LOT 14 BLOCK 2 FIRETHORN ADDITION, THENCE SOUTH 77 DEGREES 33 MINUTES 04 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 14, A DISTANCE OF 191.03 FEET TO THE SOUTHWEST CORNER OF SAID LOT 14, THENCE NORTH 05 DEGREES 50 MINUTES 26 SECONDS WEST ALONG A WEST LINE OF SAID LOT 14, A DISTANCE OF 200.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 14, SAID POINT BEING ON THE SOUTH LINE OF OUTLOT "C" FIRETHORN ADDITION TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION, HAVING DELTA ANGLE OF 05 DEGREES 41 MINUTES 55 SECONDS, A RADIUS OF 671.75 FEET, AN ARC LENGTH OF 66.81 FEET, A TANGENT LENGTH OF 33.43 FEET, A CHORD LENGTH OF 66.78 FEET, AND A CHORD BEARING OF SOUTH 87 DEGREES 14 MINUTES 10 SECONDS WEST ALONG A SOUTH LINE OF SAID OUTLOT "C" TO A POINT OF TANGENCY, THENCE NORTH 89 DEGREES 48 MINUTES 56 SECONDS WEST ALONG A SOUTH LINE OF SAID OUTLOT "C", A DISTANCE OF 59.90 FEET TO THE NORTHEAST CORNER OF LOT 15 BLOCK 2 FIRETHORN ADDITION, THENCE SOUTH 02 DEGREES 01 MINUTES 06 SECONDS EAST ALONG A EAST LINE OF SAID LOT 15, AND THE EAST LINE OF LOTS 16, 17, 18, 19 AND OUTLOT "B" BLOCK 2 FIRETHORN ADDITION, A DISTANCE OF 773.60 FEET TO THE SOUTHEAST CORNER OF SAID OUTLOT "B", THENCE NORTH 89 DEGREES 46 MINUTES 22 SECONDS WEST ALONG A SOUTH LINE OF SAID OUTLOT "B", A DISTANCE OF 230.31 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT "B", SAID POINT BEING ON THE EAST LINE OF A TRACT OF LAND REFERRED TO IN VACATED ORDINANCE NO. 98-2670, THENCE SOUTH 00 DEGREES 13 MINUTES 38 SECONDS WEST ALONG A EAST LINE OF A TRACT OF LAND REFERRED TO IN VACATED ORDINANCE NO. 98-2670, A DISTANCE OF 275.68 FEET TO THE NORTHWEST CORNER OF LOT 20 BLOCK 2 FIRETHORN ADDITION, THENCE SOUTH 89 DEGREES 46 MINUTES 22 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 20, A DISTANCE OF 180.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 20, THENCE SOUTH 00 DEGREES 13 MINUTES 38 SECONDS WEST ALONG A EAST LINE OF SAID LOT 20, AND THE EAST LINE OF LOTS 21 AND 22 BLOCK 2 FIRETHORN ADDITION, A DISTANCE OF 395.70 FEET TO THE SOUTHEAST CORNER OF SAID LOT 22, SAID POINT BEING THE NORTHWEST CORNER OF LOT 23 BLOCK 2

FIRETHORN ADDITION, THENCE SOUTH 80 DEGREES 03 MINUTES 13 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 23, A DISTANCE OF 93.28 FEET TO THE NORTHEAST CORNER OF SAID LOT 23, SAID POINT BEING THE NORTHWEST CORNER OF LOT 24 BLOCK 2 FIRETHORN ADDITION, THENCE NORTH 48 DEGREES 56 MINUTES 29 SECONDS EAST ALONG A NORTHWEST LINE OF SAID LOT 24, A DISTANCE OF 113.88 FEET TO THE NORTH CORNER OF SAID LOT 24, THENCE SOUTH 41 DEGREES 03 MINUTES 31 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 24, A DISTANCE OF 200.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 24, SAID POINT BEING ON THE NORTHWEST LINE OF OUTLOT "C" FIRETHORN ADDITION, THENCE NORTH 48 DEGREES 56 MINUTES 29 SECONDS EAST ALONG A NORTHWEST LINE OF SAID OUTLOT "C", A DISTANCE OF 94.93 FEET TO THE SOUTH CORNER OF LOT 25 BLOCK 2 FIRETHORN ADDITION, THENCE NORTH 41 DEGREES 03 MINUTES 31 SECONDS WEST ALONG A SOUTHWEST LINE OF SAID LOT 25, A DISTANCE OF 200.00 FEET TO THE WEST CORNER OF SAID LOT 25, THENCE NORTH 48 DEGREES 56 MINUTES 29 SECONDS EAST ALONG A NORTHWEST LINE OF SAID LOT 25, AND THE NORTHWEST LINE OF LOT 26 BLOCK 2 FIRETHORN ADDITION, A DISTANCE OF 372.00 FEET TO THE NORTH CORNER OF SAID LOT 26, SAID POINT BEING THE WEST CORNER OF LOT 27 BLOCK 2 FIRETHORN ADDITION, THENCE NORTH 44 DEGREES 30 MINUTES 10 SECONDS EAST ALONG A NORTHWEST LINE OF SAID LOT 27, AND THE NORTHWEST LINE OF LOTS 28, 29, AND 30 BLOCK 2 FIRETHORN ADDITION, A DISTANCE OF 645.67 FEET TO THE NORTH CORNER OF SAID LOT 30 I.T., SAID POINT BEING THE NORTHWEST CORNER OF LOT 31 BLOCK 2 FIRETHORN ADDITION, THENCE SOUTH 84 DEGREES 07 MINUTES 29 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 31, A DISTANCE OF 239.68 FEET TO THE NORTHEAST CORNER OF SAID LOT 31, SAID POINT BEING THE NORTHWEST CORNER OF LOT 32 BLOCK 2 FIRETHORN ADDITION, THENCE NORTH 61 DEGREES 25 MINUTES 37 SECONDS EAST ALONG A NORTHWEST LINE OF SAID LOT 32, A DISTANCE OF 70.11 FEET TO THE NORTHWEST CORNER OF SAID LOT 32, SAID POINT BEING THE SOUTHWEST CORNER OF LOT 33 BLOCK 2 FIRETHORN ADDITION, THENCE NORTH 09 DEGREES 50 MINUTES 49 SECONDS EAST ALONG A WEST LINE OF SAID LOT 33, AND A WEST LINE OF LOTS 34, 35, AND 36 BLOCK 2 FIRETHORN ADDITION, A DISTANCE OF 592.49 FEET TO THE NORTHWEST CORNER OF SAID LOT 36, SAID POINT BEING THE SOUTHWEST CORNER OF LOT 37 BLOCK 2 FIRETHORN ADDITION, THENCE NORTH 16 DEGREES 56 MINUTES 07 SECONDS EAST ALONG A WEST LINE OF SAID LOT 37, A DISTANCE OF 154.07 FEET TO THE NORTHWEST CORNER OF SAID LOT 37, SAID POINT BEING THE SOUTHWEST CORNER OF OUTLOT "A" FIRETHORN 7TH ADDITION, THENCE NORTH 39 DEGREES 42 MINUTES 48 SECONDS EAST ALONG A NORTHWEST LINE OF SAID OUTLOT "A", A DISTANCE OF 200.00 FEET TO A NORTHWEST CORNER OF SAID OUTLOT "A", THENCE NORTH 84

