



Directors Meeting

Monday, June 13th, 2022

555 S 10th Street, Luxford Studio

MINUTES

II. ADJUSTMENTS TO AGENDA

III. CITY CLERK

IV. MAYOR'S OFFICE

V. DIRECTORS CORRESPONDENCE

1. BPC220608 - 1 Weekly Administrative Approvals - Shelli Reid
2. BPC220608 - 1 Final Action Notice - Shelli Reid
3. BPC220608 - 2 PC Action - Shelli Reid
4. BPC220608 - 3 PC Action - Shelli Reid

VI. BOARDS/COMMITTEE/COMMISSION REPORTS

VII. CONSTITUENT CORRESPONDENCE

1. Amendment to Development and Conditional Zoning Agreement
AA22023 to change of Zone #06012 - Geri Cotter on behalf of INA
2. 52nd & O Concerns - Joan Wells
3. Request for Delay of Hearing on June 6 Agenda Item 5.e / Resolution
22R-225 - E Shelton Burden by Elizabeth Burden POA
4. Request relating to June 13 meeting and Resolution 22R-240 - Andrew
Willis
5. District Energy Corporation - Request to Waive Third Reading - David
Levy
6. Bishop Heights Redevelopment - Richard Piersol

VIII. ADJOURNMENT

Memorandum

Date: June 7, 2022
To: City Clerk
From: Alexis Longstreet, Planning Dept.
Re: Administrative Approvals
cc: Shelli Reid, Planning Dept.

This is a list of City administrative approvals by the Planning Director from May 31, 2022, through June 6, 2022:

Administrative Approval 22004 to Special Permit 08034B was approved on June 1, 2022, to revise the apartment layout of Lot 1, Block 3 by adding a community building, removing the gazebo and playground, and relocating the driveway, on property generally located at Southwest 27th Street and West A Street.

PLANNING COMMISSION FINAL ACTION NOTIFICATION

TO: Mayor Leirion Gaylor Baird
Lincoln City Council

FROM: Shelli Reid, Planning

DATE: June 8, 2022

RE: Notice of final action by Planning Commission: June 8, 2022

Please be advised that on June 8, 2022, the Lincoln City-Lancaster County Planning Commission adopted the following resolutions:

Resolution PC-01807, approving SPECIAL PERMIT 16004B, for the renewal of Excavation and Soil Mining permit, on property generally located at 6401 Saltillo Road.

Resolution PC-01808, approving SPECIAL PERMIT 17030B, to amend the site plan to add a maintenance building to the site for a medical clinic associated with a designated landmark, on property generally located at 2202 South 11th Street.

The Planning Commission action on these applications is final, unless appealed to the City Council by filing a notice of appeal with the Planning Department within 14 days of the action by the Planning Commission

The Planning Commission Resolution may be accessed on the internet at www.lincoln.ne.gov (search for "PATs"). Click on "Planning Application Tracking Service (PATs)" at the top of the page, click "Selection Screen" under "PATs Tools" on the right side of the screen, type in the application number (i.e. SP16004B, SP17030B), click on "Search", then "Select", and go to "Related Documents".

F:\devreview\final action notices\cc\2022\060822

****ACTION BY PLANNING COMMISSION****

NOTICE: The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, June 8, 2022, at 1:00 p.m. in Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th St., Lincoln, Nebraska. For more information, call the Planning Department, (402) 441-7491.

****PLEASE NOTE:** The Planning Commission action is final action on any item with a notation of *FINAL ACTION*. Any aggrieved person may appeal Final Action of the Planning Commission to the City Council or County Board by filing a Notice of Appeal with the City Clerk or County Clerk within 14 days following the action of the Planning Commission.

The Planning Commission action on all other items is a recommendation to the City Council or County Board.

The Planning Commission will be allowing testimony on agenda items by videoconferencing. For those who wish to testify by video, you must register with the Planning Department Office to participate by calling 402-441-7491 or emailing Plan@lincoln.ne.gov by 10:00 a.m. the day of the meeting. You will be asked to provide your name, address, phone number and the agenda item(s) you wish to speak on, and your position on this item. On the day of the hearing, you will receive a link via email, which will be needed to join the hearing to provide your testimony.

AGENDA

WEDNESDAY, June 8, 2022

[Commissioners Ball, Corr, Eddins and Rodenburg absent]

Approval of minutes of the regular meeting held May 25, 2022. ****APPROVED: 5-0 (Ball, Corr, Eddins and Rodenburg absent)****

1. CONSENT AGENDA (Public Hearing and Administrative Action)

COMPREHENSIVE PLAN CONFORMANCE:

- 1.1 COMPREHENSIVE PLAN CONFORMANCE 22010, to review as to conformance with the 2050 Comprehensive Plan, a request to declare the property known as the Aging Department as surplus, on property generally located at 1005 O Street.
Staff recommendation: In Conformance with the Comprehensive Plan
Staff Planner: Ben Callahan, 402-441-6360, bcallahan@lincoln.ne.gov
Planning Commission recommendation: FINDING OF CONFORMANCE: 5-0, (Ball, Corr, Eddins and Rodenburg absent). The public hearing before the City Council is tentatively scheduled for July 11, 2022, at 3:00 p.m.

TEXT AMENDMENT:

- 1.2 TEXT AMENDMENT 22002, to amend Article 13, Section 13.005, Enforcement, Revocation, and Cancellation of Special Permits of the Lancaster County Zoning Regulations.

