

City Council Introduction: **Monday**, July 18, 2005
Public Hearing: **Monday**, July 25, 2005, at **5:30** p.m.

Bill No. 05R-162

FACTSHEET

TITLE: Letter of Appeal filed by Gary Detweiler, appealing the Planning Commission action approving **SPECIAL PERMIT NO. 05028**, requested by Kendra Brock and Jeff Frederick, for authority to sell alcoholic beverages for consumption on the premises located at The Bristo Ballroom, 2102 Adams Street.

STAFF RECOMMENDATION: Conditional approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 06/22/05
Administrative Action: 06/22/05

RECOMMENDATION: Conditional approval (8-1: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Bills-Strand and Sunderman voting 'yes'; Taylor voting 'no').

FINDINGS OF FACT:

1. The purpose of the proposed Special Permit No. 05028 is for authority to sell alcoholic beverages for consumption on the premises at The Bristo Ballroom located at 2102 Adams Street (generally located at North 23rd Street and Cornhusker Highway).
2. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.7-9, concluding that, with conditions of approval, the request complies with all applicable criteria for a special permit for the sale of alcohol for consumption on the premises, and is an appropriate land use at this location.
3. On June 22, 2005, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On June 22, 2005, the majority of the Planning Commission agreed with the staff recommendation and voted 8-1 to adopt Resolution No. PC-00934 approving the proposed special permit, with conditions (Sunderman, Carlson, Larson, Carroll, Krieser, Pearson, Esseks and Bills-Strand voting 'yes'; Taylor voting 'no'). Resolution No. PC-00934 is found on p.4-6.
5. On July 1, 2005, a letter of appeal was filed by Gary Detweiler, the owner of property on three sides of the applicant's property (p.2). The issues raised by the appellant are access, excessive wear and tear on the parking lots and driveways, and causing a traffic hazard.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: July 11, 2005

REVIEWED BY: _____

DATE: July 11, 2005

REFERENCE NUMBER: FS\CC\2005\SP.05028 Appeal

Gary Detweiler
3441 NW84th street
Lincoln, Nebraska 68524

July 1, 2005

Dear City Council,

I would like to appeal to the City Council in regards to the issuance of a Special Permit No. 05028 for the authority to sell alcoholic beverages on property described as Lot 56, located in the SE 1/4 of Section 12-10-6, Lancaster County, Nebraska, generally located at No. 23rd Street and Cornhusker Highway. I own the property on three sides of the applicants property. The applicants property has extremely poor access available only off of westbound Cornhusker Highway through an easement of Cornhusker Highway frontage properties. My abetting property is a commercial complex development. With the high traffic generated with an alcoholic beverage permit much of the traffic would access through this development causing not only excessive wear and tear on the parking lots and drives, but would also be a traffic hazard for my tenants and their customers.

Sincerely,


Gary Detweiler

CITY CLERK'S OFFICE
2005 JUL 1 PM 3 27
CITY OF LINCOLN
NEBRASKA

7/1- Planning
Dep. Clerk

002

**PLANNING COMMISSION FINAL ACTION
NOTIFICATION**

TO : Mayor Coleen Seng
Lincoln City Council

FROM : Jean Walker, Planning 

DATE : June 24, 2005

RE : **Special Permit No. 05028**
(On-sale alcohol - 2102 Adams Street)
Resolution No. PC-00934

The Lincoln City-Lancaster County Planning Commission took the following action at their regular meeting on Wednesday, June 22, 2005:

Motion made by Larson, seconded by Carlson, to approve **Special Permit No. 05028**, with conditions, requested by Kendra Brock and Jeff Frederick, for authority to sell alcoholic beverages for consumption on the premises generally located at The Bristo Ballroom, 2102 Adams Street.

Motion to approve, with conditions, carried 8-1: Sunderman, Carlson, Larson, Carroll, Krieser, Pearson, Esseks and Bills-Strand voting 'yes'; Taylor voting 'no'.

The Planning Commission's action is final, unless appealed to the City Council by filing a Letter of Appeal with the City Clerk within 14 days of the date of the action by the Planning Commission.

