

City Council Introduction: **Monday**, September 8, 2003
Public Hearing: **Monday**, September 15, 2003, at **1:30** p.m.

Bill No. 03R-240

FACTSHEET

TITLE: USE PERMIT NO. 153, Midtown Business Park, requested by Carlos Lake, L.L.C., for two 5,000 sq. ft. office/medical buildings, on property generally located at South 55th Street and South Street.

STAFF RECOMMENDATION: Conditional approval.

ASSOCIATED REQUESTS: Change of Zone No. 3417 (03-142) and Special Permit No. 638A (03R-239).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 08/20/03
Administrative Action: 08/20/03

RECOMMENDATION: Conditional Approval (9-0: Carlson, Duvall, Krieser, Larson, Marvin, Schwinn, Steward, Bills-Strand and Taylor voting 'yes').

FINDINGS OF FACT:

1. This use permit and the associated Change of Zone No. 3417 and Special Permit No. 638A were heard at the same time before the Planning Commission.
2. This use permit also requests a waiver to allow lots that do not have frontage or direct access to a public or private roadway.
3. The staff recommendation of conditional approval, including the waiver request, is based upon the "Analysis" as set forth on p.4-6, concluding that, with minor modifications, the proposal generally complies with the Zoning Ordinance and the Comprehensive Plan.
4. On August 20, 2003, this use permit and the associated change of zone and special permit amendment appeared on the Consent Agenda of the Planning Commission and were opened for public hearing. No one came forward to speak.
5. On August 20, 2003, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend conditional approval, as set forth in the staff report dated August 7, 2003. The conditions of approval are found on p.6-7.
6. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been satisfied.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: September 2, 2003

REVIEWED BY: _____

DATE: September 2, 2003

REFERENCE NUMBER: FS\CC\2003\UP.153

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for AUGUST 20, 2003 PLANNING COMMISSION MEETING

This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application.

P.A.S.: Change of Zone #3417
Special Permit #638A
Use Permit #153 Midtown Business Park

PROPOSAL: A change of zone from R-2 to R-T.
Expand an existing parking lot in a residential district.
Develop two 5,000 sq. ft. office/medical buildings in a R-T District

LOCATION: South 55th Street & South Street

WAIVER REQUEST:

- 1. Allow lots that do not have frontage or direct access to a public or private roadway.**

LAND AREA: Use Permit and Change of Zone approximately 0.86 acres
Special Permit approximately 0.65 acres

CONCLUSION: With minor modifications, this request generally complies with the Zoning Ordinance and Comprehensive Plan.

RECOMMENDATION:

Change of Zone #3417
Special Permit 638A
Use Permit 153

Approval
Conditional Approval
Conditional Approval

WAIVERS

Allow lots that do not have frontage or direct access to a public or private roadway

Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached

EXISTING ZONING: R-2 Residential

EXISTING LAND USE: Parking lot

SURROUNDING LAND USE AND ZONING:

North:	R-2 Residential	Single family/two-family residential
South:	B-1 Local Business District	Office building
	R-2 Residential	Madonna Rehabilitation Hospital
East:	B-1 Local Business District	Office building
	R-2 Residential	Single family/two-family residential
West:	R-2 Residential	Single family/two-family residential

HISTORY:

- January 1973** Special Permit #638 to allow a parking lot in a residential district on Lots 3-5, Block 9, Normal Addition was approved.
- September 1972** Special Permit #624 to expand a previously approved parking lot in a residential district on Lot 99, Woods Brothers Fairview Acres Addition was approved.
- May 1970** Special Permit #504 to expand a previously approved parking lot in a residential district on the north 120' of Lot 99, Woods Brothers Fairview Acres Addition was approved.
- May 1970** Change of Zone #1044 from A-2 Single family to "G" Local Business at the northwest corner of S. 55th St. & South St. was approved.
- March 1966** Special Permit #342 to allow a parking lot in a residential district on Lot 98, Woods Brothers Fairview Acres Addition was approved.

