

FACTSHEET

TITLE: **WAIVER NO. 05001**, requested by Michael S. Bott on behalf of LICOR, Inc., to waive the requirements for the installation of sidewalks along Progressive Avenue and the installation of street trees along N. 48th Street, generally located at the southwest corner of N. 48th Street and Superior Street.

STAFF RECOMMENDATION: Approval of the waiver of sidewalks and denial of the waiver of street trees.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 02/16/05
Administrative Action: 02/16/05

RECOMMENDATION: Approval of the waiver of sidewalks and denial of the waiver of street trees (7-0: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson voting 'yes'; Bills-Strand and Larson absent).

FINDINGS OF FACT:

1. This is a request to waive street trees on N. 48th Street and sidewalk on Progressive Avenue, which were requirements of the Pierce-Rentfro Industrial Plaza 1st Addition final plat which was approved on December 3, 1993. The subdivision ordinance requires that sidewalks and street trees be installed within four years of the final plat approval.
2. The staff recommendation to approve the waiver of sidewalks along Progressive Avenue is based upon the "Analysis" as set forth on p.3-4, concluding that the City waived sidewalks along Progressive Avenue with the preliminary plat and requiring a sidewalk along one lot for the entire street does not provide a sidewalk system. This sidewalk would not connect to any other sidewalk. If the City feels a sidewalk is necessary on Progressive Avenue, the City could create an assessment district.
3. The staff recommendation to deny the waiver of street trees along N. 48th Street is based upon the "Analysis" as set forth on p.3-4, concluding that there are no unusual circumstances that would warrant the waiver of street trees. The installation of the street trees does not create a hardship or injustice to the subdivider.
4. The applicant's testimony is found on p.6, suggesting that the installation of street trees be postponed until the area is developed and until the future improvements to N. 48th Street have been constructed.
5. There was no testimony in opposition.
6. On February 16, 2005, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend approval of the waiver of sidewalk and denial of the waiver of street trees.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: February 22, 2005

REVIEWED BY: _____

DATE: February 22, 2005

REFERENCE NUMBER: FS\CC\2004\WVR.05001

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for FEBRUARY 16, 2005 PLANNING COMMISSION MEETING

- P.A.S.:** Waiver #05001
- PROPOSAL:** Waive sidewalk along Progressive Ave. and street trees along N. 48th St. associated with Pierce Rentfro Industrial Plaza 1st Addition.
- LOCATION:** Southwest corner of N. 48th St. and Superior St.
- LAND AREA:** 10.89 acres, more or less
- CONCLUSION:** Pierce-Rentfro Industrial Plaza 1st Addition final plat was approved on December 3, 1993. The subdivision ordinance requires that sidewalks and street trees be installed within four years of the final plat approval.

The City waived sidewalks along Progressive Avenue with the preliminary plat and requiring a sidewalk along one lot for the entire street does not provide a sidewalk system. This sidewalk would not connect to any other sidewalk. If the City feels a sidewalk is necessary on Progressive Avenue, the City could create an assessment district.

There are no unusual circumstances that would warrant the waiver of street trees along N. 48th St. The installation of street trees does not create a hardship or injustice to the subdivider.

RECOMMENDATION:

Sidewalk
Street Trees

Approval
Denial

GENERAL INFORMATION:

- LEGAL DESCRIPTION:** Lots 1-4, Pierce-Rentfro Industrial Plaza 1st Addition, located in the NW 1/4 of Section 8, Township 10 North, Range 7 East, Lancaster County, NE
- EXISTING ZONING:** I-1 Industrial
- EXISTING LAND USE:** Industrial and undeveloped

SURROUNDING LAND USE AND ZONING:

North: I-1 Industrial
South: I-1 Industrial
East: I-1 Industrial
West: I-1 Industrial

HISTORY:

April 19, 1971 Pierce-Rentfro Industrial Plaza preliminary plat was approved by the City Council.

May 8, 1972 Pierce-Rentfro Industrial Plaza final plat was accepted by the City Council

December 3, 1993 Pierce-Rentfro Industrial Plaza 1st Addition was approved by the Planning Director.

