



A91370

5c

18R-233  
Special Permit No. 18021

Introduce: 10-22-18

RESOLUTION NO. A- **91370**

1 WHEREAS, Heritage Lakes, LLC c/o Roger Severin, acting on behalf of itself as well as  
2 on behalf of B & J Partnership, LTD, a Nebraska limited partnership, BCLINC, LLC, a Nebraska  
3 limited liability company, and David Rallis, has submitted an application designated as Special  
4 Permit No. 18021 for authority to develop a Community Unit Plan for 290 residential dwelling  
5 units of single family attached, single family detached, and townhouse residential uses with 100  
6 unassigned units, on property generally located at South 93rd Street and A Street, and legally  
7 described as:

8 A tract of land composed of the remaining portion of Lot D, a  
9 Subdivision of the east half of Section 26, Township 10, Range 7  
10 east of the 6th P.M., a portion of vacated Missouri Pacific  
11 Railroad right-of-way, a portion of "A" Street right-of-way, and  
12 a portion of South 98th Street right-of-way, all located in the  
13 Southeast Quarter of Section 26, Township 10 North, Range 7  
14 East of the 6th P.M., Lincoln, Lancaster County, Nebraska;

15 TOGETHER WITH THE FOLLOWING:

16 Lot 18 I.T. and a portion of "A" Street right-of-way, all located  
17 in the Northeast Quarter of Section 35, Township 10 North,  
18 Range 7 East of the 6th P.M., Lancaster County, Nebraska;

19 WHEREAS, the Lincoln City-Lancaster County Planning Commission has held a public  
20 hearing on June 20, 2018 on said application and adopted Resolution No. PC-01606 approving the  
21 same; and

22 WHEREAS, Chris Kidwell filed a Notice of Appeal appealing the action of the Planning  
23 Commission approving Special Permit No. 18021 through Planning Commission Resolution No.  
24 PC-01606 adopted June 20, 2018; and

25 WHEREAS, pursuant to Lincoln Municipal Code § 27.63.025, the action appealed from is  
26 deemed advisory and the City Council is authorized to make such decision as ought to be made  
27 with respect to application for Special Permit No. 18021; and

Return to:  
Teresa @ City Clerk

710  
01/22/2019

TA

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

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

7           NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln,  
8 Nebraska:

9           That the application of Heritage Lakes, LLC c/o Roger Severin et al, hereinafter referred  
10 to as "Permittee", to develop a Community Unit Plan for 290 residential dwelling units of single  
11 family attached, single family detached, and townhouse residential uses with 100 unassigned units  
12 be and the same are hereby granted under the provisions of Section 27.63.320 of the Lincoln  
13 Municipal Code upon condition that construction of said development be in substantial compliance  
14 with said application, the site plan, and the following additional express terms, conditions, and  
15 requirements:

16           1.     This permit approves a Community Unit Plan for 290 residential dwelling units of  
17 single family attached, single family detached, and townhouse residential uses with 100  
18 unassigned units with the following waivers:

- 19           a.     Waiver of block length requirements under LMC §26.23.130(a) for Blocks 1, 8,  
20                   and 9.
- 21           b.     Waiver from LMC §26.23.140(c) to allow for side lot lines to deviate from being  
22                   radial and perpendicular to street right of way lines on curved streets.
- 23           c.     Waiver from LMC Table 27.72.020 requirements to allow single family detached  
24                   units on Lots 12-17, Block 6 and Lots 1-7, Block 5 to have a front yard setback of

1 20 feet on one street side and a front yard setback of 10 feet on the other street side  
2 with no garages permitted to face the street as well as a rear yard setback of 10 feet.