COMPREHENSIVE PLAN SPECIFICATIONS:

Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in older neighborhoods, and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods.(F-17)

The Land Use Plan designates residential for this site. (F-24)

General Principles for all Commercial and Industrial Uses - Commercial and industrial districts in Lancaster County shall be located:

- within the City of Lincoln or incorporated villages
- outside of saline wetlands, signature habitat areas, native prairie and floodplain areas (except for areas of existing commercial and industrial zoning)
- where urban services and infrastructure are available or planned for in the near term
- in sites supported by adequate road capacity – commercial development should be linked to the implementation of the transportation plan
- in areas accessible by various modes of transportation (i.e. automobile, transit and pedestrian)
- so that they enhance entryways or public way corridors, when developing adjacent to these corridors
- in a manner that supports the creation and maintenance of green space as indicated in the environmental resources section of this Plan. (F-38)

Encourage a mix of compatible land uses in neighborhoods, but similar uses on the same block face. Similar housing types face each other: single family faces single family, change to different use at rear of lot. Commercial parking lots should not intrude into residential areas where residential uses predominate a block face. More intense commercial uses (gas stations, big box stores, car wash, fast food, etc.) may not be compatible due to impact on nearby housing. Expansion in existing centers should not encroach, or expand to encroach, on existing neighborhoods, and commercial areas must be screened from residential areas. (F-69)

Require new development to be compatible with character of neighborhood and adjacent uses (i.e., parking at rear, similar setback, height and land use).(F-69)

UTILITIES: All utilities are available for this site.

TOPOGRAPHY: The area generally slopes to the south.

TRAFFIC ANALYSIS: South Street is a minor arterial.
S. 55th St. is a local street.

ANALYSIS:

1. This is an application to change the zoning from R-2 to R-T, a use permit to construct two office/medical buildings and a special permit to expand a parking lot in a residential district.
2. There is a request to waive the requirement that lots have frontage and take direct access to a public street or private roadway.
3. The parking lot on Lots 3-5, Block 9, Second Addition to Normal has existed since 1973. This proposal would expand the parking lot approximately 48' to the west. The parking lot serves the existing office building to the south. The existing building is not within the limits of this application.
4. The expansion of the parking lot would result in the removal of an existing house. The applicant states that the existing house will be relocated off site.
5. The following applies to parking lots in residential districts:

27.63.170 Permitted Special Use: Parking Lots.

(a) Parking lots may be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, and O-2 zoning districts in conformance with the provisions of Chapter 27.67 and under one of the following conditions:

(1) A. The premises upon which the parking lot is located shall not be located more than 300 feet from the boundary of one of the following districts: O-1, B-1, B-3, B-4, H-2, H-3, or I-1 and the following conditions shall be met:

- (i) The parking lot shall not use a local residential street for access, unless access cannot be gained to the proposed parking lot from a non-residential street. If access is proposed from a local residential street, such access must be gained at a location that does not negatively impact adjacent residential zoned property.
- (ii) Any adjacent alley serving the parking lot shall be paved.

(iii) Any lighting facility shall be orientated to eliminate light trespass on adjacent residentially zoned properties in accordance with adopted design standards.

B. In addition to the above conditions, the City Council, in passing upon applications for special permits under subparagraph (1), shall also consider the following criteria:

- (i) There shall be no residential use located between the parking lot and the commercial or industrial establishment.
- (ii) The parking lot shall not disrupt the continuity of the block face, and the character of the existing residential neighborhood shall be preserved.
- (iii) The parking lot shall be allowed only if it can function as a transitional use while protecting the adjacent residential use.
- (iv) The parking lot shall abut a commercial or industrial zoning district.

An adjustment to these criteria may be granted by the City Council upon a determination that there is a sufficient cause for such an adjustment and that there will be no significant impact on adjacent residential uses, or

(2) The land shall not be located more than 360 feet from property occupied by a college, university, or church; provided that the parking lots are used primarily in connection with the said college, university, or church.