Attachment

cc: Building & Safety
Rick Peo, City Attorney
Public Works
Kendra Brock, 3451 N. 52nd, 68504
Jeff Frederick, 14700 Country Lane, 68517
Zan It, LLC, P.O. Box 80612, 68501

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RESOLUTION NO. PC- 00934

SPECIAL PERMIT NO. 05028

1 WHEREAS, Kendra Brock and Jeff Frederick have submitted an applica-
2 tion designated as Special Permit No. 05028 for authority to sell alcoholic beverages for
3 consumption on the premises generally located at The Bristo Ballroom, 2102 Adams
4 Street, legally described as:

5 Lot 56, Irregular Tract, located in the Southeast Quarter of
6 Section 12, Township 10 North, Range 6 East of the 6th
7 P.M., Lancaster County, Nebraska; and

8 WHEREAS, the real property adjacent to the area included within the site
9 plan for this permit to sell alcoholic beverages on the premises will not be adversely
10 affected; and

11 WHEREAS, said site plan together with the terms and conditions
12 hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln
13 Municipal Code to promote the public health, safety, and general welfare.

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

16 That the application of Kendra Brock and Jeff Frederick, hereinafter
17 referred to as "Permittee", to sell alcoholic beverages for consumption on the premises

1 on property legally described above be and the same is hereby granted under the
2 provisions of Section 27.63.680 of the Lincoln Municipal Code upon condition that
3 operation of said licensed premises be in strict compliance with said application, the
4 site plan, and the following additional express terms, conditions, and requirements:

5 1. This permit approves the sale of alcohol for consumption on the
6 premises as designated on the site plan.

7 2. Before receiving building permits:

8 a. The Permittee must submit the six copies of a revised site
9 plan that includes a parking and access plan and a drainage
10 plan approved by the Public Works & Utilities Department to
11 the Planning Department for review and approval.

12 b. The Permittee must submit an ownership certificate
13 prepared and signed by an attorney, title company, or
14 abstractor. It must include the legal description of the
15 subject property.

16 c. The construction plans must comply with the approved
17 plans.

18 3. Before the sale of alcohol for consumption on the premises, all
19 development and construction must conform to the approved plans.

20 4. The site plan approved by this permit shall be the basis for all
21 interpretations of setbacks, yards, locations of buildings, location of parking and
22 circulation elements, and similar matters.

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for June 22, 2005 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #05028

PROPOSAL: To allow the sale of alcoholic beverages for consumption on the premises for the Bristo Ballroom.

CONCLUSION: Provided the corrections noted in the recommended conditions for approval are made, this request complies with all applicable criteria for a special permit for the sale of alcohol for consumption on the premises, and is an appropriate land use at this location.

RECOMMENDATION:	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 56 I.T. located in the southeast 1/4 of Section 12, T10N, R6E.

LOCATION: 2102 Adams Street

EXISTING ZONING: I-1 Industrial

EXISTING LAND USE: Commercial

SURROUNDING LAND USE AND ZONING:

North:	Industrial	I-1
South:	Commercial	H-3
East:	Vacant	I-1
West:	Commercial/Industrial	I-1

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates commercial land uses in this area.

BACKGROUND: This request is to allow the sale of alcohol for consumption on the premises at the Bristo Ballroom. The ballroom is to occupy the existing 7,200 square foot building already located on the site and is proposing to serve alcohol in conjunction with wedding receptions, banquets, and other events hosted at the facility.

ANALYSIS:

1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC) 27.63.680: Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3,

H-4, I-1, I-2 and I-3 zoning districts upon the approval of a special permit. Alcoholic beverages may also be sold for consumption on the premises as an accessory use to a golf course or country club as part of a separate special permit under Section 27.63.130 approving the golf course or country club in any district where recreational facilities are allowed as a permitted use, permitted conditional use, or permitted special use. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(a) Parking shall be provided on-site at the ratio of one space per 100 square feet of gross floor area.

The application notes that the parking lot is in the process of being paved and the exact number is not known. Based upon floor area, 72 stalls are required. Public Works notes in their review that the site plan must be revised to show enough detail to determine adequate access, parking, and drainage.

(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.

This application is for a special permit to allow the sale of alcohol for consumption on the premises. The sale of alcoholic beverages off the premises is not a part of this proposal and is not being requested.

©) The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district (except where such use is accessory to a golf course or country club).

There is no day care facility, park, church, state mental health institution, or residential district within 100' of this use. The nearest of any of these is the R-2 residential district in excess of 600' away northwest of the site.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

Any new lighting associated with the parking lot is subject to compliance with the City of Lincoln Design Standards. Compliance with these standards is reviewed at the time of building permits.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not shown as part of this application.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

There are no such devices as part of this application.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

There is no potential for access doors being located within 150' of a residential district, as noted previously the nearest residential district is in excess of 600' away from the site.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to the premises is from North 23rd Street which is not considered a "residential street" at this location.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

Planning Commission approval is required for this use.

2. DEPARTMENT RESPONSES:

POLICE: The Police Department had no objection to this request.

PUBLIC WORKS: Public Works and Utilities noted that they will require a detailed site plan to determine adequacy of access, parking, and drainage.

