



RESOLUTION NO. PC- 01563

SPECIAL PERMIT NO. 17017

1 WHEREAS, Apples Way, LLC has submitted an application designated as Special
2 Permit No. 17017 for authority to develop a Community Unit Plan for up to 79 single family
3 dwelling units, with a waiver to allow double frontage lots, on property generally located
4 southwest of South 27th Street and Rokeby Road, and legally described as:

5 All of Lot 84, I.T., located in the Northeast Quarter of Section 36,
6 Township 9 North, Range 6 East of the 6th P.M., Lancaster
7 County, Nebraska;

8 WHEREAS, the Lincoln City-Lancaster County Planning Commission has held a public
9 hearing on said application; and

10 WHEREAS, the community as a whole, the surrounding neighborhood, and the real
11 property adjacent to the area included within the site plan for this community unit plan will not be
12 adversely affected by granting such a permit; and

13 WHEREAS, said site plan together with the terms and conditions hereinafter set forth
14 are consistent with the Comprehensive Plan of the City of Lincoln and with the intent and
15 purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and
16 general welfare.

17 NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster County Planning
18 Commission of Lincoln, Nebraska:

1 That the application of Apples Way, LLC, hereinafter referred to as "Permittee", to
2 develop a Community Unit Plan for up to 79 single family dwelling units, with a waiver to allow
3 double frontage lots, be and the same is hereby granted under the provisions of Section
4 27.63.320 of the Lincoln Municipal Code upon condition that construction of said development
5 be in substantial compliance with said application, the site plan, and the following additional
6 express terms, conditions, and requirements:

7 1. This permit approves a Community Unit Plan for up to 79 single family dwelling
8 units, with a waiver to allow double frontage lots.

9 2. The City Council approves associated request Change of Zone #17012.

10 3. Before a final plat is approved:

11 a. The permittee shall cause to be prepared and submitted to the Planning
12 Department a revised and reproducible final plot plan including 3 copies with all required
13 revisions and documents as listed below:

14 i. Make the following revisions to Sheet 1:

15 A. Several of the lots do not meet the minimum area
16 requirements for the R-3 district. In addition, the number of
17 single family attached lots should be an even number.
18 Revise the lot layout so all lots meet the minimum
19 dimension requirements for the type of dwelling.

20 B. Show a pedestrian easement between S. 27th Street and
21 Ina Street in the Conceptual Layout area over Lot 75 I.T.

22 C. Show a pedestrian easement in Outlot A to provide access
23 to the open space in case the agricultural use in Outlot B is
24 removed in the future.

25 D. Revise Note 7 to read, "Fences, accessory buildings and
26 other structures need not be shown on the site plan."

27 E. Revise the "Annexation & Community Unit Plan Legal
28 Description" title to remove reference to the annexation as
29 it is unnecessary. We only need to reference the CUP
30 legal boundary.

31 F. Revise the legal description metes and bounds to the
32 satisfaction of the Public Works and Utilities Department.

- 1 G. Remove the Change of Zone Legal Description as it is
2 unnecessary to have on the Community Unit Plan.
- 3 H. Identify future utility easements to the satisfaction of
4 Lincoln Electric System (see attached redline drawing).
- 5 I. Remove the waiver for block length, as a waiver is not
6 necessary when a natural barrier forms one boundary of
7 the block.
- 8 J. Add to the list of waivers, "Allow double frontage lots."
- 9 K. Identify the 40-foot sanitary sewer easement running
10 through Lots 15, 5, 4, and 4 as a no-build zone.
- 11 L. Label the large outlot as Outlot B.
- 12 M. Add a street name for the cul-de-sac of "Sievers Place."
- 13 N. Add a note that a future 20-foot trail easement will be
14 provided in the conservation easement area at no cost
15 when requested by the Parks and Recreation Department.
- 16 ii. Show 10 feet of right-of-way to be dedicated along S. 27th Street.
- 17 iii. Show right-of-way for a future roundabout in S. 27th Street at the
18 Barnard Road entrance to the satisfaction of the Public Works and
19 Utilities Department.
- 20 iv. Correct the "Tree mass to be removed" and "Tree mass to remain"
21 legend symbology, as they are reversed on the plans.
- 22 v. Revise the grading plans and related documentation and submit
23 any missing documents to the satisfaction of the Public Works and
24 Utilities Department.
- 25 vi. A street name change application must be submitted and
26 approved to revise Sievers Lane to the east to match the new cul-
27 de-sac name, with the application fee and installation of the new
28 sign to be at the expense of Apples Way, LLC.
- 29 vii. The Sewer Connection Fee as per Section 24.52.010 must be
30 paid in order to connect to the sewer line to serve Sievers
31 Landing.
- 32 viii. A Letter of Map Revision must be approved.
- 33 4. Before a final plat is approved provide verification from the Register of Deeds
34 that the letter of acceptance as required by the approval of the special permit has been
35 recorded.
- 36 5. Final plat(s) is/are approved by the City.

