

FACTSHEET

TITLE: CHANGE OF ZONE NO. 08010, HUB HALL COMMERCIAL CENTER PLANNED UNIT DEVELOPMENT, requested by Hub Hall Real Estate, on property generally located northeast of the intersection of N.W. 48th Street and W. Holdrege Street.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 03/26/08 and 04/09/08
Administrative Action: 04/09/08

STAFF RECOMMENDATION: Denial

RECOMMENDATION: Approval, with conditions, as amended (5-3: Larson, Taylor, Esseks, Cornelius and Francis voting 'yes'; Sunderman, Gaylor Baird and Carroll voting 'no').

FINDINGS OF FACT:

1. This is a request for change of zone from R-3 Residential District to a B-2 Planned Unit Development (PUD) for 70,000 sq. ft. of commercial floor area on 11.18 acres, more or less, located northeast of the intersection of N.W. 48th Street and W. Holdrege Street, which was previously shown as a future church site and residential lots in the Hub Hall Heights preliminary plat.
2. The staff recommendation to deny this PUD is based upon the "Analysis" as set forth on p.5-6, concluding that the proposed PUD is not in conformance with the Comprehensive Plan. This area is shown as urban residential on the Land Use Plan. The Ashley Heights Commercial Center, located approximately 3/4 mile north of this site, is approved for 93,500 sq. ft. of commercial floor area and serves as the neighborhood center. The I-80 West Lincoln Business Center has been recommended for approval by the Planning Commission for 425,000 sq. ft. of commercial floor area south of W. Holdrege Street and 60,000 sq. ft. with limited commercial uses north of W. Holdrege Street. A new convenience store with additional lease space is being constructed at N.W. 48th Street and W. Adams Street. These developments will adequately serve this area. Unlimited commercial uses would create traffic levels which are intended to be served by sites with better traffic access, and might cause the section of N.W. 48th Street north of W. Holdrege to require widening to a 6-lane section. Unlike the proposed PUD on the northwest corner of N.W. 48th and W. Holdrege, there are no waivers to standards or special limitations being proposed which require the use of a PUD. The Planning Department would agree to a R-T PUD with limited commercial uses, similar to what was approved on the west side of N.W. 48th Street. The staff presentation is found on p.13-14 and 19-20.
3. The applicant's presentation is found on p.14-17 and 20-22. He pointed out that the land to the west and south cannot be served immediately with sewer, and showed precedents for the proposed access to N.W. 48th Street. Additional testimony in support is found on p.17 and 22, and the record consists of one letter in support (p.49-50) and two letters from an adjacent property owner, first in opposition, then retracting his opposition after discussions with the applicant (p.51-52). The applicant requested amendments to the conditions of approval as set forth on p.48 (Also See Minutes, p.21).
4. There was no testimony in opposition; however, the record consists of two letters in opposition from the owner and the realtor for the owner of the Ashley Heights shopping center (p.53-54).
5. The minutes of the Planning Commission public hearing and continued public hearing are found on p.13-24. There was extensive discussion about R-T PUD versus B-2 PUD and the requested right-in, right-out access onto N.W. 48th Street.
6. On March 26, 2008, a motion to approve, with conditions, as amended by the applicant, failed 3-3, and a motion to deny failed 3-3 (See Minutes, p.18-19).
7. On April 9, 2008, the majority of the Planning Commission disagreed with the staff recommendation, finding the compromise from 85,100 sq. ft. to 70,000 sq. ft., a maximum average daily trip count of 4,400, and a limitation restricting the uses of the buildings in the area north of the east/west private roadway to office/retail uses and size to 12,000 sq. ft., to be acceptable, there being a need for these uses in this area. The applicant's request for right-in, right-out access onto N.W. 48th Street was not granted (Sunderman, Gaylor Baird and Carroll dissenting). The dissenting votes found that the development on the east side should be consistent with what the Planning Commission has recommended be approved on the west side.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: April 15, 2008

REVIEWED BY:

DATE: April 15, 2008

REFERENCE NUMBER: FS\CC\2008\CZ.08010 PUD

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for MARCH 26, 2008 PLANNING COMMISSION MEETING

****As Revised and Recommendation for Conditional Approval
by Planning Commission: April 9, 2008****

PROJECT #: Change of Zone No.08010
Hub Hall Commercial Center Planned Unit Development (PUD)

PROPOSAL: From R-3 to B-2 PUD

LOCATION: Northeast of the intersection of NW 48th St. and W. Holdrege St.

LAND AREA: 11.18 acres, more or less

EXISTING ZONING: R-3, Residential

WAIVER /MODIFICATION REQUEST:

To LMC 27.60.030 that the PUD plan contain all of the information required of a preliminary plat to allow the details typically shown on a preliminary plat to be approved by administrative amendment.

CONCLUSION: This application is not in conformance with the Comprehensive Plan. The Land Use Plan shows this area as urban residential. The Ashley Heights Commercial Center, located approximately 3/4 of a mile north of this site, is approved for 93,500 sf of commercial floor area and serves as the neighborhood center. The I-80 West Lincoln Business Center includes 425,000 sf of commercial floor area south of W. Holdrege St. and 60,000 sf north of W. Holdrege St. A new convenience store with additional leased space is being constructed at NW 48th St. and W. Adams St. These developments will adequately serve this area.

The Planning Department would agree to limited commercial uses for this site, similar to what was approved on the west side of NW 48th St.

<u>RECOMMENDATION:</u>	Denial
<u>Waivers:</u>	
1. To LMC 27.60.030 that the PUD plan contain all of the information required of a preliminary plat to allow the details typically shown on a preliminary plat to be approved by administrative amendment.	Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached

EXISTING LAND USE: Undeveloped–The area is a proposed church site.

SURROUNDING LAND USE AND ZONING:

North:	R-3, Residential	Single-family
South:	AG-Agricultural	Farm ground/undeveloped
East:	R-3, Residential	Undeveloped/proposed single-family and multiple-family
West:	AG-Agricultural	Farm ground/undeveloped. Proposed R-3 PUD

HISTORY:

February 13, 2008	The Planning Commission recommended approval of the I-80 West Lincoln Business Center PUD.
April 4, 2005	Ashley Heights Commercial Center Use Permit for 93,500 sf of commercial floor area was approved by the City Council.
December 20, 2004	Hub Hall Heights 1 st Addition final plat was approved by the Planning Director.
December 17, 2003	Hub Hall Heights final plat was approved by the Planning Director.
June 9, 2003	Hub Hall Heights preliminary plat and community unit plan was approved by the City Council.

COMPREHENSIVE PLAN SPECIFICATIONS:

The Lincoln Area Future Land Use Plan shows this area as urban residential. (pg.19)

The land use plan displays the generalized location of each land use. It is not intended to be used to determine the exact boundaries of each designation. The area of transition from one land use is often gradual. The Comprehensive Plan also encourages the integration of compatible land uses, rather than a strict segregation of different land uses. (pg.23)

Commercial and industrial districts in Lancaster County shall be located:
where urban services and infrastructure are available or planned for in the near term
in sites supported by adequate road capacity
in areas compatible with existing or planned residential uses (pg 35)

New or established commercial uses should not encroach upon, or expand into, existing neighborhoods.
(pg 36)

Principles for the Future Commerce centers include:

1. Mix of office, retail and service uses.
2. More intense commercial uses nearer to arterial street.
3. No four corner commercial corners at intersections of major arterial streets.
4. Transition of uses; less intense office uses near residential areas.
5. Encourage commercial development at ½ mile between major intersections.

(pg.36)

NEIGHBORHOOD CENTERS (N)

Center Size

Neighborhood Centers typically range in size from 50,000 to 150,000 square feet of commercial space, with those meeting the incentive criteria having up to 225,000 square feet. Existing centers may vary in size from 50,000 to 225,000 square feet.

Description

Neighborhood centers provide services and retail goods oriented to the neighborhood level, with significant pedestrian orientation and access. A typical center will have numerous smaller shops and offices and may include one or two anchor stores. In general, an anchor store should occupy about a third to half of the total space. In centers meeting the incentive criteria, anchor store(s) may be larger noting that the goals of a Neighborhood Centers are to be diverse and not simply one store. Examples include such as Lenox Village at S. 70th and Pioneers Boulevard, and Coddington Park Center at West A and Coddington. These smaller centers will not include manufacturing uses.

Market Area

These centers typically serve the neighborhood level. It is anticipated that there will be two neighborhood centers per one square mile of urban use. For areas of less than one square mile, the number of the centers will be reduced.

Center Spacing

Neighborhood Centers should be located approximately a ½ mile apart, depending upon their size, scale, function and the population of the surrounding area. When located at intersections, they should also not be located across an arterial street from a Community Center or another Neighborhood Center.

Criteria

Neighborhood Centers are not sited in advance on the land use plan.

Neighborhood Centers should generally not develop at corners of intersections of two arterial streets due to limited pedestrian accessibility and impact on the intersection – locations 1/4 to ½ mile from major intersections are encouraged, particularly if there is to be more than one commercial center within a square mile of urban residential use. There may be circumstances due to topography or other factors where centers at the intersection may be the only alternative.

When a square mile of urban use contains a Community or Regional Center, and that center includes many of the uses found in a neighborhood center, then only one neighborhood center would be approved within that square mile.

Proposed Locations

During the planning period many additional neighborhood centers will be needed. These centers are not identified on the land use plan and will instead be located as part of plans for future neighborhoods based on the commercial guidelines.

Siting Process

As part of development proposals that include a proposed Neighborhood Center, the exact location and land use composition of the Center should be determined. If the neighborhood center is in conformance with the Comprehensive Plan and is approved, the Planning Director may administratively update the Comprehensive Plan to reflect the specific location.

Floor Area Incentive

New Neighborhood Centers will typically range from 50,000 to 150,000 square feet of floor area per square mile of urban use, and there will be two neighborhood centers within a square mile of urban use. For centers meeting the incentive criteria a 50% floor area bonus of up to 25,000 SF of retail space and 50,000 SF of office space could be added to the 150,000 SF total, for a center total of 225,000 square feet.

(pg 45-46)

UTILITIES: There is an existing 16" water main in NW 48th St. and a future 16" main in W. Holdrege St. There is existing sanitary sewer to the north to serve this development.

TRAFFIC ANALYSIS:

W. Holdrege St. The 2030 Comprehensive Plan identifies W. Holdrege St. as a urban collector. The trails plan in the 2030 Comprehensive Plan identifies a future bike trail on the north side of W. Holdrege St. The applicant's traffic study recommends that W. Holdrege St. be paved from NW 48th St. to NW 46th St. The cross section

should provide a continuous two-way, left-turn lane from NW 48th St. to NW 46th St. An additional 6' of right-of-way will be required for the bike trail.

The Hub Hall Heights Annexation Agreement states that the owner agrees to contribute to the City 50% of the cost for the pavement of West Holdrege St. as a 33-foot wide road. Owner further agreed that there will be no intersecting street access to West Holdrege St. and no buildable lots will be created abutting West Holdrege St. until such time as West Holdrege St. is paved to city standards.

NW 48th St. The 2030 Comprehensive Plan identifies NW 48th St. as a principal arterial and is shown as a proposed project for 4 lanes plus turn lanes. An amendment to the long range transportation plan, showing NW 48th St. as 6 lanes from I-80 to W. Holdrege St., was approved by the Planning Commission and is awaiting City Council review. The applicant's traffic study recommends a traffic signal at NW 48th St. and W. Holdrege St. and at the intersection of NW 48th St. & I-80 North Ramp at full build out.

