

City Council Introduction: **Monday**, March 15, 2004
Public Hearing: **Monday**, March 22, 2004, at **1:30** p.m.

Bill No. 04R-51

FACTSHEET

TITLE: SPECIAL PERMIT NO. 04006, requested by Overstreet, Inc., for authority to sell alcoholic beverages for consumption off the premises, on property located at 1301 North 27th Street (North 27th & Dudley).

STAFF RECOMMENDATION: Denial.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 03/03/04
Administrative Action: 03/03/04

RECOMMENDATION: Denial (6-2: Carlson, Marvin, Carroll, Sunderman, Krieser and Taylor voting 'yes'; Larson and Bills-Strand voting 'no'; Pearson absent).

FINDINGS OF FACT:

1. The staff recommendation to **deny** this special permit request for authority to sell alcoholic beverages for consumption off the premises, is based upon the "Analysis" as set forth on p.3-6, concluding that the proposed special permit is within 100' of both a residence and a residential district. Due to the intensity of the site development, access to a residential street, insufficient screening, the orientation of surrounding residences and the fact that this request is located within an impacted neighborhood, it is not possible to mitigate the impacts of the sale of alcohol for consumption off the premises.
2. The applicant's testimony is found on p.9-10, contending that this special permit is necessary for the applicant to compete with other off-sale establishments in the area. The applicant contends that the construction of a fence and the car wash facility abutting the alley will provide significant screening from the neighborhood and will isolate the convenience store from any of the neighborhood problems identified by the opposition.
3. Testimony in opposition on behalf of the Clinton Neighborhood Association is found on p.10-11, and the record consists of three electronic mail messages in opposition (p.20-23). The concerns of the opposition include increased traffic, potential for litter and increased crime, inadequate distance from residential district and uses, and the existence of adequate liquor outlets in the immediate area.
4. The applicant's response to the opposition is found on p.11.
5. The Commission discussion with staff is found on p.11-12.
6. On March 3, 2004, the majority of the Planning Commission agreed with the staff recommendation, finding that the proposal does not meet the requirements of the existing ordinance, and voted 6-2 to recommend denial (Larson and Bills-Strand dissenting; Pearson absent).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: March 8, 2004

REVIEWED BY: _____

DATE: March 8, 2004

REFERENCE NUMBER: FS\CC\2004\SP.04006

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for March 3, 2004 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #04006

PROPOSAL: A special permit to allow the sale of alcoholic beverages for consumption off the premises.

CONCLUSION: This request is within 100' of both a residence and a residential district. Due to the intensity of the site development, access to a residential street, insufficiency of screening, the orientation of surrounding residences, and the fact that this request is located within an impacted neighborhood, it is not possible to mitigate the impacts of the sale of alcohol for consumption off the premises due to the reduction in separation of less than 100'.

<u>RECOMMENDATION:</u>	Denial
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GENERAL INFORMATION:

LEGAL DESCRIPTION: The east 80' of Lots 10, 11, and 12, Cooleys Addition, Lincoln, Lancaster County, Nebraska.

LOCATION: 1301 North 27th Street

EXISTING ZONING: B-3 Commercial

EXISTING LAND USE: Convenience Store

SURROUNDING LAND USE AND ZONING:

North:	Residential	B-3
South:	Commercial	B-3
East:	Commercial	B-3
West:	Residential	R-4

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

TOPOGRAPHY: The topography is flat in this area and along this portion of the North 27th Street corridor. This site and all surrounding properties are developed.

ASSOCIATED APPLICATIONS: CZ#04003 - Proposes amending LMC Sections 27.63.680 and 27.63.685 by: deleting the provision that allows City Council to waive any of the specifically listed conditions; deleting the provision that allows the applicant to mitigate the adverse effects when the

premises is less than 100' from specific uses and residential zoning districts; deleting residential uses from the uses that must be at least 100' away from alcohol sales; deleting the provision that the City Council determines the proper vehicular access to the property; adding parks, churches, and state mental health institutions to the list of uses that must be 100' away from alcohol sales; gives the Planning Commission authority to approve the special permit; and, deleting the planning director's authority to approve mitigation plans. The Planning Commission considered the application on **February 18, 2004**, and after a public hearing voted 6-2 to deny the request.

ANALYSIS:

OVERVIEW: This request is to allow the sale of alcohol for consumption off the premises, a change in use that requires a special permit to be allowed. The site is developed with a T's Stop & Shop convenience store and car wash facility, located in separate buildings. The applicant is proposing to sell alcohol for consumption off the premises from the convenience store.

CZ#04003 proposes changes to the requirements for special permits for the sale of alcohol which would affect this application if they were in effect. However, this request is subject to the requirements of the Zoning Ordinance at the time it was submitted, and has been reviewed using the existing requirements.

1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC) 27.63.685: Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1 and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions, which may be waived by the City Council:

(a) Parking shall be in accordance with LMC Section 27.67.020.

