

FACTSHEET

TITLE: **USE PERMIT NO. 33C**, requested by Larry Albers, to add two lots to an existing use permit for the purpose of constructing an office building, on property generally located at Haverford Drive and L Street.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 01/07/04
Administrative Action: 01/07/04

STAFF RECOMMENDATION: Denial

ASSOCIATED REQUEST: Change of Zone No. 3433
(04-16)

RECOMMENDATION: Conditional Approval, with amendments (9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes').

FINDINGS OF FACT:

1. This use permit amendment and the associated Change of Zone No. 3433 were heard at the same time before the Planning Commission.
2. The staff recommendation to deny the use permit is based upon the "Analysis" as set forth on p.5-6, concluding that the proposal does not conform to the Comprehensive Plan as it expands an existing commercial development into a residential area, when other vacant land appears to be available in an appropriate location. The Comprehensive Plan calls for office parks to obtain their access from arterial, not residential, streets, and for like uses to face each other across the street. In 1994, when vacant lots along L Street to the west of the lots in question were rezoned to O-3, staff made the same recommendation for denial of these two lots, and the applicant removed them from the request at that time.
3. The applicant's testimony is found on p.9-10, and the applicant's written response to the staff report and recommendation is found on p.18-26. The applicant withdrew the parking waiver. The photographs of other similar situations of office buildings next to duplexes in the city submitted by the applicant are found on p.29-30, and photographs of the subject site are found on p.30. The applicant submitted a letter in support from the Past President of the Taylor Park Neighborhood Association (p.27) and from the seller of the subject property, The Gallup Organization (p.28). The applicant testified that he has met with the abutting neighbors and the two neighborhood associations in the area and there is no objection.
4. There was no testimony in opposition.
5. On January 7, 2004, the Planning Commission disagreed with the staff recommendation and voted 9-0 to recommend approval, with the conditions set forth in the staff report on p.6-8, with amendment deleting Condition #1.1.2 and Condition #3, which were related to the parking waiver which was withdrawn by the applicant (See Minutes p.10-11).
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: January 20, 2004

REVIEWED BY: _____

DATE: January 20, 2004

REFERENCE NUMBER: FS\CC\2004\UP.33C

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for January 7, 2004 PLANNING COMMISSION MEETING

****As Revised and Recommended for Approval by Planning Commission****
****January 7, 2004****

P.A.S.: Use Permit #33C

PROPOSAL: To add two lots to an existing use permit for the purpose of constructing an office building.

LOCATION: Haverford Drive and "L" Street

WAIVER REQUEST:

1. ~~Waive required parking from 14 stalls to 12 stalls.~~ (****Waiver request withdrawn by the applicant at Public Hearing before Planning Commission on January 7, 2004****)

LAND AREA: 8.6 acres, more or less (existing use permit area)
0.3 acres, more or less (area to be added)

CONCLUSION: This proposal does not conform to the Comprehensive Plan as it expands an existing commercial development into a residential area, when other vacant land appears to be available in an appropriate location.

<u>RECOMMENDATION:</u>	Denial
1. Waive required parking from 14 stalls to 12 stalls.	Denial
(**Waiver request withdrawn by the applicant at Public Hearing before Planning Commission on January 7, 2004**)	

GENERAL INFORMATION:

LEGAL DESCRIPTION:

Lots 1-4 and Lot 7, Executive Center 1st Addition, located in the NE 1/4 of Section 29 T10N R7E, Lancaster County, Nebraska.

EXISTING ZONING: O-3 Office Park and R-4 Residential

EXISTING LAND USE: Office buildings and vacant

SURROUNDING LAND USE AND ZONING:

North:	Commercial	B-1 Local Business
South:	Residential, offices, and hospital	R-4 Residential, R-1 Residential, O-2 Suburban Office, and P Public
East:	Offices, motel	O-3 Office Park, and B-1 Local Business
West:	Residential	R-4 Residential

ASSOCIATED APPLICATIONS: Change of Zone #3433

HISTORY:

- Apr 1996 Administrative Amendment #96025 to Combined Use Permit/Special Permit #7 approved the relocation of a fence.
- May 1995 Administrative Amendment #95026 to Combined Use Permit/Special Permit #7 approved a revised parking layout and phasing plan.
- Feb 1995 Administrative Amendment #94098 to Combined Use Permit/Special Permit #7 approved changes to the conditions for the private school allowing up to 150 children and 19 staff members.
- Dec 1994 Administrative Amendment #94097 to Combined Use Permit/Special Permit #7 approved a time extension for the Letter of Acceptance for Combined Use Permit/Special Permit #7.
- Oct 1994 Combined Use Permit/Special Permit #7 approved 145,571 square feet of floor area for the existing two buildings and a additional 5-story building, a connecting walkway between buildings, and a new private school for up to 120 children and 18 staff members.
- Jun 1992 Administrative Amendment #92040 to Use Permit #33 approved the temporary use of a tent within the parking lot.
- Jan 1992 Use Permit #33B approved an additional 59,700 square feet of office floor area (total of 117,700) in an office building not to exceed 63' in height. This permit did not include the building approved by Use Permit #33, but did change the 8 buildings approved by Use Permit #34 into one 6-story building.
- Jun 1986 Use Permit #33A approved an increase in the height of the office building from 45' to 50'.
- Jul 1985 Use Permit #34 approved 37,904 square feet of floor area in 8 office buildings, located on the site of what was recently known as the Gallup/SRI daycare facility. This area was eventually incorporated into Use Permit #33B.
- May 1985 Use Permit #33 approved 58,000 square feet of floor area in one office building.

- Nov 1980 Use Permit #9 approved the first office building on this site, allowing up to 44,783 square feet of floor area and a height of 51'. This area was eventually incorporated into Use Permit #33B.
- May 1979 The zoning update changed this area from A-1 Single Family Dwelling to R-1 residential and O-3 Office Park.

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2025 Land Use Plan shows this area as Urban Residential. (F 25)

Urban Residential: Multi-family and single-family residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. (F 27)

The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln's great strengths and their conservation is fundamental to this plan. The health of Lincoln's varied neighborhoods and districts depends on implementing appropriate and individualized policies. The Comprehensive Plan is the basis for zoning and land development decisions. It guides decisions that will maintain the quality and character of the community's established neighborhoods. (F 15)

Guiding Principles for Commerce Centers: New or established commercial uses should not encroach upon, or expand into, existing neighborhoods. (F 41)

Guiding Principles for New and Existing Neighborhoods: Similar housing types face each other: single family faces single family, change to different use at rear of lot. (F 67)

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...Expansion in existing [commercial] centers should not encroach, or expand to encroach, on existing neighborhoods, and commercial areas must be screened from residential areas. (F 69)

TRAFFIC ANALYSIS:

The Comprehensive Plan identifies both Haverford Drive and "L" Streets as Collector Streets, both now and in the future. (E49, F103)

Collector Streets: These streets serve as a link between local streets and the arterial system. Collectors provide both access and traffic circulation within residential, commercial, and industrial areas. Moderate to low traffic volumes are characteristic of these streets. (F 105)

AESTHETIC CONSIDERATIONS:

As part of Change of Zone #2852 in 1994, the Planning Staff was opposed to changing these two lots from R-4 Residential to O-3 Office Park. These lots were withdrawn from the request by the Applicant. The Staff analysis noted "The transition between the R-1 District and the O-3 District will be eliminated. The duplex lots were to serve as the buffer to the neighborhood. Although the applicant proposes open space across the street from the houses on Haverford, their view will be of a parking lot and parking garage. The residential structures would have visually buffered the "ground activity" on the site for these neighbors." This argument is still valid, and the duplex units remain a more appropriate use for these lots, as was originally proposed with Combined Use Permit/Special Permit #7. However, the office building as proposed by Applicant, which is limited to one story, brick faced, and has an increased setback, could also provide the visual buffer to the larger office buildings and parking areas.

