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LANCASTER COUNTY, NE

INST. NO 2005

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RESOLUTION NO. PC- 00939

SPECIAL PERMIT NO. 0692M

1 WHEREAS, Tabitha New Community Homeowners Association has  
2 submitted an application designated as Special Permit No. 0692M to amend the Tabitha  
3 New Community 3rd Addition Community Unit Plan to add five units of elderly or  
4 retirement housing and a club house, together with a request to waive front, side, and  
5 rear yard setbacks, on property generally located at N. 27th Street and Folkways Blvd.  
6 and legally described as:

7 Outlot A, Block 11, Tabitha New Community Addition; Lots 2  
8 through 4, Block 1, Lots 1 through 31, Block 2; Outlot A,  
9 Tabitha New Community 4th Addition; Lots 1 and 2, Block 1;  
10 Outlot A, Tabith New Community 5th Addition; vacated  
11 Farmstead Road and vacated Williamson Way, Lincoln,  
12 Lancaster County, Nebraska;

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

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

18 WHEREAS, said site plan together with the terms and conditions  
19 hereinafter set forth are consistent with the comprehensive plan of the City of Lincoln

CITY CLERK - TERESA

1 and with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the  
2 public health, safety, and general welfare.

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

5 That the application of Tabitha New Community Homeowners Association,  
6 hereinafter referred to as "Permittee", to amend the Tabitha New Community 3rd  
7 Addition Community Unit Plan to add five units of elderly or retirement housing and a  
8 club house be and the same is hereby granted under the provisions of Chapter 27.65  
9 and Section 27.63.320 the Lincoln Municipal Code upon condition that construction of  
10 said housing and club house be in strict compliance with said application, the site plan,  
11 and the following additional express terms, conditions, and requirements:

12 1. This permit approves 41 dwelling units with waivers to the front,  
13 side and rear yard setbacks and a community club house.

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

21 Before the approval of a final plat, the public streets, private  
22 roadway improvements, sidewalks, sanitary sewer system, water system, drainage  
23 facilities, land preparation and grading, sediment and erosions control measures, storm  
24 water detention/retention facilities, drainageway improvements, street lights,

1 landscaping screens, street trees, temporary turnaround and barricades, and street  
2 name signs, must be completed or provisions (bond, escrow or security agreement) to  
3 guarantee completion must be approved by the City Law Department. The  
4 improvements must be completed in conformance with adopted design standards and  
5 within the time period specified in the Land Subdivision Ordinance.

6 2. The Planning Director may approve final plats after the Permittee  
7 has signed an agreement which binds the Permittee and Permittee's successors and  
8 assigns:

- 9 a. To complete the paving of private roadway shown on the  
10 final plat within two (2) years following the approval of the  
11 final plat.
- 12 b. To complete the installation of sidewalks along both sides of  
13 Farmstead Rd., Blaine Dr. and N. 26<sup>th</sup> Place as shown on  
14 the final plat within four (4) years following the approval of  
15 the final plat.
- 16 c. To complete the public water distribution system to serve the  
17 plat within two (2) years following the approval of the final  
18 plat.
- 19 d. To complete the public wastewater collection system to  
20 serve the plat within two (2) years following the approval of  
21 the final plat.
- 22 e. To complete the enclosed public drainage facilities shown on  
23 the approved drainage study to serve the plat within two (2)  
24 years following the approval of the final plat.
- 25 f. To complete the enclosed private drainage facilities shown  
26 on the approved drainage study to serve the plat within two  
27 (2) years following the approval of the final plat.
- 28 g. To complete the installation of private street lights along  
29 Farmstead Rd., Blaine Dr. and N. 26<sup>th</sup> Place within the plat  
30 within two (2) years following the approval of the final plat.  
31  
32

- 1 h. To complete the planting of the street trees along Farmstead  
2 Rd., Blaine Dr., and N. 26<sup>th</sup> Place within the plat within four  
3 (4) years following the approval of the final plat.
- 4 i. To complete the installation of the street name signs within  
5 two (2) years following the approval of the final plat.
- 6 j. To complete any other public or private improvement or  
7 facility required by Chapter 26.23 (Development Standards)  
8 of the Land Subdivision Ordinance in a timely manner which  
9 inadvertently may have been omitted from the above list of  
10 required improvements.
- 11 k. To submit to the Director of Public Works a plan showing  
12 proposed measures to control sedimentation and erosion  
13 and the proposed method to temporarily stabilize all graded  
14 land for approval.
- 15 l. To complete the public and private improvements shown on  
16 the Community Unit Plan
- 17 m. To maintain the outlots and private improvements on a  
18 permanent and continuous basis, and to recognize that there  
19 may be additional maintenance issues or costs associated  
20 with providing for the proper functioning of stormwater  
21 detention/retention facilities as they were designed and  
22 constructed within the development and these are the  
23 responsibility of the Subdivider; and to retain ownership of or  
24 the right of entry to the outlots in order to maintain the outlots  
25 and private improvements on a permanent and continuous  
26 basis. However, the Subdivider may be relieved and  
27 discharged of such maintenance obligations only upon  
28 creating, in writing, a permanent and continuous association  
29 of property owners who would be responsible for said  
30 permanent and continuous maintenance subject to the  
31 following conditions:
- 32 (a) Subdivider shall not be relieved of Subdivider's  
33 maintenance obligation for each specific private  
34 improvement until a registered professional engineer  
35 or nurseryman who supervised the installation of said  
36 private improvement has certified to the City that the  
37 improvement has been installed in accordance with  
38 approved plans; and

