

Change of Zone 05085A

ORDINANCE NO. _____

1 AN ORDINANCE amending the Lincoln Zoning District Maps attached to and made a
2 part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln
3 Municipal Code, by changing the boundaries of the districts established and shown thereon.

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

5 Section 1. That the "Lincoln Zoning District Maps" attached to and made a part of Title
6 27 of the Lincoln Municipal Code be and they are hereby amended by changing the boundaries
7 of the districts established and shown on said Maps as follows:

8 A portion of Lot 14 I.T., and Outlot "G", Fallbrook 18th Addition, all
9 located in the West Half of Section 34, Township 11 North, Range
10 6 East of the 6th P.M., Lancaster County, Nebraska, and more
11 particularly described as follows:

12 Commencing at the southwest corner of the Northwest Quarter of
13 said Section 34, said point being the southwest corner of said Lot
14 14 I.T., and the northwest corner of said Outlot "G", said point
15 being the true point of beginning; thence easterly along the south
16 line of said Northwest Quarter, said line being the south line of
17 said Lot 14 I.T., on an assumed bearing of south 89 degrees 45
18 minutes 35 seconds east, a distance of 359.94 feet to a point of
19 curvature for a non-tangent curve in a counter clockwise direction
20 having a central angle of 12 degrees 28 minutes 12 seconds, a
21 radius of 553.50 feet, an arc length of 120.46 feet, a tangent
22 length of 60.47 feet, a chord length of 120.23 feet, and a chord
23 bearing of north 62 degrees 43 minutes 25 seconds east to a point
24 of reverse curvature for a curve in a clockwise direction having a
25 central angle of 46 degrees 05 minutes 20 seconds, a radius of
26 961.50 feet, an arc length of 773.43 feet, a tangent length of
27 409.01 feet, a chord distance of 752.75 feet, and a chord bearing
28 of north 79 degrees 31 minutes 59 seconds east to a point of
29 reverse curvature for a curve in a counter clockwise direction
30 having a central angle of 16 degrees 43 minutes 06 seconds, a
31 radius of 553.50 feet, an arc length of 161.50 feet, a tangent
32 length of 81.33 feet, a chord distance of 160.93 feet, and a chord
33 bearing of south 85 degrees 46 minutes 53 seconds east to a
34 point of compound curvature for a curve in a counter clockwise
35 direction having a central angle of 10 degrees 35 minutes 35
36 seconds, a radius of 1,453.50 feet, an arc length of 268.73 feet, a

1 tangent length of 134.75 feet, a chord length of 268.34 feet and a
2 chord bearing of north 80 degrees 33 minutes 46 seconds east to
3 a point of intersection with an east line of said Lot 14 I.T.; thence
4 south 02 degrees 57 minutes 27 seconds east along an east line
5 of said Lot 14 I.T., a distance of 21.82 feet to a point; thence south
6 19 degrees 13 minutes 06 seconds east along an east line of said
7 Lot 14 I.T., a distance of 60.00 feet to a point; thence north 70
8 degrees 46 minutes 54 seconds east along a north line of said Lot
9 14 I.T., and a north line of said Outlot "G", a distance of 183.54
10 feet to the northeast corner of said Outlot "G", said point being a
11 point of curvature for a non-tangent curve in a counter clockwise
12 direction having a central angle of 08 degrees 13 minutes 02
13 seconds, a radius of 3,033.41 feet, an arc length of 435.05 feet
14 along an east line of said Outlot "G", a tangent length of 217.90
15 feet, a chord length of 434.68 feet, and a chord bearing of south
16 26 degrees 11 minutes 52 seconds east to a point; thence south
17 30 degrees 18 minutes 32 seconds east along an east line of said
18 Outlot "G", a distance of 102.37 feet to the most eastern corner of
19 said Outlot "G", said point being a point of curvature for a non-
20 tangent curve in a counter clockwise direction having a central
21 angle of 55 degrees 32 minutes 26 seconds east, a radius of
22 150.00 feet, an arc length of 145.40 feet along an east line of said
23 Outlot "G", a tangent length of 78.99 feet, a chord length of 139.78
24 feet, and a chord bearing of south 19 degrees 59 minutes 29
25 seconds west to a point; thence south 61 degrees 19 minutes 31
26 seconds west along a southeast line of said Outlot "G", a distance
27 of 103.55 feet to a point of curvature for a curve in a clockwise
28 direction having a central angle of 06 degrees 37 minutes 36
29 seconds, a radius of 719.00 feet, an arc length of 83.16 feet along
30 a southeast line of said Outlot "G", a tangent length of 41.62 feet,
31 a chord distance of 83.11 feet, and a chord bearing of south 64
32 degrees 38 minutes 19 seconds west to a point of reverse
33 curvature for a curve in a counter clockwise direction having a
34 central angle of 56 degrees 32 minutes 39 seconds, a radius of
35 531.00 feet, an arc length of 524.03 feet along a southeast line of
36 said Outlot "G", a tangent length of 285.58 feet, a chord distance
37 of 503.03 feet, and a chord bearing of south 39 degrees 40
38 minutes 47 seconds west to a point of reverse curvature for a
39 curve in a clockwise direction having a central angle of 10 degrees
40 48 minutes 26 seconds, a radius of 719.00 feet, an arc length of
41 135.62 feet along an east line of said Outlot "G", a tangent length
42 of 68.01 feet, a chord distance of 135.42 feet, and a chord bearing
43 of south 16 degrees 48 minutes 41 seconds west to a point;
44 thence south 22 degrees 12 minutes 54 seconds west along a
45 southeast line of said Outlot "G", a distance of 36.42 feet to a
46 point; thence south 67 degrees 12 minutes 54 seconds west along
47 a southeast line of said Outlot "G", a distance of 35.35 feet to the
48 most southern corner of said Outlot "G"; thence north 67 degrees
49 47 minutes 06 seconds west along a southwest line of said Outlot
50 "G", a distance of 577.39 feet to a point; thence north 22 degrees
51 12 minutes 54 seconds east along a west line of said Outlot "G", a