DEGREES 38 MINUTES 29 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "A", AND ITS EXTENSION, A DISTANCE OF 305.52 FEET TO A POINT OF INTERSECTION WITH THE EXTENSION OF A EAST LINE OF LOT 1, FIRETHORN 8TH ADDITION, THENCE SOUTH 04 DEGREES 20 MINUTES 53 SECONDS EAST ALONG A EXTENSION OF THE EAST LINE OF SAID LOT 1, AND A EAST LINE OF SAID LOT 1, A DISTANCE OF 305.64 FEET TO A EAST CORNER OF SAID LOT 1, THENCE SOUTH 05 DEGREES 45 MINUTES 09 SECONDS WEST ALONG A EAST LINE OF SAID LOT 1, AND A EAST LINE OF LOT 41 BLOCK 2 FIRETHORN ADDITION, A DISTANCE OF 308.05 FEET TO THE SOUTHEAST CORNER OF SAID LOT 41, SAID POINT BEING THE NORTHEAST CORNER OF LOT 42 BLOCK 2 FIRETHORN ADDITION, THENCE SOUTH 08 DEGREES 26 MINUTES 57 SECONDS WEST ALONG A EAST ALONG A EAST LINE OF SAID LOT 42, A DISTANCE OF 165.01 FEET TO THE SOUTHEAST CORNER OF SAID LOT 42, SAID POINT BEING THE NORTHEAST CORNER OF LOT 43 BLOCK 2 FIRETHORN ADDITION, THENCE SOUTH 10 DEGREES 55 MINUTES 09 SECONDS WEST ALONG A EAST LINE OF SAID LOT 43, AND THE EAST LINE OF LOTS 44 AND 45 BLOCK 2 FIRETHORN ADDITION, A DISTANCE OF 507.50 FEET TO THE SOUTHEAST CORNER OF SAID LOT 45, SAID POINT BEING THE NORTHEAST CORNER OF LOT 46 FIRETHORN ADDITION, THENCE SOUTH 33 DEGREES 34 MINUTES 56 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID LOT 46, AND THE SOUTHEAST LINE OF LOT 47 BLOCK 2 FIRETHORN ADDITION, A DISTANCE OF 341.36 FEET TO A SOUTH CORNER OF SAID LOT 47, SAID POINT BEING A EAST CORNER OF LOT 48 BLOCK 2 FIRETHORN ADDITION, THENCE SOUTH 55 DEGREES 36 MINUTES 01 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID LOT 48, A DISTANCE OF 130.71 FEET TO A SOUTHEAST CORNER OF SAID LOT 48, SAID POINT BEING THE NORTHEAST CORNER OF LOT 49 BLOCK 2 FIRETHORN ADDITION, THENCE SOUTH 09 DEGREES 37 MINUTES 00 SECONDS EAST ALONG A EAST LINE OF SAID LOT 49, A DISTANCE OF 102.47 FEET TO THE SOUTHEAST CORNER OF SAID LOT 49, SAID POINT BEING THE NORTHWEST CORNER OF LOT 50 BLOCK 2 FIRETHORN ADDITION, THENCE SOUTH 89 DEGREES 51 MINUTES 36 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 50, AND THE NORTH LINE OF LOT 51 BLOCK 2 FIRETHORN ADDITION, A DISTANCE OF 352.63 FEET TO THE NORTHEAST CORNER OF SAID LOT 51, THENCE SOUTH 00 DEGREES 08 MINUTES 24 SECONDS WEST ALONG A EAST LINE OF SAID LOT 51, A DISTANCE OF 170.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 51, SAID POINT BEING ON THE NORTH LINE OF OUTLOT "C" FIRETHORN ADDITION, THENCE SOUTH 89 DEGREES 51 MINUTES 57 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "C", A DISTANCE OF 45.12 FEET TO THE SOUTHWEST CORNER OF LOT 1 FIRETHORN 10TH ADDITION, THENCE NORTH 00 DEGREES 08 MINUTES 24 SECONDS EAST ALONG A WEST LINE OF LOT 1, A DISTANCE OF 240.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 1, THENCE NORTH 76