The applicant's traffic study projects 5,549 daily trips at full build-out.(see attached)

PUBLIC SERVICE: The nearest fire station is Station #11 located at the Lincoln Airport.

ANALYSIS:

1. This application is for a change of zone from R-3 to B-2 PUD for 85,100 square feet of office and retail uses on approximately 11 acres. The applicant's letter shows the proposed uses in the PUD would be those allowed in the B-2 District. Restaurant uses shall be limited to 7,500 sf of high-turnover (sit down) restaurant and 3,600 sf of fast food restaurant with drive thru. Drive-in bank shall be limited to 5,000 sf. The letter also states that health care facilities and indoor animal hospitals would be allowed as special permitted uses. This is unnecessary because health care facilities are already a special permitted use and indoor animal hospitals are a conditional use in the B-2 District. All other requirements of the B-2 District shall apply.
2. This area was shown as a future church site and residential lots in the Hub Hall Heights preliminary plat. (see attached)

3. The land use plan in the 2030 Comprehensive Plan identifies this area as urban residential. As part of the annual review the applicant submitted a Comprehensive Plan amendment to change the land use designation from residential to commercial. The amendment is scheduled to be heard before the Planning Commission with the annual Comprehensive Plan update in May.
4. Access to the site from NW 48th St. is proposed as a right-in/right-out only. The Public Works Department opposes any access off of NW 48th St. There are two proposed access points off of W. Holdrege St.
5. Directly to the west/southwest is the proposed I-80 West Lincoln Business Center PUD. The Planning Commission has recommended approval for the PUD. The area within the PUD located north of W. Holdrege St. and west of NW 48th St. is proposed R-3 PUD. The R-3 PUD will allow uses as designated in the RT, Residential Transition zoning district with the addition of restaurants with on-sale alcohol. (see attached for RT uses) The RT area shall have no more than 60,000 sf of commercial uses and include residential uses. The traffic study shows 1,965 daily trips for the commercial uses and 751 trips for an apartment.
6. The purpose statement for PUD's in the zoning ordinance call for its use to "permit flexibility" and "encourage innovation" in land use. The proposed PUD for the northwest corner of NW 48th St. and W. Holdrege St. meets that purpose; it has a very limited range of allowable uses, and includes residential as well as commercial uses. The trip generation for the northwest corner will be about 1/3 that being proposed with this application.
7. The area south of W. Holdrege St. within the I-80 West Lincoln Business Center shows 425,000 sf of retail, restaurant, bank and consumer and business services, which is projected to generate over 30,000 daily trips at build-out. Staff would like to see traffic limited north of W. Holdrege St. to avoid the need to extend 6 lanes north of that intersection. Another 4-500,000 sf of retail commercial uses is likely to be requested in the future for the land south of W. Holdrege St. on the east side of NW 48th St.
4. Approximately 3/4 of a mile north is the Ashley Heights Commercial Center. This Center is approved for 93,500 square feet of retail, office and restaurant uses. The maximum daily trips may not exceed 9,735.
5. This development is within the Airport Environs District and will need to conform to the requirements of Chapter 27.58 and 27.59.

If the City Council approves this application the following CONDITIONS OF APPROVAL apply.

Site Specific Conditions:

1. This approval permits up to ~~60,000~~ 70,000 square feet of commercial floor area with a total daily trip count not to exceed ~~2,800 (revised by staff from 1,965 to 2,800 on 4/09/08)~~ 4,400. **(**Per Planning Commission, at the request of the applicant, 4/09/08**)**
2. The City Council approves associated request:
 - 2.1 A modification to LMC 27.60.030 that the PUD plan contain all of the information required of a preliminary plat to allow the details typically shown on a preliminary plat to be approved by administrative amendment
3. Final plat(s) is/are approved by the City.

If any final plat on all or a portion of the approved planned unit development is submitted five (5) years or more after the approval of the planned unit development , the city may require that a new planned unit development be submitted, pursuant to all the provisions of section 26.31.015. A new planned unit development may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the planned unit development as originally approved does not comply with the amended rules and regulations.

Before the approval of a final plat, the public streets, private roadway improvements, sidewalks, public sanitary sewer system, public water system, drainage facilities, land preparation and grading, sediment and erosions control measures, storm water detention/retention facilities, drainageway improvements, street lights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs, must be completed or provisions (bond, escrow or security agreement) to guarantee completion must be approved by the City Law Department. The improvements must be completed in conformance with adopted design standards and within the time period specified in the Land Subdivision Ordinance. A cash contribution to the City in lieu of a bond, escrow, or security agreement may be furnished for sidewalks and street trees along major streets that have not been improved to an urban cross section.

Permittee agrees:

to complete the street paving of public streets, and temporary turnarounds and barricades located at the temporary dead-end of the streets shown on the final plat within two (2) years following the approval of the final plat.

To complete the paving of private roadway, and temporary turnarounds and barricades located at the temporary dead-end of the private roadways shown on the final plat within two (2) years following the approval of this final plat.

to complete the installation of sidewalks along both sides of the public streets and private roadways, on the north side of W. Holdrege St. and the east side of NW 48th St. as shown on the final plat within four (4) years following the approval of the final plat.

to complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.

to complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.

to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

to complete the enclosed private drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

to complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of the final plat

to complete the installation of public street lights along streets within this plat within two (2) years following the approval of the final plat.

to complete the installation of private street lights along private roadways within this plat within two (2) years following the approval of the final plat.

to complete the planting of the street trees along both sides of the public streets and private roadways, on the north side of W. Holdrege St. and the east side of NW 48th St. within this plat within four (4) years following the approval of the final plat.

to complete the planting of the landscape screen within this plat within two (2) years following the approval of the final plat.

to complete the installation of the street name signs within two (2) years following the approval of the final plat.

to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.

to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.

to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.

to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

to complete the public and private improvements shown on the Planned Unit Development.

to keep taxes and special assessments on the outlots from becoming delinquent.

to maintain the outlots and private improvements in a condition as near as practical to the original construction on a permanent and continuous basis.

to maintain the street trees along the private roadways and landscape screens on a permanent and continuous basis.

to maintain and supervise the private facilities which have common use or benefit in a condition as near as practical to the original construction on a permanent and continuous basis, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development and that these are the responsibility of the land owner.

to retain ownership of and the right of entry to the outlots in order to perform the above-described maintenance of the outlots and private improvements on a permanent and continuous basis. However, Owner(s) may be relieved and discharged of such maintenance obligations upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:

- (1) Owner shall not be relieved of Owner's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans.
- (2) The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

to submit to the lot buyers a copy of the soil analysis.

to relinquish the right of direct vehicular access to NW 48th St. and from Lot 1, Block 2 and Lot 1, Block 3 to W Holdrege St.

to inform all prospective purchasers and users that the land is located within the Airport Environs Noise District, that the land is subject to an aviation and noise easement granted to Lincoln Airport Authority, and that the land is potentially subject to aircraft noise levels which may affect users of the property and interfere with its use.

General Conditions:

4. Upon approval of the planned unit development by the City Council, the developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 5 copies with all required revisions and documents as listed below before a final plat is approved:

4.1 Revise the site plan as follows:

4.1.1 Delete Notes 3 & 13. They are not necessary.

4.1.2 Add the following notes;

1. "Street trees to be reviewed at time of final plat and assigned by Parks and Recreation."
2. "Site layout is conceptual. All information for a typically required preliminary plat may be required to be submitted including street and lot layout, street centerline profiles, grading plan, drainage study and utility plan to be approved by administrative amendment prior to final plat approval, and may result in modifications to the site layout."
3. "Final site layout and individual landscape plans for commercial buildings to be submitted at time of building permit."

4.1.3 Add to the General Notes, "Signs need not be shown on this site plan, but need to be in compliance with chapter 27.69 of the Lincoln Zoning Ordinance, and must be approved by Building & Safety Department prior to installation"

4.1.4 Change the name of NW 46th St. south of W. Whisperwood St. to NW. Chitwood Lane. Change W. Chitwood Lane to another name.

4.1.5 Show utility easements as required by LES memo of March 7, 2008.

4.1.6 Make corrections to the satisfaction of Public Works and Utilities per their memo of March 13, 2008.

4.1.7 Dedicate an additional 6 feet of right-of-way along W. Holdrege St.

- 4.1.8 Change southeast to southwest in the first line of the second paragraph of the legal description.
- 4.1.9 Show the sanitary sewer on the site plan.
- 4.1.10 Remove the right-in/right-out access to NW 48th St.
- 4.1.11 Uses of the buildings in the area north of the east/west private roadway shall be restricted to office/retail uses and the buildings shall be a maximum of 12,000 square feet.
- 4.1.12. Amend Note 4 to read, "Sidewalks shall be constructed on both sides of streets and private roadways."
- 4.1.13 Show sidewalks on the site plan.
- 4.2 Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the PUD has been recorded.
- 4.3 A landscape (screen) plan that shows screening along the north boundary approved by the Director of Planning.
- 4.4 Ornamental street lights for private roadways and pedestrian way easements are approved by L.E.S.
- 4.5 The construction plans substantially comply with the approved plans.
- 4.6 Final plat(s) is/are approved by the City.

Standard Conditions:

- 5 The following conditions are applicable to all requests:
 - 5.1 Before occupying the dwelling units/buildings all development and construction is to substantially comply with the approved plans.
 - 5.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established property owners association approved by the City Attorney.
 - 5.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
 - 5.4 This ordinance's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

- 5.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the change of zone, provided, however, said 60-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the ordinance approving the change of zone and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

Tom Cajka
Planner

DATE: March 13, 2008

APPLICANT: Hub Hall Real Estate
2320 S. 48th St.
Lincoln, NE 68506
(402) 483-2551

OWNER: same as applicant

CONTACT: Mark Hunzeker
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Lincoln, NE 68508
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CHANGE OF ZONE NO. 08010, HUB HALL COMMERCIAL CENTER PLANNED UNIT DEVELOPMENT

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 26, 2008

Members present: Larson, Francis, Sunderman, Taylor, Esseks and Carroll; Cornelius and Gaylor Baird absent.

Ex Parte Communications: None.

Staff recommendation: Denial.

Additional information for the record: Tom Cajka of Planning staff submitted an e-mail from Willis Falk rescinding his previous objections to this proposal, indicating that his concerns have been addressed by the developer.

Staff presentation: **Tom Cajka of Planning staff** explained that this is a proposal for a B-2 PUD for 85,100 sq. ft. of office, retail and service type uses on approximately 11 acres at N.W. 48th Street and W. Holdrege Street.

The vacant area for this proposal was originally shown in the preliminary plat for a future church site. Directly west of this proposal is a proposed residential-transition area within the I-80 West Lincoln Business PUD, proposed for limited commercial uses such as those allowed in the R-T zoning district. The remainder of the I-80 West Lincoln Business PUD south of Holdrege is shown for 425,000 sq. ft. of highway commercial uses. Another center located in this proximity to the north is the Ashley Heights Commercial Center, an existing center approved for 93,500 sq. ft. of commercial, serving as the neighborhood center for this area. There is also a proposed convenience store with additional five lease spaces at the corner of N.W. 48th & Adams, totaling 12,600 sq. ft.