The B-3 district requires one parking space per 600 square feet of floor area. The site plan shows a 1,910 square foot building with a paved parking lot and five off-street parking spaces - one more than LMC requires. New convenience stores typically provide two to three times more parking spaces. The site is intensely developed, and the sale of alcohol will only serve to create additional parking demand and traffic conflicts on a site where only a minimum number of spaces and circulation area is provided.

(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under LMC Section 27.63.680 of this code.

The sale of alcohol for consumption on the premises has not been proposed, and a special permit to allow it has not been requested.

©) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.

The premises is located closer than 100' to both a residence to the north, and a residential district to the west. The premises is approximately 46' from the R-4 district to the west, and approximately 30' from a residence to the north. To offset the reduced separation, the applicant states that mitigation is provided by the following measures:

1. A 6' wooden privacy fence has been erected along the west and north property lines.
2. A row of proposed trees along the west property line. However, the type, size, and spread are not indicated.
3. The licensed premises is orientated south, and does not face either a residence or a residential district.
4. The car wash facility serves to help screen the convenience store from properties to the west.
5. There is not a drive-thru associated with the convenience store, nor are there exterior bells, buzzers, or loud speakers.
6. Outdoor lighting meets applicable requirements and regulations.

It should be noted that the fence described in #1 above is existing along the north property line, and is not a measure being proposed specifically to address the sale of alcohol. Additionally, it is not possible to evaluate the screening potential of the proposed trees along the west property line as the type, size, height and spread have not been provided. These trees should be deciduous and coniferous trees planted in an alternating pattern, and of a size that is adequate to provide immediate screening. Due to the actual configuration of the car wash drive-thru and the way it intersects the adjacent alley, it is not possible to provide screening along the full extent of the west property line. Also, the viability of the proposed landscaping in the rear portion of this line is questionable due to the limited width for planting along a building wall.

The licensed premises is approximately 30' away from the residence to the north, and abuts the side yard of the house. Due to the building configuration, the drive-thru stacking lane for the car wash wraps around the north side of the convenience store and is very close to the property line. Due to this proximity, planting any screening as mitigation in this area is unlikely.

This request is distinguished from other cases due to the orientation of nearby residences. Typically, the rear of the residential lots are presented to the commercial lot, with the residences all facing different streets. In this case, the residential building immediately to the west has at least two entrance doors facing Dudley Street, and is much closer to the vehicular and pedestrian traffic that is generated by the convenience store.

It should also be noted this store is located in a neighborhood that suffers from a higher crime rate compared to other neighborhoods in Lincoln. The availability of alcohol at this location is likely to increase that rate, as the crime rate associated with convenience stores that sell alcohol are generally higher than those that do not. If this request is approved, additional employees should also be required - two at the store at all times - to help provide increased security.

In several cases where proximity to residences was a concern, mitigation plans limited the hours during which alcohol could be sold. This application does not propose any such limit, but

restricting the sale of alcohol to between the hours of 7 a.m. and 10 p.m. is a reasonable condition.

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

The mitigation plan indicates that exterior lighting complies with all applicable regulations and requirements. However, canopy lights are not subject to parking lot lighting design standards - but for this site they should be. The mitigation plan must be revised to state that the canopy lights will comply with the parking lot design standards for lighting to ensure that light is contained on site to the extent required by the Design Standards.

(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.

There is a drive-thru aisle on the site for the car wash, but a drive-through window is not being proposed in conjunction with the convenience store or with the sale of alcohol. However, the site plan does not show the actual alignment of the drive-thru where it exits the car wash. The site plan must be revised to show 'as-built' conditions for the entire site and all facilities.

(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.

No such devices are proposed with this special permit.

(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.

The entrance door to the convenience store faces south and does not face a residential district.

(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 this site is from North 27th Street (arterial) and from Dudley Street (residential). In contrast to other requests where vehicular access was limited to arterial streets, traffic to and from this store would continue to use Dudley Street for access. The proposed alcohol sales will result in increased traffic on Dudley, a residential street.

(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.

Planning Commission review and City Council approval is required for this use.

1. POLICE RESPONSE: The Police Department notes that the premises is less than 100' to a residence and a residential district and recommends denial. The review goes on to note that the Department understands that a mitigation plan can be approved at the Planning Director's discretion.

2. PUBLIC WORKS RESPONSE: Public Works and Utilities had no objections to this special permit request.

The staff recommendation is for denial. However, should the City Council vote to approve the request, approval should be subject to 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 Revise the site plan to show:

1.1.1 The height and material of the fence.

1.1.2 A planting schedule that includes the type, height, and design spread of the trees. The planting schedule must show one-half the number of trees as upright junipers or other conifers that exceed 6' in height, planted in an alternating pattern with deciduous trees with the minimum size of the trees planted being 2 ½" caliper.

1.1.3 'As-built' site conditions.

1.2 A revised mitigation plan stating that:

1.2.1 All exterior lights, including canopy lights, must comply with the Design Standards for parking lot lighting.

1.2.2 The sale of alcohol limited to between the hours of 7:00 a.m. and 10:00 p.m.

1.2.3 Two employees on site at all times.

2. This approval permits the sale of alcohol for consumption off the premises as shown on the site plan.

General:

3. Before receiving building permits:

3.1 The permittee shall have submitted a revised final plan with 5 copies.

3.2 Lighting on the property shall be designed and erected in accordance with parking lot lighting design standards.

3.3 The construction plans shall comply with the approved plans.

Standard Conditions:

4. The following conditions are applicable to all requests:

4.1 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.

