

## **FACTSHEET**

**TITLE:** **ANNEXATION NO. 12003**, requested by Village Gardens Development Company, LLC, to annex approximately 41 acres, more or less, generally located at South 63<sup>rd</sup> Street and Pine Lake Road.

**STAFF RECOMMENDATION:** Approval, subject to a revised annexation agreement.

**ASSOCIATED REQUESTS:** Amendment No. 3 to the Village Gardens Conditional Annexation and Zoning Agreement (12R-129) and Change of Zone No. 04075C (12-71).

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 05/16/12 and 05/30/12  
Administrative Action: 05/30/12

**RECOMMENDATION:** Approval, subject to a revised annexation agreement (6-0: Butcher, Gaylor Baird, Hove, Francis, Lust and Cornelius voting 'yes'; Weber, Sunderman and Esseks absent).

### **FINDINGS OF FACT:**

1. This proposed annexation and the associated amendment to the Village Gardens Planned Unit Development (Change of Zone No. 04075C) were heard at the same time before the Planning Commission.
2. This is a request to annex approximately 40.68 acres, more or less, to add area designated as Phase II in the original annexation agreement for the Village Gardens PUD. This annexation also requires an amendment to the original annexation agreement (12R-129). The additional area is designated for a residential use district already in use within the PUD.
3. The staff recommendation of approval, subject to an amendment to the conditional annexation and zoning agreement, is based upon the "Analysis" as set forth on p.4-5, concluding that the proposed annexation is consistent with the overall concept plan when the original PUD was approved early in 2005. This annexation complies with the Zoning Ordinance and the Comprehensive Plan. The staff presentation is found on p.7.
4. The applicant's testimony is found on p.8.
5. There was no testimony in opposition; however, the record consists of a letter in opposition with concerns about traffic and water issues in the area (p.19), and a letter expressing concern about attention to open space or parks (p.20). The applicant advised that they are continuing to work with the NRD to provide areas for over-detention, and that the amendment to the annexation agreement will address the park issue on the LPS site (See Minutes, p.8).
6. Commissioner Gaylor Baird expressed concern about the Fire Department comments with regard to a response time greater than 7 minutes to the 56<sup>th</sup> & Pine Lake Road intersection, and indicated that she will continue to raise this issue on annexation requests in hopes that the public will make an informed choice when purchasing these lots (See Minutes, p.8-9).
7. On May 30, 2012, the Planning Commission agreed with the staff recommendation and voted 6-0 to recommend approval, subject to an amendment to the annexation and zoning agreement (Weber, Sunderman and Esseks absent).
8. On May 30, 2012, the Planning Commission also voted 6-0 to recommend conditional approval of the associated Change of Zone No. 04075C, with the amendment requested by the applicant and agreed upon by staff (Bill #12-71)

**FACTSHEET PREPARED BY:** Jean L. Preister  
**REVIEWED BY:** Marvin Krout, Director of Planning  
**REFERENCE NUMBER:** FS\CC\2011\ANNEX12003+

**DATE:** June 11, 2012  
**DATE:** June 11, 2012

**LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

**for May 16, 2012 PLANNING COMMISSION MEETING**

**\*\*As Amended and Recommended for Conditional Approval\*\***  
**by Planning Commission: 5/30/12**

**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 #12003***  
Change of Zone #04075C - Village Gardens Planned Unit Development (PUD)
- PROPOSAL:** ***To expand the existing PUD by annexing*** and changing the zoning from AG to R3 PUD for ***approximately 40.68 acres of land*** and amending the development plan accordingly.
- LOCATION:** South 63<sup>rd</sup> Street and Pine Lake Road
- LAND AREA:** ***Annexation #12003 - 40.68 acres more or less***  
Change of Zone #04075C - 40.68 acres more or less
- EXISTING ZONING:** AG Agriculture
- PROPOSED ZONING:** R-3 Residential (PUD)
- WAIVERS:** 1. Blocks 5 and 10 exceeding 1,320 feet.
- CONCLUSION:** The proposed annexation and change of zone are consistent with the overall concept plan when the original PUD was approved early in 2005. The Subdivision Ordinance allows for block lengths in excess of 1,320 feet in those cases where a natural barrier forms one of the boundaries of the block. In the case of Blocks 5 and 10, drainage and detention areas extend through both. Both detention areas are being oversized in a cooperative effort with the City to maintain increased upstream storage capacity in the watershed to minimize downstream flows during significant storm events, and contributes to the oversized blocks. Subject to the recommended conditions of approval, this request complies with the Zoning Ordinance and Comprehensive Plan.

**RECOMMENDATION:**

AN#12003 Conditional Approval  
CZ#04075C from AG to R-3 PUD Conditional Approval

**WAIVERS:**

Blocks 5 and 10 exceeding 1,320 feet Conditional Approval

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** AN#12003 - See attached legal description.  
CZ#04075C - See attached legal description.

