

Miscellaneous No. 09003

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 26 of the Lincoln Municipal Code relating to the
 2 Land Subdivision Ordinance by adding a new Section 26.07.013 to add a definition for access road;
 3 amending Section 26.11.060 to modify the procedures to appeal from final action of the Planning
 4 Director; amending Section 26.23.140 to modify the requirement that every lot shall front upon and
 5 have access to a public street for lots which front upon a major street; amending Section 26.31.010
 6 to modify the requirements for granting a waiver of land subdivision requirements; and repealing
 7 Sections 26.11.060, 26.23.140, and 26.31.010 of the Lincoln Municipal Code as hitherto existing.

8 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

9 Section 1. That Chapter 26.07 of the Lincoln Municipal Code be amended by adding
 10 a new section numbered 26.07.013 to read as follows:

11 **26.07.013 Access Road.**

12 Access road shall mean a local street, road or access easement auxiliary to a major street for
 13 service to abutting property and adjacent areas and control of access.

14 Section 2. That Section 26.11.060 of the Lincoln Municipal Code be amended to
 15 read as follows:

16 **26.11.060 Action Required on Final Plat.**

17 (a) Upon receipt of the final plat, the Planning Director shall cause copies of the
 18 proposed final plat and accompanying documents to be distributed to the Director of Public Works
 19 and Utilities and other city departments and governmental agencies who are directly concerned with
 20 the subdivision.

21 (b) Each department or governmental agency which is directly concerned with the
 22 proposed subdivision shall, within ten days from receipt of a copy of the final plat, file with the
 23 Planning Director its approval of said plat or a report indicating in what manner such final plat does
 24 not conform to the requirements of this title and all other rules, regulations, and standards adopted
 25 pursuant to this title over which such department has administrative responsibility.

1 (c) Within fifteen days from receipt of all the above reports, the Planning Director shall
2 notify the subdivider in writing of the recommended approval, conditional approval or disapproval
3 of the final plat based upon a review of the recommendations of the various departments and the
4 Director's own review of the design of the subdivision. If the Director finds that the final plat
5 should be conditionally approved, the notification shall set forth all conditions of approval and the
6 amount of all bonds or escrow of security agreements necessary to insure installation of all required
7 improvements. The Planning Director shall also furnish the subdivider a subdivision agreement to
8 be executed by the subdivider wherein the subdivider agrees to comply with all conditions of
9 approval and further agrees to construct the required improvements as provided therein. Upon
10 satisfaction of all conditions of approval set forth in the Director's letter including, but not limited
11 to, receipt of the fully executed subdivision agreement and acceptance of the required sureties by
12 the Law Department, the Planning Director shall sign the final plat, thereby indicating that the final
13 plat has been approved and it substantially conforms to the approved preliminary plat and the
14 requirements of this title at the time of approval of the preliminary plat and that all approved offers
15 of dedication are accepted. If the final plat does not substantially conform to the approved
16 preliminary plat, the Planning Director shall disapprove the final plat.

17 (d) ~~Except for those plats that meet the requirements of Section 26.11.050(b), any council~~
18 ~~member or aggrieved person~~ The subdivider may appeal any action of the Planning Director to the
19 Planning Commission, ~~and any decision of the Planning Commission to the City Council~~ by filing
20 a notice of an appeal within fourteen days following the action being appealed. The appeal of the
21 Planning Director's action shall be filed with the Director, ~~and the appeal of the Planning~~
22 ~~Commission's action shall be filed with the City Clerk.~~ Upon receipt of the appeal, the Planning
23 Commission ~~or City Council as appropriate~~ shall hold a public hearing thereon within thirty days
24 from the date of the appeal. Notice of public hearing shall be given as provided in Section
25 26.11.036. In exercising its appellate jurisdiction, the action appealed from shall be deemed
26 advisory and the Planning Commission ~~or City Council~~ may make such decision as ought to be
27 made. Any council member or aggrieved person may appeal any action of the Planning Commission

1 to the City Council by filing a notice of appeal within fourteen days following the action being
2 appealed. The notice of appeal shall be filed with the City Clerk. Upon receipt of the appeal, the
3 City Council shall hold a public hearing thereon within thirty days from the date of the appeal.
4 Notice of the public hearing shall be given as provided in Section 26.11.036. In exercising its
5 appellant jurisdiction, the action appealed from shall be deemed advisory and the City Council may
6 make such decision as ought to be made. If the Planning Commission approves a final plat and its
7 action is not appealed to the City Council, the final plat shall be signed by the chairman of the
8 commission. If the City Council approves a final plat after the appeal of the denial of such a plat
9 by the commission, no further action shall be required by the commission to approve such a plat.
10 After approval thereof by the City Council, the plat shall be returned to the Planning Department
11 for signing by the chairman of the commission. Thereafter, such plat shall be processed in accor-
12 dance with the procedures set forth in Section 26.11.070.