1 6. If any final plat on all or a portion of the approved community unit plan is
2 submitted five (5) years or more after the approval of the community unit plan, the city may
3 require that a new community unit plan be submitted, pursuant to all the provisions of section
4 26.31.015. A new community unit plan may be required if the subdivision ordinance, the design
5 standards, or the required improvements have been amended by the city; and as a result, the
6 community unit plan as originally approved does not comply with the amended rules and
7 regulations.

8 7. Before the approval of a final plat, the public streets, private roadway
9 improvements, sidewalks, public sanitary sewer system, public water system, drainage facilities,
10 land preparation and grading, sediment and erosions control measures, storm water
11 detention/retention facilities, drainageway improvements, street lights, landscaping screens,
12 street trees, temporary turnaround and barricades, and street name signs, must be completed
13 or provisions (bond, escrow or security agreement) to guarantee completion must be approved
14 by the City Law Department. The improvements must be completed in conformance with
15 adopted design standards and within the time period specified in the Land Subdivision
16 Ordinance. A cash contribution to the City in lieu of a bond, escrow, or security agreement may
17 be furnished for sidewalks and street trees along major streets that have not been improved to
18 an urban cross section. A cash contribution to the City in lieu of a bond, escrow, or security
19 agreement may be furnished for street trees on a final plat with 10 or fewer lots.

20 8. No final plat shall be approved until the Permittee, as subdivider, enters into an
21 agreement with the City whereby Permittee agrees:

- 22 i. to complete the street paving of public streets, and temporary
23 turnarounds and barricades located at the temporary dead-end of the
24 streets shown on the final plat within two (2) years following the approval
25 of the final plat.
- 26 ii. to complete the installation of sidewalks along both sides of all streets as
27 shown on the final plat within four (4) years following the approval of the
28 final plat.

- 1 iii. to complete the public water distribution system to serve this plat within
2 two (2) years following the approval of the final plat.
- 3 iv. to complete the public wastewater collection system to serve this plat
4 within two (2) years following the approval of the final plat.
- 5 v. to complete the enclosed public drainage facilities shown on the approved
6 drainage study to serve this plat within two (2) years following the
7 approval of the final plat.
- 8 vi. to complete the installation of public street lights along streets within this
9 plat within two (2) years following the approval of the final plat.
- 10 vii. to complete the planting of the street trees along all streets within this plat
11 within six (6) years following the approval of the final plat.
- 12 viii. to complete the planting of the landscape screen within this plat within
13 two (2) years following the approval of the final plat.
- 14 ix. to complete the installation of the street name signs within two (2) years
15 following the approval of the final plat.
- 16 x. to complete the installation of the permanent markers prior to construction
17 on or conveyance of any lot in the plat.
- 18 xi. to complete any other public or private improvement or facility required by
19 the Land Subdivision Ordinance in a timely manner which inadvertently
20 may have been omitted from the above list of required improvements.
- 21 xii. to submit to the Director of Public Works a plan showing proposed
22 measures to control sedimentation and erosion and the proposed method
23 to temporarily stabilize all graded land for approval.
- 24 xiii. to comply with the provisions of the Land Preparation and Grading
25 requirements of the Land Subdivision Ordinance.
- 26 xiv. to complete the public and private improvements shown on the
27 Community Unit Plan.
- 28 xv. to keep taxes and special assessments on the outlots from becoming
29 delinquent.
- 30 xvi. to maintain the outlots on a permanent and continuous basis.
- 31 xvii. to maintain the private improvements in good order and state of repair,
32 including the routine and reasonable preventive maintenance of the
33 private improvements, on a permanent and continuous basis.
- 34 xviii. to maintain the plants in the medians and islands, including replacement
35 and replanting as reasonably necessary, on a permanent and continuous
36 basis.
- 37 xix. to maintain the landscape screens, including replacement and replanting
38 as reasonably necessary, on a permanent and continuous basis.

