

Lincoln City - Lancaster County

PLANNING COMMISSION AGENDA

PLANNING COMMISSION

Cindy Ryman Yost: Chair

Cristy Joy: Vice Chair

Lorenzo Ball

Dick Campbell

Maribel Cruz

Gloria Eddins

Tracy Edgerton

Richard Rodenburg

PLANNING STAFF

David R. Cary: Director

Shelli Reid: Administrative Officer

Jennifer McDonald: Administrative Aide

September 6, 2023

NOTICE: The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, September 6, 2023, at 1:00 p.m. in the City Council Chambers 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.

AGENDA

WEDNESDAY, SEPTEMBER 6, 2023

Approval of minutes of the regular meeting held [August 23, 2023](#).

**1. CONSENT AGENDA
(Public Hearing and Administrative Action)**

PERMITS:

- Page 17* 1.1 USE PERMIT 05002A, to amend existing Use Permit 05002 Northwoods Office Park to allow for an internal building increase of 4,728 square feet for office use, on property generally located at 1150 North 83rd Street. ****FINAL ACTION****
Staff recommendation: Conditional Approval
Staff Planner: George Wesselhoft, 402-441-6366, gwesselhoft@lincoln.ne.gov

2. REQUESTS FOR DEFERRAL

**3. ITEMS REMOVED FROM CONSENT AGENDA
(Public Hearing and Administrative Action)**

4. PUBLIC HEARING AND ADMINISTRATIVE ACTION

CHANGE OF ZONE:

- Page 24* 4.1 CHANGE OF ZONE 08057F, to amend the University Place PUD (Planned Unit Development) by allowing the sale of alcohol for consumption on and off the premises closer than 100' to a residential zoning district, on property generally located at 2737 North 49th Street.
Staff recommendation: Conditional Approval
Staff Planner: Brain Will, 402-441-6362, bwill@lincoln.ne.gov
- Page 38* 4.2 CHANGE OF ZONE 23054, from AG (Agricultural District) to H-3 (Highway Commercial District), on property generally located at NW 48th Street and Hwy 34.
Staff recommendation: Denial
Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov

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

Adjournment

PENDING LIST: No items

Planning Department Staff Contacts:

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Paul Barnes, <i>Long Range Planning Manager</i>	402-441-6372	pbarnes@lincoln.ne.gov
Tom Cajka, <i>County Planner</i>	402-441-5662	tcajka@lincoln.ne.gov
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George Wesselhoft, <i>Planner</i>	402-441-6366	gwesselhoft@lincoln.ne.gov
Brian Will, <i>Planner</i>	402-441-6362	bwill@lincoln.ne.gov

**The Planning Commission meeting which is broadcast live at 1:00 p.m. every other Wednesday
will be available for viewing on LNK City TV at
<https://lnktv.lincoln.ne.gov/CablecastPublicSite/watch/3?channel=1>**

**The Planning Commission agenda may be accessed on the Internet at
<https://app.lincoln.ne.gov/city/plan/boards/pc/pc.htm>**

MEETING RECORD

Advanced public notice of the Planning Commission meeting was posted on the County-City bulletin board and the Planning Department's website. In addition, a public notice was emailed to the Lincoln Journal Star for publication on Tuesday, August 15, 2023.

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, August 23, 2023, 1:00 p.m., Hearing Room 112, on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska.

MEMBERS AND OTHERS IN ATTENDANCE: Dick Campbell, Tracy Corr, Maribel Cruz, Cristy Joy, Rich Rodenburg, and Cindy Ryman Yost. Lorenzo Ball, Gloria Eddins and Tracy Edgerton absent. David Cary, Steve Henrichsen, Shelli Reid, Jennifer McDonald, Ben Callahan, Andrew Thierolf, and Tom Cajka of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Hearing

Chairperson Ryman Yost called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

Ryman Yost requested a motion approving the minutes for the regular meeting held August 9, 2023. Motion for approval of the minutes made by Campbell, seconded Joy. Minutes approved 5-0: Campbell, Cruz, Joy, Rodenburg, and Ryman Yost voting "yes"; Corr abstained; Ball, Eddins and Edgerton absent.

Clerk read a Resolution of Appreciation for Commissioner Corr into the record. Corr was appointed to the City of Lincoln-Lancaster County Planning Commission on December 17, 2012 and contributed over ten years of volunteer service to the community. During her service, Corr contributed countless hours of effort towards the implementation of the Lincoln-Lancaster County Comprehensive Plan, Long-Range Transportation Plan, updates to the County and City Zoning Codes and has reviewed approximately 1,980 applications, along with numerous studies and subarea plans. Corr was commended for her dedication and service.

Campbell moved approval of the Resolution of Appreciation, second Joy.

David Cary, Planning Department, 555 S. 10th Street, Lincoln, NE approached to present Corr with a plaque for service. Cary stated that Corr had nearly 2000 items that have come before the Planning Commission the time that Corr was on the Planning Commission. Cary presented Corr

with a plaque to show appreciation to Corr for everything that she has done for the Planning Commission and the community.

Campbell stated that it has been a joy working with Corr. Campbell stated that Corr had thought out and had sound reasoning the with the issues that had come before the Planning Commission.

Joy stated her appreciation for Corr and all her wisdom, guidance, and effort through her years of service.

Cruz wanted to thank Corr for calm and consideration to the facts at hand. Corr has the ability to see all sides of a particular issue. Cruz stated that Corr is leaving big shoes to fill.

Ryman Yost stated that Corr has showed leadership and conviction to representing the neighbors in the community with the wealth of wisdom that she has provided.

City Council Chair Tom Beckius and Vice-Chair Sandra Washington came forward and stated that they wanted to express their gratitude and thanks on behalf of the City Council to Commissioner Corr. Beckius wanted to personally thank Corr for her knowledge and consideration that she has taught him. Chairperson Washington stated that Corr is wise, considerate, and thoughtful. Corr has shown a way to dig in, expose and bring forward history to the decision making for the City of Lincoln. Washington wanted to thank Corr for giving Lincoln 10 years of making Lincoln more beautiful.

Corr stated that it is time for her to step down and finish her term. When Corr first started at the Planning Commission, it was packets in the mail, and now a lot has changed. Corr stated her first meeting was sitting next to the current Mayor Leirion Gaylor Baird. Corr wanted to state to the Commissioners to “flush out” things and help the public understand the terminology and what is being said before the items go to City Council.

Motion for approval of the Resolution of Appreciation carried 5-0: Campbell, Cruz, Joy, Rodenburg and Ryman Yost voting ‘yes’; Corr abstained; Ball, Eddins and Edgerton absent.

Chair Ryman Yost called for **Requests for Deferral**.

STREET AND ALLEY VACATION 23005
TO VACATE A PORTION OF THE SOUTH 1ST STREET (RIGHT OF WAY) BETWEEN PIONEERS BLVD.
AND OLD CHENEY ROAD, ADJACENT TO PROPERTY GENERALLY LOCATED AT SOUTH 1ST STREET
AND PIONEERS BOULEVARD.

BEFORE PLANNING COMMISSION:

August 23, 2023

Members present: Campbell, Corr, Cruz, Joy, Rodenburg, and Ryman Yost. Ball, Eddins and Edgerton absent.

Staff Recommendation: Four-week deferral

Clerk noted that the applicant has requested a four-week deferral of item 4.4 Street and Alley Vacation 23005, to the September 20, 2023, Planning Commission hearing.

Campbell moved to grant the request for deferral for public hearing and action on September 20, 2023, seconded Joy and carried 6-0: Campbell, Corr, Cruz, Joy, Rodenburg, and Ryman Yost voting “yes”; Ball, Eddins and Edgerton absent.

Ryman Yost stated that if anyone present wishing to testify on this Street and Alley Vacation 23005 today may do so when the item is called at the end of today’s agenda but will not be able to testify again at the September 20th hearing.

CITY COMPREHENSIVE PLAN AMENDMENT 23009
TO AMEND THE LINCOLN LANCASTER COUNTY 2050 COMPREHENSIVE PLAN TO ADOPT THE LOCAL FOOD SYSTEM PLAN AS PART OF THE LINCOLN LANCASTER COUNTY COMPREHENSIVE PLAN.

PUBLIC HEARING:

August 23, 2023

Members present: Campbell, Corr, Cruz, Joy, Rodenburg, and Ryman Yost. Ball, Eddins and Edgerton absent.

Staff Recommendation: Approval

There were no ex-parte communications disclosed.

There were no ex-parte communications disclosed relating to site visits.

Staff Presentation:

Andrew Thierolf, Planning Department, 555 S. 10th Street, Suite 213, Lincoln, NE, came forward and stated that they are here today to discuss adopting the Local Food System Plan into the existing Comprehensive Plan. Thierolf stated that this is adopting the entire Local Food System Plan into the Comprehensive Plan.

Applicant:

Kim Morrow, City of Lincoln LTU, 555 S 10th Street, Lincoln, NE, came forward and stated that the process to create this plan was a 15-month process. This involved a total of 788 residents were surveyed along with including local dining, farmers, county board and social service agencies to name a few. The goal is to increase local food production, reduce food waste, protect soil, water, air, and insure healthy services. This is also to encourage the support of local food and distribution.

Megan McGuffey, Community Crops Program, 501 S 7th Street, Lincoln, NE, came forward to state that this program supports more than just the local food, but also the transportation and water systems of the community. McGuffey stated that the global food supply chain has only

has a three-day supply for the average American City if there is a disruption in the food chain. McGuffey stated that this plan is monumental to the community. This Local Food Plan addresses some of the biggest challenges that are seen in the daily work from expanding land challenges to access land so more people can grow food to open markets so that farmers can find more ways to grow food. This plan is important for the long-term vision of the community.

Corr asked if there is an example of row crop production on City owned land. McGuffey stated that the city manages approximately 1400 acres of agricultural land that they currently own.

Rodenburg stated that he had heard that an average statistic is that food travels an average of 1500 miles to a grocery store. McGuffey stated that is correct and some of those statistics come from the Department of Defense.

Campbell stated that as a young man, he use to sell tomatoes to the local grocery stores, but the product had to be in excellent condition and would only get half of the selling. Campbell stated that it is very important to continue into this direction and he will be supporting this program.

Proponents:

Charuth Van Beuzekon, Shadow Brook Farms, 2201 W. Denton Road, Lincoln, NE, came forward and stated that for the last 28 years have been supporting the farmers market and selling to local restaurants and the community. Van Beuzekon stated that as she is looking towards retirement, she has looked for ways to continue to grow and pass this on to the future growers.

Van Beuzekon stated that if they could attain their plan and not be forced to sell, but with a special use permit, there could be a wide range of things that could help implement the Local Food System Plan. Some of those things that Shadow Brook Farms could do is to have community gardens, leasing farm ground, teach cooking classes, host, and have a shared processing center and much more. Van Beuzekon stated that they are invested in the future and supporting the Local Food Plan.

Naziem Khan, Executive Chef, Bryan Hospital, 1600 S. 48th Street, Lincoln, NE, approached and stated his life is all around food as a Certified Master Chef. Kaham stated that good chefs focus on all the ingredients and not just the spices. With good ingredients, there will be little to no spices used. Khan has learned that the best ingredients and foods are the local ingredients. Khan stated that he cannot compromise the ingredients. Khan stated that the local ingredients are packed with nutrients. He mixes the local ingredients with the ingredients that are brought in so they can provide more nutrients. Khan stated that the food plan should be done the right way; with all the rules and regulations followed. A diverse community can have the resources to pick from and will strengthen the resources. Khan stated that there are a few challenges when it comes to the product availability in determining the recipes and food planning for the patients, families and staff at Bryan Health, University of Lincoln, and the kids in school.

Marilyn McNabb, 1701 W. Rose Street, Lincoln, NE, came forward and stated that that she is in support of the Lincoln Local Food Systems Plan. McNabb stated that the Lincoln Local Food System Plan moves in the right direction to keep young talent here in Lincoln. McNabb stated that this is a great list of opportunities for creative and challenging work.

Kjersten Hyberger, 7201 Candletree Lane, Lincoln, NE, stated that she is in support of the Local Food Plan because it continues to work towards a healthier community for all of Lincoln. Hyberger is thrilled that the Local Food Plan is a key to sustaining the City's quality of life and economic viability for generations to come.