Cajka pointed out that the land use plan in the 2030 Comprehensive Plan designates the area of this proposal as residential. However, the applicant has submitted a separate application for a Comprehensive Plan amendment that will be coming before the Commission in May to show this area changed from residential to commercial use.

Cajka further explained that W. Holdrege is identified as an urban collector east of N.W. 48th Street, shown to be two lanes with a center turn lane, and the applicant's traffic study for this center projects 5,549 daily trips. In comparison, the area directly west of this project in the R-T is proposing about 1,900 daily trips. There is concern that if this development is approved, the developer on the west side of the street will also come in for a change to have similar uses, resulting in a negative impact on N.W. 48th Street that would likely require N.W. 48th to be six lanes north of Holdrege.

Therefore, with the Ashley Heights Commercial Center, the I-80 West Lincoln Business PUD and other commercial space in the area totaling about 600,000 sq. ft., the Planning staff believes that

this neighborhood is adequately served with existing and future commercial space. However, if the Planning Commission votes to approve this proposed PUD, the staff has set forth recommended conditions of approval limiting the development to 60,000 sq. ft. and 1,965 daily trips, being the same as what the Planning Commission approved on the west side of the street.

Esseks referred to the Public Works comments. We have this 13 acres separated from the residential PUD, so there would have to be some type of access from either Holdrege or N.W. 48th. Cajka explained that Public Works is objecting to the right-in/right-out on N.W. 48th Street. The objection to the access on N.W. 48th is that N.W. 48th is an arterial street and we want the access points every 1/4 mile. There is already such access with Gary Gately Road and there is no access given to the property on the west.

Esseks noted the objection received from a business owner further north on N.W. 48th about excess capacity in the commercial area.

Proponents

1. Hub Hall, the applicant, explained that he is interested in this change of zone at N.W. 48th and Holdrege and he does not understand why the staff is recommending denial. He does not understand what the Planning Department does. At the southwest corner of 84th & Adams (old North 40 golf course), there is a neighborhood shopping center being built now. At the same intersection on the northeast corner, there is another shopping center being built. What he is proposing is more than a mile away from the shopping center to the north in an area of the City (northwest Lincoln) that gets left behind and where services are desperately needed for the residents.

Francis inquired as to the type of businesses the developer hopes to attract to this center. Hall indicated that he has talked to a bank about locating in this center, but he has no commitment. He does not think it will be a Walmart, but there will be other small businesses. He has also thought about some office space. There is a need for a doctor and dental offices to serve that neighborhood.

2. Mark Hunzeker appeared on behalf of **Hub Hall**. The purpose of this change to B-2 rather than a R-T situation is because this developer wants to clearly indicate from this day forward what is intended and what is needed in this area so that current and future neighbors will have advance knowledge of the intended uses. There is also the need to maintain maximum flexibility to adjust this site to the needs of buyers and tenants. The staff has indicated that they would agree to a R-T PUD type of use such as was approved on the west side of NW 48th Street. That arrangement on the other side of the street limits the range of uses. R-T is mostly an office district, with limited kinds of retail uses allowed. However, in speaking with staff, it seems clear that they would be willing to allow a Walgreens (which is more retail than pharmacy and includes a drive-through), which would be larger than the maximum size of building allowed in a R-T district. And, a Walgreens or CVS would generate 1322 daily trips, about 2/3 of what is allowable under that PUD. Hunzeker submitted that the suggestion that the R-T will somehow limit the number of trips is an illusion and unfair to those moving into the area. A bank is needed in this area. A pharmacy such as Walgreens is a use needed in this area as well as restaurants. This developer does not want to be forced to have to come back and ask permission every time they have a user. The neighbors that the developer has contacted have indicated that they are generally supportive of the idea. The

standard for the number and size of shopping centers everywhere else in town is much greater than it is out in this area.

When we start talking about the fear of forcing N.W. 48th Street to a 6-lane capacity, Hunzeker pointed out that the uses that are proposed in the area to the south are oriented toward interstate travelers – they are not going to be neighborhood oriented commercial uses. They will be hotels, truck stops, etc. Up toward the residential area is where you need neighborhood oriented commercial goods and services.

In addition, Hunzeker pointed out that the area to the west of N.W. 48th Street has to reach all the way to I-80 to get a sewer. The property in this proposal has a sewer that it can hook onto today. This site makes a great deal more sense for small neighborhood oriented commercial facilities than the other side of the street.

Larson inquired as to the distance in blocks from the north end of the interstate to Holdrege Street. Hunzeker suggested that from I-80 to Holdrege is about 3/4 mile. People are not knocking down doors to develop the property near the interstate. Hunzeker owns a piece of property right at the interchange that is zoned commercial and he is not getting a lot of phone calls about getting a lot of development done there. But the need for the neighborhood oriented uses is there today. It took a long time to get a grocery store in the Ashley Heights Center. The residents want more of those neighborhood commercial uses.

Hunzeker stated that there will be a setback of 50' with a bike path wandering through it. The right-of-way stub preliminarily platted as a street stub will be used as a bike path/pedestrian way to access the shopping center. There is only one house built against this property and the setbacks will be adjusted so that the bike path is no closer than 50' from his back yard with some landscaping and berming. There will be landscape screens all the way across the north boundary of the center.

In terms of access, Hunzeker confirmed that the developer is requesting access to N.W. 48th Street. They have an access point 600 feet north of Holdrege, with right-in, right-out access. There are a lot of access points much closer to much busier intersections than this one, e.g. 27th & Pine Lake Road for Walgreens, Famous Dave's, and Red Robin. He believes that a right-in, right-out access here is reasonable, particularly inasmuch as the developer is willing to put in a turn lane. The developer would also like to increase the amount of square footage available for development.

Hunzeker submitted the following proposed amendments to the conditions of approval:

1. This approval permits up to ~~60,000~~ 85,100 square feet of commercial floor area with a total daily trip count not to exceed ~~1,965~~ 5,549.
3. (Next to last paragraph)
to relinquish the right of direct vehicular access to ~~NW 48th St.~~ and from Lot 1, Block 2 and Lot 1, Block 3 to W Holdrege St. and construct the access to Northwest 48th Street with a 'pork chop' island to assure right-in, right-out access only.

~~4.1.10 ——— Remove the right-in/right-out access to NW 48th St.~~

Esseks recalled that the Planning Commission recently approved a plan directly across the street where the access to N.W. 48th was further north. Hunzeker concurred. However, he does not know that that will be the last word on access to that property. Given the location of the sewer, Hunzeker does not expect to see immediate groundbreaking over there. It is a very long way to bring a sewer for a 60,000 sq. ft. area that does not allow much flexibility in terms of uses. Under an earlier plan of that project on the west side, Hunzeker believes there was an access on the southwest corner of Holdrege and N.W. 48th at least as close as this one, but it got changed because there were two accesses; however, the staff had approved a right-in, right-out south of Holdrege on the west side that was at least as close.

Larson asked what would prevent this developer from using the stub street as a vehicular street and allowing people to exit. Hunzeker suggested that showing it in the PUD as a pedestrian access is going to keep it that way. It is not a dedicated street. The developer would be willing to dedicate a pedestrian access easement if that is desirable.

Esseks stated that he is sympathetic to turning this parcel into something besides single family. We do have the Comprehensive Plan principle of less intense office uses near residential and less intense commercial uses. There are a lot of single family lots directly adjoining this proposal, which, according to the Comprehensive Plan, suggests the need for rather low intensity non-residential uses, either commercial or office. Will this be low intensity? Or a more standard neighborhood center? Hunzeker suggested that it is going to be a mixture of office and more traditional retail uses. They are showing some buildings on the site plan for office/retail and medical office and day care. They are really talking about focusing the more high traffic uses toward the corner in terms of a bank and restaurant type uses. However, this developer is not able to represent who those tenants are likely to be at this point in time, but as this develops, the traffic pattern is going to be on the opposite side of the buildings from the residential uses. As a matter of intensity, 13 acres with only 85,000 sq. ft. of space is a pretty low intensity use. You would expect ordinarily for that size of site to generate more like 130,000 to 160,000 sq. ft.

Hunzeker again confirmed that the bike path is within the 50' required setback. The setback is required to be screened in accordance with design standards.

Esseks confirmed that only one of the lots immediately to the northeast has been built upon. Hunzeker concurred. They are single family lots.

Carroll noted that the Ashley Heights commercial center 3/4 mile to the north is approved at 93,000 sq. ft. and has not been filled. Hunzeker did not know how much space is actually finished at Ashley Heights. He did know that they are in the process of constructing a building now that will add to it. He does not believe that providing additional opportunity for businesses to look at this area and potentially generate some additional commercial activity is detrimental for others seeking to develop commercial. This is not anywhere near the intensity of the two centers being constructed at 84th & Adams.

Carroll inquired why this development needs the B-2 at 85,000 sq. ft. as opposed to a R-T PUD at 60,000 sq. ft. What uses do you need in the B-2 at 85,000 sq. ft.? Hunzeker did not want to represent that this developer has any kind of commitment from Walgreens or CVS, but they are a use that would be welcomed by the neighborhood and this developer would love to be able to attract a drug store. The standard building of a Walgreens or CVS is bigger than what is permitted under

the R-T, and the R-T does not allow a drive-through. Restaurants would not be allowable under the R-T restrictions, nor a veterinary clinic or maybe a medical office and/or dental office because of the daily trips. R-T is designed and has its roots in what we used to call “transitional lots”.

3. The engineer with **Olsson Associates** explained the proposed access points. There is a right-in, right-out on N.W. 48th Street. Until improvements are made to N.W. 48th, this development would show a “pork chop” to make the right-in, right-out. There is another access shown onto W. Holdrege.

4. **Mike Hoelscher**, 1730 N.W. 46th Street, in Hub Hall Heights, testified that he is mainly in support, but looking at it on paper is one thing and living in the area is another. When he moved in 1.5 years ago, the perception was that this area was lacking progress. The existing commercial is relatively new and some of the buildings don’t even have access yet. It is nice to have a small grocery store that is used constantly and has saved him a lot of gas. This area is starving for commercial development. He has to travel to south Lincoln and to 27th Street for most services. He believes that the residential development exists to support this type of small commercial center. He strongly recommends that this development be approved.

Francis inquired as to the type of services that require Mr. Hoelscher to leave the area. Hoelscher responded that there is only a grocery store and gas station. He travels to south Lincoln for medical; to North 27th Street for insurance; to 70th & Van Dorn for other services – 20 minutes away.

There was no testimony in opposition.

Staff questions

Esseks agreed that there is a real dearth of services needed in this N.W. 48th Street area. Is the development that the Planning Commission recently approved across the street to the west likely to provide these services? Cajka pointed out that the Ashley Heights commercial center has a grocery store, day care, fast food, office – part of it has not been built. He does not know what other services might be located in the unused areas of Ashley Heights Commercial Center. On the west side, there is a R-T area designated for offices; the developer on the west got approval to add restaurants to the allowed uses; the uses to the south on the west side are more highway commercial uses.

Esseks asked for further clarification of the staff’s recommendation. Cajka explained that the proposed conditions of approval in the staff report address the idea that both sides of N.W. 48th would be similar type uses. The west side was approved for R-T, with allowance to increase the pad site maximum to 12,000 sq. ft. With 60,000 sq. ft., the traffic study showed that the proposed uses would generate under 2,000 daily trips. The staff’s proposal for the east side is basically the same – similar type uses with similar traffic counts. The staff would entertain the idea of looking at other uses as long as the trip counts would not be more than around 2,000.