4.2 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

4.3 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.

Prepared by:

Brian Will, 441-6362, bwill@ci.lincoln.ne.us
Planner

February 19, 2004

APPLICANT: Overstreet, Inc.
3141 North Hill Road, #104
Lincoln, NE 68508
(402) 474-2104

CONTACT: Patrick O'Brien
811 South 13th Street
Lincoln, NE 68508
(402) 475-0811

OWNER: Terrance Rupert
1401 West Saltillo Road
Roca, NE 68430
(402) 474-2717

SPECIAL PERMIT NO. 04006

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 3, 2004

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

Staff recommendation: Denial.

Ex Parte Communications: None.

Brian Will of Planning staff submitted additional information for the record, consisting of four letters in opposition.

Proponents

1. **Pat O'Brien** appeared on behalf of the applicant, **Overstreet, Inc.** Lakisha Overstreet is the applicant, who is currently under a conditional lease with T's Stop and Shop. If this application is approved, she will enter into a lease for the entire premises and will apply for an off-sale liquor license to sell beer at this location and she will be operating this facility. She has been the primary person responsible for the operation of this location for the last year, and substantially responsible for the operation for the last three years. She was also operating the facility on S. 14th for part of that time, which is now a stand-alone gas station without convenience items.

O'Brien went on to state that T's Stop and Shop, being the current owner of the property, has reviewed the staff recommendation and the proposed conditions of approval, if the Commission votes to approve this special permit. For the most part, the applicant and owner agree with the conditions. The only reservation would be the hours of operation. The applicant would prefer 7:00 a.m. to 11:00 p.m. as opposed to 7:00 a.m. to 10:00 p.m. The suggested revisions to the site plan have been completed and the applicant is prepared to resubmit the revised site plan. With respect to the lighting requirements, it is O'Brien's understanding from a conversation with the Planning staff this morning, that the staff is not sure they are in compliance with the lighting standards; however, the applicant believes they are in compliance, including the canopy lighting. This is a recently constructed facility that has met all code conditions.

O'Brien further advised the Commission that T's Stop and Shop has received an award for neighborhood improvement for replacing the gas station that had been at this location for many years. Some residences located on part of the lot were run down and had deteriorated. That location was rebuilt with a new building and new pumps; the old underground tanks were repaired and it has become a thriving business on N. 27th Street. This facility at this location, however, has had one glaring deficiency, and that is that it is competing with other convenience stores in that locality which have off-sale beer licenses, including a Kwik Shop 1.5 blocks away, another shop on 33rd & * Holdrege and another in the vicinity. It has become apparent that in order to compete in this business you must have the ability to sell off-sale beer and that is the reason for this application.

With respect to the area in general, O'Brien pointed out that the authors of the letters in opposition identify themselves as members of the neighborhood association, but the applicant has talked to the neighborhood association. The neighborhood association is neutral and has taken no position on this matter. O'Brien urged that the individual complaints should be treated as individual complaints and not as neighborhood association complaints.

O'Brien then discussed the residential properties located in this vicinity. The house immediately to the north is a single family residential property, occupied by a long time tenant, and the convenience store has had good relationships with that tenant. There is a 6' fence screening the property from the convenience store gas station. The applicant is not opposed to additional plantings if the landlord is willing to have the plantings in that location for additional screening.

With regard to the residential area to the west that fronts onto 26th Street, O'Brien pointed out that Mr. T's fronts onto 27th Street and abuts the alley between 26 and 27th Street. He believes that the construction of the fence described in the application as well as the car wash facility abutting the alley does provide significant screening from the neighborhood and isolates the convenience store from any of the neighborhood problems that have been identified. No. 27th is primarily a commercial corridor with businesses operating exactly as Mr. T's is operating except for the disadvantage of not selling beer. O'Brien believes that this applicant has provided a better and higher quality of service and is unable to compete on an equal basis without this special permit.

Taylor confirmed that the convenience store with which this facility is competing is on the same street and to the south. O'Brien concurred. It is the Kwik Shop to the south.

Opposition

1. Renee Malone, 1408 N. 26th Street, past president of **Clinton Neighborhood Association** and current Vice-President and Board member, testified in opposition. She stated that this application was never brought to the Clinton Neighborhood Association to see if they were in favor or against. The only notice received by the neighborhood association was that sent out by the Planning Department. She lives approximately one block from this facility and she knows that there is numerous opposition in the neighborhood. Malone suggested that part of the reason for the requirements for special permits is because we do not want a liquor store within less than 100' of a residence. The traffic is already very heavy. The cars from Mr. T's pull out onto Dudley and onto 27th. She is concerned about more traffic congestion. There was previously a bar across the street at 33rd & Holdrege which caused continuous problems when it was selling off-sale. There were beer cans in the residents' yards, public drunkenness, etc. Pan handling and crime could increase. Revitalization projects have been done on North 27th Street and the neighbors are trying to keep the liquor stores to a limit. They desire to make this more of a family oriented neighborhood.