Ken Winston, 1327 H Street, Suite 300, Lincoln, NE, came forward and stated that he is appearing on behalf of the Sierra Club and the Interfaith Power and Light. Winston stated that this is just the beginning for the Local Food Plan. Winston wanted to discuss that the greenhouse gas is being recognized on the local level. Winston mentioned greenhouse gas reduction is a very important part of this process. If the food is local, it is more nutritious because it is fresher and does not involve the traveling, transporting, or processing. Winston stated that this plan supports the local economy. Winston stated that the Local Food Plan is consistent with the Climate Action Plan.

Neutral:

No one came forward for neutral testimony.

Opposition:

No one came forward in opposition.

Staff Questions:

Rodenburg asked if there is an educational part of the Local Food Plan. Morrow stated that community engagement and education is an important part of this plan. Morrow is hoping to partner with other nonprofits, community crops, extension, and other groups to help get the word out.

Campbell asked if Shadow Brook Farms is zoned AG and is wanting to know if there is a better label that can be used to reduce some of the tax liability on the vegetable and fruit production. Thierolf stated that he is not aware of any discussion about that at this time. Joy stated that maybe a Market Farmers Use Permit can be utilized to support through zoning action with the food plan. Joy wanted to get this on record and that Council and Mayor can direct and move forward on. Thierolf stated that there is more Urban activities through zoning to be able to sell products on site because it's somewhat limited in the current zoning today. Joy is very supportive of this program.

Campbell moved to close public hearing, second Joy. Motion carried 6-0: Campbell, Corr, Cruz, Joy, Rodenburg, and Ryman Yost voting "yes". Ball, Eddins and Edgerton absent.

COMPREHENSIVE PLAN AMENDMENT 23009
ACTION BY PLANNING COMMISSION

August 23, 2023

Campbell moved approval of Comprehensive Plan Amendment 23009, seconded by Corr.

Campbell stated that he is very supportive of this program. Campbell stated that his church has set aside some acres that do provide for a community garden, a food forest, outdoor classroom, and space for individuals to grow and produce.

Rodenburg stated that he was alarmed that Nebraska is in a food desert. An entirety of the crops grown here is for feed and fuel. Rodenburg stated that he is in full support of this program.

Corr stated that she loves this plan and is in full support. Corr had the opportunity in learning from the market in the College View area. Corr stated that one thing that she has learned from being with the Farmers Market, is that there are people that bring foods in from out-of-state and people need to ask where it is grown.

Joy is in support of this program. Joy stated that she has learned how much it takes to feed 20-30 families off a garden and looks forward to the next steps.

Cruz remembers her first garden, her first home and her the first tomatoes she planted in her garden. Cruz stated the excitement that people around her have by being able to share, learn from others and the partnerships that are going to be built from this.

Ryman Yost is in support and excited about this plan. Ryman Yost wanted to thank the committee that has worked at the local level to create this plan. This shows how much commitment there is to make this plan an action.

Motion carried 6-0: Campbell, Corr, Cruz, Joy, Rodenburg, and Ryman Yost voting “yes”; Ball, Eddins and Edgerton absent.

TEXT AMENDMENT 23011
TO AMEND THE LINCOLN MUNICIPAL CODE, SECTION 27.02
DEFINITIONS TO ADD A NEW DEFINITION, PASSENGER CARRIER VEHICLES; AMEND SECTION
27.06 RETAIL SALES AND SERVICE USE GROUP TO ADD STORAGE AND MAINTENANCE OF
PASSENGER CARRIER VEHICLES, AND AMEND SECTION 27.63 SPECIAL PERMITS TO ALLOW
STORAGE AND MAINTENANCE OF PASSENGER CARRIER VEHICLES IN AG AND AGR ZONING
DISTRICTS BY SPECIAL PERMIT.

PUBLIC HEARING:

August 23, 2023

Members present: Campbell, Corr, Cruz, Joy, Rodenburg, and Ryman Yost. Ball, Eddins and Edgerton absent.

Staff Recommendation: Denial

There were no ex-parte communications disclosed.

There were no ex-parte communications disclosed relating to site visits.

Staff Presentation:

Tom Cajka, Planning Department, 555 S. 10th Street, Suite 213, Lincoln, NE, came forward to state that this application is to amend the Lincoln zoning code to add a new storage and maintenance of passenger vehicles. Cajka stated that the amendment is needed to legalize a party bus business that has been operating on an acreage residential area. The proposed text will add a definition of passenger carrier vehicles and include open class carriers. Cajka stated that the proposed conditions would include that the vehicles be stored in an enclosed structure, no fueling on site, no hazardous materials stored, and the lot must be three acres. There are other conditions that need more clarifications as to what setback this applies to. Cajka also stated that this would allow the owner to rent out the property to store vehicles. Cajka stated that the 2050 Comprehensive Plan clearly states that it does not support commercial use outside of incorporated towns. Cajka stated that this amendment is not in conformance with the Comprehensive Plan, and it is an attempt to legalize an illegal use that should not be allowed. The Planning Department does not recommend approval of this Text Amendment.

Steve Henrichsen, Planning Department, 555 S. 10th Street, Suite 213, Lincoln, NE, approached and stated the bigger picture of the zoning because fundamentally, that is actual part of the problem with this Text Amendment. The reason for this use is to legalize a specific use and then treat it differently than other similar uses that might have a similar impact in an AG area. Henrichsen stated that there are a few agricultural areas that have agricultural commercial uses and some traditional uses in an agricultural area. Henrichsen stated that this is not the first time or the first person in which a user is trying to locate a business outside the City of Lincoln and locate a business without getting a building permit in advance. Henrichsen stated fundamentally this is a use that does not need to be in an agricultural or residential area, but it is to be in the City of Lincoln. Henrichsen stated that is why the Planning Department is recommending denial.

Campbell stated that there are two refuse companies located outside of the county and what allowed that to happen. Henrichsen stated that there currently is not a Special Permit for a garbage service outside of the county.

Joy asked what zoning this is permitted in. Henrichsen stated that the zoning would be the H Commercial Districts. Cajka stated that it would be the H and I Districts. Henrichsen stated that there are a lot of sites that would accommodate this.

Applicant:

Bill Austin, Attorney, 2511 S. 77th Place, Lincoln, NE, approached on behalf of the applicant of this Text Amendment. Austin stated in April there was a proposal in front of the Planning Commission. The concerns were heard, and the applicant decided to retool the proposal instead

of a Conditional Use to a Special Permit. That way it could be focused on one particular property. Austin stated that they are proposing a pass forward for a legislative change to allow consideration for a Special Permit. Austin mentioned that ownership, maintenance, yard issues are agreed upon by the owners and were presented to Cajka. Austin stated that the overall concern by the Planning Department is that this is a commercial business. Austin stated that what needs to be looked at is what is commercial and the elements of commercial use to make it compatible in other areas. Austin is suggesting that none of the uses would be utilized by the Casey's is under the current text amendment at this location. Austin stated that an actual Special Permit is not being looked at today but discussed what the Special Permit would look like if it was proposed.

Campbell asked Austin what he was referring to regarding the definitions that Austin gave to the Planning Department. Austin stated that he gave Cajka what he thought the definition is for yard and ownership. Ryman Yost stated if Austin could find that document or make notes of that document to present to the Commissioners in rebuttal.

Proponents:

Charles Hibberd, 8401 Liana Lane, Lincoln, NE, approached and stated that he is here to refute the negative statements that have been made about the owners, Dan and Tammy Casey at 8500 Liana Lane. In 2014, Dan and Tammy Casey started the Elite Party Busses to utilize out of their acreage. Hibberd stated that he is pleased that the drivers are courteous, drive slow and this has not had any impact on his property. Hibberd stated that there have been numerous complaints stated on the staff report and wanted to know if the validity of the complaints have been assessed. Hibberd encouraged the commissioners to read his letter and that the complaints can easily be refuted. Hibberd stated that this is not fair or equitable to the Caseys' business. Hibberd is in support of this proposed Text Amendment.

Neutral:

No one came forward for neutral testimony.

Opposition:

Jill Timmerman, 8600 Liana Lane, Lincoln, NE, approached and stated that her family lives next door to the Caseys' acreage. Timmerman stated when they bought the land, they were unaware of Elite Party Buss business being next to her property. Timmerman has young children and does not feel safe with her kids being outside without supervision. She does not know who is over there or who is watching her or her kids because there are always people and traffic. Timmerman stated that this is about freedom, and they do not feel safe on their own property.

Rich and Tammy Eymann, 8420 Liana Lane, Lincoln, NE, both came forward and distributed Exhibit 1. Mr. Eymann stated that he purchased his house to be in an AG setting. That is not the case. Storage is to store and not come and go every day. Mr. Eymann stated that nothing has changed with the constant noise, dust, fuel trucks and employees coming and going at all times

of the day and night. Mr. Eymann stated that Exhibit 1 is time and date stamped to show that it is not during normal business hours but operating all the time. Mr. Eymann opposes this Text Amendment. Mrs. Eymann stated that they cannot hear or enjoy the quiet, the goats, chickens, or family members when they are outside. Mrs. Eymann stated that the employees are using the back of the building as a restroom and have bad language that is not appropriate for her grandkids to hear. This is an employee problem and not a farm problem. Mrs. Eymann stated that the employees bring friends, spouses, or families which adds more people, noise, and traffic to the area. Mrs. Eymann stated that she opposes this and was blindsided by a Party Bus business being able to operate next door as part of an AG zoning. This is something that was not known prior to purchasing their land.

Ryman Yost asked Mrs. Eymann when they moved in; Eymann replied 2018.

Drew Ferguson, 8601 Liana Lane, Lincoln, NE, approached and read a statement from wife, Heather Ferguson, who was unable to attend hearing. Per the statement, the buses continue to run, the washing runoff goes into Stevens Creek and the wear of the communal property which is maintained by the neighbors at an additional cost. There were several points that Ferguson read including property evaluation, resale value will decrease, infringement of the other property owner's rights and quiet enjoyment.

Staff Questions:

Joy clarified that from a use on this property standpoint, an amendment to the current zone or a zoning change will need to be in place for this business to operate in its current state. Henrichsen stated that all the complaints are valid and that this use is not allowed by the current zoning. Henrichsen stated that this is specific circumstance, but this Text Amendment will affect all AG and AGR neighborhoods if approved. This use is not allowed and that the Planning Department is recommending that the responsible business should find a place where it is permitted. Joy asked if this is just in Lancaster County that is allowing this specific use and Henrichsen stated that it is just within the three-mile zoning jurisdiction.

Rodenburg wanted to know how many other like services (Party Bus) are in operation that are having to pay for being in the correct zoning. Henrichsen stated that there is other Charter Bus organizations but does not know the exact count. Rodenburg asked if they are all complaints, Henrichsen stated that he is not aware of any of them having this issue.

Campbell asked if the amendments that Austin brought forward were looked at. Cajka stated that he briefly looked at them and that they would clarify some of the conditions, but the Planning Staff will not change their recommendation. Cajka stated that it still is a commercial use in an AG and AGR district. This Text Amendment could open the door to other commercial type uses. Cajka stated that on Special Permits, there are conditions and that all the conditions

need to be met in which it is then hard to justify denying a Special Permit. Henrichsen stated that the focus is not the individual conditions.

Applicant Rebuttal:

Austin approached and wanted to clarify the equity and application of zoning. Austin stated that the garbage business on 84th and Cornhusker was in violation of the zoning ordinance and carved out an I-2 in the middle of an AG. Austin stated that there are approximately seventy Special Permits in the codes. Austin stated that there is a row of evergreen trees between the property and the Timmerman property. Austin also stated that the Casey's have been operating for over 10 years and there has never been a complaint prior to pollution or hazardous materials. Austin stated that the Casey's currently have a fuel tank on the premises that would be removed if it is a condition.

Campbell asked Austin if he had the proposed amendments to the motion that was presented to the Planning Department earlier. Austin stated that it was adding a definition of the word "maintenance", ownership, and rental wording.

Campbell moved to close public hearing, second Joy. Motion carried 6-0: Campbell, Corr, Cruz, Joy, Rodenburg, and Ryman Yost voting "yes". Ball, Eddins and Edgerton absent.

TEXT AMENDMENT 23011

ACTION BY PLANNING COMMISSION

August 23, 2023

Campbell moved approval of the denial of Text Amendment 23011, seconded by Corr.

Campbell emphasized with the property owners with what they have done with the building and business. Campbell recommended that they go back to the Planning Department to see if there is another option or solution. But at this time, Campbell stated that they are not at this point of approval.