Esseks wanted to know how to protect the houses to the north if the only criteria is the number of trips generated. You could have some very inappropriate uses right next to those homes. The R-T would protect the single family homes to the north. Cajka suggested that the staff would agree to talk with the applicant about other uses.

Response by the Applicant

With regard to the area to the west, Hunzeker stated that it must be understood that the R-T uses that are permitted are not the kinds of uses that you see throughout every neighborhood shopping center in town. R-T is essentially office type uses, and that is what is reflected by the traffic study. The inclusion of a restaurant may or may not have been included in the 2,000 daily trips. What was allowable was a coffee shop with a drive-through. That use alone generates 600-700 cars per day, 1/3 of the total. If you get a Walgreens and a StarBucks under the R-T, you're done. Hunzeker suggested that it is unrealistic to put that kind of restriction on an area where you are hoping to generate the kinds of uses that people really want and expect in a neighborhood center. There is not another neighborhood in town with as much population as this area in N.W. Lincoln that is as under-served with commercial as this one. Where is the west side getting its sewer service? The pipe is at the interstate, 3/4 mile away. This site has sewer service and water immediately available. It has direct access from the residential area. People can walk to this center and they need it.

The engineer with Olsson Associates stated that the traffic study models 58,500 sq. ft. with the uses of retail, office and day care only. It does not include the restaurant and some of the other uses approved on the west side.

ACTION BY PLANNING COMMISSION:

March 26, 2008

Larson moved to approve, with conditions as set forth in the staff report, with the amendments requested by the applicant, seconded by Taylor.

Larson is in favor because he thinks western growth of the community has been inhibited by the airport in the past. He believes this will help set up more residential and commercial areas on the west side of the airport and give us a more balanced community. It will be at the south end of most of the residential development and will be a convenient place for people to stop to do their shopping. This area of town does not have enough services available, so he is very much in favor.

Taylor agreed. This area has experienced a lot of growth in the past 10 years. There are very few services available in this area. He does not understand why it is so out of conformance with the Comprehensive Plan to be sufficient reason to deny the proposal. It is inconvenient for the homeowner to have to leave the area for services.

Esseks stated that he will vote against the motion. He respects the point about this property having access to sewer, and if this were the only commercial development in the immediate vicinity he would be persuaded by that argument. However, 3/4 mile to the north there is a developing shopping center with space available where the services can be provided, and we can wait for the development of commercial services on the west side of N.W. 48th where we have already approved R-T. R-T makes sense because of the principles for locating future commercial centers. There needs to be a transitional area of low intensity commercial and office uses with the homes right to the north, and we do not have assurance of that. We have to be consistent. If we made a decision that the property to the west cannot have right-in, right-out access, then we need to be consistent here without any strong evidence to the contrary.

Francis stated that she will vote in favor. In 1975, she managed the Sinclair station in Airpark and they have needed a lot of services since then. We need to give them more services and more options. Competition is good.

Carroll stated that he will not support the motion. He agrees that there needs to be consistency with the west side of N.W. 48th. If we thought there was more need for commercial, we would have allowed B-2 on the west side instead of R-T. We required R-T because we thought there was enough commercial with the Ashley Heights commercial center. We need to be consistent in how we plan the city and be equal across the board. It is up against residential on both sides. We need to have R-T on both sides allowing for transition between commercial and residential.

Motion for conditional approval, with amendments, failed 3-3: Larson, Francis and Taylor voting 'yes'; Sunderman, Esseks and Carroll voting 'no' (Cornelius and Gaylor Baird absent).

Esseks moved denial, seconded by Carroll and failed 3-3: Sunderman, Esseks and Carroll voting 'yes'; Larson, Francis and Taylor voting 'no' (Cornelius and Gaylor Baird absent).

Application held over for two weeks, with continued public hearing and action scheduled for April 9, 2008.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 9, 2008

Members present: Larson, Taylor, Sunderman, Esseks, Gaylor Baird, Cornelius, Francis and Carroll.

Ex Parte Communications: Esseks reported that he drove to the property on April 8, 2008; he viewed the Ashley Heights commercial area and a set of stores further north on the west side of N.W. 48th Street. Sunderman disclosed that he had a short conversation with Mark Hunzeker before this meeting.

Staff presentation: **Tom Cajka of Planning staff** stated that the staff went back and did some more research on the types of uses being allowed on the west side of the street north of Holdrege and the trip counts that the developer had provided. The staff would agree to amend Condition #1 on this proposal to change the trip count from maximum of 1,965 to 2,800. The staff did continue discussions with the applicant about a R-T PUD with additional uses being allowed, as opposed to the proposed B-2 PUD. The additional uses considered if this were a R-T PUD are drive-thru bank and sit-down restaurants, and townhomes or multi-family residential.

Esseks noted that the staff report delineates a number of reasons for recommending denial. Esseks pointed out that the Comprehensive Plan calls for locating commercial areas between intersections, not at intersections. This proposal appears to be right at the intersection with Holdrege Street. The Plan also calls for no direct access onto the major roads within a certain distance from an intersection. Cajka advised that Holdrege at that location is a collector street—not considered a major road. Holdrege is only considered a major street between N.W. 48th and N.W. 56th. The staff remains opposed to access onto N.W. 48th. In this case, Holdrege is not considered a major street at this location. The staff is agreeable to some limited commercial in this area. With R-T, the impacts would be minimal.

Carroll confirmed that the staff remains opposed to the B-2, but if the proposal is changed to R-T PUD with increase in the daily trips to 2,800 and 60,000 square feet, the staff would recommend approval. Cajka agreed, except that the trip cap would go away with R-T.

Esseks inquired about the location of the closest sewer line. Cajka indicated that the sewer line is located in the residential area to the north. There would be no problem with sizing of the sewer for this development.

Proponents

1. Hub Hall, the applicant, reiterated the request for change of zone from R-3 to B-2. He believes that this is an ideal location for a shopping center and he has had some interest from some people about having a business there, but it has only been conversation at this point in time.

2. Mark Hunzeker appeared on behalf of Hub Hall, the applicant. He sought to clarify what he believes to have been some confusion at the last meeting about what was approved on the west side versus what is recommended for approval by the staff on this site. He clarified that there is no trip cap on the west side. He also submitted that the uses that are presumably allowable on the west side will generate traffic which exceeds the number of trips that the staff had originally recommended on this site. That is why the staff is raising the trip cap on this site to 2,800.

Hunzeker believes that this site is a better site for the kinds of neighborhood shopping center uses than any other site available out there simply because it is on the east side of the street—the going home side for most people. It is directly accessible to the residential area to the north by foot – we talk a lot about pedestrian access – this area is directly accessible by sidewalk and bike path. It is at the very edge of what will be the residential development in that area. We have spent the last 30 years attempting to encourage development in this area. In the late 1970's and early 1980's, the city spent several million dollars extending a sewer underneath the airport to serve this area. It took until Ashley Heights was developed for anyone to tap into that sewer. Some other areas are using that sewer. This site is at the far south end of the watershed that can use that sewer. All the property on the west side of N.W. 48th Street that is being discussed as being the “R-T PUD across the street” and everything south of it has to be served with sewer from I-80. That area has to sewer all the way down to a trunk line that is south of West O Street. He believes that the area to the west will develop from south to north, starting at the interchange and moving north, and the commercial uses will be oriented primarily toward the interstate—not to the neighborhood.

Hunzeker also pointed out that there is very little R-T zoning “out there” – and it doesn't really apply to neighborhood shopping center type uses – that is why there are exceptions that have to be made for uses like a Walgreens. The buildings that are permissible in the R-T district are too small for that type of use.

Hunzeker also observed that virtually every new development incorporates B-2 zoning – e.g. North 40 at Adams and 84th Street, where there will be approximately 53 residential lots along the interface between neighborhood commercial, and the single family residential has a 40' setback. The 50' setback being proposed in this PUD is “standard” in those kinds of situations where we interface residential and commercial. There is nothing unusual about it.

Hunzeker agreed that the applicant has talked compromise with staff and has offered to go from 81,000 sq. ft. down to 70,000 sq. ft. The applicant will also accept a trip cap (even though the other side doesn't have one) at 4,400 cars per day. In addition, the applicant would agree to a restriction on the use of the buildings in the area to the north of the proposed roadway to be no more than 12,000 sq. ft. and that they be restricted to office and retail uses. Hunzeker submitted proposed amendments as follows:

1. Amend Condition No. 1 by deleting "60,000" and insert "70,000" in lieu thereof, and delete "1,965" and insert "4,400" in lieu thereof.
2. In the next to last paragraph of Condition No. 3 on page 9 of the Staff Report, delete the words "to Northwest 48th Street and" and at the end of that paragraph, add the following language: "and construct the access to Northwest 48th Street with a 'pork chop' island to assure right-in, right-out access only".
3. Delete paragraph 4.1.10, and insert the following in lieu thereof: Uses of buildings in the area north of the east/west private roadway shall be restricted to office/retail uses.

The amendment to Condition #2 allows the right-in, right-out at N.W. 48th Street.

The amendment to Condition #3 deletes the requirement that they not have access to N.W. 48th and allows for the uses of buildings in the area to the north be restricted to office and retail as opposed to restaurant and the variety of other uses available under the B-2 district. The more intense traffic uses would be further away from the residential. Hunzeker also agreed that the Planning Commission could restrict the size of these buildings to 12,000 sq. ft.

Hunzeker urged that this is a project that should be approved. The neighborhood in Airpark is in favor with no opposition other than staff.

It was confirmed that the access on N.W. 48th is a little over 600 feet north of Holdrege, about 1/8th mile. For example, Hunzeker pointed out that the access to the Walgreens just west of 27th & Pine Lake Road is about 330 feet west of 27th Street; the right-in, right-out for famous Dave's is 550 feet east of the intersection; the access for Red Robin is 300 feet east of 27th Street. Hunzeker also pointed out that the applicant on the west side did not propose an access to N.W. 48th. There was never an argument or decision about that access on the PUD proposal for the west side. Therefore, Hunzeker disagrees that it is inconsistent to allow this access.

Esseks inquired how the right-in, right-out is enforced. Hunzeker advised that it is enforced by the way it is constructed with a pork chop median, which would be part of the access built by the developer.

Carroll inquired about the type of uses that would require 4,400 trips. Hunzeker suggested that the staff's estimate of number of trips overall is probably a little light. For example, if you were fortunate enough to attract a drive-thru bank, that use would generate somewhere near 1,300 to 1,400 trips per day. If you are even more fortunate and able to attract a drug store with a drive-thru, that will generate 1,500 to 1,600 cars per day. With those two uses, taking up maybe 20,000 sq. ft. total, you have gone beyond the number proposed by staff. A fast food restaurant adds another 1,000. If you have the rest of the office, dry-cleaner, small retailer, hardware store, etc., you will be at that

4,400 per day, which isn't very much. Hunzeker submitted that 70,000 square feet on 13 acres is a very low intensity use. It will interface very well with residential, as has been approved all over town with more square footage and equal or smaller setbacks from single family residential.

Carroll inquired whether the 12,000 sq. ft. buildings would be two-story with retail underneath. Hunzeker stated that these buildings are not yet designed but the potential height maximum in B-2 is 45', which they would never do for a 12,000 sq. ft. building. They would likely be two-story buildings.