**EXISTING LAND USE:** Vacant, Residential

**SURROUNDING LAND USE AND ZONING:**

North: Vacant, Residential R-3, AG  
South: Vacant, Residential R-3, AG  
East: Vacant AG  
West: Residential R-3

**HISTORY:**

**Feb 2005** - CZ#04075 was approved by the City Council to allow the Village Gardens (PUD).

**Dec 2007** - CZ#04075A was approved by the City Council to allow an adjustment to the applicable sign regulations and change the zoning on 2.17 acres from R3 (PUD) to B-3 (PUD) within the Village Gardens (PUD).

**Mar 2011** - AN#11001 and CZ#04075B were approved annexing and expanding the boundary of the Village Gardens PUD to include an additional 47 acres of land to accommodate a domiciliary care facility and additional dwelling units.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

**Page 17** - The Future Land Use Map designates commercial and urban residential land uses for this PUD.

**Page 65** - Overall Guiding Principles - A safe residential dwelling should be available for each citizen: the efficiency apartment and the country estate, the small single family “starter” home and the large downtown apartment suite, the most affordable and the most expensive dwelling unit, completely independent living and living within the care of others. Provision of the broadest range of housing options throughout the community improves the quality of life in the whole community.

- Provide different housing types and choices, including affordable housing, throughout each neighborhood for an increasingly diverse population.

**Page 71-** Strategies for New and Existing Urban Neighborhoods - The key to both new and existing urban neighborhoods is diversity. For new neighborhoods, it is having a greater mix of housing types and land uses. New neighborhoods should have a variety of housing types and sizes, plus commercial and employment opportunities. Developing a pedestrian orientation of buildings and streets is also a priority.

**ANALYSIS:**

1. This is an amendment to the Village Gardens PUD, and is a combined request for both annexation and a change of zone from AG to R-3 PUD for approximately 41 acres of land.
2. The annexation of the original PUD in 2005 included an annexation agreement, and the area subsequently annexed expanding the PUD are also subject to that agreement. This request seeks to annex additional area designated as Phase II in the original agreement, and the agreement will also need to be amended to reflect this annexation.
3. The area to be re-zoned to R-3 PUD is designated for a residential use district already in use within the PUD, the Neighborhood General use district. The development plan has been updated to reflect this.
4. The revised overall plan for Village Gardens shows four phases. Phase I represents the area that was annexed, re-zoned and approved for development with the original PUD CZ#04075 in 2005. Phase II represents areas covered both by a subsequent major amendment (CZ#04075B), and this request. Phases III and IV represent areas for future development, and neither area is being annexed or re-zoned at this time and are only conceptual. The phasing plan is illustrated on Sheet 1 of 11 attached to this report.
5. A waiver to block length for blocks in excess of 1,320 feet is requested for Blocks 5 (located in the vicinity of Thompson Creek Circle) and 10 (located near the intersection of Nashway Road and Blanchard Blvd). The rationale for oversized blocks in both cases is to minimize crossings of the drainage area through the development, and to help provide oversized detention areas. The detention areas are being oversized in a cooperative effort with the City to maintain increased up-stream storage capacity in the watershed to minimize downstream flows during significant storm events. The Subdivision Ordinance allows for block length waivers in cases where physical features warrant consideration, as in this case.

Pedestrian access is required for blocks in excess of 1,000 feet where feasible, and is appropriate however in both these blocks. Two sidewalk connections should be made in Block 5:

A. One should extend off the end of the Thompson Creek Circle cul-de-sac to South 66<sup>th</sup> Street. The sidewalk needs to be in the outlot next to the creek so it does not have to go between the lots at the end of the cul-de-sac nor those fronting onto S. 66<sup>th</sup>.

B. The second should extend from South 64<sup>th</sup> across the dam to either Blanchard Blvd or Thompson Creek Circle. Ideally, Lots 1-7 fronting onto Blanchard could either be reduced in size or shifted south to allow a finger of outlot along the south lot line of Lot 8 out

to Blanchard for the sidewalk. The next best location would be between Lots 10 and 11, also ideally located in a finger of an outlet.

One sidewalk connection should also be made in Block 10:

A. The best location for the sidewalk would be between Lots 20 and 21 connecting to the sidewalk adjacent to Nashway Road between Lots 9 and 10.

The proposed locations for the sidewalks are 'penned-in' on attached Sheets 2 and 3 of the proposed site plan.

6. The proposed site plan shows Blanchard Blvd connecting to Pine Lake Road, an important north-south connection to an arterial street. Construction of the connection is complicated due to the fact that Pine Lake Road has not been improved in this area yet, and any improvements to make the connection would be removed when Pine Lake Road is improved.

Funding to improve Pine Lake Road from South 62<sup>nd</sup> Street to South 70<sup>th</sup> Street is not currently planned for in the current Capital Improvements Program (CIP), but is shown in years 2015-17 in the draft of the proposed CIP. The Blanchard Blvd/Pine Lake Road connection is important given the number of potential residential lots in this area, and because Lincoln Public Schools has a proposed school site at the western edge of this development. It was designed to function as collector in this area. Without this connection, Pine Lake traffic will be routed through the existing Village Gardens development at Kentwell Lane.