Staff recommendation: Approval

Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov

Planning Commission recommendation: APPROVAL: 5-0 (Ball, Corr, Eddins and Rodenburg absent). Public hearing before the Lancaster County Board is currently pending.

CHANGE OF ZONE AND RELATED ITEMS:

- 1.3a CHANGE OF ZONE 16016A, from B-1 (Local Business District) and R-2 (Residential District) to B-3 PUD (Planned Unit Development) to add 2.23 acres to the 48th & Holdrege PUD for an additional 115 dwelling units with associated waivers and adjustments to the zoning ordinance and design standards, on property generally located at North 48th Street and Aylesworth Avenue.

Staff recommendation: Conditional Approval

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

Planning Commission recommendation: CONDITIONAL APPROVAL: 5-0 (Ball, Corr, Eddins and Rodenburg absent), as set forth in the conditions of the staff report dated May 26, 2022. Public hearing before the City Council is tentatively scheduled for Monday, July 11, 2022, 3:00 p.m.

- 1.3b COMPREHENSIVE PLAN CONFORMANCE 22009, to review as to conformance with the 2050 Lincoln-Lancaster Comprehensive Plan, an amendment to the University Place South Redevelopment Plan to include the "48th & Aylesworth Redevelopment Project" for a 115-unit multiple-family residential development, on property generally located at North 48th & Aylesworth Streets.

Staff recommendation: In Conformance with the Comprehensive Plan

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

Planning Commission recommendation: FINDING OF CONFORMANCE: 5-0, (Ball, Corr, Eddins and Rodenburg absent). The public hearing before the City Council is tentatively scheduled for July 18, 2022, at 3:00 p.m.

MISCELLANEOUS:

- 1.4 MISCELLANEOUS 22007, request to vacate Eden Acres Addition final plat, on property generally located at 4770 Agnew Road.

Staff recommendation: Conditional Approval

Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov

Planning Commission recommendation: CONDITIONAL APPROVAL: 5-0 (Ball, Corr, Eddins and Rodenburg absent), as set forth in the conditions of the staff report dated May 24, 2022. Public hearing before the Lancaster County Board is currently pending.

SPECIAL PERMIT:

- 1.5 SPECIAL PERMIT 16004B, for the renewal of Excavation and Soil Mining permit, on property generally located at 6401 Saltillo Road. The Planning Commission action is final. *** FINAL ACTION ***

Staff recommendation: Conditional Approval

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

This item was removed from the Consent Agenda for a separate public hearing. Planning Commission "final action": CONDITIONAL APPROVAL, as set forth in the conditions of the staff report dated May 24, 2022: 5-0 (Ball, Corr, Eddins and Rodenburg absent). Resolution No. PC-01807.

- 1.6 SPECIAL PERMIT 17030B, to amend the site plan to add a maintenance building to the site for a medical clinic associated with a designated landmark, on property generally located at 2202 South 11th Street. The Planning Commission action is final.

*** FINAL ACTION ***

Staff recommendation: Conditional Approval

Staff Planner: Stephanie Rouse, 402-441-6361, srouse@lincoln.ne.gov

Planning Commission "final action": CONDITIONAL APPROVAL, as set forth in the conditions of the staff report dated May 25, 2022: 5-0 (Ball, Corr, Eddins and Rodenburg absent). Resolution No. PC-01808.

STREET AND ALLEY VACATION:

- 1.7 STREET AND ALLEY VACATION 22002, to vacate a public alley way from the south right-of-way of W. Monroe St. to the north right-of-way of West "M" St., on property legally described as all of Block 13, Cushman Subdivision, located in the NE 1/4 of Section 30-10-6, Lincoln, Lancaster County, Nebraska, generally located southeast of Southwest 44th and O Streets.

Staff recommendation: Conforms to the Comprehensive Plan

Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov

Planning Commission recommendation: FINDING OF CONFORMANCE: 5-0 (Ball, Corr, Eddins and Rodenburg absent). Public hearing before the City Council will be scheduled when the provisions 14.20 of the Lincoln Municipal Code have been satisfied.

* * * * *

**AT THIS TIME, ANYONE WISHING TO SPEAK ON AN ITEM
NOT ON THE AGENDA, MAY DO SO.**

* * * * *

Adjournment: 1:20 p.m.

REVISED
****ACTION BY PLANNING COMMISSION****

NOTICE: The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, June 8, 2022, at 1:00 p.m. in Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th St., Lincoln, Nebraska. For more information, call the Planning Department, (402) 441-7491.

****PLEASE NOTE:** The Planning Commission action is final action on any item with a notation of *FINAL ACTION*. Any aggrieved person may appeal Final Action of the Planning Commission to the City Council or County Board by filing a Notice of Appeal with the City Clerk or County Clerk within 14 days following the action of the Planning Commission.

The Planning Commission action on all other items is a recommendation to the City Council or County Board.

The Planning Commission will be allowing testimony on agenda items by videoconferencing. For those who wish to testify by video, you must register with the Planning Department Office to participate by calling 402-441-7491 or emailing Plan@lincoln.ne.gov by 10:00 a.m. the day of the meeting. You will be asked to provide your name, address, phone number and the agenda item(s) you wish to speak on, and your position on this item. On the day of the hearing, you will receive a link via email, which will be needed to join the hearing to provide your testimony.

