

FACTSHEET

TITLE: **SPECIAL PERMIT NO. 1989A**, requested by Sid Dillon, Inc., for authority to amend Special Permit No. 1989 to change the lighting plan for Sid Dillon Automobile Dealership to modify the requirement that all outside lighting shall meet the City of Lincoln Design Standards for parking lots, on property generally located at South 27th Street and Kendra Lane.

STAFF RECOMMENDATION: Conditional approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 12/06/06, 12/20/06 and 01/03/07
Administrative Action: 01/03/07

RECOMMENDATION: Conditional Approval, with amendments (7-0: Cornelius, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Taylor and Sunderman absent – Sunderman having declared a conflict of interest).

FINDINGS OF FACT:

1. This application is to amend only the approved lighting plan for the Sid Dillon auto dealership. There are no changes to the site plan being requested.
2. The approved special permit contained a note stating that all outdoor lighting shall meet City design standards for parking lots. This would restrict lighting for the auto display area to a maximum of 4 foot candles. The staff agrees that this is overly restrictive and should be amended, and is recommending that the Sid Dillon lighting plan should comply with the same conditions as the amendment approved for Williamson Auto at South 27th Street and Yankee Hill Road, which was modeled from the lighting plan for DuTeau Chevrolet at South 27th Street and Porter Ridge Road. The staff recommendation is based upon the "Analysis" as set forth on p.9-12, concluding that it is important to maintain consistency in the standards among these three businesses which are similarly situated in terms of nearby residential land uses along South 27th Street.
3. The applicant requested a 20 foot candle level for the auto display area. The staff recommended a 10 foot candle level, and the Planning Commission adopted Resolution No. PC-01035 approving an average footcandle measurement no greater than 12 after sunset and during business hours, and that after business hours the display lot lighting levels shall not exceed an average foot candle measurement greater than 4. The Planning Commission resolution also requires that the light fixtures for display lot lighting shall be modified to add full cut-off shielding; that any future replacement of the existing fixtures shall be a full cut-off design; and that outside lighting levels beyond the display lot area for Lot 4, Block 1, shall not exceed an average foot candle measurement greater than 4. (Also See conditions of approval, p.12-13).
4. The minutes of the public hearing before the Planning Commission are found on p.15-25. The additional information submitted by the applicant is found on p.42-49, and the applicant's proposed amendments to the conditions of approval are found on p.50-51 (two options).
5. A survey of the Sid Dillon site was conducted by Ken Fairchild of Olsson Associates, the consultant conducting a "Lighting Study" for the City of Lincoln, finding that the existing average foot candle of the display area today, with a number of the existing lights shut off, is 16.06 (See Minutes, p.18-19).
6. Mike Rierden testified on behalf of the Grainger O'Shea Homeowners Association (consisting of over 300 homeowners on the east side of South 27th Street extending to about 38th Street) in opposition to the applicant's request but in support of the staff recommendation (p.21).
7. The applicant's response to the staff recommendation and the testimony in opposition is found on p.23, suggesting that the proposed 20 foot candle standard is appropriate for auto display lots according to national standards and that it is reasonable for the city and the community.
8. On January 3, 2007, the Planning Commission voted 7-0 to adopt Resolution No. PC-01035, which approves the staff recommendation of conditional approval, with the amendments as set forth in paragraph #3 above, and increasing the foot candle standard for the display area from 10 to 12, after staff indicated that this would be a reasonable compromise that would not require replacing the fixtures. (Also See p.24-25, and Resolution PC-01035, p.3-7).
9. On January 16, 2007, a letter of appeal was filed by Peter Katt on behalf of Sid Dillon Auto, requesting the applicant's original proposal for a 20 foot candle level for the display area (p.2).

FACTSHEET PREPARED BY: Jean L. Walker

REVIEWED BY: _____

REVISIONS: F:\C:\2007\SP 1989A Appeal

DATE: January 29, 2007

DATE: January 29, 2007

Pierson|Fitchett
LAW FIRM

FILED

JAN 16 2007

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January 16, 2007

Lincoln City Clerk
555 S. 10th Street, Room 103
Lincoln, NE 68508

Re: Notice of Appeal; Special Permit #1989A

Dear Clerk:

Please be advised that an application to amend the lighting plan for Sid Dillon Auto on property generally located at 27th and Kendra Lane was submitted to the Planning Department November 9, 2006 as Special Permit #1989A. On January 3, 2007, the Planning Commission granted approval of an amendment to the special permit allowing an exterior display lot lighting level of 12 foot candles. The amendment to the special permit requested a 20 foot candle level in the display area. We are requesting that the City Council review the Planning Department recommendation and Planning Commission decision and permit the originally requested 20 foot candle level lighting in the display area.

If you have any questions or need any further information, please contact Peter Katt of this office.

Sincerely,



Peter W. Katt
For the Firm
lawkatt@pierson-law.com

PWK

(GAAP\5900-5999\5983.002 Design Associates of Lincoln, Inc.-Sid Dillon Lighting\City Clerk 1-16-7.wpd)

Tim Pieper, Sid Dillon
Bruce Bailey, Design Associates

**PLANNING COMMISSION FINAL ACTION
NOTIFICATION**

TO : Mayor Coleen Seng
Lincoln City Council

FROM : Jean Walker, Planning 

DATE : January 8, 2007

RE : **Special Permit No. 1989A**
(Lighting plan - Sid Dillon Auto - S. 27th Street and Kendra Lane)
Resolution No. PC-01035

The Lincoln City-Lancaster County Planning Commission took the following action at their regular meeting on Wednesday, January 3, 2007:

Motion made by Strand, seconded by Esseks, to approve **Special Permit No. 1989A**, with conditions, as amended, requested by Sid Dillon, Inc., for authority to amend Special Permit No. 1989 for a change in the lighting plan for Sid Dillon Automobile Dealership to modify the requirement that all outside lighting shall meet the City Design Standards for parking lots, on property generally located at S. 27th Street and Kendra Lane.

Motion for conditional approval, with amendments, carried 7-0 (Cornelius, Strand, Larson, Krieser, Carroll, Esseks and Carlson voting 'yes'; Taylor absent; Sunderman absent and declaring a conflict of interest).

The Planning Commission's action is final, unless appealed to the City Council by filing a Letter of Appeal with the City Clerk within 14 days of the date of the action by the Planning Commission.

Attachment

cc: Building & Safety
Rick Peo, City Attorney
Public Works
Peter Katt, Attorney at Law, P.O. Box 95109, 68509
Sid Dillon, Inc., 2627 Kendra Lane, 68512
Bob Ludwig, Porter Ridge Neighborhood Association, 7120 S. 31st Place, 68516
Paul Berggren, Porter Ridge Neighborhood Association, 7420 Lambert Place, 68516
Michael Rierden, Attorney at Law, 645 M Street, Suite 200, 68508

RESOLUTION NO. PC- 01035

SPECIAL PERMIT NO. 1989A

1 WHEREAS, Sid Dillon Inc. has submitted an application designated as Special
2 Permit No. 1989A for authority to amend Special Permit 1989 for a change in the lighting plan
3 for Sid Dillon Automobile Dealership to modify the requirement that all outside lighting shall
4 meet the City Design Standards for parking lots on property generally located at S. 27th Street
5 and Kendra Lane, and legally described as:

6 Lot 4, Block 1, Tamarin Ridge Addition located in the Northeast
7 Quarter of Section 24, township 9 North, Range 6 East, Lancaster
8 County, Nebraska;

9 WHEREAS, the Lincoln City-Lancaster County Planning Commission has held a
10 public hearing on said application; and

11 WHEREAS, the community as a whole, the surrounding neighborhood, and the
12 real property adjacent to the area included within the site plan for this amended special permit
13 will not be adversely affected by granting such a permit; and

14 WHEREAS, said site plan together with the terms and conditions hereinafter set
15 forth are consistent with the comprehensive plan of the City of Lincoln and with the intent and
16 purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and
17 general welfare; and

18 NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster County
19 Planning Commission of Lincoln, Nebraska:

1 That the application of Sid Dillon Inc. hereinafter referred to as "Permittee", to
2 amend Special Permit 1989 for a change in the lighting plan for Sid Dillon Automobile
3 Dealership to modify the requirement that all outside lighting shall meet the City Design
4 Standards for parking lots on property described above be and the same is hereby granted
5 under the provisions of Section 27.63.470 and Chapter 27.65 of the Lincoln Municipal Code
6 upon condition that construction of said lighting fixtures be in strict compliance with said
7 application, the site plan, and the following additional express terms, conditions, and require-
8 ments:

9 1. This amendment approves an amended lighting plan for the auto dealership on
10 Lot 4, Block 1 as shown on the site plan.

11 2. This special permit is approved contingent on the following conditions:

12 a. The Permittee shall submit a revised site plan including five copies
13 showing the following revisions to the Planning Department office for
14 review and approval.

15 i. Revise Note #3 under Special Permit-Planned Service
16 Commercial to read, "Parking lot lighting shall meet City of
17 Lincoln Design Standards for parking lots. All outside lighting shall
18 meet City of Lincoln Design Standards relative to light
19 measurements at the zoned property line."

20 ii. Add a new note under Special Permit-Planned Service
21 Commercial for display lot lighting levels in Lot 4, Block 1, to read,
22 "After sunset and during business hours, display lot lighting levels
23 shall not exceed an average foot candle measurement greater
24 than 12, and after business hours display lot lighting levels shall
25 not exceed an average foot candle measurement greater than 4.

1 The light fixtures for display lot lighting shall be modified to add
2 full cut-off shielding. Any future replacement of the existing
3 fixtures shall be a full cut-off design.

4 iii. Identify on the site plan the existing display lot area for Lot 4,
5 Block 1.

6 iv. Outside lighting levels beyond the display lot area for Lot 4, Block
7 1, shall not exceed an average foot candle measurement greater
8 than 4.

9 b. Provide documentation from the Register of Deeds that the letter of
10 acceptance as required by the approval of the special permit has been
11 recorded.

12 3. The site plan accompanying this permit shall be the basis for all interpretations of
13 setbacks, yards, locations of buildings, location of parking and circulation elements, and similar
14 matters.

15 4. This resolution's terms, conditions, and requirements bind and obligate the
16 Permittee, its successors and assigns.

17 5. The applicant shall sign and return the letter of acceptance to the City Clerk
18 within 60 days following the approval of the special permit, provided, however, said 60-day
19 period may be extended up to six months by administrative amendment. The City Clerk shall file
20 a copy of the resolution approving the special permit and the letter of acceptance with the
21 Register of Deeds, filling fees therefor to be paid in advance by the applicant

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

1 The foregoing Resolution was approved by the Lincoln City-Lancaster County Planning
2 Commission on this 3rd day of January, 2007.

ATTEST:

/s/ Original signed by

Jon Carlson

Chair

Approved as to Form & Legality:

Rich Leo

Chief Assistant City Attorney

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for December 6, 2006 PLANNING COMMISSION MEETING

****As revised and adopted by Planning Commission on January 3, 2007****

Resolution No. PC-01035

PROJECT #: Special Permit No. 1989A, Tamarin Ridge
PROPOSAL: Amend the lighting plan for Sid Dillon property located at 2627 Kendra Lane.
LOCATION: S. 27th St. and Kendra Lane
LAND AREA: Special permit is 11.25 acres, more or less
Sid Dillon is 8.00 acres, more or less

EXISTING ZONING: H-4, General Commercial District

CONCLUSION: The original special permit for Sid Dillon had a note stating that all outside lighting shall meet City design standards for parking lots. This would restrict lighting for the auto display area to a maximum of 4 foot candles. This was overly restrictive and Planning agreed that the restriction should be amended. This amendment should require the same conditions as the amendment approved for Williamson at S. 27th St. and Yankee Hill Rd., which was modeled from the lighting plan for DuTeau at S. 27th St. & Porter Ridge Rd. It is important to maintain consistency in the standards among these three businesses which are similarly situated in terms of nearby residential land uses along S. 27th St.

RECOMMENDATION:	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 4, Block 1, Tamarin Ridge Addition located in the NE 1/4 of Section 24, Township 9 North, Range 6 East, Lancaster County, Nebraska

EXISTING LAND USE: Auto Dealer, and commercial

SURROUNDING LAND USE AND ZONING:

Sid Dillon Auto Dealership

North: H-4, General Commercial	Retail/Commercial
South: R-4, Residential	Undeveloped
O-3, Office	Undeveloped
East: H-4, General Commercial	Retail/Commercial-DuTeau
P, Public	LES substation
West: R-4, Residential	Undeveloped

HISTORY:

January 6, 2006 Design Associates submitted an application for an administrative amendment to amend the lighting requirements for Special Permit #1989 (Sid Dillon). This administrative amendment was denied by the Planning Director due to the fact

the proposed lighting plan did not substantially match Williamson and DuTeau lighting plans.