(b) Parking areas consisting of less than six parking spaces may be allowed by special permit in the same zoning districts in conformance with the same provisions and under the same conditions applicable to parking lots as contained in paragraph (a) of this section. (Ord. 15981 §1; September 30, 1991: prior Ord. 15522 §3; April 16, 1990: Ord. 15103 §1; February 13, 1989: Ord. 13353 §1; April 5, 1982: Ord. 12571 §320; May 8, 1979).

- 6. The proposed expansion meets all of the conditions stated above.
- 7. Currently there is no landscaping for the parking lot. The proposed special permit will enable the City to obtain the required landscaping.
- 8. East of the house to be removed is a row of mature trees. The parking lot should be revised to save these existing trees.
- 9. The applicant has requested a change of zone from R-2 to R-T. Section 27.28.020(a) of the zoning ordinance states;

An R-T Residential Transition designation may be granted to any property abutting upon, or directly across a street from and fronting the same street as property zoned B-1, B-2, B-3, H-2, H-3, H-4, I-1, and I-2. Each building to be located within a Residential Transition District shall have:

- (1) A two and one-half inch in twelve inch pitched roof or steeper;
- (2) A nonreflective exterior siding material which is or simulates wood, stucco, brick, or stone;
- (3) A nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
- (4) No air conditioners on the roof.

The area within the requested change of zone abuts a B-1 District and fronts the same street as the B-1 District.

10. Office buildings are allowed by use permit in a R-T District. The applicant is proposing to construct two 5,000 sq. ft. office/medical buildings on a portion of an existing parking lot.
11. The proposed office/medical buildings will utilize existing infrastructure.
12. Special Permit #342, 504 and 624 allowed a parking lot on Lots 98 and 99, Woods Brothers Fairview Acres Addition. The proposed office/medical buildings would be on Lot 99, Woods Brothers Fairview Acres Addition.
13. Parking requirement for non residential uses in a R-T District is one space per 225 sq. ft. This would require a total of 46 stalls for the office buildings. The site plan has only 33 stalls shown. However, the construction of the required parking stalls may be deferred to 1 space per 300 sq. ft. until the building is being used for doctor's and dentist's offices. The site plan does not allow for any expansion of the parking lot in the R-T district. Therefore, the office buildings as proposed could not allow doctors/dentists office or the floor area of the office buildings must be reduced.

CONDITIONS:

Use Permit #153

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:

1.1 Revise the site plan to show:

1.1.1 One additional parking stall

1.1.2 Delete medical from the proposed use of the buildings or revise the parking to show 46 stalls, or reduce the floor area accordingly.

1.1.3 List the requested waiver.

2. This approval permits two 5,000 sq. ft. office/medical buildings with a waiver to allow lots without frontage and access to a public street or private roadway.

General

3. Before receiving building permits:

3.1 The permittee shall have submitted a revised **final** plan including 5 copies and the plans are acceptable.

3.2 The construction plans shall comply with the approved plans.

STANDARD

4. The following conditions are applicable to all requests:
 - 4.1 Before occupying any buildings all development and construction shall have been completed in compliance with the approved plans.
 - 4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established property owners association approved by the City Attorney.
 - 4.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.
5. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by:

Tom Cajka
Planner

DATE: August 7, 2003

APPLICANT: Brian D. Carstens & Associates
601 Old Cheney Rd. Suite C
Lincoln, NE 68512
(402) 434-2424

OWNER: Carlos Lake, L.L.C. Alan & Nancy Lee
3730 S. 14th St. 2341 S. 62nd St.
Lincoln, NE 68502 Lincoln, NE 68506
(402) 434-5450 (402) 488-2074

CONTACT: Brian D. Carstens & Associates
601 Old Cheney Rd. Suite C
Lincoln, NE 68512
(402) 434-2424