ALTERNATIVE USES:

These lots could be developed with single-family dwellings or townhouse, similar to the adjacent lots to the north, thereby providing a more substantial buffer and similar type residential buildings between the established residential neighborhood and the office park.

ANALYSIS:

1. This is a proposal to add two lots to an existing use permit for the purpose of constructing an office building.
2. These particular lots were proposed to be used for a townhouse/duplex at the edge of the office park in Combined Use Permit/Special Permit #7. The Planning Staff opposed the change of zone from R-4 Residential to O-3 Office Park since that could result in the loss of the dwelling acting as a buffer between the single-family residences and the office park. The Applicant subsequently removed these two lots from the request.
3. The purpose of the O-3 Office Park District is to provide a mixture of office and other types of compatible and complimentary commercial uses, and residential uses in suburban areas. The district is also intended to provide an appealing atmosphere, stressing the quality of the environment. Adding these lots to the existing use permit will expand the commercial area into the residential portion of the neighborhood without providing either a mix of uses as intended, nor providing an appropriate buffer to the residential area. The quality of the environment will be reduced rather than improved.
4. Although vacant, these lots provide a certain degree of transition between the established residences and the office park and parking lot. As the Planning Staff has suggested previously, residential dwellings would be appropriate at this location to provide the buffer.
5. As an alternative to developing these two lots with an office building, it could be located further east, on the other side of the parking lot. The attached aerial shows a vacant area within the limits of the existing use permit that is approximately the same size as these lots. This location is closer to existing commercial development, and further from the residential area of this neighborhood.
6. The proposal does not provide the required number of parking stalls on-site. Traffic generation has been suggested by Applicant to be 4 cars per day, and a waiver has been requested to reduce the parking from 14 to 12 stalls. However, it appears as though the new office building may be able to utilize excess parking within the use permit. Rather than waive parking, Applicant should attempt to obtain an agreement to use two of the adjacent parking stalls. A written agreement should be provided, the drawing should be revised to indicate which two stalls will be used, and the Phasing Schedule should be revised to show 14 stalls.
7. This property is currently zoned R-4 Residential. Therefore, Change of Zone #3433 must receive a recommendation of approval for this application to receive a positive recommendation.

8. Should the Planning Commission choose to recommend other than Denial, the Planning Staff suggests the following conditions of approval to the use permit, except 1.1.2 and 3, and Denial to the parking waiver.
9. Should the Planning Commission choose to recommend other than Denial to the parking waiver, the Planning Staff suggests all of the following conditions.

CONDITIONS:

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 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.
 - 1.1.1 Revise the plan to show the additional 2 required parking stalls for Phase 9. If off-site parking stalls are to be used, submit a written agreement from the owner of the off-site property.
 - ~~1.1.2 Should the Planning Commission recommend approval of the parking waiver, show where the additional 2 required parking stalls for Phase 9 could be provided. Also add a note stating the 2 additional parking stalls will be provided prior to a change in occupancy in Phase 9. (**Waiver request withdrawn by the Applicant at Public Hearing before Planning Commission: January 7, 2004**)~~
 - 1.1.3 Add a note to the plan stating the landscaping will comply with City of Lincoln Design Standards, and landscaping plans for Phases 6, 7, 8, and 9 will be submitted for review with building permits.
 - 1.1.4 Revise the use permit boundary along South 68th Street Place so it will close.
 - 1.1.5 Show the area under Use Permit #33 and Combined Use Permit/Special Permit #7 included within this use permit. Specifically, this is the area identified as Existing Lot 7.
 - 1.1.6 Remove the note stating "existing lot 7, not a part of 2nd addition."
 - 1.1.7 Should Administrative Amendment #03098 to use Permit #33B not be approved prior to scheduling this use permit on City Council, revise Phases 6 and 7 to show the existing approved plan.
 - 1.1.8 Add a note stating the office building located in Phase 9 will be one-story, include a typical residential pitched roof, typical residential exterior materials, and windows oriented toward the streets.

1.1.9 Show all existing easements.

1.1.10 Add a note stating any relocation of existing facilities will be at owner/developer's expense.

2. This approval permits 155,000 square feet of commercial floor area in 5 buildings.
3. ~~The required number of parking stalls is reduced from 14 to 12 for Phase 9. (**Waiver request withdrawn by the Applicant at Public Hearing before Planning Commission: January 7, 2004**)~~
4. The office building for Phase 9 shall:
 - 4.1. Be limited to one story.
 - 4.2. Have an exterior of primarily brick.
 - 4.3. Have a typical residential style pitched roof.
 - 4.4. Have windows and doors oriented towards Haverford Drive and "L" Street.
 - 4.5. Have a setback of 30' along Haverford Drive.
 - 4.6. Take access only from the east, off of the existing driveway onto "L" Street.

General:

5. Before receiving building permits:
 - 5.1 The permittee shall have submitted a revised final plan including 7 copies and the plans are acceptable.
 - 5.2 The construction plans shall comply with the approved plans.

STANDARD CONDITIONS:

6. The following conditions are applicable to all requests:
 - 6.1 Before occupying this office buildings in Phases 6 and 9, all development and construction is to comply with the approved plans.
 - 6.2 All privately-owned improvements, including landscaping, are to be permanently maintained by the owner.
 - 6.3 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.

- 6.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 6.5 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.
7. 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

Greg Czaplewski
Planner

Date: December 22, 2003

Applicant: Alodium, L.L.C.
911 Evergreen Drive
Lincoln, NE 68510
438.4421

Owner: Gallup, Inc.
1001 Gallup Drive
Omaha, NE 68102
800.288.8592

Contact: Larry Albers
320 Commerce Court
1230 "O" Street
Lincoln, NE 68508
438.4421

**CHANGE OF ZONE NO. 3433
and
USE PERMIT NO. 33C**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 7, 2004

Members present: Carlson, Krieser, Larson, Marvin, Sunderman, Pearson, Taylor, Carroll and Bills-Strand.

Staff recommendation: Denial.

Ex Parte Communications: Commissioner Larson stated that he had a conversation with the applicant.

Proponents

1. **Larry Albers**, Suite 320 Commerce Court, 1230 O Street, presented the application and stated that he is here with encouragement from Gallup, the current owner of the two lots. Albers submitted a written response to the staff report. He clarified that he is not requesting to build a 155,000 sq. ft. building, which might be understood from the staff report. The application requests to increase the use permit covering the entire Gallup campus to 155,000 sq. ft. Albers is requesting to attach these two lots to the Gallup campus with the O-3 zoning. The O-3 zoning requires a use permit setting out the limitations and restrictions on the property. Albers is planning to build a small, single story, brick, professional office building with pitched roof, with the parking access off of the Gallup campus parking (there will be no new drives off of Haverford) with the full required screening. The size of the proposed building would be approximately the size of the duplex to the north.

