

ATTACHMENT A

JF
CS

Inst # 2005068882 Mon Nov 21 11:59:19 CST 2005
Filing Fee: \$35.50
Lancaster County, NE Assessor/Register of Deeds Office AGRMT
Pages 7



DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT

This Development and Conditional Zoning Agreement is hereby certified and agreed to this ~~10th~~^{3rd} day of ~~October~~^{November}, 2005, by and between Lincoln Sports Foundation, Inc., a Nebraska nonprofit corporation, hereinafter referred to as "Developer," and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City".

RECITALS

I.

Developer is the owner of Lots 47 and 48, Irregular Tract, located in Section 27, Township 11 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska, hereinafter the "Property." Developer has petitioned the City for a Change of Zone from AG Agricultural District to H-2 Highway Business District upon the following described portion of the Property: The East One-Half of Lot 48.

II.

The request for a change of zone is to expand an existing recreational facility to include a tennis complex on the south side of the road running west to east from 70th Street, and potential future development on the north side of said road.

[10-3-05]

Nebraska Tennis Center
7600 Wth 70th
Lincoln, NE 68517

E 1/2 L 48 S 1/2 27-11-7

III.

The proposed expansion of the recreational facility for the tennis complex and future development is located in the floodplain and the City is concerned about excessive fill being placed in the floodplain.

IV.

The Developer has represented to the City that, if a portion of the Property is rezoned to H-2 Highway Business District, Developer will develop the H-2 zoned portion of the Property as described above and agree that no more than 20,000 cubic yards of fill shall be placed on any portion of the Property located on the north side of the road as shown on Attachment A and that any fill material to be placed on the Property, either north and/or south of the west-to-east road will come from the "Future Borrow Area" as shown on Attachment A.

V.

The Property is designated as Green Space in the Lincoln-Lancaster County Comprehensive Plan. However, since that portion of the Property proposed to be rezoned is located in the Existing Urban Area, it is not subject to the enhanced flood regulations for New Growth Areas. Therefore, the City and Developer desire to enter into this Agreement to be assured that the Developer will develop the Property and limit fill in the floodplain as represented should the Property be rezoned to H-2 Highway Business District.

NOW, THEREFORE, Developer and City mutually agree to the following terms and conditions as the Development and Conditional Zoning Agreement for the subject property.

1. The City hereby agrees to grant Developer's petition to change the zoning map from AG Agricultural District to H-2 Highway Business District on the Property.
2. In consideration for the City rezoning the Property to H-2 Highway Business District, the Developer agrees that no more than 56,000 cubic yards of fill shall be placed on the

south side of the road running west to east from North 70th Street as shown on Attachment A, and no more than 20,000 cubic yards of fill shall be placed on the north side of the road for the four sites as shown on Attachment A for a total of not more than 76,000 cubic yards of fill. The Developer further agrees that the 76,000 cubic yards of fill shall come from the "Future Borrow Area" as shown on Attachment A.

Site 1 is the location for a ProShop to serve a wide variety of customer needs for the many different sports available at the complex. Approximate fill required to raise to meet current flood guidelines is 2,000 cu. yds.

Site 2 is the location for a future restaurant. Approximate fill required to raise this site to meet current flood guidelines is 4,000 cu. yds.

Site 3 is for expansion of additional outdoor tennis courts. The site needs to be raised approximately 2.5 feet to achieve acceptable drainage and offer safe access from the surrounding streets and parking lot. To meet these objectives will require 12,000 cu. yds.

Site 4 is the location of a future concessions building with attached restroom facilities. In order to meet flood requirements and connection to the complex's sanitary sewer, this site will require approximately 4 feet of fill which translates to 2,000 cu. yds.

3. The Developer agrees that the Future Borrow Area shall be developed as a constructed wetland area as shown on Attachment A within one year following the date of this Agreement and that Developer shall permanently protect and preserve this area as a wetland area.

4. This Agreement is binding upon the parties herein and their respective successors and assigns.

5. This Agreement, when executed by the parties herein, shall be recorded by the City in the office of the Register of Deeds of Lancaster County, Nebraska. Filing fees shall be paid by Developer.


IN WITNESS WHEREOF the parties herein place their signatures on the day and year set forth above.

LINCOLN SPORTS FOUNDATION, INC.,
a Nebraska nonprofit corporation

By: Del Lienemann, Jr.
President

ATTEST:

Jan E. Ross
City Clerk



CITY OF LINCOLN, NEBRASKA
a municipal corporation

Coleen J. Seng
Mayor

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing Agreement was acknowledged before me this 10th day of October, 2005, by Del Lienemann, Jr., President of Lincoln Sports Foundation, Inc., a Nebraska nonprofit corporation, on behalf of said corporation.

GENERAL NOTARY - State of Nebraska
LYNN A. SIMONSEN
My Comm. Exp. Jan. 30, 2006

[Signature]
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing Agreement was acknowledged before me this 3rd day of November, 2005, by Coleen J. Seng, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

GENERAL NOTARY - State of Nebraska
JUDITH A. ROSCOE
My Comm. Exp. Dec. 23, 2008

[Signature]
Notary Public

CERTIFICATE

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

I, Joan E. Ross, City Clerk of the City of Lincoln, Nebraska, hereby certify that the foregoing is a true and correct copy of **the Development and Conditional Zoning Agreement approved by Resolution No. A-83612 of the Lincoln City Council on October 31, 2005**, as the original appears of record in my said office.