DEGREES 06 MINUTES 14 SECONDS EAST ALONG A NORTHWEST LINE OF SAID LOT 1, A DISTANCE OF 226.77 FEET TO THE NORTHEAST CORNER OF SAID LOT 1, THENCE SOUTH 00 DEGREES 08 MINUTES 24 SECONDS WEST ALONG A EAST LINE OF SAID LOT 1, A DISTANCE OF 295.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1, THENCE SOUTH 26 DEGREES 42 MINUTES 25 SECONDS WEST, A DISTANCE OF 67.09 FEET TO THE NORTHEAST CORNER OF LOT 1 BLOCK 3 FIRETHORN 7TH ADDITION, THENCE SOUTH 00 DEGREES 08 MINUTES 24 SECONDS WEST ALONG A EAST LINE OF LOT 1, A DISTANCE OF 168.44 FEET TO A EAST CORNER OF SAID LOT 1, THENCE SOUTH 27 DEGREES 31 MINUTES 47 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID LOT 1, AND A SOUTHEAST LINE OF OUTLOT "A" FIRETHORN 8TH ADDITION, A DISTANCE OF 157.85 FEET TO THE SOUTH CORNER OF SAID OUTLOT "A", SAID POINT BEING ON THE NORTHEAST LINE OF LOT 1 FIRETHORN 11TH ADDITION, THENCE SOUTH 55 DEGREES 54 MINUTES 36 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 1, AND AN EXTENSION OF SAID LOT 1, A DISTANCE OF 104.45 FEET TO A POINT, THENCE SOUTH 00 DEGREES 29 MINUTES 08 SECONDS WEST ALONG AN EXTENSION OF THE WEST LINE OF OUTLOT "B" FIRETHORN 15TH ADDITION, A DISTANCE OF 739.15 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT "B", THENCE SOUTH 89 DEGREES 37 MINUTES 10 SECONDS EAST ALONG A SOUTH LINE OF SAID OUTLOT "B", A DISTANCE OF 125.35 FEET TO THE NORTHWEST CORNER OF OUTLOT "A" FIRETHORN 20TH ADDITION, THENCE SOUTH 00 DEGREES 22 MINUTES 50 SECONDS WEST ALONG A WEST LINE OF SAID OUTLOT "A" AND ITS EXTENSION, A DISTANCE OF 764.93 FEET TO A POINT ON THE NORTH LINE OF OUTLOT "E" FIRETHORN 15TH ADDITION, THENCE NORTH 89 DEGREES 37 MINUTES 10 SECONDS WEST ALONG A NORTH LINE OF SAID OUTLOT "E", A DISTANCE OF 207.42 FEET TO A NORTHWEST CORNER OF SAID OUTLOT "E", THENCE SOUTH 00 DEGREES 09 MINUTES 52 SECONDS WEST ALONG A WEST LINE OF SAID OUTLOT "E", A DISTANCE OF 724.04 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 13,227,333.96 SQUARE FEET OR 303.66 ACRES, MORE OR LESS,

AND INCLUDING ADJACENT STREET RIGHTS-OF-WAY IN SOUTH 84TH STREET AND PIONEERS BLVD.

e-mail sent to HO 12:00 noon Wednesday, December 20, 2006.

Folks,

I had several voice messages this morning regarding our plans for annexation. Unfortunately, there is a large amount of misinformation being disseminated which is untrue.

Here are the facts:

Zoning - while it is true that we originally applied for R-3 zoning (a zoning designation that allows for a very dense concentration of homes) we did so only because the City recommended this to us. Given the "heartburn" that this appears to have caused some - we have amended our request to R-1. R-1 is a much less dense concentration of housing. I just heard from our engineer that the City has accepted the request and as we go to PC this afternoon it will be presented as R-1 and voted on that way.

It is important to point out however that even under R-1 zoning the concentration levels for the area that is Firethorn could exceed 1,000 allowable units.

Please note that the zoning is NOT the controlling document that will govern the number of units allowed in Firethorn. The Community Unit Plan (CUP) controls.

As pointed out in my memo to the homeowners (posted to the Website - November 20th), the total number of units available in the Firethorn CUP is governed by sewer capacity. As discussed multiple times, Firethorn is being required to "upsized" a 1,200+ foot line downgrade from Firethorn along Pioneers. This "upsizing" creates additional capacity in the line which, if not reserved by Firethorn, could potentially be used by some adjacent property owner. Firethorn initially requested a total of 350 total units be allowed within the CUP. While this number far exceeds any plans we have for current or future development, we are asking to "reserve" this allocation because we are paying for it. If, in the future, some adjacent landowner requests a connection to that line they will have to talk to us in order to be able to use the line. This gives us the potential to recover some of the costs noted above for the "upsizing." The City has since come back to us and calculated the total maximum allowable units at 547. Again, what ever the number, we are "reserving" them for Firethorn for the reasons noted above.