COMPREHENSIVE PLAN SPECIFICATIONS:

“Interconnected networks of streets, trails, and sidewalks should be designed to encourage walking and bicycling, reduce the number and length of automobile trips, conserve energy and for the convenience of the residents.” (F-18)

“Transit, pedestrian, and bicycle networks should maximize access and mobility to provide alternatives and reduce dependence upon the automobile.” (F-19)

“Streets and public spaces should be safe, comfortable, and interesting to the pedestrian.” (F-19)

“Sidewalks should be provided on both sides of all streets, or in alternative locations as allowed through design standards or the Community Unit Plan process.” (F-66)

“Interconnected networks of streets, trails and sidewalks should be designed to encourage walking and bicycling and provide multiple connections within and between neighborhoods.” (F-66)

The sidewalk system should be complete and without gaps.” (F-89)

“The trees that shelter homes from the elements, purify the air, provide wildlife habitat, stabilize the soil, and define the character of neighborhoods and business areas have all essentially been planted and nurtured. It is recognized that trees, both occurring naturally and planted and managed, are essential to the quality of life of residents and the character of the community.” (F-140)

TRAFFIC ANALYSIS: Superior St. and N. 48th St. are classified as arterials. N. 48th St. is shown as a proposed project for 4 lanes + turnlanes in the 2025 Comprehensive Plan. Progressive Avenue is a local street.

ANALYSIS:

1. This is a request to waive street trees on N. 48th St along Lots 2, 3 and 4, and sidewalk on Progressive Ave. along Lot 1 Pierce-Rentfro Industrial Plaza 1st Addition.
2. The applicant's letter requests a waiver of the sidewalk for Lot 11, Block 1, Pierce -Rentfro Industrial Plaza. This is in error. There are no outstanding improvements for Pierce-Rentfro Industrial Plaza. The sidewalk waiver is for Lot 1 Pierce-Rentfro Industrial Plaza.
3. Section 26.27.020 of the Land Subdivision Ordinance states that sidewalks shall be constructed on both sides of all streets within the subdivision and on the side of the streets abutting the subdivision.
4. Section 26.27.090 of the Land Subdivision ordinance states that street trees shall be planted along both sides of all streets. Streettrees shall be planted in the private property abutting major streets.
5. Sidewalks were waived with Pierce-Rentfro Industrial Plaza preliminary plat. Street trees were not a requirement of a subdivision when the preliminary plat was approved. Although the installation of sidewalks and street trees were not required with the initial final plat, when the land is resubdivided the requirements at the time the new plat is submitted apply.
6. A condition for approval of the final plat was to install the sidewalks in Progressive Ave. and street trees in N. 48th St. These improvements were required to be installed by December 3, 1997.
7. The rationale that street trees cannot be planted along N. 48th St. because the street has not been improved and the drives have not been established is not valid. The final plat relinquished direct vehicular access to N. 48th St. except as shown. The final plat identifies where the drives to N. 48th St. are to be located. The final plat also dedicated the additional right-of-way required for the street widening and streettrees along major streets must be planted on private property.
8. Section 26.31.010 of the Land Subdivision Ordinance states, "Whenever a lot, tract, or parcel of land is of such unusual size or shape or is surrounded by such development or unusual condition that the strict application of the requirements contained in these regulations would result in actual difficulties or substantial hardship or injustice, the subdivider may request a modification of such requirements. The applicant has shown no hardship.

Prepared by:

Tom Cajka
Planner

DATE: February 2, 2005

APPLICANT: LICOR, Inc.
4421 Superior St.
Lincoln, NE 68504

OWNER: Same as applicant

CONTACT: Michael S. Bott
6800 Van Dorn St.
Lincoln, NE 68506

WAIVER NO. 05001

PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 16, 2005

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

Staff recommendation: Approval of the waiver of sidewalks along Progressive Avenue and denial of the waiver of street trees on 48th Street.

Ex Parte Communications: None.

Proponents

1. Michael Bott, 6800 Van Dorn Street, presented the application on behalf of the applicant, Licor, Inc., and submitted a letter from a neighbor in support. This waiver request was initiated due to a subdivision that was done back in 1997, which required installation of 100' of sidewalk, storm sewer work and planting of trees on Superior and N. 48th Streets. The staff has recommended approval of the waiver of the sidewalk along Progressive Avenue because it is noncontiguous with any other sidewalk in an industrial area and serves no purpose.

Staff is, however, recommending denial of the waiver of about 10 maple trees along N. 48th Street. The reason the applicant is requesting the waiver of street trees on 48th Street is because the land has not been developed and they do not believe the street trees should be planted until future development of the property where the trees will be located. 48th Street will someday have a curb added and further improvements. This area is a long way from any irrigation system. The applicant is requesting not to plant these maple trees (at a cost of \$250 to \$300 each) until the balance of the property is developed. If the trees are planted now, he believes there will be a very small chance that the trees will be maintained. Any improvement to 48th Street will destroy the trees.