Rodenburg stated that he is concerned with the can of worms that this can lead to if another company decides that they want to do this on an acreage or land. This would box in a property owner that wanted a quiet life. Rodenburg is supporting the motion to deny and protect the zoning as it currently is. That is the job as a commissioner to protect the zoning.

Joy is focused on the Text Amendment that is in front of the Planning Commission and the Commissioners need to be true to their role to look at the zoning, land use and text amendment. Joy will be supporting the motion to deny.

Corr stated that this will affect the whole county and is not appropriate to make a blanket zoning change to accommodate this one use. Corr is stating that a business cannot be put in a residential area and will not be supporting this Text Amendment.

Motion carried 6-0: Campbell, Corr, Cruz, Joy, Rodenburg, and Ryman Yost voting “yes”. Ball, Eddins and Edgerton absent.

CHANGE OF ZONE 15013B

TO AMEND THE TOWER HEIGHTS PLANNED UNIT DEVELOPMENT (PUD) WITH A MODIFICATION TO THE LAND USE PLAN FROM O-3 (OFFICE PARK DISTRICT) TO B-2 (PLANNED NEIGHBORHOOD BUSINESS DISTRICT), WITH RESTRICTED USES, ON PROPERTY GENERALLY LOCATED AT THE SW CORNER OF SOUTH 52ND STREET AND YANKEE HILL ROAD.

PUBLIC HEARING:

August 23, 2023

Members present: Campbell, Corr, Cruz, Joy, Rodenburg, and Ryman Yost; Ball, Eddins and Edgerton absent.

Staff Recommendation: Conditional Approval

There were no ex-parte communications disclosed.

There were no ex-parte communications disclosed relating to site visits.

Staff Presentation:

Ben Callahan, Planning Department, 555 S. 10th Street, Suite 213, Lincoln, NE, came forward and stated that this request is to amend the existing Planned Unit Development (PUD) along SW 52nd and Yankee Hill Road. The applicant is requesting one lot to be changed from an office use to match the remainder of the sight with B-2 uses. Callahan stated a B-2 is being requested with some requirements within the PUD. Callahan also stated that limited uses would be noted within the commercial, recreation and entertainment along with some other facilities not allowed on the site.

Campbell asked if it is just on one lot that the restrictions will be made on. Callahan stated that it is just the northeast lot will have the restrictions and not the other lots.

Rodenburg mentioned that it states conditional approval and have those conditions been met or resolved. Callahan stated they would be approving on the bases of the conditions listed under site specific on the staff report.

Corr stated one of the letters mentions a Block 1, Lot 5 and she is unable to find that on the map. Callahan stated that this was a mistake. Corr asked if this proposed project does not happen, what could then become of the project. Callahan stated that the limitations in the PUD on the B-2. Corr said that there was some confusion to Lot 4 already being a B-2 and these changes do not affect this. Callahan stated that the changes will not affect the other lots. Corr asked if the conditions in the applicant letter be included in the site conditions. Callahan stated that they do not get that detailed on the PUD plans to restrict the business hours and number of employees. It would be hard to enforce by site. Corr asked if it would be workable to add that there is not an outside speaker to be added on the site conditions. Callahan stated that he thinks that can be

added to the site conditions. Corr asked if any of the residences have been built to the south of the PUD. Callahan stated that there is some developing currently and there is AGR south of the PUD. Corr asked if any of the houses are being built. Callahan stated that he believes that there are houses there.

Applicant:

Brad Marshall, Olssen, 601 P Street, Suite 200, Lincoln, NE, came forward on behalf of the applicant. Marshall stated that they are requesting a revision to some of the previous conditions. Marshall stated that this is concentrated to the end lot adjacent to 52nd Street. Marshall stated that a smaller local repair shop is requesting the change. It is not a chain company, that will have smaller clientele with 10-14 customers a day operating in a controlled environment. Marshall stated the conditions of outdoor speakers is perfect to add to the list of conditions. Marshall stated some of the other things that could be allowed with the O-3 zoning to include banks, hotels, restaurants that was taken into consideration. Marshall proposed adding a screening requirement with landscaping and trees being added or changed to the application. Also, restricting the height of the building and increase the setback. Marshall stated that the B-2 use presented by the Planning Department is agreed upon by both parties. Marshall also stated that there has been a discussion with the neighbor, Mr. Shaw, who was in opposition to this. Marshall also sent Mr. Shaw some information but has yet to hear back from him.

Corr asked if neighborhood meeting was held. Marshall stated that he has reached out to the neighbor, Mr. Shaw prior to the application and met with him after the application and sent information. Corr asked if there is an appropriate storage for chemicals in place and the approval process of how this works. Marshall stated that he cannot state what this would be but is sure that there is a process that will need to be approved and passed.

Proponents:

No one came forward in support.

Neutral:

No one came forward for neutral testimony.

Opposition:

Warren Baxter, 5301 Carlisle Court, Lincoln, NE, approached and stated that there will need to be EPA and OSHA standards to that area. There is a lot of concern with his acreage being near that area and how is it going to be contained. Baxter stated that adding more traffic to the neighborhood would be more dangerous because there is already a traffic issue in that area. Baxter also stated that the acreages are on well water. He wants to know if there will be any type of storage to contain the chemicals and hazardous chemicals that the property is going to have. Baxter stated that there are already a lot of repair shops on Yankee Hill. Baxter asked the question if there is a need to add more repair shops?

Linda Whitmire, 5300 Carlisle Court, Lincoln, NE, approached and stated that she does not know why lot 4 is showing as such a big lot. Whitmire stated that the neighbor, Mr. Shaw, is opposed to this and did provide the letter that he received in the mail to submit comments. Whitmire stated that the outdoor speakers, limit the hours of services and exterior lighting are all concerns that she is wanting restrictions on. Whitmire is requesting that the set back and landscaping requirements be continued on to the new zoning as a buffer.

Campbell asked Whitmire where her house is located on the map. Whitmire stated that her house is located to the south of Mr. Shaw's house.

Carla Baxter, 5301 Carlisle Court, Lincoln, NE, approached and stated that an auto body shop will have more noise than a two-story medical center. Baxter mentioned that the traffic circle is dangerous and there is also a flood plain/wetlands that is located there. Baxter is concerned with the whole development, the increase in traffic and the noise.

Staff Questions:

Corr asked Callahan why lot 3 and lot 4 are in the rectangle section on the notice and not just lot 4. Callahan stated that this has not been final platted yet. Corr asked if this project was to fall through, would this have to go through the whole process again for approval with the Planning Department. Callahan stated if it is anything outside of the "ok" use, it would need to come back and be amended. Corr asked if there are certain standards when it comes to the lighting. Callahan stated that the city standards would need to be followed for the lighting standards. Corr asked if removal of a condition so it would revert, Callahan stated that this was by request by the applicant that it could fall back to the O-3 that was currently approved. Callahan stated that this was not a concern since it is already approved onsite. Corr asked if an operation limit can be placed on the site. Callahan stated that cannot be limited or enforced within a PUD.

Applicant Rebuttal:

Marshall approached and stated that part of the overall process is detention and water quality. All the drainage is captured and released into a detention cell. Marshall also stated that the roundabout was put in to handle the increase capacity of the traffic. Marshall stated that this is a compact roundabout to minimize the amount of the intrusion of traffic to the north. Marshall stated that there are other vehicles that a service shop can serve. There are so many types of cars and are trying to match the market. Marshall stated that they will adhere to the lighting and noise standards.

Joy asked if the two detention cells would be maintained onsite. Marshall stated yes.

Campbell moved to close public hearing, second Joy. Motion carried 6-0: Campbell, Corr, Cruz, Joy, Rodenburg, and Ryman Yost voting "yes"; Ball, Eddins and Edgerton absent.

CHANGE OF ZONE 15013B
ACTION BY PLANNING COMMISSION

August 23, 2023

Corr moved to amend the conditions of approval and add a number 5 that prohibits outdoor speakers, to Change of Zone 15013B, seconded by Campbell.

Corr stated that this is a good project and will have more protection than was currently there. Corr thinks that this is an appropriate placement of this type of business.

Campbell stated that there is plenty of office space available in this community and the change to B-2 is common sense to this development.

Corr stated that if this project goes through and is constructed, would recommend utilizing the used oil to heat the floors.

Rodenburg stated that there are concerns with the roundabout and recommends a way to reduce the speed limit or a traffic light to slow down the speed.

Motion carried 6-0: Campbell, Corr, Cruz, Joy, Rodenburg, and Ryman Yost voting "yes". Ball, Eddins and Edgerton absent.

Clerk stated if anyone present wishing to testify on this Street and Alley Vacation 23005 rather than waiting until the September 20th hearing, can do so at this time, but if you do testify today, you will not be able to testify again on September 20th, 2023.

No one approached to testify.

Corr moved to adjourn the Planning Commission meeting of August 23, 2023, seconded by Joy.

Motion carried 6-0: Campbell, Corr, Cruz, Joy, Rodenburg, and Ryman Yost voting "yes". Ball, Eddins and Edgerton absent.

There being no further business, the meeting was adjourned at 3:42 p.m.

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Use Permit #05002A	FINAL ACTION? Yes	DEVELOPER/OWNER Hawk's Headquarters LLC/TKM Holdings LLC
PLANNING COMMISSION HEARING DATE September 6, 2023	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION Generally located at N. 84 th Street and Northwoods Drive

RECOMMENDATION: CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request for an amendment to the Northwoods Office Park Use Permit to allow an internal building increase of 4,728 square feet of office area. The total office use floor area would increase from 9,166 to 13,894 square feet. This Use Permit is located on the west side of N. 84th Street generally south of Holdrege Street at Northwoods Drive. The Use Permit area includes 1.11 acres in total with two office lots. The zoning is R-T Residential Transition District. No other changes to the Use Permit are proposed.



JUSTIFICATION FOR RECOMMENDATION

The Use Permit amendment will not negatively affect the neighborhood as the increase is minor with no building or parking area expansion. The request is only to increase internal building square footage for an existing office use. The basement will be converted from storage to finished floor area which is the reason for the request.

APPLICATION CONTACT
David Wiebe, (402) 486-3232 or davidw@adalincoln.com

STAFF CONTACT
George Wesselhoft, (402) 441-6366 or gwesselhoft@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The 2050 Comprehensive Plan identifies this location on the Future Land Use Map as urban residential. The existing Use Permit and R-T zoning are consistent with the intended uses for urban residential designation. There is adjacent B-2 commercial zoning to the north with commercial use designation and as such this proposal is in keeping with a transition from commercial to urban residential.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Introduction Section: Growth Framework

Figure GF.b: 2050 - This site is shown as part of an urban residential area with adjoining commercial to the north.

Land Use Plan -

Urban Residential. Residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. All types of housing are appropriate here, from detached single family, duplex and missing middle, to higher density multi-family. Undeveloped areas shown as Urban Residential may also include neighborhood-scale commercial and other compatible uses that will be added to the map after approval of development plans.

E1: Complete Neighborhoods and Housing -The Residential Transition (R-T) District is intended to provide a buffer between neighborhoods and more intensive commercial or industrial uses, stressing compatibility with nearby residential areas.

P12: Economic Growth - Promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life of the community.

Action Steps

7. Focus primarily on retention and expansion of existing businesses; attracting new businesses should also be encouraged.

P17: Predictability - Strive for predictability for neighborhoods and developers.

ANALYSIS

1. This is a request for an amendment to the Northwoods Office Park Use Permit that includes increasing the allowable square footage for office use from 9,166 to 13,894 square feet. No other changes are requested to the Use Permit. The Use Permit is located on the west side of N. 84th Street on the south side of Northwoods Drive and comprises 1.11 acres in total area with the area of amendment consisting of 0.62 acres. The zoning is R-T Residential Transition District. Existing uses include two office buildings on two lots.
2. The amendment is requested to allow for an internal area increase of 4,728 square feet of office use to the existing building on Lot 1, Northwoods Office Park 1st Addition which is the northern lot in the Use Permit. The reason for this change is to include the existing basement level in the land use and parking summary information. The basement area was built with the original building but was not included in the original Use Permit. The existing building footprint will not change.
3. UP05002 Northwoods Office Park was originally approved in March of 2005 and authorized the development of two 5,000 square foot office buildings in the R-T Residential Transition District. Administrative Amendment 23036 approved in July of 2023 allowed an internal increase by 1,151 square feet of office to the existing building on Lot 1. This brought the total square footage to 9,166. Since the current request is 4,728 square feet additional floor area or more than 15% of the existing allowable floor area, a full amendment to the Use Permit is required. The Planning Director may only approve floor area increases up to 15%.
4. The R-T Residential Transition District is intended to provide a transitional area consisting primarily of office and other types of small-scale commercial uses in close proximity to residential uses. This district is intended to provide a buffer between neighborhoods and more intensive commercial or industrial uses, stressing compatibility with nearby residential areas.
5. The R-T District has a maximum building footprint requirement of 5,000 square feet. In this case, both existing office buildings in the Use Permit are below the limit and no change to the building footprint for the lot in question is proposed. Building floor area may exceed the 5,000 square feet subject to Use Permit approval.
6. The existing parking count will remain the same. There are a total of 52 existing parking spaces. 47 parking spaces are required at 1/300 ratio for the total proposed office floor area of 13,894 square feet. Therefore, no new additional parking is needed for this amendment.
7. The 2050 Comprehensive Plan identifies the property as urban residential. The office use is an appropriate use through the R-T zoning and this amendment is consistent with the Comprehensive Plan.