The homeowners are protected two ways. First, any additional changes to the Firethorn CUP would have to be approved by the City (everyone would have the right to have additional input). Secondly, the Conservation Easements will remain in place in total on the course except as modified by our current request. Any further modification would require City approval.

I've heard some interesting theories this morning - from "Firethorn is closing the South 9 to build track housing" to "I'm a distant descendant of Adolph Hitler." As far as I know - neither is true.

I hope the facts will allow everyone to make a reasoned judgment regarding our request for annexation.

OPPOSITION

ITEM NO. 4.3a,b,c: ANNEXATION NO. 06020
CHANGE OF ZONE NO. 06077
SPECIAL PERMIT NO. 872F

(p.35 - Public Hearing - 12/20/06)



Jean L Walker/Notes
12/20/2006 08:15 AM

To Jean L Walker/Notes,
cc
bcc
Subject Fw: Firethorn rezoning

— Forwarded by Ray F Hill/Notes on 12/20/2006 07:32 AM —



"Steve and Donna Lehr"
<lakesidelehr@alltel.net>
12/19/2006 09:32 PM

To <rhill@lincoln.ne.gov>
cc <shenrichsen@lincoln.ne.gov>, <tcajka@lincoln.ne.gov>,
<dcary@lincoln.ne.gov>, <mdekalb@lincoln.ne.gov>,
<ceichorn@lincoln.ne.gov>, <bgarrett@lincoln.ne.gov>,
<shartzell@lincoln.ne.gov>, <bwill@lincoln.ne.gov>,
<ezimmer@lincoln.ne.gov>
Subject Firethorn rezoning

As a resident of Firethorn Fairways of two years, this is the most underhanded, deceitful manipulation of future planning for this area I have ever been witness. Mark Wibble cried about how we needed to be annexed by Lincoln knowing full well that he intended to flood the area with new construction which will totally change the character and ambiance of the home we purchased based on the Firethorn layout. This will not only lower the value of the homes we have invested so much in, but raise the noise level, raise the crime rate, and totally change the way of life we sought by moving here. If you pass this zoning change, you are catering to "big money".

Sincerely,
Dr. Steven J. Lehr
9230 Pioneer Court
The Fairways
lakesidelehr@alltel.net

Charles E. Wright
4020 Thorn Court
Lincoln, Nebraska 68520
402-488-8455

September 20, 2005

Mr. Jeffrey L. Schumacher
2920 South 91 Street
Lincoln, Nebraska 68520

RE: Proposed Accelerated Annexation

Dear Jeff:

I offer these comments on the written handout to Firethorn homeowners and the proposal for accelerated annexation being promoted by Mark Wible and Roger Severin:

- 1) Roger Severin is representing the developers. If he has a conflict of interest in serving on a homeowners' committee, then he has a conflict in giving professional advice to the homeowners without disclosing the nature and extent of his conflict and his personal interest in achieving annexation.
- 2) Firethorn is privately owned, and the only issue that it needs to resolve in order to proceed with its development proposal is to persuade the individual landowners not to object to the proposed accelerated annexation.
- 3) The road repairs that are needed in the north area have nothing to do with issues involving annexation and the sanitary sewage system. The sanitary sewer system is being utilized to persuade homeowners to support accelerated annexation.
- 4) The persons and entities that have obtained various subdivision permits for the development of Firethorn are legally obligated to provide and permanently maintain the private sanitary sewer system, together with the roads and private water system. Good faith and reasonable efforts are required.
- 5) Annexation of Firethorn is included in the city's 25-year plan, which indicates that Firethorn is scheduled for annexation in the second stage of the plan, sometime within the final 12½ years, which is at least 12½ years in the future. After 12½ years, it will not be annexed unless and until the City has funds to provide for extension of a sanitary sewer and other

infrastructure to this area. Wible and Severin know this, yet they represent in writing that annexation will "probably" be in five to ten years—"perhaps sooner."

- 6) There is nothing wrong nor inadequate with the current sewage system. It is a "constructive wetland" system designed by an accredited engineer (Mike Ogden) which, if properly maintained and operated, has an unlimited useful life. It operates with four wetland cels, each of which contains a shallow earthen basin filled with gravel. Gravel of one-half to one inch is best. After the sewage is treated with a bacterial solution, it is drained through a wetland cel. The water then passes through a sand filter, after which it flows into an unnamed drainage which empties into Stevens Creek. If the system were deficient, the Department of Environmental Quality would prohibit discharge into Stevens Creek. In the summer months, only two or three cels are needed. In cold weather, all four cels are needed because the colder weather slows the flow of influent through the cels. In the recent past, Firethorn employees dumped sand into the cels where rain water flowed into the cels and created "ponding." These surface ponds are what generate odors and can be eliminated by diverting surface waters away from the cels. We have reviewed the "Firethorn Wastewater Treatment Facility" with Charles A. Duerschner and Rick Hoopes, both Environmental Engineers with the DEQ, together with Supervisor of Compliance, Rudy Feidler, and John Schauer, the DEQ Compliance Specialist who has oversight over the Firethorn sewage system. Each of these gentlemen has assured us in unequivocal terms that:

- a) "Firethorn has a perfectly acceptable system."
- b) The same system is in common usage in Iowa and "we wish we had more of them in Nebraska."
- c) Each system needs periodic maintenance. In this regard, during the warm season, one or two cels can be taken off-line and the gravel cleansed or scrubbed and replaced. This is neither a difficult nor expensive process.