Bott also pointed out that across the street is the bottling plant, Green's Furnace and then some public land, none of which have installed street trees. It would require a great deal of expense to keep the street trees on 48th Street watered. The applicant agrees to plant the trees that are required along Superior Street because the area is finalized and the sidewalks are in.

Carlson believes the applicant agreed to have these trees planted by 1997. Bott acknowledged that this waiver request was prompted by a letter from the Law Department. Apparently, these improvements were requirements of the process when the parcel was purchased by Licor. Licor resubdivided three to four lots into one lot, but these improvements slipped through the cracks and no one really knew about these requirements. Bott reiterated that the trees will be planted along Superior Street as soon as can properly be done.

There was no testimony in opposition.

Staff questions

Marvin asked staff to indicate the long range plan for 48th Street near Superior Street in terms of improvements. Dennis Bartels of Public Works believes that the Comprehensive Plan shows the widening of N. 48th Street from Superior to about Fremont in the long range plan. At this point in time, however, no funding has been identified and it is beyond the program as far as timing. Bartels also advised that the street trees would be installed outside of the public right-of-way. Marvin sought confirmation that the trees would not be disturbed if 48th Street is improved 10 years from now. Bartels stated that if they grade outside the right-of-way they might get into the trees but he could not say for certain. The city would be required to replace them if they were disturbed.

Tom Cajka of Planning staff referred to the final plat where the developer dedicated 10' of additional right-of-way along 48th Street which gives 50' of right-of-way from the centerline of 48th Street, which would accommodate the street improvement. The Design Standards do require that street trees are to be planted on private property along major streets.

Carroll referred to Analysis #7 in the staff report and believes the location of the trees would be fairly easy.

Response by the Applicant

Bott stated that the applicant will be able to locate the curbcuts that will be allowed in the future, and as far as the widening of the street, if the grade changes, it might get into the trees. Quite often there are construction easements along the development of arterials. If the trees are located well into the property and are kept away from the right-of-way where the potential construction easement is located, they would probably not be damaged by the construction, but it is a long time in the future before there will be facilities located there to maintain the trees. Licor was hoping to put off the installation of those trees until that area develops.

ACTION BY PLANNING COMMISSION:

February 16, 2005

Marvin moved to approve the staff recommendation which approves the waiver of sidewalk and denies the waiver of street trees, seconded by Carroll and 7-0: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson voting 'yes'; Bills-Strand and Larson absent.



2002 aerial

Waiver #05001 Progressive Ave. & Superior St.

Zoning:

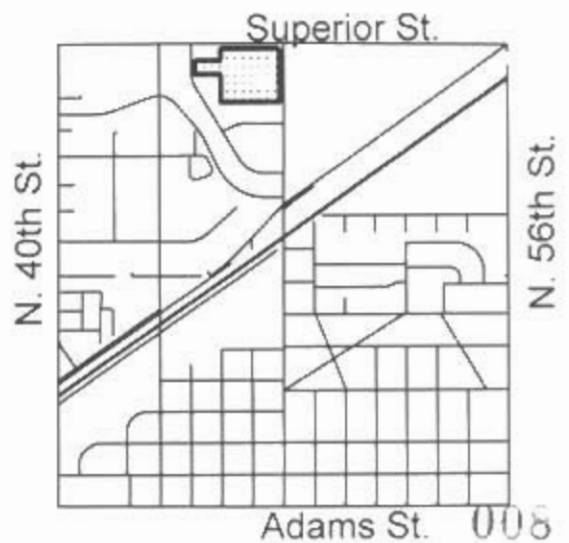
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned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

One Square Mile
Sec. 8 T10N R7E



Zoning Jurisdiction Lines

City Limit Jurisdiction



Adams St. 008

INTER-DEPARTMENT COMMUNICATION

CITY OF LINCOLN PARKS & RECREATION DEPARTMENT

DATE: 1, 2005

To: TO@ajka

SECTION: Planning

FROM: Steve Nosal

SUBJECT: Pierce Rentfro Industrial Plaza 1st. Addition

The Lincoln Parks and Recreation staff have reviewed the above and have the following comments to make.

- 1.) The Parks and Recreation Department does not support the request for Street Tree Wai



Michael S. Bott & Associates Architects

Suite 102 Lincolnshire Square 1540 South 70th Street Lincoln, Nebraska 68506 Ph. 402/483-4024 Fax 402/483-4488

P.C.