- March 16, 2005 Administrative Amendment #05018 to Special Permit #2022 (Williamson) to revise notes pertaining to lighting standards was approved by the Planning Director.
- July 28, 2004 Administrative Amendment #04059 to Special Permit #2022 to increase the floor area of the auto dealership (Williamson) to 65,200 s.f. was approved by the Planning Director.
- November 3, 2003 Special Permit #2022 for Planned Service Commercial to include a 43,500 s.f. auto dealership (Williamson) was approved by the City Council.
- March 3, 2003 Special Permit #1989 for Planned Service Commercial to include an 80,000 s.f. auto dealership (Sid Dillon) was approved by the City Council.
- February 10, 1999 Special Permit #1629A to revise Special Permit #1629 for a 40,000 s.f. auto dealership (DuTeau) was approved by the Planning Commission.

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2025 Comprehensive Plan identifies this area as commercial.

ANALYSIS:

1. This application is to amend the approved lighting plan for Sid Dillon auto dealership. The applicant is not requesting any changes to the site plan for Special Permit 1989. The approved site plan shall remain the basis for all interpretations of setback, yards, locations of buildings, location of parking and circulation elements and similar matters.
2. Special Permit #1989 for Sid Dillon addresses lighting in the notes on the site plan. Note #3 under Special Permit notes states, "All outside lighting shall meet City of Lincoln Design Standards for parking lots and shall be directed away from residential uses. Design Standards relative to light measurements along the west and south shall be met at the property line. Poles for outside lights shall not exceed 30 feet in height. At least two-thirds of all lights shall be turned off after business hours between 8:00 p.m. and 7:00 a.m."
3. The City of Lincoln Design Standards Chapter 3.45 Section 3.8 (see attachment) addresses parking lot lighting. Parking lot lighting requires an illumination level of not greater than 4.0 horizontal foot candles, average maintained, nor less than 0.2 horizontal foot candles, average maintained. The uniformity ratio is to be no greater than 4:1 average to minimum foot candles over the entire parking lot.
4. In establishing lighting requirements for Sid Dillon, Special Permit #1629A for the DuTeau auto dealership was looked at. Resolution PC-00481 for DuTeau required the following:
 - a. Outside lighting shall meet City Design Standards and shall be directed away from residential uses. Design standards relative to light measurements at the residentially zoned property line along the east boundary shall be met at a point 40 feet west of the east property line.

b. Poles for outside lights shall not exceed 30 feet in height.

c. At least two-thirds of all outside lights shall be turned off after business hours.

Also a note on the site plan required that the development comply with Environmental Performance Standards of the City of Lincoln, These standards are attached.

5. There appears that there was some confusion with terms. Building and Safety (B & S) approved lighting for the parking lot, not the auto display area. After B & S approved Building Permit #B0305341 & B0305342, the applicant interpreted this to mean all lighting was approved, not just parking lot lighting. The attached memo from B & S identifies that at the time of building permit application the lighting plan for the display area had a note to reference that this area was to be submitted for review at a later date and that the parking lot lighting was highlighted as the area asked to be reviewed. So, although the lighting plan showed lighting for the auto display area, only parking lot lighting was reviewed and approved by Building & Safety and L.E.S. A lighting plan for the auto display area was never submitted to Building & Safety.
6. Section 27.03.480 of the zoning code and Chapter 1.05 of the City Design Standards defines parking lots as an area consisting of six or more parking spaces for the storage of automobiles, provided that there shall be no storage of automobiles for the purpose of sale or resale. Automobile display area is not defined. Although automobile display area is not defined, the lighting restrictions are mandated through the special permit.
7. Williamson auto dealership, the third in the area, was approved by Special Permit #2022 in November 2003. Resolution A-82449 required "All outside lighting shall meet City of Lincoln Design Standards for parking lots. At least two-thirds of all outside lights in Lot 1, Block 1, shall be turned off 30 minutes after business hours."
8. In March 2005 Williamson was granted an administrative amendment to revise the notes pertaining to lighting. When the initial special permit was approved it was not the intent to have auto display area lighting the same as parking lot lighting. The note however on the approved site plan treated the auto display area and parking lot the same. The new note relating to auto display area states "Display area lighting illuminance levels shall not exceed an average of 10 foot candles. The luminaires shall be full cut-off to conform to the City of Lincoln luminaires standards. City of Lincoln Design Standards relative to light measurements at the zoned property line shall be met." Parking lot lighting is separate from automobile display lighting.

9. A lighting study on the DuTeau property was prepared by Olsson Associates for the administrative amendment for Williamson. The lighting study showed that the average footcandle for the entire DuTeau site was 9.20 and the proposed average foot candles for Williamson was 9.56. (see attached) DuTeau also uses full-cutoff fixtures. Although the lighting for DuTeau is more restrictive than as strictly stated in their conditions, DuTeau had verbally committed to minimize its impact.
10. When Sid Dillon was notified that their lighting was in violation of the special permit they were given the option of applying for an administrative amendment and revise their lighting to match what was approved for Williamson. Sid Dillon did apply for an administrative amendment, but their revised lighting plan did not meet the same requirements as Williamson's' amendment. Their amendment proposed an average of 28.18 fc during business hours, 11.27 fc between closing and 10:00 p.m. and 3.96 fc from 10:00 p.m. to sunrise.
11. The proposal with this application shows an average of 11.27 fc during business hours, 3.96 fc between closing and 10:00 p.m. and 2.59 fc from 10:00 p.m. to sunrise. This latest proposal has a new category "Business Hour Dusk Time Lighting" with an average of 28.18 fc.
12. Following is a summary of the lighting requirements for Williamson, Sid Dillon and DuTeau:

SP #2022 Williamson (Northeast corner of S. 27th & Yankee Hill Rd.)

AA #05018 approved March 16, 2005 added Note #21 and amended Note #12.

Note #12: Parking lot lighting shall meet City of Lincoln Design Standards for parking lots. At least two thirds of all outside lights in Lot 1 & 2, Block 1 shall be turned off 30 minutes after business hours.

Note #21: For Lots 1 & 2, Blk 1, display lighting illuminance levels shall not exceed an average of 10 foot candles. The luminaries shall be full cut-off to conform to the City of Lincoln luminaries standards. City of Lincoln Design Standards relative to light measurements at the zoned property line shall be met.

SP #2022 approved Nov. 3, 2003

Note #12: All outside lighting shall meet City of Lincoln Design Standards for parking lots. At least two thirds of all outside lights in Lot 1 & 2, Block 1 shall be turned off 30 minutes after business hours.

SP #1989 Sid Dillon (Southwest corner of S. 27th & Kendra Lane)

Approved March 3, 2003 by Council.

Note #3: All outside lighting shall meet City of Lincoln Design Standards for parking lots and shall be directed away from residential uses. Design Standards relative to light measurements along the west and south shall be met at the property line. Poles for outside lights shall not exceed 30 feet in height. At least two-thirds of all lights shall be turned off after business hours between 8:00 pm and 7:00 am.

Note #15: No sign or lighted band shall be permitted on the south and west sides of the auto dealership building only

SP #1629A DuTeau (Southeast corner of S. 27th St. and Porter Ridge Rd.)

Approved Feb. 10, 1999

Note #14 The applicant shall comply with Environmental Performance Standards of the City of Lincoln.

Resolution PC-00481:

2. Outside lighting shall meet City Design Standards and shall be directed away from residential uses. Design standards relative to light measurements at the residentially zoned property line along the east boundary shall be met at a point 40 feet west of the east property line.
 3. Poles for outside lights shall not exceed 30 feet in height.
 4. At least two-thirds of all outside lights shall be turned off after business hours.
 7. No sign of lighted band shall be permitted on the east side of the building.
13. The applicant's letter states that Sid Dillon does not abut a residential district, whereas Williamson and DuTeau does. This is not correct, Sid Dillon abuts an R-4 residential district to the west. Also, the lights are very visible to the existing residences on the east side of S. 27th St., from which City staff has received complaints since this dealership opened. This is a result of the fact that full-cutoff fixtures were not installed, as well as the higher illumination levels.

CONDITIONS OF APPROVAL:

Site Specific Conditions:

1. This amendment approves an amended lighting plan for the auto dealership on Lot 4, Block 1 as shown on the site plan.

General Conditions:

2. This special permit is approved contingent on the following conditions:
 - 2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.
 - 2.1.1 A revised site plan including 5 copies showing the following revisions:
 - 2.1.1.1 Revise Note #3 under Special Permit-Planned Service Commercial to read, "Parking lot lighting shall meet City of Lincoln Design Standards for parking lots. ~~At least two-thirds of all~~ All outside lights lighting in Lot 4, Block 1 shall be turned off 30 minutes after business hours shall meet City of Lincoln Design Standards relative to light measurements at the zoned property line.
(Per Planning Commission, at the request of the applicant and agreed upon by staff: 01/03/07**)**
 - 2.1.1.2 Add a new note under Special Permit-Planned Service Commercial for display lot lighting levels in to read, "For Lot 4, Block 1, to read, "After sunset and during business hours, display lot lighting illuminance levels shall not exceed an average foot

candle measurement greater than 12, and after business hours display lot lighting levels shall not exceed an average foot candle measurement greater than 4. The light fixtures for display lot lighting shall be modified to add full cut-off shielding. Any future replacement of the existing fixtures shall be a full cut-off design of 10 foot candles. The luminaires shall be full cut-off. City of Lincoln Design Standards relative to light measurements at the zoned property line shall be met.” (**Per Planning Commission, as recommended by staff: 01/03/07**)

2.1.1.3 Identify on the site plan the existing display lot area for Lot 4, Block 1. (**Per Planning Commission, at the request of the applicant and agreed upon by staff: 01/03/07**)

2.1.1.4 Outside lighting levels beyond the display lot area for Lot 4, Block 1, shall not exceed an average foot candle measurement greater than 4. (**Per Planning Commission, at the request of the applicant and agreed upon by staff: 01/03/07**)

2.2.1 Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.

Standard Conditions:

- 3. The following conditions are applicable to all requests:
 - 3.1 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.2 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.3 The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the special permit, provided, however, said 60-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant

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

Prepared by

Tom Cajka
Planner

DATE: November 21, 2006

APPLICANT: Sid Dillon Inc.
2627 Kendra Lane
Lincoln, NE 68512
(402) 464-6500

OWNER: same as applicant

CONTACT: Peter Katt
Pierson, Fitchett, Hunzeker, Blake & Katt
1045 Lincoln Mall, Suite 200
Lincoln, NE 68508
(402) 476-7621

SPECIAL PERMIT NO. 1989A

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 6, 2006

Members present: Larson, Krieser, Carroll, Esseks, Taylor, Cornelius and Carlson (Sunderman declared a conflict of interest; Strand absent).

Ex Parte Communications: None.

Staff recommendation: Conditional Approval.

Staff presentation: **Tom Cajka of Planning staff** gave a brief history of the area:

Special Permit No. 1989 for Sid Dillon was approved in March 2003. That special permit required that all outside lighting meet the city of Lincoln design standards for parking lots and that at least two-thirds be turned off after business hours.

In November 2003, another special permit was issued for Williamson Auto at 27th and Yankee Hill Road with the same requirements.

In March 2005, Williamson requested an amendment to their lighting plan. Planning agreed to the amendment if their amended lighting plan was similar to the lighting at DuTeau Chevrolet, also in the same area. The amended lighting for Williamson was approved on March 15, 2005, with new conditions stating that the vehicle display lighting shall not exceed average of 10 foot-candles, and 2/3 of all outside lights shut off 30 minutes after business hours.

In or about March 2005, Sid Dillon was informed that their lighting was in violation of their special permit, which required that all of their lighting meet the parking lot lighting requirements, which has a maximum average of 4 foot-candles. Sid Dillon was then given the same opportunity as Williamson to submit an administrative amendment to their lighting plan. That amendment would need to have matched what was approved for Williamson.

Sid Dillon then applied for an administrative amendment, but did not match the Williamson amendment and proposed something different. Sid Dillon had proposed average foot-candles of 28.18 during business hours, nearly three times that of Williamson. That administrative amendment for Sid Dillon was denied. Therefore, Sid Dillon has requested this amendment.

This proposed amendment would reduce the average foot-candles during business hours to 11.27, and from closing to 10:00 p.m. to 3.96. These readings for the foot-candles are taken over the entire premise, not just the display area. Planning does not support this proposal because it exceeds the Williamson and DuTeau permits. The 10 foot-candles approved for Williamson is only on the display lighting area. By using the entire premise, Sid Dillon is able to take other dark spots and average it out over the entire lot, which brings down that average foot-candle. We do not know what the lighting of the display area would be.

All three car dealers are in close proximity and abut residential districts. There should be consistency between all three dealers. Planning has also received complaints about the lighting from neighbors abutting the Sid Dillon property. There is also a letter from the neighborhood association in opposition to the existing light intensity.

Carroll inquired about the limitation after business hours for Williamson and DuTeau. Cajka advised that the Williamson and DuTeau permits do not quantify it by business hours – it just states that their display area has to have an average of 10 foot-candles. The average of 10 is during business hours, but only on the display area. There is no foot-candle provision for after hours. The permit just states that 2/3 of their lights have to be turned off.