EXISTING LAND USE & ZONING: Office/R-T Residential Transition District

SURROUNDING LAND USE & ZONING

North: Commercial	B-2 Commercial
South: Single Family Attached/Detached	R-3 Residential
East: Single Family Attached	R-3 Residential
West: Single Family Detached	R-3 Residential

APPLICATION HISTORY:

March, 2005 Use Permit #05002 for Northwoods Office Park was approved by the Planning Commission which authorized the development of two 5,000 square foot office buildings in an R-T District.

October, 2012 Administrative Amendment #12046 was approved by the Planning Director to revise the lot line between Lots 1 and 2 and to change the building floor area to building footprint.

October, 2012 Final Plat #12062 was approved for Northwoods Office Park 1st Addition which created two lots.

July, 2023 Administrative Amendment #23036 was approved by the Planning Director to allow an internal increase by 1,151 square feet of office to the existing building on Lot 1, Northwoods Office Park 1st Addition.

APPROXIMATE LAND AREA: Approximately 0.62 acres, more or less

LEGAL DESCRIPTION: Lot 1, Northwoods Office Park 1st Addition

Prepared by George Wesselhoft, Planner
(402) 441-6366 or gwesselhoft@lincoln.ne.gov

Date: August 24, 2023

Owner: Hawk’s Headquarters LLC
 1150 N. 83rd Street
 Lincoln, NE 68505
 (402) 475-8600
 mgerdes@silverhawkaviation.com

Applicant David Wiebe
Contact: Architectural Design Associates
 3410 O Street
 Lincoln, NE 68510
 (402) 486-3232
 davidw@adalincn.com

<https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/UP/05000/UP05002A Northwoods Office Park.gjw.docx>

CONDITIONS OF APPROVAL - USE PERMIT #05002A

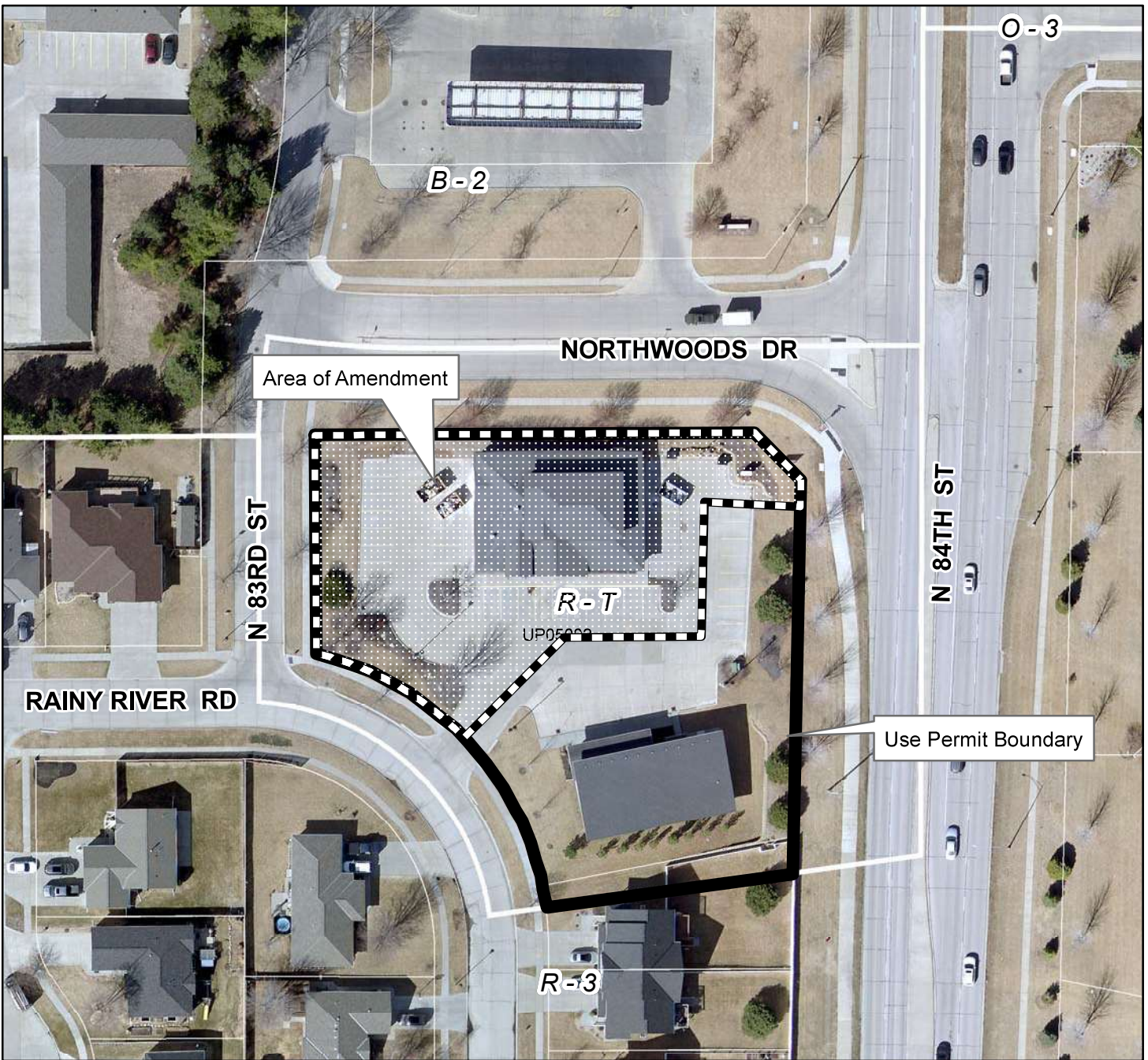
This approval permits increase of 4,728 square feet for office use on Lot 1 with a total office floor area of 13,894 square feet for the Use Permit.

Site Specific Conditions:

1. The permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 2 copies with all required revisions and documents as listed below upon approval before receiving building permits. (*if no final plat is required*) or before a final plat is approved (if final plat is required):
 - 1.1 Change title blocks to reflect Use Permit 05002A instead of an administrative amendment.
 - 1.2 Update legal description to reflect the current platted lots.

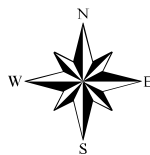
Standard Conditions:

2. The following conditions are applicable to all requests:
 - 2.1 Before occupying the buildings all development and construction is to substantially comply with the approved plans.
 - 2.2 All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the Permittee or an appropriately established property owners association approved by the City.
 - 2.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
 - 2.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 2.5 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefore to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.
 - 2.6 The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions/ordinances approving previous permits remain in force unless specifically amended by this resolution.



Use Permit #: UP05002A
Northwoods Office Park
N 84th St & Holdrege St

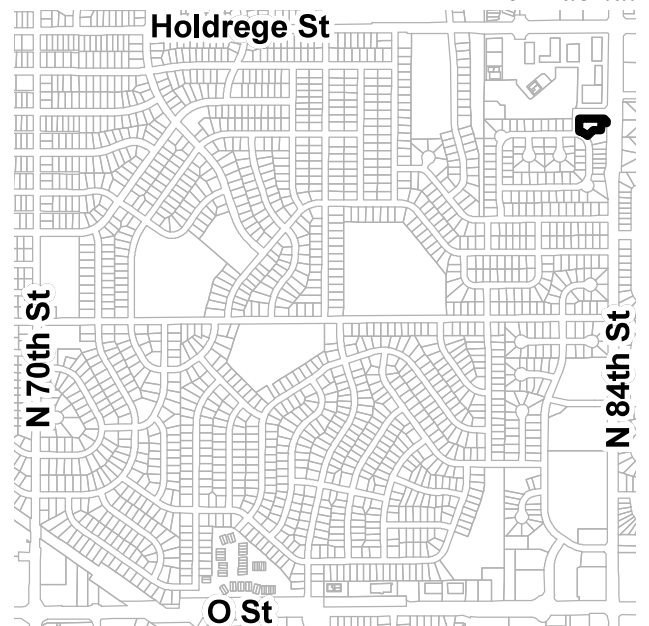
2022 aerial



One Square Mile:
Sec.22 T10N R07E

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential 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





August 10, 2023

George Wesselhoff
Lincoln Planning Department
555 South 10th Street
Lincoln, NE 68508

RE: Amendment to UP #05002

George: We are applying for an Amendment to the existing Use Permit 05002 to allow an internal area increase of 4,728 square feet of office area to the existing building on lot 1, Northwoods Office Park 1st Addition. The reason for this change is to include the existing basement level in the Land Use & Parking Summary. The basement area was built with the original building but that area was not included in the original Use Permit. This amendment is to correct that issue. This will not change the existing building footprint.

The existing parking count will remain the same. A total of 52 stalls are existing. The total building areas of both buildings under the Use Permit is 13,894 square feet. 1 stall / 300 square feet = 47 required stalls. (Rounding up for the individual building areas results in 48 stalls as listed in the table.)

No other changes are requested.

Thank you,

A handwritten signature in black ink that reads 'David Wiebe'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David Wiebe, AIA
Principal
Architectural Design Associates

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Change of Zone #08057F University Place Planned Unit Development/Best Kept Secret	FINAL ACTION? No	DEVELOPER/OWNER John Osiri
PLANNING COMMISSION HEARING DATE September 6, 2023	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION 2737 North 49 th Street

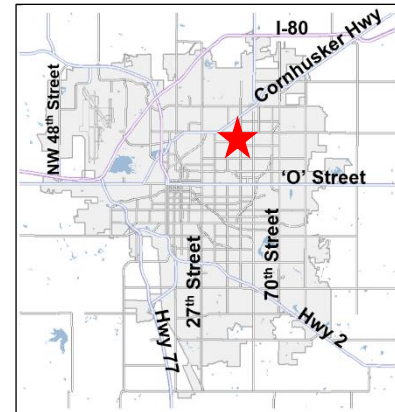
RECOMMENDATION: CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request to amend the University Place Planned Unit Development (PUD) to allow for both on and off-sale alcohol. Specifically, the request is to reduce the required separation between alcohol sales and residential zoning from 100’ to 65’.

Typically, a special permit is required but the proposed licensed premises does not meet the criteria of the permit and is not eligible to apply. However, the property is located within the boundary of the University Place PUD and is eligible to apply to amend the applicable requirements as is allowed under the provisions of a PUD.

A mixed-use commercial development is proposed including a grocery store and a lounge which can also serve catered full-course meals within the 3,600 square foot building. The site is zoned B-3(PUD) and adjacent to R-6 Multiple-family zoning to the east and north. The applicable separation between the licensed premises for alcohol sales and residential zoning per LMC 27.63.680 and 685 is 100’, where in this case the separation is approximately 65’.



JUSTIFICATION FOR RECOMMENDATION

The University Place PUD was originally developed to support a mix of land uses and flexibility by adjusting certain requirements, such as for parking, signs and other uses such as the sale of alcohol. The PUD Development Plan (attached) already contains modified provisions for the sale of alcohol.

University Place has been in transition with several redevelopment projects completed or underway. Historically void of alcohol sales, University Place now has several outlets selling alcohol from on-sale in restaurants to off-sale retail. Allowing the sale of alcohol as part of this redevelopment project adds to the diversity of uses in University Place and helps it remain viable and competitive with other commercial areas. This request is consistent with PUD and the Comprehensive Plan.