Funding for projects shown in years 3-6 of the CIP is not guaranteed and is variable. For this reason it is appropriate that some number of dwellings be built with this phase, but that a cap on the number of dwellings also be put in place to serve as a trigger for the connection to be built to avoid undue burden on the other existing arterial street connections.

7. The Fire Department notes that the nearest fire station is approximately two miles away, with a response time of approximately seven minutes.
8. The U.S. Post Office notes in their review that all new addresses established as part of this review will be required to receive mail delivery in Centralized Box Units.
9. Public Works and Utilities reviewed revised drainage plans, and their review comments are attached. The deficiencies identified will be noted as an item to be corrected in the recommended conditions of approval.
10. Minor revisions to the site plan were noted by staff, and they are also included in the recommended conditions of approval.

This approval annexes and changes the zoning from AG to R-3 PUD for approximately 40.68 acres of land with an amendment to the development plan to allow Neighborhood General uses with a waiver to block length to exceed 1,320 feet.

**CONDITIONS:**

**Annexation #12003**

1. The applicant will enter into an amended annexation agreement with the City prior to the City Council approving the change of zone request.

Prepared by:

Brian Will, 441-6362, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)

Planner

May 1, 2012

**OWNER:** Village Gardens Development Company, LLC  
7000 South 56<sup>th</sup> Street  
Lincoln, NE 68516  
402.416.5750

**APPLICANT/  
CONTACT:** Tim Gergen  
Olsson Associates  
1111 Lincoln Mall  
Lincoln, NE 68508  
402.458.5914

**ANNEXATION NO. 12003  
and  
CHANGE OF ZONE NO. 04075C,  
AMENDMENT TO THE VILLAGE GARDENS  
PLANNED UNIT DEVELOPMENT**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 16, 2012

Members present: Weber, Esseks, Hove, Cornelius, Sunderman, Butcher, Gaylor Baird and Francis; Lust absent.

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

Francis moved to defer, with continued public hearing and action scheduled for May 30, 2012, seconded by Weber and carried 8-0: Weber, Esseks, Hove, Cornelius, Sunderman, Butcher, Gaylor Baird and Francis voting 'yes'; Lust absent.

There was no public testimony.

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

May 30, 2012

Members present: Butcher, Gaylor Baird, Hove, Francis, Lust and Cornelius; Weber, Sunderman and Esseks absent.

Staff recommendation: Approval of the annexation, subject to a revised annexation agreement, and conditional approval of the amendment to the PUD.

There were no ex parte communications disclosed.

Staff presentation: **Brian Will of Planning staff** noted that these application were on the Planning Commission agenda two weeks ago and delayed at the request of the applicant. About a year ago, the third major amendment to the PUD came through the process, changing the zoning and annexation area. This is a request for both annexation and change of zone in an area that has been shown as part of the larger concept plan of Villages Gardens from the beginning.

Will advised that there is one waiver relative to block length which the staff supports. The only issue relates to access. There is drainage through the site. Staff is supportive of the waiver of block length but suggests that pedestrian access be accommodated. The other issue is connection to Pine Lake Road. As written, staff is recommending that only 60 additional lots be platted until the connection where Blanchard Boulevard is extended to Pine Lake Road. Without that connection, a great majority of the additional traffic would funnel back through the existing development. The applicant is going to suggest a motion to amend which is agreeable to staff. It increases the number of lots from 60 to 66.

## Proponents

**1. Danay Kalkowski** appeared on behalf of the applicants, 1640 LLC and Aspen Builders. This applicant is currently the developer of the property along Yankee Hill Road known as Village Meadows. This proposal basically expands and amends the existing PUD, including an additional 40+ acre area, half of which includes the LPS site and residential property to the east. The plan we are showing does require waiver of block length. The applicant is continuing to work with the City and NRD to provide areas for over-detention, which would provide a public benefit for this entire drainage area by providing additional capacity. This allows some bigger areas with less crossings, but to do that, the waiver of block length is required. The applicant agrees to include the pedestrian/bicycle crossings requested by Planning.

Kalkowski advised that there will be an amendment to the annexation agreement that will go forward to City Council which addresses the park issue on the LPS site.

Kalkowski agreed with all conditions of approval with the exception of Condition #2.3. Kalkowski submitted a proposed motion to amend:

- 2.3 Add a note which states "NO MORE THAN 60 66 LOTS SHALL BE PLATTED IN PHASE II PRIOR TO UNTIL AN EXECUTIVE ORDER FOR THE EXTENSION OF BLANCHARD BLVD BEING EXTENDED TO CONNECT TO PINE LAKE ROAD IS APPROVED BY THE CITY. LOTS SOUTH OF BRIDLE LANE WILL NOT BE COUNTED WITHIN THE 66 LOTS."

The applicant was able to meet with Planning and Public Works after the staff report came out. This section of Blanchard Boulevard directly south of Pine Lake Road is a really expensive section of road to build with a drainageway necessitating the construction of a triple box culvert to accommodate the drainage and trail crossing underneath. The proposed amended language provides more flexibility in being able to time that connection in relationship to the actual plans for development. 66 is a better number for the applicant. Staff is in agreement.