13 Section 3. That Section 26.23.140 of the Lincoln Municipal Code be amended to
14 read as follows:

15 **26.23.140 Lot.**

16 (a) Minimum lot width and area requirements shall conform to the zoning ordinance,
17 Title 27 of this code. Double frontage residential lots permitted under subparagraph (e) below which
18 abut a major street with at least 60 feet of right-of-way from the centerline of the street shall have
19 a minimum depth of 110 feet. Double frontage residential lots permitted under subparagraph (e)
20 below which abut a major street with less than 60 feet of right-of-way from the centerline of the
21 street shall have a minimum lot depth of 120 feet. The minimum depth of all other residential lots
22 shall be ninety feet, except where the existing lot does not meet this requirement and the lot depth
23 is not further reduced. Any lot in the O-1, O-2, O-3, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4,
24 I-1, I-2, or I-3 districts which has a minimum width of at least 100 feet shall have a maximum depth
25 of five times its width. Any other lot shall have a maximum depth of three times its width.
26 However, the Planning Director may modify this requirement where the lot is occupied or intended

1 to be occupied by a portion of a duplex or townhouse structure. An existing lot which does not
2 comply with said lot width-to-depth ratios may be subdivided so as to increase such lot's width,
3 decrease such lot's depth, or both, even though such lot does not thereafter fully comply with the
4 lot width-to-depth ratio as set forth above.

5 (b) The lot arrangement and design of the subdivision shall be such that all lots shall
6 provide satisfactory and desirable building sites, properly related to topography and the character
7 of the surrounding development.

8 (c) The side lines of any lot shall be at right angles to the street or radial, if the street is
9 curved, except where a variation will provide a better street and lot layout.

10 (d) Residential corner lots shall be wider than other residential lots to the extent
11 necessary to permit the establishment of front yards along both of the abutting streets. Corner lots
12 fronting on major street intersections and other acute angle intersections which are likely to be
13 dangerous to traffic movement shall have a curved line radius of twenty (20) feet at the street corner.

14 (e) The residential lot arrangement of a subdivision shall be accomplished in such a
15 manner that there will be no lots with a double frontage; i.e., a lot fronting on two non-intersecting
16 public streets. However, in circumstances where the subdivision abuts a major street, double
17 frontage lots may be permitted when no frontage road exists adjacent to or abutting on the major
18 street and access from the lot is only to the local street. Where double frontage lots are allowed, the
19 subdivider, the subdivider's successors and assigns shall relinquish the right of access from the lot
20 to the major street and place covenants and restrictions upon the land to run with the land
21 relinquishing said access as approved by the City Attorney's office.

22 (f) A lot used for commercial, industrial, business, or nonresidential purposes with at
23 least 660 linear feet of frontage on a major street may have access to the major street only if a safe
24 access point is available and approved by the city. If a safe access point is not available, or if said
25 lot does not have the required linear feet of frontage, ~~a frontage~~ an access road abutting the major
26 street constructed to a width approved by the city shall be dedicated to provide access to said lot.

27 An exception to the foregoing front foot requirements shall be permitted in the case of a
28 replat or resubdivision of a lot where either the lot does not have 660 linear feet of frontage, or the
29 distance between cross-streets is less than 660 linear feet. In such event, if safe access to the major
30 street can be provided, the ~~frontage~~ access road requirement may be waived.

31 (g) Every lot shall front upon and have access to a public street, except:

1 (1) Lots located in the AG, AGR, R-1, R-2, R-3, R-4, R-5, and R-6 zoning districts
2 may front upon and take access to a private roadway if said lots are located within an approved
3 community unit plan under Chapter 27.65 or a planned unit development under Chapter 27.60 of the
4 Lincoln Municipal Code;

5 (2) Lots located in other zoning districts may front upon and take access to a private
6 roadway if said private roadway has been approved either in connection with a use permit under the
7 provisions of Title 27 or with a subdivision of property in conformance with all the requirements
8 of this title;

9 (3) Lots shown within the boundaries of an approved community unit plan under
10 Chapter 27.65, an approved planned unit development under Chapter 27.60 or an approved use
11 permit under any Chapter for a zoning district that requires a use permit provided a permanent
12 access to and from a public street or private roadway is dedicated in the final plat creating said lots.
13 Residential lots shall be required to have a dedicated public access easement. Nonresidential lots
14 may have either a dedicated public or private access easement;

15 (4) Lots which front upon a major street may be required to take access to said major
16 street through an access road to be dedicated in the final plat creating said lots. In such event, direct
17 access to the major street shall be relinquished.