APPLICATION CONTACT

John Osiri, 206-371-3132 or jkosiri@gmail.com

STAFF CONTACT

Brian Will, 402-441-6362 or bwill@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Comprehensive Plan supports a mix of uses and infill commercial development that is compatible with existing neighborhoods and supports the retention and expansion of existing businesses. This mixed-use redevelopment project which includes both on and off-sale alcohol adds to the mix of appropriate uses in the commercial district.

WAIVERS

1. To modify the requirements of LMC 27.63.680(a)(3) and 27.63.685(c) to allow for the sale of alcohol for consumption both on and off the premises less than 100' to a residence and a residential zoning district.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Goals Section

G2: Complete Neighborhoods. Lincoln and Lancaster County will support complete neighborhoods within both developing and redeveloping areas of Lincoln. A complete neighborhood is one where residents are able to get the goods and services to meet daily needs within 15 minutes of their residence including a variety of housing options, grocery stores and other commercial services, quality public schools, public open spaces and recreational facilities, affordable active transportation options, and civic amenities. Housing variety should include townhomes, senior living facilities, low/no maintenance condominiums, accessory dwelling units, multi-family development, and even small lot single-family.

G4: Economic Opportunity. Lincoln and Lancaster County will have high-quality jobs in an economic environment that supports business creation, innovation, and expansion. Quality-of-life attributes, such as diverse and accessible housing, good shopping, restaurants and entertainment, quality schools and healthcare, a sense of safety, and amenities such as parks and trails are important to ensuring that skilled individuals want to remain or relocate to our community.

Policies Section

P12: Economic Growth - Promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life of the community.

Action Steps

7. Focus primarily on retention and expansion of existing businesses; attracting new businesses should also be encouraged.

ANALYSIS

1. This is a request to amend the University Place Planned Unit Development (PUD) to allow for on and off-sale alcohol in conjunction with a mixed-use building. The site is developed with a 7,200 square foot building and 12 parking spaces over two platted lots at the east edge of the University Place PUD. The site is zoned B-3 Commercial as are the properties to the south and west. The property to south which is zoned B-3 PUD is occupied by a multi-family dwelling. The properties to the east and north are zoned R-6 Residential. The PUD boundary encompasses almost all of the B-3 zoned land along the North 48th Street corridor from one-half block north of Adams south to Colby Street.
2. The proposed uses for the building include a lounge which will on occasion serve full-course catered meals, as well as a grocery store and an art gallery. The hours of operation will be 7 a.m. to 2 a.m. There are two outdoor patios on the west side of the building which the applicant states will not be used for outdoor beer garden or smoking areas.
3. The sale of alcohol is regulated by separate special permits - 27.63.680 for on-sale and 27.63.685 for off-sale. Both special permits require the licensed premises for alcohol sales to be at least 100' from a residence, a residential zoning district, a church, park, day care facility and state mental institution. As measured, the separation to the R-6 zoning to the north and east is approximately 65'. There is also a multi-family dwelling adjacent to the south; it is zoned B-3 PUD and located approximately 90' away.

4. The primary entrance/exit to the building is from two doors facing the parking lot to the west. There is also an entrance door on the east side of the building facing North 49th Street. Most of the activity associated with patrons would be on the west side of the building away from the adjacent residential areas. The applicant has stated that door on the east side of the building is not required for public access point and could be limited in use as an emergency access.
5. As the special permits for the sale of alcohol were originally adopted in 1994, both included provisions that allowed the City Council to waive the 100' separation if part of a landscape/screening plan approved by the Planning Director. Those provisions were removed in 2005 and any ability to adjust the required separation was eliminated. With the exception of the former Green's redevelopment (0' to a residential use, but that was part of the redevelopment project and located within the PUD) no exceptions to the 100' separation have been granted since 2005.
6. There is no direct basis for comparison for this request. As noted above, no exceptions have been granted since 2005. However, a contrast using the current requirements of the B-2 and B-5 zoning districts where the sale of alcohol is a conditional use can be informative.

Both on and off-sale alcohol are conditional uses in the B-2 and B-5 zoning districts. These 'use permit' districts are designed for suburban development in the newer parts of the city and intended to be located adjacent to residentially zoned neighborhoods. Rather than a 100' separation from the licensed premises to a dwelling or residential zoning district, the 100' separation is measured from the primary entrance around the building to the sensitive use.

The off-sale provisions for the B-2 and B-5 (the on-sale provisions read essentially the same) reads as follows. The application of these criteria to this request is included in bold italic text:

- a. Sale of alcoholic beverages for consumption off the premises is allowed in the B-2 and B-5 zoning districts under the following conditions:
 1. Parking shall be in conformance with the provisions of [Chapter 27.67](#); provided that in the B-5 zoning district no parking spaces shall be located in that portion of any required side yard or rear yard of the building containing the licensed premises that abuts a residential district.
This site has no parking spaces that abut a residential district.
 2. Any exterior door opening must meet the following conditions:
 - i. Be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, place of religious assembly, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such day care facility, place of religious assembly, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district, then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, place of religious assembly, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.
The primary public entrance to the building is on the west side of the building and is in excess of 100' from all the sensitive uses noted. The entrance on the east side of the building is approximately 65' away from a residential zoning district, but the applicant stated that this door can be limited in use to emergency access and not

for general public uses. The 100' separation to a residential zoning district does not however include emergency access doors (as defined in the following section).

- ii. If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation. For purposes of this section, "exterior door opening" shall mean (A) that portion of the exterior wall face of the building containing the licensed premises that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (B) provides public or membership access to the licensed premises. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes or loading or unloading doors that are not available for public or membership access in the ordinary course of business.

Provided the east entrance is limited to use as emergency access there is no doorway facing a residential zoning district.

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

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

4. 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.

An outdoor area is shown on the west side of the building and is within 150' of the R-6 Residential zoning district. The applicant states the use of outdoor area 'will occasionally feature live music, poetry and performance'. However, the applicant has further stated this area does not include 'an outside beer garden or smoking area' so alcohol is not authorized beyond the footprint of the building in the outdoor area. This provision assumes alcohol is allowed in the outdoor areas but which is not the case in this circumstance.

5. Notwithstanding any contrary provision contained in Section [27.64.010\(h\)](#), the yard requirements, the parking location requirements, and the exterior door opening location requirements in this section shall not be adjusted by the City Council.

No adjustment to these requirements is needed for this location to meet the criteria.

6. In addition, in the B-2 zoning district, all exterior door openings of the licensed premises shall be located more than 100 feet away from any parking spaces located in a side or rear yard adjacent to a residential district. For the purpose of this measurement, the side yard shall be 50 feet. In addition, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such residential district, then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to any parking spaces located in a side or rear yard adjacent to the residential district.

As noted previously, there are no parking spaces located in a required yard adjacent to a residential zoning district.

7. In addition, in the B-5 zoning district when the building containing the licensed premises abuts a residential district, the required yards shall be met.

This premises does not abut a residential zoning district.

7. With the exception of the east-facing door, this use meets the requirements as a conditional use for both on and off-sale alcohol in either the B-2 or B-5 zoning districts. Much of the separation to the R-6 in this case is provided by the intervening 60' of right-of-way in both North 49th Street and Madison Avenue, as opposed to the landscape screening required by the B-2, B-5. The property to the south which is also zoned B-3 PUD is occupied with a multi-family dwelling approximately 90' away. However, there is no required separation in the B-2 and B-5 conditions to a dwelling located in a commercial zoning district. The use fails the 100' required separation to a residence and a residential zoning district when applying the special permit requirements, but in this example, it would meet the conditional requirements for the sale of alcohol in the B-2 and B-5 zoning districts provided the east-facing door is limited in use to emergency access.
8. The sale of alcohol has been established for years within the University Place commercial area. Walgreens, the former Ville Grill, the Mo Java Café and most recently the former Green's Plumbing site redevelopment project all are allowed alcohol sales. The Leighton Mixed-use PUD located northwest of the intersection of North 48th and Leighton Streets, which is not a part of the University Place PUD, allows both on and off-sale alcohol as permitted uses as part of the redevelopment project.
9. The proposed amendment allows re-use of an existing commercial building which is appropriate for this older, redeveloping commercial district. There has been significant redevelopment in University Place in an effort to revitalize the area and remain competitive with other commercial centers around the city. As the applicant notes, this use is part of a larger effort to redefine University Place as a 'Creative Arts' district.

The PUD was applied to the University Place commercial district recognizing its uniqueness and to provide flexibility to help encourage a mix of uses and complement redevelopment efforts. As an amendment to that PUD, that flexibility is applied to this request and the allowance of alcohol sales at this location is appropriate.
10. The Comprehensive Plan encourages the preservation and redevelopment of these older commercial areas which provide valuable services to the surrounding neighborhoods. Redevelopment including uses like the one proposed helps these commercial districts remain competitive and viable. Subject to the recommended conditions of approval this request complies with the Zoning Ordinance and is consistent with the Comprehensive Plan.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: Commercial; B-3 PUD (Planned Unit Development)

SURROUNDING LAND USE & ZONING

North:	Residential	R-6
South:	Residential	B-3PUD
East:	Residential	R-6
West:	Commercial	B-3PUD

APPLICATION HISTORY

- | | |
|-----------|---|
| Jun. 2023 | Change of Zone #08057E was approved for the redevelopment of the former Green's Plumbing site allowing a reduction in required separation from 100' to 0' between the sale alcohol to a dwelling at 2747 North 48 th Street. |
| Jan. 2023 | Change of Zone #08057D was approved allowing an indoor theater with a reduced off-street parking requirement at 2626 North 48 th Street. |
| Oct. 2022 | Change of Zone #08057C was approved by the City Council to allow the use of pole signs south of Leighton Avenue. |

- Jan. 2020 Change of Zone #08057B was approved by the City Council to allow for an existing motorized vehicle sales use to continue at 2928 N. 48th Street, with conditions and waivers for such use added in conjunction with existing use.
- Mar. 2014 Administrative Amendment #14007 to Change of Zone #08057A was approved by the Planning Director to not provide additional parking stalls associated with expansion of the MoJava restaurant/on-sale alcohol.
- Jun. 2011 Change of Zone #08057A was approved by the City Council to allow the sale of alcohol for consumption on the premises as a conditional use, with a waiver to required parking for such use added in conjunction with an existing use.
- Jan. 2009 The University Place PUD was approved under Change of Zone #08057 adjusting allowed land uses, parking regulations, and sign regulations.

APPROXIMATE LAND AREA (AREA OF AMENDMENT): 0.33 acres more or less.

LEGAL DESCRIPTION: Lots 1 and 2, Block 67, University Place, located in the NE 1/4 of Section 17-10-7, Lincoln, Lancaster County, Nebraska, generally located at 2737 North 49th Street.

Prepared by

Brian Will
 August 23, 2023
bwill@lincoln.ne.gov
 402-441-6362

Applicant/
 Contact/

Owner: John Osiri
 2735 Hoy Street
 Lincoln, NE 68516
 206-371-3132
jkosiri@gmail.com

