FACTSHEET

TITLE: CHANGE OF ZONE NO. 17015 - AG to R-3
(O Street and North 112th Street)

APPLICANT: Starostka-Lewis, LLC

BOARD/COMMITTEE: Planning Commission

RECOMMENDATION: Conditional Approval (7-0: Edgerton, Finnegan, Joy, Harris, Washington, Corr and Scheer voting 'yes'; Beckius and Hove absent).

STAFF RECOMMENDATION: Conditional Approval

OTHER DEPARTMENTS AFFECTED: N/A

SPONSOR: Planning Department

OPPONENTS: 4 present at hearing; 19 letters of opposition submitted.

REASON FOR LEGISLATION:

This change of zone is associated with the Dominion at Stevens Creek Community Unit Plan (CUP), located near O Street and North 112th Street. It is also associated with the annexation of 70.43 acres of the existing approximately 160 acre property, approximately 153 acres of which will be in the CUP. 67.67 acres would be included in the change of zone from AG to R-3 while 2.34 acres would be included in the change of zone from AG to O-3. The first phase of the development would commence in the northwest part of the property adjacent to Sky Ranch Acres and the northeast part of Waterford Estates. 74 single family lots are proposed for the first phase of the development.

DISCUSSION/FINDINGS OF FACT:

1. This change of zone request, the associated Annexation No. 17007 (Bill #18-2), and Special Permit No. 17022 (Bill #18R-3) were heard at the same time before the Planning Commission on November 15, 2017. In addition, there is an associated amendment to the Annexation Agreement (Bill #18R-11) which is being prepared by the Law Department.

2. The staff recommendation of conditional approval of this change of zone is based upon the "Analysis" as set forth on pp.3-4, concluding that a change of zone to R-3 and with a limited O-3 area is consistent with the Future Land Use Map and compatible with the adjacent development. This change of zone complies with the Zoning Ordinance and is consistent with the Comprehensive Plan. The O-3 zoning proposed along O Street is appropriate instead of residential zoning due to the location being in a pipeline planning area. The staff presentation is found on pp.11-13.

3. Testimony on behalf of the applicant is found on pp.13-14. There was no testimony in support of this proposal. Four individuals came forward during testimony in opposition, which focused primarily on traffic concerns on existing, non-standard streets and the safety of children. (See pp.14-15). To access the public comments and all other documentation on this proposed change of zone, go to the following link www.lincoln.ne.gov and insert PATS as the keyword. Click on the "Selection Screen" and "featured Links", type in the application number (i.e. CZ17015); click on "Search", then "Select" and go to "Related Documents". Rebuttal on behalf of the applicant is found on p.17.

4. On November 15, 2017, the Planning Commission voted 7-0 to recommend conditional approval of this change of zone, as set forth in the factsheet dated November 2, 2017.
5. On November 15, 2017, the Planning Commission voted 7-0 to recommend conditional approval of associated annexation (Bill #18-2), subject to the Annexation Agreement (Bill #18R-11), being introduced on January 8, 2018.

6. On November 15, 2017, the Planning Commission voted 7-0 to adopt Resolution No. PC-01575, approved the requested special permit (Bill #18R-3), as set forth in the revised conditions of the staff report dated November 2, 2017, as offered by the applicant.

7. On November 16, 2017, a letter of appeal was filed by Mark Hunzeker, 1248 O Street, Ste. 600, Lincoln, and on November 29, 2017, a letter of appeal was filed by Rodger Johnson, 1320 Cessna Lane, on behalf of the SkyRanch Acres Neighborhood Assn (pp. 20-21)


<table>
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<tr>
<th>APPLICATION NUMBER</th>
<th>FINAL ACTION?</th>
<th>DEVELOPER/OWNER</th>
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<tr>
<td>Annexation #17007</td>
<td>No (both applications)</td>
<td>Starostka-Lewis, LLC/Lewis-Starostka Inc., James Buel</td>
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<tr>
<td>Change of Zone #17015</td>
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<th>PLANNING COMMISSION HEARING DATE</th>
<th>RELATED APPLICATIONS</th>
<th>PROPERTY ADDRESS/LOCATION</th>
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<td>November 15, 2017</td>
<td>SP17022</td>
<td>O Street &amp; N. 112th Street</td>
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**RECOMMENDATIONS:** ANNEXATION #17007  CONDITIONAL APPROVAL  CHANGE OF ZONE #17015  CONDITIONAL APPROVAL

**BRIEF SUMMARY OF REQUEST**

This is a combined staff report for two related applications associated with the Dominion at Stevens Creek Community Unit Plan (CUP), located near O Street and North 112th Street. The proposal is to annex 70.04 70.43 (corrected December 28, 2017) acres of the existing approximately 160 acre property, approximately 153 acres of which will be in the CUP. 67.67 acres would be included in the change of zone from AG to R-3 while 2.34 acres would be included in the change of zone from AG to O-3. The first phase of the development would commence in the northwest part of the property adjacent to Sky Ranch Acres and the northeast part of Waterford Estates. 74 single family lots are proposed for the first phase of the development. Access for the first phase would be via two street connections to Sky Ranch Acres subdivision which has access to Holdrege Street. Ultimately future phases will have access to connecting streets in Waterford Estates subdivision, O Street and North 112th Street.