Gaylor Baird inquired what kind of process the applicant went through to get public input. Hunzeker advised that the developer had a meeting with the Board of the Arnold Heights Neighborhood Association. They mailed invitations to all of the owners within Hub Hall Heights and those within the first tier of the Ashley Heights development. There were probably 12 people who attended the meeting. There was one owner who expressed some reservations about this project – he wanted to be sure that the bike path would be at least 50 feet away from his back yard (which they agreed), and that there would do some berming and extra landscaping and/or a fence (if he desires a fence). The developer assured the property owner that the applicant would work out a specific landscape plan with him before this goes to the City Council. This owner then retracted his objection. Hunzeker also acknowledged opposition from one of the owners of the commercial development in Ashley Heights.

In terms of connectivity, Esseks inquired whether there is an easement going north so that people can walk from the residential area to this commercial area. Hunzeker showed on the plan a street stub that is preliminarily platted. The proposal is not to dedicate that as a street but as a public access easement for a sidewalk/bike path to connect to the bike path running through the northern setback to the property.

Esseks noted that the Ashley Heights commercial area has some good buffers and he believes that this development will need to have some really good screening. However, with adequate screening and berms, it appears reasonable. Otherwise it is not. Hunzeker agreed. That is partly why the B-2 district has a required standard for landscaping and screening between those incompatible land uses. He believes that standard is a screen that has 60% opacity from the ground level to a height of 10 feet. He believes this provides a good, green look for those back yards of the homeowners as well as a nice pleasant side yard where the bike trail is located headed to the shopping center.

3. Mike Hoelscher, 1730 N.W. 46th in Hub Hall Heights, testified in support. He disagrees that the Ashley Heights commercial area is adequate for this neighborhood. Airpark has been perceived as slow growth outside of Lincoln and there is a perception of not being a part of Lincoln. Even the additional commercial coming to the Ashley Heights center is still not enough commercial. Just last night, he left the area to use a bank. More people are leaving the area and not using the commercial area in Ashley Heights because there is not an adequate amount. It is going to take a long time for the area on the west side of N.W. 48th to develop. He believes it would help the Ashley Heights Commercial Center if there were more neighborhood services provided in the area.

There was no testimony in opposition.

Staff response: Cajka advised that the staff does not agree with the applicant's proposed amendments. The limitation on the size of the buildings does not include the area to the south. The uses allowed would be any use in the B-2 district, generating more traffic. The proposed trip cap of 4,400 is still higher than what staff is calculating on the west side. It is a lot more intensive commercial use that will generate more traffic.

Esseks thinks a Walgreens makes a lot of sense. Where can he put the Walgreens? Cajka suggested that a Walgreens could be located in the R-T zoning as long as it does not have a drive-thru.

Response by the Applicant:

Hunzeker asked the Commission to think about the last time they saw a Walgreens built without a drive-thru.

ACTION BY PLANNING COMMISSION:

April 9, 2008

Larson moved approval, with conditions as amended by applicant, seconded by Francis.

Esseks requested the maker accept a friendly amendment to limit the buildings adjacent to the residential area to 12,000 sq. ft. The maker of the motion and the second agreed.

Esseks commented that the applicant has gone to great lengths to make this more suitable for the area with the downsizing, and it looks as though the stickler between the applicant and the staff is the possibility of a Walgreens-type. He believes the drive-thru's are very valuable, and that it would be useful in this development. Esseks will vote in favor of this compromise.

Carroll moved to amend to not allow the right-in, right-out access on N.W. 48th Street, seconded by Cornelius.

Carroll believes that initially, the applicant for the PUD on the west side wanted the same type of access, so he wants to be consistent to say it should not be allowed on either side. Public Works does not want that access there because of traffic and other conditions.

Esseks does not understand how they would then get access to this property for the retail and office uses. Carroll suggested that it would have to come on Holdrege Street and work through the housing development. Esseks noted that Holdrege is now a gravel road. He does not want to encourage a lot of retail traffic going through a residential area. Carroll reiterated that the

development on the west side was restricted and must use Holdrege Street to go into their development. However, Esseks observed that the development on the east side would be B-2 zoning.

Marvin Krout, Director of Planning, approached the Commission at this time. He clarified that the Planning staff has discussed a configuration for commercial that was of lesser size and had right turn in and out only onto N.W. 48th, and Public Works is opposed to having that access. We talked about reconfiguring that parcel of land so that it would be somewhat larger and it would have full access at the standard 1/4 mile spacing for full access to N.W. 48th Street. There would be full movements at that location and no other turn lane from that 1/4 mile point down to Holdrege. Therefore, there is access to N.W. 48th but it is full access in conformance with the city's design standards. Because it was a larger parcel, we came up with a less intense amount of square footage of commercial, hoping to encourage mixed use with residential uses on the remainder of that tract.

Esseks noted that the applicant has cited relatively recent examples along Pine Lake Road where it looks as though the 1/4 mile standard has not been used. Krout's response was that since he has been the Director, Public Works has maintained the 1/4 mile standard, but he agreed that there have been exceptions to that standard.

Krout further clarified that Public Works' recommendation is to have no access onto N.W. 48th Street – to take all the access off of Holdrege, which is a full movement collector street. He acknowledged that this limits the number of access points and it might encourage some people to take some route through the neighborhood, although he thinks it would be very few.

Esseks noted a precedent of the Walgreens off of 84th north of Holdrege. You really have to circulate through to get there. So maybe the Chair's amendment is workable.

Motion to amend to delete the right-in, right-out access to N.W. 48th carried 5-3: Larson, Esseks, Gaylor Baird, Cornelius, and Carroll voting 'yes'; Taylor, Sunderman and Francis voting 'no'.

As far as consistency, Carroll pointed out that we do not know what the property owners on the west side were initially thinking, but they came in with a request for R-T PUD and he thinks this site should be the same in terms of consistency.

Main motion for approval, with conditions, as amended, carried 5-3: Larson, Taylor, Esseks, Cornelius and Francis voting 'yes'; Sunderman, Gaylor Baird and Carroll voting 'no'. This is a recommendation to the City Council.



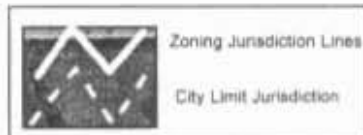
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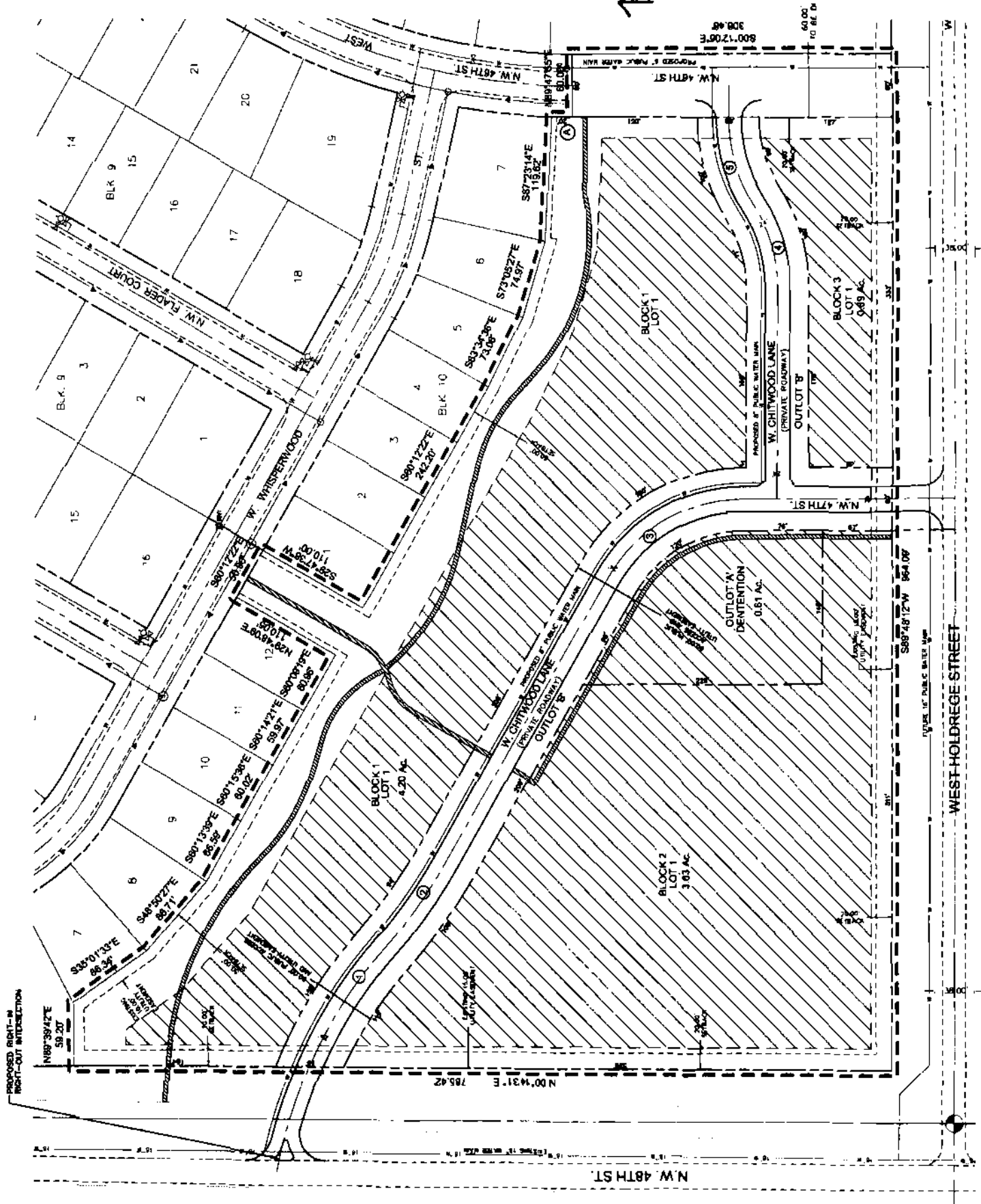
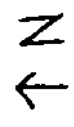
Change of Zone #08010 NW 48th & W Holdrege St

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Inland 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. 18 T10N R06E





