

# COUNTY BOARD SUMMARY REPORT

TO : County Clerk: Attn: Monet McCullen

FROM : David R. Cary, Director of Planning



RE : **County Change of Zone 19010**  
(AG to AGR, 13200 West Bluff Road)

DATE : May 16, 2019

1. On May 15, 2019, County Change of Zone 19010, and the associated Special Permit 19018, as submitted by Marcia Kinning on behalf of David and Kimberly Kubat, were included as part of the Planning Commission's consent agenda.
2. Attached is the Planning staff report that includes the proposed change of zone request from AG (Agricultural District) to AGR (Agricultural Residential District), on property generally located at 13200 West Bluff Road.
3. The staff recommendation of approval is based upon the Analysis as set forth on pp.2-3, concluding that the change of zone is in conformance with the 2040 Lincoln-Lancaster County Comprehensive Plan. The area to the east and west has 13 lots of generally 3 to 5 acres in size. The character of the area north of W. Bluff Road, west of NW 126<sup>th</sup> Street is primarily residential, not agricultural. The site is shown as low density residential in the Comprehensive Plan.
4. On May 15, 2019, the Planning Commission voted 7-0 (Finnegan and Scheer absent) to recommend approval of this change of zone request.
5. On May 15, 2019, the Planning Commission voted 7-0 to adopt resolution PC-01649, approving the associated Special Permit 19018. No appeal has been filed on this application to date.
6. To access all public comments and information on this application, click on the following link [www.lincoln.ne.gov](http://www.lincoln.ne.gov) and (Keyword = PATS). Click on the "Selection Screen" under "Featured Links", type in the application number (i.e. CZ19010); click on "Search", then "Select". Go to "Related Documents".

The Planning staff is scheduled to brief the County Board on this amendment at their regular staff meeting on Thursday, May 23, 2019, at 9:45 a.m., in Room 113 of the County-City Building, 555 South 10<sup>th</sup> Street, Lincoln, Nebraska. The public hearing before the County Board has been scheduled for Tuesday, May 28, 2019, at 9:00 a.m., in Room 112 of the County-City Building, 555 South 10<sup>th</sup> Street, Lincoln, Nebraska.

If you need any further information, please let me know (402-441-6365).

cc: County Board  
Jenifer Holloway, County Attorney's Office  
Tom Cajka  
David and Kimberly Kubat  
Seward County Clerk

Ann Ames, County Commissioners  
Kerry Eagan, County Commissioners  
Marcia Kinning/REGA Engineering  
Malcom City Clerk

**LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT**

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER  
Change of Zone #19010

FINAL ACTION?  
No

DEVELOPER/OWNER  
Kimberly and David Kubat

PLANNING COMMISSION HEARING DATE  
May 15, 2019

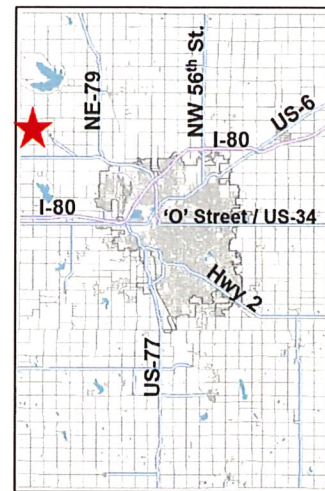
RELATED APPLICATIONS  
SP19018

PROPERTY ADDRESS/LOCATION  
13200 W. Bluff Rd.

**RECOMMENDATION: APPROVAL**

**BRIEF SUMMARY OF REQUEST**

This is a request for a change of zone from AG Agricultural to AGR Agricultural Residential on approximately 25.53 acres. The developer is requesting the change of zone to allow the development of the parcel into 3 lots.



**JUSTIFICATION FOR RECOMMENDATION**

The change of zone is in conformance with the 2040 Lincoln-Lancaster County Comprehensive Plan. The area to the east and west has 13 lots of generally 3 to 5 acres in size. The character of the area north of W. Bluff Road, west of NW 126<sup>th</sup> Street is primarily residential, not agricultural. The site is shown as low density residential in the Comprehensive Plan.

