FACTSHEET

TITLE: Change of Zone No. 17034 - AG to R-3 (South 84th & Augusta Drive)

APPLICANT: NuMark Golf, LLC

STAFF RECOMMENDATION: Approval.

SPONSOR: Planning Department.

REASON FOR LEGISLATION:

This request for a change of zone from AG to R-3 is associated with an amendment to the HiMark Community Unit Plan (CUP), located east of the intersection of South 84th Street and Augusta Drive inside the HiMark development.

The associated Annexation No. 17022 is for the annexation of 10.9 acres of the HiMark golf course. Both applications are associated with Special Permit #1423K for the HiMark CUP, which shows the area of these requests, along with the area of the clubhouse and restaurant, being redeveloped for 29 lots for single-family dwellings.

DISCUSSION / FINDINGS OF FACT:

1. On December 6, 2017, this proposed Change of Zone, the associated Annexation No. 17022 (Bill # 17-197), and the associated Special Permit No. 1423K were heard at the same time before the Planning Commission.

2. The staff recommendation to approve the annexation request is based upon the “Analysis” as set forth on pp.3-4, concluding that the change of zone to R-3 allows for the amendment to the CUP also being proposed, where the lot sizes are compatible with others in the area. It requires that a portion of the HiMark Golf Course be redeveloped to accommodate the additional lots, and is the fourth such amendment to do so. The golf holes for the golf course will be revised, and the golf course will be retained for the time being. Both the annexation and change of zone requests comply with the Zoning Ordinance and are consistent with the Comprehensive Plan. The staff presentation is found on pp.10-11.

3. Testimony on behalf of the applicant is found on p.11. There was no testimony in support or in opposition to this application.

4. On December 6, 2017, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend approval of this change of zone request.

5. On December 6, 2017, the Planning Commission also voted 7-0 to recommend approval of the associated Annexation No. 17022 (Bill #17-197), and voted 7-0 to adopt Resolution No. PC-01581, approving the requested special permit, as set forth in the staff report dated November 22, 2017. As of this date, no appeals have been filed on this special permit.
COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The site is designated for future urban density residential and green space land uses on the Future Land Use Map, and these requests will facilitate an amendment to the HiMark CUP with an overall density that is consistent with that designation as well as the surrounding residential development. While it redevelops a portion of the golf course which is designated for green space, the Comprehensive Plan supports this type of redevelopment when appropriate. The full range of city services are available, and the site is surrounded by the city limit on three sides.
KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 1.10 – The 2040 Growth Tiers Map designates this area as Tier 1, Priority A and C.

P. 7.1 – Housing - In existing neighborhoods, preservation, maintenance, and rehabilitation of existing housing should continue to be the focus. Infill and redevelopment needs to respect the street pattern, block sizes, and development standards of the area, such as parking at the rear and porches, windows, and doors on the front street side. Diversity of land uses, including commercial and special needs housing, is important provided the use fits within the character of the block and neighborhood.

P. 7.2 - Neighborhoods and Housing Guiding Principles:

- Provide flexibility to the marketplace in siting future residential development locations.
- Strive for predictability for neighborhoods and developers for residential development and redevelopment.

P. 7.4 - Strategies for Neighborhoods and Housing

- Discourage residential development in areas of environmental resources such as endangered species, saline wetlands, native prairies, and in floodplain corridors.
- Encourage preservation or restoration of natural resources within or adjacent to development.

P. 7.8 - Redeveloping in existing neighborhoods - Good design and appropriate placement are key to successful redevelopment. Widely varying techniques are utilized to achieve redevelopment in existing neighborhoods such as the following examples:

- De-conversion of multi-family back to single-family homes (resulting in a net decrease in density);
- Replacement of a single-family home with a new single-family home (resulting in no net change in density);
- Tearing down more than one structure and building a new multi-family building or a group of other housing types (resulting in a net increase in density); or
- Existing multi-family complexes identifying open areas to develop additional buildings on the existing property (resulting in a net increase in density).

P. 12.3 – This site is shown as future urban density residential and green space on the 2040 Lincoln Area Future Land Use Plan.

P. 12.4 – Urban Density Residential - Multi-family and single family residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre.

P. 12.4 – Green Space - Public or privately-owned areas predominantly used for recreation, such as parks, golf courses, soccer or ball fields, and trails. Many green space areas also serve functions such as buffers between incompatible uses and as stormwater management areas. In some cases, privately-owned Green Space such as golf courses may also be appropriate to be considered for future Urban Residential development.


Annexation policy is a potentially powerful means for achieving many of the goals embodied in the Plan's Vision. Annexation is a necessary and vitally important part of the future growth and health of Lincoln. The annexation policies of the City of Lincoln include but are not limited to the following:

The provision of municipal services must 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 should be predicated upon annexation of the area by the City. City annexation must occur before any property is provided with water, sanitary sewer, or other potential City services.