When Albers first met with Gallup to purchase the property, it was agreed that it was most important that he develop something that would not be intrusive into the neighborhood and that would be acceptable to the neighborhood. He called Bill Brown, President of the Taylor Park Neighborhood Association, who lives right across the street on Haverford Drive. They met and Mr. Brown is very interested in the plans and thought the neighbors would be as well. The Neighborhood Association had their annual picnic in September, so Albers attended the picnic in Taylor Park, with approximately 40 people in attendance. He gave a full presentation. He had sent a letter to the neighbors describing his plans. He called the neighbors that have homes fronting the two lots. At the Neighborhood Association meeting, there were some questions but there was nothing negative that came out of the meeting. In fact, the comments were quite positive.

Albers further explained that at that point, the zoning map showed the two lots as O-3, so at the time Albers thought this would only be an administrative permit. However, in working with the Planning Department, it was discovered in November that there had been an error on the zoning map and the two lots were actually zoned R-4, and Ray Hill of the Planning Department informed the applicant that he would have to request a change of zone.

After the staff report came out with a recommendation of denial, Albers checked to make sure there wasn't anything that he was missing in terms of the neighbors. He met with Bob Els, the new President of the Taylor Greens Association (Haverford Drive feeds into Taylor Greens). Bob and his wife were in favor and they had talked with some of the neighbors in Taylor Greens who had no objections. He again called Bill Brown last night and there were no objections. Albers is aware of no neighborhood objection. He also submitted a letter from Bill Brown in support. Albers also talked with the two owners of the duplex located just north. Their questions did not relate to his project. The confusion was over the 155,000 sq. ft. number that showed up in the staff report. Albers also noted that there has been a request for a stop sign at L and Haverford, which is a Public Works issue that he will deal with later.

Albers also submitted a letter from Gallup confirming their desire to make sure that the plans are kept reasonable and accommodating and non-intrusive to the neighbors.

Albers then submitted photographs of the site and examples of other office buildings in the city located next to residential properties (duplexes). Albers pointed out that construction of another duplex on the subject property would cause the need for additional access on Haverford and/or L Street.

Albers agreed with all conditions of approval set forth in the staff report.

Larson inquired whether Albers himself would use this entire building. Albers indicated that he would use about half for his law office and the other half for other professional offices.

Marvin confirmed that Albers visited with the owners/occupants of the duplex to the north and explained the R-4 zoning situation. Albers acknowledged that he did meet with them and showed them the plan. They had no objections. One of the women stated that she was very pleased.

There was no testimony in opposition.

Staff questions

Carlson asked staff to respond to the design control under the use permit. When he read the staff report, he thought about the R-T and the controls we have in that zoning district. If this building doesn't get built, what are some other incompatible buildings that might be constructed? What design controls do we have under the use permit? Ray Hill of the Planning staff clarified that this use permit does not go just to this builder, but to the owner. Whoever owns the property must comply with these conditions of approval. Any change would require a modification of the use permit.

Pearson inquired about the error on the zoning map. When Albers purchased the property, did he think it was O-3? Greg Czaplewski of Planning staff believes that was what they thought. The map was not correct.

Response by the Applicant

Carlson asked the applicant if he was comfortable that his building design will fit within the conditions. Albers stated that he did not want to go too far down the road but he has indicated to the neighbors and the neighborhood associations that before he gets too far along with design, he is going to present it to them.

CHANGE OF ZONE NO. 3433

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

January 7, 2004

Larson moved approval, seconded by Taylor.

Carlson believes this all goes back to design. He noticed that the pictures the applicant displayed showed office buildings buffered by duplexes, but he thinks that the building the applicant is proposing will fit in with the neighborhood.

Bills-Strand is supportive because this does not require additional driveways, which helps the neighborhood.

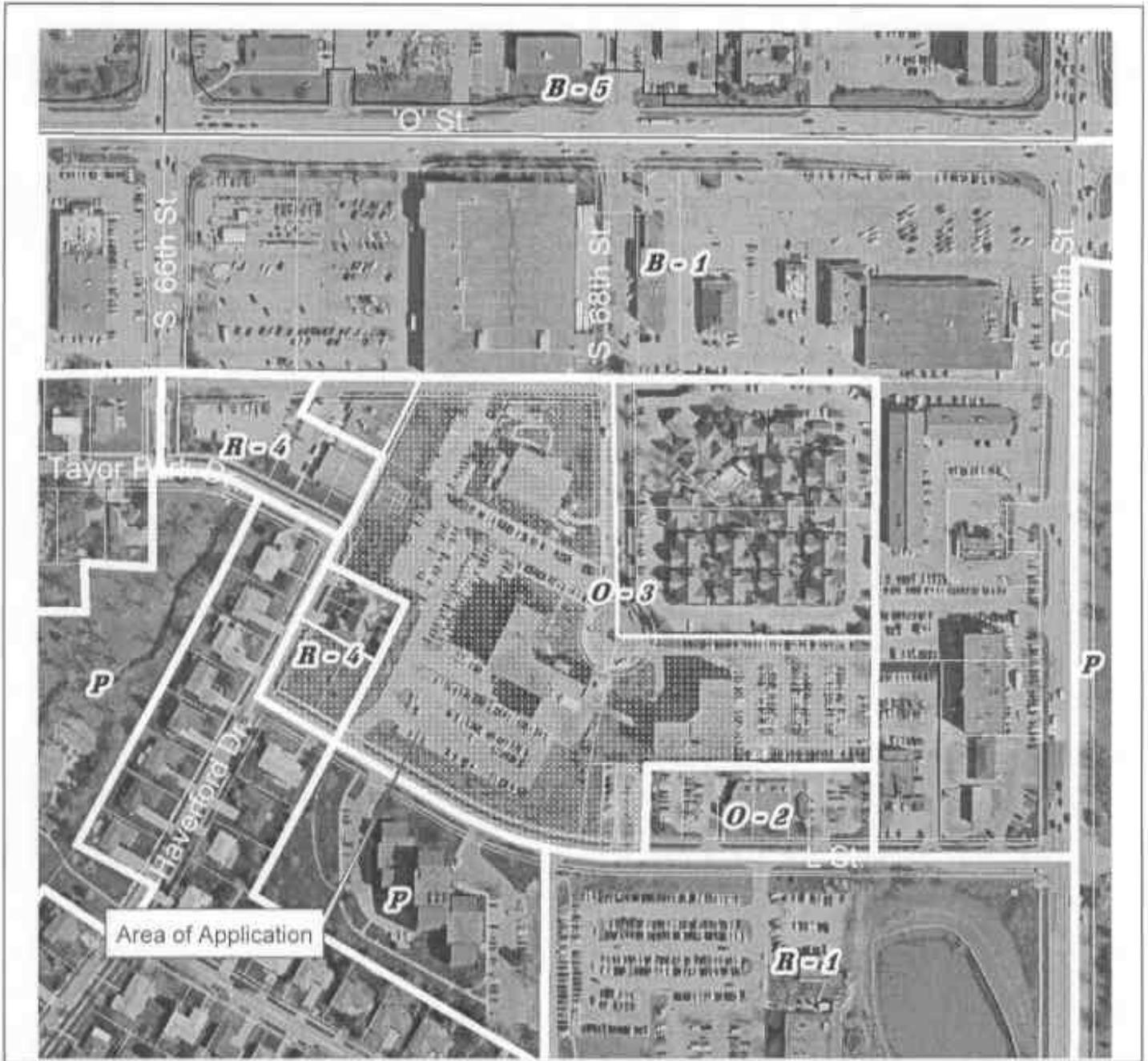
Motion for approval carried 9-0: Carlson, Krieser, Larson, Marvin, Sunderman, Pearson, Taylor, Carroll and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