January 19, 2005

Marvin Krout AICP
Planning Director
City Planning Department
555 S 10th Street
Lincoln, NE 68508

RE: **Wavier of sidewalk for Li-cor Inc., Superior Str. & Progressive Ave.
and wavier of street trees along N. 48th Street adjacent to Pierce-Rentfro
Industrial Plaza 1st .**

Dear Marvin,

We request wavier of the public sidewalk for Lot 11, Block 1, Pierce Rentfro Industrial Plaza and the street tree requirements for Lots 2, 3 and 4, Pierce Rentfro Industrial Plaza 1st Addition ,LLCN. These requirements along with several other specific work items were brought to our attention by Nina Vejnovich, of the Law department and apparently date back to the subdivision of these lots in 1997. We are willing to do whatever is needed to provide a good environment around our property, but in the interest of avoiding waste, we make this request.

We request a wavier of the sidewalk requirement because there is no sidewalk system on Progressive avenue to connect to, and it seems a waste of green space to have a 60' piece of sidewalk standing alone in an industrial area.

We also request a wavier of the street tree requirement for 10-Schwedler Maple trees along N. 48th Street, because that portion of roadway is scheduled for curb, gutter and storm sewer in the future and any street trees along that stretch would be fodder for the paving contractor. We also have no plans for the development of the adjacent parcel at this time, so the location of curb cuts is unpredictable. This would mean that any planting we do, would have a good chance of being in the wrong location.

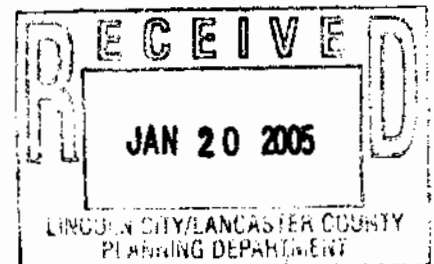
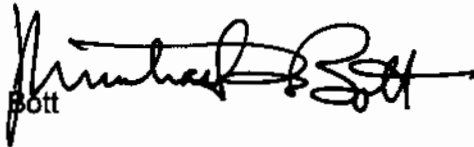
I am authorized to agree that if 48th Street is improved, and Li-cor develops the adjacent parcel, we would be willing to provide street trees in accord with the City Forrester's requirements. This would be a requirement that would be met during the building permit process for such development.

Please find enclosed, a check the \$125.00 fee for this wavier process.

If you have any questions regarding this request, please let me know.

Sincerely,

Michael S. Bott
Architect
Encl.



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Dana W. Roper, City Attorney
575 South 10th Street
Suite 4201
Lincoln, Nebraska 68508

Civil fax: 402-441-8812
Pros. fax: 402-441-8813

Civil Division
James D. Faimon
Steven J. Huggenberger
Joel D. Pedersen
Connor L. Reuter
Margaret M. Blatchford
Tonya L. Skinner
Joe J. Rupp

Prosecution Division
Patrick C. Campbell
Christine A. Losake
Rob E. Caples
Marcee A. Brownlee
Jessica Kerkhofs



MAYOR COLEEN J. SENG

www.ci.lincoln.ne.us

27 September 2004

LI-COR INC.,
Mr. William Briggs
4421 Superior
Lincoln, NE 68504

RE: Pierce Rentfro Industrial Plaza 1st

Dear Mr. Briggs:

Upon review of our files we note that LI-COR INC has failed to comply with the conditions of approval of the Resolution accepting and approving the plat designated as Pierce Rentfro Industrial Plaza 1st Addition. Specifically our records show the following requirements have not been met:

1. Sidewalks, specifically the sidewalk along the east side of North 44th Street has not been completed. 10
2. Storm Sewers (please note, we just need engineer certification that this is complete). 2 1-
3. Street Trees.

The above requirements were scheduled to be completed by 1995 for the storm sewers and 1997 for the sidewalks and street trees.

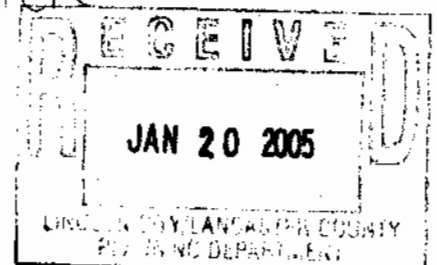
If you believe our records are incorrect on any of the above please let me know. Otherwise, please let me know when the improvements will be installed.

Your failure to respond to this letter or to make satisfactory arrangements for the installation of those improvements within twenty eight (28) days from the date of this letter will leave the City with no recourse but to draw upon the security fund that is being held for each requirement.

Yours truly,

N.M. Vejnovich
Nina Vejnovich
Paralegal

cc Rick Peo
Assistant City Attorney



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