**JUSTIFICATION FOR RECOMMENDATION**

The subject property is adjacent to the city limits, and the full range of municipal services can be provided if annexed. A change of zone to R-3 and with a limited O-3 area is consistent with the Future Land Use Map and compatible with the adjacent development. Both requests comply with the Zoning Ordinance and are consistent with the Comprehensive Plan. The O-3 zoning proposed along O Street is appropriate instead of residential zoning due to the location being in a pipeline planning area.

**COMPATIBILITY WITH THE COMPREHENSIVE PLAN**

The site is designated for future urban density residential land uses on the Future Land Use Map, and these requests comply with the requirements of the Zoning Ordinance and Comprehensive Plan. The proposed residential uses at urban density in proximity to existing urban services along with the preservation of floodplain area as open space is consistent with the principles of the Comprehensive Plan.
KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 1.10 - The 2040 Growth Tiers Map designates this area as Tier 1, Priority B.

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. 7.4-7.8 - Strategies for Developing Neighborhoods
• Encourage new development to achieve densities greater than five dwelling units per gross acre.

P. 12.3 - this site is shown as future urban density residential on the 2040 Lincoln Area Future Land Use Plan.


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: This area can be generally be served by gravity sanitary sewer. Sewer connections will include connecting to the trunk sewer to the east and to Waterford Estates to the west.

B. Water: Water mains currently exist in the Waterford Estates to the west of this location and will need to be extended from Shore Front Drive and from 104th St and Shoreline Drive.

C. Roads: All internal streets associated with Dominion at Stevens Creek will be constructed by the developer as part of the development. Nearby streets including O Street, a major arterial, and N 112th, a minor arterial. O Street is located within the NDOT corridor protection area. Additional right of way may be acquired in the future by NDOT for O Street, which if this happens, the proposed office areas would likely no longer be part of the development. The developer will construct right and left turn lanes at the O Street entrance at North 105th Street. This intersection will be built with the later phase when the subdivision connects to O Street.

D. Parks and Trails: The area of the development that is being requested for annexation at this time does not include any planned trails or park facilities. The Waterford development adjacent to the west includes a trail that is near the western border of the area of request. The Neighborhood Park for this square mile is planned adjacent to the future elementary school in Waterford Estates. The future phase of the development which abuts North 112th Street includes a portion of the planned future Stevens Creek Trail.

E. Public Service: Lincoln Fire & Rescue (LFR) notes that this area is not currently within the preferred four minute response time. The nearest Lincoln Fire and Rescue Stations are located at 901 N Cotner Boulevard (Fire Station #9) and 2201 South 84th Street (Fire Station # 12). Station #16 is planned generally located somewhere between O Street and Holdrege Street between 84th Street and 98th Street and this area will then be served by the new station. The Lincoln Police Department notes that response times may be less than optimal until their new stand-alone station is operational in 2019. The new station with LFR is being built at 6601 Old Cheney with an expected completion date in early 2019.

**ANALYSIS**

1. These are related requests for both annexation and a change of zone, and are based upon the overall site plan for Dominion at Stevens Creek CUP. The proposal is to annex approximately 70.04 acres of the total approximately 160 acres. 67.67 acres would be included in the change of zone from AG to R-3 while 2.34 acres would be included in the change of zone from AG to O-3. The first phase of the development would commence in the northwest part of the property adjacent to Sky Ranch Acres and the northeast part of Waterford Estates. 74 single family lots are proposed for the first phase of the development. Access for the first phase would be via two street connections to Sky Ranch Acres subdivision which has access to Holdrege Street. The second phase of the development would consist of 78 single family lots and would not be developed until there is connection to the northeast part of Waterford Estates via Crescent Moon Drive to 104th Street. Subsequent phases of the development would include additional street connections to Waterford Estates, O Street and North 112th Street. The connection to North 112th Street would be made upon development of the adjoining property at the northwest corner of O Street and 112th Streets. The latter connection to 112th is proposed rather than in the northeast part of the development in order to avoid significant floodway areas.

2. These requests constitute include three phases of the Dominion at Stevens Creek development, and if approved will allow for 67.67 acres to be final platted for residential.

3. The area to be annexed is located within Tier I, Priority B of the Comprehensive Plan. All utilities, including public water and sewer, exist adjacent to the area of these requests in previously approved phases of the same development. The development can be served by the full range of city services.

4. The subject property is located within the Southeast Rural Fire District #1. Under State law, the District can
petition for compensation from the annexing municipality for lost revenue based upon the amount of service area annexed. For voluntary annexations such as this one, any costs due to the district are to be borne by the developer. In this case, staff has conducted the financial analysis and there is no money due the District.

5. A neighborhood meeting concerning this development was held on November 2, 2017. Nearby residents expressed concerns about traffic from the development through Sky Ranch Acres. In particular, construction traffic using the streets in Sky Ranch Acres to gain access to the development from Holdrege Street was a concern and the safety of residents. Sanitary sewer capacity was another concern mentioned.

6. Annexation and re-zoning of the area of these requests will facilitate new residential development at urban densities contiguous to the existing City limits of Lincoln with all public utilities. The site is designated for future urban density residential land uses on the Future Land Use Map, and these requests comply with the requirements of the Zoning Ordinance and Comprehensive Plan.