Cajka believes there is confusion about what was approved and what was not approved. He referred to the comments from Building & Safety and LES, wherein Building & Safety specifically says that the “parking lot” lighting plan is approved, and LES also specifically states that this approves the “parking lot” lighting plan. The Planning staff does not consider where you sell cars as a parking lot. Maybe they were thinking the entire premise was a parking lot and therefore it was approved. The parking lot design standards require maximum foot-candle of 4. Sid Dillon is well in excess of that, probably around 30 for the entire site.

Proponents

1. Peter Katt appeared on behalf of the applicant, **Sid Dillon**. He suggested that this is a unique situation in terms of some of the issues. He requested that this matter be deferred for two weeks. First of all, he disagrees with the history provided by the staff and he does not believe the facts are accurately reported by the staff. This is a lighting problem and it does need to be fixed. It is a policy question: What is the appropriate lighting standard to be applied? Staff has decided it is done. Katt believes there is more to that story since the city has invented money in a lighting task force study which incorporates a lot of this proposal. Katt received a draft of the consultant’s report this morning. He has not had the opportunity to review and compare that report with this application. He noted that the staff report makes no mention of this lighting task force. Therefore, he is requesting a two week deferral.

Katt submitted two exhibits. He made corrections to the history set out in the staff report, and suggested that what the staff left out is what the terms meant and how they intended it to apply in connection with Williamson. In paragraph 8 on page 4 of the staff report, in the second sentence, staff notes: “When the initial permit was approved, it was not the intent to have auto display area lighting the same as parking lot lighting.” Katt believes that is true. Then the question becomes: What do people think the standard was? The city did not have a standard. DuTeau had a very good lighting level set because it had a change of zone to commercial next to existing residential homes and the lighting level was set very low. In paragraph 9 on page 4, the staff told Williamson to go do a study on DuTeau and meet that standard, and that is how that standard for Williamson was created. Then they told Sid Dillon they had to live by that standard. The administrative amendment was filed in May of 2005. By January of 2006, a specific amendment was proposed, not meeting exactly the 10 foot-candle requirement, but trying to improve the situation as best could be done without huge capital costs. After that meeting, staff was inflexible and would not approve anything but the 10 foot-candle standard.

It was about this time that the task force was being created and started and Katt understood that we would let that process work through to see what the community’s standard might be as a part of that process. From January of 2006 to August of 2006, when the task force was disbanded because they ran out of money, his client was involved in that process. Curiously enough, then, the lighting task force consultant delivers its report to the Planning Department on September 20, 2006. On September 26, 2006, Sid Dillon receives the letter denying the administrative amendment, stating that the city will be enforcing the special permit requirements – end of story.

Katt noted that the consultant recommended 30 foot-candles for automotive display lot areas. Katt does not believe that his client has not tried to help solve the problem. They are here to solve the problem. It is relevant to look at the work that has been done by the lighting task force, and he will discuss that in two weeks.

Motion: Taylor moved to defer for two weeks, with continued public hearing and action on December 20, 2006, seconded by Krieser and carried 7-0: Larson, Krieser, Carroll, Esseks, Taylor, Cornelius and Carlson voting 'yes' (Sunderman declared a conflict of interest, Strand absent).

There was no testimony in opposition.

Staff response:

Marvin Krout, Director of Planning, suggested that the Planning Commission might think about the question of how this task force report plays into this issue. The staff probably has an obligation to provide the Commission with the report and then the question becomes: What is that report? It is a draft report, and how do you use it and do you make a decision on this case that in fact sets the standard for that particular aspect of the report or not? This case has now become more complicated.

The lighting task force worked for over a year, and it was a very broad-based committee that met about 25 times. They finally reached a point where they were going over issues again and again and the Planning Department thought the consultant should bring the report to some sort of conclusion and let the process be carried out from there. This may be discussed for a number of months. His expectation is that there will be a final draft report in mid- to late January, and then we would be going into a several month process of public review and discussion. It is complicated and it needs public education. There are many more issues than just the issue of display lighting for automobile lots. Staff does not agree with the recommendation in the consultant report for 30 foot-candles. That is the Husker auto lot. It does represent some kind of a national standard that we want to learn more about. Krout suggested that the consultant come to the hearing in two weeks. There are lots of questions to be asked about the consultant's recommendation in terms of the right standard, should there only be one standard or different standards in different locations? We are opening up a Pandora's box here of looking at a lot of lighting issues and the Commission may decide that they cannot resolve that issue with regard to this property in two weeks. Krout anticipates that the discussion of that standard will undergo an awful lot of scrutiny before there are some proposed amendments to the design standards.

Carroll pointed out that the standards have not been adopted so the Planning Commission must rely on the precedent and existing standards. He requested that Rick Peo be available in two weeks to answer questions.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: December 20, 2006

Members present: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson; Sunderman absent - also declared conflict of interest.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

The Clerk announced that Peter Katt submitted a request for two-week deferral on behalf of the applicant.

Strand moved to defer for two weeks, with continued public hearing and action scheduled for January 3, 2007, seconded by Carroll and carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson; Sunderman absent, also declared conflict of interest on this application.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 3, 2007

Members present: Cornelius, Esseks, Carroll, Strand, Larson, Krieser and Carlson; Taylor and Sunderman absent.

Staff recommendation: Conditional Approval.

Ex Parte Communications: None.

Staff presentation: **Tom Cajka of Planning staff** submitted additional information, including a survey of the Sid Dillon display area conducted by Ken Fairchild of Olsson Associates, the consultant who conducted the lighting study for the city. This survey was conducted during business hours when the lights were on and showed that the existing average foot candle of the display area today is 16.06. Each light pole in the display area has four luminaires. Nowhere on the display area do they have more than two luminaires lit on any one pole. The applicant's proposal using the same defined area showed an average foot candle of 18.1.

The applicant and Planning staff have met. The staff suggested that the applicant consider turning off one of the luminaires on some of the poles where they have two lit at the current time. Another option suggested is to add shields to the side of the existing poles to make them full cut-off fixtures. In that event, Planning would compromise on the 10 foot candles and would consider an average of 12.

Carroll inquired about the varying business hours. Cajka indicated that staff does not want to permit the different hour scenarios because they would be hard to enforce. The staff is attempting to keep it simple with an average foot candle for the display area, and then a light level for the remainder of the premises. After business hours the lighting level on the display area would be reduced from 10 to 4.

Esseks would like to see the staff's compromised recommendation in writing. Cajka believes that the applicant will be proposing some amendments to the conditions of approval.

Strand commented that driving home last night, she noticed that half the lights were off on each of the posts. Cajka confirmed that the survey was conducted on December 17th. The other two car dealerships in the vicinity have an average of 10 foot candles (versus the 16 at Sid Dillon) for the display area. They also reduce after business hours.

Proponents

1. Peter Katt appeared on behalf of the applicant, **Sid Dillon Auto**. The original approval of this lighting plan had a requirement that appears to indicate that all outdoor lighting would need to meet the parking lot design standards. Katt does not believe that was anyone's intent because that would require a 4 foot candle standard. The question becomes: What is the lighting standard that should apply? Katt suggested that the staff used the DuTeau lighting measurement as the defacto standard and strong-armed Williamson into adopting that standard. The staff then approached Sid Dillon in May of 2005 and demanded that they amend their permit for the same standard.

Sid Dillon submitted their own administrative amendment in January of 2006, when the city had just started the lighting task force. At that time, Katt suggested that Sid Dillon wait and see what community standard might be developed by the task force. Subsequently, the task force did its work and dissolved without a final recommendation. Sid Dillon then gets a “nasty-gram” from the Planning Department denying the administrative amendment, at which point Sid Dillon submitted this amendment to the special permit proposing a different standard. The real question is: What is an appropriate lighting standard for the Sid Dillon Auto facility on South 27th Street?

Katt then submitted a listing of the display lot lighting levels for other auto dealerships in Lincoln. The policy question is: What do we mean by “lighting level”? Does it apply to a display lot? Or are we taking an average foot candle over the entire site? Katt disagreed with staff and believes that the current standard foot candle for DuTeau and Williamson is not for the display areas but an average for the entire lot. In terms of other standards for display lighting, staff measured Sid Dillon at 16.06. The new design standard proposed by Sid Dillon would get to 18.01, which Katt believes corresponds with the national standard of 20 foot candles at a low level for display lot lighting of car lots. Katt also noted that the consultant for the task force recommended in his draft report that display lot lighting levels come in at 30 foot candles. Sid Dillon is proposing less than that.

Katt acknowledged that the existing lighting levels are too much, and that it was a mistake. Sid Dillon has attempted to accommodate that mistake by switching some breakers. The real solution, however, will require a complete rewiring and reworking of the lighting system. Sid Dillon does not want to invest that money until they know what will be agreeable as a standard.

Katt then submitted proposed amendments to the conditions of approval. He suggested two options, the first of which attempts to keep it simple and provides that the maximum during business hours after sunset would be 20 foot candles, and then reduced after business hours, and all other areas outside the display area would be 4 or less. The second option provides for the display lot lighting at a maximum of 20 foot candles during business hours, reducing to 4 foot candles from the close of business until 10:00 p.m., and then after 10:00 p.m. down to 2 foot candles. The primary concerns and impacts on the neighbors in the community is at night and they can go even lower after 10:00 p.m., but it becomes more complicated.

Katt pointed out that the proposed amendments include a provision, to the extent available and practical, that the existing luminaires be modified and have a full cut-off included on the fixtures. Full cut-off is not something that the task force recommended because it would triple the number of fixtures to focus it straight down so intensely. It will work, however, in this situation and he believes it will improve the perception of the lighting from the neighbors.

Strand asked for a definition of “to the extent available and practical”. Katt explained that the lighting fixture is no longer manufactured and the full cut-off component was discontinued because it overheated the bulbs and burned them out. He believes they should be able to craft a slight shield that will work effectively the same as a full cut-off shield, but this is not yet known because they have not yet designed it. Sid Dillon is willing to try to get that done.

Since this is a special permit, Carroll asked why they should not be required to match DuTeau and Williamson. Katt suggested that lighting levels are a choice. People can make choices about what color they paint their buildings, what brick they use, etc., so why should this standard be assumed to be sacrosanct? Sid Dillon is willing to be at a level that should have general acceptance within the community. But, Carroll pointed out that the city restricted DuTeau and Williamson to a certain level, so shouldn't we treat them equally? Katt suggested that DuTeau and Williamson made a choice to agree to certain lighting levels. Sid Dillon is unwilling to agree to those lighting levels. There is no

policy as to the appropriate lighting level. Sid Dillon has made significant investment in fixtures. To completely scrap it and start over is fundamentally unfair. This is an attempt to make the best out of the circumstances. The real question is: What is a fair lighting standard? If DuTeau or Williamson want this same standard, let them apply for it. There is no problem with this proposed standard. It is not bad. It does not have a negative impact. Sid Dillon should not be bound to lighting levels agreed upon by other property owners. That is not an appropriate standard to which Sid Dillon should be held.

Esseks commented that one of the policy challenges is to recommend to the City Council a lighting standard with which the neighbors can live. Apparently, the lighting that is characteristic of this lot for some time generated a lot of complaints. How is the 20 foot candles which Sid Dillon is requesting different from the foot candle levels that prevailed during the period when these complaints were generated? Katt responded that the city does not log complaint dates nor the complainants. He acknowledged that clearly, Sid Dillon had problems. They have done what they could to reduce it. Their measurement of what they have done has reduced it to 16.06. Katt is not aware of whether the 16.06 is creating problems. There are other factors that impact people's perception of the brightness, such as glare, trespass and other issues. He does not know that they can tailor it to each individual person's perception. We need a community standard.

Esseks noted that the lighting task force report shows Sid Dillon's display area really standing out much brighter than those across the street. Katt urged that those pictures and lighting levels do not correspond to each other. The pictures are only a general indication.

With regard to the proposed amendment to Condition #2.1.1.2, Esseks would like to make the condition more specific because in actuality, parts of the lot are so terribly bright that they constitute a nuisance. Katt agreed to take another look at this. Williamson and DuTeau also have very bright hot spots and that's how they get to their averages. There are a whole lot of other factors other than simply the foot candle measurement.

Carroll inquired whether it is the intent of the applicant to use existing lighting or to purchase new? Katt stated that, initially, the intent is to modify and rewire the existing fixtures and poles. As those fixtures age and need to be replaced, the intent would be to bring them down further. This proposal tries to accomplish a blend of utilizing what exists and getting the level down and trying not to incur a huge capital cost.

Carroll suggested allowing Sid Dillon to stay with existing lighting at 18, but put a time limit on it, and then require them to go down to a lower number when the equipment needs to be replaced. Katt does not know that the applicant would like to do that. He believes it might be reasonable, but he does not know the life expectancy of the fixtures. He does not believe that this lot should be penalized and come to a lower standard than the standard to which other display lots will be held.