Gaylor Baird referred to the comments by the Fire Department, which come up almost every time there is an annexation request. The Fire Department is recommending approval:

under the condition all parties understand the location of these acres relative to the nearest fire station is approximately 2 miles to the corner of 56<sup>th</sup> and Pine Lake Road with a response time greater than 7 minutes to this intersection.

Gaylor Baird believes this to be a big city-wide problem. This is specifically saying they want people to understand that that is the kind of response time they can expect. Is the applicant addressing this concern or how can it be addressed? Kalkowski suggested that the only way to put people on notice is to actually file something of record that is in the of title. Even then, very few people actually look at the title commitment. Kalkowski believes it really comes down to the community-wide issue and the Fire Department continuing to try to make their issue known, i.e. that we will have this issue about response times while the city grows. This proposal is right next to a developed area. Kalkowski did not have any ideas about how to address this with respect to this specific development.



There was no testimony in opposition.

**ANNEXATION NO. 12003**

**ACTION BY PLANNING COMMISSION:**

May 30, 2012

Lust moved approval, seconded by Francis.

Gaylor Baird stated that she will continue to raise this issue on annexations. It is a very real cause for concern should someone need emergency assistance. Four minutes is the standard and we are obviously not hitting that. She is hopeful that the public will make an informed choice when they purchase these lots, recognizing this constraint on the choice that they make.

Motion for approval carried 6-0: Butcher, Gaylor Baird, Hove, Francis, Lust and Cornelius voting 'yes'; Weber, Sunderman and Esseks absent. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 04075C**

**ACTION BY PLANNING COMMISSION:**

May 30, 2012

Lust moved to approve the staff recommendation of conditional approval, with the amendment to Condition #2.3 requested by the applicant, seconded by Francis and carried 6-0: Butcher, Gaylor Baird, Hove, Francis, Lust and Cornelius voting 'yes'; Weber, Sunderman and Esseks absent. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 3:55 p.m.



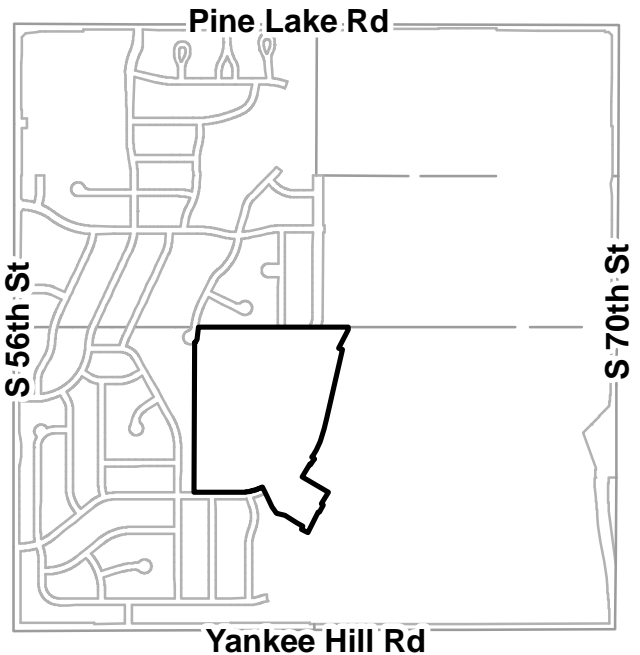
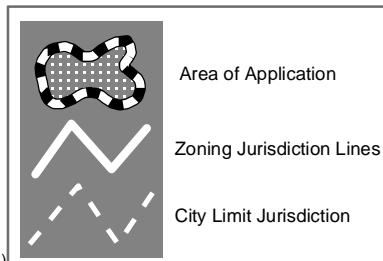
**Annexation #12003 and Change of Zone #04075C  
Village Gardens PUD  
S 56th St & Pine Lake Rd**