The Firethorn system requires a certified Class 1 operator who is trained and certified by the DEQ. Dave Cline (previously) and now Mr. Ebersbacher have both been certified by the DEQ. Class 1 is the lowest and simplest sewer classification.

- 7) We have also contacted Mike Ogden, the certified environmental engineer who designed and assisted with the installation of the current system in 1995. He indicated that, unless the system was misused or not maintained, it is perfectly capable of continued use, and that repair or re-working a plugged cel is easily accomplished.
- 8) Wible and Severin tell us "the system could fail at any time." Our system is not in danger of failure. It simply needs preventive and corrective maintenance, as do our roads.

- 9) Our current water system is the same system that was used to obtain permits from the City for the various subdivisions of Firethorn, and was deemed sufficient by the City and some 140 homeowners (as well as Firethorn) when we bought or built our homes. It supplies domestic water, water for heat pump operation and water for the golf course and landscaped areas. We obtain excellent service from the rural fire department, have low density housing, and are protected by lawns and green areas from potential grass fires. We are able to obtain fire insurance coverage and can add additional protection from portable extinguishers in and about our homes. Rapid response time is more important than water pressure. It was not considered an unreasonable risk when we built or bought, or when the city allowed the subdivision, and the present risk is no greater than the past.
- 10) Going onto city water will generate an additional \$1,500 to \$2,000 annual expense for each house owner, will require disruption of our lawns and/or streets when new mains are installed, and we will pay these additional capital costs up front. I am told by Pine Lake residents that (a) summer water bills run as high as \$500 per month, (2) that exterior water faucets require installation of an anti-back-flow valve, which can require tearing out a wall to install, and 3) invisible fences for Fido are not permitted.
- 11) The existing sewer and water lines will have to be "televised" at our expense, and existing lines may need replacement if they will not take the pressure of the city system.
- 12) The current water system has been satisfactory so far. Unless there are quantity or quality problems, of which we have not been informed, we are better served to continue use of the present system.
- 13) Annexation will bring an initial tax bill of \$2,000 per residence—more for some—which at an annual increase of 5 percent would, in ten years, become \$3,102. In ten years this would amount to total taxes of \$25,153—the sum each of us would pay over the next ten years for an unnecessary accelerated annexation. Add to this an annual fee of \$1,500 for water and you achieve an added cost of \$15,000, and a total ten-year cost of \$40,153 per homeowner. In addition, there will be individual costs for water lines and meters, and we have done nothing at this point to repair those roads that are badly in need or repair.
- 14) Wible has made nonspecific statements about what he can or will do with all or some of the proceeds that Firethorn will or may generate from subdividing and selling lots permitted by changing the housing density on the Firethorn property. This cannot happen without annexation. The amount, timing and use of each payment are so vague that they may eventually be illusory and unenforceable.
- 15) Presently, we receive law enforcement services from the sheriff, and these would be replaced by the police department. The value of the services would not change.

- 16) We need to know the identity of "Firethorn" and who has authority to make commitments to homeowners in its behalf. Under ordinary circumstances, this would be its owner or owners. If only one owner is involved, then any party holding debt investments on stock ownership or the real estate would have to approve any commitments. At this point, we have no representations concerning the authority of Mark Wible to commit Firethorn.
- 17) Bottom line—if 140 homeowners are subjected to accelerated annexation, their cumulative tax increase will be $140 \times \$25,153 = \$3,521,420$
and our cumulative water bills will be $140 \times \$15,000 = \underline{\$2,100,000}$
for a total of $\$5,621,420$.

The homeowners will receive little in return but increased housing density and the privilege of paying sewer use fees, taxes to two school districts, and the city wheel tax. In addition, we will need to expend funds for deferred maintenance on Firethorn roads and endure the loss of our open space and rural atmosphere, and the added inconvenience of installation of sewer and water lines which add no value to our homes and do not increase our enjoyment in living here.

- 18) Rumors abound. In short, we do not understand the impetus for accelerated annexation. Is it:
- a) concerns about our sewage treatment facility,
 - b) mistaken belief that annexation is imminent,
 - c) a mechanism to create cash flow for Firethorn,
 - d) promises to repair the roads in the north section,
 - e) the ability to eliminate existing density requirements,
 - f) pressure from developers to the west, or
 - g) concerns about the viability of the golf facility?

It may be none, one or a combination of these reasons.

- 19) The promotional materials that were distributed to the homeowners state that "We want to make a final recommendation to the Board of Governors by October 1, 2005." This statement may create an inaccurate impression in the minds of individual homeowners that the decision on accelerated annexation and the continued viability of the sewage system is in the hands of a "Board of Governors." Firethorn is a privately owned entity and, to my knowledge, those persons designated as the "Board of Governors" have no authority to bind any individual homeowner or Firethorn by their actions. The decision of each individual homeowner about acceptance, acquiescence or opposition to the proposed accelerated annexation remains vested in each individual homeowner throughout the entire process. Use of a time deadline (October 1, 2005) may create a sense of urgency in homeowners to reach

Mr. Jeffrey L. Schumacher
September 20, 2005
Page 5

a decision by that date or an inaccurate impression that they may not change their decision or react after that date.