Malone is also concerned about this being brought as a special permit under another name as management because the owner has a felony record and would not be able to get a license. Regardless, there are enough liquor outlets in the area. This area already has a lot of trouble with transients coming from the railroad tracks north of Holdrege, and this just creates one more spot closer for them to wander down into the neighborhood.

Krieser inquired as to the distance from this facility to the closest residential property. Malone believes it would be less than 30' to the north. There are also houses on the west. The Kwik Shop is across the street and down the road.

Larson inquired about the former bar across the street (J Ryans) as to whether they had off-sale. Malone clarified that they had off-sale in addition to the bar.

Response by the Applicant

O'Brien clarified that the applicant is Overstreet, Inc., a corporation, the sole stockholder of which is Lakisha Overstreet. She will also be the applicant for the liquor license. As part of the application for liquor license, she will file the lease to be entered into between T's Stop and Shop and Lakisha Overstreet. O'Brien took offense to the reference to the felony conviction of Terry Rupert being used in testimony by the opposition. Mr. Rupert wounded an individual in self defense. He was placed on probation and has successfully completed every requirement imposed. He was released from probation early; he started T's Stop and Shop and has made the improvements to this neighborhood that vastly improved the appearance and the manner in which this neighborhood has operated. Mr. Rupert has received awards and recognition throughout his career as the minority small business man who sought to improve himself and this community. Aspersions to his character should be rejected by this Commission in considering this special permit.

O'Brien further rebutted, stating that this is a lawful business that is being carried on in an area that is mostly commercial in nature. Certainly, the houses on 26th Street and to the east, and on 28th Street and to the west constitute neighborhood groups, but there is absolutely no indication that anyone can bring to this Commission that T's Stop and Shop has ever contributed to any of the negative impacts to which the opposition testified. T's Stop and Shop has an excellent relationship with all law enforcement officers and has always responded to whatever the city has sought in terms of improvements in the neighborhood. O'Brien believes that a special permit in these circumstances certainly meets the letter of the requirements for a special permit, but is also an appropriate special permit, at least as appropriate as the permit on 48th & Randolph and the Valentino's permit on 48th & Hwy 2. This is even more clearly a commercial area. This is even more clearly a situation where business operators must be treated fairly. We must put them on an even basis with their direct competition within very short distances. This facility has no connection with the J Ryans bar referred to by the opposition. This is an applicant who has demonstrated her competence in operating two convenience stores for a long period of time. She has successfully completed a number of requirements for these kinds of facilities and will comply with all rules and regulations of the state and the city.

Staff questions

Bills-Strand inquired as to the distance comparisons with the Valentino's-To-Go and the 48th & Randolph location. Brian Will of Planning staff stated that generally, the proximity to the residential district is similar. The distinction that staff tried to make is the orientation of the adjacent residences, that being those residences to the west with doorways and pedestrian traffic facing onto Dudley Street. At 48th & Randolph, the residence to the south was approximately 30 feet, and the residential district to the east was approximately 50'. At 48th & Hwy 2, it was approximately 50' to the residential district, but over 100' to the residences.

Marvin inquired whether the statement that this facility is 30' from the residence is correct. Will referred to the aerial photograph. Immediately to the north, there is a residence approximately 30' from the licensed premises.

Bills-Strand inquired as to the distance from the residential lot line to the public entrance to the building. Will stated that the distance from the zoning district line to the public doorway would be approximately 46' from the R-4 to the west, and if you look at the site plan, there appears to be one main entrance on the east half of the building. It looks like there is a doorway on the west half of the building. O'Brien clarified that the only public doorway faces to the south toward the gas pumps. There is no other public doorway, and it is on the opposite side of the building to the residential house to the north. There is a car wash and the 6' fence between the building and the north house. To the west there is fencing and the car wash. There is another commercial building across the street on Dudley. There is no residence that opens directly to the public door. Given it is 46' from the building to the R-4 district, Will would guess that it is less than 100' to the public entrance, but probably fairly close.

Sunderman wondered whether there is adequate parking. Will stated that the parking shown complies with the zoning ordinance for this district. It is noted in the staff report that we would typically find parking in excess of what is being shown for convenience stores, but strictly speaking, the required off-street parking is provided.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 3, 2004

Carlson moved to deny, seconded by Marvin.

Carlson noted the discussions about competition, but the Commission is only reviewing this application. Situations and circumstances are always going to be different. This use ought to be 100' away from the residential district and residential use, and, if not, they need to provide mitigation. This application certainly does not meet the distance requirement and staff indicates that they have not provided sufficient mitigation for various reasons. Because of the proximity and the site layout, we do not have sufficient mitigation and he is opposed.