HEALTH: The Health Department included an advisory note informing the applicant of the requirements of Lincoln's noise control ordinance.

CONDITIONS:

Site Specific:

1. This approval permits the sale of alcohol for consumption on the premises as designated on the site plan.

General:

2. Before receiving building permits:
 - 2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department for review and approval.
 - 2.1.1 Submit six copies of a revised site plan that includes:
 - 2.1.1.1 A parking and access plan to the satisfaction of Public Works and Utilities.
 - 2.1.1.2 A drainage plan to the satisfaction of Public Works and Utilities.
 - 2.1.2 Submit an ownership certificate.
 - 2.2 The construction plans comply with the approved plans.

Standard:

3. The following conditions are applicable to all requests:
 - 3.1 Before the sale of alcohol for consumption on the premises, all development and construction is to comply with the approved plans.
 - 3.2 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.
 - 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

- 3.4 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.

Prepared by:

Brian Will, AICP
441-6362, bwill@lincoln.ne.gov
Planner

June 9, 2005

OWNER: Jeff Frederick
14700 Country Lane
Lincoln, NE 68517
(402) 580-5555

**APPLICANT/
CONTACT:** Kendra Brock
3451 North 52nd Street
Lincoln, NE 68504
(402) 560-5308

SPECIAL PERMIT NO. 05028

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

June 22, 2005

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

The Consent Agenda consisted of the following items: **PRE-EXISTING SPECIAL PERMIT NO. 31A; PRE-EXISTING SPECIAL PERMIT NO. 32A; SPECIAL PERMIT NO. 05027; *SPECIAL PERMIT NO. 05028*; SPECIAL PERMIT NO. 05029; SPECIAL PERMIT NO. 05030; and COMPREHENSIVE PLAN CONFORMANCE NO. 05001.**

Item No. 1.3, Special Permit No. 05027, and Item No. 1.6, Special Permit No. 05030, were removed from the Consent Agenda and scheduled for separate public hearing.

Ex Parte Communications: None.

Carlson moved to approve the remaining Consent Agenda, seconded by Carroll and carried 8-1: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Bills-Strand and Sunderman voting 'yes'; Taylor dissenting.

Note: This is final action on Pre-Existing Special Permit No. 31A, Pre-Existing Special Permit No. 32A, ***Special Permit No. 05028*** and Special Permit No. 05029, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.



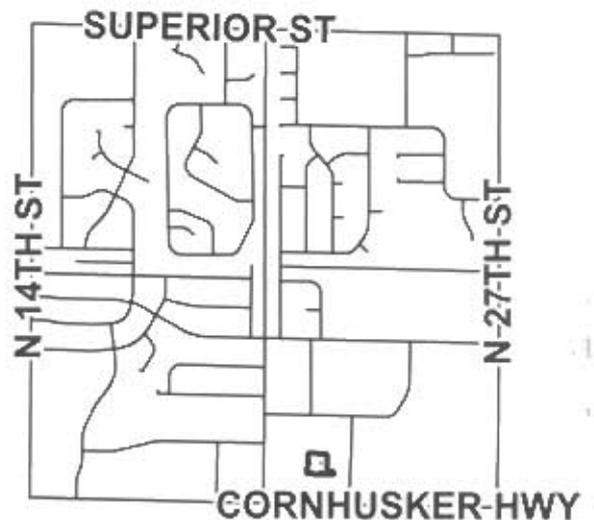
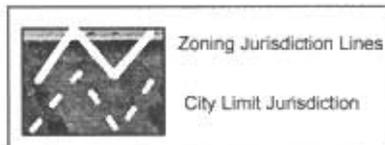
2002 aerial

Special Permit #05028 N. 23rd & Cornhusker Hwy

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-6	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. 12 T10N R6E





Judson St.

 LICENSED PREMISES

Scale: 1" = 60'