3 d. Waiver from Table 27.72.020 requirements to allow for single family attached  
4 units on corner lots in Blocks 2, 3, 4 as well as for any corner lots included in Lots  
5 17-26, Block 1 to have a front yard setback of 20 feet on one street side with a 10  
6 feet front yard setback on the other street side with no garages permitted to face the  
7 street. Further for Blocks 2, 3, and 4 as well as lots 17-26, Block 1, the side yard  
8 setback is reduced to 5 feet, the shared lot line setback is reduced to 0 feet, and the  
9 rear yard setback is reduced to 15 feet. Finally, for Lots 21-22, Block 1, the  
10 minimum frontage shall be allowed to be less than 50 feet.

11 e. Waiver from LMC Table 27.72.020 requirements for Lots 10-25, Block 8, all of  
12 Blocks 9 and 11, and Lots 1-38, Block 12 by reducing the minimum lot area to  
13 2,500 square feet for townhomes and for single family attached units, reducing the  
14 minimum lot width to 20 feet, reducing the front yard setbacks for corner lots to 20  
15 feet on one street side and 10 feet on the other street side with no garages permitted  
16 to face the street, reducing the side yard setback to 5 feet, reducing the shared lot  
17 line setback to 0 feet, and reducing the rear yard setback to 10 feet.

18 f. Waiver from Design Standards in Title 2, Chapter 2.00, Section 3.6, to allow for  
19 sanitary sewer mains to run opposite the street grades.

20 g. Waiver from Design Standards, Title 2, Chapter 2.15, Section 3.3.3. to reduce the  
21 required Cul-de-sac radii to thirty feet (30') for Casa Colina Court, Casa Galenao  
22 Court, and Triana Court, and reducing the required cul-de-sac radius for Signature  
23 Court to thirty-five feet (35').

24 h. Waiver from Design Standards, Title 2, Chapter 2.15, Section 3.3.2 to allow for  
25 Street radii less than Design Standards otherwise require for curves C1, C4, C5, C6.

- 1           2.     The City Council approves associated requests:
- 2                 a.     Annexation #18001
- 3                 b.     Change of Zone #18006
- 4                 c.     Comprehensive Plan Conformance #18009
- 5           3.     Before a final plat is approved the Permittee shall cause to be prepared and
- 6 submitted to the Planning Department a revised and reproducible final plot plan including 3 copies
- 7 with all required revisions as listed below:
- 8                 i.     Sheet 1 of 14: Add Community Unit Plan density calculation per
- 9 Title 3, 3.35 Design Standards for Community Unit Plans. List the
- 10 290 dwelling units shown and 100 unassigned units.
- 11                ii.    Sheet 1 of 14: Add note to Community Unit Plan notes that a
- 12 temporary barricade will be placed at the existing terminus of East
- 13 Hillcrest Drive in Hillcrest Heights which will remain in place until
- 14 such time that East Hillcrest Drive, Hillcrest Trail, and South 93rd
- 15 Street connecting to A Street are constructed.
- 16                iii.   Sheet 1 of 14: Remove reference to City Council under CUP Notes
- 17 2.
- 18                iv.    Sheet 1 of 14: Revise CUP Notes 8 as follows:
- 19                               The Stevens Creek Trunk Sewer is to be completed by the city by
- 20 June 2019. The extension to serve the Hillcrest CUP Area appears in
- 21 year 21/22 of the proposed CIP. The sanitary sewer line extension
- 22 (East "A" Street Sewer Line) to connect the CUP area to the Trunk
- 23 Sewer is planned subject to Annexation Agreement. Both sanitary
- 24 sewers are necessary to serve the Hillcrest Community Unit Plan
- 25 area. Building permits shall be allowed prior to the trunk sewer and
- 26 sewer line extension being provided, as long as streets, street signs,
- 27 and water mains are completed and provided both sanitary sewer
- 28 project completion dates are within 6 months of expected
- 29 occupancy. The developer shall be responsible for any temporary
- 30 pumping of sewage until connection to the trunk sewer is completed.
- 31 Temporary pumping of sewage shall be per the approval of the
- 32 Public Works & Utilities Department.
- 33                v.     Revise proposed lots 22-25 in Block 8 along East Hillcrest Drive to
- 34 show one single family residential lot, at least 100 feet in width,
- 35 adjacent to the existing lot to the north instead of lots for
- 36 townhouses.