Opposition

1. Michael Rierden appeared on behalf of **Grainger O'Shea Homeowners Association** (east side of South 27th Street extending to about 38th Street, consisting of over 300 homeowners). There have been 24 complaints about the Sid Dillon lighting to the association, either in writing or some other form of communication. Rierden became involved in this issue last fall. He wrote a letter on behalf of the association to the Planning Department because they had not heard anything in response to their complaints. The position of the association is quite simple – they support the staff recommendation that the lighting illuminate shall not exceed 10 foot candles and that there be full cut-offs. That is the standard that Williamson and DuTeau have complied with, whether they were strong-armed or not. He suspects that the bulk of the homeowners complaining are along 27th Street on the western edge of their boundaries. Rierden strongly urged the Commission to support the staff recommendation.

Cornelius inquired whether there have been any complaints from the homeowners about Williamson or DuTeau. Rierden was not aware of any.

Staff response

Cajka reiterated that the lighting study is a “draft” study. It is not near completion. The staff has had one meeting with the consultant to review the draft and several changes have been recommended. Nothing has been determined as to what the display area for auto dealers should be. Full cut-off fixtures has been recommended for auto display areas, but it has not been recommended for parking lots. DuTeau and Williamson currently have full cut-off fixtures. The notes on the administrative amendment for Williamson specifically state that display lighting illuminates shall not exceed an average of 10 foot candles and that the luminaires shall be full cut-off.

The staff agrees that the Sid Dillon display area would include the driving aisles between where the cars for sale are parked. That would bring that foot candle lower because it would be a larger area. Cajka then explained how the averages are calculated.

Esseks inquired whether the calculations are derived from a single image. Cajka did not know. The consultant did the measurements on one single evening.

With regard to replacing the lighting in the future, Cajka advised that the staff had discussed that with the applicant and the consultant. One of the problems is that it is not simply changing the lenses, but there may be other parts such as the ballast that would need to be replaced and you could end up having to replace the entire fixture. We did not believe that would be an option. We do think the shields on the side would work and help alleviate the concerns of the neighbors. We would want to make sure

that they are willing to do that or that it could be done before we compromise on a foot candle level. Staff does not agree to the 20 foot candles as proposed by the applicant.

Strand inquired whether staff would accept 16 foot candles, with a limitation of 4 foot candles after business hours, and then add language that the existing luminaires shall be modified to add cut-off shielding, and then follow Lincoln lighting standards at that time. Cajka stated that the staff is not willing to allow 16 foot candles. The other car dealers have managed to work with 10. The staff did suggest that Sid Dillon turn off one of the luminaires on the poles that have two.

Cajka clarified the staff recommendation, i.e. 10 foot candles. Staff would be willing to compromise to 12 or 13 if they can put the shields on the side. The other two dealerships are surviving at 10. Williamson and DuTeau could have brought an amendment forward if they did not agree with 10 foot candles.

Marvin Krout, Director of Planning, concurred with Strand that Sid Dillon has shut off a number of their lights, but there are still several poles in the middle of the lot that have two lights instead of one. If there was a good faith effort at shutting off some or all of those lights in the middle, it would have brought the overall average down between 16 and 10. If the number came out to 12 or 13 and they agreed to do the cut-off lighting, he believes that might be a comparable compromise.

Strand suggested a four or six week delay to do the calculations with some of those lights shut off, rather than the Planning Commission taking "a stab in the dark". None of us are lighting engineers. Krout suggested that the computer does most of the work. All we really need to do is have Ken Fairchild or someone run that same model assuming a few more lights off to see where it ends up. Sid Dillon would then have to evaluate whether that would be adequate for them, but he thinks it would be.

Carroll wondered about permitting 10 foot candles or more, with the approval of the Planning Department. Krout thought that to be a little open-ended and he is not sure it would be acceptable to the applicant; however, he believes he could work with that.

Esseks expressed his concern to also balance the needs of the applicant to display the product appropriately. If we ask for 10 or 12, is that going to make a real difference to the homeowners? Do we have any evidence about that? He thinks that is critical. Krout believes the picture probably magnifies the problem somewhat more than it is today because it was taken before they shut off some of their lights. However, even with some shut off, there is still a very noticeable difference today between Sid Dillon and the other dealerships. They need to go below 16 but there may be some room for compromise.

Esseks asked for a specific recommendation from the staff. Krout suggested 12 foot candles. If they apply the shields and the measurement came in at 13, he would agree to approve an administrative amendment.

Krout pointed out that the staff report is the staff's initial recommendation. As we discussed the issue further with the consultant and the applicant, the staff had a better understanding of the dilemma for the applicant. The applicant is not, however, entirely blameless for the situation but it did appear that there could be some compromise that was close to 10 that would be acceptable.

Carlson understands from the staff report that there is no approved display parking area permit for Sid Dillon at this time. Cajka concurred. What Building & Safety approved was parking lot lighting.

Response by the Applicant

Katt clarified that there is no city standard for display lot lighting today. Therefore, there was no need to get display lot lighting approved by anyone. Parking lot lighting standards do exist, so what staff is saying is that parking lot lighting standards apply to display lot standards. Katt believes the staff would have a hard time prevailing upon that enforcement action, i.e. Sid Dillon being in violation of the current special permit. The challenge is this: We recognize that the current lighting level is more than it needs and Sid Dillon is willing to reduce to a reasonable standard based upon its current investment in its lighting and its desire to have its lighting make a statement about its business. Katt submitted that there is no legal requirement to meet the standards of the other businesses in the area.

The reason we are here is because Sid Dillon is unwilling to live with the standard which has been imposed upon their business. This is not an appropriate forum to renegotiate standards. This is the whole reason we need to have standards that apply uniformly. Absent what has happened to DuTeau and Williamson, Katt suggested that reasonable national standards exist that suggest the proposed 20 foot candle standard is quite appropriate for auto display lots, and it goes up from there. What Sid Dillon is asking to be approved is reasonable for the city and for the community. It is a little difficult to respond to the neighbors concerns. It is hard to gauge their concerns. After the first hearing he suggested that they could meet with Rierden's clients and there was no contact.

In addition, Katt is not interested in a delay. He doesn't think it would accomplish much. There is no consensus as to what the standard might be. Someone else needs to set the community standard. This sets a precedent only for the Sid Dillon property.

ACTION BY PLANNING COMMISSION:

January 3, 2007

Strand moved approval, with amendment to Condition #2.1.1.2 proposed by the applicant, however, changing the foot candle maximum to 14 as opposed to 12, and that the light fixtures be modified to add full cut-off shielding but that they shall not be grandfathered when the poles need to be replaced but to follow the Lincoln lighting designs standards at that given time, seconded by Esseks.

Carroll stated that he is opposed to the 14 foot candles. 14 is too high. He would like to allow the Planning Director some ability to discuss with the applicant and administratively approve something more than 10, but he does not want to start at 14. He would rather start at 10 and let the Planning Director make that decision. He does not want to get into a bidding process with anyone.

Carlson agreed. Is there an applicable standard? We look at the special permit and there is a standard to which to refer, and that is the existing enterprises. If it functions well, we have created a standard that is workable.

Esseks is perplexed. He wishes we had some evidence that 10 foot candles will meet the needs of the homeowners association, and whether the negotiations up to 12 or 14 will meet the needs of Sid Dillon. Williamson got almost to 14 and Anderson was up to 12, so it does not look at though 10 is the implemented standard.

Krout advised that DuTeau and Williamson are meeting the 10 foot candle standard. The numbers on the handout by Mr. Katt came from the photographs. Those numbers should not be used as a comparison.

Cajka stated that the staff agrees with the applicant's proposed amendments to Condition #2.1.1.1, 2.1.1.3 and 2.1.1.4. He suggested that staff would agree to the following amendments to the conditions of approval:

- 2.1.1.1 Revise Note #3 under Special Permit-Planned Service Commercial to read, "Parking lot lighting shall meet City of Lincoln Design Standards for parking lots. ~~At least two-thirds of all~~ All outside lights lighting in Lot 4, Block 1 shall be turned off 30 minutes after business hours shall meet City of Lincoln Design Standards relative to light measurements at the zoned property line."

- 2.1.1.2 Add a new note under Special Permit-Planned Service Commercial for display lot lighting levels in to read, "For Lot 4, Block 1, to read, "After sunset and during business hours, display lot lighting illuminance levels shall not exceed an average foot candle measurement greater than 12, and after business hours display lot lighting levels shall not exceed an average foot candle measurement greater than 4. The light fixtures for display lot lighting shall be modified to add full cut-off shielding. Any future replacement of the existing fixtures shall be a full cut-off design of 10 foot candles. The luminaires shall be full cut-off. City of Lincoln Design Standards relative to light measurements at the zoned property line shall be met."

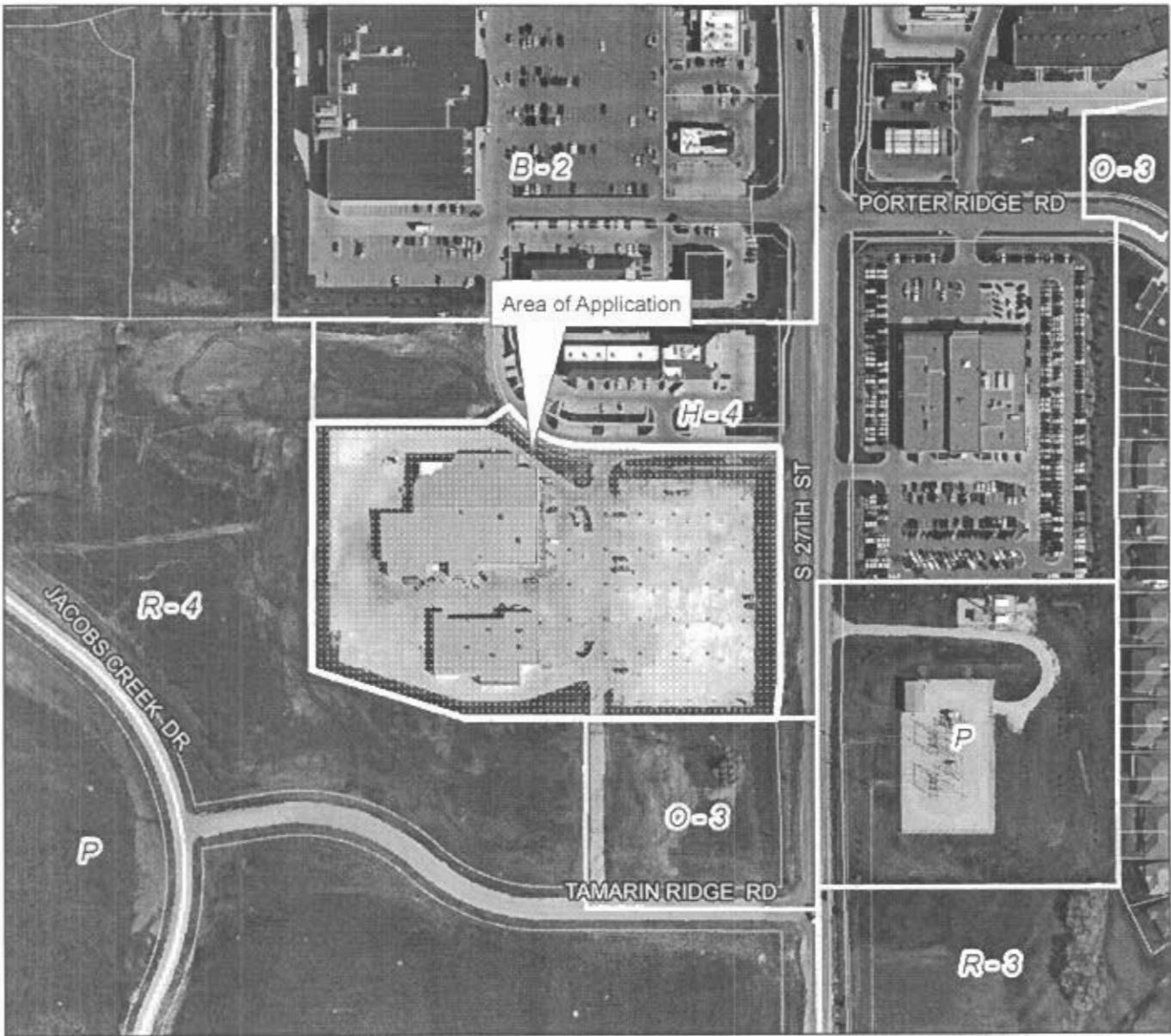
- 2.1.1.3 Identify on the site plan the existing display lot area for Lot 4, Block 1.

- 2.1.1.4 Outside lighting levels beyond the display lot area for Lot 4, Block 1, shall not exceed an average foot candle measurement greater than 4.

Strand withdrew her original motion and revised it as set forth above. Esseks, who had seconded the original motion, agreed.

Carroll stated that he would support the motion if it is in agreement with the staff.

Motion for approval, with conditions, as amended, carried 7-0: Cornelius, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Taylor absent; Sunderman absent and declaring a conflict of interest. This is final action unless appealed to the City Council.