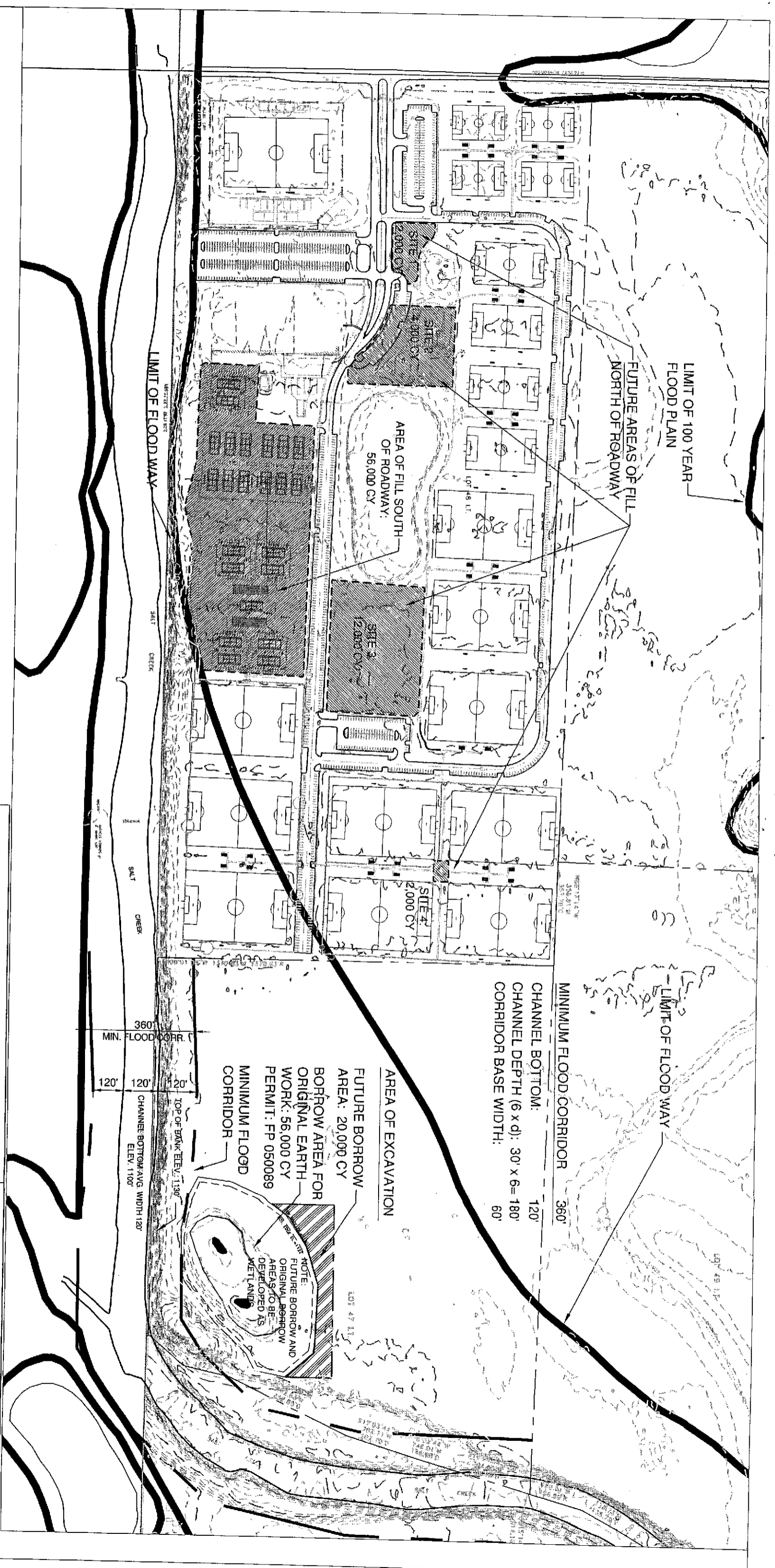
In Witness Whereof, I have hereunto set my hand officially and affixed the seal of the City of Lincoln, Nebraska, on November 15, 2005.

Joan E. Ross
Joan E. Ross, City Clerk



certify.wpd

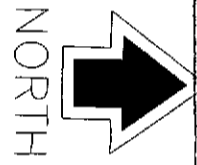
Return filed document to City Clerk



ATTACHMENT A: DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT

NOTE: ANY PROPOSED GRADING, EXCAVATION OR FILLING ACTIVITY MUST OBTAIN A FLOODPLAIN PERMIT AND ADHERE TO APPROPRIATE PROVISIONS IN THE ZONING ORDINANCE GOVERNING THE ISSUANCE OF SUCH A PERMIT.

RECEIVED
 OCT 12 2005
 LINCOLN CITY LANCASTER COUNTY
 PLANNING DEPARTMENT



REGA ENGINEERING 402-484-7342 OFFICE
 4827 PIONEERS BLVD
 SUITE A
 LINCOLN, NE 68506 402-484-7344 FAX

JOB NAME: NEBRASKA TENNIS CENTER
LOCATION: 7600 N. 70TH ST.
 ABBOTT SPORTS COMPLEX
 LINCOLN, NEBRASKA
DESCRIPTION: ATTACHMENT_A

LEGEND
 Δ - SET SURVEY POINT AS INDICATED
 ○ - FOUND SURVEY POINT AS INDICATED
 G.P. - GROUPED TOP POINT AS INDICATED
 S.D.P. - OPEN TOP PIPE
 S.D.H. - STAR DRILL HOLE
 X - CHISEL 'X' IN CONCRETE
 P - PLAT DISTANCE
 A - ACTUAL DISTANCE
 R - RECORDED DISTANCE
 C - CALCULATED DISTANCE
 RAD - RADIUS OF CURVE

DRAWN BY: AJP
CHECKED BY: AJP
SCALE: NONE
DATE: 9-29-2005
JOB NUMBER: 051082
SHEET: 10F1