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

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

- 15           a. To complete the street paving of public streets and temporary turnarounds and  
16 barricades located at the temporary dead-end of the streets shown on the final plat  
17 within two (2) years following the approval of the final plat.
- 18           b. To complete the installation of sidewalks along both sides on all streets as shown  
19 on the final plat within four (4) years following the approval of the final plat.
- 20           c. To complete the public water distribution system to serve this plat within two (2)  
21 years following the approval of the final plat.
- 22           d. To complete the public wastewater collection system to serve this plat within two  
23 (2) years following the approval of the final plat.
- 24           e. To complete the public enclosed drainage facilities shown on the approved drainage  
25 study to serve this plat within two (2) years following the approval of the final plat.

- 
- 1 f. To complete the installation of public street lights within this plat within two (2)  
2 years following the approval of the final plat.
- 3 g. To complete the planting of street trees along all streets within this plat within six  
4 (6) years following the approval of the final plat.
- 5 h. To complete the planting of landscape screen within this plat within two (2) years  
6 following the approval of the final plat.
- 7 i. To complete the installation of the street name signs within this plat within two (2)  
8 years following the approval of the final plat.
- 9 j. To complete the installation of the permanent markers prior to construction on or  
10 conveyance of any lot in the plat.
- 11 k. To complete any other public or private improvement or facility required by  
12 Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a  
13 timely manner which inadvertently may have been omitted from the above list of  
14 required improvements.
- 15 l. To submit to the Director of Public Works and Utilities a plan showing proposed  
16 measures to control sedimentation and erosion and the proposed method to  
17 temporarily stabilize all graded land for approval.
- 18 m. To comply with the provisions of the Land Preparation and Grading requirements  
19 of the Land Subdivision Ordinance.
- 20 n. To complete the public and private improvements shown on the Community Unit  
21 Plan.
- 22 o. To keep taxes and special assessments on the outlots from becoming delinquent.
- 23 p. To maintain the outlots on a permanent and continuous basis.



- 1 q. To maintain the private improvements in good order and state of repair, including  
2 the routine and reasonable preventable maintenance of the private improvements,  
3 on a permanent and continuous basis.
- 4 r. To maintain the plants in the medians and islands, including replacement and  
5 replanting as reasonably necessary, on a permanent and continuous basis.
- 6 s. To maintain the landscape screens, including replacement and replanting as  
7 reasonably necessary, on a permanent and continuous basis.
- 8 t. To recognize that there may be additional maintenance issues or costs associated  
9 with the proper functioning of storm water detention/retention facilities as they  
10 were designed and constructed within the development and that these additional  
11 maintenance issues or costs are the responsibility of the Subdivider.
- 12 u. To retain ownership of and the right of entry to the outlots in order to perform the  
13 above-described maintenance of the outlots and private improvements on a  
14 permanent and continuous basis. However, Subdivider(s) may be relieved and  
15 discharged of such maintenance obligations upon creating in writing a permanent  
16 and continuous association of property owners who would be responsible for said  
17 permanent and continuous maintenance subject to the following conditions:
- 18 (1) Permittee shall not be relieved of Permittee's maintenance obligation for  
19 each specific private improvement until a registered professional engineer  
20 or nurseryman who supervised the installation of said improvement has  
21 certified to the City that the improvement has been installed in accordance  
22 with approved plans.
- 23 (2) The maintenance agreements are incorporated into covenants and  
24 restrictions in deeds to the subdivided property and the documents creating  
25 the association and the restrictive covenants have been reviewed and

1 approved by the City Attorney and filed of record with the Register of  
2 Deeds.

3 v. To pay all design, engineering, labor, material, inspection, and other improvement  
4 costs.