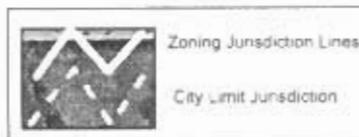
2005 aerial

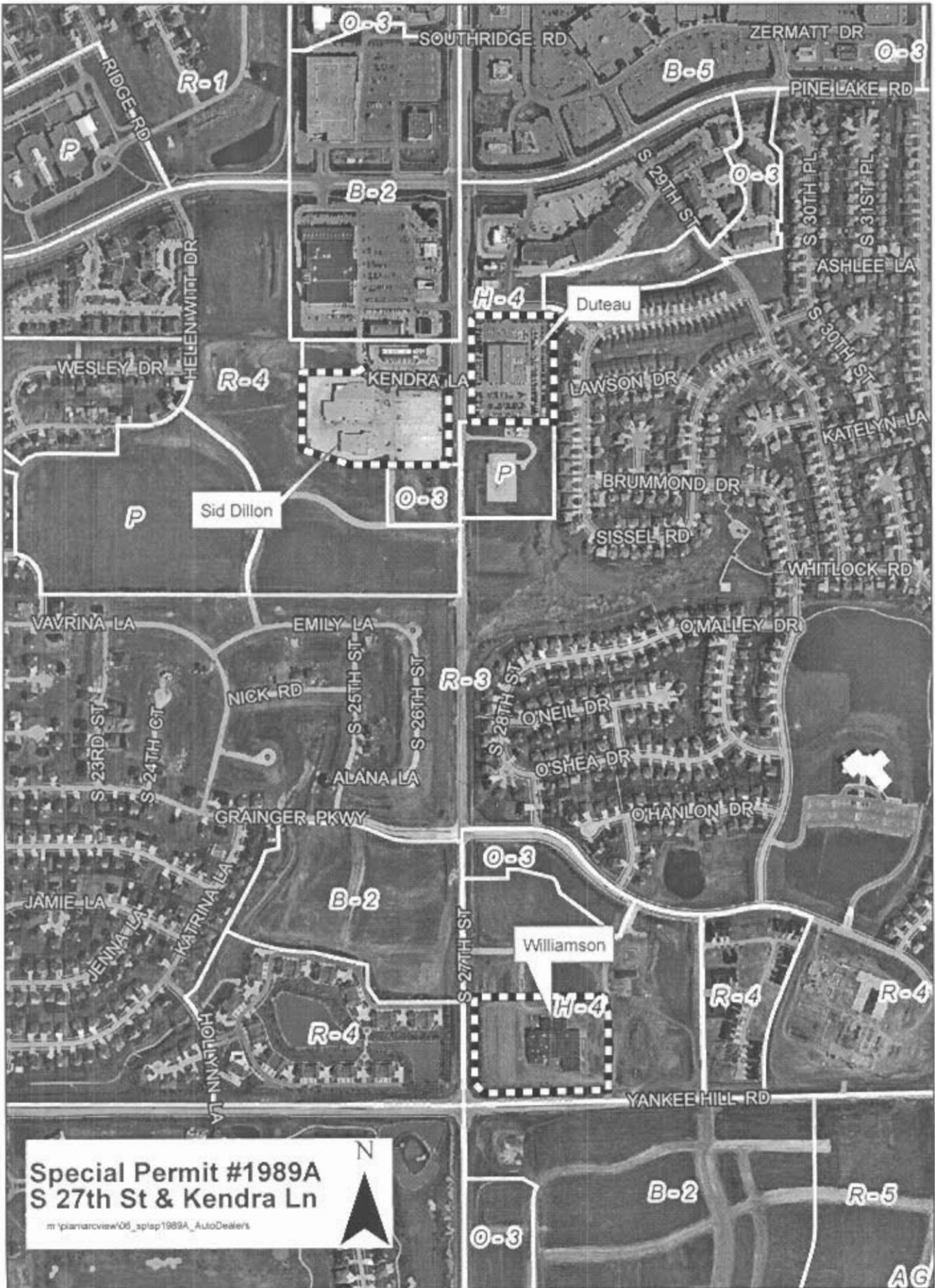
Special Permit #1989A
S 27th St & Kendra Ln

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Convergence 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-6 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. 24 T09N R06E





Special Permit #1989A
S 27th St & Kendra Ln
m:\planarcview\06_splap1989A_AutoDealer's





A. Craig Mason Jr.
Attorney-at-Law

620 N. 48th Street, Suite 205
Lincoln, Nebraska 68504

November 7, 2006

Marvin Krout
Lincoln Lancaster County Planning Department
555 S. 10th Street
Lincoln, Nebraska 68508

Re: Amendment to Special Permit #1989
Sid Dillon, Inc. – Automobile Dealership

Dear Mr. Krout:

The purpose of this letter is to submit a revised lighting plan for the Sid Dillon property located at 2627 Kendra Lane in the City of Lincoln.

HISTORY

Design Associates of Lincoln and Sid Dillon, Inc. (the “Applicants”) submitted two applications for building permits (file no.’s B0305341 & B0305342). As part of the applications, “parking lot lighting” was submitted and approved by the City. Shawn Johnson, with Building & Safety, was the plan reviewer. Stan Wostrel, with LES, also reviewed the plan and indicated its compliance with the City requirements.

Unfortunately, it appears that the City and the building permit applicants were not on the same page. It appears that the City, in establishing its special permit for this property intended for product display areas and customer parking areas to be treated the same under the permit. This was a variance in traditional building permit review and was not anticipated by the Applicants.

As a result, the Applicants proceeded building a “parking lot area” for customers that conformed to the design standards and a “inventory/display area” that met a different standard. It should be noted that the “inventory/display area” was submitted as part of the plan, and no comment was made regarding that area not being in compliance at the time approvals were issued.

Some time following what the Applicants believed to be approval of the plan, the City notified the Applicants that they did not believe the lighting to be in compliance with the conditions placed on this site. This determination was based on the interpretation that the

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November 7, 2006

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“inventory/display lot” would be treated as a “parking lot” and not separately. It has also been stated that restrictions on nearby automobile dealerships, built after the Applicant’s property and which are adjacent to residential property should be applied to the Sid Dillon property as well.

CURRENT DISCUSSIONS

It is clear that there was some confusion related to the regulatory intent of the city related to this property and the attempts to comply with those requirements by the Applicants.

At all times in applying for the permits and in building the location, the intent of the Applicants was to comply with the requirements of the City. If that did not happen, the Applicants are willing to take reasonable steps to address the concerns of the City.

The Applicants have previously submitted an amendment with the City to try and resolve the dispute on this issue. So far the attempts have been unsuccessful. It is the hope of the Applicants that this proposal, which further reduces the lighting at the site, will be acceptable to resolved this dispute.

TECHNICAL ISSUE RELATING LUMINAIRE LENSES

There is one issue that needs to be clarified before the plan is discussed.

The original lighting design for the property called for the use of two luminaries that were to use flat glass lenses. The use of this lens would have caused one of the two “inventory/display lot” luminaries to qualify as “full-cutoff fixture” under the IESNA and the other to qualify as “cut-off fixture” under the IESNA system. Unfortunately, the luminaries actually installed on the site did not use the “glass flat lens” specified in the design.

It was the original belief of the Applicants that this was a mistake by the company that installed the lighting. Unfortunately, it appears that the real cause of this change was the discontinuance of the “glass flat lens” option by the manufacturer of the luminaire. According to the manufacture, the “glass flat lens” was discontinued due to “heat issues” and the placement of the lighting element in too close of proximity to the lens. So while it was available when designed, and the availability of the lens was confirmed by the Designer prior to submission, the manufacturer subsequently pulled the lens from production and use without notifying the Designer.

Instead of a flat lens, the luminaries now use a drop lens that extends slightly below the flat bottom of the fixture. Despite the change in lens, the only change is that neither luminaire now meets the IESNA designation for a “full cutoff fixture.” They do still meet the IESNA “cutoff” standard established under the Lincoln code.

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Despite earlier discussion that the Applicants might replace the lens, the discontinuance of the flat lens option by the manufacturer makes that impossible without fully replacing the fixtures.

REVISED LIGHTING PROPOSAL

The goal of the lighting proposal is to reduce the overall lighting at all levels to provide a more security lighting for outdoor inventory from the hours of 10:00pm until dawn that are consistent with nearby auto dealerships while providing higher levels of lighting during hours when the business is open and between closing and 10:00pm. The reason for the higher level between closing and 10:00pm is to provide consistent lighting during a time when customers are known to visit the lot and browse for cars without a sales person present.

In providing these lower levels, we wish to remind you that the nearby automobile dealerships have different circumstances than the Sid Dillon lot. Duteau and Williamson both abut zoning areas that are residential or protected, where Sid Dillon does not. That factor should permit some variance in lighting between the competing lots despite their proximity.

The proposed lighting scheme is as follows:

- (1) Security Lighting – Between the hours of 10:00pm and dawn of every day, we propose to implement a lighting arrangement shown on the attached Sheet No. E-0.0. This arrangement provides 2.59 Average Horizontal Footcandles. This arrangement provides for a maximum reading of 14.10 footcandles and a minimum of 0.30 footcandles.
- (2) Customer Convenience Lighting – This lighting would start 30 minutes after closing and reduce to Security Lighting levels at 10:00pm. This lighting arrangement, shown on the attached Sheet No. E-0.1, would provide a 3.96 average horizontal footcandle level for the lot. The maximum level for the lot would still be 14.10 footcandles and the minimum would remain 0.30 footcandles.
- (3) Business Hour Lighting – During the days of the year when business hours extend beyond sundown, the lighting arrangement under the new design is shown on attached Sheet E-0.2. This lighting arrangement provides an average of 11.27 footcandles for the lot. The maximum under this arrangement increases to 33.60 footcandles and the minimum to 0.90 footcandles.
- (4) Business Hour “Dusk Time” Lighting – During the days of the year when business hours extend beyond sundown, an attention grabbing lighting arrangement has been designed for the “dusk” to “sundown” time frame of business operation. This is a period of time currently unregulated by current and draft outdoor lighting codes. Glare and other issues are not an issue during this time of day because the lighting is viewed versus a partially lit sky and will appear less bright based on the surrounding sky at the time. The proposed lighting arrangement for this time period is attached as Sheet No. E-0.3 and provides an

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average 28.18 horizontal footcandles for the lot. The maximum under this arrangement is 84.10 footcandles and the minimum is 1.00 footcandle.

A chart outlining these specifics is attached as "Exhibit A" to this letter.

CONCLUSION

We believe this structure for lighting provides a manageable, fair and appropriate level of lighting as a compromise to address the cities concerns regarding this premises and the significant expenditures made in good faith by the property owner based on the original design submitted to the City.

Once we have reached a formal agreement on this level of lighting, the new lighting arrangement outlined above will be implemented. There is significant electrical work that needs to be done to meet these levels that will result in significant expenditures by the Applicants to achieve these results.

Please feel free to contact Bruce Bailey, with Design Associates, Peter Katt, with the law firm of Pierson, Fitchett, or me if you have any questions.

Sincerely,

A. Craig Mason Jr.

“Exhibit A”

LIGHTING DESIGN FOR 2627 KENDRA LANE
SID DILLON, INC.

LIGHTING	Time of Day	Average Foot Candles	Maximum Foot Candles	Minimum Foot Candles	Number of Days per year	Hours per Day
Security Lighting	10:00pm to Dawn	2.591	14.10	0.30	365	7 hrs 21 mins to 9 hrs 21 mins
Customer Convenience Lighting	8:30 to 10:00 (M,T,Th) 6:30 to 10:00 (W,F) 5:30 to 10:00 (S,Su)	3.96	14.1	0.30	365	24 mins. to 4 hrs 15 mins
Business Hour Lighting	Sunset to 8:30 (M,T,Th) Sunset to 6:30 (W,F) Sunset to 5:30 (S, Su)	11.27	33.60	0.90	109	1 min. to 2 hrs 30 mins
Business Hour “Dusk Time” Lighting	Dusk to Sundown	28.18	84.10	1.00	109	15 mins

NOTES: Hours of operation vary based on the varying sunrise and sunset times during the course of the year.

Business Hour Lighting has 30 days where the lights will be on for 30 minutes or less and 37 days where the lights will be on for over 2 hours.