EXISTING LAND USE & ZONING: Agriculture; AG

SURROUNDING LAND USE & ZONING
North: Single Family Residential: AG
South: Agricultural, Single Family Residential; AG
East: Agriculture; AG
West: Vacant; R-3

APPROXIMATE LAND AREA:
Annexation #17007: 70.04-70.43 (corrected December 28, 2017) acres, more or less
Change of Zone #17015: 70.01 acres, more or less

PROPOSED CITY COUNCIL DISTRICT ASSIGNMENT: City Council District #1

LEGAL DESCRIPTION:
A tract of land composed of a part of Lots 18 & 19 Irregular Tracts and a part of the South Half of the Northeast Quarter located in the East Half of Section 24, Township 10 North, Range 7 East, of the 6th P.M. and a tract of land composed of a part of Lot 18 Irregular Tracts located in the Southeast Quarter of Section 24, Township 10 North, Range 7 East, Lincoln, Lancaster County, Nebraska (See attached legal description for Annexation and Change of Zone).

Prepared by

George Wesselhoft, Planner
(402) 441-6366 or gwesselhoft@lincoln.ne.gov
Date: November 2, 2017

CONDITION NO. 1 OF ANNEXATION 17007 REVISED 11/15/2017

Applicant/Contact: Jill Schuerman
Civil Design Group
8535 Executive Woods Drive
Lincoln, NE 68512
(402) 434-8494 or jschuerman@civildg.com

Owner: Starostka-Lewis, LLC & Lewis Starostka, Inc. James M Buel
429 Industrial Lane PO Box 301
Grand Island, NE 68803 Eagle, NE 68347

AN17007 CZ17015 Dominion at Stevens Creek.gzw.docx

Page 4 - Annexation #17007, Change of Zone #17015
CONDITIONS OF APPROVAL - ANNEXATION #17007

1. Before the public hearing is held at which requests are scheduled for City Council consideration, the annexation agreement between the City and the owner(s) will be complete.

2. Annexation will not be approved until after December 11, 2017 per State Statute 39-1311 to 1311.05 since the property is in a Corridor Protection Area.

CONDITIONS OF APPROVAL - CHANGE OF ZONE #17015

1. The Developer signs the annexation agreement before the City Council approves the change of zone.

2. Change of Zone will not be approved until after December 11, 2017 per State Statute 39-1311 to 1311.05 since the property is in a Corridor Protection Area.
Change of Zone #: CZ17015
& Annexation #: AN17007
Dominion at Stevens Creek
N 112th St & O St

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.24 T10N R07E

Area of Application
Zoning Jurisdiction Lines
Existing City Limits

2016 aerial
October 11, 2017

Mr. David Cary  
Director of Planning  
City of Lincoln/Lancaster County  
555 South 10th Street, Room 213  
Lincoln, NE 68508

Re: Amended application for a R-3 CUP & O-3 office park on 160 acres of land generally located at 105th Street & East O Street. CDG Project No. 2016-0204.

Dear Mr. Cary:

On behalf of Lewis-Starostka, Inc., Starostka-Lewis, LLC., & James Buel we submit the enclosed application for the Dominion at Stevens Creek CUP, formerly submitted as the Caldwell Estates CUP. This amended application covers 160 acres from 105th & O Street to 3/4th of mile north of O Street on N. 112th Street and provides for 436 single family lots and 42,300 square feet of office space.

Extensive discussions with Planning Staff have led to the revised and expanded layout of this subdivision after interacting with NDOT on their corridor protection rights along East O Street. Should NDOT purchase the land required to grade their future ROW section, most of the office space shown on this application would become NDOT ROW.

We are requesting waivers of the following zoning and subdivision regulations:

1. To Design Standards, Title 2, Chapter 2.00, Section 3, 3.6, to allow for sanitary sewer mains to run opposite the street grades (not requesting waiver of depth). This a common waiver for current subdivision design.

2. To Subdivision Ordinance 26.23.130(a), to allow block lengths to exceed 1,320' for Blocks 15 and 25. Block 15 surrounds two detention cells that are designed to coordinate the detention requirements for much of this subdivision in two connected cells that feed into a greenspace area. A pedestrian way easement is shown on the ridge dividing the two cells. Block 25 abuts the 100-year floodplain and floodway for which waivers of block length are generally granted.

3. To Subdivision Ordinance 26.23.140(c) to allow for side lots lines to deviate from being radial and perpendicular to street ROW lines on curved streets. This waiver is request to obtain flexibility in obtaining the required width of house footprints at the setback line on streets as final plats are created.

The first phase of this project will commence adjacent to the Sky Ranch Acres subdivision and the northeast section of Waterford Estates. In coordination with the developers of Waterford Estates, we have arranged for access rights to construct Crescent Moon Drive as it turns into N. 104th Street and connects to Waterford Estates 19th Addition. Together, the access to these subdivisions will provide two points of ingress and egress into the initial phase of this subdivision. This subdivision will then progress southward toward South Shore Lane and then towards the O Street access point at N. 105th Street. When the city’s next phase of the Stevens Creek sanitary sewer trunk main is completed in 2018, this northern portion of this development will expand eastward towards 112th Street.
Regarding arterial street impact fees generated from this development, we are requesting that they be directed towards both the construct of the required permanent turn lanes in East O Street at N. 105\textsuperscript{th} Street, as well as the future construction of N. 112\textsuperscript{th} Street.