The areas within Tier I Priority A that are not annexed serve as the future urban area for purposes of annexation per state statute and are appropriate for immediate annexation upon final plat. These areas have approved preliminary plans.
To demonstrate the City's commitment to the urbanization of land in Tier I Priority B, the City should annex land that is contiguous to the City and generally urban in character, as well as land that is engulfed by the City. Land that is remote or otherwise removed from the limits of the City of Lincoln will not be annexed. The City should review for potential annexation all property in Priority B for which basic infrastructure is generally available or planned for in the near term.

Annexation generally implies the opportunity to access all City services within a reasonable period of time. 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 annexation of large projects may be done in phases as development proceeds.

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 annexation 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.

**UTILITIES & SERVICES:**

A. Sanitary Sewer: Sanitary sewer is adjacent and according to the engineer’s plans can be extended to serve all the lots being proposed.

B. Water: Water is also adjacent and can be extended to serve all the proposed lots being shown. Fire hydrants will be installed per City standards.

C. Roads: The only new streets are local streets to serve the lots being proposed. They are shown as public streets build to City standards.

E. Fire Protection: After annexation, fire protection will be provided by Lincoln Fire Rescue (LFR). The nearest station is at South Street and South 84th Street, but is set to be replaced by a new station to be built at South 84th Street and Pioneers Blvd, which will be located closer to this development.

**ANALYSIS**

1. These are related requests for both annexation and a change of zone, and are based upon the overall site plan for the amendment to the HiMark CUP. They seek both the annexation of a 10.9 acre tract, as well as re-zoning of the land from AG to R-3 to allow for the 29 new lots for single-family dwellings as shown on the CUP. The review of SP#1423K for the HiMark CUP is covered in a separate report.

2. The area to be annexed is located within Tier I, Priority Areas A and C of the Comprehensive Plan. All utilities, including public water and sewer, exist adjacent to the area of these requests, and the development can be served by the full range of city services. For annexation of Priority Area C it must be demonstrated that sanitary sewer service is available and can be served by gravity flow. The area located in Priority C is shown on the utility plan for the CUP to be able to be served by city sewer service.

3. The area proposed for annexation is outside the boundaries of both the Southeast Rural Fire District #1 and the Rural Water District #1 (RWD), so there is no potential compensation due those entities on the part of the City as a result of the proposed annexation.
4. The site is adjacent to the corporate limit, municipal services are available, and the land is designated for future low-density residential and green space land uses on the Future Land Use Map, consistent with the associated application for a CUP. These requests comply with the requirements of the Zoning Ordinance and the Annexation Policy of the Comprehensive Plan.

EXISTING LAND USE & ZONING: Agriculture; AG

ASSOCIATED REQUEST: SP#1423K for the HiMark CUP.

SURROUNDING LAND USE & ZONING

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<thead>
<tr>
<th></th>
<th>Single family residential</th>
<th>R-3</th>
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<tbody>
<tr>
<td>North</td>
<td></td>
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<tr>
<td>South</td>
<td>Golf Course, Golf Course</td>
<td>R-3, AG</td>
</tr>
<tr>
<td>East</td>
<td>Golf Course</td>
<td>AG</td>
</tr>
<tr>
<td>West</td>
<td>Single-family residential</td>
<td>R-3</td>
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APPROXIMATE LAND AREA:

Annexation #17022: 10.9 acres, more or less
Change of Zone #17034: 10.9 acres, more or less

PROPOSED CITY COUNCIL DISTRICT ASSIGNMENT: District #2

LEGAL DESCRIPTION:

Annexation #17022: See attached legal description.
Change of Zone #17034: See attached legal description.

Prepared by

__________________________
Brian Will,
November 22, 2017

Applicant/Contact: Tim Gergen
The Clark Enersen Partners
1010 Lincoln Mall
Lincoln, NE 68508
(402) 477-9291
tim.georgen@clarkenersen.com

Owner: NuMark Golf, LLC
8901 Augusta Drive
Lincoln, NE 68526

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Special Permit #: SP1423K, Annexation #: AN17022 & Change of Zone #: CZ17034 (AG to R-3)
Himark Estates
S 84th St & Old Cheney Rd

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.11 T09N R07E
November 1, 2017

Mr. David Cary
Planning Department, City of Lincoln
County-City Building
555 So. 10th Street
Lincoln, NE 68508

RE: HiMark Estates Amendment to the CUP, Annexation, Change of Zone

Dear Mr. Cary:

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

1. Application (Amend. CUP, Annexation, Change of Zone)
2. Application fee $1,976 ($988 + $988)
3. Annexation/Change of Zone Legal Description w/ exhibit
4. Site Plan, 2 sheets
5. Grading & Drainage Plan
6. Street Profiles

