

FACTSHEET

TITLE: CHANGE OF ZONE NO. 06077, from AGR Agricultural Residential District to R-1 Residential District, requested by Firethorn Investment, on property generally located northeast of the intersection of South 84th Street and Pioneers Boulevard.

SPONSOR: Planning Department

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

STAFF RECOMMENDATION: Approval.

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

ASSOCIATED REQUESTS: Annexation Agreement, Annexation No. 06020 (07-11), Street Name Change No. 06010 (07-13) and Special Permit No. 872F (07R-2).

FINDINGS OF FACT:

1. This change of zone request was heard before the Planning Commission in conjunction with the associated Annexation No. 06020 and Special Permit No. 872F, an amendment to the Firethorn Community Unit Plan.
2. The original change of zone application submitted by the applicant requested a change from AGR to R-3, and the staff report and analysis is written on that request to R-3. At the public hearing before the Planning Commission on December 20, 2006, the applicant revised the application for a change of zone from AGR to R-1 (as opposed to R-3). Also See, Minutes, p.9, and letter on p.29.
3. The staff recommendation to approve the original application for change of zone to R-3 is based upon the "Analysis" as set forth on p.4-7, concluding that the proposed R-3 zoning is compatible with the surrounding land uses and is consistent with the Urban Residential/Open Space Future Land Use Map designations in the Comprehensive Plan. The staff indicated that the same analysis would apply to the revised request to R-1 Residential. 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. The additional information submitted by the applicant is found on p.30.
5. Testimony in support by Jeff Schumacher, President of the Firethorn Homeowners Committee, is found on p.10.
6. Testimony in opposition to the annexation of the property is found on p.11-12. The record consists of one e-mail communication in opposition (p.31).
7. On December 20, 2006, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval of the change of zone to R-1 Residential (Sunderman absent).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: January 9, 2007

REVIEWED BY: _____

DATE: January 9, 2007

REFERENCE NUMBER: FS\CC\2007\CZ.06077+

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

Conditional Approval

CZ#06077

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.

Pg154 - 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.



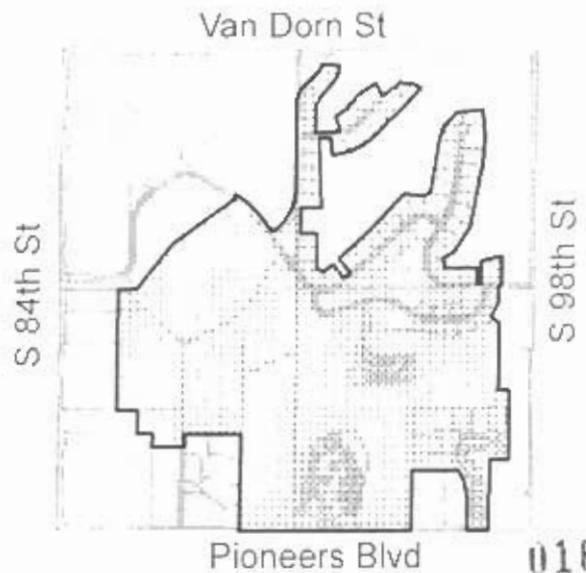
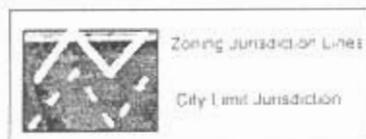
2005 aerial

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

Zoning:

- R 1 to R-2 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



OLSSON
ASSOCIATES

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.

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**

E

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 78

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.



December 20, 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 Mark Wible, the managing partner of Firethorn Golf Company, L.L.C. I am requesting to amend our change of zone application from R-3 to R-1 zoning.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark C. Palmer', with a stylized flourish at the end.

Mark C. Palmer

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

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)

To Jean L Walker/Notes,

cc

bcc

Subject Fw: Firethorn rezoning



Jean L Walker/Notes

12/20/2006 08:15 AM

--- 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