With this amended application we submit the following items:

- A new application for a Community Unit Plan & Change of Zone
- A change of zone & annexation exhibit
- A phasing exhibit
- All plan sheets, uploaded via Project Dox

I hope that this letter in conjunction with the plan sets assists you in reviewing these applications. Please feel free to call me at (402) 434-8494 so that I can address any questions you may have.

Sincerely,

Mike Eckert, AICP

cc: Lewis-Starostka, Inc.
    Starostka Lewis, LLC
    James Buel

/Volumes/share/F/Projects/2017/20170204/Landplanning/Doc/CUP submittal 10-11-17.doc
DOMINION AT STEVENS CREEK
CHANGE OF ZONE & ANNEXATION EXHIBIT
LINCOLN, NEBRASKA

CONSULTING ENGINEERS • LAND USE PLANNERS
CIVIL DESIGN • SITE DEVELOPMENT • PLANNING AND ZONING

Civil Design Group, Inc.
8535 Executive Woods Dr., Suite 200
Lincoln, Nebraska 68512
Ph. 402-434-8804 • Fax 402-434-8804
www.civiltdg.com

drawn by:  jds
checked by: -
project no.:  2017-0204
date:  10/25/2017

EXHIBIT

1 of 2
LEGAL DESCRIPTION - CHANGE OF ZONE AG TO R-3 AND ANNEXATION

A legal description of a tract of land composed of a part of Lots 18 & 19 Irregular Tracts and a part of the South Half of the Northeast Quarter located in the East Half of Section 24, Township 10 North, Range 7 East, of the 6th P.M., Lincoln, Lancaster County, Nebraska and more particularly described as follows:

Referring to the Southwest Corner of the Southeast Quarter of said Section 24; thence North on the West Line of the Southeast Quarter and on the West Line of Lot 18 Irregular Tracts, on an assumed bearing of N 00°10'16" E for a distance of 392.07' to the Point of beginning;
Thence N 00°10'16" E on the West Line of Lot 18 Irregular Tracts and the West Line of the Southeast Quarter of Section 24 for a distance of 2243.44' to the Northwest Corner of Lot 18, said point also being the Northwest Corner of the South Half of the Northeast Quarter of Section 24;
Thence N 00°09'38" E on the West Half of the Northeast Quarter of Section 24 for a distance of 1321.04' to the Northwest Corner of the South Half of the Northeast Quarter of Section 24; Thence S 88°51'12" E on the North Line of the South Half of the Northwest Quarter of Section 24 for a distance of 1479.18';
Thence S 01°08'48" W for a distance of 269.88';
Thence N 89°50'19" W for a distance of 418.90';
Thence S 11°02'20" E for a distance of 226.02';
Thence S 67°29'21" W for a distance of 297.78';
Thence S 19°33'55" E for a distance of 285.79';
Thence S 44°59'27" W for a distance of 82.54';
Thence S 36°04'15" E for a distance of 183.58';
Thence S 47°32'47" W for a distance of 265.09';
Thence S 00°51'40" W for a distance of 1026.03';
Thence S 89°08'20" E for a distance of 258.90';
Thence S 00°51'40" W for a distance of 418.56';
Thence N 89°08'20" W for a distance of 201.78';
Thence S 00°51'40" W for a distance of 104.37';
Thence N 89°08'20" W for a distance of 222.08';
Thence S 00°51'40" W for a distance of 300.00';
Thence N 89°08'20" W for a distance of 404.03';
Thence S 00°10'16" W for a distance of 92.33';
Thence S 21°45'21" E for a distance of 349.56';
Thence S 00°51'40" W for a distance of 180.00';
Thence N 89°08'20" W for a distance of 121.99';
Thence N 00°00'00" E for a distance of 150.02';
Thence S 89°08'20" W for a distance of 138.41';
Thence with a non-tangential curve turning to the right with an arc length of 53.25', with a radius of 200.00', with a chord bearing of N 81°30'43" W, with a chord distance of 53.09'; to the Point of Beginning, and having a calculated area of 67.67 acres more or less.

Subject to any and all easements and restrictions of record

LEGAL DESCRIPTION - CHANGE OF ZONE AG TO O-3

A legal description of a tract of land composed of a part of Lot 18 Irregular Tracts and a portion of the public Right-of-Way of U.S. Highway 34, all located in the Southeast Quarter of Section 24, Township 10 North, Range 7 East, of the 6th P.M., Lincoln, Lancaster County, Nebraska and more particularly described as follows:

Beginning at the Southwest Corner of the Southeast Quarter of said Section 24; along the West Line of the Southeast Quarter and also the West Line of Lot 18 Irregular Tracts and on an assumed bearing of N 00°10'16" E for a distance of 392.07';
Thence with a non-tangential curve turning to the left with an arc length of 53.25', with a radius of 200.00', with a chord bearing of S 81°30'43" E, with a chord distance of 53.09';
Thence S 89°08'20" W for a distance of 235.00' to a point on the South line of said Section 24;
Thence S 00°9'00" W for a distance of 150.02';
Thence S 00°00'00" E for a distance of 121.99';
Thence N 00°00'00" E for a distance of 310.56' to the Point of Beginning, and having a calculated area of 2.34 acres more or less.

Subject to any and all easements and restrictions of record
ANNEXATION NO. 17007, CHANGE OF ZONE 17015, AND SPECIAL PERMIT NO. 17022

ANNEXATION NO. 17007, TO ANNEX APPROXIMATELY 70.01 ACRES, MORE OR LESS, ON PROPERTY GENERALLY LOCATED AT O AND NORTH 112TH STREETS. November 15, 2017

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

Staff recommendation: Conditional Approval.