CONDITIONS OF APPROVAL - CHANGE OF ZONE #08057F

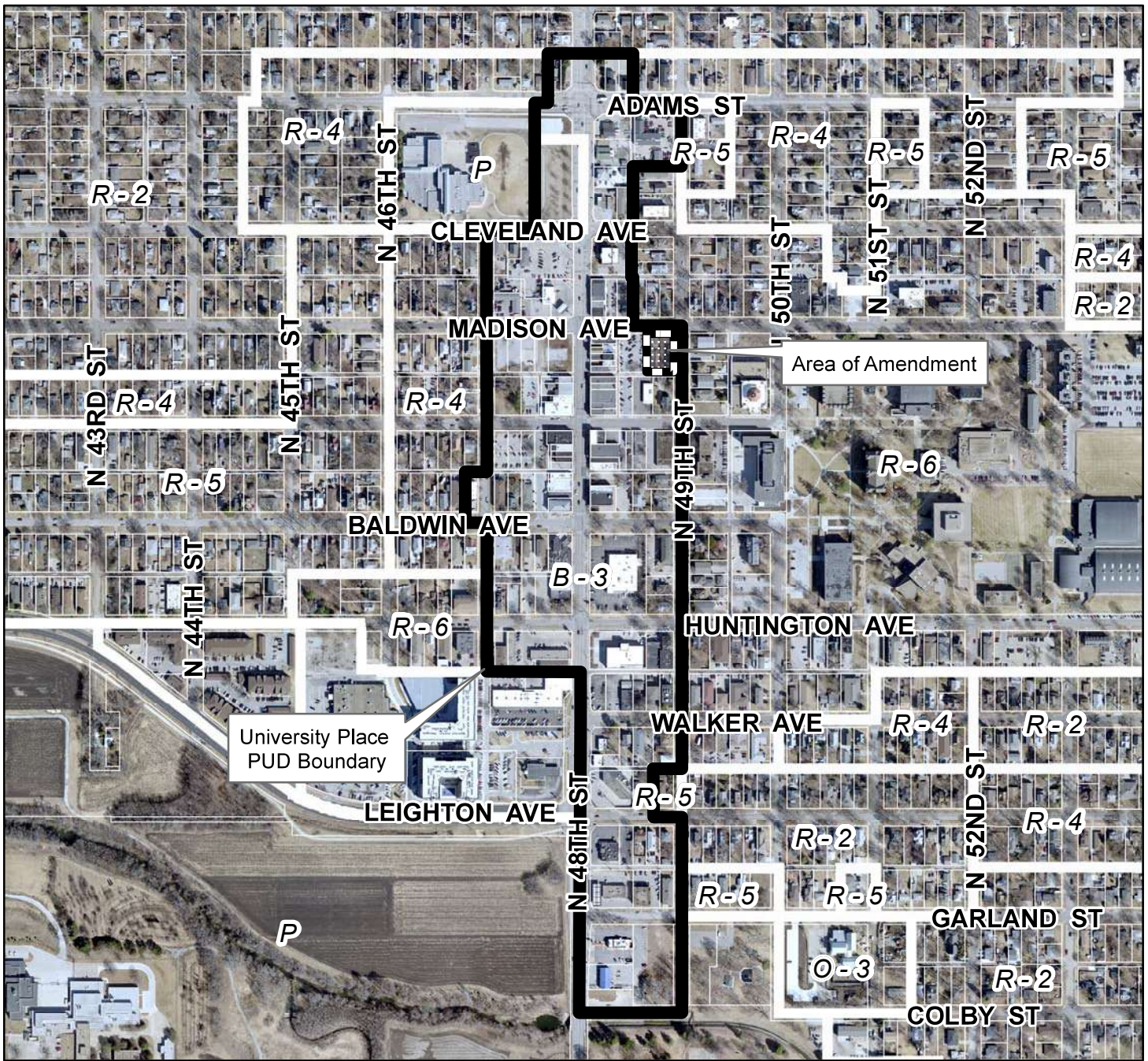
This approval authorizes an amendment to the University Place Planned Unit Development Plan to allow the sale of alcohol for consumption on and off the premises at 2737 South 49th Street as amended by the University Place PUD Development Plan to reduce the separation between the sale of alcohol for consumption on and off the premises and a dwelling and a residential zoning district from 100' to 65', provided the east door will be limited to use as an emergency access only and that the primary public access will be via the doors on the west side of the building. No outdoor area is permitted on the east side of the building.

Site Specific Conditions:

1. The permittee shall cause to be prepared and submitted to the Planning Department two copies of a revised and reproducible Final University Place Development Plan with all required revisions and documents.
 - a. Amend the PUD Development Plan notes to state that the east door will be limited to use as an emergency access only, and that the primary public access will be via the doors on the west side of the building and no outdoor area is permitted on the east side of the building.

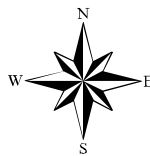
Standard Conditions:

2. The following conditions are applicable to all requests:
 - 2.1 Before occupying the building all development and construction shall substantially comply with the approved plans.
 - 2.2 The terms, conditions, and requirements of the ordinance shall run with the land and be binding upon the developer, its successors and assigns.
 - 2.3 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefore to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.
 - 2.4 The site plan as approved with this ordinance voids and supersedes all previously approved site plans, however all ordinances approving previous permits remain in full force and effect unless specifically amended by this ordinance.



2022 aerial

Change of Zone #: CZ08057F
Best Kept Secret
N 49th St & Madison Av



One Square Mile:
 Sec.17 T10N R07E

Zoning:

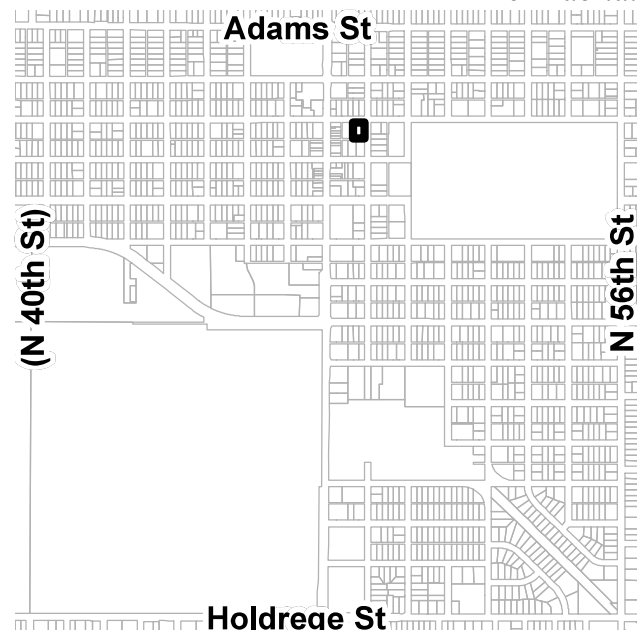
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial 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

Area of Application

Zoning Jurisdiction Lines

Lancaster County Jurisdiction

31





VACINITY PLAN
SCALE: 1" = 20'-0"

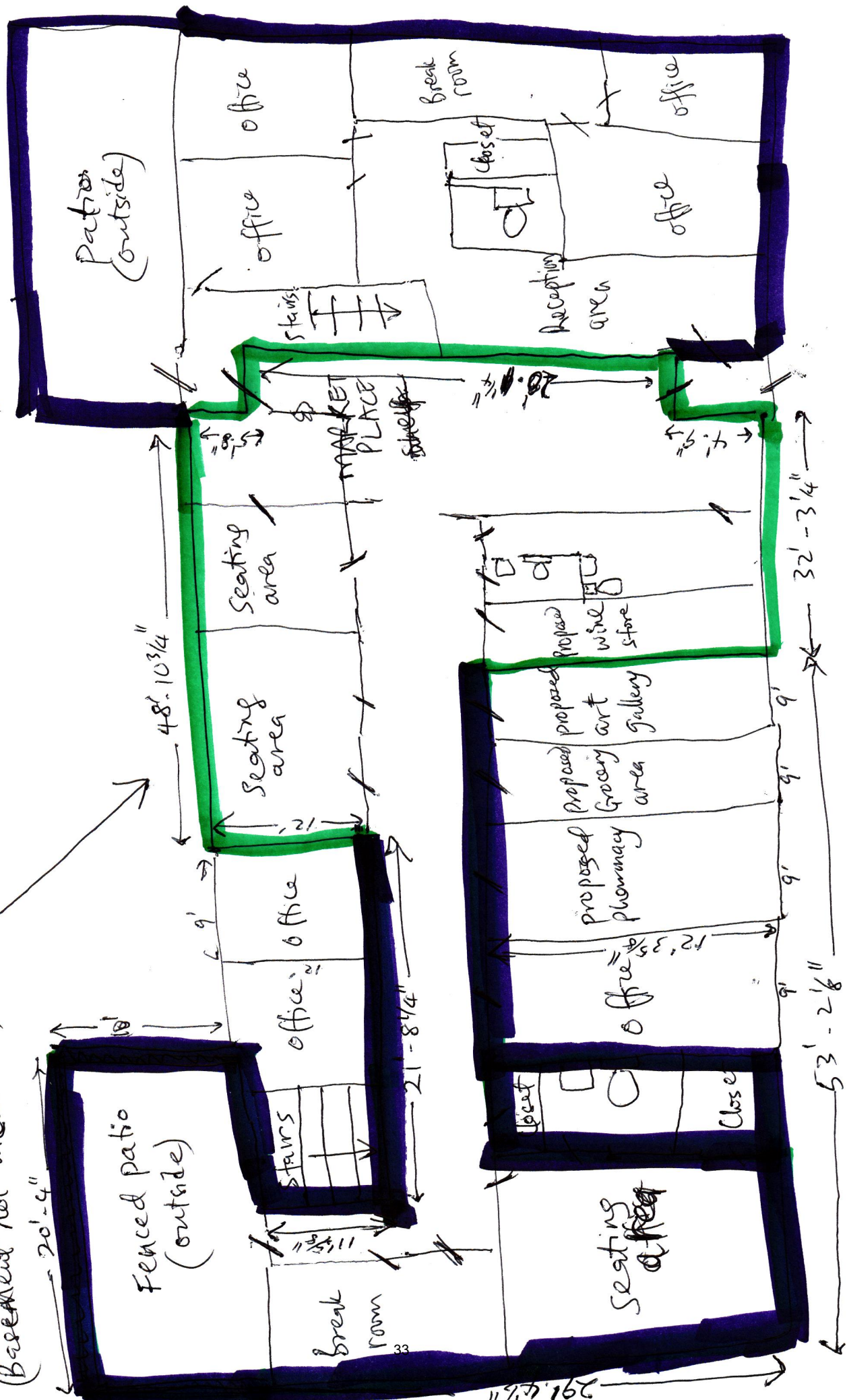
BEST KEPT SECRET
2337 MADISON AVE SUITE 101
LITCHFIELD, ILLINOIS 62550
SITE PLAN

A2.00

Area within purple lines not included

Area within green lines to be licensed (Base rent not included)

Area within purple lines NOT INCLUDED



North →

University Place Planned Unit Development Plan

CZ#08057F

All new construction or changes in use within the boundaries of the PUD shall adhere to B-3 zoning except where modified by the PUD as follows:

1. Land Uses:

- (a) Dwellings are permitted on the first floor except within 50' of the right of way of N. 48th Street.
- (b) Alcohol:
 - i. For sale for consumption on the premises is permitted as a conditional use provided:
 - A. It meets all the requirements of LMC 27.63.680, except for parking. With regard to parking, the parking requirements of the PUD apply, and the inclusion of the sale of alcohol for consumption on the premises in conjunction with an existing use is not considered a change in use.
 - B. The hours for the sale of alcohol shall not commence prior to 8:00 a.m. and shall end no later than 11:00 p.m.
 - C. The hours of outdoor operation (beer garden, etc.) shall not commence prior to 8:00 a.m. and shall end no later than 10:00 p.m.
 - ii. Notwithstanding 1. (b). i. above, for 2747 North 48th Street (Parcel ID:1717120011000), including the abutting vacated east-west alley, for sale for consumption on the premises with restaurant as a conditional use, provided:
 - A. Allow nongambling games (e.g., pool tables, shuffleboard, darts boards, keno, electrical gaming devices, etc.).
 - B. Allow alcoholic beverages shall not exceed fifty (50%) of the gross sales of food and beverages.
 - C. Hours of operation: no earlier than 8:00 AM and no later than 12:00 AM and hours of outdoor operation (beer garden, etc.): no earlier than 8:00 AM and no later than 11:00 PM.
 - iii. Notwithstanding 1. (b). i. above, for 2747 North 48th Street (Parcel ID:1717120011000), including the abutting vacated east-west alley, for sale for consumption off the premises with restaurant as a conditional use, provided:
 - A. Allow brew pub that sells its alcoholic beverages in its original package for consumption off the premises
 - B. Restaurants with a Class C or Class I liquor license to sell alcoholic liquor not in its original package as permitted in Neb. Rev. Stat. §53-123.04, as amended.”
 - iv. Notwithstanding 1. (b). i. above, for 2737 North 49th Street (Parcel ID: 1717214001000), the sale of alcohol for consumption both on and off the premises are allowed as permitted uses.

- (c) Motorized vehicle sales and/or repair facilities are permitted as a conditional use on 2928 N. 48th Street within 100 feet of the adjacent residential use and district provided:
 - i. The streetscape along N. 48th Street is improved by (i) establishing a front yard from the face of the house to the property line, (ii) removing all pavement and gravel from the front yard and installing a landscape screen to the parking area south of the house that meets the design standards for parking lot screening; and (iii) installing parking barriers along the parking area south of the house to keep cars properly parked in the future.
 - ii. The driveway onto N. 48th Street from the north side of the house is removed to improve traffic safety.
 - iii. A 6 feet high opaque fence is installed along the southern 20-22 feet of the site on the east property line to improve screening for neighbors to the east.
 - iv. The permitted dwelling units in the house are reduced from six to one.
 - v. The use complies with the approved Site Plan.
 - vi. Any demolition and new buildings involving this use on the property shall be in full conformance with Title 27 except as otherwise modified by the PUD. Notwithstanding the above, existing buildings involving this use may be repaired, restored or reconstructed according to the approved Site Plan.
- (d) An indoor theater is allowed as a permitted use at 2626 N. 48th Street with seating for up to 40.
- (e) The sale of alcohol for consumption both on and off the premises are permitted uses over Lots 1-6, Beechers Subdivision, commonly known at 2747 N. 48th Street. The requirement for a 100' separation from the property line of a first-floor residential use per Lincoln Municipal Code Section 27.63.680 and 27.63.685 is reduced to 0' for residential uses within the PUD. The off-street parking requirement is as otherwise provided for in the PUD.