AGENDA

WEDNESDAY, June 8, 2022

[Commissioners Ball, Corr, Eddins and Rodenburg absent]

Approval of minutes of the regular meeting held May 25, 2022. ****APPROVED: 5-0 (Ball, Corr, Eddins and Rodenburg absent)****

1. CONSENT AGENDA
(Public Hearing and Administrative Action)

COMPREHENSIVE PLAN CONFORMANCE:

- 1.1 COMPREHENSIVE PLAN CONFORMANCE 22010, to review as to conformance with the 2050 Comprehensive Plan, a request to declare the property known as the Aging Department as surplus, on property generally located at 1005 O Street.
Staff recommendation: In Conformance with the Comprehensive Plan
Staff Planner: Ben Callahan, 402-441-6360, bcallahan@lincoln.ne.gov
Planning Commission recommendation: FINDING OF CONFORMANCE: 5-0, (Ball, Corr, Eddins and Rodenburg absent). The public hearing before the City Council is tentatively scheduled for July 11, 2022, at 3:00 p.m.

TEXT AMENDMENT:

- 1.2 TEXT AMENDMENT 22002, to amend Article 13, Section 13.005, Enforcement, Revocation, and Cancellation of Special Permits of the Lancaster County Zoning Regulations.

Staff recommendation: Approval

Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov

Planning Commission recommendation: APPROVAL: 5-0 (Ball, Corr, Eddins and Rodenburg absent). Public hearing before the Lancaster County Board is currently pending.

CHANGE OF ZONE AND RELATED ITEMS:

- 1.3a CHANGE OF ZONE 16016A, from B-1 (Local Business District) and R-2 (Residential District) to B-3 PUD (Planned Unit Development) to add 2.23 acres to the 48th & Holdrege PUD for an additional 115 dwelling units with associated waivers and adjustments to the zoning ordinance and design standards, on property generally located at North 48th Street and Aylesworth Avenue.

Staff recommendation: Conditional Approval

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

Planning Commission recommendation: CONDITIONAL APPROVAL: 5-0 (Ball, Corr, Eddins and Rodenburg absent), as set forth in the conditions of the staff report dated May 26, 2022. Public hearing before the City Council is tentatively scheduled for Monday, July 11 **July 18, 2022, 3:00 p.m.**

- 1.3b COMPREHENSIVE PLAN CONFORMANCE 22009, to review as to conformance with the 2050 Lincoln-Lancaster Comprehensive Plan, an amendment to the University Place South Redevelopment Plan to include the "48th & Aylesworth Redevelopment Project" for a 115-unit multiple-family residential development, on property generally located at North 48th & Aylesworth Streets.

Staff recommendation: In Conformance with the Comprehensive Plan

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

Planning Commission recommendation: FINDING OF CONFORMANCE: 5-0, (Ball, Corr, Eddins and Rodenburg absent). The public hearing before the City Council is tentatively scheduled for July 18, 2022, at 3:00 p.m.

MISCELLANEOUS:

- 1.4 MISCELLANEOUS 22007, request to vacate Eden Acres Addition final plat, on property generally located at 4770 Agnew Road.

Staff recommendation: Conditional Approval

Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov

Planning Commission recommendation: CONDITIONAL APPROVAL: 5-0 (Ball, Corr, Eddins and Rodenburg absent), as set forth in the conditions of the staff report dated May 24, 2022. Public hearing before the Lancaster County Board is currently pending.

SPECIAL PERMIT:

- 1.5 SPECIAL PERMIT 16004B, for the renewal of Excavation and Soil Mining permit, on property generally located at 6401 Saltillo Road. The Planning Commission action is final. *** **FINAL ACTION** ***

Staff recommendation: Conditional Approval

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

This item was removed from the Consent Agenda for a separate public hearing. Planning Commission "final action": CONDITIONAL APPROVAL, as set forth in the conditions of the staff report dated May 24, 2022: 5-0 (Ball, Corr, Eddins and Rodenburg absent). Resolution No. PC-01807.

- 1.6 SPECIAL PERMIT 17030B, to amend the site plan to add a maintenance building to the site for a medical clinic associated with a designated landmark, on property generally located at 2202 South 11th Street. The Planning Commission action is final.

*** **FINAL ACTION** ***

Staff recommendation: Conditional Approval

Staff Planner: Stephanie Rouse, 402-441-6361, srouse@lincoln.ne.gov

Planning Commission "final action": CONDITIONAL APPROVAL, as set forth in the conditions of the staff report dated May 25, 2022: 5-0 (Ball, Corr, Eddins and Rodenburg absent). Resolution No. PC-01808.

STREET AND ALLEY VACATION:

- 1.7 STREET AND ALLEY VACATION 22002, to vacate a public alley way from the south right-of-way of W. Monroe St. to the north right-of-way of West "M" St., on property legally described as all of Block 13, Cushman Subdivision, located in the NE 1/4 of Section 30-10-6, Lincoln, Lancaster County, Nebraska, generally located southeast of Southwest 44th and O Streets.

Staff recommendation: Conforms to the Comprehensive Plan

Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov

Planning Commission recommendation: FINDING OF CONFORMANCE: 5-0 (Ball, Corr, Eddins and Rodenburg absent). Public hearing before the City Council will be scheduled when the provisions 14.20 of the Lincoln Municipal Code have been satisfied.

* * * * *

**AT THIS TIME, ANYONE WISHING TO SPEAK ON AN ITEM
NOT ON THE AGENDA, MAY DO SO.**

* * * * *

Adjournment: 1:20 p.m.