SPECIAL PERMIT-PLANNED SERVICE/COMMERCIAL (H-4) GENERAL NOTES

1. THE OWNER/DEVELOPER RESERVES THE RIGHT TO BUILD ANYWHERE WITHIN THE BUILDING ENVELOPES SHOWN ON THIS SPECIAL PERMIT.
2. BUILDING HEIGHT SHALL NOT EXCEED 35 FEET (H-4).
3. ALL OUTSIDE LIGHTING SHALL MEET CITY OF LINCOLN DESIGN STANDARDS FOR PARKING LOTS, AND SHALL BE DIRECTED AWAY FROM RESIDENTIAL USES. DESIGN STANDARDS RELATIVE TO LIGHT MEASUREMENTS ALONG THE WEST AND SOUTH SHALL BE MET AT THE PROPERTY LINE. POLES FOR OUTSIDE LIGHTS SHALL NOT EXCEED 30 FEET IN HEIGHT. AT LEAST TWO-THIRDS OF ALL LIGHTS SHALL BE TURNED OFF AFTER BUSINESS HOURS BETWEEN 8:00 P.M. AND 7:00 A.M.
4. THIS SPECIAL PERMIT CONTAINS 4 COMMERCIAL LOTS. LOTS 1-4, BLOCK 1, SHALL CONTAIN 115,100 S.F. OF RETAIL/COMMERCIAL USES AS PERMITTED BY 'H-4' PLANNED/SERVICE COMMERCIAL, INCLUDING 80,000 S.F. OF AUTOMOTIVE DEALERSHIP.
5. SIGNAGE SHALL BE AS PER SECTION 27.69 OF THE LINCOLN MUNICIPAL CODE. HOWEVER POLE SIGNS AND OFF-PREMISES SIGNS SHALL BE PROHIBITED.
6. AN ADMINISTRATIVE AMENDMENT TO APPROVE A SPECIFIC SITE PLAN ON EACH LOT WILL NOT BE REQUIRED UNLESS THE SITE INCLUDES A DRIVE THRU FACILITY, CONVENIENCE STORE/GAS PUMPS AND/OR A CAR WASH.
7. THE SQUARE FOOTAGE'S IN THE 'H-4' LAND USE TABLE SHOWN ON THIS PAGE MAY BE ADJUSTED BY ADMINISTRATIVE AMENDMENT AS LONG AS THE TOTAL TRIPS GENERATED DO NOT EXCEED THE TRIPS SHOWN IN THE TABLES. THE TOTAL FLOOR AREA (115,100 S.F.) MAY BE INCREASED BY AN ADMINISTRATIVE AMENDMENT.
8. WAIVER TO ALLOW THE PLANNING DIRECTOR TO APPROVE THE SITE PLANS, GROUND SIGN LOCATIONS AND REQUIRED LANDSCAPE PLANS AT TIME OF BUILDING PERMIT ON THE H-4 PARCELS.
9. WAIVER TO THE ZONING ORDINANCE FOR A REDUCTION OF THE FRONT YARD SETBACK OF 50' TO 40' ALONG SOUTH 27TH STREET ON THE H-4 PARCELS.
10. WAIVER OF THE REQUIRED SIDE YARD SETBACK ALONG THE NORTH PROPERTY LINE FROM 50' TO 20' ON THE H-4 PARCELS.
11. WAIVER OF INTERNAL SIDE YARD SETBACKS FROM 50' TO 10' ON THE H-4 PARCELS.
12. THE OWNER OF LOT 4, BLOCK 1 HAS THE RIGHT TO PROHIBIT VEHICULAR ACCESS THROUGH THE SITE DURING NON-BUSINESS HOURS, 8:00 P.M. TO 7 A.M.
13. OVERHEAD DOORS THAT OPEN INTO MECHANIC/SERVICE BAYS ON THE SOUTH AND WEST SIDES OF THE BUILDING SHALL BE 100% SCREENED WITH CONIFEROUS TREES, AT LEAST AS HIGH AND TWICE THE WIDTH OF SAID DOOR AT TIME OF PLANTING. DOORS FOR SHOWROOM ACCESS, NEW CAR PREP OR DELIVERY AREA ARE EXEMPT FROM THIS SCREENING REQUIREMENT.
14. NO OUTDOOR SPEAKERS SHALL BE PERMITTED ON THE AUTO DEALERSHIP LOT ONLY. MENU BOARD SPEAKERS ON DRIVE THRU'S SHALL BE PERMITTED.
15. NO SIGN OR LIGHTED BAND SHALL BE PERMITTED ON THE SOUTH AND WEST SIDES OF THE AUTO DEALERSHIP BUILDING ONLY.

Special Permit #1989

3.8 **Lighting**

Lighting systems for parking lot illumination shall conform to these standards and the lighting fixtures shall be so positioned as to direct lighting away from the immediately abutting properties and public ways.

The purpose of parking lot lighting is to provide adequate visibility within the parking lot and to enhance the security and safety of the lot users. It should not cause interference to traffic on public thoroughfares or encroach on the visual privacy of adjacent residents.

The intent of these standards is to provide guidelines to insure that parking lot lighting in the City of Lincoln is adequate and to minimize its adverse impact upon adjacent residential uses. It is also the intent of this standard to minimize light pollution which has a detrimental effect on astronomical observations. Except as noted in these standards, the parking lot shall be lighted in accordance with the *Illuminating Engineering Society of North America (I.E.S.) Lighting Handbook, 8th Edition*.

Airport parking lots shall be excluded from the restrictions of these lighting standards. Airport lighting requires special considerations and shall be controlled by the Lincoln Airport Authority.

There are three major controllable components of a lighting system that directly affect the quality of a light system. These are: (1) light intensity level, (2) uniformity of light distribution, and (3) glare. When these factors in a lighting system are managed in an appropriate way, intended use of the system is maximized and misuse is minimized.

Evaluation of parking lot lighting designs shall be based on the following criteria:

1. Light Intensity Level:
 - a. Illumination level: Not greater than 4.0 horizontal footcandles, average maintained, nor less than 0.2 horizontal footcandles, average maintained.
 - b. Illumination levels beyond the property line of parking lot: Illumination levels, attributable to a parking lot lighting system shall not exceed 0.5 horizontal foot-candle, maintained, on other properties, except public ways, within a residential zoning district.
2. Uniformity ratio: No greater than 4:1, average to minimum footcandles over the entire parking lot.
3. Glare control: Luminaires shall have a cutoff classification with no more than 2.5 percent of the candle power above 90 degrees from vertical nor more than 10 percent above 80 degrees from vertical. As an alternative, shields may be installed on the luminaires to achieve the cutoff requirements, or a non-cutoff luminaire having a light source that emits no more than 10,000 lumens at each pole location installed. The luminaires shall be designed to eliminate glare.

Definition of Leq: EQUIVALENT A-WEIGHTED SOUND LEVEL (Leq) - The constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. It is the average sound level and it accurately portrays the sound the human ear actually hears.

Section 7. PERFORMANCE STANDARDS FOR EMISSION, DUST AND ODOR

The existing City Ordinances, Regulations and Standards relating to emission, dust and odor shall apply to all uses in B-2, B-5, I-2, I-3 and O-3 Districts. Such ordinances include Lincoln Municipal Code, Chapter 8.06, Section 8.06.130 Odor Nuisances Prohibited, 8.06.140 Open Burning, and 8.06.150 Air Pollution Nuisances Prohibited.

Section 8. PERFORMANCE STANDARDS FOR OUTDOOR NIGHT TIME LIGHTING

8.1 Standards

Lighting in areas such as parking lots, outdoor storage facilities and the general landscape shall be conducted so that the light source is directed away from residential use areas and public streets, or shall be controlled so that the candlepower per 1000 lamp lumens does not numerically exceed 50 lamp lumens (5%) above vertical angle at 78 degrees above nadir or emit more than 500 foot-lamberts per unit projected surface area of the luminaire above 78 vertical angle.

Luminous element signs shall not exceed 300 foot-lamberts. Luminous building fronts on facades shall not exceed 100 foot-lamberts in average surface luminance. Flood lighted signs shall not exceed 75 foot-lamberts in average surface luminance. Exposed lamp signs and luminous tube signs shall not exceed 400 foot-lamberts in average surface luminance.

If street and walkways used by the public for night time transit are lighted, they shall be lighted in conformance with City of Lincoln standards for residential ornamental street lighting. (15 average maintained horizontal foot candles; average to minimum uniformity ratio not greater than 10:1)

Illumination contributable to any outdoor lighting shall be conducted in such a manner that direct or indirect illumination from the source shall not exceed .5 horizontal footcandles at the property boundary line of these districts if they abut a residential district.

8.2 Measurement

Illumination (footcandles) and luminance (foot-lamberts) measurements shall be made with a cosine corrected photoelectric photometer having a spectral response corrected to the luminous efficiency curve established by the International Commission on Illumination. The meter shall be calibrated in accordance with the manufacturer's specifications and shall be operated according to the manufacturer's

directions. Luminance meters shall be operated at an aperture setting of 2 degrees in diameter.

Section 9. PERFORMANCE STANDARDS FOR HEAT

Any operation producing intense heat shall be conducted within the enclosed building or with other effective screening in such a manner as to be completely imperceptible from any point along or outside the lot lines.



Status of Review: FYI

11/15/2006 8:32:32 AM

Reviewed By Building & Safety

Terry Kathe

Comments: It should be noted in the third paragraph of the letter, that the lighting plan that showed the point by point calculations for the display area had a note to reference that this area was to be submitted for review at a later date and that the parking lot lighting was highlighted as the area asked for being reviewed. This meant the area shown on the plan was a future review and was to be ignored by this office and a later plan would be filed for review.

Status of Review: Active

Reviewed By Lincoln Electric System

ANY

Comments:

Status of Review: Routed

Reviewed By Planning Department

COUNTER

Comments:

Status of Review: Active

Reviewed By Planning Department

TOM CAJKA

Comments:

Status of Review: Active

Reviewed By Planning Department

RAY HILL

Comments:

Status of Review: Active

Reviewed By Public Works - Development Services

ANY

Comments:

037



Building and Safety Department
Mike Merwick, Director
555 South 10th Street
Room 203
Lincoln, Nebraska 68508

402-441-7521
fax: 402-441-8214
bldgsafe@ci.lincoln.ne.us



MAYOR COLEEN J. SENG

www.ci.lincoln.ne.us

February 17, 2004

Steve Stajner
1609 N. Street
Lincoln, Ne 68508

Re: Parking lot lighting for 2627 Kendra lane

Dear Steve,

Please be advised that the parking lot lighting plan submitted in connection with Building Permit No. B0305341 & B0305342 at 2627 Kendra Lane is approved. A copy of the Lincoln Electric System (LES) review comments and the approved plan is attached. The lighting may be installed as per the approved plan, with approval of any applicable electrical permits.

Please contact this department if you have any questions about this lighting.

Sincerely,

Shawn Johnson
Plan Reviewer

pc: file

INTER-DEPARTMENT COMMUNICATION



DATE: February 13, 2004
TO: Terry Kathe
Zoning Administrator, Building & Safety
FROM: Stan Wostrel *SWW*
(Ext. 7627) *2-13-04*
SUBJECT: Parking Lot Lighting Plan & Design – Sid Dillon – 2627 Kendra Lane

RECEIVED
FEB 17 2004
CITY BUILDING & SAFETY

We have looked at the information you sent us regarding the parking lot lighting at Sid Dillon, 2627 Kendra Lane. We compared this information to the "Design Standards for Parking Lot Lighting" identified in the "Design Standards for Zoning Regulations" adopted by the City Council November 14, 1994, Resolution A-76465.

- A. **Illumination Level - Does meet the requirement.** The 3.96 average footcandles shown for the parking areas does meet the requirement of not more than 4.0 or less than 0.2 average footcandles.
- B. **Illumination Levels Beyond the Property Line of Parking Lot - Does meet the requirement.** The parking lighting does not exceed 0.5 footcandles on adjacent residential property.
- C. **Uniformity Level - Does meet the requirement.** The 3.96 average/minimum does meet the requirement of not more than 4:1 uniformity.
- D. **Glare Control - Does meet the requirement.** The light fixtures used for the parking lot lighting are cutoff luminaires.

Therefore, from this information, the lighting **does** meet the lighting "Design Standards for Parking Lot Lighting".

If you have any questions, please call me at 467-7627.

