

Approving the Appeal filed by the Applicant by reversing the Planning Commission's Denial of Use Permit No. 140B

(Appeal of Planning Commission Denial)

RESOLUTION NO. A-_____

USE PERMIT NO. 140B

1 WHEREAS, Eiger Corporation has submitted an application in accordance with
2 Section 27.31.100 of the Lincoln Municipal Code designated as Use Permit No. 140B to develop
3 874,441 square feet of the approved 950,983 square feet of commercial and office floor area on
4 property generally located at S. 91st Street and Pine Lake Road, legally described to wit:

5 A tract of land composed of Lots 1, 2, and 3, Block 1, Appian Way
6 Addition, Outlots A, D, E, H, I, and M, Appian Way Addition, a
7 portion of Outlot N, Appian Way Addition, a portion of Outlot O,
8 Appian Way Addition, Lot 1, Appian Way 1st Addition, Lot 1,
9 Appian Way 2nd Addition, Lot 1, Appian Way 3rd Addition, Lots 1,
10 2, and 3, Appian Way 4th Addition, Lots 1, 2, and 3, Appian Way
11 5th Addition, Outlot A, Appian Way 5th Addition, Lots 1 and 2,
12 Appian Way 6th Addition, Outlot A, Appian Way 6th Addition, a
13 portion of the remaining portion of Lot 92 I.T., and a portion of the
14 remaining portion of Lot 56 I.T., all located in Section 23,
15 Township 9 North, Range 7 East of the 6th P.M., Lancaster
16 County, Nebraska, and more particularly described on the
17 attached legal description;

18 WHEREAS, the Lincoln City-Lancaster County Planning Commission held a
19 public hearing on June 8, 2005 and denied Use Permit No. 140B; and

20 WHEREAS, Eiger Corporation has appealed the action of the Lincoln City -
21 Lancaster County Planning Commission and is requesting that Use Permit No. 140B be
22 approved; and

23 WHEREAS, the community as a whole, the surrounding neighborhood, and the
24 real property adjacent to the area included within the site plan for this theater complex will not
25 be adversely affected by granting such a permit; and

26 WHEREAS, the final action of the Lincoln City - Lancaster County Planning
27 Commission should be reversed; and

1 WHEREAS, said site plan together with the terms and conditions hereinafter set
2 forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to
3 promote the public health, safety, and general welfare.

4 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
5 Lincoln, Nebraska:

6 That the final action of the Lincoln City-Lancaster County Planning Commission denying
7 Use Permit No. 140B be and the same is hereby reversed.

8 That the application of Eiger Corporation, hereinafter referred to as "Permittee", to
9 develop 950,983 square feet of commercial and office floor area be and the same is hereby
10 granted under the provisions of Section 27.27.100 of the Lincoln Municipal Code upon condition
11 that construction and operation of said commercial and office space be in strict compliance with
12 said application, the site plan, and the following additional express terms, conditions, and
13 requirements:

14 1. This approval amends the site plan for Use Permit #140A to presently permit a
15 total of 874,441 square feet of the approved 950,983 square feet of commercial and office floor
16 area as shown on the approved plan.

17 2. Before receiving building permits:

18 a. The Permittee shall complete the following instructions and submit the
19 documents and plans to the Planning Department for review and
20 approval.

21 b. A revised site plan showing the following revisions:

22 i. A revised land use table that deletes the 20% pass-by reductions
23 for the both the office uses on Lots 4 & 5, Block 2 and Lots 10 &
24 11, Block 3, and for the theaters.

25 ii. All theater screens identified as "with matinee."

26 iii. The required 50' setback along South 91st Street.

27 iv. Note #34 revised as follows: LOT LAYOUT FOR LOT 1, BLOCK 4
28 SHOWN WITHIN THE BOUNDARY OF THIS SPECIAL
29 PERMIT/USE PERMIT IS CONCEPTUAL. THE SPECIFIC SITE
30 LAYOUT, INCLUDING GRADING AND DRAINAGE, STREET

1 PROFILE, AND UTILITY PLANS MUST BE APPROVED BY
2 ADMINISTRATIVE AMENDMENT PRIOR TO ISSUANCE OF
3 BUILDING PERMITS.

- 4 v. Delete waiver request #4 under "WAIVERS" relating to waiver of
5 the preliminary plat.
- 6 vi. Show the 12" high-pressure gas line across the site, and add
7 General Note #35 which states: THERE IS A 12" HIGH-
8 PRESSURE GAS LINE IN THIS AREA. IT IS RECOMMENDED
9 THAT NO OCCUPIED STRUCTURES BE LOCATED WITHIN
10 220' OF IT. THE PERMITTEE MUST ADVISE THE OWNERS
11 AND LESSEES OF THE PROJECT HAZARD AREA.
- 12 vii. Show revisions to the satisfaction of Public Works and Utilities.
- 13 c. A land use/trip generation table for the remaining approximately 82 acres
14 of commercially-designated land that includes the 38 acres west of this
15 project site and the 44 acres northeast of the intersection of Highway 2
16 and South 91st Street.
- 17 d. The construction plans comply with the approved plans.
- 18 e. Final plat(s) are approved by the City.

19 3. Before occupying the buildings all development and construction is to comply
20 with the approved plans.

21 4. All privately-owned improvements, including landscaping and recreational
22 facilities, are to be permanently maintained by the owner or an appropriately established owners
23 association approved by the City.

24 5. The site plan accompanying this permit shall be the basis for all interpretations of
25 setbacks, yards, locations of buildings, location of parking and circulation elements, and similar
26 matters.

27 6. This resolution's terms, conditions, and requirements bind and obligate the
28 Permittee, its successors and assigns.

29 7. The applicant shall sign and return the letter of acceptance to the City Clerk
30 within 30 days following the approval of the special permit, provided, however, said 30-day

1 period may be extended up to six months by administrative amendment. The clerk shall file a
2 copy of the resolution approving the special permit and the letter of acceptance with the
3 Register of Deeds, filling fees therefor to be paid in advance by the applicant.

4 8. The site plan as approved with this resolution voids and supersedes all
5 previously approved site plans, however all resolutions approving previous permits remain in
6 force unless specifically amended by this resolution.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2005:

Mayor