1 distance of 49.99 feet to a point; thence north 67 degrees 47
2 minutes 06 seconds west along a southwest line of said Outlot
3 "G", a distance of 718.50 feet to a point of curvature for a non-
4 tangent curve in a counter clockwise direction having a central
5 angle of 01 degrees 26 minutes 40 seconds, a radius of 11,634.16
6 feet, an arc length of 293.30 feet along a southwest line of said
7 Outlot "G", a tangent length of 146.66 feet, a chord length of
8 293.29 feet, and a chord bearing of north 68 degrees 26 minutes
9 58 seconds west to the southwest corner of said Outlot "G", said
10 point being on the west line of the Southwest Quarter of said
11 Section 34; thence north 00 degrees 33 minutes 53 seconds east
12 along a west line of said Outlot "G", said line being the west line of
13 said Southwest Quarter, a distance of 410.81 feet to the point of
14 beginning, said tract contains a calculated area of 1,657,810.13
15 square feet or 38.06 acres, more or less;

16 and

17 A portion of Outlot "L", Fallbrook Addition, located in the Southeast
18 Quarter of Section 34, Township 11 North, Range 6 East of the
19 6th P.M., City of Lincoln, Lancaster County, Nebraska, and more
20 particularly described as follows:

21 Commencing at the southeast corner of Lot 2, Block 4, Fallbrook
22 17th Addition, said point being on a north line of Outlot "L",
23 Fallbrook Addition; thence westerly on the south line of said Lot 2,
24 said line being a north line of said Outlot "L" on an assumed
25 bearing of north 89 degrees 34 minutes 30 seconds west, a
26 distance of 170.66 feet to the southwest corner of said Lot 2, said
27 point being the true point of beginning; thence south 00 degrees
28 25 minutes 31 seconds west, a distance of 493.45 feet to a point
29 of intersection with a south line of said Outlot "L", said line being a
30 north right-of-way line of U.S. Highway 34; thence north 67
31 degrees 47 minutes 06 seconds west on a south line of said
32 Outlot "L", said line being a north line of said right-of-way, a
33 distance of 53.85 feet to a point; thence north 00 degrees 25
34 minutes 31 seconds east, a distance of 514.77 feet to a point of
35 intersection with a northeast line of said Outlot "L", said line being
36 the southwest line of said Lot 2; thence south 50 degrees 00
37 minutes 47 seconds east along a northeast line of said Outlot "L",
38 said line being a southwest line of said Lot 2, a distance of 64.86
39 feet to the point of beginning, said tract contains a calculated area
40 of 25,205.33 square feet or 0.58 acres, more or less;

41 be and they hereby are (1) transferred from the AG Agricultural District to the B-2 Planned
42 Neighborhood Business District and are hereby made a part of the B-2 Planned Neighborhood
43 Business District; (2) designated as an overlay Planned Unit Development District pursuant to

1 and in accordance with Chapter 27.60 of the Lincoln Municipal Code entitled "Planned Unit
2 Development District"; and (3) governed by all the provisions and regulations pertaining to the
3 B-2 Planned Unit Development District except as modified in Section 2 below.