USE PERMIT NO. 33C

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

January 7, 2004

Larson moved approval, with conditions, with amendment deleting Condition #1.1.2 and #3 because the waiver of required parking was withdrawn by the applicant, seconded by Taylor and carried 9-0: Carlson, Krieser, Larson, Marvin, Sunderman, Pearson, Taylor, Carroll and Bills-Strand voting 'yes'. This is a recommendation to the City Council.



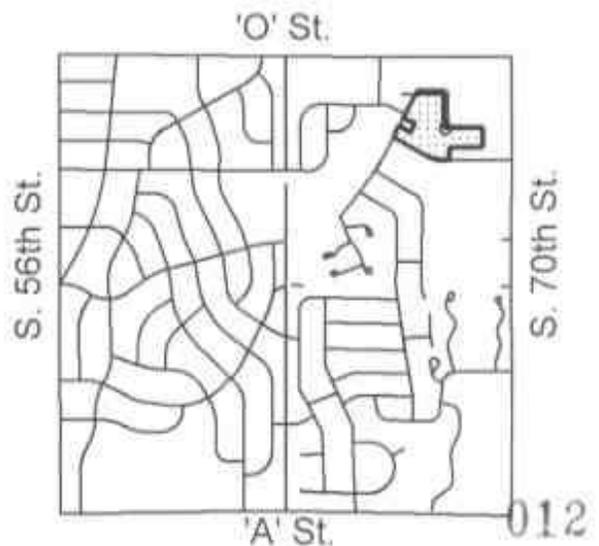
2002 aerial

Use Permit #33C Haverford Dr & L Street

Zoning:

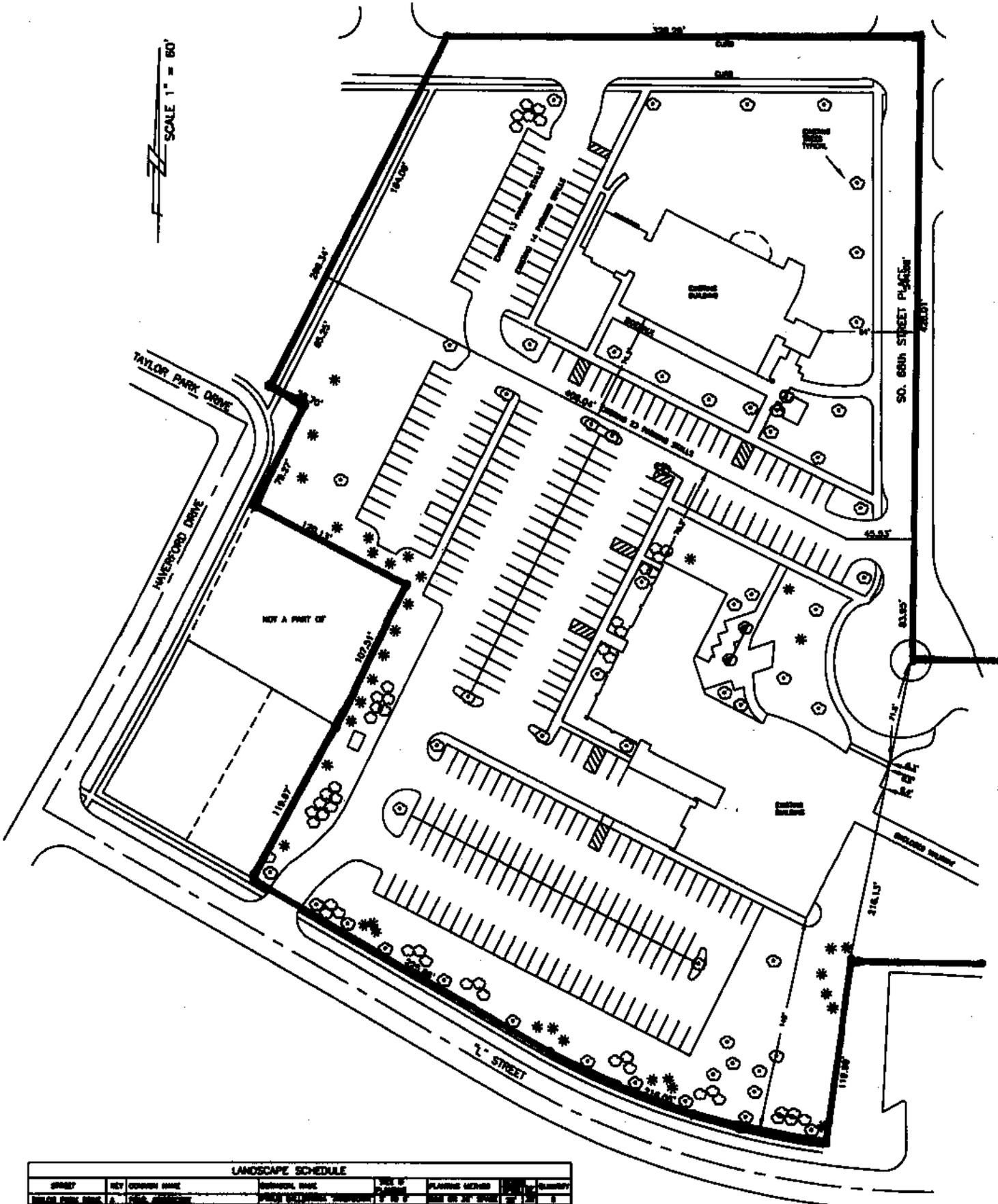
- R-1 to R-8 Residential District
- AG Agricultural District
- AOR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned 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. 28 T10N R7E



EXISTING

SCALE 1" = 60'



