

**CITY OF LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

**P.A.S.** Special Permit #1970

**DATE:** April 3, 2002

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

**LAND AREA:** Approximately 26,700 square feet (.61 acres)

**CONCLUSION:** This premises is located approximately 21' from a residence and approximately 30' from a residential district, and because of this proximity it is not possible to mitigate any adverse effects of the reduction in distance of less than 100' that may be associated with this use through landscaping, screening, or other methods.

**RECOMMENDATION:**

Denial

**GENERAL INFORMATION**

**LEGAL DESCRIPTION:** Lots 3 - 7, Block 2, Linwood Addition, Lancaster County, Nebraska.

**LOCATION:** 4801 Randolph Street

**OWNER:** Quin-C, Inc.  
3003 South 13<sup>th</sup> Street  
Lincoln, NE 68502 (402)423-7369

**APPLICANT:** Fast Break, Inc.  
1234 South 14<sup>th</sup> Street  
Lincoln, NE 68502 (402)476-3333

**CONTACT:** Chuck Salem  
1234 South 14<sup>th</sup> Street  
Lincoln, NE 68502 (402)476-3333

**EXISTING ZONING:** B-1 Local Business District

**EXISTING LAND USE:** Convenience Store/Service Station/Car Wash (under construction)

**SURROUNDING LAND USE AND ZONING:**

North	Commercial	B-1
South	Single-family Residential	B-1
East	Single-family Residential	R-2
West	Office	B-1

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan designates commercial land use for the subject property.

**ANALYSIS**

**OVERVIEW:**

The site is of a former service station which has been demolished. A facility that includes a convenience store, a service station, and a car wash is under construction. This request is for a special permit to allow the sale of alcoholic beverages for consumption off the premises.

**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 parking lot on this site is paved, and the number of off-street parking spaces and the design of the parking areas comply with the requirements of Lincoln Municipal Code (LMC).

**(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 off the premises, and must be approved for alcohol sales to occur at this location.

**(c) 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 and a residential district to both the south and east. The approximate separation distances are as follows:

	Residence	Residential District	Day Care
South	21'	89'	n/a
East	94'	30'	n/a

Consistent with previous reviews, the Police Department finds that the proposed screen, in this case a 6' high cedar fence, does not mitigate the effect of this use being located less than 100' to a residence and a residential district, and therefore is recommending denial.

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

Any parking lot lighting must comply with the applicable City of Lincoln 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.**

A drive-through window is not being proposed in conjunction with the sale of alcohol.

**(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 doors face north and do 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.**

No residential streets are used to access this site.

**(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.**

**2. DEPARTMENT RESPONSES:**

**POLICE:** The Police Department finds that landscaping or screening cannot mitigate the adverse effects of the proposed use on the adjacent residences and residential district, and is therefore recommending denial.

**PUBLIC WORKS:** Public works has no objections to this request.

The premises is less than 100' from a residence and a residential district, and the adverse effects cannot be mitigated through landscaping or screening due to the proximity. However, if after a public hearing the City Council approves this application, approval should be subject to the following conditions:

**CONDITIONS:**

Site Specific:

1. This approval permits the sale of alcohol for consumption off the premises at the convenience store located at 4801 Randolph Street.

General:

2. Before receiving building permits:
  - 2.1 The construction plans comply with the approved plans.

**STANDARD CONDITIONS:**

3. The following conditions are applicable to all requests:
  - 3.1 Before occupying these structures 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:

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Brian Will, AICP  
Planner

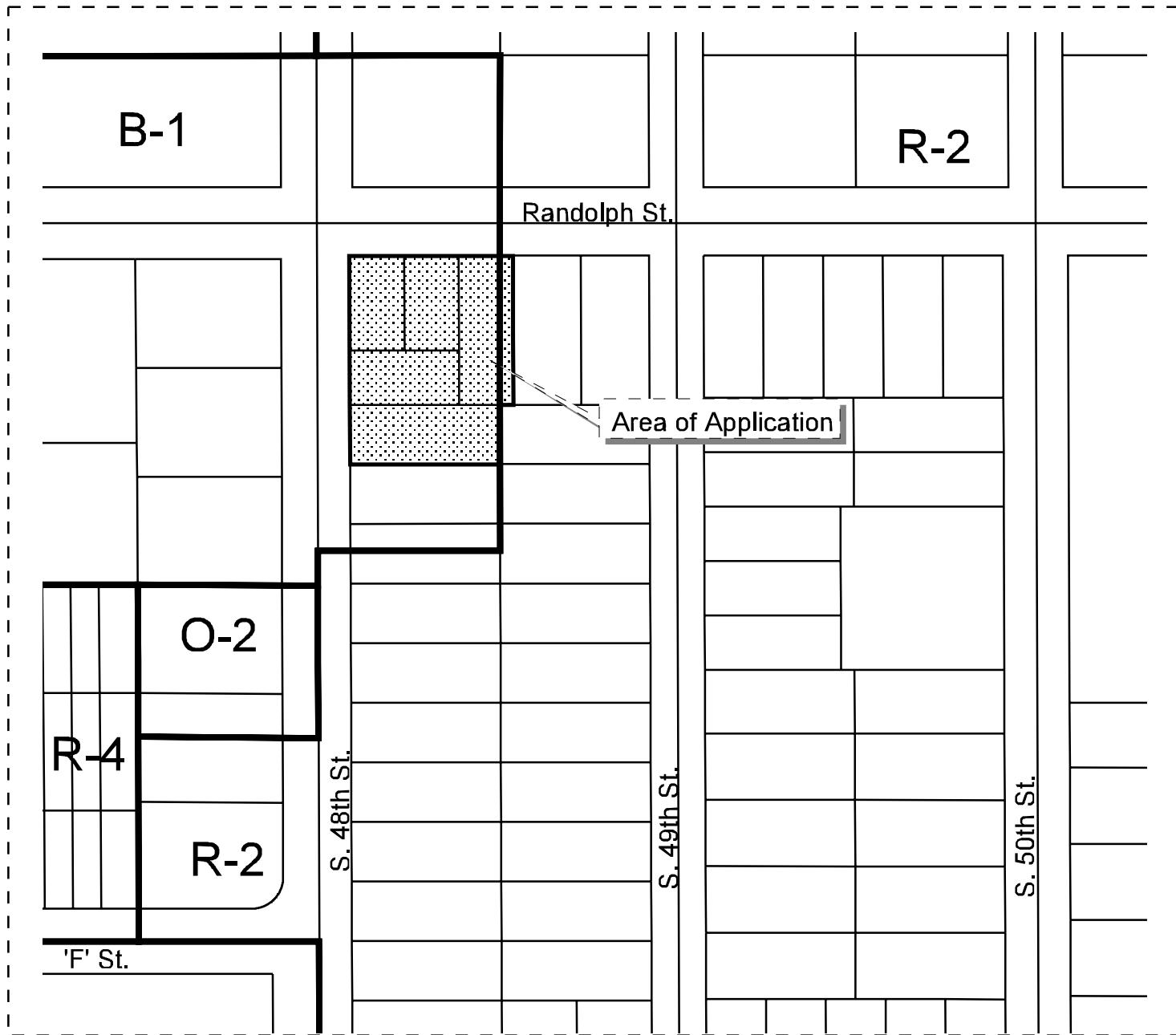


**Special Permit #1970  
S. 48th & Randolph St.**



Photograph Date: 1997

Lincoln City - Lancaster County Planning Dept.

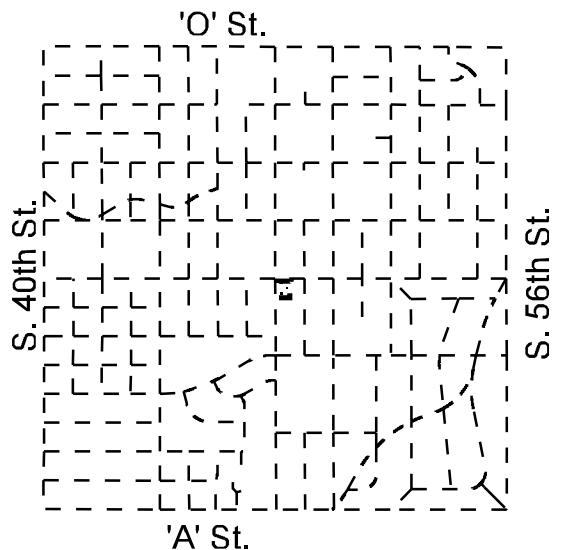


**Special Permit #1970  
S. 48th & Randolph St.**

**Zoning:**

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile  
Sec. 29 T10N R7E



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TERRANCE A. POPPE  
ROBERT R. OTTE  
DAVID W. WATERMEIER  
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Mailing Address:  
P.O. Box 83439  
Lincoln, Nebraska 68501-3439