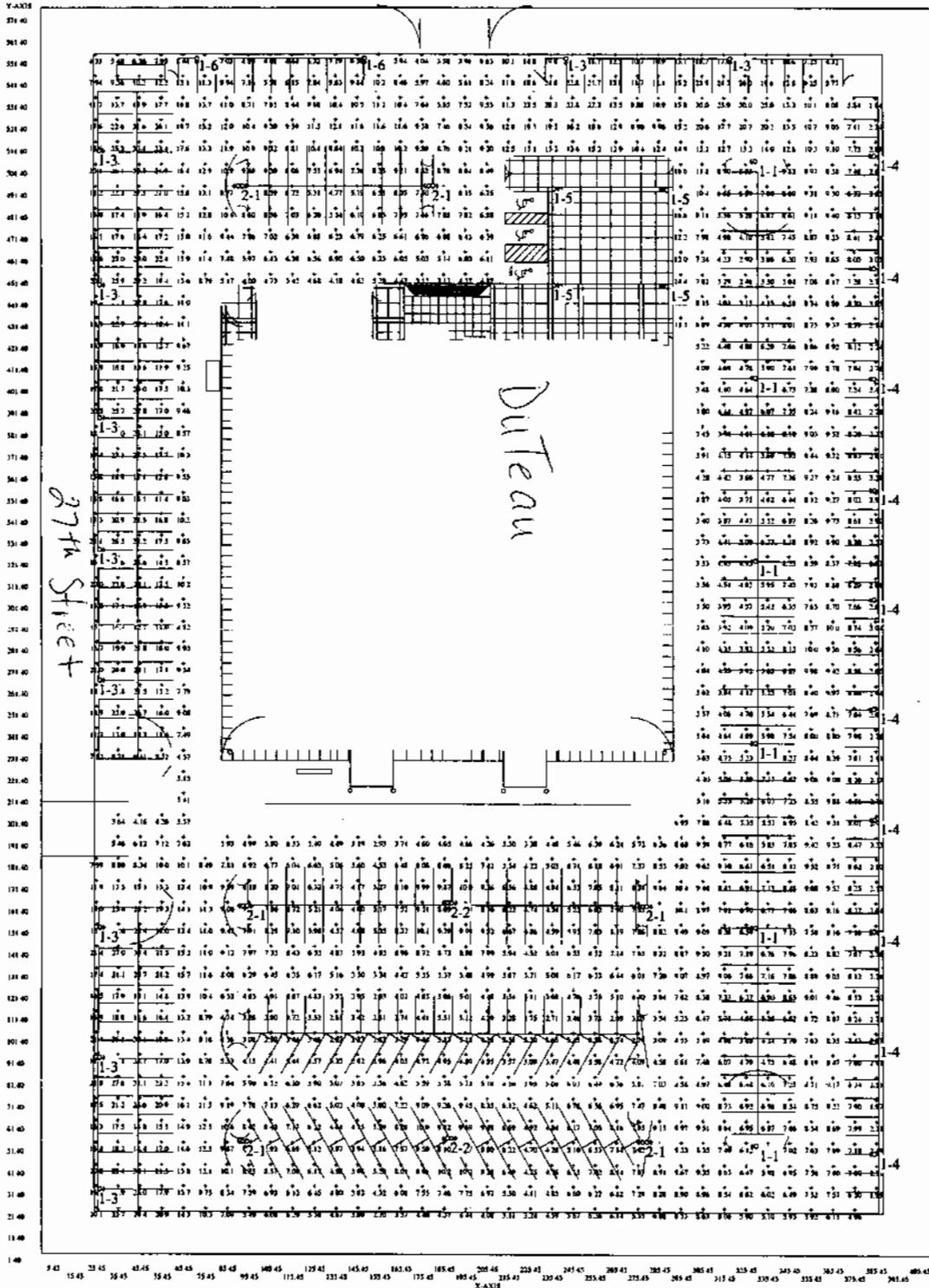
SW/nh
c: Dan Pudenz
Emil Turek

DN#73S-26E

PROJECT: Duteau/990572 GROUP: site AREA: Duteau GRID: ENTIREGRID
PREPARED BY: kdp
VALUES ARE FC, SCALE: 1 IN= 50.0FT, HORZ GRID (U), HORZ CALC, Z= 0.0

Computed in accordance with IES recommendations
Statistics

GROUP	MIN	MAX	AVE	AVE/MIN	MAX/MIN
(+)	1.84	31.6	9.20	4.99	17.12



FEB 16 2005

LIGHTING PLAN
By: Olsson Associates

040

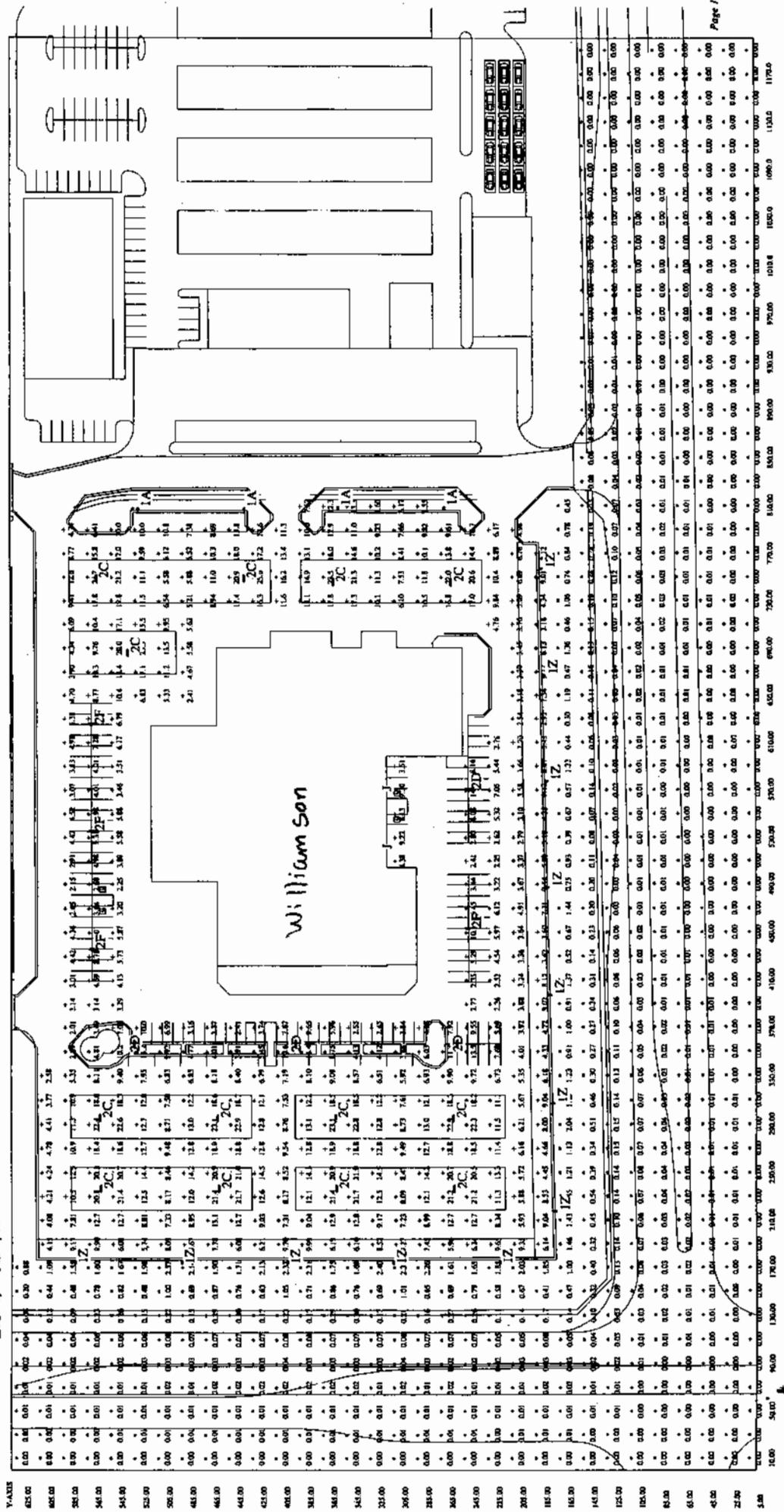
PROJECT: Williamson Honda/20031232 GROUP: site AREA: 60400/100000m GRD: Spillover
PREPARED BY: kdp
VALUES ARE FC, SCALE: 1 IN= 80.0FT, HORZ GRID (U), HORZ CALC, Z= 0.0

Computed in accordance with IES recommendations

GROUP	MIN	MAX	AVE	AVE/MIN	MAX/MIN
(*) Display Lighting	2.01	25.6	9.56	4.74	12.70
(*) Spill over	0.00	2.37	0.16	N/A	N/A

PL - 4 FC

Display - 10 FC



LIGHTING PLAN

BY: Olsson Associates

SUBMITTED AT PUBLIC HEARING
BEFORE PLANNING COMMISSION: 12/06/06
BY PETER KATT ON BEHALF OF THE APPLICANT

Special Permit #1989A

East: H-4, General Commercial
P, Public
West: R-4, Residential

Retail/Commercial-DuTeau
LES substation
Undeveloped

*Formal Amendment
Request submitted
11/9/06*

on September 26, 2006

HISTORY:

January 6, 2006 Design Associates submitted an application for an administrative amendment to amend the lighting requirements for Special Permit #1989 (Sid Dillon). This administrative amendment was denied by the Planning Director due to the fact the proposed lighting plan did not substantially match Williamson and DuTeau lighting plans.

May 13, 2005 (First Sid Dillon meeting)

March 16, 2005 Administrative Amendment #05018 to Special Permit #2022 (Williamson) to revise notes pertaining to lighting standards was approved by the Planning Director.

July 28, 2004 Administrative Amendment #04059 to Special Permit #2022 to increase the floor area of the auto dealership (Williamson) to 65,200 s.f. was approved by the Planning Director.

November 3, 2003 Special Permit #2022 for Planned Service Commercial to include a 43,500 s.f. auto dealership (Williamson) was approved by the City Council.

March 3, 2003 Special Permit #1989 for Planned Service Commercial to include an 80,000 s.f. auto dealership (Sid Dillon) was approved by the City Council.

February 10, 1999 Special Permit #1629A to revise Special Permit #1629 for a 40,000 s.f. auto dealership (DuTeau) was approved by the Planning Commission.

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2025 Comprehensive Plan identifies this area as commercial.

ANALYSIS:

1. This application is to amend the approved lighting plan for Sid Dillon auto dealership. The applicant is not requesting any changes to the site plan for Special Permit 1989. The approved site plan shall remain the basis for all interpretations of setback, yards, locations of buildings, location of parking and circulation elements and similar matters.



CITY OF LINCOLN
NEBRASKA

MAYOR COLEEN J. SENG

lincoln.ne.gov

Lincoln-Lancaster County
Planning Department
Marvin S. Krout, Director

Jon Carlson, Chair
City-County Planning Commission

555 South 18th Street
Suite 213
Lincoln, Nebraska 68508
402-441-7491
fax: 402-441-6377

September 26, 2006

Bruce Bailey
Design Associates
1609 "N" St. Suite 100
Lincoln, NE 68508

RE: Sid Dillon lighting

On March 3, 2003 the City Council approved Special Permit 1989 for Planned Service Commercial -Tamarin Ridge. This approved a 80,000 s.f. auto dealer. In March 2005, after the facility opened and staff received complaints from neighboring residents, Design Associates were informed that the lighting for the vehicle display area was not in conformance with the Special Permit.

On May 13, 2005 a meeting was held to discuss the lighting issue. In attendance were JD Burt, Bruce Bailey, Tim Pieper, Dale Stertz and Terry Kathe of Building & Safety and Brian Will of the Planning Department. It was clarified at that meeting that the permit letter had only approved fighting of the "parking lot" and not the "display area."

On January 6, 2006 Design Associates submitted an Administrative Amendment for Sid Dillon to modify the lighting requirements of the special permit.

On February 15, 2006 a letter was sent to Design Associates stating that the amendment as submitted would not be approved administratively due to a clear lack of conformity with the standards for display area lighting. There was no response to this letter until a meeting, which was held on September 8, 2006. In attendance were Peter Katt, Craig Mason, Bruce Bailey, Dale Stertz, Terry Kathe and Tom Cajka of the Planning Department. Craig Mason indicated that his client probably could not agree to meet the standard in the special permit, but he would prepare a proposal identifying what the revised lighting would be and the average foot candles for the vehicle display area. Tom Cajka e-mailed Craig Mason on September 25 and October 9 asking when the proposal would be submitted. To date this proposal has not been submitted.

Due to the lack of progress, your administrative amendment is officially denied and the file is closed. My staff has been exceptionally patient with you and your client to either come into compliance with the standards in the special permit or propose an equivalent alternative. I believe it is important to maintain consistency in the approach that has been established and accepted by the two auto dealers in the immediate vicinity. I have copied Mike Rierden who has inquired in behalf of your client's neighbors as to the status of this issue.

If you have any questions, please contact me at 441-6366

Sincerely,

Tom Cajka for

Marvin Krout
Director of Planning

cc: Tim Pieper, Sid Dillon
Mike Rierden
Terry Kathe, Building & Safety

Craig Mason

Michael Merwick, Building & Safety

LINCOLN

The Community of Opportunity

Peter Katt BY PETER KATT ON BEHALF OF THE APPLICANT

Subject: Lighting Task Force Consultant Draft Report - Planning Staff Email Exchange

PLANNING DIRECTOR WEIGHS IN:

-----Original Message-----

From: Peter Katt
Sent: Wednesday, December 06, 2006 10:16 AM
To: 'MDekalb@ci.lincoln.ne.us'; Tom Cajka
Cc: KFairchild@oaconsulting.com; Marvin Krout
Subject: Lighting Task Force Study Draft Consultant Report

Mike:

Marvin called this morning around 8:30 am and left a voicemail message advising me that I would have access to the consultant's report today after a 'clean' copy was obtained from Olsson's. It is less than three hours to show time and I have not seen it yet. When will I have it? I am beginning to think it better to defer for two weeks so that I have time to adequately prepare for the hearing.

Peter

-----Original Message-----

From: Peter Katt
Sent: Tuesday, December 05, 2006 2:32 PM
To: 'MDekalb@ci.lincoln.ne.us'
Subject: RE: lighting study status

I think the consultant's report is a public record. Do I need to make a formal request for the entire consultant's report?

Peter

STAFF'S RESPONSE TO MY REQUEST:

-----Original Message-----

From: MDekalb@ci.lincoln.ne.us [mailto:MDekalb@ci.lincoln.ne.us]
Sent: Tuesday, December 05, 2006 2:25 PM
To: Peter Katt
Subject: RE: lighting study status

1. Still under review and revision.

2. No

MY RESPONSE REQUESTING INFORMATION:

What did the Consultant recommend for display lot lighting for auto dealers? Can I have a copy of that part of the Consultant's report?