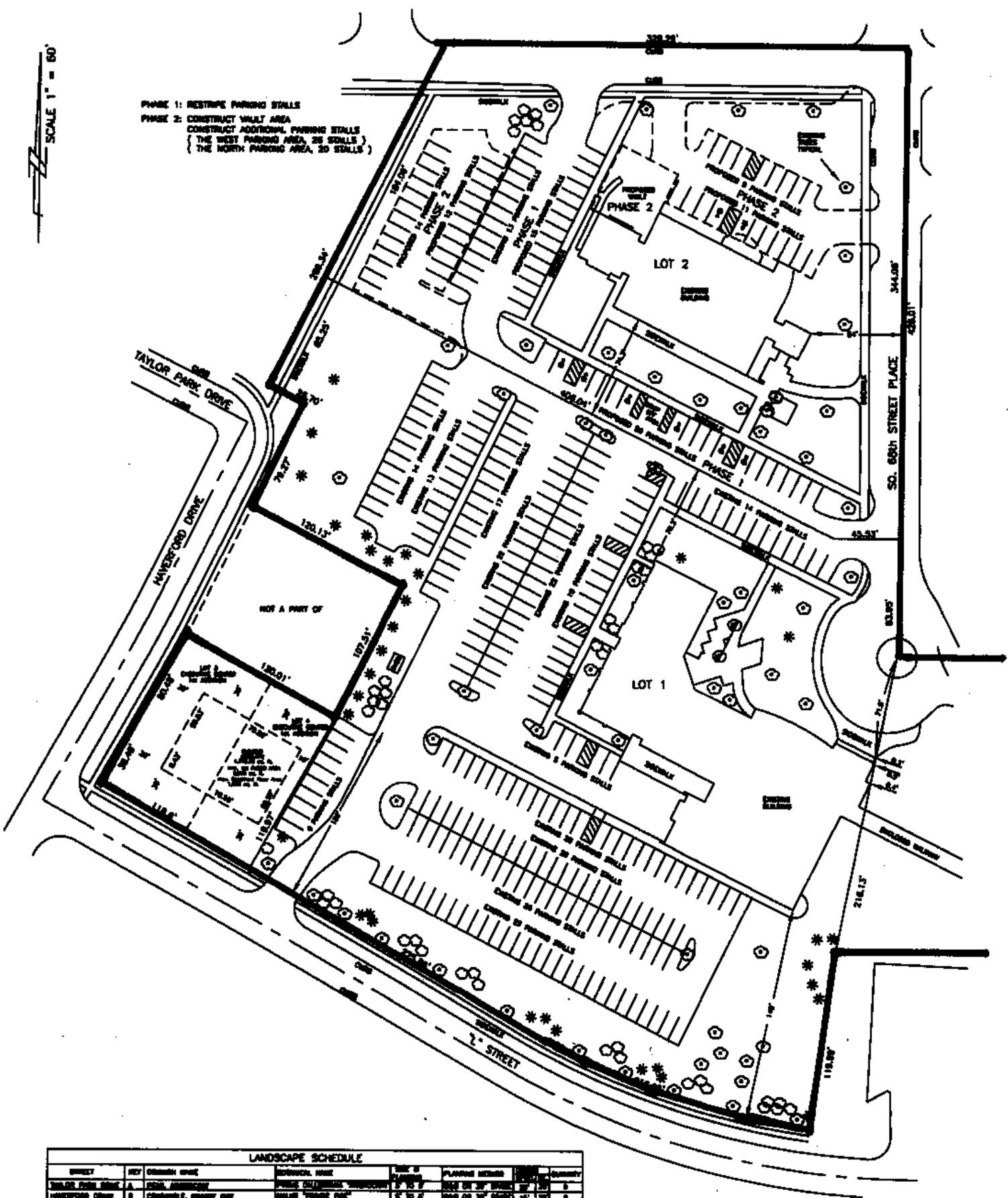
LANDSCAPE SCHEDULE

SYMBOL	REV	COMMON NAME	SCIENTIFIC NAME	SIZE @	PLANTING METHOD	PLANTING	NUMBER
(Symbol)	A	ORANGE JASMINE	FRAXINUS SPINOSA	2' to 3'	PLANT IN 24" SPACES	12'	8
(Symbol)	B	COMMON C. JASMINE	FRAXINUS SPINOSA	2' to 3'	PLANT IN 24" SPACES	12'	8
(Symbol)	C	COMMON C. JASMINE	FRAXINUS SPINOSA	2' to 3'	PLANT IN 24" SPACES	12'	8

PROPOSED

SCALE 1" = 60'

PHASE 1: RESTRIPE PARKING STALLS
 PHASE 2: CONSTRUCT VAULT AREA
 CONSTRUCT ADDITIONAL PARKING STALLS
 (THE WEST PARKING AREA, 26 STALLS)
 (THE NORTH PARKING AREA, 20 STALLS)



LANDSCAPE SCHEDULE

SYMBOL	KEY	ORIGINATOR	APPROVAL	DATE	PLANNING NUMBER	QUANTITY
(Symbol)	A	CON. ARCHITECT	PLANNING DEPARTMENT	12/15/97	100-00-00-0000	1
(Symbol)	B	CIVIL ENGINEER	CIVIL ENGINEER	12/15/97	100-00-00-0000	1
(Symbol)	C	CIVIL ENGINEER	CIVIL ENGINEER	12/15/97	100-00-00-0000	1

Larry V. Albers

Attorney

Suite 320 Commerce Court
1230 "O" St, Lincoln, NE 68508
tel: 402-438-4421 fax: 402-438-4680

HAND DELIVERY

December 11, 2003

Greg Czaplewski
Lincoln-Lancaster County Planning Dept.
555 S 10th Street, Suite 213
Lincoln, NE 68508

DEC 11 2003

RE: Alodium, LLC: Application For Change of Zone and Application for Use Permit
Property: (Lots 3 & 4, Executive Center 1st Addition, Lincoln, Lancaster County,
Nebraska)

Dear Greg:

On behalf of Alodium, LLC, the Applicant, and Gallup, Inc., the Owner, I submit
the following:

- 1) City of Lincoln Zoning Application, the Application for Change of Zone;
- 2) City of Lincoln Zoning Application, the Application for Use Permit (7a,
amending Use Permit/Special Permit 7);
- 3) Use Permit Drawings - Davis Design - Existing Conditions (21 copies);
- 4) Use Permit Drawings Supplement - Alodium, LLC - Supplement No. 1 to Use
Permit Drawings - Existing Conditions prepared by Davis Design (21 Copies);
- 5) Use Permit Drawings Supplement - Alodium, LLC - Supplement No. 1 to Use
Permit Drawings - Existing Conditions prepared by Davis Design (21 Copies);
- 6) Use Permit Drawings - Davis Design - Proposed Conditions Phase 9 (21
copies);
- 7) Ownership Certificate;
- 8) A Check, No. 0097, for \$370.00 as filing fees for Change of Zone
Application; and
- 9) A Check, No. 0096, for \$740.00 as filing fees for Use Permit Application.

**COMBINED PURPOSE STATEMENT
CHANGE OF ZONE AND USE PERMIT**

The Introduction to the O-3 Zoning Classification reads as follows:

"This district is intended to provide a developing or redeveloping area primarily consisting of a mixture of office and other types of compatible and complementary commercial uses, and residential uses in suburban areas. This district is intended to be located on arterial streets in close proximity to commercial uses. This district is intended to provide an appealing atmosphere, stressing the quality of the environment."

The Applicant seeks to change the current zoning of the Property from R-4 to O-3, the zoning classification of the Gallup Office Park to the east and north. The initial development by David Tews called for approximately 30 lots to be zoned R-4 to run along the south border of the entire development tract, immediately adjacent to Haverford and L Streets. The original development was changed over the years until only 4 lots zoned R-4 remain, the rest of the lots having been rezoned to O-3. The only other lots remaining R-4 are immediately adjacent to the Property, improved with a duplex.

In the past, Gallup sought to use the Property for a parking lot associated with its larger office buildings. Gallup is selling all of its real estate in Lincoln, including the Property. The Applicant has met with the neighbors, as discussed below, and all parties affected are interested in seeing the Property's use remain compatible and complementary to the Office Park and to the abutting residential neighborhood.