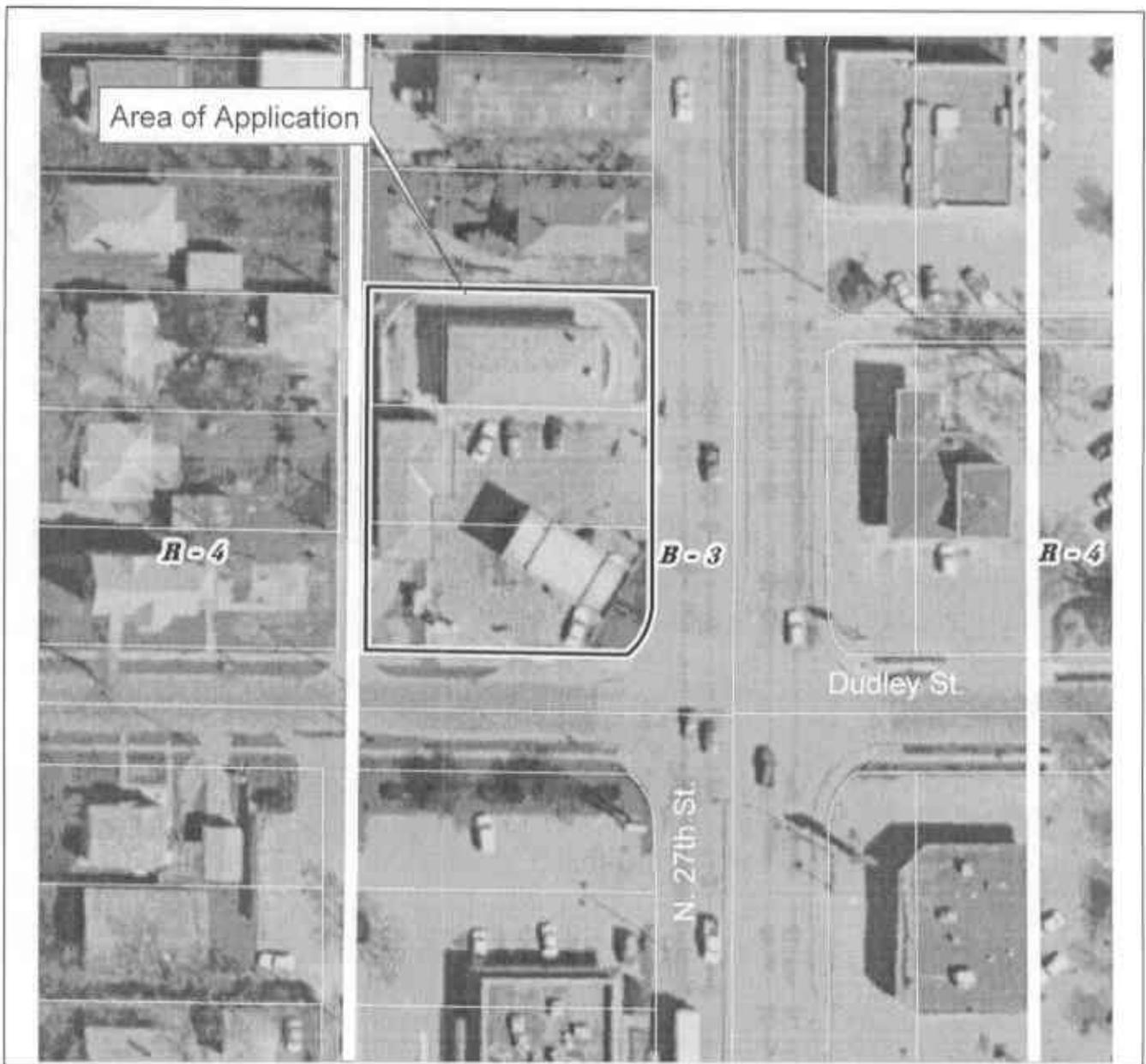
Larson will vote against denial because he believes there is proper mitigation and he believes the complaint about the previous establishment across the street was primarily based on the fact that it was on-sale rather than off-sale, and he thinks there is a big difference.

Taylor believes that Mr. T's is an excellent facility for gas. He didn't even know the Kwik Shop up the street existed, so he does not believe it is a competition problem. The Planning Commission recommended denial of the 48th & Randolph special permit because of the concerns of the neighborhood. He also has concerns for this area. He is not concerned about anyone's reputation. He understands competition but for this neighborhood, because it is depressed and because of the proximity of the neighbors, he must vote to deny.

Marvin stated that he will also support denial because the distance is similar to 48th & Randolph, which the Commission rejected, and because Mr. O'Brien described it as a thriving business without alcohol sales. He is sure alcohol sales would add revenue, but given the support it has received from the community, he does not believe it will harm the business to leave it the way it is.

Carroll stated that he will also vote to deny. Who runs the establishment has nothing to do with it. This is clearly not 100' away on two sides. It is tucked into the neighborhood. It does not meet the ordinance requirements today, and he does not believe it can be mitigated sufficiently. There is alcohol down the street, but that's just business. He does not believe we can change the mitigation and the site to improve it to sell alcohol. It is a tough place to get into as it is today, and adding alcohol would increase the traffic. It just does not meet the ordinance that it is in place.