On behalf of the Owner/Developer, NuMark Golf LLC, 8901 Augusta Drive, Lincoln NE 68526, we are requesting an Amendment to the existing HiMark Estates Community Unit Plan, Annexation, and Change of Zone from AG to R-3 to the property located to the east of the existing clubhouse. This application is to add 29 single family lots to the HiMark neighborhood. The proposed lots will be served by public water and public sanitary sewer within a public roadway system. This application is part of a phased construction that will extend S. 89th Street from the north while the golf holes are reconfigured and a new clubhouse can be built. Once the new clubhouse is built the existing clubhouse, restaurant and convention space will be removed. We have had numerous neighborhood meetings on this proposed project. The submitted plan is the plan the developer and neighbors have agreed upon. Please let me know if you need any additional information.

Sincerely,

Tim Gergen

Architecture + Landscape Architecture + Engineering + Interiors

1010 Lincoln Mall, Suite 200
Lincoln, NE 68508-2883 402 477.9291  Fax 402 477.6542
LEGAL DESCRIPTION

ANNEXATION/R-3 ZONE BOUNDARY

ANNEXATION AND CHANGE OF ZONE LEGAL DESCRIPTION

PART OF OUTLOT 'B', HIMARK ESTATES 20th ADDITION AND PART OF OUTLOT 'A', IRONGATE ESTATES THIRD ADDITION, LOCATED IN SECTION 11, T 9 N R 7 E, OF THE 6th P.M., LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHEAST CORNER OF OUTLOT 'B' HIMARK ESTATES 20th ADDITION; THENCE ON THE EAST LINE OF SAID OUTLOT 'B' FOR THE NEXT TWO (2) COURSES, SOUTHERLY, S 38°13'50"E 52.32'; THENCE SOUTHERLY, S 41°33'47"E 209.15', TO THE SOUTHEAST CORNER OF SAID OUTLOT 'B' SAID POINT BEING ON THE NORTH LINE OF OUTLOT 'A', IRONGATE ESTATES 3rd ADDITION; THENCE EASTERLY ON SAID NORTH LINE OF OUTLOT 'A', N 90°00'00"E 61.85'; THENCE S 01°24'37"W 16.77'; THENCE S 26°51'36"E 121.72'; THENCE S 01°32'19"E 226.96'; THENCE S 05°48'34"W 78.14'; THENCE S 14°29'30"W 64.81'; THENCE S 32°58'42"W 86.87'; THENCE S 35°21'20"W 88.80'; THENCE S 18°58'35"W 77.15'; THENCE S 02°45'02"W 103.34'; THENCE S 10°20'15"W 130.03'; THENCE S 25°57'03"W 116.26'; THENCE N 68°21'12"W 130.42', TO A POINT ON A CIRCULAR CURVE TURNING IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 315.00', A CENTRAL ANGLE OF 21°48'45" AND AN ARC LENGTH OF 119.92'; THENCE ON SAID CURVE, HAVING A CHORD OF S 50°02'46"W 119.20'; THENCE S 60°57'08"W 113.39', TO A POINT ON THE WESTERLY LINE OF SAID OUTLOT 'A'; THENCE ON SAID WESTERLY LINE, N 27°30'23"W 144.66', TO THE SOUTHEAST CORNER OF LOT 13, BLOCK 1, HIMARK ESTATES 10th ADDITION; THENCE ON THE EAST LINE OF SAID LOT 13 FOR THE NEXT Four (4) COURSES, N 00°06'34"W 263.32'; THENCE S 89°49'47"E 67.79'; THENCE N 00°06'34"W 192.62'; THENCE N 89°53'26"E 120.00'; THENCE NORTHERLY, N 00°06'34"W 386.42', TO A POINT ON SAID WESTERLY LINE; THENCE ON SAID WESTERLY LINE FOR THE NEXT TWO (2) COURSES, N 32°16'32"E 10.38'; THENCE N 42°06'45"E 3.40'; THENCE NORTHERLY, N 00°06'34"W 288.78', TO A POINT ON THE NORTH LINE OF SAID OUTLOT 'B', HIMARK ESTATES 20th ADDITION, SAID POINT BEING ON A CIRCULAR CURVE TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 330.38', A CENTRAL ANGLE OF 22°58'25" AND AN ARC LENGTH OF 132.47'; THENCE ON SAID CURVE, HAVING A CHORD OF N 69°04'58"E 131.58', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 474,861.73 SQUARE FEET OR 10.90 ACRES, MORE OR LESS.
ANNEXATION NO. 17022, CHANGE OF ZONE 17034, AND SPECIAL PERMIT NO. 1423K

ANNEXATION NO. 17022, TO ANNEX APPROXIMATELY 11 ACRES, ON PROPERTY GENERALLY LOCATED AT S. 84TH STREET AND AUGUSTA DRIVE:

December 6, 2017

Members present: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, and Washington; Scheer absent.