AND

CHANGE OF ZONE NO. 17015, FROM AG (AGRICULTURAL DISTRICT) TO R-3 (RESIDENTIAL DISTRICT) ON APPROXIMATELY 67.67 ACRES, MORE OR LESS, ON PROPERTY GENERALLY LOCATED AT O AND NORTH 112TH STREETS. November 15, 2017

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

Staff recommendation: Conditional Approval.

AND

SPECIAL PERMIT NO. 17022, DOMINION AT STEVENS CREEK CUP WITH UP TO 433 RESIDENTIAL UNITS INCLUDING SINGLE-FAMILY UNITS AND TOWNHOMES, WITH WAIVERS, ON APPROXIMATELY 153.97 ACRES, GENERALLY LOCATED AT O AND NORTH 112TH STREETS. November 15, 2017

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

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

Staff Presentation: George Wesselhoft of the Planning Department to state this area is adjacent to Waterford and Sky Ranch Acres. Around 153 acres of the total area would be within the boundaries of the CUP. The area can be served by sewer from the west and connection to the planned trunk line at Steven’s Creek. There is 2.34 acres along O Street that is a State-protected area where the Nebraska Department of Transportation could acquire right-of-way, so the proposed “office” could be impacted by that. Office was proposed in that location due to the pipeline planning area where residential development is not permissible. In terms of conformance with the Comprehensive Plan, the area is Tier I, Priority B, and is all within the full range of City services. The change in zone to R-3 will match the zoning to the west in Waterford. There is a condition to allow the State a 60-day review period.
Phase 1 of the development would commence in the northwest part of the development with 74 single-family units. The subsequent phases would extend to the south and east. There are conditions with the latest proposal to account for a temporary easement to facilitate construction vehicles. Barricades would be placed at the Piper and Beach Craft and would remain in place until occupancy permits are granted for all of the units in Phase 1.

The developer has requested three waivers, similar to what was granted in Waterford. First, it is to have sanitary sewer running opposite the street grade. This is a common request. There are also waivers requested to increase block lengths for Block 15 and Block 25 in the northeast of the area where they will be near detention and green spaces, and to allow side lot lines to deviate from being radial and perpendicular to street right-of-way lines. Lincoln Fire & Rescue has indicated that the development is not within their desired response time. Station 16 will be located somewhere between Holdrege and O Streets and will better serve the area. The development is not unusual in terms of density. The request is for 433 units and they are allowed up to 1,000, so the developer will use only 40% of the allowed. The intent of phasing the project is to better disperse traffic for residents in the area.

Finnegan asked about the phasing schedule. Wesselhoft said that could be better addressed by the applicant.

Edgerton asked for more information about construction entrances. Wesselhoft said the entrance will be along 112th Street and the developer is currently working with the County Engineer.

Joy asked about the logic of going through existing neighborhoods. Wesselhoft said this proposal is not unprecedented when adding urban density to pre-established rural density. Street connections extended with the intent for future connection.

Washington asked for more information about the waivers for increased block length. Wesselhoft explained that there is green space and some floodplain that consumes much of the northeast portion of the property. That area will be developed in Phase 3. Washington asked if the extra block length was to accommodate those open areas. Wesselhoft said that is correct. Washington said block length is considered to make sure pedestrians don’t have to walk extra distances, especially towards school. Wesselhoft said there is potential for an additional school site, but it is to the west in Waterford.

Corr asked about Crescent Drive. Wesselhoft said there will be a connection to Waterford in that northwest area. Corr asked if that was the only ingress and egress for Phase 1 or if there will be access into the other development on Piper. Wesselhoft said that once occupancy permits are issued, then the barricades to the Sky Ranch area will be removed. Corr noted that the original report did not show barricades. Wesselhoft said that is correct; the developer sent a modified request to address concerns over construction traffic.

Washington wondered about the safety of having only a single access point to homes in Phase 1. Wesselhoft said the developer can address that.

**Steve Henrichsen of the Planning Department** said this is a common occurrence during the initial construction of new developments. It is not possible to go in on day one and build six entrances. Staff works with developers to work out phasing and to find an appropriate number of units while there is only one way in and out. The first phase in this project will
include 74 units and, to some extent, this number was to address concerns from Waterford and Sky Ranch residents about people driving past their homes. Public Works looked at the existing roads in the area. Initial construction traffic will go down 104th Street. In the long term, traffic will be distributed differently with potential connections out to O Street, and eventually another 80 acres closer to 112th Street. The phasing addresses how the developer can afford to make the infrastructure improvements. It is not uncommon for there to be a number of units that will temporarily only have one access point.