Sincerely,

Charles E. Wright

CEW/jc
092005.cew

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Subject: Questions

Date: Mon, 26 Sep 2005 16:33:57 -0500

To all Thorn Court Lot Holders:

Nick Novak emailed these questions to Jeff Schumaker in an attempt to obtain more information prior to the Thorn Court Lot Holders making a decision regarding annexation. I am forwarding these to everyone in Thorn Court at the suggestion of Dave Hilger and Bill Hammelmann.

Questions

1. In the presentation on September 11th the timeline given for annexation of Firethorn was "probably 5 -10 years – perhaps sooner". This is inconsistent with the timelines in the 25 year plan and inconsistent with current pace of installation of the sewer line being built south from the Abbott facility. What was the source of the estimate and what documentation is there to support the estimate?
2. Who owns Firethorn and FUSC and can make financial commitments for Firethorn and FUSC?
3. What agreements exist between Firethorn and the developers regarding the development, utilities, timelines, the possible annexation of Firethorn and cost-sharing; i.e. who is going to pay for what and in what amounts. Of specific interest is the \$900,000 referenced in the presentation of September 11th; is it cash, in-kind etc. What is the projected revenue from the sale of lots and what is the development costs?
4. How will the costs of street repair be apportioned among individual homeowners and subdivisions of Firethorn?

Requests for documents/information

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1. A copy of the written proposal presented to the city in response to its letter date August 10, 2005 regarding the proposed annexation of Firethorn.
2. Copies of written communications between the developers and the city of Lincoln regarding the development of land adjacent to Firethorn.
3. Copies of written communications between the developers and Firethorn regarding the development of land adjacent to Firethorn.
4. A detailed summary of FUSC records concerning the maintenance and operation of the sewer and water systems for the past ten years.

Date: Sun, 9 Oct 2005 15:49:24 -0700 (PDT)
From: "charles wright" <floydeu@yahoo.com>
Subject: Firethorn annexation--Schumacher letter of Sept.27
To: "Jeff Schumacher" <huskersjs@aol.com>

Mr. Jeffrey L. Schumacher
2920 South 91 Street
Lincoln NE 68520

I appreciate your letter of September 27 but concerns remain regarding the proposed accelerated and voluntary annexation of Firethorn and its more recent subdivisions, Fairways and Thorn Court.

1) If Roger Severin has a conflict in serving on a Homeowners' Committee, the substance of his conflict needs to be disclosed and he should not thereafter act as a consultant providing technical opinions to the Committee.

2) You refer to a "homeowners' Committee," yet the members of the committee were each appointed by Mark Wible who is advocating accelerated annexation. The committee members are all respected friends, neighbors and homeowners but their powers stem from appointment by Mr. Wible and their responsibilities as committee members are unclear. Are they to:

- advise Mr. Wible, who will then decide what he will do,
- hold fact-finding meetings to determine the the 144 wishes of the 144 homeowners
- determine what needs to be done with respect to the sanitary wastewater system
- reach a decision that will be binding on the manager, Mr. Wible.

or perhaps none, one or a combination of the above.

Whatever the duties and responsibilities of the committee may be, they do not relieve Mr. Wible and Firethorn of their responsibility to maintain and operate the private wastewater system in accordance with Firethorn's agreement with the City of Lincoln.

3) To date, you and the Homeowners' Committee appear to be acting as advocates for annexation --- which you have every right to do --- but, in that event, you are not representing the concerns of those homeowners who do not want accelerated annexation. Mr. Wible met to discuss annexation with the city staff on July 29, and

we have reason to believe that the decision to seek annexation was made well in advance of that meeting.

4) Concerning the street repairs and maintenance that are needed in the "north" area, neither the homeowners' Committee nor Mr. Wible have addressed the most important question, apportionment of the costs. Firethorn has the obligation to maintain and repair the private streets and, in turn, assess the costs to the property owners in an equitable manner. In the north area, Firethorn Golf Club will have to pay its equitable share of these costs - regardless of whether or not there is an annexation. The private street system does not connect Firethorn "north" with either the Fairways or Thorn Court. Fairway's streets are middle aged and Thorn Court's are new. Neither Fairways or Thorn Court owners should contribute to "north" streets and vice-versa. The \$160,000 mentioned by Mr. Wible for 1/2 of the repair costs in "north" would have to be paid by Firethorn Golf in any event
--- this is not a special gift triggered by annexation.

5) You mention that Firethorn and an adjacent developer are willing to contribute significant sums toward the water and sewer systems. When I asked Mr. Wible who would make these contributions, when and how much, the question was ignored. In your letter you make the same representations but you give us no facts.

6) You state that you anticipate a letter from the "City of Lincoln" telling us when "normal" annexation would happen. I do not believe that any representative of the City of Lincoln could presently state when the annexation of Firethorn will or would normally occur other than in conformity with the City's existing 25-year plan. It can not happen unless and until the issue has been acted upon by the Planning Commission and the City Council. In any event, it would not normally occur until a major new sewer line carrying sewage northward in the Stevens Creek drainage is constructed. This is a project involving 8 to 10 miles of new sewer line. It certainly will cost millions and will not happen for 10 to 15 years. When it is constructed, it will replace the interim mechanical system and pumping apparatus that you and Mr. Wible are advocating.