From: [INA](#)
To: [Council Packet](#)
Subject: Amendment to Development and Conditional Zoning Agreement AA22023 to change of Zone #06012.
Date: Sunday, June 5, 2022 3:10:21 PM

June 5, 2022

Dear Members of the Lincoln City Council,

As the President of the Irvingdale Neighborhood Association, I am writing in regard to the Amendment to Development and Conditional Zoning Agreement AA22023 to change of Zone #06012.

The Irvingdale Neighborhood Association Board informed its members of the plans to potentially build a drive-thru coffee shop at the corner of 10th and Hill Streets, an action that would require a slight change to the current Zoning Agreement, and asked for feedback. We also coordinated an open neighborhood meeting to provide Irvingdale residents with an opportunity to interact with representatives of the proposed Scooters franchise.

Based upon the above two actions, a number of the initial neighborhood concerns have been resolved. I want to express my thanks to Scooters for their willingness to listen to those concerns and address most of them.

Two issues, however, still remain:

--[if !supportLists]-->1. <!--[endif]-->The impact on the Burden property, which has already been eloquently brought to your attention by Elizabeth Burden, on behalf of her mother.

--[if !supportLists]-->2. <!--[endif]-->The change in the traffic pattern on Hill Street. It is this second issue that I shall address.

I am not asking for any additional action on the part of Scooters, but rather on the part of the City of Lincoln. Before approving this project, I ask that LTU conduct a traffic study to determine its impact on Hill Street traffic.

I have already heard from two area neighbors that vehicles, including semis, travelling north on 10th Street, often miss the left turn onto Van Dorn St. to get to Hwy. 77. To correct their course, they take the next left onto Hill Street, make a left onto 9th St. and a right onto Van Dorn.

Without a traffic study, I don't know how often this occurs, but if it happens with any frequency, additional traffic on Hill Street trying to reach the drive-thru coffee shop will create a chaotic situation for local residents, as well as Scooters' patrons.

In the 3-9-22 letter from Tim Gergen of Clark & Enersen, he used a mathematical model to estimate the traffic during the PM peak hour to be 84 trips. This estimate is of little value when one considers that a drive-thru coffee shop is going to conduct the majority of its business in the AM, not the PM. An actual study of the current traffic on Hill Street, combined with an estimate of the peak hour AM traffic at similar Scooters' establishments might give us a truer picture of the impact on this small residential street. If traffic issues are identified,

perhaps they can be ameliorated through better and more timely signage.

The Irvingdale Neighborhood Association is not opposed to the construction of a drive-thru on the parcel of land in question. We only want to ensure that potential traffic issues have been thought through and addressed in advance.

Sincerely,

Geri Cotter

President, Irvingdale Neighborhood Association

June 2, 2022

Dear Mayor Leirion Gaylor Baird and members of the city counsel:

I am a resident of Lincoln living on 4940 M. Street since 1996. I have put up with the noise and on-going issues with the speeding, reckless driving and disturbance of the peace on "O" Street for several years. I was told our Witherbee Neighborhood Assn. had addressed this issue and we were not getting much consideration or action on our complaints.

The night of the accident on 52nd and "O" and after hearing continued speeding I had a gut feeling someone would get hurt in an accident waiting to happen, but actually two died. There have been other deaths from this activity. After this incident, my partner called police and said cars diverted were speeding down our M. Street area as well.

I personally have witnessed tire marks, the kids running into the street to pour liquid behind tires in an efforts to smoke their tires while peeling off from lights. This disturbance has continued many times until 2:00 and 3:00 am the following morning. On lookers gather to encourage this behavior and they litter the neighborhoods as well. Now littering the street with dead bodies.

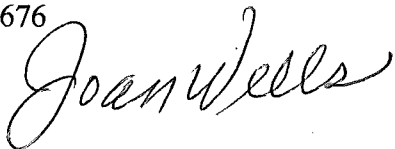
Americruse should not be allowed on Lincoln streets and if they are wanting to display their vehicles, they can show them at the Event Center, but not driving the hi-way which is "O" Street.

Ticketing should be enforced for disturbance of the peace, reckless driving, and speeding. A special task force should be created and citations issued to these drivers to indicate they must be accountable. The newly appointed police chief mentioned impounding cars of such drivers. This could be done after disregarding citations and presenting a danger to our neighborhoods.

There are car museums and summer festivals and events where car shows are popular. A number of events have been held by car enthusiasts within our state. This is where people and young teens can view such cars. Neighbors have put up with this way too long. Loud stereos with amplified speakers drive M Street at late hours and this is disturbing the peace, what is going to be done about the above mentioned?

I'm hoping to speak about my concerns at your next upcoming city council meetings.

Joan Wells
4940 M. Street
Lincoln, NE 68510
402-484-5676

A handwritten signature in cursive script that reads "Joan Wells". The signature is written in dark ink and is positioned below the printed contact information.

From: [E Shelton Burden](#)
To: [Council Packet](#)
Cc: INA@neb.rr.com; Brett@greenleafcommercial.com; [Soulinnee Phan](#); [Yohance L. Christie](#); [David R. Cary](#)
Subject: Request for Delay of Hearing on June 6 Agenda Item 5.e / Resolution 22R-225
Date: Monday, June 6, 2022 12:45:33 PM

Dear Council Members,

I am writing in regards to the June 6 agenda item 5.e / Resolution 22R-225 *Approving an Amendment to the Zoning Agreement for Change of Zone 06012 to Allow Retail or Restaurants with Drive Thru Services on the Property between 9th and 10th street, North of Van Dorn Street.*

Although I had planned to have a representative attend the originally scheduled May 23 hearing date, my representative will be unable to attend the hearing today, June 6.