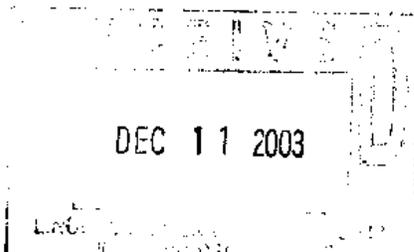
The Applicant also submits an application for a Use Permit as required by the City of Lincoln Zoning Code. The Applicant desires to construct a small office building on the Property with no more than 3,000 S.F. of floor area on the first floor, and 1,000 S.F. of floor area in the basement.

The Applicant believes it important that the new office building have a "transitional" design accommodating the residential character of the housing across Haverford and L Streets. To that end, the Applicant proposes further limiting conditions:

- 1) The Office Building will be limited to one story;
- 2) The exterior fascia to the Office Building will consist primarily of brick;
- 3) The Office Building will have a set back of 30 feet from the west property line as shown on the Use Permit Plans submitted, instead of the 20 feet otherwise allowed; and
- 4) Access will be limited to a drive located to the east directly into the access off L Street into the Gallup Office Park.

Space in the Office Building will be leased by the Applicant to Larry Albers for a law office. The traffic generated by such use is extremely low, perhaps 4 cars a day. The remaining space is anticipated to be leased for professional or other offices, the traffic to which is not anticipated to be significant given the limited parking of only 12 stalls on the Property.

Neighbors Interest.



Each neighbor within 200 feet of the site was sent a letter on September, 13, 2003, describing the proposed changes and a general description of the building and parking configuration. I then met with the Taylor Park Association President, Bill Brown, and reviewed the plans. Following the meeting, I called those neighbors with telephone numbers in the Alltel Directory to personally solicit any comments, concerns or suggestions. Then on Sunday, September 24, I attended the annual meeting of the Taylor Park Association held in Taylor Park, again reviewing the plans relating to parking, access, building size, use, and landscaping, I also solicited comments and questions from approximately 40 people in attendance.

The comments I received from the neighbors were encouraging, with most indicating a preference to a small office as opposed to a parking lot, or atypical residential housing. No one expressed any dissatisfaction with my plans, or offered any changes.

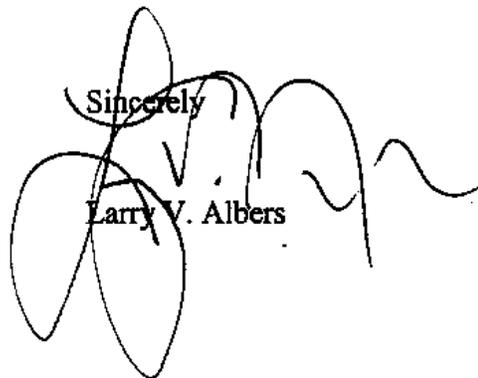
Since my discussions with the neighbors, the Applicant had to modify the plans to accommodate parking on the Property. A drawing showing the latest configuration was sent to all neighbors required or asked to be notified, and to the President of the Taylor Park Neighborhood Association.

Landscaping Plan.

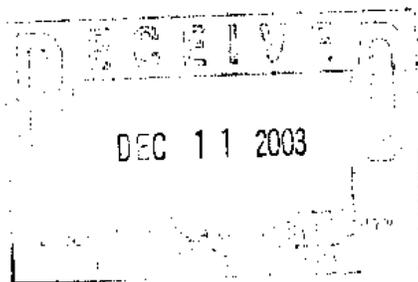
Applicant requests that submittal and review of the landscaping plan be deferred until prior to the filing of an application for building permit. The deferral will allow Applicant to assess the final layout of the site. The landscaping plan submitted will comply with the City of Lincoln's "Design Standards For Screening And Landscaping."

If you have any questions, please let me know.

Thank you.

Sincerely,

Larry V. Albers

LVA \ ss
cc: Evan Perkins (letter only)



**APPLICANT'S RESPONSE
TO
LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT**

for January 7, 2004 PLANNING COMMISSION MEETING

P.A.S.: Use Permit #33C

PROPOSAL: To add two lots to an existing use permit for the purpose of constructing an office building.

LOCATION: Haverford Drive and "L" Street

WAIVER REQUEST:

1. Waive required parking from 14 stalls to 12 stalls.

LAND AREA: 8.6 acres, more or less (existing use permit area)
0.3 acres, more or less (area to be added)

CONCLUSION: This proposal does not conform to the Comprehensive Plan as it expands an existing commercial development into a residential area, when other vacant land appears to be available in an appropriate location.

COMMENT: No other vacant land is available for appropriate location. The proposal conforms to the Comprehensive Plan, subject to Applicant's acceptance of the Planning Department's "Conditions for Approval" [p 135] in the Staff Report for the Use Permit.

RECOMMENDATION: Denial

1. Waive required parking from 14 stalls to 12 stalls. **Denial**

COMMENT: Applicant withdraws any request to waive parking from 14 to 12 stalls, and does not object to the denial.

GENERAL INFORMATION:

LEGAL DESCRIPTION:

Lots 1-4 and Lot 7, Executive Center 1st Addition, located in the NE 1/4 of Section 29 T10N R7E, Lancaster County, Nebraska.

EXISTING ZONING: O-3 Office Park and R-4 Residential

EXISTING LAND USE: Office buildings and vacant

SURROUNDING LAND USE AND ZONING:

North:	Commercial	B-1 Local Business
South:	Residential, offices, and hospital	R-4 Residential, R-1 Residential, O-2 Suburban Office, and P Public

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2025 Land Use Plan shows this area as Urban Residential. (F 25)

The Zoning Map shows the zoning of the two lots as O-3. The two lots have also been taxed by the County Assessor as O-3, not R-4. The Land Use Plan also shows this area as Commercial.

Until the Planning Department discovered that the Zoning Map was in error, Planning staff and Applicant agreed to the specific elements set out in Item 4 of the Planning Department's "Conditions for Approval" [p 135]. Those elements include limiting the building to a single story, brick exterior office building with a pitched roof and with windows and doors oriented towards Haverford Drive and L Street. The conditions also require a 30' setback along Haverford Drive and access only from the east, off the existing L Street entrance.

Urban Residential: Multi-family and single-family residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. (F 27)

The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln's great strengths and their conservation is fundamental to this plan. The health of Lincoln's varied neighborhoods and districts depends on implementing appropriate and individualized policies. The Comprehensive Plan is the basis for zoning and land development decisions. It guides decisions that will maintain the quality and character of the community's established neighborhoods. (F 15)

The health of Lincoln's varied neighborhoods and districts depends upon implementing appropriate and individualized policies. (F15)

Guiding Principles for Commerce Centers: New or established commercial uses should not encroach upon, or expand into, existing neighborhoods. (F 41)

NEIGHBORHOOD CENTERS (Existing centers may vary in size from 50,000 to 300,000 square feet.)
These criteria will serve as a guide to future actions until they are formalized and included in the zoning ordinance.

- Provide a significant mix of uses, including office, service, retail, residential and open space – far more than a typical single use center.