4 Section 2. NEBCO Inc.'s (Permittee) amended Development Plan for Fallbrook
5 Planned Unit Development as set forth in its application for this Change of Zone including
6 Fallbrook PUD General Notes dated November 16, 2011 and site plan be and the same is
7 hereby approved upon condition that operation of the Planned Unit Development by Permittee
8 and its successors and assigns be in substantial compliance with said application, the site plan
9 and the following express terms and conditions and requirements.

10 1. This approval permits 1,767 dwelling units, 900,000 square feet of commercial
11 floor area and waivers to the zoning ordinance, subdivision ordinance and design standards

12 2. The City Council must approve associated requests as follows:

13 a. Amendment of Comp. Plan #11007.

14 b. Street Vacation #11011

15 c. Annexation #11003.

16 3. Before a final plat is approved the Permittee shall cause to be prepared and
17 submitted to the Planning Department a revised and reproducible final plat plan including five
18 copies with all required revisions as listed below.

19 a. Update the legal description on the cover sheet.

20 b. Revise the site plan to reflect the current lots, blocks and additions
21 throughout Fallbrook.

22 c. Identify the floor area for Lot 2, Block 34, as 60,000 sq. ft.

23 d. Show Lot 4, Block 34 as Phase II.

24 e. Make corrections to the street system and drainage to the satisfaction of
25 the Public Works & Utilities Department.

26 f. Remove the sanitary sewer in Lot 4, Block 34.

- 1 g. Note that Lot 5 Irregular Tract is an outlot for open space.
- 2 h. Show the drive into Highland View as conceptual.
- 3 i. Add Note #10 from the PUD Notes to the cover sheet.
- 4 j. Remove sign envelopes.
- 5 k. Remove the annexation legal description, cross hatching and note from
- 6 Sheet #3.
- 7 l. Remove the approval blocks from the cover sheet. The final plans are
- 8 not signed by the City Clerk or the Planning Commission Chair.
- 9 m. Either show street improvements on the site plan or reach an agreement
- 10 to the satisfaction of the Public Works & Utilities Department.

11 4. Before receiving building permits, the Permittee shall provide to the Planning
12 Department verification from the Register of Deeds that the letter of acceptance as required by
13 the approval of the Planned Unit Development has been recorded.

14 5. Before receiving building permits final plat(s) shall be approved by the City.

15 6. If any final plat on all or a portion of the approved planned unit development is
16 submitted five (5) years or more after the approval of the planned unit development , the city
17 may require that a new planned unit development be submitted, pursuant to all the provisions of
18 section 26.31.015. A new planned unit development may be required if the subdivision
19 ordinance, the design standards, or the required improvements have been amended by the city;
20 and as a result, the planned unit development as originally approved does not comply with the
21 amended rules and regulations.

22 7. Before the approval of a final plat, the public streets, private roadway
23 improvements, sidewalks, public sanitary sewer system, public water system, drainage facilities,
24 land preparation and grading, sediment and erosions control measures, storm water
25 detention/retention facilities, drainageway improvements, street lights, landscaping screens,
26 street trees, temporary turnaround and barricades, and street name signs, must be completed in

1 conformance with adopted design standards and within the time period specified in the Land
2 Subdivision Ordinance or provisions (bond, escrow or security agreement) to guarantee such
3 completion must be approved by the City Law Department. A cash contribution to the City in
4 lieu of a bond, escrow, or security agreement may be furnished for sidewalks and street trees
5 along major streets that have not been improved to an urban cross section. A cash contribution
6 to the City in lieu of a bond, escrow, or security agreement may be furnished for street trees on
7 a final plat.

8 8. Before approval of a final plat the Permittee as Subdivider shall enter into a
9 Subdivision Agreement with the City wherein the Permittee agrees:

- 10 a. To complete the street paving of public streets, and temporary
11 turnarounds and barricades located at the temporary dead-end of the
12 streets shown on the final plat within two years following the approval of
13 the final plat.
- 14 b. To complete the paving of private roadway, and temporary turnarounds
15 and barricades located at the temporary dead-end of the private
16 roadways shown on the final plat within two years following the approval
17 of the final plat.
- 18 c. To complete the installation of sidewalks along both sides of the streets
19 and private roadways as shown on the final plat within four years
20 following the approval of the final plat.
- 21 d. To complete the public water distribution system to serve this plat within
22 two years following the approval of the final plat.
- 23 e. To complete the public wastewater collection system to serve this plat
24 within two years following the approval of the final plat.
- 25 f. To complete the enclosed public drainage facilities shown on the
26 approved drainage study to serve the plat within two years following the
27 approval of the final plat.
- 28 g. To complete the enclosed private drainage facilities shown on the
29 approved drainage study to serve the plat within two years following the
30 approval of the final plat.
- 31 h. To complete land preparation including storm water detention/retention
32 facilities and open drainageway improvements to serve the plat prior to
33 the installation of utilities and improvements but not more than two years
34 following the approval of the final plat.