**CHANGE OF ZONE NO. 3417,
SPECIAL PERMIT NO. 638A
and
USE PERMIT NO. 153,
MIDTOWN BUSINESS PARK**

**CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:**

August 20, 2003

Members present: Carlson, Duvall, Krieser, Larson, Marvin, Schwinn, Steward, Bills-Strand and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3417; USE PERMIT NO. 153; SPECIAL PERMIT NO. 638A; SPECIAL PERMIT NO. 1022D; SPECIAL PERMIT NO. 2030, FINIGAN VIEW COMMUNITY UNIT PLAN; PRELIMINARY PLAT NO. 02005, CATHERLAND SUBDIVISION; PRELIMINARY PLAT NO. 03003, OLD MILL VILLAGE 1ST ADDITION; COUNTY FINAL PLAT NO. 03025, PRAIRIE CREEK ESTATES; COUNTY FINAL PLAT NO. 03026, WYNDAM PLACE ADDITION; COUNTY FINAL PLAT NO. 03028, THE PRESERVE AT CROSS CREEK ADDITION; ANNEXATION NO. 03006; and COMPREHENSIVE PLAN CONFORMANCE NO. 03007.**

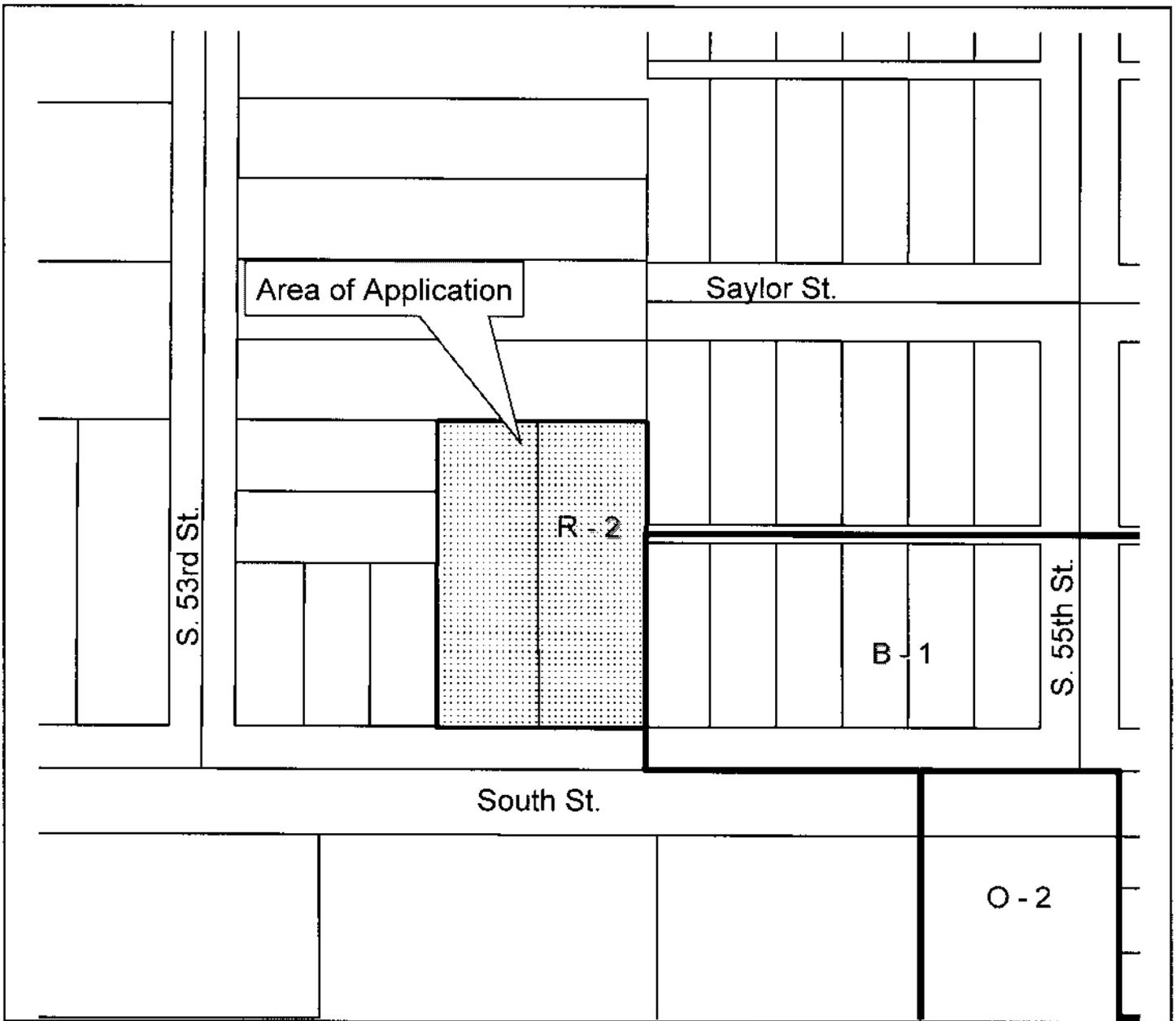
Item No. 1.3, Special Permit No. 2030, and Item No. 1.4, Preliminary Plat No. 02005, were removed from the Consent Agenda and scheduled for separate public hearing.