**APPLICATION CONTACT**

Marcia Kinning, REGA Engineering Group,  
402-484-7342, [marcia@regaeng.com](mailto:marcia@regaeng.com)

**STAFF CONTACT**

Tom Cajka, (402) 441-5662 or  
[tcajka@lincoln.ne.gov](mailto:tcajka@lincoln.ne.gov)

**COMPATIBILITY WITH THE COMPREHENSIVE PLAN**

The proposed AGR Agricultural Residential zoning is compatible with the surrounding land use. The area is shown for Low-Density Residential in the 2040 Lancaster County Future Land Use Plan.

## KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

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

P. 12.4 - Low Density residential are residential areas, often referred to as acreages, having densities ranging from 1 to 5 acres per dwelling unit, with a typical density of 3 acres per dwelling unit.

P. 1.2 - Lincoln and Lancaster County: One Community Vision Statements:

- An important relationship exists between the urban, rural, and natural landscapes. Urban and rural development maximize the use of land in order to preserve agriculture and natural resources.
- Policies of managing urban growth, maintaining an "edge" between urban and rural land uses, and preserving prime agricultural land form a distinctive and attractive built environment for Lincoln and Lancaster County.

p. 2.7 - Preserve areas throughout the county for agricultural production by designating areas for rural residential development—thus limiting potential conflicts between farms and acreages.

P. 2.7 - Provide for about four percent of the total population in the County in other incorporated towns, and six percent on acreages, farms and unincorporated villages.

P. 7.2 - Encourage acreages to develop in appropriate areas and preserve farmland.

P. 7.12- LPlan 2040 supports the preservation of land in the bulk of the County for agricultural and natural resource purposes. However it recognizes that some parts of the County are in transition from predominantly agricultural uses to a mix that includes more residential uses.

P. 7.12- All proposals for acreages should be evaluated based on factors such as paved roads, adequate water quality and quantity, soil conditions for on-site wastewater management, availability of emergency services, agricultural productivity, land parcelization, the pattern of existing acreages, and plans for future urban development.

P. 7.12- Applications for acreage designation on the future land use map or rezoning to AGR, if planned for on-site wells, should be accompanied by information on water quality and quantity.

P. 7.12- Areas not designated for acreages should remain agriculturally zoned and retain the current overall density of 32 dwellings per square mile (1 dwelling unit per 20 acres).

P. 7.12- Grouping acreages together in specific areas will limit the areas of potential conflict between farms and acreages. It also may enable services to be provided more efficiently, by reducing the amount of paved routes, reducing the number and distance of school bus routes, and taking advantage of more effective rural water district service.

P. 7.12- Clustering lots in one portion of a development site, while preserving both farmland and environmental resources on the remainder, should continue to be encouraged in agriculturally-zoned areas. A considerable supply of acreage lots has been platted in recent years in this manner.

## ANALYSIS

1. This request is for a change of zone from AG to AGR on 25.53 acres. There are 13 acreage lots of generally 4 to 5 acres in size to the east and west of this site. Although the adjacent lots are zoned AG-Agriculture, the lots are 3 to 5 acres in size. These lots were most likely created prior to the 20 acre minimum lot size in the AG District.
2. An acreage lot is generally less than 10 acres and has a dwelling. The lots are residential in use and not primarily for farming.

3. The area of the requested change of zone is shown as Future Low Density Residential on the 2040 Future Land Use Plan in the Lincoln/Lancaster County Comprehensive Plan.
4. The 2040 Comprehensive Plan on page 7.12 recommends that proposed acreage developments be evaluated based on the following factors:
  - A) **Paved Roads;** West Bluff Road is a gravel county road. The nearest paved road is NW 112<sup>th</sup> Street, approximately 1.5 miles east of the site.
  - B) **Water Quality and Quantity;** Each lot will have a private well. Well information from nearby wells was submitted. Lincoln-Lancaster County Health Department reviewed the information and found that there is adequate water for this development.
  - C) **Soil Conditions;** The majority of the parcel is prime farmland.
  - D) **On-site Wastewater Management;** Each lot will have private septic systems.
  - E) **Availability of Emergency Services;** The Lancaster County Sheriff and Malcolm Rural Fire would provide emergency services. This is an area with numerous nearby acreage development already adequately served by both agencies.
5. **Existing Acreages;** There are acreage developments to the east and west of this site.
6. The Comprehensive Plan encourages acreages to be grouped together into specific areas. There are existing acreages to the east and west. The applicant's property and the acreages to the east and west are all shown for low-density residential in the Comprehensive Plan.