Guiding Principles for New and Existing Neighborhoods: Similar housing types face each other: single family faces single family, change to different use at rear of lot. (F 67)

Neighborhoods should include homes, stores, workplaces, schools and places to recreate. (F 66)

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. . . Expansion in existing [commercial] 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)

TRAFFIC ANALYSIS:

The Comprehensive Plan identifies both Haverford Drive and "L" Streets as Collector Streets, both now and in the future. (E49, F103)

Collector Streets: These streets serve as a link between local streets and the arterial system. Collectors provide both access and traffic circulation within residential, commercial, and industrial areas. Moderate to low traffic volumes are characteristic of

these streets. (F 105)

AESTHETIC CONSIDERATIONS:

As part of Change of Zone #2852 in 1994, the Planning Staff was opposed to changing these two lots from R-4 Residential to O-3 Office Park. These lots were withdrawn from the request by the Applicant. The Staff analysis noted "The transition between the R-1 District and the O-3 District will be eliminated. The duplex lots were to serve as the buffer to the neighborhood. Although the applicant proposes open space across the street from the houses on Haverford, their view will be of a parking lot and parking garage. The residential structures would have visually buffered the "ground activity" on the site for these neighbors." This argument is still valid, and the duplex units remain a more appropriate use for these lots, as was originally proposed with Combined Use Permit/Special Permit #7. However, the office building as proposed by Applicant, which is limited to one story, brick faced, and has an increased setback, could also provide the visual buffer to the larger office buildings and parking areas.

COMMENT: Planning Staff acknowledge that the proposed office building would also create a substantial buffer. Applicant is willing to meet all of the Planning Department's "Conditions for Approval" [p 135].

ALTERNATIVE USES:

These lots could be developed with single-family dwellings or townhouse, similar to the adjacent lots to the north, thereby providing a more substantial buffer and similar type residential buildings between the established residential neighborhood and the office park.

COMMENT: Additional residential dwellings to create a buffer is not feasible. Planning Staff acknowledge that the proposed office building would also create a substantial buffer. Applicant is willing to meet all of the Planning Department's "Conditions for Approval" [p 135].

ANALYSIS:

1. This is a proposal to add two lots to an existing use permit for the purpose of constructing an office building.
2. These particular lots were proposed to be used for a townhouse/duplex at the edge of the office park in Combined Use Permit/Special Permit #7. The Planning Staff opposed the change of zone from R-4 Residential to O-3 Office Park since that could result in the loss of the dwelling acting as a buffer between the single-family residences and the office park. The Applicant subsequently removed these two lots from the request.

COMMENT: The Staff's reference is to a previous application which would have allowed the two lots to be used for parking. Applicant concurs that a parking lot is not an appropriate buffer to the neighborhood.

3. The purpose of the O-3 Office Park District is to provide a mixture of office and other types of compatible and complimentary commercial uses, and residential uses in suburban areas. The district is also intended to provide an appealing atmosphere, stressing the quality of the environment. Adding these lots to the existing use permit will expand the commercial area into the residential portion of the neighborhood without providing either a mix of uses as intended, nor

providing an appropriate buffer to the residential area. The quality of the environment will be reduced rather than improved.

COMMENT: Constructing another single family dwelling or duplex is probably not feasible, as it attempts to create yet another residential buffer. There is little market appeal for such housing.

Planning Staff acknowledge that the proposed office building would also create a substantial buffer. The Staff Report reads in part:

"However, the office building a proposed by Applicant, which is limited to one story, brick faced, and has an increased setback, could also provide the visual buffer to the larger office building and parking areas". [p.133].

Applicant is willing to meet all of the Planning Department's "Conditions for Approval" to the Use Permit [p 135].

4. Although vacant, these lots provide a certain degree of transition between the established residences and the office park and parking lot. As the Planning Staff has suggested previously, residential dwellings would be appropriate at this location to provide the buffer.

COMMENT: Planning Staff acknowledge that the proposed office building would also create a substantial buffer. The Staff Report reads in part:

"However, the office building a proposed by Applicant, which is limited to one story, brick faced, and has an increased setback, could also provide the visual buffer to the larger office building and parking areas". [p.133].

Applicant is willing to meet all of the Planning Department's "Conditions for Approval" to the Use Permit [p 135].

5. As an alternative to developing these two lots with an office building, it could be located further east, on the other side of the parking lot. The attached aerial shows a vacant area within the limits of the existing use permit that is approximately the same size as these lots. This location is closer to existing commercial development, and further from the residential area of this neighborhood.

COMMENT: Gallup may use the east location identified for additional parking, avoiding further encroachment into the neighborhood.

6. The proposal does not provide the required number of parking stalls on-site. Traffic generation has been suggested by Applicant to be 4 cars per day, and a waiver has been requested to reduce the parking from 14 to 12 stalls. However, it appears as though the new office building may be able to utilize excess parking within the use permit. Rather than waive parking, Applicant should attempt to obtain an agreement to use two of the adjacent parking stalls. A written agreement should be provided, the drawing should be revised to indicate which two stalls will be used, and the Phasing Schedule should be revised to show 14 stalls.

COMMENT: Applicant withdraws any request for an on-site waiver of the parking requirements from 12 to 14 stalls. Applicant may seek an agreement with Gallup to use two adjacent stalls, and accepts the Planning Department's recommendation.

7. This property is currently zoned R-4 Residential. Therefore, Change of Zone #3433 must receive a recommendation of approval for this application to receive a positive recommendation.
8. Should the Planning Commission choose to recommend other than Denial, the Planning Staff suggests the following conditions of approval to the use permit, except 1.1.2 and 3, and Denial to the parking waiver.

COMMENT: Applicant withdraws any request for an on-site waiver of the parking requirements from 12 to 14 stalls. Applicant may seek an agreement with Gallup to use two adjacent stalls, and accepts the Planning Department's recommendation.

9. Should the Planning Commission choose to recommend other than Denial to the parking waiver, the Planning Staff suggests all of the following conditions.

CONDITIONS:

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 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.
 - 1.1.1 Revise the plan to show the additional 2 required parking stalls for Phase 9. If off-site parking stalls are to be used, submit a written agreement from the owner of the off-site property.
 - 1.1.2 Should the Planning Commission recommend approval of the parking waiver, show where the additional 2 required parking stalls for Phase 9 could be provided. Also add a note stating the 2 additional parking stalls will be provided prior to a change in occupancy in Phase 9.
 - 1.1.3 Add a note to the plan stating the landscaping will comply with City of Lincoln Design Standards, and landscaping plans for Phases 6, 7, 8, and 9 will be submitted for review with building permits.
 - 1.1.4 Revise the use permit boundary along South 68th Street Place so it will close.

- 1.1.5 Show the area under Use Permit #33 and Combined Use Permit/Special Permit #7 included within this use permit. Specifically, this is the area identified as Existing Lot 7.
 - 1.1.6 Remove the note stating "existing lot 7, not a part of 2nd addition."
 - 1.1.7 Should Administrative Amendment #03098 to use Permit #33B not be approved prior to scheduling this use permit on City Council, revise Phases 6 and 7 to show the existing approved plan.
 - 1.1.8 Add a note stating the office building located in Phase 9 will be one story, include a typical residential pitched roof, typical residential exterior materials, and windows oriented toward the streets.
 - 1.1.9 Show all existing easements.
 - 1.1.10 Add a note stating any relocation of existing facilities will be at owner/developer's expense.
2. This approval permits 155,000 square feet of commercial floor area in 5 buildings.
 3. The required number of parking stalls is reduced from 14 to 12 for Phase 9.
 4. The office building for Phase 9 shall:
 - 4.1. Be limited to one story.
 - 4.2. Have an exterior of primarily brick.
 - 4.3. Have a typical residential style pitched roof.
 - 4.4. Have windows and doors oriented towards Haverford Drive and "L" Street.
 - 4.5. Have a setback of 30' along Haverford Drive.
 - 4.6. Take access only from the east, off of the existing driveway onto "L" Street.