7) Concerning a sellers' required disclosures on sale of an existing lot or home, it is also the responsibility of Mr. Wible and Firethorn (the persons and entity charged with maintenance and operation of

the wastewater facility) to make accurate and timely disclosure to existing homeowners if there are or were any problems impairing the operation of our current system. I moved into my new residence in 2000. Prior to that date, and thereafter until August of this year, I was never given any information by Firethorn or Mr. Wible that there might be problems with our system. If there are problems, tell us what they are, when they occurred, why they occurred and what Mr. Wible, as managing owner, has done or plans to do in the future to remedy them.

8) Representations or failure to disclose in the sale of a lot or home could involve not only pending and future sales of homes and lots, but sales completed in 2005 and prior years, as well as expensive recent improvements on existing residential lots. Millions of dollars are involved on past, pending and future transactions. This is why I was somewhat shocked when I read your comments concerning "defects which materially affect the value of the property," and relate them to the "Baseline Facts" on page three of Mr. Wible's handout that "The sewer system could fail at any time." These issues are better explained to those homeowners who have recently purchased and built new homes, those with "for sale" signs in their front yard and those who might want to hitch on to the current housing boom and sell in the near future. Before you advocate that the system could fail at any time, you need to examine the existing system and tell us what you plan to do in regard to the obligation of Firethorn to provide and operate the sanitary sewer system. You cannot simply walk away from it and forget about these responsibilities. You should not discard the system simply because you are failing to maintain it.

9) I do not share your opinion that annexation will increase individual property values. Perhaps I don't realize how much they may have declined by the current disparagement of the current condition of our wastewater system. Certainly the added annual costs of the City and Lincoln School District taxes and the costs and user fees connected with City water are not positive. Increased housing density and congested traffic flow on Pioneers and 84th Streets will certainly detract from our individual enjoyment and marketability in the eyes of potential future home buyers.

10) Some facts start to add up but certain matters remain uncertain:

- you have indicated to at least one homeowner that "Firethorn is broke"

- Mr. Wible stated to the "north" homeowners that Firethorn has annual debt service which at the present time covers "interest only."
- Filings in the Register of Deeds office indicate that a considerable amount of secured debt is owed to a local Bank by a limited liability company named "Firethorn Golf Company, LLC"
- The organizational articles of Firethorn Golf Company, LLC, state that it "now owns the stock of Firethorn Utility Systems Co."...which owns all of the pump, water/sewer mains and sewage treatment system located on the Property"
- Mr. Wible has stated that he does not intend to maintain and operate the current system.

Under ordinary circumstances banks make loans that can be repaid out of cash flow generated from current operations. Where installment payments are involved, they are used to amortize both principal and interest.

We do not know:

- if the current debt is old debt related to land and improvements, or
- new or recent debt to buy out former owners, or
- recent debt for improvements to the golf facility.

The "interest only" feature could result from:

- restructuring of an old loan that has become classified or is not able to be amortized out of current income
- a debt incurred to buy out former owners, or
- a "bridge" loan that is to be repaid from the sale of Firethorn assets i.e. the sale of lots following annexation.

In any event, the entire debt will have to be repaid to the lender. If Firethorn is unable to service the debt out of its current operating revenue, it will have to be paid through sale of assets. Firethorn owns undeveloped land which is more valuable if it can be subdivided into residential or commercial lots before it is sold. This undeveloped land cannot be subdivided and sold unless and until the land is annexed. This, rather than the wastewater treatment system, may be triggering the current efforts to annex as soon as possible.

11) Accelerated annexation will cost the

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homeowners a combined \$5,600,000 in unnecessary taxes and water use fees in addition to the upfront assessment of \$9,000 apiece, simply to facilitate sale of Firethorn's undeveloped land. The interim sewage collection and pumping apparatus that is being proposed will have to be discarded and replaced with a new gravity flow system when the City's Stevens Creek sewer line is extended south far enough to reach Firethorn. There are better ways to resolve the problem.

Yours very truly,
Charles E. Wright

042

THE FIRETHORN DILEMMA

ONE MAN'S OPINION

Assumptions:

1. We all moved here because we like the views, the rural feel and the lack of housing density
2. We have all had some problem with the water, but have managed to get them fixed by various means.
3. We are satisfied with the county fire department and accept the reality that if a house fire starts the house can rarely be saved under the best city conditions and we are have no trouble getting fire insurance.
4. We all want the septic system fixed and maintained and odor free.
5. We all want the roads fixed and maintained.
6. All costs quoted here from a spread sheet presented by Firethorn except city water which is typical of a house in the Knolls.