Bills-Strand moved to approve the remaining Consent Agenda, seconded by Taylor and carried 9-0: Carlson, Duvall, Krieser, Larson, Marvin, Schwinn, Steward, Bills-Strand and Taylor voting 'yes'.



**Use Permit #153
Change of Zone #3417
S. 55th St. & South St.**



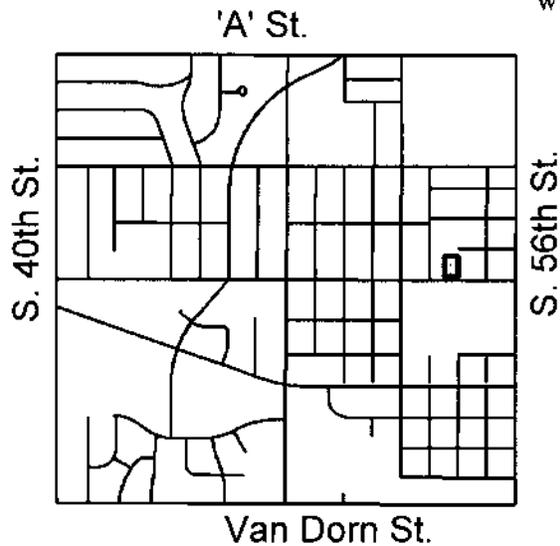


**Use Permit #153
Change of Zone #3417
S. 55th St. & South St.**

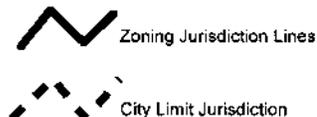
Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation 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. 32 T10N R7E



011



USE PERMIT & CHANGE OF ZONE LEGAL DESCRIPTION:

Lots 98 and 99, Woods Brothers Fairview Acres in the Northeast Quarter of Section 32, Township 10 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska and more particularly described as follows:

Beginning at the Southwest corner of said Lot 99; thence in a Northerly direction, along the West line of said Lot 99, on an assumed bearing of North 00 degrees 17 minutes 22 seconds East for a distance of 236.29 feet to the Northwest corner of said Lot 99

THENCE South 89 degrees 57 minutes 19 seconds East for a distance of 158.79 feet to the Northeast corner of said Lot 99

THENCE South 00 degrees 20 minutes 10 seconds West for a distance of 236.16 feet to the Southeast corner of said Lot 99