Motion to deny carried 6-2: Carlson, Marvin, Carroll, Sunderman, Krieser and Taylor voting 'yes'; Larson and Bills-Strand voting 'no'; Pearson absent. This is a recommendation to the City Council.



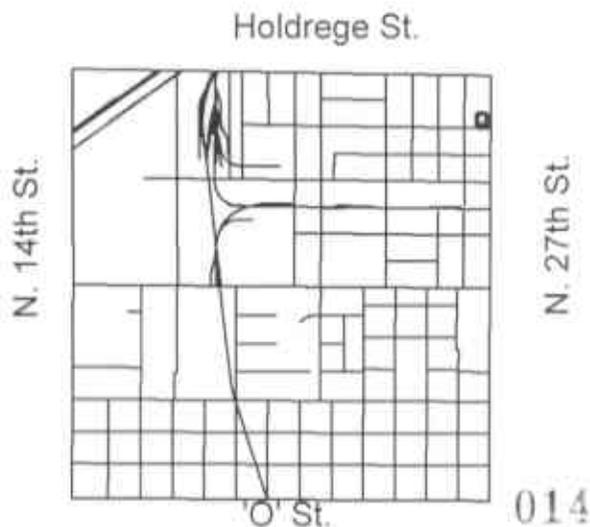
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Special Permit #04006 N. 27th & Dudley St.

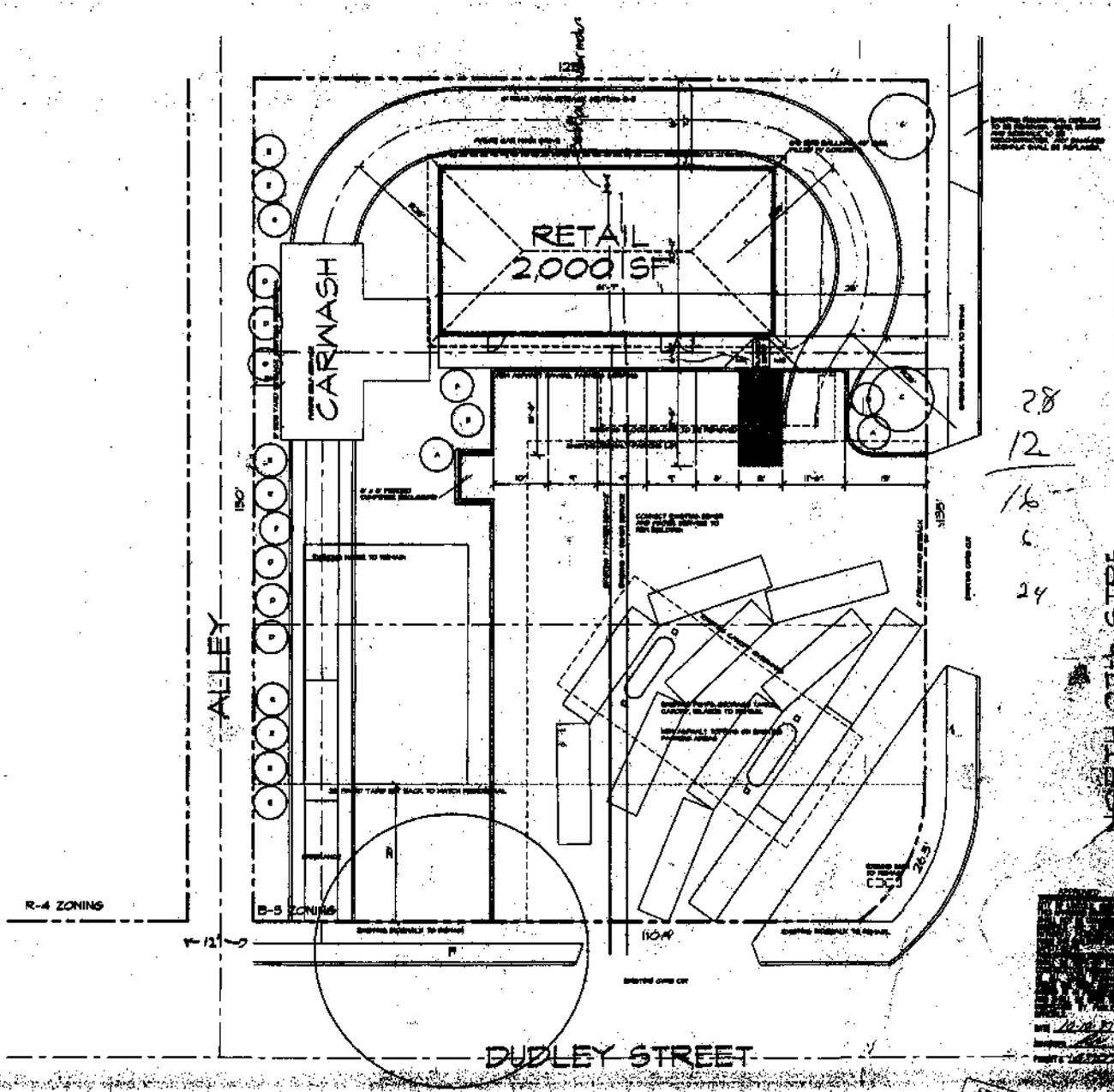
Zoning:

- 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-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
- EC Employment Center District
- P Public Use District

One Square Mile
Sec. 24 T10N R6E



014



NOT TO SCALE
 ALL DIMENSIONS ARE APPROXIMATE
 SEE ALL NOTES AND SPECIFICATIONS

28
 12
 16
 24

NORTH 27th STRE

R-4 ZONING

B-5 ZONING

DUDLEY STREET

WIEBE & JOHNSON, INC.
 ARCHITECTURE
 CONSTRUCTION ADMINISTRATION

REVISED
 Oct 5 2003
 BUILDING & SAFETY

FEB - 2 2004

SITE PLAN



SEAL
 STATE OF CALIFORNIA
 ARCHITECTURE

015

BUTLER, GALTER,
O'BRIEN & BOEHM
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Hal W. Bauer (1927-1993)
Richard J. Butler (1951-2000)

February 2, 2004

Marvin Krout
Director of Planning
City of Lincoln
555 South 10th Street
Lincoln, NE 68508

RE: Application for Special Permit, Overstreet, Inc.
1301 North 27th Street, Lincoln, Nebraska

Dear

This letter is submitted pursuant to a special permit application procedures pursuant to City Ordinances for a Class B beer off-sale license. T's Stop & Shop has operated as a convenience store and gas station at 1301 North 27th Street for the last several years in Lincoln, Nebraska. It has won awards for improving the area from the City.

Lakisha Overstreet, president of Overstreet, Inc., has entered into a contingent lease with TTR, Inc., corporate owner of T's Stop & Shop and Terrance Rupert, owner of the real estate upon which the corporation is situated. That lease provides Lakisha Overstreet will act as manager under a liquor license to be sought through the City of Lincoln and the State of Nebraska for off-sale beer only, a Class B liquor license. This property has been improved by removing an unsightly old gas station facility. It was replaced with a modern, updated convenience store. It also operates a drive through car wash on the corner property at the intersection of 27th and Dudley Street.

27th Street, in this locality, is a zoned B-3. All lots on 27th Street bear that zoning. Immediately north of the subject property is single family residential rental real estate use. The residential use immediately north of the property is within 100 feet. However, it is screened by a solid wood fence six feet tall extending from the alley on the west to the eastern most limit along the north line of Lots 11 and 12. That fence also extends along the west line of the alley up to the corner of the car wash building along the west side of Lots 11 and 12. A block building housing the carwash extends in a southerly direction along Lots 11 and 12 and screens the operation of T's Stop & Shop from all residential uses in the residential zone to the west of the business premises.

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016

All screening accomplished by both the above described fence and building serve to separate entirely the operation of the convenience store/gas station from all abutting residential uses and separates the operation from both the residence to the north and the residential zone to the west. There is no foot traffic from the property to either the residential use, or to the residential zone, except along sidewalk paths adjacent to Dudley and 27th Street.

The locations of the building both for the car wash facility and for T's Stop & Shop also serve to screen adjacent properties from all lighting and other commercial operations. There are no exterior bells, buzzers or loud speakers. All conditions set forth under the City L.M.C. Chapter 27.63.685, with the exception that it is located within 100 feet of a residential use or district. The screening described above mitigates any adverse effect. The lighting on the property meets all lighting regulations and requirements. There is no drive-thru window as part of the business operation or any exterior source of sound or noise. No access doors face any residential district. Access to the building is off an arterial street, 27th and Dudley Street.

The applicant believes that the proper mitigation of any possible harm to any residential district has been met. We would point out the entire area of North 27th Street is primarily commercial on both sides. Intermittent residential uses occur along 27th in the area zoned for business. Both on the east and west side of 27th Street, residential zones abut the alleys separating the B-3 zone and residential zones. More or less the primary character of North 27th Street is commercial.

Sincerely,


Patrick T. O'Brien

PTO/nw

FEB - 2 2004

017

Memorandum



To: Brian Will, Planning Department

From: Charles W. Baker, Public Works and Utilities *CB*

Subject: Alcohol Sales Special Permit #04006, Overstreet Inc.

Date: February 9, 2004

cc: Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for Alcohol Sales Special Permit #04006 located at the 'T's Stop and Shop, 27th and Dudley. Public Works has the following has no objections.

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MICHAEL WOOLMAN
<lpd737@CJIS.CI.LINC
OLN.NE.US>

02/11/2004 10:24 AM

To: Brian Will <BWill@ci.lincoln.ne.us>
cc:
Subject: Overstreet Inc.

Mr. Will,

The Lincoln Police Department has reviewed the Alcohol Sales Special Permit #04006. The plan shows the licensed portion of the building to be within 100 feet of a residential district/residential use. The Lincoln Police Department recommends denial based on the distance from a residential district/use. We also understand that the mitigation plan can be approved at the discretion of the Planning Director.