- 1 i. To complete the installation of public street lights along streets within the
2 plat within two years following the approval of the final plat.
- 3 j. To complete the installation of private street lights along the private
4 roadways within the plat within two years following approval of the final
5 plat.
- 6 k. To complete the planting of the street trees along streets within the plat
7 within six years following the approval of the final plat.
- 8 l. To complete the installation of the street name signs within two years
9 following the approval of the final plat.
- 10 m. To complete the installation of the permanent markers prior to
11 construction on or conveyance of any lot in the plat.
- 12 n. To complete any other public or private improvement or facility required
13 by Chapter 26.23 (Development Standards) of the Land Subdivision
14 Ordinance in a timely manner which inadvertently may have been omitted
15 from the above list of required improvements.
- 16 o. To submit to the Director of Public Works a plan showing proposed
17 measures to control sedimentation and erosion and the proposed method
18 to temporarily stabilize all graded land for approval.
- 19 p. To comply with the provisions of the Land Preparation and Grading
20 requirements of the Land Subdivision Ordinance.
- 21 q. To complete the public and private improvements shown on the Planned
22 Unit Development.
- 23 r. To keep taxes and special assessments on the outlots from becoming
24 delinquent.
- 25 s. To maintain the outlots on a permanent and continuous basis.
- 26 t. To maintain the private improvements in good order and condition and
27 state of repair, including the routine and reasonable preventive
28 maintenance of the private improvements, on a permanent and
29 continuous basis.
- 30 u. To maintain the plants in the medians and islands, including replacement
31 and replanting as reasonably necessary, on a permanent and continuous
32 basis.
- 33 v. To maintain the street trees along the private roadways and landscape
34 screens, including replacement and replanting as reasonably necessary,
35 on a permanent and continuous basis.
- 36 w. To recognize that there may be additional maintenance issues or costs
37 associated with providing for the proper functioning of stormwater

1 detention/retention facilities as they were designed and constructed within
2 the development and these are the responsibility of the Permittee.

3 x. To retain ownership of or the right of entry to the outlots in order to
4 perform the above described maintenance of the outlots and private
5 improvements on a permanent and continuous basis. However, the
6 Permittee may be relieved and discharged of such maintenance
7 obligations only upon creating, in writing, a permanent and continuous
8 association of property owners who would be responsible for said
9 permanent and continuous maintenance subject to the following
10 conditions:

11 (1) Permittee shall not be relieved of Permittee's maintenance
12 obligation for each specific private improvement until a registered
13 professional engineer or nurseryman who supervised the
14 installation of said private improvement has certified to the City
15 that the improvement has been installed in accordance with
16 approved plans; and

17 (2) The maintenance agreements are incorporated into covenants
18 and restrictions in deeds to the subdivided property and the
19 documents creating the association and the restrictive covenants
20 have been reviewed and approved by the City Attorney and filed
21 of record with the Register of Deeds.

22 9. Before occupying the dwelling units/buildings all development and construction
23 shall substantially comply with the approved plans.

24 10. All privately-owned improvements shall be permanently maintained by the
25 Permittee or an appropriately established owners association approved by the City Attorney.

26 11. The physical location of all setbacks, yards, buildings, parking and circulation
27 elements, and similar matters must be in substantial compliance with the location of said items
28 as shown on the approved site plan.

29 12. The terms, conditions, and requirements of this ordinance shall run with the land
30 and be binding upon the Permittee, its successors and assigns.

31 13. The Permittee shall sign and return the letter of acceptance to the City Clerk.
32 This step should be completed within 60 days following the approval of the change of zone.
33 The clerk shall file a copy of the ordinance approving the change of zone and the letter of

1 acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the
2 applicant.

3 14. The site plan as approved with this ordinance voids and supersedes all
4 previously approved site plans, however the terms and conditions of all ordinances approving
5 previous development plans remain in full force and effect except as specifically amended by
6 this ordinance.

7 Section 3. Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall
8 be posted on the official bulletin board of the City, located on the wall adjoining the City Clerk's
9 office at 555 S. 10th Street, in lieu of and in place of newspaper publication with notice of
10 passage and such posting to be given by publication one time in the official newspaper by the
11 City Clerk. This ordinance shall take effect and be in force from and after its passage and
12 publication as herein and in the City Charter provided.

13 Section 4. The City Clerk shall file this Ordinance and the Permittee's Letter of
14 Acceptance with the Register of Deeds to be indexed against the properties listed on
15 Attachment "A" attached hereto. Filing fees are to be paid in advance by the Permittee.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2011: _____ Mayor