General:

5. Before receiving building permits:
 - 5.1 The permittee shall have submitted a revised final plan including 7 copies and the plans are acceptable.
 - 5.2 The construction plans shall comply with the approved plans.

STANDARD CONDITIONS:

6. The following conditions are applicable to all requests:

- 6.1 Before occupying this office buildings in Phases 6 and 9, all development and construction is to comply with the approved plans.
 - 6.2 All privately-owned improvements, including landscaping, are to be permanently maintained by the owner.
 - 6.3 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.
 - 6.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 6.5 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, filing fees therefor to be paid in advance by the applicant.
7. 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.

COMMENT: Applicant is willing to meet all of the Planning Department's "Conditions for Approval" to the Use Permit.

Prepared by
Greg Czaplewski
Planner

Date: December 22, 2003

Response by
Larry V. Albers,
Gallup, Inc. and Alodium, LLC

Date: January 5, 2004

Applicant: Alodium, L.L.C.
911 Evergreen Drive
Lincoln, NE 68510
438.4421

Owner: Gallup, Inc.
1001 Gallup Drive
Omaha, NE 68102

Use Permit #33C
Haverford Drive and "L" Street

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800.288.8592

Contact: Larry Albers
320 Commerce Court
1230 "O" Street
Lincoln, NE 68508
438.4421

January 7, 2004

Lincoln/Lancaster County Planning Commission
555 S 10th St.
Lincoln NE 68508

Dear Commissioners:

This letter is to inform you that Mr. Albers has solicited our ideas and concerns regarding his construction project at L Street and Haverford Drive.

He sought me out, as the most recent acting President of the Taylor Park Neighborhood Association and participated in a question and answer period at our Neighborhood picnic in September. He has also sent mailings to neighbors directly affected.

Feedback from the meetings has been positive as the project, as outlined, has been designed to fit into the neighborhood with minimal exposed parking, appropriate landscaping, it's small size, and architecture that blends in. I have not received any negative feedback.

I have contacted a few of the neighbors directly affected and we believe that this project is as suitable as we can expect for the zoning the property has.

I do not object to this plan.

Sincerely,



William G. Brown
Past President, Taylor Park Neighborhood Association
421 Haverford Dr.
Lincoln, NE 68510

THE GALLUP ORGANIZATION

EVAN G. PERKINS
Corporate Legal Counsel

GALLUP RIVERFRONT CAMPUS
1001 Gallup Drive
Omaha, NE 68102 USA
(402) 951-2003
Fax (402)938-5927
Evan_Perkins@gallup.com

HAND DELIVERY

January 7, 2004

Planning Commission
555 South 10th, Room 213
Lincoln, NE 68508

RE: Alodium Application for Rezone and Use Permit

Dear Commission Members:

In August, Larry Albers asked Gallup to consider selling its two vacant lots at the corner of Haverford Drive and L Street. Larry described his desire to build a small, single story, brick office building compatible with the neighborhood. We also discussed measures to limit intrusion into the neighborhood, including the need to allow access to the lots from the Gallup Campus, thereby avoiding new entrances off L Street and Haverford Drive. Only after Gallup was satisfied that Larry's plans would be compatible with the neighborhood and with the Gallup Campus, did we agree to the sell the two vacant lots to Larry and Dee Albers (Alodium, LLC). In these discussions, we required Larry to meet with and gain the approval of the neighbors around these lots in order to insure everyone was informed and in agreement with this use.

Gallup supports Alodium's plans for the rezoning of the lots, and the conditions for the Use Permit stipulated by the Planning Staff in its Report. Those conditions are consistent with the plans Larry described, and provide in our opinion, a better choice for buffering the neighborhood than either a single family home or duplex. Building additional residences would likely require two more entrances off L Street or Haverford Drive, and not provide any better aesthetic buffer than a small, brick office building with a pitched roof. We also question whether there is a market for new dwellings on these two lots, with backyards fronting our parking lot and side yards located on two, sometimes busy streets.

We ask that you approve Alodium's request for rezone and the accompanying application for a Use Permit.

Thank you for you consideration.

Sincerely,

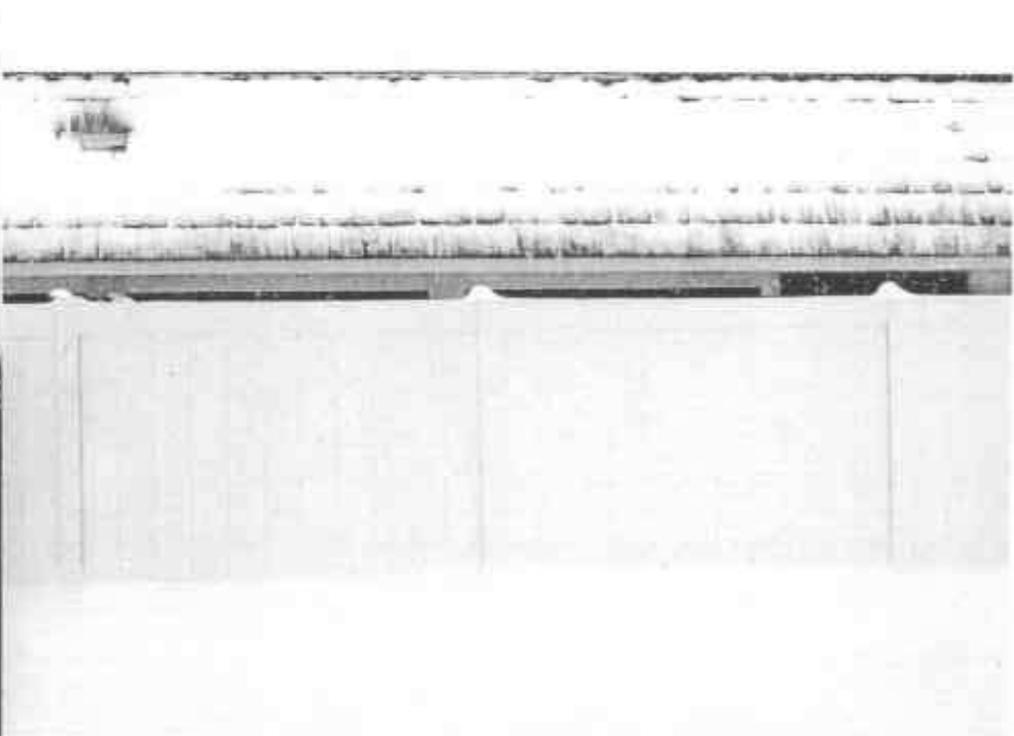


Evan G. Perkins

cc: Larry V. Albers



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