**Proponents:**

1. Mark Hunzeker, 1248 O Street, Suite 600, came forward on behalf of the developer, Starostka-Lewis. This is a low-density development, with approximately 2.8 units per acre. A neighborhood meeting was held two weeks ago at SCC and there was lots of input from neighbors about access and the ability of roads to withstand heavy construction traffic. In response, Mr. Eckert, the engineer on the project, modified the initial phasing to limit access to Sky Ranch while the first phase is being built. Access was discussed with Waterford residents. Crescent Moon will connect to 104th Street. In addition, barricades will be placed at each access to Sky Ranch. In the meantime, there is a drainage way that runs under 104th Street that will require an amendment to the FEMA Floodplain. An application will be made for a map revision to enable that to be built. This should be done well in time for this to proceed. As an alternative, the option of opening Shore Front Drive has been discussed and that amendment would be requested if FEMA does not act quickly, though that is not our preferred course. In order to limit traffic that travels back to the west, the first phase would be limited to 35 lots so that by the time the second half of Phase 1 is underway, there would be two access points going west. One other request today is to change the language affecting the annexation agreement so that if there is a delay in getting the annexation agreement signed, the public hearing at City Council could be delayed rather than costing the developer even more time, given the holidays. Staff had no objection to that change.

Edgerton asked if splitting the construction of Phase 1 would change the requirements for the barricades into Sky Ranch. Hunzeker said the barricades would still be required to remain until all 74 lots of Phase One have occupancy permits.

Corr asked for more information about the longer blocks.

2. Mike Eckert, Civil Design Group, responded that there will be two detention cells to increase functionality. The compromise for the longer block length was that a pedestrian easement be built, so there will be what essentially is a dam between the two cells. That also ties in with water quality requirements in the area. The pedestrian easement goes out into the green space and there is also a future bike trail.

Washington asked if the geometry of Phase I would change if option two were used. Eckert said no, Phase I is seen as a whole, even if constructed in two stages. We are confident that Crescent Moon can be built. The development that has to go through the FEMA process is different, but it should be done by April of next year.

Finnegan asked the density of Waterford and Sky Ranch. Eckert said he did not know, but the proposed lot sizes are similar to Waterford. Sky Ranch Acres has relatively small lots for a rural subdivision. The proposed lots are closer to one acre in size.
Corr asked if there is further development planned on the Waterford side. Eckert said that is correct, there is more planned on 104th Street but none are built. He believes a final plat has been approved. The road is not yet paved.

Scheer asked how long the first phase will take, including permitting. Eckert said from the time the infrastructure is in place, grading is done, it will be mid- to late-summer next year, so it will be into 2019 before the first homes come online.

3. DaNay Kalkowski, Seacrest & Kalkowski, 1128 Lincoln Mall, Suite 105, said she represents the adjacent development. Her role today is to let the Commissioners know that discussion regarding access and traffic is ongoing. The final concept for the proposed development keeps changing so the access points need to be worked out, especially because any proposed O Street access location will be important to the other developments. It is their goal to have the access discussion concluded prior to City Council public hearing. Also of note is that the barricades to Sky Ranch essentially force access through Waterford. From our standpoint, we would argue that it is always better to have multiple access points to a development. No one street should have to bear all of the burden of traffic. Waterford’s final concern is regarding construction traffic accessing the development through their streets.

**Opponents:**

1. Bill Austin, 301 S. 13th Street, came forward representing Sky Ranch Neighborhood Association. Matt Sherman, President of Sky Ranch Neighborhood Association, also came forward. Sky Ranch was platted and developed in the early 1970s with 27 single-family units. Annexation was initiated by the neighborhood and occurred in 2012. The area consists of large lots with private sewer and water. There is concern about the capacity of streets in their area. The development will have immediate and significant impact on the Sky Ranch occupants. To our knowledge, no traffic or road condition study has been conducted. The neighborhood has not been provided with adequate information to do anything other than object. The neighborhood meeting was the first time the proposed development was fully explained. Residents raised numerous concerns. Less than two weeks later, the proposal is at Planning Commission for Final Action. That was simply not enough time to adequately respond. We ask for a delay of at least 30 days to allow time to discuss the sufficiency of the streets to accommodate new development and to sit down with the developer. Allowing the delay would not have an impact since the special permit would have to await the approval of the other applications. His clients are not unmindful of the efforts the applicants have made, but there was simply not enough time to get consensus among Sky Ranch neighbors. Mr. Austin asked all Sky Ranch residents attending the meeting to voice their opposition to stand.

Harris asked if they are asking for a hard 30-day delay. She wondered how the holiday schedule would play into the 30-day delay, or if the holidays would create further delays. Austin said if it took longer that would not concern his clients, but he doubts that is the case for the applicants. They are willing to work with whatever they can get. After discussion with the Clerk, it was concluded the City Council public hearing could occur as late as December 20th.

Joy asked if the neighbors were supportive of the annexation and change of zone, and are only asking for more time on the special permit. Austin said they are neutral on the other applications. It is the impacts to the streets and the connection that cause concern.
2. Roger Johnson, 1320 Cessna Lane, said much of his testimony is included in the letter of opposition he submitted. There is a well at the end of Piper Way that was permitted in the 1970s-1980s. The position of the well may interfere with the proposed location of the connection to the new development. He has heard minimal discussion from the City regarding the well when it may have to be moved, at significant cost. He would like to have this issue completely resolved before this moves forward.

3. Marge Davenport, 302 N. 112th Street, stated she farms 130 acres on the down side of the proposed buildings. Stevens Creek runs through her property and she said her main concern is the water issue. The creek floods regularly, sometimes completely flooding out her property. More concrete in the area will increase that problem. 112th Street has become impassable two times this year alone. She is also concerned with the safety of the water supply. It has occasionally been so dusty in the area from traffic that headlight must be used during the day to farm. The road is not in good shape and additional traffic will make it dangerous. There is additional concern for safety due to the number of accidents when people turn off O Street onto 112th Street. The project has been very rushed; they only found out about it in early November.