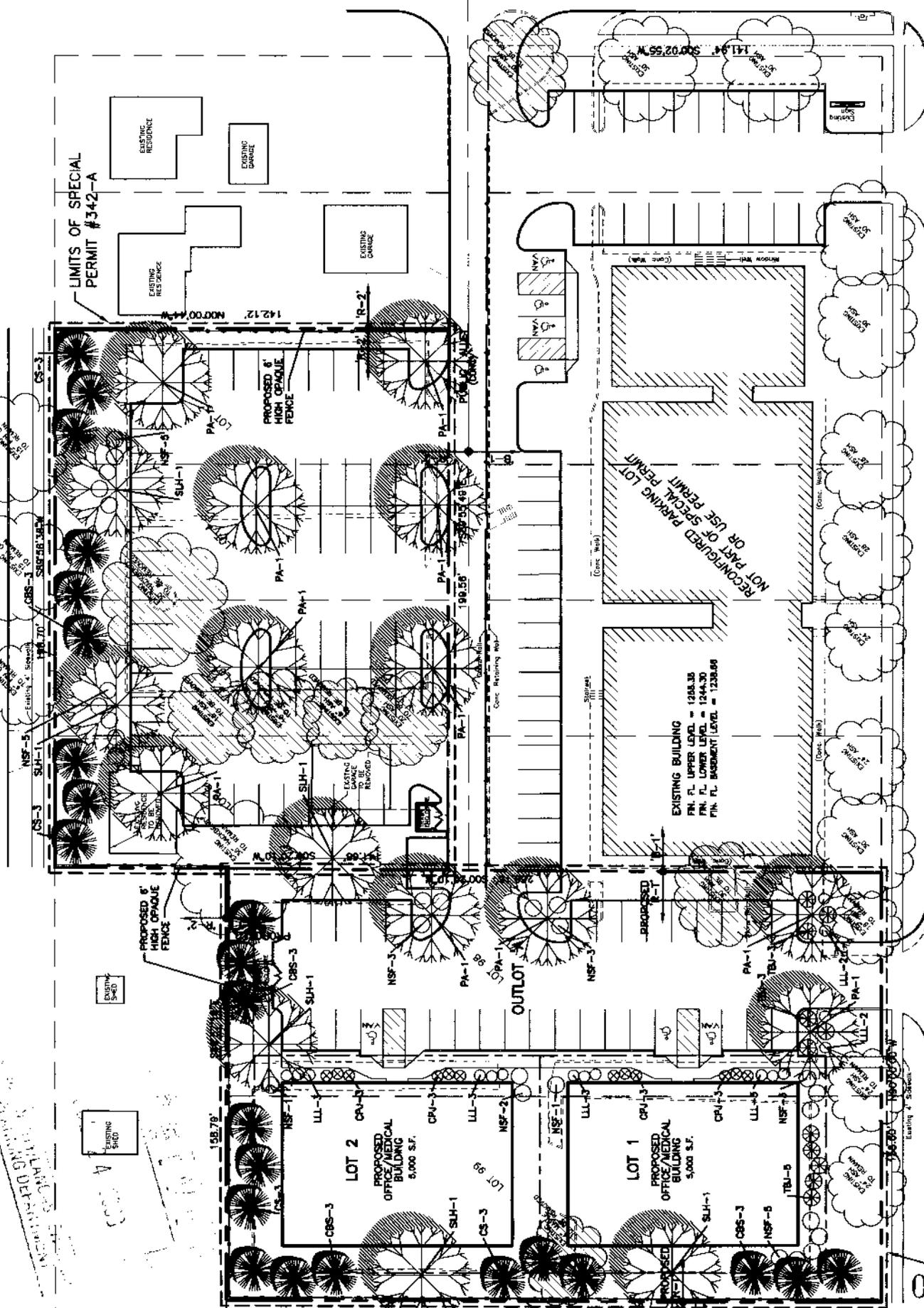
THENCE North 90 degrees 00 minutes 00 seconds West for a distance of 158.60 feet to the Point of Beginning

Together with and subject to covenants, easements, and restrictions of record.