2010 aerial

**Zoning:**

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile  
Sec. 21 T09N R07E



§ CHANGE OF ZONE

ANNEXATION LEGAL DESCRIPTION

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF LOT 86 I.T., A PORTION OF LOT 81 I.T., AND A PORTION OF LOT 83 I.T., ALL LOCATED IN THE SOUTH HALF OF SECTION 21, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 86 I.T., SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF EXBURY ROAD AND ON THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 21, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 86 I.T., THE NORTH LINE OF LOT 81 I.T., AND THE NORTH LINE OF LOT 83 I.T., SAID LINE BEING THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 21, ON AN ASSUMED BEARING OF S89°58'04"E, A DISTANCE OF 1,304.22' TO A POINT; THENCE S00°01'56"W, A DISTANCE OF 22.32' TO A POINT; THENCE S26°54'20"W, A DISTANCE OF 180.00' TO A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 03°50'31", A RADIUS OF 530.00', AN ARC LENGTH OF 35.54', A TANGENT LENGTH OF 17.78', A CHORD LENGTH OF 35.53', AND A CHORD BEARING OF S65°00'56"E TO A POINT; THENCE S12°53'26"W, A DISTANCE OF 622.22' TO A POINT; THENCE S12°54'59"W, A DISTANCE OF 68.89' TO A POINT; THENCE S15°26'56"W, A DISTANCE OF 60.62' TO A POINT; THENCE S19°35'05"W, A DISTANCE OF 60.62' TO A POINT; THENCE S23°57'27"W, A DISTANCE OF 67.57' TO A POINT; THENCE S28°39'20"W, A DISTANCE OF 70.16' TO A POINT; THENCE S31°02'56"W, A DISTANCE OF 28.16' TO A POINT; THENCE S58°57'04"E, A DISTANCE OF 25.98' TO A POINT; THENCE S31°02'56"W, A DISTANCE OF 60.00' TO A POINT; THENCE N58°57'04"W, A DISTANCE OF 10.00' TO A POINT; THENCE S31°03'03"W, A DISTANCE OF 130.21' TO A POINT; THENCE S60°06'12"E, A DISTANCE OF 262.13' TO A POINT; THENCE S29°53'48"W, A DISTANCE OF 120.00' TO A POINT; THENCE S60°06'12"E, A DISTANCE OF 22.58' TO A POINT; THENCE S29°53'48"W, A DISTANCE OF 72.00' TO A POINT; THENCE N60°06'12"W, A DISTANCE OF 10.00' TO A POINT; THENCE S26°49'28"W, A DISTANCE OF 139.01' TO A POINT; THENCE S27°06'49"W, A DISTANCE OF 66.77' TO A POINT OF INTERSECTION WITH A WEST LINE OF LOT 81 I.T.; THENCE N60°32'27"W ALONG A WEST LINE OF SAID LOT 81 I.T., A DISTANCE OF 63.05' TO A POINT; THENCE N29°27'33"E ALONG A WEST LINE OF SAID LOT 81 I.T., A DISTANCE OF 29.55' TO A POINT; THENCE N60°32'27"W ALONG A WEST LINE OF SAID LOT 81 I.T., A DISTANCE OF 60.00' TO A POINT; THENCE N57°53'59"W ALONG A WEST LINE OF SAID LOT 81 I.T., A DISTANCE OF 123.35' TO A POINT; THENCE N77°13'30"W ALONG A WEST LINE OF SAID LOT 81 I.T., A DISTANCE OF 75.42' TO A POINT; THENCE N32°15'57"W ALONG A WEST LINE OF SAID LOT 81 I.T., A DISTANCE OF 70.17' TO A POINT; THENCE N27°08'05"W ALONG A WEST LINE OF SAID LOT 81 I.T., A DISTANCE OF 131.20' TO A WEST CORNER OF SAID LOT 81 I.T., SAID POINT BEING A SOUTH CORNER OF LOT 86 I.T.; THENCE N27°07'40"W ALONG A WEST LINE OF SAID LOT 86 I.T., SAID LINE BEING A EAST RIGHT-OF-WAY LINE OF BRIDLE LANE, A DISTANCE OF 60.00' TO A POINT, SAID POINT BEING A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 27°04'05", A RADIUS OF 420.00', AN ARC LENGTH OF 198.42' ALONG A SOUTH LINE OF SAID LOT 86 I.T., SAID LINE BEING A NORTH

LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 101.10', A CHORD LENGTH OF 196.58', AND A CHORD BEARING OF S76°24'46"W TO A POINT; THENCE S89°56'49"W ALONG A SOUTH LINE OF SAID LOT 86 I.T., SAID LINE BEING A NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 403.17' TO THE SOUTHWEST CORNER OF SAID LOT 86 I.T.; THENCE N00°18'19"E ALONG THE WEST LINE OF SAID LOT 86 I.T., A DISTANCE OF 1,306.93' TO A WEST CORNER OF SAID LOT 86 I.T., SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF EXBURY ROAD, SAID POINT ALSO BEING THE POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 42°12'23", A RADIUS OF 60.00', AN ARC LENGTH OF 44.20' ALONG A WEST LINE OF SAID LOT 86 I.T., SAID LINE BEING A EAST LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 23.16', A CHORD LENGTH OF 43.21', AND A CHORD BEARING OF N26°46'42"E TO A POINT; THENCE N05°40'30"E ALONG A WEST LINE OF SAID LOT 86 I.T., SAID LINE BEING A EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 96.88' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 1,772,138.06 SQUARE FEET OR 40.68 ACRES, MORE OR LESS.

Wednesday, April 18, 2012

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# SEACREST & KALKOWSKI, PC, LLO

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

April 16, 2012

## HAND DELIVERY

Marvin Krout, Director  
Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: Amendment to Village Gardens Phase 2 PUD

Dear Marvin:

Our office represents Aspen Builders, Inc. and 1640 LLC (collectively "Developers"), who have a contract interest in approximately 126 acres of property included within Phase 1, Phase 2 and the anticipated Phase 3 areas of Village Gardens Planned Unit Development. Developers are requesting an amendment to Phase 2 of the Village Gardens PUD, a change of zone for additional area to be included in Phase 2 and an amendment to the Village Gardens Conditional Annexation and Zoning Agreement.