Sergeant Michael Woolman
Lincoln Police Department



Remalone36@aol.com

03/01/2004 10:14 PM

To: starr-st-gang@webtv.com, fjoseph@lincoln-action.org,
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cassandra@hoppehamer.com, jon@carlsonforcouncil.org,
mwullschlager@ci.lincoln.ne.us, plan@ci.lincoln.ne.us,
janomt@juno.com

cc:

Subject: T's Stop & Shop - special permit

T's is trying to get a special permit to sell alcohol at 27th & Dudley. The Planning commission is holding a meeting on Wed March 3rd 1pm.concerning this.

I would recommend that you contact the Planning Commission by email, phone or by going to the meeting on Wed.

This location would need a special permit due to the fact it is less than 100 ft from residential on at least 2 sides . There is access problems - due to congestion on both 27th St and Dudley. And he is also trying to get the license under the name of Overstreet Inc, and having them be the manager. This is just a way to get around the law. He is unable to get the license under his name due to the felony conviction. We had many problems when J Ryans was selling off sale at 27th & Holdrege. Drunken people would throw beer bottles & cans into our yards, some would urinate on our property. Fights would happen in the parking lot. The panhandling & crime could increase. Kabredlos had much of the same problems. We have done so much to clean up this part of town and make it a better place to live. These laws are set up to protect the neighborhoods and there is no reason for a special permit. I would hope that you all would back this stance and show the Planning Commission that this would not be in the neighborhoods best interest. Thanks for listening,,,,,Renee



Remalons36@aol.com

To: plan@ci.lincoln.ne.us

03/01/2004 09:59 PM

cc:

Subject: Planning Commission- special permit 04006- T's Stop & Shop

My name is Renee Malone, I am the past President of the Clinton Neighborhood and currently the Vice President not to mention a long time resident of the Clinton Neighborhood . I live on 26th St less than a block from T's Stop & Shop.

We are opposed to the sale of alcohol at this location. The fact that this is located less than 100 ft from residential areas on at least two sides is a prime factor, but there is so many other factors to consider here also.

Congestion at this location from cars trying to get in & out of that parking lot is at times dangerous not only on 27th st. but access to Dudley as well.

Previously when J Ryans was open across the street on 27th and Holdrege, we had a continuous problem with drunken, derelict types that would throw their beer bottles in our yards and urinate on our property. Not a site you want the children of the neighborhood to see . Increased crime and panhandling could become a major problem like that we are seeing in other areas of town. And our biggest concern is that Terry is trying to get around the law by trying to put a license in another person's name since he is a convicted felon. We all know that this is just a way to get around the law. We have these laws for a reason, and special permits should not be given out in these types of situations. I hope that you take this into consideration. I will try to make it to the meeting on March 3rd. but my job does not always allow for that.

Thank you for your consideration

Renee Malone
1408 N 26th St
Lincoln, Ne 68503
402-438-2777

IN OPPOSITION

ITEM NO. 3.2: SPECIAL PERMIT NO. 04006
(p.61 - Public Hearing - 3/03/04)



Peggy Struwe
<pstruwe@uninotes01.
uni.edu>

03/03/2004 09:06 AM

To: plan@ci.lincoln.ne.us
cc: ckielty@neb.rr.com, CKielty@ci.lincoln.ne.us, timdfrancis@aol.com,
astone59@earthlink.net, astone@lps.org
Subject: Liquor License for Convenience Store

Dear Planning Commission Members,

I am writing in opposition to the application for a liquor license by Terry Rupert that he is trying to get under another's name for his filling station and convenience store.

This location has a tremendous amount of traffic now. Many times the traffic in and out of the station causes traffic on 27th street to stop.

There are a lot of neighborhood kids that go there to buy pop and candy. They cross the 4 lane street in front of the convenience store and dodge cars.

This convenience store is less than 100 feet from residential property on 2 sides therefore it does not meet current regulations. Please hold to this.

It would be detrimental to the neighborhood and not provide a needed service.

The car wash and drive for the car wash is built right up to the lot line behind the convenience store and next to the alley. So there is no space for screening on either side which are residential.

Please vote against this application.

Peggy Struwe
President, Hawley Area Neighborhood Association



DELORES LINTEL
<little-red-hen@juno.com>

03/03/2004 03:57 AM

To: plan@cl.lincoln.ne.us
cc:
Subject: Special Permit for the sale of liquor at 27th and Dudley

3-03-04

Members of the Planning Commission:

My name is Delores Lintel. I have been a long time member of the Clinton Neighborhood Organization and a past president and member of it's board.

I want to be in touch with you in OPPOSITION TO THE SPECIAL LIQUOR PERMIT FOR "T'S" AT 27TH AND DUDLEY STREET.

The Clinton Neighborhood Organization over the years has effectively worked to maintain that neighborhood as a "family neighborhood". The availability of liquor at within the residential neighborhood undercuts our basic values.

The store is MUCH to close to the houses and the problems with loitering, drunkenness, urination of the property, disposal of containers, etc. etc. is absolutely unacceptable to us.

Please vote to deny.

Thanks,

Delores Lintel

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