4. Andrea Howell, 1360 Beechcraft Road, stated she and her husband, Scott, live on the corner lot and sent a letter of opposition. They have voiced safety concerns and sent numerous emails to urge people to consider that the risks to children and pedestrians are huge. There are almost 20 children under the age of 13. Two cars cannot pass at the same time on the narrow roads and large vehicles can barely make it, if at all. There are no sidewalks or lights for pedestrians and these are not meant to be urban roads. This is a safety risk.

Finnegan asked if they are okay with annexation. Howell said yes, annexation is good for the City and there are many benefits. They are just very nervous about their streets where even garbage and delivery trucks do not fit on the roads. Lives are at stake.

**Staff Questions:**

Harris was interested in Staff’s take on the amendment proposed and on the delay of action. Wesselhoft confirmed that staff supports the change proposed by Hunzeker. Henrichsen said it gets complicated delaying items this time of year. Out of the next seven weeks, there are four weeks without City Council hearings. There are rules to meet regarding introduction, public hearing, and voting, so if this body acts today, the public hearing at City Council will be on December 11th and the vote will be on December 18th. If there were to be some other delay, voting may not occur until next year. An appeal on the Final Action for the special permit would need to be done within 14 days, so potentially, voting could end up occurring in February if that appeal occurs late. In terms of the special permit, it is difficult to come up with the exact dates.

Joy asked if the issues regarding the 112th Street will be addressed. Wesselhoft said he is not aware of any plan at this time.

Corr asked about the Nebraska Department of Transportation easement. She wondered if they could choose to require right-of-way beyond what already exists. Wesselhoft explained that the State easement does not just apply to this property, but to the general area along O
Corr asked for more information to address concerns about sewer capacity. Wesselhoft said the sewer will connect to Waterford and to the trunk line to the east and will not be made in Sky Ranch.

Corr also asked about the well mentioned in public testimony. Wesselhoft said the City is aware of the well. In a 1990 administrative amendment to a special permit, the well house was shown in a common area and not in the right-of-way. In general, the City and County do not approve wells in right-of-way. If it needed to be moved, those costs would need to be discussed with the developer.

Corr asked about the comments made about flooding in the area. Wesselhoft said the area is within the Lower Platte South Natural Resource District. Public Works and Watershed Management reviewed the proposal. Public Works is satisfied with storm water management and the developer is aware there is a significant flood zone on the property.

Washington asked if moving the well house would be a separate discussion from the well itself. She wondered if people are still able to traverse the road. Wesselhoft said the well house is east of Piper Way.

Washington noted how narrow the roads are. She wondered if they will stay that width once they are eventually connected. She asked what the process would be to widen the roads if is necessary for public safety. **Robert Simmering, Engineering Services Manager, City of Lincoln,** stated the streets were looked at and there was concern that they are rural, probably a 5-inch asphalt over an aggregate base. They are 22-feet wide in several places, which is a typical width for uncurbed streets. There is nothing in the geometry that would limit traffic. The well house is 6 feet off the edge of the street, which is the minimum clearance zone. There is nothing to motivate us to require that be moved. If residents want to widen the street, it would be done through an assessment district. They would only be addressed for the additional width. Staff does agree that construction traffic should be kept off of those streets. Even when the barricades are down, we would probably consider putting weight limits on the streets to keep loaded trucks off.

Washington asked if there is any requirement for them to be widened. Simmering said it is not required and the streets could be left as they are. Washington went on to ask if there is anything about the annexation to cause neighbors to think they would not have future development go through them. Simmering said the streets were stubbed to the end of the lots and for anyone watching the growth of the city, it would be presumptuous to assume they would not be connected.

Edgerton asked if the new streets would be wider to the south, once they are connected. Simmering said they would be 27-foot, curbed streets.

Washington asked for more information about the flooding in the area. Wesselhoft indicated that the comments from the review are available as part of the staff report. Washington explained that she feels for Ms. Davenport, who testified about the flooding on her property, since the addition of impervious surfaces in the area could increase the potential for flooding.
Finnegan asked staff to go over public safety comments from LFR. Wesselhoft said it was noted that the area is not within their 4-minute response time goal. The existing stations are at Cotner and at S. 84th Street. A new station is planned for the near future so once that is there, they will be able to serve the area from that closer station. The area is currently serviced by the Southeast Rural Fire District. Finnegan asked if the streets are adequate for fire trucks in Sky Ranch. Wesselhoft said he does not know. Henrichsen said that when the area was annexed, it was reviewed and no misgivings were expressed.

Washington asked if traffic studies are required for new developments. Wesselhoft said that generally speaking, they are not done for residential developments and are used more for commercial.

**Applicant Rebuttal:**

Hunzeker said there is no specific description of what the consequences will be to the Sky Ranch area other than the consequences of the connective streets, which were stubbed out for that very purpose. Streets are stubbed to the property line in existing subdivisions and they have no control over this; that is how it is done. Additional traffic was an anticipated consequence of City growth and has been anticipated. It is the job of the City to inform us as to whether or not they are sufficient. The construction traffic will be temporary and efforts will be made to keep it out of Sky Ranch. As for the flooding, a contour map has been provided. All of the runoff from the property moves to the north and to the east to come out in the area where the detention cells are planned. Additionally, it is part of the required design standards that runoff from the development cannot exceed what it is today. That is why the detention cells are planned. Sky Ranch is already within the City and being served by LFR. Our preference it to avoid any delay so that the grading can start on schedule.