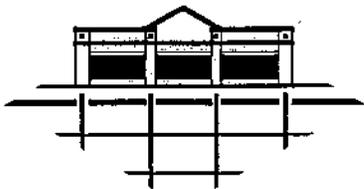
Said property contains 0.86 acres more or less.

JUL 24 2003
PLANNING DEPARTMENT

LIMITS OF SPECIAL PERMIT #342-A



LIMITS OF CHANGE OF ZONE FROM 'R-2' TO 'R-T' & USE PERMIT



BRIAN D. CARSTENS AND ASSOCIATES
LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN
601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

July 24, 2003

Mr. Marvin Krout
Director of Planning
Planning Department
City of Lincoln/ Lancaster County
555 South 10th Street
Lincoln, NE 68508

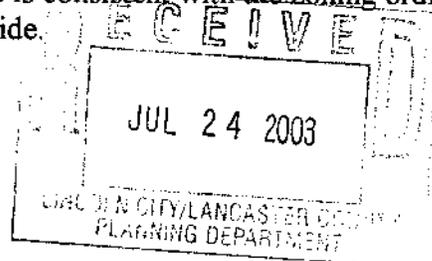
RE: 55TH AND SOUTH STREETS
SPECIAL PERMIT #342-A/
CHANGE OF ZONE FROM R-2 TO R-T W/ USE PERMIT

Dear Marvin,

On behalf of the owners and the developer, we are submitting the above mentioned zoning applications for your review. MidTown Business Park includes several key components including the following:

1. The existing two story office building located at the Northwest corner of 55th and South Streets is currently zoned 'B-1'. The building will undergo a major renovation, including exterior updating with additional windows, completely new mechanical systems, and all new office space and/ or a small retail space. This building is not included within the limits of the zoning applications, as it is currently zoned 'B-1' and needs no further zoning action at this time.
2. The parking lot to the north of the existing alley (Special Permit #342) will be expanded to include one additional lot adjacent to the west side of the existing parking lot. New landscaping will be installed, bringing the entire parking lot up to current design standards. The existing single family residence will be relocated off site.
3. We are proposing a change of zone from R-2 to R-T and an associated Use Permit be approved on the existing parking lots to the west and northwest of the existing building, formerly approved by Special Permit #368. This proposed change of zone and use permit will allow for the construction of 2- 5,000 square foot office/ medical buildings and associated parking areas.

This change of zone is consistent with the zoning ordinance as it abuts existing 'B-1' zoning on the east side.



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The proposed R-T buildings will be residential in character with pitched roofs, brick and siding or E.P.H.I.S., and will meet all the other requirements of the R-T zoning district. It is important to note that the existing parking lots on Lots 98 & 99 were approved and constructed with a 10 foot setback. Our proposal includes a 20' setback for both the buildings and the parking areas with a 6' high opaque fence as well as trees to meet the required landscape screening design standards.

It is also important to note that we are not requesting any waivers to the zoning ordinance; however, we are requesting that we create the two lots within the R-T area as shown on the use permit. Therefore we request a waiver to the subdivision ordinance to allow lots that do not have frontage or take direct access to a public street or private roadway. We will create a public access easement on Outlot A to address this issue.

We will also be requesting a street and alley vacation for the east/ west alley adjacent to this project. However, the Special Permit, Change of Zone, and Use Permit can be processed together and have the street and alley vacation follow at a later date.

We are excited about this project, as it is a major undertaking in this neighborhood, and substantial improvements will be made to a building that has been neglected for many years, and bring in new professional services and possible retail uses to the area.

Please feel free to contact me if you have any further questions.

Sincerely,



Brian D. Carstens

CC: Boyd Batterman - Carlos Lake, LLC
Alan and Nancy Lee

ENCLOSURES: 48 copies of Sheet 1 of 4
16 copies of Sheets 2 thru 4 of 4
Application for a Special Permit
Application for a Change of Zone and Use Permit
Certificate of Ownership
Application Fees of \$1,070.00
8-1/2" x 11" reductions of the site and landscape plans