2. **Parking:**

- (a) Parking requirement may be met within 600' of the property line.
- (b) Due to the availability of on-street parking and City-owned off-street parking lots, an overall ratio reduction of 50% shall apply to all nonresidential uses within the PUD, including all nonresidential uses with special parking requirements listed under 27.67.040. Additional minor amendments in the ratio may be approved administratively by the Planning Director, based on changes in land use and parking within and near to the PUD.
- (c) Residential uses with special parking requirements listed under 27.67.040 shall adhere to the parking requirements of the ordinance. The 50% ratio reduction does not apply.
- (d) Residential parking requirement is 1 space per dwelling unit if part of a mixed-use development on a single premises. The 50% ratio reduction does not apply.

- (e) Residential uses not part of a mixed-use development shall have a parking requirement of 1.75 spaces per dwelling unit. The 50% ratio reduction does not apply.
- (f) If the ratio reduction for a use still results in inadequate parking, an additional option is a joint parking agreement. Joint parking is currently permitted in the B-3 district by 27.67.040(dd). The PUD makes the following modifications to the joint parking ordinance:
 - i. A premises which does not have nonconcurrent parking demand which is determined to have a parking surplus based on the PUD parking requirements may enter into a joint parking agreement with their additional stalls.
 - ii. In addition to churches and chapels, university land may also be used for joint parking agreements.
 - iii. The parties involved in a joint parking agreement are not required to reserve adequate land to supply parking in the event the nonconcurrent parking demand changes due to a change in use.
- (g) March 19, 2014 AA#14007 MoJava, 2649 North 48th Street An adjustment to the parking requirement for an approximate 700 square foot expansion into adjacent retail space was approved. The restaurant expansion required four additional parking spaces based upon the floor area, but credit for one parking space for the prior commercial use of the area of expansion was allowed, resulting in three additional required spaces. This amendment adjusted the required parking spaces from three to 0.
- (h) For 2626 North 48th Street the required parking is adjusted from 3 parking stalls to 0 for an indoor theater with seating for up to 40.

3. Height and Area Regulations:

- (a) B-3 height and area regulations shall apply unless and until the PUD is amended.

4. Signs:

- (a) Pole signs are prohibited, except for the area south of Leighton Avenue where pole signs are allowed provided they meet the requirements of the B-3 zoning district.
- (b) Off-premises signs are prohibited.
- (c) Permitted ground signs not to exceed 10' in height or 50 square feet in total area.
- (d) Signs need not be shown on this site plan, but need to be in compliance with Chapter 27.69 of the Lincoln Zoning Ordinance (except as modified by this PUD), and must be approved by Building and Safety Department prior to installation.

Proposed modification and justification

Best Kept Secret LLC is requesting the 100' requirement be reduced to 65' to allow on and off sale alcohol at 2737 N. 49th Street, Lincoln, NE 68516. The owner has spoken with the residential and business neighbors to get their support.

Best Kept Secret (BKS) LLC aims to establish a unique lounge with mercantile business that would serve as an epicenter of idea and cultural exchange. The maximum occupancy will be 49 at any given time with hours of operation from 7am to 2am. Best Kept Secret will participate in both on-sale and off-sale alcohol. The business will not include an outside "beer garden/smoking area, but will occasionally feature live music, poetry, and performance. BKS will sell wine, beer, and spirits. The lounge will target professionals ages 21 and above as well as families.

The establishment will combine the sale of alcoholic beverages, full course meals, groceries, and art. By offering a diverse product range and creating a welcoming atmosphere, we intend to attract residents of the Lincoln community and tourists to experience our offerings while making memories. Specifically, the mercantile business will be a neighborhood grocery store. When seeking the support of the neighbors for the lounge, many of them expressed a strong interest in the grocery store idea and indicated that they look forward to patronizing both the lounge and the grocery store. The sections of the building to be licensed for liquor sales are indicated in the attached drawing.

The proposed business will also help to catalyze the creation of UNI Place as a Creative Arts District, a mission that has been embarked upon by businesses at UNI Place. With a strong focus on customer service and emphasis on promoting local and international art, we are confident in the success of Best Kept Secret.

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

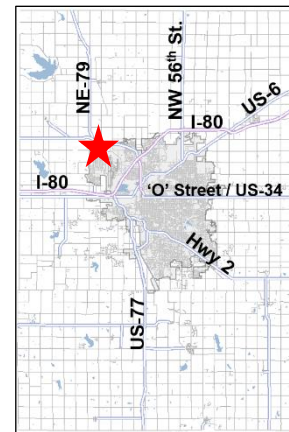
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Change of Zone #23054	FINAL ACTION? No	DEVELOPER/OWNER John D. Zakovec
PLANNING COMMISSION HEARING DATE July 26, 2023	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION 4801 W. US Highway 34

RECOMMENDATION: DENIAL

BRIEF SUMMARY OF REQUEST

This is a request for a change of zone from AG-Agriculture to H-3 Highway Commercial on 6.24 acres located at 4801 US Highway 34. The change of zone is requested to allow expansion of an existing outdoor vehicle storage and self storage business.



JUSTIFICATION FOR RECOMMENDATION

This request is not in conformance with the Comprehensive Plan. The area is shown as agricultural in the 2050 Lancaster County Future Land Use Plan. The site is outside the future service limits and is in Tier III Growth Area. The Comprehensive Plan does not support commercial development outside of Lincoln and other incorporated communities.

APPLICATION CONTACT

Mark Hunzeker, 402-432-2987 or mhunzker@remboltlawfirm.com

STAFF CONTACT

Tom Cajka, (402) 441-5662 or tcajka@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

This change of zone request is not compatible with the Comprehensive Plan. This area is shown to remain agriculture in the Future Land Use Plan. It is outside the future service limit and is in Tier 3. Rezoning AG zoned land to commercial that is located outside the city limits is rare and is contrary to the 2050 Comprehensive Plan.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Introduction Section: Growth Framework

Figure GF.b: 2050 Future Land Use Plan - This site is shown as future Agricultural on the 2050 Future Land Use Plan.

Figure GF.c: 2050 Priority Growth Area- This site is shown in Tier III. Tier III is for Lincoln’s longer term growth potential—beyond 50 years. Little active planning of utilities or service delivery is likely to occur in the near term in Tier III. It should remain in its present use in order to provide for future urban development.

Land Use Plan - Agricultural. Land principally in use for agricultural production and compatible industries like solar and wind energy production. Agricultural land may be in transition to more diversified agribusiness

ventures such as growing and marketing of products on site.

Fundamentals of Growth in Lancaster County

The City of Lincoln's present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in existing areas of the city with available capacity. This can be accomplished by redeveloping underutilized commercial centers into areas that include a mix of uses, and encouraging higher-density residential redevelopment in appropriate locations, including missing middle housing. New infrastructure investments to serve growth areas can be maximized by encouraging a higher density of both residential and commercial uses in these areas.

New commercial and industrial development should be located in Lincoln and other incorporated communities. Lincoln has ample land area and infrastructure availability for commercial and industrial development. The situation is similar in most incorporated communities in the county. Rural areas of the county do not have access to urban infrastructure, and commercial or industrial development can add significant traffic and maintenance responsibilities to county roads.

Natural and environmentally sensitive areas should be preserved within and between neighborhoods. Conservation areas and open lands should be used to define and connect different neighborhoods. The natural topography and features of the land should be preserved by new development to maintain the natural drainageways and minimize land disturbance.

Elements Section

E3: Business, Economy, and Workforce

Commercial and Industrial Development

Commercial and Industrial Centers in Lancaster County should be located:

- Within the City of Lincoln or incorporated villages.
- Outside of saline wetlands, signature habitat areas, native prairie and floodplain areas (except for areas of existing commercial and industrial zoning).
- Where urban services and infrastructure are available or planned for in the near term. In sites supported by adequate road capacity – commercial development should be linked to the implementation of the transportation plan.
- In areas compatible with existing or planned residential uses.
- In existing underdeveloped or redeveloping commercial and industrial areas in order to remove blighted conditions and to more efficiently utilize existing infrastructure.
- In areas accessible by various modes of transportation (i.e. automobile, bicycle, transit, and pedestrian).
- So that they enhance entryways or public way corridors, when developing adjacent to these corridors.
- In a manner that supports the creation and maintenance of green space as indicated in the environmental resources section of this Plan.

Policies Section

P12: Economic Growth - Promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life of the community.

Action Steps

1. Offer incentives for "primary" employers - that is, for companies where the majority of their business and sales come from outside Lancaster County.
2. Locate all new commercial and industrial development within Lincoln or within the smaller incorporated communities in Lancaster County. Certain commercial uses that are compatible with agriculture and the rural environment, such as commercial wind and solar energy facilities, are allowed in rural areas of the county.

3. Continue to coordinate the City's economic development efforts with research and development functions of the University of Nebraska-Lincoln, including continued development of Innovation Campus. The success of the University's research and development is important to the future of the city.
4. Continue to fund the Lincoln Partnership for Economic Development (LPED) and promote business retention, recruitment, and workforce development strategies and outcomes for the City of Lincoln through this public/private partnership.
5. Encourage public-private partnerships, strategic alliances, and collaborative efforts as a means to accomplish future economic objectives.
7. Focus primarily on retention and expansion of existing businesses; attracting new businesses should also be encouraged.

ANALYSIS

1. This request is for a change of zone from AG-Agriculture to H-3 Highway Commercial on approximately 6.24 acres. The proposed area is part of a 32.7-acre parcel. There is no house, but several outbuildings on the adjacent area. It appears the land requested for rezoning is currently vacant.
2. There is H-3 zoning to the east and northeast of the site. There is AG zoning to the north, south and west of this site. The future land use plan shows the change of zone area as agriculture.
3. This area is outside the Future Service Limits of the 2050 Comprehensive Plan and is in Tier III. Tier III provides an approximately 129.6 square mile area for Lincoln's longer term growth potential, beyond 50 years. Little active planning of utilities or service delivery is likely to occur in the near term in Tier III. However, it should also remain in its present use in order to provide for future urban development.
4. This area is outside the city limits and will not be annexed. There are no utilities to serve this area. Emergency services would be from Lancaster County Sheriff and Malcolm Rural Fire District.
5. The goals and policies of the Comprehensive Plan do not support commercial zoning outside of Lincoln and other incorporated communities. To consider supporting a change of zone at this location, it would need to be annexed into Lincoln. This option was explored with the applicant, but the cost to extend water and sanitary sewer service to this intersection for a limited amount of commercial use was prohibitive. The applicant was open to annexation if urban services could be provided. Since the property is not adjacent to the city limits, and additional properties would have to be annexed that couldn't be served, annexation was not possible.
6. In the case of two recent change of zones at S 14th and Saltillo Road, the applicants also requested commercial (and industrial) zoning in an area without water and sanitary sewer service. In both applications the developers agreed to be annexed without both utilities and will be signing a zoning and annexation agreement acknowledging the limitation on utilities. They are working with Lincoln Fire and Rescue and Building & Safety on providing adequate fire protection to the future development. The proposals included amending the Comprehensive Plan to show the land for development since it would be annexed and in the city limits. These two changes of zone have not yet been scheduled for City Council action.
7. There are wetlands within the change of zone area. There is also a Minimum Flood Corridor in the eastern portion of the proposed H-3 rezoning area. No grading plan was submitted to show impacts of development on the property. There is no site plan review as the H-3 district does not require a use permit. Since there is not a subdivision proposed, there is nothing to preserve the Minimum Flood Corridor. The Minimum Flood Corridor should not be rezoned to H-3 without some protection for preserving the corridor.
8. Although the application letter states that the intended use of for indoor and outdoor storage, once the change of zone is approved any use under H-3 zoning could go on the site. Uses permitted in H-3 include, but not limited to, motorized vehicle sales and repairs, retail sales, restaurants, recreational facilities, contractor services, assembly facilities, enclosed disassembly, and warehouse. Many of these uses are high traffic generators. Since these are permitted or conditional uses, there is no public hearing or site plan review required.
9. The applicant did not submit a traffic study to show the impact of the expanded H-3 would have on traffic. The

City's Access Management Policy requires a traffic study with a change of zone. A change of zone to a zoning district which allows intensive uses should not be approved without a traffic study. At the time of the change of zone is the proper time to address the traffic impact. A traffic study can be required at the time of building permit, but at that point the zoning is already approved and the use cannot be denied based on the traffic impact. This commercial development has not provided a left turn lane on NW 48th Street. There is a second south bound lane in NW 48th Street that effectively functions as a right turn lane.