Finnegan acknowledged the changes that were made after meeting with neighbors on November 2nd. She asked if there has been any other follow-up with them. Hunzeker said an email was sent to all who signed-in describing what will be done to limit construction traffic through the neighborhood.

Corr asked if the goal is for all of the applications to remain together as they move on to City Council. Hunzeker said that even with the 2-week appeal process, this will put voting well into January. Eckert added that they are more than willing to continue to sit down with neighbors. They are required to follow all the rules in terms of making the connections. The City was willing to put up the barricades. Hunzeker noted that public hearing at City Council will likely not occur until December 18th since details of the annexation agreement need to be worked out.

Edgerton concluded that it seems likely the special permit will be appealed and will move to City Council with the other applications. Hunzeker reiterated that they are willing to meet with neighbors between now and then.

Corr asked if building had to wait for approval from the State due to the protection along O Street. Hunzeker said this protection was designed by the State to provide notice if you want to build, so they are forced to make a decision as to whether or not they will need the land in the future. The state could make an appraisal to acquire the land. It is a matter of giving them the opportunity to buy it in case they need the property and to make sure they know that something is being built.
ANNEXATION NO. 17007
ACTION BY PLANNING COMMISSION: November 15, 2017

Corr moved for approval, seconded by Joy.

Edgerton commented that the annexation is fine to move forward.

Sheer agreed that the area is ready to be brought into the City.

Motion carried, 7-0: Corr, Edgerton, Finnegan, Harris, Joy, Washington, and Scheer voting ‘yes’; Beckius and Hove absent.

CHANGE OF ZONE NO. 17015
ACTION BY PLANNING COMMISSION: November 15, 2017

Corr moved for approval, seconded by Edgerton.

Corr said this is appropriate zoning for the area given the R-3 District already in the area.

Motion carried, 7-0: Corr, Edgerton, Finnegan, Harris, Joy, Washington, and Scheer voting ‘yes’; Beckius and Hove absent.

SPECIAL PERMIT NO. 17022
ACTION BY PLANNING COMMISSION: November 15, 2017

Scheer noted there are amendments proposed by Staff and the Applicant that will need to be accounted for.

Corr moved for approval, as amended by Staff and the Applicant.

Harris noted one amendment was intended for the annexation. The Law Department clarified that the motion made on that item is acceptable since it relates to the content of the annexation agreement.

Washington seconded the motion.

Joy asked about the appeal process, if it happens. Wesselhoft said the final action taken by Planning Commission can be appealed to the City Council within two weeks of today’s date. If that is done early enough, the applications can be synchronized for the sake of City Council. Cary said the items would then move forward to City Council, bundled together. They do not have to be, but the applicant might request they be kept together.

Corr reminded the neighborhood that there is time between today’s hearing and City Council public hearing so that will allow for more time to work out issues. She thanked both parties for talking and getting some things worked out already. We are glad that door was opened and hope that discussion continues to get somewhere where the residents can be happy.

Washington said it was good the developers were willing to make changes in response to the neighbors’ concerns. She encouraged the neighborhoods to continue discussions and to make a case for their concerns. The project will be better in the end if it is well-vetted. She feels
for the neighbors, especially when it comes to safety concerns.

Finnegan echoed the thoughts of Washington. The project is moving fast if the neighborhood meeting occurred only two weeks ago and is before this body for final action today. She hopes everyone involved will keep talking.

Scheer thanked everyone for the context surrounding this proposal. This is what happens when a growing city extends infrastructure. It can be expected and this is a good process. He appreciates neighbors for being at the hearing and hopes discussion continues. It feels like things are moving quickly, but there are some weeks to come, and then a couple of years before the true traffic impacts will be felt.

Motion carried, 7-0: Corr, Edgerton, Finnegan, Harris, Joy, Washington, and Scheer voting ‘yes’; Beckius and Hove absent.
Geri K. Rorabaugh

Subject: FW: Dominion CUP

From: Mark A. Hunzeker [mailto:MHunzeker@baylorevnen.com]
Sent: Thursday, November 16, 2017 10:26 AM
To: Steve S. Henrichsen <shenrichsen@lincoln.ne.gov>
Cc: David R. Cary <dcary@lincoln.ne.gov>; Bill Austin (waustin@blakeustinlaw.com) (waustin@blakeustinlaw.com)
<waustin@blakeustinlaw.com>
Subject: Dominion CUP

Steve:
We hereby give notice of appeal of the decision of the Planning Commission recommending conditional approval of Special Permit No 17022, Dominion at Stevens Creek community Unit Plan. Please place this matter on the City Council agenda at the same time as the accompanying Change of Zone No 17015 and Annexation No 17007. Please call if you have any questions.

Mark A. Hunzeker
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402-458-2131
(direct line)
MHunzeker@baylorevnen.com
To: Steve Henricksen

Subject: SP17022

On behalf of SkyRanch Acres Neighborhood Association, I hereby give notice of an appeal to the City Council of the decision of the Planning Commission to approve Special Permit No. 17022.

Rodger Johnson
1320 Cessna Lane
Lincoln, NE 68527

Email: Rj62205@windstream.net