GENERAL NOTES

1. SANITARY SEWER AND WATER LINES TO BE 8" PIPE UNLESS OTHERWISE SHOWN. STORM SEWER SHALL BE CONSTRUCTED USING APPROVED PIPE MATERIALS OF THE BUILDING AND SAFETY PLUMBING DEPARTMENT. PUBLIC AND PRIVATE UTILITIES TO BE BUILT TO CITY OF LINCOLN SPECIFICATIONS.
2. ALL PAVEMENT RETURN RADII TO BE 20' (MIN.) UNLESS OTHERWISE NOTED.
3. THE DEVELOPER AGREES TO COMPLY WITH THE DESIGN STANDARDS OF THE CITY OF LINCOLN FOR EROSION CONTROL AND SEDIMENTATION DURING AND AFTER LAND PREPARATION.
4. PUBLIC SIDEWALKS SHALL BE 5' WIDE. SIDEWALKS SHALL BE CONSTRUCTED ON N.W. 48TH STREET, W. HOLDREGE AND N.W. 46TH ST. INTERNAL PRIVATE SIDEWALKS SHALL BE 4' WIDE.
5. ALL DIMENSIONS ALONG CURVES ARE CHORD DISTANCES.
6. DIRECT VEHICULAR ACCESS TO N.W. 48TH STREET, W. HOLDREGE SHALL BE RELINQUISHED EXCEPT AS SHOWN.
7. ALL ELEVATIONS ARE TO NAVD 1988.
8. ALL PARKING LOT ISLANDS SHALL BE RAISED, CONCRETE CURB AND GUTTER MEDIANS.
9. ALL OUTLOTS, MEDIANS, LANDSCAPING AND PEDESTRIAN CIRCULATION WITHIN THIS USE PERMIT TO BE MAINTAINED BY AN ASSOCIATION OF PROPERTY OWNERS.
10. UTILITY EASEMENTS TO BE PROVIDED AS REQUESTED BY L.E.S.
11. THE PROPOSED LOT LINES ARE CONCEPTUAL AND MAY VARY IN THE FINAL PLAN.
12. TOTAL USAGE:
 - TOTAL BLOCKS - 3
 - TOTAL LOTS - 3
 - TOTAL OUTLOTS - 2
13. THE SITE PLAN SHALL BE SUBMITTED AT THE TIME OF BUILDING PERMIT AND SHALL CONFORM TO THE CITY OF LINCOLN ZONING ORDINANCE AND DESIGN STANDARDS. LANDSCAPING AND SIGNS NEED NOT BE SHOWN ON THIS SITE PLAN, BUT WILL BE SHOWN AT THE TIME OF BUILDING PERMIT. SIGNS TO CONFORM TO THE ZONING ORDINANCE, EXCEPT AS ADJUSTED BY THIS USE PERMIT.
14. ALL EAVES, CANOPIES AND OTHER BUILDING PROJECTIONS MAY EXTEND OVER THE BUILDING ENVELOPE LINES BUT NOT LOT LINES.
15. ALL DRIVES SHALL BE 24' WIDE TYPICAL UNLESS OTHERWISE NOTED.
16. ALL DISABLED PARKING STALLS SHALL BE IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, (FEDERAL REGISTER/VOL. 58, NO. 144/RULES AND REGULATIONS).
18. THE SALE OF ALCOHOL SHALL CONFORM WITH THE ZONING ORDINANCE.
19. TENT USAGE APRIL 1ST - NOV. 1ST MAX. SIZE OF TENTS 80' X 40' BUT SMALLER CAN BE USED. NO PARKING WITHIN 20 FEET OF TENTS. MULTIPLE TENTS MAY BE UP AT ONE TIME, HOWEVER, TOTAL NUMBER OF TENTS USED AT ONE TIME MAY NOT COVER MINIMUM NUMBER OF PARKING STALLS REQUIRED BY CHAPTER 27.67 OF THE ZONING ORDINANCE.
20. ATM'S, FENCES, DECORATIVE STRUCTURES, & ACCESSORY BUILDINGS ARE NOT SHOWN ON THE SITE PLAN BUT MAY BE CONSTRUCTED IF THEY ARE 25' X 25' OR SMALLER AND ARE CONSTRUCTED OUTSIDE OF SETBACKS, SIGHT TRIANGLES, EASEMENTS, AND REQUIRED MINIMUM PARKING, AND ARE BUILT ACCORDING TO ZONING ORDINANCE PROVISIONS, AND ARE IN CONFORMANCE WITH ALL OTHER APPLICABLE CODES.
21. MINOR ADJUSTMENTS IN THE TOTAL FLOOR AREA OF THE SITE MAY BE MADE AT TIME OF BUILDING PERMIT, PROVIDED THE TOTAL FLOOR AREA OF THE CENTER DOES NOT EXCEED 85,100 SQUARE FEET. ANY INCREASE IN FLOOR AREA ABOVE 85,100 MUST BE APPROVED BY ADMINISTRATIVE AMENDMENT.
22. A COMMON ACCESS EASEMENT SHALL BE GRANTED OVER ALL DRIVES AND PARKING STALLS.
23. INTERNAL PEDESTRIAN SIDEWALKS TO BE PROVIDED IN COMPLIANCE WITH THE CITY OF LINCOLN DESIGN STANDARDS AT THE TIME OF BUILDING PERMITS.
24. PARKING LOT LIGHTING SHALL MEET CITY OF LINCOLN DESIGN STANDARDS FOR PARKING LOTS.

LAND USE TABLE

USES	FLOOR AREA (SQUARE FEET)
GENERAL OFFICE	18,800
SPECIALTY RETAIL	22,200
RESTAURANT	7,500
DRIVE THRU RESTAURANT	3,600
BANK	5,000
DAYCARE	7,000
MEDICAL	21,000
TOTAL	85,100

LEGAL DESCRIPTION

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF A PORTION OF OUTLOT "C", HUB HALL HEIGHTS 1ST ADDITION, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 10 NORTH, RANGE 6 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE ^{SW}SOUTHEAST CORNER OF SAID OUTLOT "C", SAID POINT BEING 60.00 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHEAST QUARTER, AND 50.00 FEET EAST OF THE WEST LINE OF SAID SOUTHEAST QUARTER, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE NORTHERLY ALONG THE WEST LINE OF SAID OUTLOT "C", SAID LINE BEING THE EAST LINE OF NORTH WEST 48TH STREET RIGHT-OF-WAY, SAID LINE ALSO BEING 50.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SOUTHEAST QUARTER ON AN ASSUMED BEARING OF NORTH 00 DEGREES 14 MINUTES 31 SECONDS EAST, A DISTANCE OF 785.42 FEET TO A NORTHWEST CORNER OF SAID OUTLOT "C"; THENCE NORTH 89 DEGREES 39 MINUTES 42 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "C", A DISTANCE OF 59.20 FEET TO A POINT; THENCE SOUTH 35 DEGREES 01 MINUTES 34 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "C", A DISTANCE OF 86.34 FEET TO A POINT; THENCE SOUTH 48 DEGREES 50 MINUTES 27 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "C", A DISTANCE OF 86.71 FEET TO A POINT; THENCE SOUTH 60 DEGREES 13 MINUTES 39 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "C", A DISTANCE OF 66.59 FEET TO A POINT; THENCE SOUTH 60 DEGREES 15 MINUTES 36 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "C", A DISTANCE OF 60.02 FEET TO A POINT; THENCE SOUTH 60 DEGREES 14 MINUTES 21 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "C", A DISTANCE OF 59.97 FEET TO A POINT; THENCE SOUTH 60 DEGREES 09 MINUTES 19 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "C", A DISTANCE OF 60.96 FEET TO A POINT; THENCE NORTH 29 DEGREES 48 MINUTES 09 SECONDS EAST ALONG A NORTHWEST LINE OF SAID OUTLOT "C", A DISTANCE OF 110.05 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF WHISPERWOOD STREET RIGTH-OF-WAY; THENCE SOUTH 60 DEGREES 12 MINUTES 22 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "C", SAID LINE BEING A SOUTHWEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 50.90 FEET TO A POINT; THENCE SOUTH 29 DEGREES 47 MINUTES 38 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID OUTLOT "C", A DISTANCE OF 110.00 FEET TO A POINT; THENCE SOUTH 60 DEGREES 12 MINUTES 22 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "C", A DISTANCE OF 242.20 FEET TO A POINT; THENCE SOUTH

63 DEGREES 34 MINUTES 37 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "C", A DISTANCE OF 73.06 FEET TO A POINT; THENCE SOUTH 73 DEGREES 05 MINUTES 27 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "C", A DISTANCE OF 74.97 FEET TO A POINT; THENCE SOUTH 87 DEGREES 23 MINUTES 14 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "C", A DISTANCE OF 119.62 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF CHITWOOD RIGHT-OF-WAY, SAID POINT BEING A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A RADIUS OF 630.00 FEET, A CENTRAL ANGLE OF 01 DEGREES 49 MINUTES 39 SECONDS, AN ARC DISTANCE OF 20.09 FEET ALONG A EAST LINE OF SAID OUTLOT "C", SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A TANGENT LENGTH OF 10.05 FEET, A CHORD BEARING OF SOUTH 00 DEGREES 42 MINUTES 44 SECONDS WEST, AND A CHORD DISTANCE OF 20.09 FEET TO A POINT; THENCE NORTH 89 DEGREES 47 MINUTES 55 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "C", SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 60.00 FEET TO A POINT; THENCE SOUTH 00 DEGREES 12 MINUTES 05 SECONDS EAST, A DISTANCE OF 306.48 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID OUTLOT "C", SAID POINT BEING ON THE NORTH LINE OF WEST HOLDREGE STREET RIGHT-OF-WAY; THENCE SOUTH 89 DEGREES 48 MINUTES 12 SECONDS WEST ALONG A SOUTH LINE OF SAID OUTLOT "C", SAID LINE BEING A NORTH LINE OF SAID RIGHT-OF-WAY, SAID LINE BEING 60.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 964.09 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 487,212.72 SQUARE FEET OR 11.18 ACRES, MORE OR LESS.

Table 3

HUB HALL HEIGHTS TRAFFIC IMPACT STUDY
 NW. 48th Street & W. Holdrege Street
 ITE TRIP GENERATION

Daily Trip Generation

ITE Code/Page	Land Use	Size	Trip Gen. Avg. Rate/Eq.	Daily Trips	Mixed-Use Reduction	Total Trips	Trip Distribution		Total Daily Trips		
							Enter	Exit	Enter	Exit	
565/1026	Day Care Center	7,000	SF	28.13	197	10%	177	50%	50%	89	89
710/1158	General Office Building	18,800	SF	$T=e^{(0.77 \cdot \ln(x)+3.65)}$	368	10%	332	60%	50%	186	166
720/1190	Medical-Dental Office Building	21,000	SF	$T=40.89(x) - 214.97$	644	10%	579	50%	50%	290	290
814/1338	Specialty Retail Center	22,200	SF	44.32	984	10%	886	50%	50%	443	443
812/1685	Drive-In Bank	5,000	SF	248.49	1,232	10%	1,109	50%	80%	555	555
932/1723	High-Turnover (Sit-Down) Restaurant	7,500	SF	127.15	954	10%	858	30%	50%	429	429
934/1751	Fast-Food Restaurant w/ Drive-Through	3,600	SF	466.12	1,786	10%	1,607	50%	50%	804	804
Total					6,165		5,548			2,774	2,774