Lincoln Transportation and Utilities (LTU) notes that the existing access onto Highway 34 is a residential access only. They point out it is not approved for commercial use. There is not a right turn lane on Highway 34 at this driveway. There is nothing limiting the use of the Highway 34 access if the change of zone is approved. There is not a zoning agreement or other mechanism in place to address the traffic impact on Highway 34 or NW 48th Street t

10. The current use of the adjacent land and the proposed outdoor storage and self storage uses are relatively low traffic generators. However, as noted above, there isn't any limitation on the uses if the H-3 zoning is approved. So while the proposed expansion area could generate relatively minor additional traffic, there is no limitation on the use in the future. So the use could change without addressing the traffic impact in the future.
11. In summary, the applicant did look into getting the property annexed, limiting the uses and agreeing to address the traffic impact in the future by means of a zoning and annexation agreement. However, due to the cost of water and sanitary sewer, the City could not provide all services to this property to permit annexation. The applicant was not willing to be annexed without city services. This property may be appropriate for commercial development in the long term. However, since the change of zone area will not be annexed, the Minimum Flood Corridor will not be protected, there is no limitation on uses, the traffic impact on NW 48th Street was not addressed, and access to Highway 34 was not addressed, this property is not appropriate to rezone to commercial use at this time.
12. The Comprehensive Plan states that new commercial development shall be within the incorporated cities and towns with the exception of commercial uses that are compatible with agriculture. Self-storage is not a compatible land use to agriculture. Compatible uses could be solar energy facilities, market gardens, farm winery, kennels, veterinary facilities, and agricultural attraction.

EXISTING LAND USE & ZONING: Agriculture AG-Agriculture

SURROUNDING LAND USE & ZONING

North:	Agriculture	AG-Agriculture
South:	Agriculture and one dwelling	AG-Agriculture
East:	Indoor and outdoor storage	H-3 Highway Commercial
West:	Agriculture	AG-Agriculture

APPLICATION HISTORY

- April 10, 2006: Change of Zone #06002 from AG to H-3 on 7.64 acres at the southwest corner of NW 48th St and Highway 34 was approved by the City Council.
- January 23, 2017: Change of Zone #16023 from AG to H-3 on 2.26 acres was approved by City Council.
- April 17, 2019: Special Permit #11022C for soil excavation was approved by the Lincoln-Lancaster County Planning Commission.

APPROXIMATE LAND AREA: 6.24 acres, more or less

LEGAL DESCRIPTION: See attached.

Prepared by
Tom Cajka, Planner

(402) 441-5662 or tcajka@lincoln.ne.gov

Date: August 25, 2023

Applicant/Contact: Mark Hunzeker
1128 Lincoln mall, Suite 300
Lincoln, NE 68508
402-432-2987
mhunzker@remboltlawfirm.com

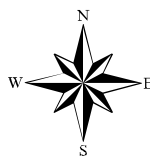
Owner: John D. Zakovec Revocable Trust
6625 NW 48th St.
Lincoln, NE 68524
402-560-6456

<https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/CZ/23000/CZ23054 Zakovec AG to H-3.tjc.docx>



2022 aerial




**Change of Zone #: CZ23054 (AG to H-3)
NW 48th St & Hwy 34**

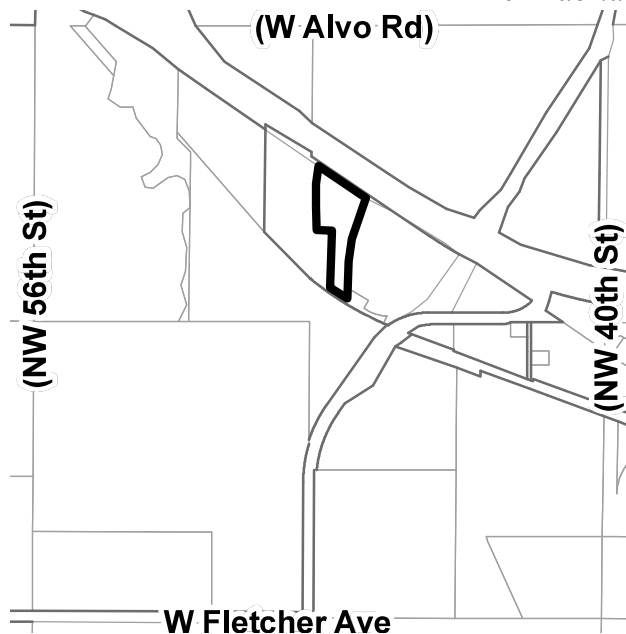


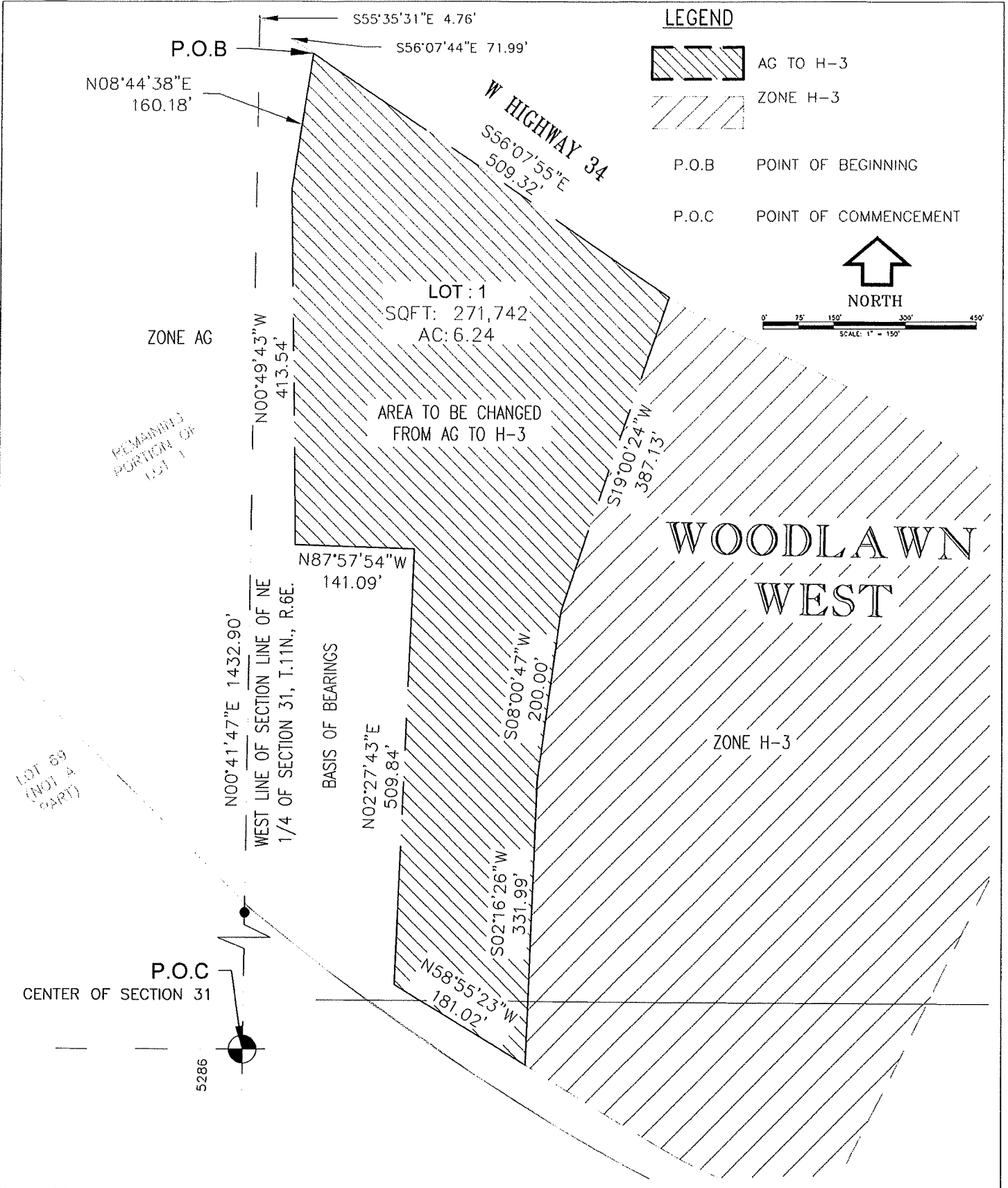
**One Square Mile:
Sec.31 T11N R06E**

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential 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

	Area of Application
	Zoning Jurisdiction Lines
	Lancaster County Jurisdiction
43	





CHANGE OF ZONE
Exhibit 'A'
NE 1/4, SEC. 31, T.11N., R.6E., 6TH P.M.
LANCASTER COUNTY, NEBRASKA

601 OLD CHENEY RD.
SUITE 'A'
LINCOLN, NE 68512
(402) 484-7342

REGA ENGINEERING

- ENGINEERING
- PLANNING
- LANDSCAPE ARCHITECTURE
- LAND SURVEYING

DATE: 6/21/2023
PROJECT 231055
SHEET NO. 1 of 1

CHANGE OF ZONE

A parcel of land being a part of the remaining portion of Lot 1 Woodlawn West located in the NE 1/4 of Section 31, T. 11 N., R. 6 E. of the 6th Principal Meridian, Lancaster County, Nebraska, being more particularly described as follows:

Commencing from center 1/4 corner of Section 31; Thence on West line of said Northeast corner, N00°41'47"E, 1432.90 feet to the South Right-of-Way of West Highway 34. Thence on said Right-of-Way, S55°35'31"E, 4.76 feet. Thence, S56°07'44"E, 71.99 feet to the **Point of**

Beginning.

Thence, S56°07'55"E, 509.32 feet to the Northwest corner of zone H-3;

Thence on the West boundary of said H-3 the following (3) courses:

Thence, S19°00'24"W, 387.13 feet;

Thence, S08°00'47"W, 200.00 feet;

Thence, S02°16'26"W, 331.99 feet to the Southwest corner of Zone H-3;

Thence departing Zone H-3, N58°55'23"W, 181.02 feet;

Thence, N02°27'43"E, 509.84 feet;

Thence, N87°57'54"W, 141.09 feet;

Thence, N00°49'43"W, 413.54 feet;

Thence, N08°44'38"E, 160.18 feet to the **Point of Beginning.**

Containing 271,742 Square Feet or 6.24 Acres more or less.

Peter C. Wegman
Timothy F. Clare
Timothy L. Moll
Jane F. Langan Mach
Mark A. Fahleson
Troy S. Kirk
Ramzi J. Hynek
Andrew S. Pollock
Tara Tesmer Paulson
Mark R. Richardson
Sheila A. Bentzen ±
Ann K. Post
Anthony M. Aerts
Sami D. Segelke
Elizabeth A. Leise
Julie A. Ward
Adam J. Kost ±
Kendra M. Nebel
Sarah A. Meier
Sam D. Colwell
Hayley J. Kaiser
Hunter T. Traynor

June 28, 2023

VIA HAND DELIVERY

David Cary
Director of Planning
City of Lincoln
555 S. 10th Street
Lincoln, NE 68508

RE: Attached Change of Zone Application

Dear Mr. Cary:

Attached is an application to change the zoning classification from AG Agricultural to H-3 General Commercial on property owned by the John D. Zakovec Revocable Trust. The parcel is 6.24 acres and abuts property also owned by the same trust which is zoned H-3 and currently being used for both indoor and outdoor self-storage. The legal description for the proposed change is attached to the application form.

The purpose of the application is to expand the existing storage use, as it has proven to be a popular location for storage of RV's and boats as well as other personal property. The proximity of the property to Branched Oak Lake makes it an ideal location for this use.

Sincerely,

Mark A. Hunzeker
mhunzeker@remboltlawfirm.com

Encl.

4892-3068-9900, v. 1

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