1 xx. to recognize that there may be additional maintenance issues or costs
2 associated with the proper functioning of storm water detention/retention
3 facilities as they were designed and construction within the development
4 and that these additional maintenance issues or costs are the
5 responsibility of the Permittee.

6 xxi. to retain ownership of and the right of entry to the outlots in order to
7 perform the above-described maintenance of the outlots and private
8 improvements on a permanent and continuous basis. However,
9 Permittee(s) may be relieved and discharged of such maintenance
10 obligations upon creating in writing a permanent and continuous
11 association of property owners who would be responsible for said
12 permanent and continuous maintenance subject to the following
13 conditions:

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

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

25 xxii. to pay all design, engineering, labor, material, inspection, and other
26 improvement costs.

27 xxiii. to inform all purchasers and users of land is located within the 100 year
28 floodplain that the grading of the lots and outlots within the 100 year
29 floodplain shall be in conformance with the approved grading plan or as
30 amended by the Director of Planning. The volume of fill material brought
31 into each lot and outlot from outside the floodplain shall not exceed that
32 shown on the approved grading plan accompanying the preliminary plat.

33 xxiv. to protect the trees that are indicated to remain during construction and
34 development.

35 xxv. to relinquish the right of direct vehicular access to Rokeby Road and S.
36 27th Street except as shown.

37 9. Before occupying the dwelling units all development and construction shall
38 substantially comply with the approved plans.

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

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

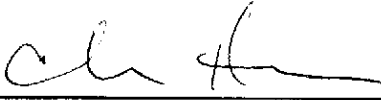
4 12. The terms, conditions, and requirements of this resolution shall run with the land
5 and be binding upon the Permittee, its successors, and assigns.

6 13. The Permittee shall sign and return the letter of acceptance to the City Clerk.
7 This step should be completed within 60 days following the approval of the special permit. The
8 City Clerk shall file a copy of the resolution approving the special permit and the letter of
9 acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the
10 Permittee. Building permits will not be issued unless the letter of acceptance has been filed.

11 BE IT FURTHER RESOLVED that the City Clerk is directed to record this Resolution
12 with the Register of Deeds filing fees to be paid in advance by the Permittee.

13 The foregoing Resolution was approved by the Lincoln City-Lancaster County Planning
14 Commission on this 21 day of JUNE, 2017.

ATTEST:



Chair

Approved as to Form & Legality:



Chief Assistant City Attorney

LETTER OF ACCEPTANCE

City of Lincoln
Lincoln, Nebraska

RE: Special Permit No. 17017 - to allow for the development of a community unit plan with up to 79 single-family dwelling units, with a waiver to allow double frontage lots (South 27th Street and Rokeby Road)

TO THE CITY CLERK:

The undersigned, "Permittee" under **Special Permit No. 17017**, granted by **Resolution No. PC-01563**, adopted by the Lincoln City-Lancaster County Planning Commission on June 21, 2017, hereby files this Letter of Acceptance and certifies to the City of Lincoln that the Permittee is fully aware of and understands all the conditions of said Resolution and that Permittee consents to and agrees to comply with the same.

Permittee further certifies that the person whose signature appears below has the authority to bind Permittee to the terms and conditions of this Letter of Acceptance, including Permittee's financial obligations under said Special Permit.

DATED the 11 day of July, 2017.

Apples Way, LLC, Permittee

By: [Signature]
Title: CEO

STATE OF Nebraska)
COUNTY OF Lancaster) ss.

The foregoing Instrument was acknowledged before me this 11 day of July, 2017, by Bennie L. McCombs, the CEO of Apples Way, LLC, as permittee.

State of Nebraska - General Notary
THOMAS J. BECKIUS
My Commission Expires
February 1, 2020

[Signature]
Notary Public

CERTIFICATE

STATE OF NEBRASKA)
COUNTY OF LANCASTER) SS:
CITY OF LINCOLN)

I, Teresa J. Meier, City Clerk of the City of Lincoln, Nebraska, do hereby certify that the above and foregoing is a true and correct copy of **Special Permit 17017** as adopted and approved by **Resolution No. PC-01563** of the Lincoln City-Lancaster County Planning Commission at its meeting held **June 21, 2017** as the original appears of record in my office, and is now in my charge remaining as City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of the City of Lincoln, Nebraska, this 6th day of July, 2017.

Teresa J. Meier
City Clerk