I-1

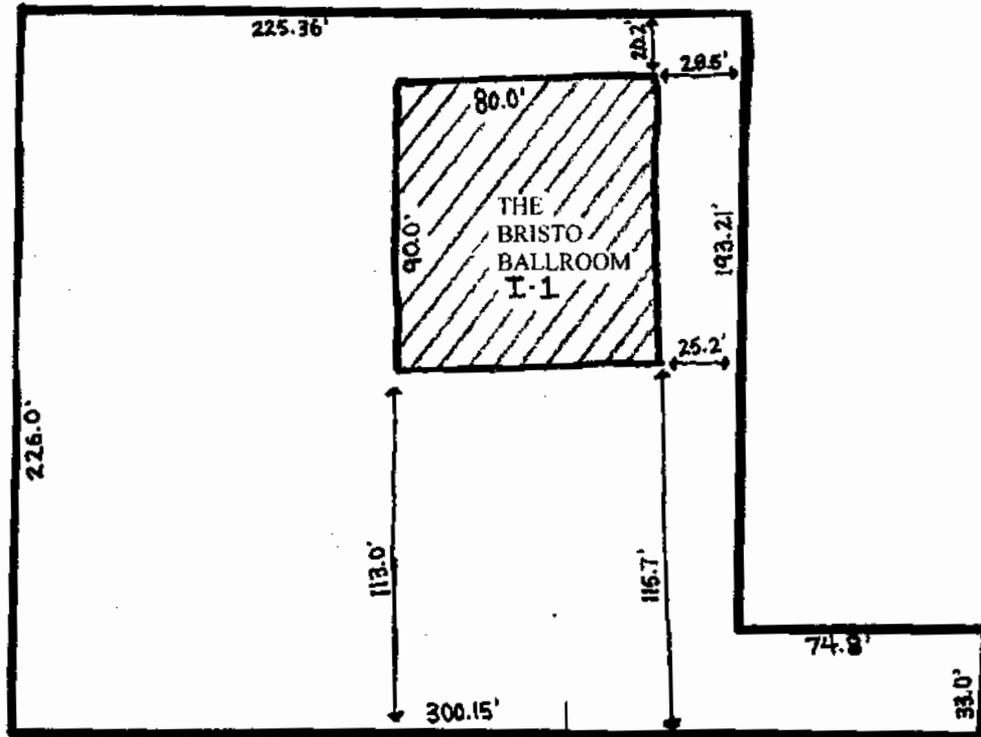
2102 Adams St.

N. 20th St.

N. 23rd St.

I-1

I-1



ENTRANCE / EXIT
TO LOT

Legal Description:
IRREGULAR TRACT LOT 56 SE 12-10-6

H-3

Cornhusker Hwy.

RECEIVED

MAY 26 2005

WICHITA COUNTY REGISTER
RECORDS DEPARTMENT

Purpose Statement of Application for Special Permit

Kendra Brock
The Bristo Ballroom
Legal Address: 2102 Adams Street, Lincoln, NE 68521
Mailing Address: 2112 Cornhusker Hwy. , Lincoln, NE 68521

The operation of The Bristo Ballroom is to provide a hall for rent for events such as wedding receptions, banquets, anniversary parties and/or conferences. Alcoholic beverages will be served at these events for on-sale purposes only.

The parking lot is in the process of being paved so the exact number of parking stalls is unknown at this time. The area of the parking lot is approximately 23,780 square feet. The building is 7,200 square feet.

The Bristo Ballroom is not located within 100 feet of any day care facility, park, church, or state mental institution. The nearest residential area to The Bristo Ballroom is 660 feet away from the NW corner of the building.

Lighting on the property is in accordance with applicable regulations.

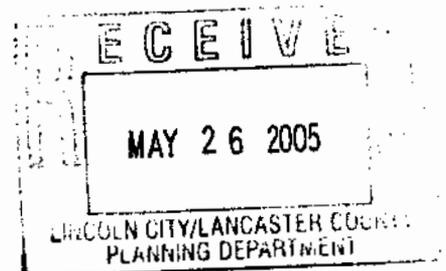
There will be no use of amplified outside sound within 150 feet of residential areas.

No doors are within 150 feet of residential areas. No door facing a residential area will be kept open during the operation of the establishment.

The entrance and exit to the building does not disrupt any residential area. The entrance is off of Cornhusker Hwy.



Kendra Brock
The Bristo Ballroom



**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Brian Will	DATE: June 3, 2005
DEPARTMENT: Planning	FROM: Chris Schroeder
ATTENTION:	DEPARTMENT: Health
CARBONS TO: EH File EH Administration	SUBJECT: The Bristo Ballroom SP #05028

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the special permit application with the following noted:

- The LLCHD notes that residential zoning is located to the west and northwest of the proposed Bristo Ballroom. The LLCHD advises the application to become familiar with the City of Lincoln's, Noise Control Ordinance Chapter 8.24 L.M.C. Specifically, measured at the property line for residential zoning, noise pollution cannot exceed 65 dB(A) from 7:00 am to 10:00 pm and 55 dB(A) from 10:00 pm to 7:00 am.

Memorandum

To: Brian Will, Planning Department
From: Charles W. Baker, Public Works and Utilities
Subject: The Bristo Ballroom Alcohol Sales Special Permit #05028
Date: June 8, 2005
cc: Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities will require a detailed site plan of the lot to determine adequate access, parking and drainage requirements.