As it stands, the proposed amendment to the agreement does not contain adequate protections or mitigations for the traffic, noise, water runoff, and lighting impacts that drive-thru traffic will have on the residential property to the west of the development, nor does the proposed agreement address the traffic issues raised by nearby neighbors.

I am writing to formally request a motion to delay the public hearing on this resolution until appropriate noise, light, and runoff mitigation measures for the westside of the development are included.

I am also requesting, as the 2710 S 9th property owner, that the Council ask city staff to work with the applicant, developer, neighborhood association, and neighbors, including my representative, to find mutually agreed-upon solutions to issues and concerns raised about the traffic, sound, and lighting impacts on nearby residents.

Sincerely,

E Shelton Burden by
Elizabeth Burden POA

From: [Andrew R. Willis](#)
To: [Council Packet](#); [City Clerk](#)
Cc: [Tim S. Sieh](#)
Subject: Request relating to June 13 meeting and Resolution 22R-240
Date: Tuesday, June 7, 2022 1:02:25 PM

On behalf of M.I. Industries, Inc., I would like to make a request to the City Council relating to Resolution 22R-240.

Resolution 22R-240 is the resolution approving the Redevelopment Agreement for the Instinct Redevelopment Agreement. It was on 1st reading yesterday, June 6, as Item 9.j., in connection with 9.k, and 9.l.

While 9.l. is the ordinance approving the issuance of TIF bonds that requires three readings, the Resolution approving the redevelopment agreement does not require three readings. I know these items are customarily considered together but based on the timing of the proposed project and the additional holiday in June, it would be greatly beneficial to have Resolution 22R-240 approved on June 13 (assuming it is approved) rather than having to wait two more weeks.

Therefore, I am requesting that the City Council vote on Resolution 22R-240 on the June 13 meeting. My client understands that the TIF Bond (ordinance 22-103) would be voted on at a later meeting, but knowing the vote on the Redevelopment Agreement two weeks earlier would be a substantial benefit to the project timing. Again, we are making this request based on the extra holiday in June that pushes the votes back one additional week.

Please let me know if you have any questions or if I can answer any further questions. Thank you for your consideration of this request.

CLINE WILLIAMS

ANDREW R. WILLIS
CLINE WILLIAMS WRIGHT JOHNSON & OLDFATHER, L.L.P.
233 South 13th Street | 1900 US Bank Bldg. | Lincoln, NE 68508
Direct: 402.479.7151 | Main: 402.474.6900 | www.clinewilliams.com
Lincoln | Omaha | Aurora | Fort Collins | Holyoke

From: [David Levy](#)
To: [Council Packet](#)
Cc: [Abigail F. Littrell](#)
Subject: District Energy Corporation - Request to Waive Third Reading
Date: Wednesday, June 8, 2022 9:16:16 AM
Attachments: [22-104 Attachment.pdf](#)
[22-104 Ordinance.pdf](#)

Councilmembers: Good morning. We represent District Energy Corporation ("DEC"). I write on DEC's behalf to request that next Monday, June 13, the Council: 1) approve an amendment to a lease between the City of Lincoln, Lancaster County and DEC (see attached), and 2) waive the third reading of the ordinance regarding this amendment.

The lease amendment extends the term and adds property to a lease that originated in 1990 for property at approximately 9th and K Streets. DEC owns, operates and maintains equipment on these premises that contributes to the heating and cooling of the City-County Building. DEC needs more land to add more ice storage to increase cooling capacity for the City-County Building. DEC's Board of Directors and the Lancaster County Board of Commissioners have approved the amendment. It is my understanding that the City Attorney's office does not object to the Council waiving the third reading.

The reason for asking the Council to waive the third reading is to allow the contractor to start ASAP so they can finish installing the new equipment in July. That would give the City-County Building better cooling for the hottest part of the summer. Also, the current contract for this work has a completion date of July 15. While DEC and the contractor could extend that, it is preferable not to.

Thank you for considering this request. Please let me know if you have questions or concerns.

- David

David C. Levy
Baird Holm LLP
1700 Farnam Street
Suite 1500
Omaha, NE 68102-2068
www.bairdholm.com

402.636.8310 Direct Dial Phone
402.213.9063 Cell Phone
402.344.0588 Fax
dlevy@bairdholm.com

Admitted to practice in California, Iowa and Nebraska

Baird Holm LLP



This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this in error, please reply immediately to the sender and delete this message. Thank you.

AMENDED LEASE

This Amended Lease ("Amended Lease") made this ____ day of _____, 2022, between the County of Lancaster, Nebraska (the "County"), and City of Lincoln, Nebraska (the "City"), as Lessor, and District Energy Corporation ("DEC"), as Lessee. Each of the County, the City and DEC is a Party, and collectively they are the Parties hereunder. This Amended Lease amends that certain Lease entered into by and between the Parties dated October 11, 1990.

RECITALS

- A. Lessors own and occupy the County-City Building at 555 South 10th Street, Lincoln, Nebraska, and certain property in Block 117, Original Lincoln, across 9th Street to the west from the County-City Building ("County-City Building"), more fully described on Exhibit A hereto.
- B. Lessee is a political subdivision of the State of Nebraska created under the Interlocal Cooperation Act to provide thermal energy for the County-City Building and such other County or City projects as the Parties may authorize from time to time.
- C. For Lessee to furnish such thermal energy to the County-City Building, it is necessary that Lessor lease to Lessee certain property on which Lessee may install, construct, operate and maintain equipment and facilities necessary to furnish the thermal energy.
- D. The Parties entered into that certain Lease regarding a portion of the Premises (as defined below) dated October 11, 1990 (the "Original Lease").
- E. The Parties now desire to amend the Original Lease to change certain terms as set forth below and to expand the leased area to include all the Premises (as defined below).