AM Peak Hour Trips

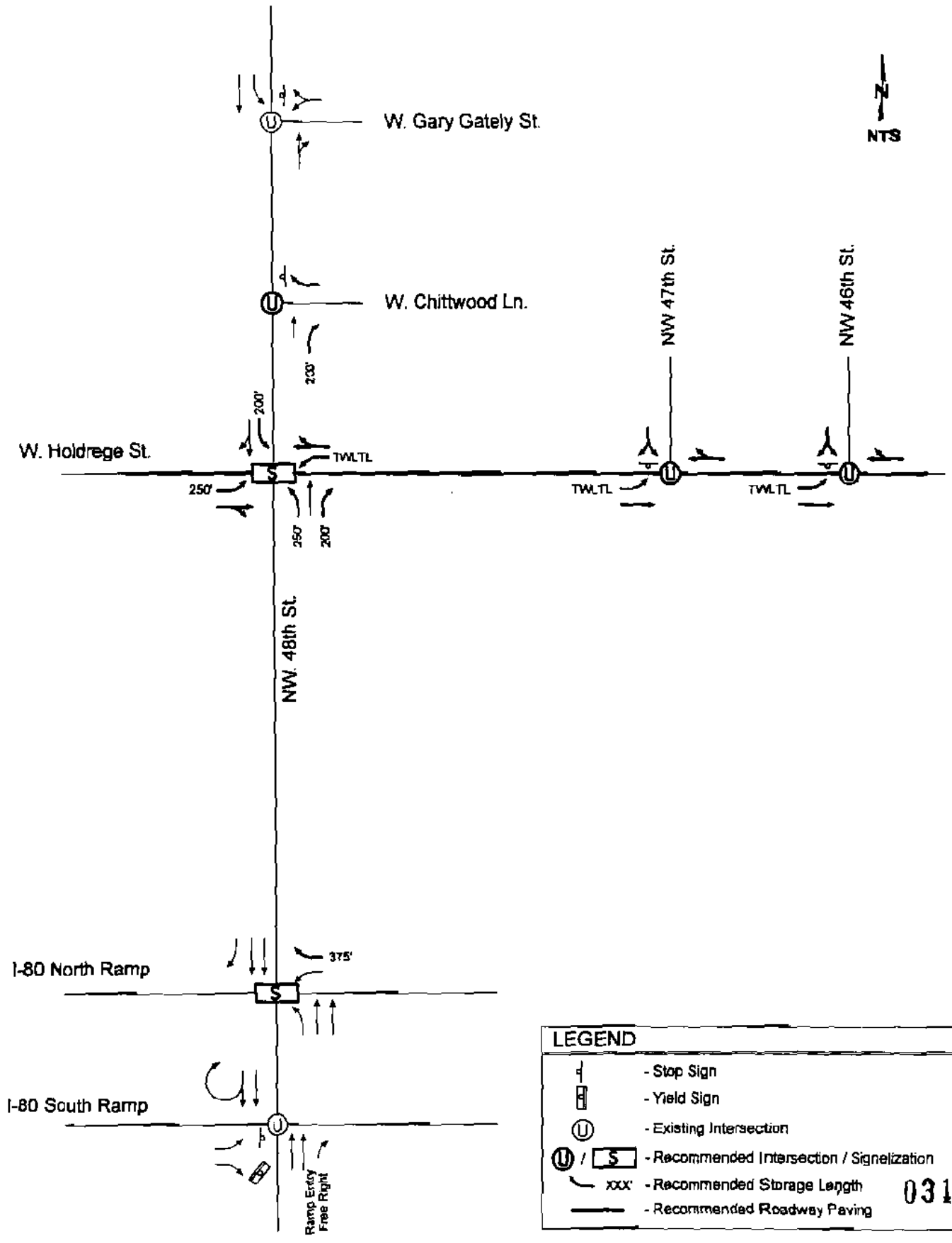
ITE Code/Page	Land Use	Size	Trip Gen. Avg. Rate/Eq.	AM Peak Trips	Mixed-Use Reduction	Total Trips	Trip Distribution		Total AM Peak Trips		
							Enter	Exit	Enter	Exit	
565/1027	Day Care Center	7,000	SF	4.81	34	10%	31	53%	47%	16	15
710/1159	General Office Building	18,800	SF	$T=e^{(0.80 \cdot \ln(x)+1.55)}$	49	10%	44	88%	12%	39	5
720/1191	Medical-Dental Office Building	21,000	SF	2.48	52	10%	47	79%	21%	37	10
814/NA	Specialty Retail Center	22,200	SF	-	-	-	-	-	-	-	-
812/1688	Drive-In Bank	5,000	SF	12.04	62	10%	56	56%	44%	31	24
932/1724	High-Turnover (Sit-Down) Restaurant	7,500	SF	11.52	86	10%	78	62%	46%	40	37
934/1752	Fast-Food Restaurant w/ Drive-Through	3,600	SF	63.11	191	10%	172	51%	49%	88	84
Total					475		438			251	175

* Trip rate is not applicable per ITE Trip Generation Manual (7th Ed.) for given time period.

PM Peak Hour Trips

ITE Code/Page	Land Use	Size	Trip Gen. Avg. Rate/Eq.	PM Peak Trips	Mixed-Use Reduction	Total Trips	Trip Distribution		Total PM Peak Trips		
							Enter	Exit	Enter	Exit	
565/1028	Day Care Center	7,000	SF	4.79	34	10%	30	47%	53%	14	16
710/1160	General Office Building	18,800	SF	$T=1.12(x)+78.81$	100	10%	90	17%	83%	15	75
720/1192	Medical-Dental Office Building	21,000	SF	$T=e^{(0.83 \cdot \ln(x) + 1.47)}$	74	10%	66	27%	73%	18	48
814/1339	Specialty Retail Center	22,200	SF	2.71	60	10%	54	44%	56%	24	30
812/1687	Drive-In Bank	5,000	SF	45.74	229	10%	206	50%	50%	103	103
932/1725	High-Turnover (Sit-Down) Restaurant	7,500	SF	10.92	82	10%	74	61%	39%	45	29
934/1753	Fast-Food Restaurant w/ Drive-Through	3,600	SF	34.64	125	10%	112	52%	48%	66	84
Total					703		632			277	355

Full Build Out



LEGEND	
	- Stop Sign
	- Yield Sign
	- Existing Intersection
	- Recommended Intersection / Signalization
	- Recommended Storage Length
	- Recommended Roadway Paving

031

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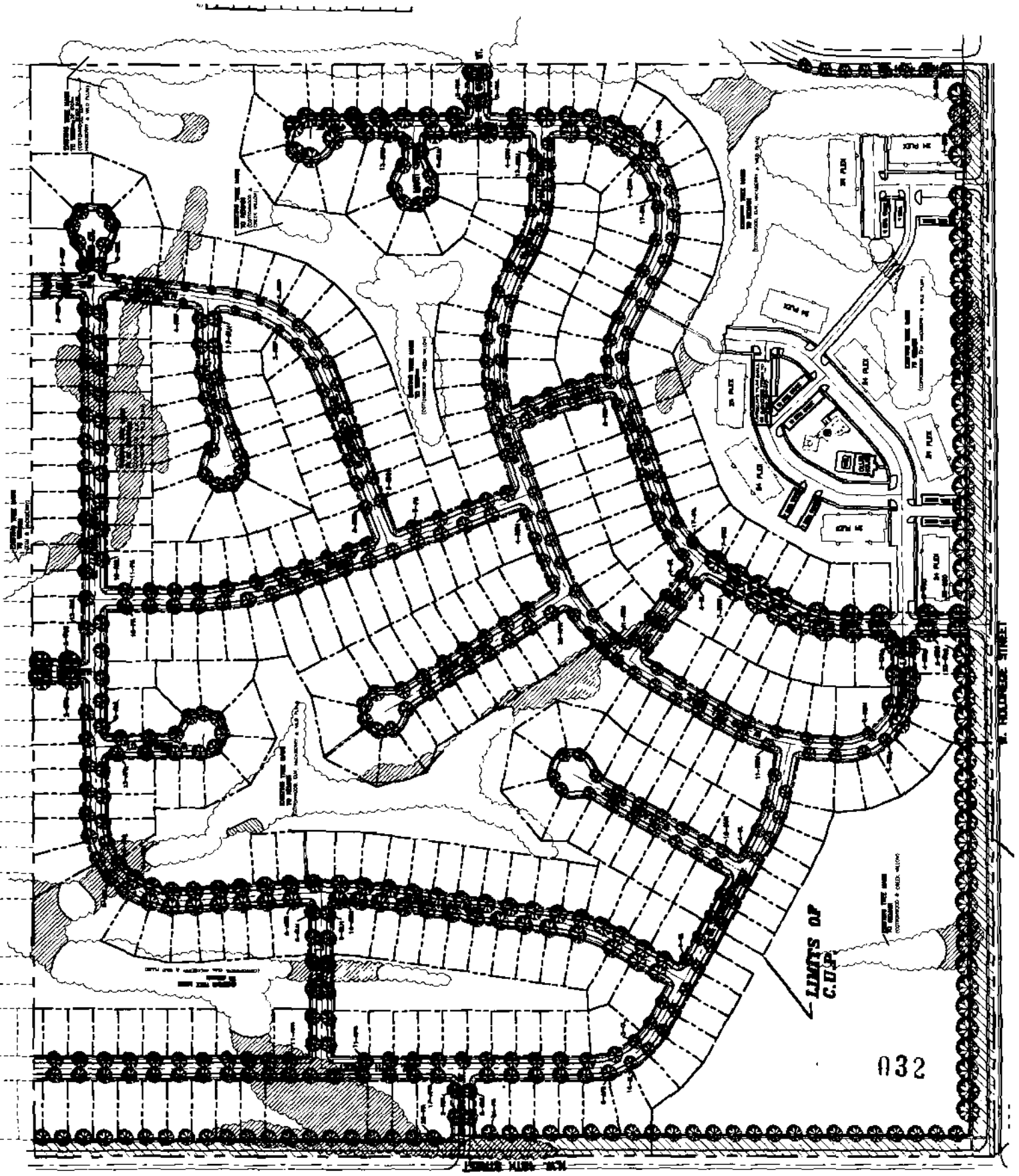


2010 plus Site Recommended Lane Configurations & Traffic Control

FIGURE 19

HUB HALL HEIGHTS Preliminary Plat

↑
NORTH



032

Part 1c: Residential Transition Area

The regulations contained in Chapter 27.15 for the R-3 Residential District shall not apply. Instead, the regulations contained in Chapter 27.28 for the R-T Residential Transition District shall be applicable to those portions of the Property located within the Residential Transition Area except as set forth below:

27.28.010 General Regulations is modified as follows:

(a) General Regulations. Each building to be located within the Residential Transition Area shall have:

- (1) A two and one-half inch in twelve inch pitched roof or steeper;
- (2) A nonreflective exterior siding material which is or simulates wood, stucco, brick, or stone;
- (3) A nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
- (4) No air conditioners on the roof.

(b) Permitted Uses. A building or premises shall be permitted to be used for the following purposes in the Residential Transition Area:

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Office buildings;
- (4) Barber shops, beauty parlors, shoe shine and repair shops, tailor shops, upholstery shops, and printing and photocopying shops not exceeding 5,000 square feet.
- (5) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (6) Public libraries;
- (7) Banks, savings and loan associations, credit unions and finance companies, and insurance companies, and photography shops provided there are no drive-up or drive-thru facilities or automatic teller machines;
- (8) Churches;
- (9) Non-profit religious, educational, and philanthropic institutions;
- (10) Receiving stores for cleaning and laundry;
- (11) Pharmacies;
- (12) Medical supply shops;
- (13) Clubs;
- (14) Repair shops for electrical, radio, television equipment, and household appliances not exceeding 5,000 square feet;
- (15) Photography studios;
- (16) Multiple dwellings;
- (17) Townhouses;
- (18) Restaurants; provided no fast food drive thru restaurant shall be permitted with the exception of drive-thru coffee shops;
- (19) Sale of alcoholic beverages for consumption on the premises;
- (20) Public utility purposes;

(21) Private schools.

27.28.030 Permitted Conditional Uses is modified as follows:

A building or premises may be used for the following purposes in the Residential Transition Area in conformance with the conditions prescribed herein.

(a) Group homes:

(1) Group homes shall comply with all sign, height and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the provisions of Chapter 27.67;

(2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half mile;

(3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

(b) Domestic shelter:

(1) Parking shall be in conformance with Chapter 27.67;

(2) The maximum number of residents occupying such a facility shall not exceed one person per 2,000 square feet of lot area;

(3) The distance between the proposed use of any existing domestic shelter measured from lot line to lot line shall not be less than one mile.