Enclosed please find the following:

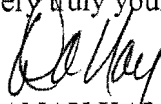
- a. City of Lincoln Zoning Application;
- b. Legal Description for Change of Zone to R-3 PUD and Annexation;
- c. PUD Site Plan;
- d. Application fees in the amount of \$3,720; and
- e. Amended Development Plan. The proposed revisions to the Development Plan are shown in red.

Mark Palmer from Olsson Associates will be uploading the PUD plans to project docs once Planning Staff has created the project files and docs. We will be submitting the requested Amendment to the Village Gardens Conditional Annexation and Zoning Agreement under separate cover.

Bob Benes, a principal of the Developers, attended the Thompson Creek Homeowners Association meeting last night and presented the amended PUD plan to the neighbors. The Campbells also presented an earlier version of the plan to the Village Gardens neighbors.

If you have any questions regarding the enclosed or need any additional information, please feel free to contact me or Mark.

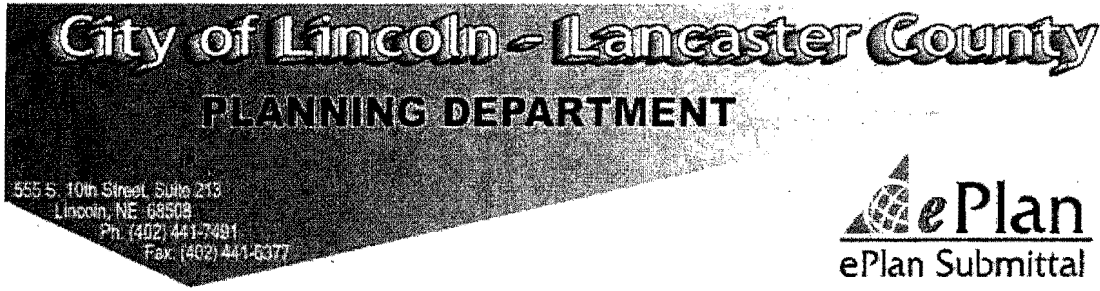
Very truly yours,



DANAY KALKOWSKI

For the Firm

Enclosures



Application Information			
Application #	CZ04075C	Title	VILLAGE GARDENS
Associated Requests	AN12003		

Planning Department Use Only			
Submission Date	4/23/2012	Review Due	5/3/2012
Project Planner	Brian Will		

**Review Agencies (Planning Department Use Only)**

Review Agencies	<Choose Entry>	<Choose Entry>	
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**County Health:** Chris Schroeder (cschroeder@lincoln.ne.gov)  Remove Agency Reviewer

**Development Review Manager:** Steve Henrichsen (shenrichsen@lincoln.ne.gov)  Remove Agency Reviewer

**Fire Department:** Patrick Borer (pborer@lincoln.ne.gov)  Remove Agency Reviewer

**LES:** Mike Petersen (mpetersen@les.com)  Remove Agency Reviewer

**Lincoln Police Department:** Sgt Jeri Roeder (lpd667@cjis.lincoln.ne.gov)  Remove Agency Reviewer

**Public Works:** Buff Baker (cbaker@lincoln.ne.gov)  Remove Agency Reviewer

**Public Works:** Dennis Bartels (dbartels@lincoln.ne.gov)  Remove Agency Reviewer

**School District - Lincoln:** Scott Wieskamp (swieska@lps.org)  Remove Agency Reviewer


**United States Post Office:** Kerry Kowalski (kerry.j.kowalski@usps.gov)  Remove Agency Reviewer

**Public Works:** Ben Higgins (bhiggins@lincoln.ne.gov)  Remove Agency Reviewer

Review Comments	
Planning	<p> <input checked="" type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input type="radio"/> Recommend Approval with Conditions    <input type="radio"/> Recommend Approval    <input type="radio"/> No Review Required                 </p> <p>Review 1:</p>
County Health (Chris Schroeder)	<p> <input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input type="radio"/> Recommend Approval with Conditions    <input checked="" type="radio"/> Recommend Approval    <input type="radio"/> No Review Required                 </p> <p>Review 1:                      Developers are responsible for all mosquito control issues during the building process and all outlots, green-spaces, and/or natural corridors subsequently controlled by the owner, tenant, occupant, lessee, or otherwise, for that subdivision would be responsible for vectors of zoonotic disease in those areas.</p> <p>All wind and water erosion must be controlled during construction. The Lower Platte South Natural Resources District should be contacted for guidance in this matter.</p> <p>During the construction process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but not limited to application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of ground cover will also be incorporated as necessary.</p> <p>When designing mixed-use developments, special consideration should be given towards minimizing incompatible uses relative to noise pollution.</p>
Development Review Manager (Steve Henrichsen)	<p> <input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input type="radio"/> Recommend Approval with Conditions    <input type="radio"/> Recommend Approval    <input type="radio"/> No Review Required                 </p>