18 (h) Residential lots proposed to be made servient to pedestrian way easements and adjacent
19 residential lots shall be of sufficient width to provide the additional required setback between the
20 residence and the pedestrian way, plus the five foot wide pedestrian way easement.

21 (i) A corner lot abutting a temporary dead-end street may be required to relinquish direct
22 vehicular access to the temporary dead-end street when the lot is the only lot fronting on the
23 temporary dead-end street within the same block.

24 Section 4. That Section 26.31.010 of the Lincoln Municipal Code be amended to read
25 as follows:

26 **26.31.010 Modification of Requirements.**

27 Whenever a lot, tract, or parcel of land is of such unusual size or shape or is surrounded by
28 such development or unusual condition that the strict application of the requirements contained in
29 these regulations would result in actual difficulties or substantial hardship or injustice, the
30 subdivider may request a modification of such requirements. Such request shall be filed with the

1 Planning Director and shall set forth the specific modification requested and all supporting reasons
2 and documentation as to why the modification should be granted, how the public welfare will be
3 preserved, and why the modification will not detract from the intent and spirit of these regulations.
4 The Director shall distribute copies of the requested modification and the subdivider's statement and
5 accompanying data to other City departments and governmental agencies who are directly concerned
6 with the proposed modification. Each department or governmental agency which is directly
7 concerned with the proposed modification shall, within fifteen days from receipt of a copy of the
8 requested modification, file with the Planning Director notice of its approval of the requested
9 modification or a report stating why the modification should not be granted. Within thirty days from
10 the filing of the request for modification, the Planning Director shall notify the subdivider in writing
11 of the recommended approval or disapproval of the request. The request for modification will then
12 be scheduled on the Planning Commission agenda for public hearing and action as provided below.

13 (a) (1) ~~If the requested modification is recommended for approval by the Planning~~
14 ~~Director,~~ The Planning Commission, after holding at least one public hearing on the requested
15 modification, may, upon a finding that a lot, tract, or parcel of land is of such unusual size or shape
16 or is surrounded by such development or unusual condition that the strict application of the
17 requirements contained in these regulations would result in actual difficulties or substantial hardship
18 or injustice, vary or modify such requirements so that the subdivider may develop the land in a
19 reasonable manner, but so that at the same time, the public welfare and interests of the city and
20 surrounding area are protected and the general intent and spirit of these regulations are preserved.

21 (2) Any aggrieved person or council member may appeal any action of the Planning
22 Commission to the City Council by filing a notice of appeal with the City Clerk within fourteen days
23 following the action of the Planning Commission. Upon receipt of the appeal by the City Council,
24 the Council shall hold a public hearing thereon within thirty days from the date of appeal. Notice
25 of the public hearing shall be given as provided in Section 26.11.036. In exercising its appellate
26 jurisdiction, the action appealed from shall be deemed advisory and the City Council may, after
27 public hearing in conformity with the provisions of this title, make such decision as ought to be
28 made.

1 ~~(b) If the Planning Director recommends denial of the requested modification, the Planning~~
2 ~~Commission shall hold a public hearing on such request and make a report and recommendation to~~
3 ~~the City Council regarding whether the modification should be granted or denied and, if approved,~~
4 ~~how the public welfare will be preserved and why the modification, if granted, will not detract from~~
5 ~~the intent and spirit of these regulations. The findings of the Commission after public hearing shall~~
6 ~~be submitted to the City Clerk within seven days from the action by the Planning Commission.~~
7 ~~After submittal of the findings of the Planning Commission to the City Clerk, the City Clerk shall~~
8 ~~cause the requested modification to be placed on the agenda of the City Council for approval by the~~
9 ~~City Council by resolution. The City Council, after holding at least one public hearing on the~~
10 ~~requested modification, may modify such requirements so that the subdivider may develop the land~~
11 ~~in a reasonable manner, but so that at the same time, the public welfare and interests of the City and~~
12 ~~surrounding area are protected and the general intent and spirit of these regulations are preserved.~~

13 The minimum improvements set forth in Chapter 26.27 shall be required unless specifically
14 and individually waived by the Planning Commission or City Council as provided above.

15 Section 5. That Sections 26.11.060, 26.23.140, and 26.31.010 of the Lincoln Municipal
16 Code as hitherto existing be and the same are hereby repealed.

17 Section 6. That this ordinance shall take effect and be in force from and after its passage
18 and publication in one issue of a daily or weekly newspaper of general circulation in the City
19 according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2009:

Mayor