Peter

MIKE DEKALB EMAIL RESPONSE TO PETER KATT VOICE MAIL MESSAGE:

—Original Message—

From: MDekalb@ci.lincoln.ne.us [mailto:MDekalb@ci.lincoln.ne.us]
Sent: Tuesday, December 05, 2006 12:21 PM
To: Peter Katt
Cc: TCajka@ci.lincoln.ne.us
Subject: Re: lighting study status

Peter, Staff is currently reviewing the first draft of the consultant report. I hope we can have an Open House and a PC briefing in January or early Feb. There is no timeline yet for running through a text amendment.

CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

Outdoor Merchandising

Recommended Illuminances for Outdoor Merchandising (See IESNA RP-2-01 for full details)

Application	Area	Maintained Illuminance - lux (fc) when Illuminance of Surrounding Area Is:		
		HIGH	MEDIUM	LOW
Seasonal Outdoor Merchandise	Circulation	100 (10)	70 (7)	50 (5)
	Merchandise	300 (30)	200 (20)	100 (10)
	Feature Displays	600 (60)	400 (40)	200 (20)
Auto Dealerships	Circulation	100 (10)	70 (7)	50 (5)
	Merchandise	500 (50)	300 (30)	200 (20)
	Feature Displays	750 (75)	500 (50)	350 (35)
Service Stations	Approach	150 (15)	100 (10)	50 (5)
	Gas Islands	500 (50)	300 (30)	200 (2)

From Acuity Brands Lighting Exterior Lighting Recommendations page
Outdoor Merchandising Section
www.acuitybrandslighting.com

Class I lighting shall mean all commercial outdoor lighting used to illuminate outdoor retail areas including, but not limited to, lighted canopies, (e.g. service stations, convenience stores and banks) restaurant areas, automotive dealership display, assembly and repair areas, outdoor advertising displays and similar areas.

Class II lighting shall mean all outdoor lighting used to illuminate walkways and to provide security including, but not limited to, illumination for walkways, equipment yards and outdoor security.

Class III lighting shall mean all outdoor lighting used for accent or decorative effects. Examples of Class III lighting include, but are not limited to, the illumination of landscape features (e.g. trees, rocks, shrubs), flags, pennants or banners, fountains, statues, art work, and building walls.

Class IV lighting shall mean all outdoor lighting used to illuminate public streets or highways and private roads subject to public access easement.

Class V lighting shall mean all outdoor lighting used to illuminate off-street parking in public, private, or restricted parking areas.

Class VI lighting shall mean all outdoor lighting used to illuminate outdoor recreational facilities.

Class VII lighting shall mean all outdoor lighting used to illuminate the Salt Creek Tiger Beetle environs.

Cutoff shall mean outdoor light fixtures shielded or constructed by the manufacturer so as to comply with the IESNA definition for cutoff outdoor lighting fixtures as found in the IESNA Lighting Handbook, current edition.

Glare shall mean the amount of direct or indirect artificial light (measured with the meter vertical and facing the brightest source) from sources at the property line in excess of the vertical foot candle limits allowed by Section 11 of this chapter.

IESNA shall mean Illuminating Engineering Society of North America.

Installed shall mean any legal installation of outdoor light fixtures after January 1, 2007.

Light trespass shall mean the amount of direct or indirect artificial light (measured with the meter horizontal and facing upwards) from sources at the property line in excess of the horizontal foot candle limits allowed by Section 11 of this chapter.

Lumen shall mean a unit of light emitted from a source. Where used in this chapter, lumen shall mean the "initial" manufacturer published amount emitted from the lamp or lamps constituting the source.

Wall pack shall mean a luminaire mounted on a vertical plane for the purpose of lighting the adjacent ground areas, walkways, streets or parking lots.

Wall pack - decorative shall mean a luminaire mounted on a commercial building exterior wall for the sole purpose of producing a decorative or ornamental effect with light at night.

Section 4. CLASS I LIGHTING (OUTDOOR RETAIL)

4.1 Requirements

- A. Any luminaire with total lamp lumens above 4050 shall be cutoff except for any luminaire used to illuminate outdoor advertising displays or signage.
- B. Any luminaire with total lamp lumens of 4050 or less may be non-cutoff with any source type, provided that a maximum of 12,200 total lamp lumens of non-cutoff light sources shall be allowed per parcel, pad, lot or similar subdivision allowed by City regulations except that the aggregate of all non-cutoff luminaires shall not exceed 109,800 per acre of parcels, pads, lots or other allowed subdivision.
- C. Auto dealership exterior lighting shall comply with the following:

<u>Area</u>	<u>Maximum Average Maintained Illuminance On Pavement (foot-candles)</u>	<u>Maximum to Minimum Ratio</u>
Display Areas	30	5:1
All Other Areas	4	10:1
Entrances	10	5:1

- D. Convenience Store exterior lighting and commercial enterprises with lighted canopies shall comply with the following:

<u>Area</u>	<u>Maximum Average Maintained Illuminance on Described Area (foot-candles)</u>
Approach/Driveway	4
Pump Island Area/Lighted Canopies	20
Service Areas	4

AUTO DEALER DISPLAY LOT LIGHTING LEVELS

<u>NAME</u>	<u>DISPLAY LOT</u>	<u>OVERALL</u>
Staff Proposed Condition	10.00	
DuTeau	10.72	8.71
Anderson Ford	11.92	9.46
Williamson	13.74	8.42
Sid Dillion - Staff Measured	16.06	
Sid Dillion - New Design	18.01	
Sid Dillion - Proposed	20	11.27
IESNA - Low	20	
Parking Task Force	30	
IESNA - Medium	30	
Husker Auto	30.2	18.65
IESNA - High	50	
Sid Dillion - Original Design	54.88	28.18

Outdoor Merchandising

Recommended Illuminances for Outdoor Merchandising: (See IESNA RP-2-01 for full details)

Application	Area	Maintained Illuminance - lux (fc) when Illuminance of Surrounding Area is:		
		HIGH	MEDIUM	LOW
Seasonal Outdoor Merchandise	Circulation	100 (10)	70 (7)	50 (5)
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	Merchandise	500 (50)	300 (30)	200 (20)
	Feature Displays	750 (75)	500 (50)	350 (35)
Service Stations	Approach	150 (15)	100 (10)	50 (5)
	Gas Islands	500 (50)	300 (30)	200 (2)

From *Acuity Brands Lighting Exterior Lighting Recommendations page Outdoor Merchandising Section*
www.acuitybrandslighting.com

Wall pack shall mean a luminaire mounted on a vertical plane for the purpose of lighting the adjacent ground areas, walkways, streets or parking lots.

Wall pack - decorative shall mean a luminaire mounted on a commercial building exterior wall for the sole purpose of producing a decorative or ornamental effect with light at night.

Section 4. CLASS I LIGHTING (OUTDOOR RETAIL)

4.1 Requirements

- A. Any luminaire with total lamp lumens above 4050 shall be cutoff except for any luminaire used to illuminate outdoor advertising displays or signage.
- B. Any luminaire with total lamp lumens of 4050 or less may be non-cutoff with any source type, provided that a maximum of 12,200 total lamp lumens of non-cutoff light sources shall be allowed per parcel, pad, lot or similar subdivision allowed by City regulations except that the aggregate of all non-cutoff luminaires shall not exceed 109,800 per acre of parcels, parts, lots or other allowed subdivision.
- C. Auto dealership exterior lighting shall comply with the following:

Area	Maximum Average Maintained Illuminance On Pavement (foot-candles)	Maximum to Minimum Ratio
Display Areas	30	5:1
All Other Areas	4	10:1
Entrances	10	5:1

- D. Convenience Store exterior lighting and commercial enterprises with lighted canopies shall comply with the following:

Area	Maximum Average Maintained Illuminance on Described Area (foot-candles)
Approach/Driveway	4
Pump Island Area/Lighted Canopies	20
Service Areas	4

10-20-06

TASK FORCE

Outdoor Lighting Chapter 3.100 - 4

Peter Katt

From: deaseoc@deaseoc@inbraaska.com
 Sent: Thursday, December 14, 2006 11:54 AM
 To: Peter Katt
 Subject: Sid Dillon Lighting Levels

Peter,
 here are the average foot-candle numbers for the "Display Area" as defined as a line on the east edge of the drive aisle to the bold line of the lot area.

Level 0
 # Points: 96
 Average: 1.28
 Maximum: 3.10
 Minimum: 0.30

Level 1
 # Points: 96
 Average: 3.70
 Maximum: 14.10
 Minimum: 0.30

Level 2
 # Points: 96
 Average: 18.10
 Maximum: 33.60
 Minimum: 2.70

Level 3
 # Points: 96
 Average: 54.88
 Maximum: 84.10
 Minimum: 12.90

About the second part of your question on the dimmers, I am not aware of any dimming system that would work in this application. I know of systems that will dim HID lights but they are limited in wattage of 250 to 400 watts and are controlled by means of low voltage controls which will require additional conduits for the wires.

The last that I was told he was not using the highest level of "Level 3" and had those fixtures turned off. Tim is happy with the lighting levels that are currently being used.

If that is the case then the lighting levels out there should be close to the levels as indicated on layout marked "Level 1". I think he is only using "Level 2" and "Level 1" lighting levels.

Steve Stajner at Design Associates of Lincoln

"Exhibit A" (Overall)
 LIGHTING DESIGN FOR 2627 KENDRA LANE
 SID DILLON, INC.

Lighting	Time of Day	Average Foot Candles	Maximum Foot Candles	Minimum Foot Candles	Number of Days per Year	Hours per Day
Security Lighting	10:00pm to Dawn	2.691	14.10	0.30	365	3 hrs 21 min to 8 hrs 21 min
Customer Convenience Lighting	8:30 to 10:00 (M,T,Th) 8:30 to 10:00 (W,F) 8:30 to 10:00 (S,Su) Sunset to 8:30 (M,T,Th) Sunset to 8:30 (W,F) Sunset to 8:30 (S, Su)	3.80	14.1	0.30	365	8 hrs 24 min to 4 hrs 18 min
Business Hour Lighting	Dusk to Sundown	11.27	33.00	0.30	109	1 min to 2 hrs 30 min
Business Hour "Dusk Three" Lighting	Dusk to Sundown	28.19	84.10	1.00	109	15 min

NOTES: Hours of operation vary based on the varying sunrise and sunset times during the course of the year.
 Business Hour Lighting less 30 days where the lights will be on for 30 minutes or less and 37 days where the lights will be on for over 2 hours.



**PROPOSED AMENDMENT TO THE CONDITIONS OF APPROVAL
Special Permit No. 1989A, Tamarin Ridge**

Amend condition 2.1.1 to read as follows:

2.1.1 A revised site plan including 5 copies showing the following revisions:

- 2.1.1.1. Revise Note # 3 under Special Permit-Planned Service Commercial to read, "Parking lot lighting shall meet City of Lincoln Design Standards for parking lots. All outside lighting shall meet City of Lincoln Design Standards relative to light measurements at the zoned property line."

- 2.1.1.2 Add a new note under Special Permit-Planned Service Commercial for display lot lighting levels in Lot 4, Block 1 to read, "After sunset and during business hours display lot lighting levels shall not exceed an average foot candle measurement greater than 20 and after business hours display lot lighting levels shall not exceed an average foot candle measurement greater than 4. To the extent available and practical, the existing luminaires (light fixtures) for display lot lighting shall be modified to add full cut off shielding. Any future replacement of the existing fixtures shall be a full cut off design."

- 2.1.1.3 Identify on the site plan the existing display lot area for Lot 4, Block 1.

- 2.1.1.4 Outside lighting levels beyond the display lot area for Lot 4, Block 1 shall not exceed an average foot candle measurement greater than 4.

PROPOSED AMENDMENT TO THE CONDITIONS OF APPROVAL
Special Permit No. 1989A, Tamarin Ridge
[Low Level Late Night Option]

Amend condition 2.1.1 to read as follows:

2.1.1 A revised site plan including 5 copies showing the following revisions:

- 2.1.1.1. Revise Note # 3 under Special Permit-Planned Service Commercial to read, "Parking lot lighting shall meet City of Lincoln Design Standards for parking lots. All outside lighting shall meet City of Lincoln Design Standards relative to light measurements at the zoned property line."

- 2.1.1.2 Add a new note under Special Permit-Planned Service Commercial for display lot lighting levels in Lot 4, Block 1 to read, "After sunset and during business hours display lot lighting levels shall not exceed an average foot candle measurement greater than **20**; after business hours until 10:00 p.m., display lot lighting levels shall not exceed an average foot candle measurement greater than **4**; and from 10:00 p.m. until dawn, display lot lighting levels shall not exceed an average foot candle measurement greater than **2**. To the extent available and practical, the existing luminaires (light fixtures) for display lot lighting shall be modified to add full cut off shielding. Any future replacement of the existing fixtures shall be a full cut off design."

- 2.1.1.3 Identify on the site plan the existing display lot area for Lot 4, Block 1.

- 2.1.1.4 Outside lighting levels beyond the display lot area for Lot 4, Block 1 shall not exceed an average foot candle measurement greater than **4**.