**CONDITIONS OF APPROVAL:** See attached.

**EXISTING LAND USE & ZONING:** AG-Agriculture                      One single family dwelling and farm ground.

**SURROUNDING LAND USE & ZONING**

North: AG-Agriculture	Abandoned railroad and farm ground
South: AG-Agriculture	Farm ground
East: AG-Agriculture	10 dwellings on acreage lots.
West: AG-Agriculture	8 dwellings on acreage lots.

**APPROXIMATE LAND AREA:** 25.53 acres, more or less.

**LEGAL DESCRIPTION:** Lot 66 I.T. and the south half of vacated railroad right-of-way locate in the south half of Section 18, Township 11 North, Range 5 East; Lancaster County, NE

Prepared by

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Tom Cajka, Planner

Date: May 1, 2019

Applicant:        REGA Engineering Group  
                       601 Old Cheney Road, Suite A  
                       Lincoln, NE 68512  
                       402-484-7342

Contact: Marcia Kinning  
REGA Engineering Group  
601 Old Cheney Road, Suite A  
Lincoln, NE 68512  
402-484-7342

Owner: Kimberly and David Kubat  
13200 West Bluff Road  
Malcolm, NE 68402  
402-432-9452

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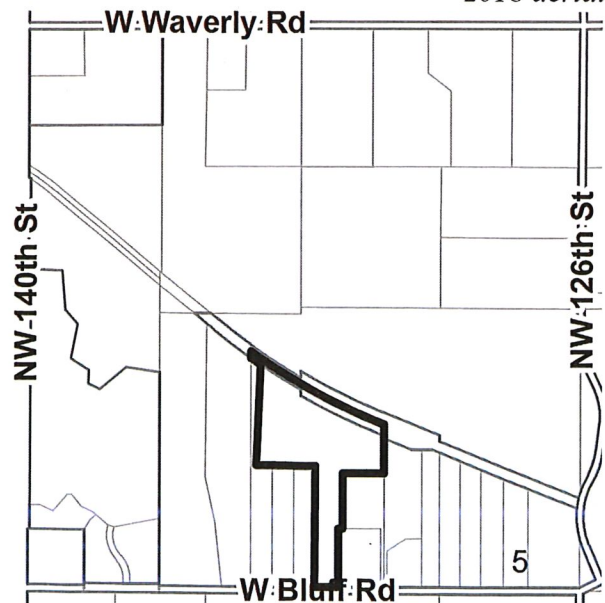
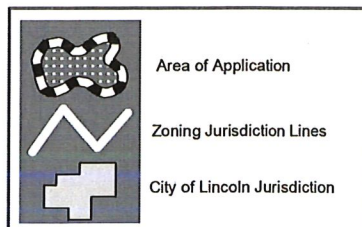
2018 aerial

**Special Permit #: SP19018 &  
Change of Zone #: CZ19010 (AG to AGR)  
Kubat Acres CUP  
NW 140th St & W Bluff 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. 18 T11N R05E**



# REGA

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ENGINEERING  
GROUP, INC.

REGA No. 181186  
April 17, 2019

Mr. David Cary  
Planning Director  
Tom Cajka, Planner  
Lincoln/Lancaster County Planning Department  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: KUBAT ACRES  
COUNTY COMMUNITY UNIT PLAN  
CHANGE OF ZONE FROM 'AG' TO 'AGR'  
13200 West Bluff Road

Dear David:

On behalf of David and Kimberly Kubat we are submitting a County Community Unit Plan with a Change of Zone from 'AG' to 'AGR' for review. Kubat Acres consists of 25.53 acres with 3 single family acreage lots, containing a minimum of 3 acres. Each lot shall have individual water wells and septic systems.