March 20, 2002

Brian Will  
Planning Department  
Hand Delivered

Re: 4801 Randolph  
Lots 3-7, Block 2, Linwood Addition

Special Permit of Fast Break, Inc

Dear Brian:

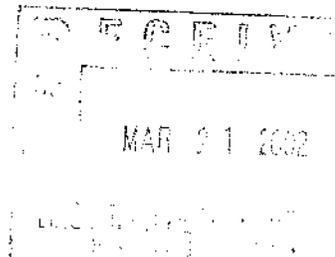
Please be advised that I represent Quin-C, Inc., the "Owner" of the above referenced property and Fast Break, Inc., the Special Permit Applicant "Applicant". Please consider this my certificate that the Owner and the Applicant have entered into a written Lease Agreement for the entire property described above for a term of years and that said Lease Agreement is a legal and binding instrument upon the parties for the construction of the building, occupancy of the premises and operation of the business to be located thereon.

I further certify to you that both corporations are in good standing in the State of Nebraska.

Thank you for your consideration. Please let me know if you have any questions.



Robert R. Otte  
Morrow Poppe Otte PC



**EXHIBIT "A"**

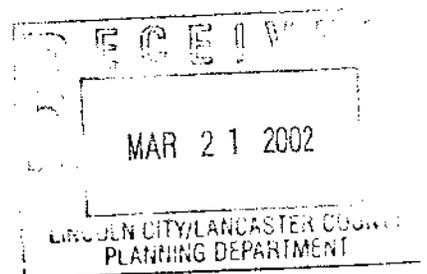
Special Permit Zoning Application of Fast Break, Inc.

The Applicant is particularly aware of the requirements of Section 27-63 regarding special permits for liquor sales. The construction of this new convenience store facility replaces a formerly blighted site. The site is in an older neighborhood, and the owner and Applicant have taken and shall take measures to measure sure that lighting is designed and erected in accordance with lighting standards and that landscaping, screening and other methods that might be suggested or approved will be used to mitigate adverse effects, if any, of the proximity of the facility to any residential use.

There will be no drive-thru window used as part of the business, and no part of the operation will be conducted on any required building setback. The parking ratios are in compliance, and the business shall not have amplified outside sound or noise. No access door to the premises shall violate the requirements of Section 27-634 as specifically set forth.

The Applicant has worked with the City to provide vehicular ingress and egress to and from the property which benefits the intersection and does not disrupt the residential district.

It is important to the owner and Application that the facility be incorporated into the neighborhood as opposed to standing apart from it. The Applicant will work with the neighbors and City to minimize any impact of the facility on the abutting residential neighborhood.





# Memorandum

MAR 28 2002

LINCOLN POLICE DEPARTMENT  
POLICE DEPARTMENT



**To: Mr. Brian Will**  
**From: Sergeant Michael S. Woolman #737**  
**Date: March 28, 2002**  
**Re: Fast Break, Inc. SP 1970**

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Mr. Will,

I have reviewed the Alcohol Sales Special Permit for Fast Break Inc. located at 4801 Randolph Street. Section 27.63.685 states that 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 through the Planning Director. The building is located on the south portion of the lot allowing parking for patrons on the north side of the business.

The far south portion of the building contains a carwash that is connected to the Food Mart. Investigator Russ Fosler took measurements from the southwest corner of the carwash and the southwest corner of the Food Mart to the residence that located directly south of the building (834 So. 48<sup>th</sup> Street).

Carwash to 834 South 48<sup>th</sup> St. (NW corner of house) = 21 feet

Carwash to north edge of the driveway located at 834 South 48<sup>th</sup> St. = 8 feet

Food Mart to 834 South 48<sup>th</sup> St. (NW corner of house) = 44 feet

Food Mart to north edge of the driveway located at 834 South 48<sup>th</sup> St. = 31 feet

Although we did not measure other residences, east and south from the Food Mart, they could also fall within the 100 feet of the Food Mart.

The Lincoln Police Department is recommending denial based on the criteria that the proposed location 4801 Randolph Street Lincoln, Nebraska is within 100 feet of a residential district/residential use.

A handwritten signature in cursive script that reads "Michael S. Woolman".

Michael S. Woolman