	<p>Review 1:</p>	
<p>(Patrick Borer)</p>	<p> <input type="checkbox"/> Corrections Needed for Review    <input type="checkbox"/> Insufficient Information for Review  <input type="checkbox"/> Recommend Denial    <input checked="" type="checkbox"/> Recommend Approval with Conditions    <input type="checkbox"/> Recommend Approval    <input type="checkbox"/> No Review Required         </p> <p>Review 1: LFR recommends approval of this application under the condition all parties understand the location of these acres relative the the nearest fire station is approximately 2 miles to the corner of 56 and Pine Lake with a response time greater than 7 minutes to this intersection.</p>	
<p>(Mike Petersen)</p>	<p> <input type="checkbox"/> Corrections Needed for Review    <input type="checkbox"/> Insufficient Information for Review  <input type="checkbox"/> Recommend Denial    <input checked="" type="checkbox"/> Recommend Approval with Conditions    <input type="checkbox"/> Recommend Approval    <input type="checkbox"/> No Review Required         </p> <p>Review 1: 4-30-2012; LES has a Transmission Line crossing this P.U.D. Please add the following easement Instrument Nos #94-30756 and #94-23068 to the plan. As final plats are created in this general area, LES will work with the Developer on additional required easements. Any construction or grade changes in the LES Transmission Line easement corridors are subject to LES approval and must be in accordance the LES design and safety standards. landscaping material selections within easement corridors shall follow established guidelines to maintain minimum clearance from utility facilities. See MISC Doc folder for a redlined plan. MIKE P.</p>	
<p>Lincoln Police Department (Sgt Jeri Roeder)</p>	<p> <input type="checkbox"/> Corrections Needed for Review    <input type="checkbox"/> Insufficient Information for Review  <input type="checkbox"/> Recommend Denial    <input type="checkbox"/> Recommend Approval with Conditions    <input type="checkbox"/> Recommend Approval    <input type="checkbox"/> No Review Required         </p> <p>Review 1:</p>	
<p>Public Works (Buff Baker)</p>	<p> <input type="checkbox"/> Corrections Needed for Review    <input type="checkbox"/> Insufficient Information for Review  <input type="checkbox"/> Recommend Denial    <input type="checkbox"/> Recommend Approval with Conditions    <input type="checkbox"/> Recommend Approval    <input type="checkbox"/> No Review Required         </p> <p>Review 1:</p>	
<p>(Dennis Bartels)</p>	<p> <input type="checkbox"/> Corrections Needed for Review    <input type="checkbox"/> Insufficient Information for Review  <input type="checkbox"/> Recommend Denial    <input checked="" type="checkbox"/> Recommend Approval with Conditions    <input type="checkbox"/> Recommend Approval    <input type="checkbox"/> No Review Required         </p> <p>Review 1: Drainage Area M5 includes rear lot drainage from an existing addition to the south. This rear lot drainage must drain to Blanchard Boulevard across Lot 2, Block 14 which is a long narrow lot. I believe that this drainage across Lot 2 is a potential problem unless provisions are made to accomodate this drainage. Show how this drainage will be handled.</p> <p>Thompson Creek Boulevard is shown to be extended to the east line of this plat for future extension across the existing railroad. The street grades will not work for a railroad crossing which typically does not allow storm water to cross the tracks. The drainage area and future drainage between the tracks and end of the paving should be calculated and assumptions shown to be certain that the grading of the lots backing to the railroad ROW is adequate.</p> <p>The plans show the results of a drainage study/modelling done for the proposed detention and street culvert crossings. The documentation and calculation were obviously done but not submitted with this application. I request that this</p>	