The existing site consists of an existing residence and out-buildings which have been incorporated within the setbacks created with Lot 1, Block 2. An existing waterway runs through the development. An approval has been received from the U.S. Army Corps of Engineers to improve the structure crossing the waterway to access Lot 2, Block 2. The Department of Army Nationwide Permit Verification letter will be uploaded into ProjectDox for reference.

The proposed public road will be constructed to meet Lancaster County design standards. The location of the access onto W. Bluff Road meets the site distance required by the County and is shown on the street profiles. A private driveway is shown to access Lot 2, Block 2. If, in the future, the additional conceptual lots would like to be created, an amendment to the C.U.P. will need to be submitted for approval. With that application, the area shown as a future cul-de-sac for a public street turn-around will need to be created for the private drive to access 3 lots.

Existing well information provided by NDNR Groundwater Well Registration – Registered Groundwater Wells Data Retrieval will be uploaded into ProjectDox.

The following waivers are being requested with this application:

1. Sidewalks – Lancaster County Subdivision Regulations, Chapter 4 (Design Standards) Section 4.06 and Section 5.02. Each lot is at least 3 acre and this project will not be annexed into the City of Lincoln in the near future.
2. Block length – Lancaster County Subdivision Regulations, Chapter 4 (Design Standards) Section 4.07. Street connections have been shown to the east and west of the development. Due to the waterway through the development and the unique layout of the land, the block length cannot be maintained within the project. Also, each lot is at least 3 acre and this project will not be annexed into the City of Lincoln in the near future.
3. Average Lot width for Lot 2, Block 2– Lancaster County Zoning Regulations, Article 4, 4.017(a). Due to the unique shape and natural features of the property, the area north of the waterway is limited to width and frontage to the proposed public street.
4. Frontage for Lot 2, Block 2 – Lancaster County Zoning Regulations, Article 4, 4.017(a). Due to the unique and natural features of the property, the area north of the waterway is limited to the width and frontage to the proposed public street.
5. Water well report – Lancaster County Zoning Regulations, Article 14, 14.013. In order to accommodate the water tests required by these regulations, well information including water quality testing will be obtained from the existing well within this development as well as the surrounding area and submitted to John Chess with the Health Department for review.

If you have any questions regarding this application, please contact me at (402) 484-7342.

Sincerely,



Marcia L. Kinning

Cc: Dave Kubat

Enclosures: County Application Form  
CUP Application Fee of \$1483.00  
COZ Application Fee of \$988.00



# CHANGE OF ZONE 19010

## CONSENT AGENDA

### PUBLIC HEARING & ADMINISTRATIVE ACTION

#### BEFORE PLANNING COMMISSION:

May 15, 2019

Members present: Beckius, Campbell, Corr, Edgerton, Joy, Harris and Washington; Finnegan absent; Scheer declared a conflict of interest.

The Consent Agenda consisted of the following items: **ANNEXATION 19003, CHANGE OF ZONE 19011, WAIVER 19001, CHANGE OF ZONE 19009, USE PERMIT 33E, CHANGE OF ZONE 19010, SPECIAL PERMIT 19018, SPECIAL PERMIT 16020A AND SPECIAL PERMIT 19019.**

Washington indicated she would like to ask some questions regarding item 1.1a, Annexation 19003. Item 1.1a, Annexation 19003 and associated items, Item 1.1b, Change of Zone 19011 and Item 1.1c, Waiver 19001 were removed from the Consent Agenda and scheduled for separate public hearing.

Campbell moved approval of the remaining Consent Agenda, seconded by Beckius and carried 7-0: Beckius, Campbell, Corr, Edgerton, Joy, Harris and Washington voting 'yes'; Scheer declared a conflict of interest on Annexation 19003, Change of Zone 19011, and Waiver 19001 and did not vote on the Consent Agenda items; Finnegan absent.

Note: This is FINAL ACTION on **USE PERMIT 33E, SPECIAL PERMIT 19018, SPECIAL PERMIT 16020A AND SPECIAL PERMIT 19019** unless appealed by filing a letter in the Office of the City Clerk or County Clerk within 14 days. This is a recommendation to City Council or the Lancaster County Board on all other Consent Agenda items.