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH EACH PARTY ACKNOWLEDGES AND ACCEPTS, THE PARTIES AGREE AS FOLLOWS:

1. **Property and Facilities Leased.** Lessor hereby leases to Lessee the property described in Exhibit A hereto (the "Premises") for the purpose of furnishing thermal energy to the County-City Building and such other County or City projects designated in the future.

2. **Additional Leased Property and Facilities.** To furnish thermal energy as contemplated, it may be necessary in the future for the Lessor to lease additional property or facilities to the Lessee and such property and facilities may be added to and be subject to the provisions of this Amended Lease by addendum to be signed by the parties hereto.

3. **Lease Consideration.** As consideration for this Amended Lease, Lessee agrees to pay Lessor One Dollar (\$1.00) during the term of this Amended Lease and to construct and furnish additional facilities necessary to furnish the thermal energy for the County-City Building at and under the terms specified in a service contract or contracts between Lessor and Lessee.

4. **Maintenance of Leased Property and Facilities.** Lessee shall maintain and keep in good repair the leased property and to make replacements from time to time as required for service with the costs thereof reflected in the rates and charges under the service contract(s) referred to above.

5. **Operation of System.** Lessee has entered into and will maintain in effect a Management Agreement with Lincoln Electric System to manage the thermal energy system referred to herein.

6. **Right of Access.** To operate and maintain the thermal energy system, Lessor grants right of access to the leased property and facilities over and into the property of Lessor as may be necessary for such operation and maintenance.

7. **Insurance.** Lessee will carry and maintain insurance against personal injury and property damage liability in such amounts and subject to such deductibles as Lessor shall direct from time to time, subject to the availability of such insurance coverage and the costs thereof being payable under the service contract(s).

8. **Scope.** Anything this Amended Lease does not amend in the Original Lease remains in full force and effect.

9. **Term.** This Amended Lease shall remain in effect for twenty (20) years and shall thereafter continue from year to year subject to the right of either party to terminate the same on six (6) months prior written notice.

IN WITNESS WHEREOF, the parties have executed this Amended Lease to be effective as of the day and year first above written.

ATTEST:

THE COUNTY OF LANCASTER, NEBRASKA

County Clerk

By: _____
Chair of the County Board

ATTEST:

CITY OF LINCOLN

City Clerk

By: _____
Mayor

ATTEST:

DISTRICT ENERGY CORPORATION OF
LINCOLN AND LANCASTER COUNTY

Secretary

By: _____
Board Chair

EXHIBIT A

Description of Amended Lease Property

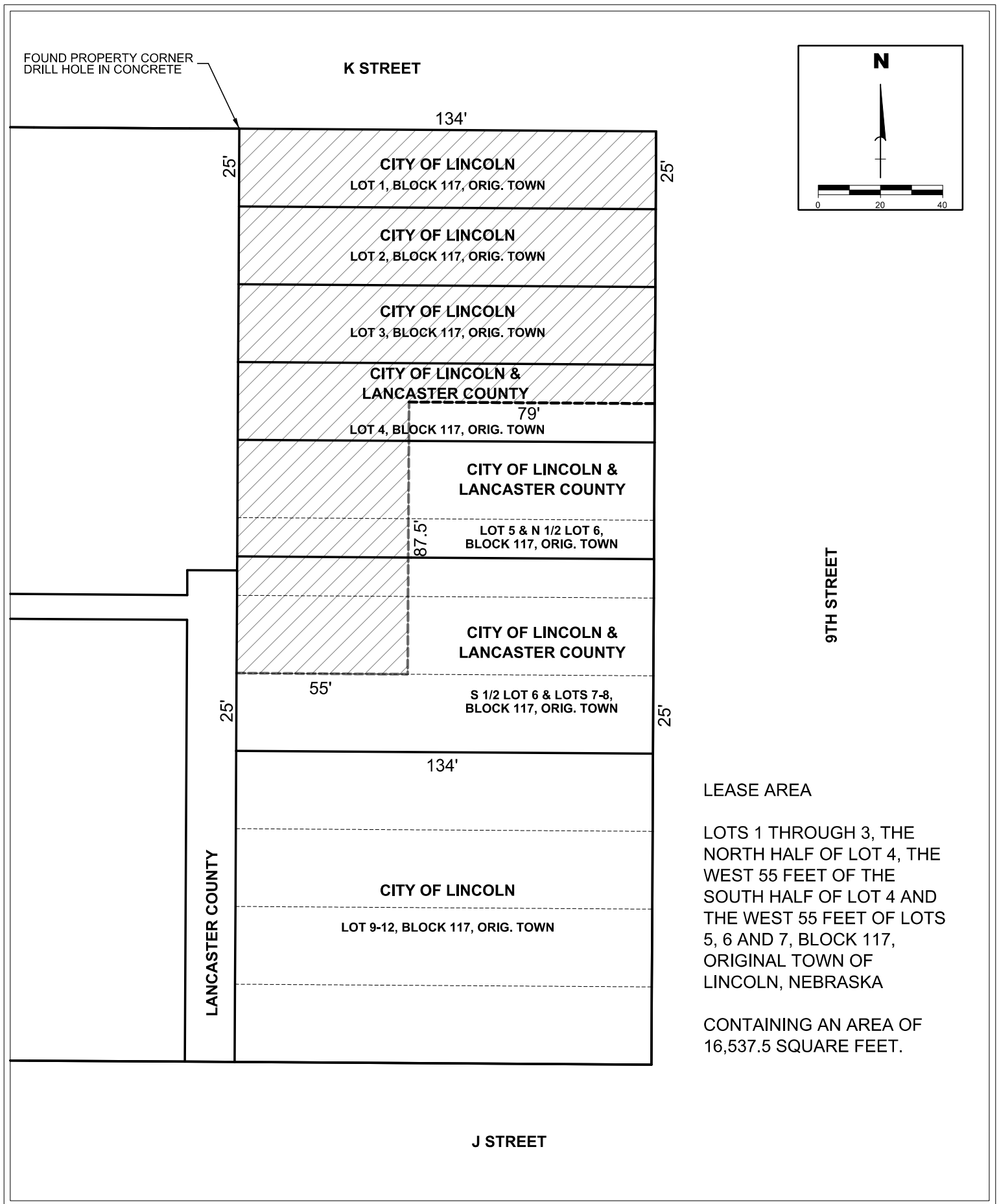


Figure 1.0.0 - Exhibit A

ORDINANCE NO. _____

1 AN ORDINANCE accepting and approving a Lease Agreement between the City of
2 Lincoln, County of Lancaster, Nebraska, and the District Energy Corporation (“DEC”) for the
3 lease of space by the DEC, for a period of twenty (20) years for its facilities located at 9th and K
4 and more fully described on Exhibit A to Attachment “A” attached hereto. The facilities serve the
5 City County Building at 555 S. 10th Street.

6 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

7 Section 1. That the Lease Agreement between the City of Lincoln, County of
8 Lancaster, Nebraska, and the DEC which is attached hereto marked as Attachment “A” and made
9 a part hereof by reference is hereby accepted and approved, and the Mayor is authorized to execute
10 said Lease Agreement on behalf of the City of Lincoln.

11 Section 2. The City Clerk is directed to return one fully executed copy of said Lease
12 Agreement to Abigail Littrell, Assistant City Attorney, for transmittal to the County of Lancaster
13 and the DEC.

14 Section 3. This ordinance shall be published, within fifteen days after the passage
15 hereof, in one issue of a daily or weekly newspaper of general circulation in the City, or posted on
16 the official bulletin board of the City, located on the wall across from the City Clerk’s office at
17 555 S. 10th Street, in lieu and in place of the foregoing newspaper publication with notice of
18 passage and such posting to be given by publication one time in the official newspaper by the City
19 Clerk. This ordinance shall take effect and be in force from and after its passage and publication
20 or after its posting and noticing of such posting given by publication as described herein and in the
21 City Charter provided.

Introduced by:

Approved as to Form & Legality:

Chief Assistant City Attorney

Approved this ____ day of _____, 2022:

Mayor

From: [Richard Piersol](#)
To: [Council Packet](#)
Subject: Bishop Heights Redevelopment
Date: Wednesday, June 8, 2022 10:57:00 AM
Attachments: [CCNA Comments on Bishop Heights for City Council.pdf](#)

We at the Country Club Neighborhood Association understand you will be considering the Bishop Heights Redevelopment application at your next meeting. Here are our comments. Thanks for your attention and consideration.

--

Richard Piersol
402-525-8751



To: Lincoln City Council

From: Country Club Neighborhood Association

Re: Bishop Heights Shopping Center Redevelopment

We at the Country Club Neighborhood Association have been pondering the possibilities of a Bishop Heights redevelopment for years. We have had demonstrations of possibilities from the property owners and others interested in the vital role a revived Bishop Heights property may play in our lives and the city's.

At hand we have this application, which is asking to change the zoning from R-1 and B-1 to a planned unit development, with waivers for height, among others.

We see no reason to oppose creation of a PUD, as such. But some details arouse enough attention for us to address here.

First of all, the R-1 property on Kucera Drive need not be in this application but for the presumption of the owners who bought it assuming that it would slide through these procedures with no objections to its being rezoned. Clearly the Planning Department has none. We do. It was an appropriation of a residence from a residential street, unnecessary given the plans to have more parking spaces than necessary on the north part of the redeveloped land to serve the planned commercial building(s). Many of our neighbors on Kucera remain convinced the integrity of their R-1 properties is vulnerable.

From the Comprehensive Plan, Commercial Infill, Action Steps: "3. Avoid encroachment into existing neighborhoods during expansion of existing commercial and industrial uses, and take steps to ensure expansions are in scale with the adjacent neighborhood, use appropriate screening, fulfill a demonstrated need, and do not hinder health and safety.

"4. Prioritize retaining areas for continued residential development in older sections of the community by maintaining existing housing and supporting infill housing. Prior to approving the removal of housing to provide additional parking for existing centers, alternatives such as reduced parking requirements, shared parking, additional on-street parking, and/or the removal of other commercial structures should be explored."