Staff recommendation: Approval.

AND

CHANGE OF ZONE NO. 17019, FROM AG (AGRICULTURAL DISTRICT) TO R-3 (RESIDENTIAL DISTRICT), ON PROPERTY GENERALLY LOCATED AT S. 84TH STREET AND AUGUSTA DRIVE:

December 6, 2017

Members present: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, and Washington; Scheer absent.

Staff recommendation: Approval.

AND

SPECIAL PERMIT NO. 1423K, TO REVISE THE EXISTING HIMARK CUP TO ADD 29 SINGLE-FAMILY LOTS ON PROPERTY GENERALLY LOCATED AT S. 84TH STREET AND AUGUSTA DRIVE:

December 6, 2017

Members present: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, and Washington; Scheer absent.

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

Commissioner Scheer declared a conflict of interest and exited the chambers.

Staff Presentation: Brian Will of the Planning Department said that this item would have been on the Consent Agenda and is straightforward, but because it is adjacent to a neighborhood and golf course, it warranted its own hearing. This area is covered by a CUP with portions within and outside of City limits. The annexation is contiguous to City limits, is urban in character, and can be served by a full range of services. There is a change of zone request from AG to R-3. The 10.9 acres coming in would also be R-3. The Land Use Map shows this area as urban and green space because of the golf course which is appropriate to convert to residential uses. The special permit application is to amend the HiMark CUP by changing
the internal lot layout where there is golf today. The lots are consistent with others in the area and the street pattern is logical and provides for further development. No waivers were necessary.

Beckius asked if the lots were consistent with existing neighborhood lots in the surrounding areas. Will said yes.

Corr asked for clarification about the number of dwelling units proposed. Will said a certain amount of density is allowed by the design standards based on overall acreage of the CUP. There is a maximum number of 2,800. As it is, they only show potential use for up to 585 and they are not even getting to that. They only go up to 397. Corr asked if they would use the AG areas if they wanted to go up to the 585. Will said yes.

Washington if the proposal leaves the area outside of the change of zone as the golf course. Will said that is correct. Washington asked if it is consistent to annex a small piece. Will said everything about this proposal is straightforward because the original development showed a mix of residential and the golf course. Some expect the golf course would remain forever, but in reality, that is rarely the case.

Corr asked why the entire area is not annexed. Will said that at this point, the County maintains much of the roads and an improvement will be made to 98th Street. Since it is golf course, there is not much to gain. Plus, a major portion cannot be sewered easily, though the grading plan allows it to be served by gravity sewer.

**Proponents:**

1. Tim Gergen, Clark Enersen Partners, 1010 Lincoln Mall, said the question about annexing the rest of the property is over sewerability. This annexation represents the last piece that can easily be sewered. The housing market is good right now, so the goal is to bring in some single-family homes. The clubhouse and banquet space is not thriving, so it will be moved to a more central location. This proposal has been underway for the last nine months. There have been several neighborhood meetings and we listened to neighborhood concerns and came up with this concrete plan.

Hove asked if the golf course will keep 27 holes. Gergen said that is up in the air right now, but they may go to two, 18-hole courses, which might be easier to manage.

Corr said there were comments of concern regarding golf carts crossing streets. Gergen said based on experience, new holes are already designed with plenty of separation to yards. Still, there are a couple that cross the street. The Ridge has the same issue.

There was no testimony in opposition.

**ANNEXATION NO. 17022**

**ACTION BY PLANNING COMMISSION:**

Washington moved for approval, seconded by Joy and carried, 7-0: Beckius, Corr, Edgerton, Finnegan, Hove, Joy, and Washington voting ‘yes’; Scheer declared a conflict of interest; Harris absent.

**Note:** This is a recommendation to the City Council.
CHANGE OF ZONE NO. 17034
ACTION BY PLANNING COMMISSION: December 6, 2017

Edgerton moved for approval, seconded by Washington and carried, 7-0: Beckius, Corr, Edgerton, Finnegan, Hove, Joy, and Washington voting ‘yes’; Scheer declared a conflict of interest; Harris absent.

Note: This is a recommendation to the City Council.

SPECIAL PERMIT NO. 1423K
ACTION BY PLANNING COMMISSION: December 6, 2017

Edgerton moved for approval, seconded by Washington and carried, 7-0: Beckius, Corr, Edgerton, Finnegan, Hove, Joy, and Washington voting ‘yes’; Scheer declared a conflict of interest; Harris absent.

Note: This is FINAL ACTION by the Planning Commission unless appealed to the City Clerk’s office within 14 days.