My opinion:

1. The city planning office does not have Firethorn on its annexation calendar until the second half of the 25 year plan. The reason for this time line is that it will take 10 years or more to build a sewer line from the treatment plant in the Abbot Field area. This being the case, it seems reasonable to fix the septic system that we have.
2. Asking for annexation would require each of the homeowners to write a check for approximately \$8800 (\$1,200,000 in total) for the privilege of having our neighborhood torn up. Property taxes would increase by \$1500 to \$2500 per year and possibly (most Likely) city water could result in annual water bills increasing by \$1000. In return for all this Firethorn would pay for half of the road repair \$160,000. A case can be made that Firethorn probably should pay nearly half of it anyway.
3. We could use the \$1,200,000 to pay for a mechanical sewage treatment system and renovate the roads. It is very likely that these funds could be borrowed and paid back over a period of ten years with annual homeowner payments of less than \$1500. Firethorn would have higher maintenance costs because the mechanical system has high maintenance expenses, but there would be no increase in taxes or water cost. The savings to the homeowner would be between \$7700 and \$16000 over ten years depending on water cost and no up front \$8800 check to write.
4. In addition, the current constructed wetlands septic system can be repaired and added to. Adding thru put capacity to the system and, if necessary new holding capacity, makes it easier to repair the existing four cells and would insure odor free operation. This approach was suggested by the Nebraska Department of Environmental Quality and the engineering firm that installed the original system. That firm is considered by HDR in Omaha to be the leader in the field in the USA. Constructed wetland septic systems are technology that is used all over the United States and is not experimental. The cost for this work could be less than half the cost of the proposed mechanical system and maintenance would be no more than what we should have now.

In summary with annexation not eminent, it would seem reasonable to explore all options that would maintain the environment that motivated us all to live here and fix our infrastructure (no smell). This is particularly attractive if there is a more cost effective solution to our septic issue. The real way to maximize the value of our property is to enhance what we already have and maintain our unique style of living, and not become just another Lincoln neighborhood.

WHY RUSH TO ANNEXATION?

Hal Spurrier

3021 Durado Court

043

Thu, 6
Oct 2005
12:18:17
-0700
(PDT)

From: "charles wright" <floydeu@yahoo.com>

Subject: Firethorn annexation

To: huskerjs@aol.com *Jeff Schumacher Fax 475-8005*

CC: "Carl Novak" <cnovak@neb.rr.com>, "James Peck" <jpeck1@neb.rr.com>

Charles E. Wright
4020 Thorn Court
Lincoln, Nebraska 68520
402-488-8455

October 06, 2005

Mr. Jeffrey L. Schumacher
2920 South 91 Street
Lincoln, Nebraska 68520

RE: Proposed Accelerated Annexation

Dear Jeff:

I have reviewed some of the documents on file with the City Planning Department and noted the following items which pertain to the duties and responsibilities of Firethorn Investment, a Nebraska general partnership, and its successors in interest and related entities:

1) The development and subdivision of the entire Firethorn complex was accomplished through a comprehensive "Firethorn Community Unit Plan." As new subdivisions were added or modified to increase the number of permitted residences, a separate application was filed with the City and a "Special Permit" was issued to authorize additional subdivision and development. The number of housing units that may be built is now "maxed out," and I believe that the total number allowed is 144.

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2) When each special permit was issued, the City ordinance contained the following language: "All privately owned improvements, including private sanitary sewer systems and private water system . . . shall be permanently maintained by the permittee." The permittee is at various times referred to as "the owners," "the subdivision," or "the developer." At various times the permittee has been Firethorn Investment, a Nebraska general partnership.

3) When Firethorn 15th was developed (July 9, 1998), Firethorn Investment, a Nebraska general partnership, was one of the "subdividers" which, as a condition to permission for the subdivision of Thorn Court, Firethorn Investment had to agree to "operate and maintain the community wastewater system in compliance with rules and regulations of the State of Nebraska." This agreement with the City was signed and acknowledged before a notary public by a partner of Firethorn Investment. To my knowledge, nothing has occurred since July 9, 1998, that would relieve Firethorn Investment of its obligation to "operate and maintain" the sanitary sewage system. Firethorn Golf Company, LLC, was organized on December 29, 2003, and appears to be the successor to Firethorn Investment, including the Golf Course, Clubhouse and Firethorn Utilities Service Co.

4) The City of Lincoln imposed similar requirements, and the subdividers signed similar agreements with respect to each of the various Firethorn subdivisions.

5) In your letter of September 27, you represent to us that Mark Wible is now the managing partner of Firethorn Golf Company, LLC. Firethorn Golf Company now owns Firethorn Utilities Service Co. ("FUSC"), which it uses to operate all of the private utilities, including the Sanitary Sewer System.

6) As the managing member of Firethorn Golf Company, LLC, both Mr. Wible and Firethorn Golf Company have the responsibility to carry out the operation and maintenance of the sanitary sewer:

- in good faith,
- on a daily basis—yesterday, today and tomorrow,
- to perform such maintenance and repairs as are necessary to keep the system in operation under the standards required in the agreement with the City,
- to diagnose problems within the system and determine

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what steps must be taken to deal with the problem,

- to expend the funds necessary for maintenance and operation, since they have the power to assess these costs to the users, and
- to keep each homeowner currently informed with objective information about the condition of the system and their efforts to maintain and operate it.

7) While the city, state and federal governments have enforcement powers over the sewage system and its operator, each individual homeowner is a beneficiary under the agreement of Firethorn with the City to maintain and operate the system, and each homeowner has the right to diligent and good faith efforts by Mr. Wible and Firethorn Golf Company to keep the system up and running.

8) There simply has to be a better way to handle sanitary sewage than seeking accelerated annexation into the City and accepting more sewage from the west which will then be pumped back to 84th Street with a completely new ~~mechanical~~ ^{pumping} system, which will then be abandoned when the Stevens Creek sewer is extended to Firethorn from the north in ten to fifteen years.

Sincerely,

Charles E. Wright
CEW/jc
092805.cej