- 1 (b) The maintenance agreements are incorporated into  
2 covenants and restrictions in deeds to the subdivided  
3 property and the documents creating the association  
4 and the restrictive covenants have been reviewed and  
5 approved by the City Attorney and filed of record with  
6 the Register of Deeds.
- 7 n. To continuously and regularly maintain the street trees along  
8 the private roadways and landscape screens.
- 9 o. To submit to the lot buyers and home builders a copy of the  
10 soil analysis.
- 11 p. To comply with the provisions of the Land Preparation and  
12 Grading requirements of the Land Subdivision Ordinance.
- 13 q. To protect the trees that are indicated to remain during  
14 construction and development
- 15 r. To properly and continuously maintain and supervise the  
16 private facilities which have common use or benefit, and to  
17 recognize that there may be additional maintenance issues  
18 or costs associated with providing for the proper functioning  
19 of storm water detention/retention facilities as they were  
20 designed and constructed within the development, and that  
21 these are the responsibility of the land owner.
- 22 s. To relinquish the right of direct vehicular access from Lots 3-  
23 7, Block 1 and Lots 1-9, Block 2 to N. 27<sup>th</sup> St.
- 24 3. Before receiving building permits:
- 25 a. The Permittee shall submit a revised site plan including five  
26 copies showing the following revisions to the Planning  
27 Department office for review and approval:
- 28 i. Show utility easements as requested by the June 27,  
29 2005 LES report.
- 30 ii. Correct the legal description.
- 31 iii. Delete requested waiver #27. The waiver is not  
32 required.
- 33 iv. Relocate the driveway to the clubhouse from Blaine  
34 Dr. to N. 26<sup>th</sup> Place at the end of the cul-de-sac.

- 1 v. A permanent final plan with 5 copies as approved.  
2  
3 b. Ornamental street lights for private roadways and pedestrian  
4 way easements are approved by L.E.S.
- 5 c. The construction plans comply with the approved plans.
- 6 d. Final plat(s) is/are approved by the City.  
7
- 8 4. Before occupying the units all development and construction is to  
9 comply with the approved plans.
- 10 5. All privately-owned improvements, including landscaping and  
11 recreational facilities, are to be permanently maintained by the owner or an  
12 appropriately established homeowners association approved by the City.
- 13 6. The site plan accompanying this permit shall be the basis for all  
14 interpretations of setbacks, yards, locations of buildings, location of parking and  
15 circulation elements, and similar matters.
- 16 7. This resolution's terms, conditions, and requirements bind and  
17 obligate the permittee, its successors and assigns.
- 18 8. The applicant shall sign and return the letter of acceptance to the  
19 City Clerk within 30 days following the approval of the special permit, provided,  
20 however, said 30-day period may be extended up to six months by administrative  
21 amendment. The clerk shall file a copy of the resolution approving the special permit  
22 and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in  
23 advance by the applicant.
- 24 9. The site plan as approved with this resolution voids and supersedes  
25 all previously approved site plans, however all resolutions approving previous permits  
26 remain in force unless specifically amended by this resolution.

1                   The foregoing Resolution was approved by the Lincoln City-Lancaster  
2   County Planning Commission on this 20 day of July, 2005.

ATTEST:

  
Chair

Approved as to Form & Legality:

  
\_\_\_\_\_  
Chief Assistant City Attorney

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LETTER OF ACCEPTANCE

City of Lincoln  
Lincoln, Nebraska

RE: **Special Permit No. 692M**  
(Tabitha New Community 3<sup>rd</sup> Addition - N. 27<sup>th</sup> & Folkways Blvd.)

TO THE CITY CLERK:

The undersigned, "Permittee" under **Special Permit No. 692M**, granted by **Resolution No. PC-00939**, adopted by the Lincoln City- Lancaster County Planning Commission on July 20, 2005, 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 24<sup>th</sup> day of August, 2005.

Henry Buis, Permittee

By: 

Title: 



STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by \_\_\_\_\_, an individual.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by \_\_\_\_\_, general partner of \_\_\_\_\_, a Nebraska general partnership.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

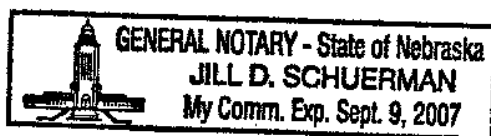
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by \_\_\_\_\_, Member, on behalf of \_\_\_\_\_, a Nebraska limited liability company.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of August, 2005, by Henry Buis, President of Tabitha New Community Homeowners Association, a Nebraska corporation.

Jill D. Schuerman  
Notary Public



# CERTIFICATE

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

I, Teresa J. Meier, Deputy 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 692M** as adopted and approved by **Resolution No. PC-00939** of the Lincoln City-Lancaster County Planning Commission at its meeting held **July 20, 2005** as the original appears of record in my office, and is now in my charge remaining as Deputy City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of the City of Lincoln, Nebraska, this 25<sup>th</sup> day of August, 2005.

Teresa J. Meier  
Deputy City Clerk