	<p>documentation be submitted as part of this application.</p> <p>Blanchard Boulevard is shown to be extended to Pine Lake Road. I suggest it be clearly required as part of the phasing of this development. I suggest for consideration that Eureka Drive and no lots north of it be platted unless Blanchard Boulevard is platted and sureties posted to guarantee its construction. Depending on the status of the City's construction of Pine Lake Road at the time of the Blanchard Road construction, temporary turn lanes may be required in Pine Lake.</p>	
<p>School District - Lincoln (Scott Wieskamp)</p>	<p> <input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input checked="" type="radio"/> Recommend Approval with Conditions    <input type="radio"/> Recommend Approval  <input type="radio"/> No Review Required                 </p> <p>Review 1:</p>	
<p>United States Post Office </p>	<p> <input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input checked="" type="radio"/> Recommend Approval with Conditions    <input type="radio"/> Recommend Approval  <input type="radio"/> No Review Required                 </p> <p>Review 1: Recommend approval with the condition the developers of this property purchase and install Centralized Box Units(CBUs) at their expense for all new deliveries in locations mutually agreed upon by the developer and the US Postal Service.</p>	
<p>Public Works (Ben Higgins)</p>	<p> <input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input checked="" type="radio"/> Recommend Approval with Conditions    <input type="radio"/> Recommend Approval  <input type="radio"/> No Review Required                 </p> <p>Review 1:</p> <ol style="list-style-type: none"> <li>1. Need to have Village Meadows Detention Study submitted in project dox so it is included as part of the official record</li> <li>2. Need minimum opening elevations around all detention ponds and channels including outlot G. The minimum opening elevations on sheet 5 are insufficient and it is not clear which lots they are associated with (e.g. Lot 4, block 2)</li> <li>3. Need to provide lowest floor elevation for those lots in or adjacent to the floodplain (i.e. lots 1, 2 &amp; 3, block 1 and lots 3, 9, &amp; 10, block 4)</li> <li>4. Culvert C-4, need to provide detailed hydraulics to show no increase in flood heights per FEMA regulations. Flow (Q100) appears to be incorrect (doesn't match detention report)</li> <li>5. Culvert C-6, the flow (Q100) appears to be low, doesn't match detention report</li> <li>6. The 100 year flood line due the number of other items is unclear. Need to show clearer</li> <li>7. There appears to be grading within the floodplain, need to do H&amp;H and show no impacts to storage and flood elevations as this is within the 'New Growth Area' (i.e. zoned AG on AGR on date of effective ordinance 5/25/04 for new growth area standards)</li> <li>8. Percent overdetnetion on tables 2, 3 and 4 appear to be incorrect. Table 5 appears to be correctly calculated. These tables need to be corrected, as does table 2 on sheet 4</li> <li>9. On sheets 5 and 6 use lighter shade on headings fro the drainage conveyance tables, as is they are unreadable</li> <li>10. Width of outlot G is very narrow, does it need to be wider or does topo dictate this is the correct width and that the future development to the east will be wide enough. From aerials it appears to be a defined channel, and if so needs to have a minimum corridor</li> </ol>	

**Jean Preister**

**From:** tkraft2@neb.rr.com  
**Sent:** Monday, May 07, 2012 6:03 PM  
**To:** Jean Preister  
**Subject:** S. 56th and Pine Lake Rd. Zoning

Planning Commission,

I received the notice for Annexation and Change of Zone for 41 acres of land at Village Gardens on 56th and Pine Lake Road. I am opposed to any further development of this area until the planning commission actually PLANS and implements ways to accommodate both traffic and water issues in this area.

I have lived in the Big Thompson Creek neighborhood for six years. For at least the past five years I've been concerned with the condition of South 56th Street between Old Cheney and Pine Lake Road. Not only is the street in horrible condition, but it needs to be widened to four lanes with turn lanes in each direction. The two lane street can't safely accommodate the traffic it now carries. Lack of a left turn lane has caused multiple accidents in the area. Add to that the fact that there is no sidewalk in either direction on that section of street. There isn't even a small strip of dirt to walk on beside the road leaving pedestrians to walk in the street! The entire street all the way from Old Cheney to Yankee Hill is in dire need of repair. My son is a motorcycle rider and I wonder each day how long it will be before he hits one of the giant potholes and gets thrown.

In addition, for the past six years we've lived with extremely low water pressure.

I hope you consider your duty to plan only for what the city can safely accommodate for.

Sincerely,

Ellen Kraft  
5830 Clear Creek Drive  
Lincoln 68516  
402.617.6126

**Jean Preister**

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**To:** Jean Preister  
**Subject:** FW: Comments: Item No. 4.2a&b: Annexation No. 12003 and Change of Zone No. 04075C, Village Gardens (p.35 - Public Hearing - 5/16/12)

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**From:** Greg Hagele [<mailto:ghagele@gmail.com>]  
**Sent:** Monday, May 14, 2012 5:15 PM  
**To:** Brian Will  
**Subject:** Annexation No 12003 and Change of zone no 04075C

Brian:

Thank you kindly for taking the time to hear my comments about the planned Annexation No 12003 and Change of zone no 04075C. If you could kindly pass along the comments to the commission it would be greatly appreciated. As a resident of Big Thompson Creek subdivision, we have not had what I would say is a good deal of attention to any open space or parks in our area. The development that is going on now in the Yankee Hill and 61st street area of our neighborhood does not appear to have new open space included which brings me to add this comment to the next project requesting rezoning. We have one small lot size space consisting of a slide and swing but that's about it for the entire neighborhood. In the process of this next development, I feel it would be good to have the developers agree in principle and in the granting of the application to include language that would confirm that they will in fact have a sizable area set aside for a park or open space in the this area of town on the lot they area asking to have rezoned. Not just a swampy unusable area that is turned into a lake or creek, or some bits and parts of land that is not suitable for building on but a real dedicated usable open space with trees etc.

As you informed me, a combined effort with the LPS site and city is a great idea. Something like what we see in the Cripple Creek subdivision. To the commission, I think it would be good to have this requirement / agreement memorialized on the outset so that in a year or two when developments starts with cutting of the land, there is a predetermined area of land set aside before any dirt is moved so that a useful park can be developed. That way, there would be a clear understanding by everyone on the outset of where homes should be and where open space must be and a park would not be pieced together with what remains of "open space" not used by the developers.

thanks again for you time

Greg Hagele  
7650 Greycliff Dr  
Lincoln NE 68516