Addressing the issue of scale: Among the waivers requested on this project is to exceed the height limits that normally would apply. We appreciate the restraint imposed on the commercial

buildings planned to be closest to Kucera Drive, but question whether the 5-story plans for the apartment building and possibly a hotel are appropriate. This 65' height will be the tallest on this side of Lincoln except for the grain elevators west of Tenth Street and a four-story office building at 33rd and Pioneers. From 120th St. and Nebraska Highway 2 to U. S. 77 and Interstate 80, the tallest motel, hotel, or multifamily structure is three stories. The Country Club apartments just north of the proposed redevelopment are the biggest in the neighborhood and contain the most stories – 2 ½ (3 with half basement). We expect the proposed five-stories to be far more imposing in fact than in two dimensions on engineering drawings.

The proposed hotel has arisen again after not appearing in descriptions made to us earlier, presumably because, as we have been told, there are no retail tenants in line to commit to the space reserved for that purpose. That seems a weak and hastily manufactured reason to justify a hotel, which many of our neighbors fear won't be an attractive boutique but more likely a cheaply built chain and an eyesore.

One of the more commonly expressed doubts about this project among our neighbors is their skepticism of the traffic study done by Olsson for RED. The 27th and Nebraska Highway 2 intersection is aptly described by city traffic engineers as “severely over capacity.” The traffic backups northbound and southbound on 27th are notorious now, and getting worse at least once a day because of the revived rail traffic on the BNSF Railway tracks south of Nebraska 2. Anecdotally, the traffic backs up to Stockwell and frustrated drivers attempt to escape through residential streets west of 27th, endangering peace and safety there. This renewed rail traffic was not addressed in the Olsson study, presumably because it had not emerged when the study was done.

We understand the theory that the South Bypass will reduce truck traffic on Nebraska 2 by 45 percent, conservatively estimated, thereby allowing much more green-light time on 27th and reducing congestion. Hence, the traffic study's conclusion that traffic may, in fact, be higher in the morning commute, lower in the late afternoon, for a small net reduction in traffic compared to what it was in the pre-blight Bishop Heights Shopping Center days.

Some of our neighbors just don't believe it, they scoff and say it defies logic to install commercial office space, 230 apartments and 150 hotel rooms, plus some uncertain retail space in Bishop Heights and expect less traffic on Woods and on 27th.

Our question is: What if you're wrong? We see no Plan B to address the possibility traffic congestion will get worse.

Furthermore, why would the city presume to reassure the public with this motor vehicle traffic research and neglect to address other kinds of traffic, including pedestrian and bicycle traffic on the Rock Island Trail, which forms the eastern border of the proposed PUD, and the Boosalis trail, which intersects there? And what about the pedestrian traffic that one might presume to be attracted by the PUD, coming and going along 27th Street and crossing or gaining access on Woods? Or approaching from the south? If it attracts pedestrians from west of 27th Street, will the Woods crossing be adequate? This PUD has been presented to us as “pedestrian-oriented,”

but we see only superficial and hastily applied, tardy attention paid to integration of the trails, and virtually none to encourage pedestrian use of the PUD, but a sidewalk to and from 27th. We call your attention to our endorsement of a presentation made to city officials and the developers' attorney by trails advocates Susan Rodenburg, Scott Speicher, and Jesse Poore, who brought to us a much more innovative approach to integrating mixed-use redevelopment and adjacent trails.

In conclusion, we believe the adjacent trails and sidewalks are as much assets to the PUD as motor vehicle traffic, if not more so. We understand the need for the PUD to be financially viable to the developers and believe a more trail-oriented design configuration of commercial and retail elements to be in the interests of our neighborhood, the city, and the developers. Ms. Rodenburg, a member of our organization with deep commitment to this community, has expressed very clearly her reservations about minor adjustments made to the trail interface design of the PUD, and we agree with her.

Among the points she made recently to the developers' attorney were these:

"I am disappointed that there is parking on the east side of the buildings facing the trail. You say there will be a berm and landscaping there but doesn't that defeat the purpose of a trail-oriented design? We would like to see safe and welcoming connections from the trail on the east side of the development instead of berms (blocking the cars and parking lots)—which is not welcoming to trail users. We do not recommend a 'circular traffic pattern' or a parking lot on the east side. Again, this would not be safe or welcoming to trail users.

"Do we have more parking than we need for this project? I know the new comp plan reduced the amount of required parking—just not sure what that is and if your plan reflects that number.

"Has there been any thought about hiring a community designer specializing in trail-oriented design for this development? My vision is that this will be an innovative example that we can apply to other abandoned mall areas next to trails.

"What's being done within the development area-parking lots to provide safety for pedestrian and cyclists as they navigate through the area?"

We at the Country Club Neighborhood Association do not suggest that the PUD should not be approved, but we believe it can be made better.

This intersection is practically the heart of our city. It's four miles from Downtown, four miles to SouthPointe, four miles to 84th Street and four miles to Wilderness Park. This transition redevelopment in a city now known for trails serving pedestrians and bicyclists should recognize and embrace them as the new highways they have become, to acknowledge their infrastructure as important as sidewalks and streets, sufficiently traveled now to integrate them more fully into this redevelopment and those that succeed this one, as opportunity arises.

The Journal Star reported on May 20: The cost of the development is estimated at nearly \$90 million, with nearly \$78 million coming from the developers and anywhere from \$9 million to



\$11 million in tax-increment financing. That would make the taxpayers partners in this enterprise.

As the taxpayers who live closest to this project, we expect the city's negotiators to use that leverage to persuade the developers to reconsider their plans in ways that we believe will serve not only their interests, but ours as well, the future of this city and our neighborhood, as more adults and children pedal and walk their way into a more sustainable future.

Sincerely,

The Country Club Neighborhood Association Board of Directors