5 w. To inform purchasers and users of land located within the 100 year floodplain that  
6 said land is located within the 100 year floodplain and that the grading of the lots  
7 and outlots shall be in conformance with the grading plan approved with Change  
8 of Zone #16036 or as amended by the Director of Planning. The volume of fill  
9 material brought into each lot and outlot from outside the floodplain shall not  
10 exceed that shown on the approved grading plan accompanying the preliminary  
11 plat.

12 9. Before occupying the dwelling units, all development and construction shall  
13 substantially comply with the approved plans.

14 10. All privately-owned improvements, including landscaping and recreational  
15 facilities, shall be permanently maintained by the Permittee or an appropriately established  
16 homeowners association approved by the City.

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

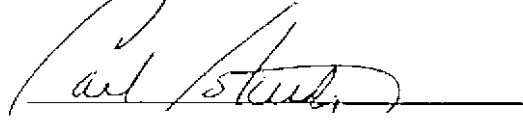
20 12. The terms, conditions, and requirements of this resolution shall run with the land  
21 and be binding upon the Permittee, its successors, and assigns.

22 13. The Permittee shall sign and return the letter of acceptance to the City Clerk. This  
23 step should be completed within 60 days following the approval of the special permit. The City  
24 Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance

- 1 with the Register of Deeds, filling fees therefor to be paid in advance by the Permittee. Building  
2 permits will not be issued unless the letter of acceptance has been filed.

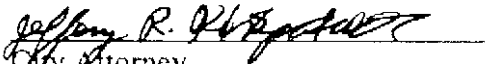
See further Council Proceedings on next page.

Introduced by:



AYES: Camp, Christensen, Eskridge, Gaylor Baird,  
Lamm, Raybould, Shobe; NAYS: None.

Approved as to Form & Legality:

  
City Attorney

**ADOPTED**

**NOV 19 2018**

**BY CITY COUNCIL**

Approved this 20<sup>th</sup> day of Nov, 2018:

  
Mayor

**18R-233**

11/5/18 Council Proceedings:

CHRISTENSEN Moved Motion to Amend No. 1 on Bill No. 18R-233.

Seconded by Lamm & **LOST** by the following vote: **AYES:** Camp, Christensen, Lamm; **NAYS:** Eskridge, Gaylor Baird, Shobe; **ABSENT:** Raybould.

CAMP Moved to Reopen Public Hearing on Bill No. 18R-233.

Seconded by Lamm & carries by the following vote: **AYES:** Camp, Christensen, Eskridge, Gaylor Baird, Lamm, Shobe; **NAYS:** None; **ABSENT:** Raybould.

LAMM Moved to delay action on Bill No. 18R-233 with public hearing for two weeks to 11/19/18.

Seconded by Lamm & carries by the following vote: **AYES:** Camp, Christensen, Eskridge, Gaylor Baird, Lamm, Shobe; **NAYS:** None; **ABSENT:** Raybould.

11/19/18 Council Proceedings:

CHRISTENSEN Motion to Amend No. 1 on Bill No. 18R-233 to amend Special Permit No. 18021 as follows:

A. Amend paragraph 1(a) to provide "waiver of block length requirements under LMC § 26.23.130(a) for Blocks 1, 8, 9 and 13"; and

B. Add a new provision as follows:

"~~3~~(xxi). Add a note to the Site Plan to permit "Signature Drive" located on Block 13 to be final platted alternatively as a cul-de-sac identified as "West Signature Court" to be determined no later than approval of a special permit or preliminary plat of the property located to the west."

Seconded by Lamm & **LOST** by the following vote: **AYES:** Camp, Christensen, Lamm; **NAYS:** Eskridge, Gaylor Baird, Raybould, Shobe.



# 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 18021** approved by **Resolution A-91370**, adopted by the City Council on **November 19, 2018**, 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 18<sup>th</sup> day of January, 2019.

*Teresa J Meier*  
City Clerk