(c) ~~Early childhood care facilities with a maximum of fifteen children present at any time:~~

(1) Such facilities shall comply with all applicable state and local early childhood care requirements;

(2) Such facilities shall comply with all applicable building and life safety code requirements;

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(4) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code.

(d) Joint parking lots and parking garages.

(1) Such joint parking lots and garages shall be authorized by cross access easements or by written agreement between the parties to such use.

(2) The aggregate number of parking stalls provided shall be sufficient to satisfy the required parking for each use.

(e) Broadcast towers and personal wireless facilities in conformance with Chapter 27.68.

27.28.040 Permitted Special Uses is deleted in its entirety.

27.28.080 Height and Area Regulations is hereby deleted in its entirety and replaced with:

The maximum height and minimum lot requirements within the Residential Transition Area shall be as follows:

(a) General requirements:



DONALD R. WITT
M. DOUGLAS DEITCHLER
WALTER E. ZINK II
RANDALL L. GOYETTE
STEPHEN S. GEALY
GAIL S. PERRY
DALLAS D. JONES
JILL GRADWOHL SCHROEDER
DAVID A. DUDLY

BRENDA S. SPILKEE
STEPHANIE F. STACY
W. SCOTT DAVIS
MARK A. HUNZIKER
WILLIAM G. BLAKE
PETER W. KATT
CHRISTOPHER M. FERDICO
DARLA S. IDEUS
JARRID S. BOITNOTT

TIMOTHY E. CLARKE
ANDREW M. LOUDON
CHRISTINA L. BALL*
JENNY L. PANKO
JAMES D. HAMILTON
CAROLINE M. WESTERHOLD
AMANDA A. DUTTON
CYNTHIA R. LAMM
DEBBE C. ZIMMERMAN

JOHN J. HRECK
MARK W. BUCKWALTER

OF COUNSEL
ROBERT T. GRIMIT
J. ARTHUR CURTISS
DAVID D. ZWART

*ALSO ADMITTED IN KANSAS

February 26, 2008

Via Hand Delivered

Mr. Marvin Krout
Planning Department
555 South 10th Street
Lincoln, NE 68508

RE: Hub Hall Commercial Center NW 48th Street and West Holdrege

Dear Marvin:

We represent Hub Hall Real Estate, Inc., the developer of the property generally located at the northeast corner of NW 48th Street and West Holdrege. The property is presently designated residential in the Comprehensive Plan, however, an application is pending to amend the Plan to show it as commercial. In addition, the land to the west is proposed by the Ringneck PUD to become commercial.

The property is currently within the City limits, and it is part of an outlot in Hub Hall Heights First Addition. The request is to rezone the property from R-3 to B-2-PUD.

We further request a waiver of the requirement of Section 27.60.030 with the PUD contain all of the information required of a preliminary plat, in order to allow the details of street and lot layout, street centerline profiles, grading plan, drainage study, and utility plan to be approved by administrative amendment prior final plat approval, which details will be submitted for review by administrative amendment prior to final plat approval. Deferral of review of these details will allow flexibility for the developer to work with potential users as the property develops.

We propose that the uses and signage allowed under the PUD be all permitted and permitted conditional uses and signs allowable under the B-2 Planned Neighborhood Business District, except as follows:

Planned Neighborhood Business District.

1. Restaurant uses shall be limited to 7,500 square feet of high-turnover (sit down) restaurant, and 3,600 square feet of fast food restaurant with drive thru;
2. Drive-in bank shall be limited 5,000 square feet;
3. Special permitted uses allowable under the PUD shall include health care facilities and indoor animal hospitals.

035

Mr. Marvin Krout
February 27, 2008
Page 2 of 2

Access to the site is proposed from NW 48th Street (right-in/right-out), West Holdrege (one full access), and NW 46th Street (one full access). Based upon a traffic analysis of the site performed by Olsson Associates, certain improvements will be needed in NW 48th Street by 2010. All of those improvements except the right turn lanes serving the subject property are in impact fee facilities which would be needed with or without development of the subject property.

If there is any additional information you require or if there are questions, please feel free to contact our office, or Brad Marshall, or Mark Palmer at Olsson Associates. For purposes of this application, we certify that the record owner of the property is Charles Gary Gately, Trustee.

Sincerely,



Mark A. Hunzeker
For the Firm
mhunzeker@bayloreven.com

204662



February 27, 2008

Mr. Marvin Krout
Planning Department
555 South 10th St., Suite 213
Lincoln, NE 68508

Re: Hub Hall Heights Commercial Center
Planned Unit Development (P.U.D)
Olsson Project No.: 007-1920

Dear Marvin:

Enclosed find the following documents for the above-mentioned project:

1. Special Permit Application
2. Change of Zone Application
3. Change of Zone Legal and Exhibit
4. Special Permit and Change of Zone Submittal Fee (\$1,240)
5. 3 copies of the Drainage Report
6. 3 copies of the Development Plan for the B-2 PUD
7. 3 copies of the Traffic Study
8. 1 copy of the Ownership Certificate
9. 21 copies of the Site Plan
10. 9 copies of the Drainage and Grading Plan
11. 5 copies of the Paving Profiles

We are submitting this Planned Unit Development on behalf of the developer, Highway 15 Inc. The P.U.D consists of Outlot "C", Hub Hall Heights 1st Addition, located in Section 18, Township 10 North, Range 6 East of the 6th P.M., City of Lincoln, Lancaster County, Nebraska.

This 11 acre property is currently zoned R-3 and was preliminary platted as part of the Hub Hall Heights Preliminary Plat. We have requested a comprehensive plan amendment to change the property from residential to commercial designation. The property is within the Tier 1, Priority A area designated in the Comprehensive Plan.

We are proposing a B-2 PUD that serves as a neighborhood commercial center. We anticipate a mix of office, retail, and restaurant uses. Specific PUD details are contained within Mark Hunzeker's letter (attached).

Thank you for meeting with us to discuss the project. We will be scheduling a neighborhood meeting in the next few weeks to present the plan to the neighbors. This will be accomplished prior to Planning Commission Public Hearing.

If you require further information or have any questions, please call either myself at (402) 458-5632, or Mark Hunzeker at Baylor, Evnen, Curtiss, Grit & Witt, LLP at (402) 475-1075.

Sincerely,

Mark C. Palmer

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Memorandum

To: Tom Cajka, Planning Department
From: Chad Blahak, Public Works and Utilities
Subject: Hub Hall Commercial Center PUD ez08010
Date: March 13, 2008
cc: Randy Hoskins, Dennis Bartels

Engineering Services has reviewed the street realignment for N.W. 46th Street in Hub Hall Heights Addition, located east of N.W. 48th Street, north of Holdrege Street and has the following comments:

Sanitary Sewer – The following comments need to be addressed.

(1.1) There is no sanitary sewer shown on the plans. Information showing how the site is intended to be served or a detailed administrative amendment will need to be submitted at later date.

Water Main – The following comments need to be addressed.

(2.1) The proposed 8" water main in NW 47th Street needs to be shown connecting to the future 16" main in West Holdrege Street.

Grading/Drainage – The following comments need to be addressed.

(3.1) The storm sewer for area B1 will need to be designed to accommodate the 100 year storm as there does not appear to be an overland flow path for the storm runoff to be conveyed to the proposed detention cell.

Streets/Paving - The following comments need to be addressed.

(4.1) The proposed 24' wide paving for the proposed private roadway is not satisfactory. Design standards show 27' minimum width for private roadways. It should also be noted that design standards for public streets in commercial areas require a minimum of 33' wide paving.

(4.2) Public Works recommends denial of the requested right in/right out access to NW 48th Street. It is Public Works policy to limit access points on arterial streets to quarter and half mile spacing for the purpose of minimizing conflict points and maintaining traffic flow for an arterial street. Holdrege Street will be constructed to the three lane collector standards with a right turn lane at NW 48th Street by the developer and will accommodate the traffic generated from this site. It should also be noted that no right in/right out mid block connections were allowed for the proposed development on the west side of NW 48th Street.

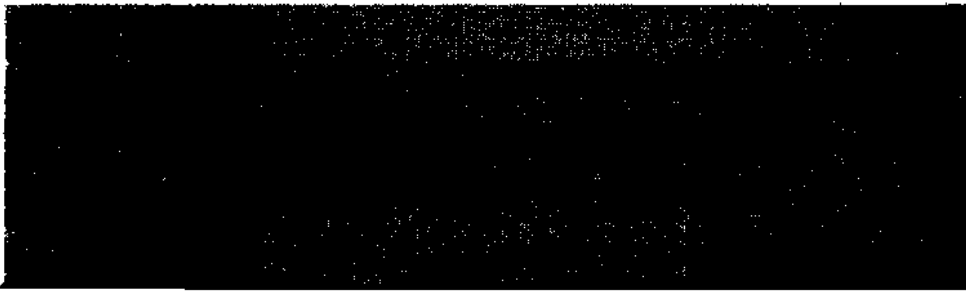
(4.3) If the access to NW 48th is approved against Public Works recommendations, the access will need to remain right in/right out only and a 250' right turn lane in NW 48th Street will need to be shown and will be the responsibility of the developer. The developer will also be responsible for constructing temporary turn lanes in NW 48th Street if the site develops prior to NW 48th Street being constructed to urban standards. There are no improvements to NW 48th Street shown in the current CIP.

(4.4) Holdrege Street is currently a gravel road and will need to be paved to current collector standards prior to or in conjunction with any final plat for the proposed PUD.

(4.5) The grading shown for future Holdrege Street does not seem to match the profile and grading that was shown in the original Hub Hall Heights preliminary plat. If the profile has changed an updated profile needs to be included with this submittal.

General – The information shown on the preliminary plat relating to the public water main system, public sanitary sewer system, and public storm sewer system has been reviewed to determine if the sizing and general method providing service is satisfactory. Design considerations including, but not limited to, location of water main bends around curves and cul-de-sacs, connection of fire hydrants to the public main, temporary fire hydrant location, location and number of sanitary sewer manholes, location and number of storm sewer inlets, location of storm sewer manholes and junction boxes, and the method of connection storm sewer inlets to the main system are not approved with this review. These and all other design considerations can only be approved at the time construction drawings are prepared and approved. Any waivers not specifically requested with this application do not have implied approval. If a waiver of design standards arises at the time of construction plans, Public Works reserves the right to deny such a waiver and require that the plans be revised accordingly.

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Status of Review: Active

Reviewed By

ANY

Comments:

Status of Review: Active

Reviewed By 911

ANY

Comments:

Status of Review: Active

Reviewed By Alltel

ANY

Comments:

Status of Review: Approved

03/03/2008 10:31:29 AM

Reviewed By Building & Safety

BOB FIEDLER

Comments: approved

Status of Review: Denied

03/04/2008 11:54:19 AM

Reviewed By Building & Safety

Terry Kathe

Comments: NW 46th Street is not a good street name based on location of existing NW 46th Street located west and north of this location. This plan shows West Hub Hall running into NW 46th. This is not correct. This street should be renamed to another NAMED street. However, this change would effect existing addresses.

Addresses located on West Chitwood Lane already used and owners would need to allow change to the new street name and charges for the address change would be necessary.

Status of Review: Routed

03/07/2008 2:09:05 PM

Reviewed By Fire Department

ANY

Comments: I do not have a utilities plan for this area. It shows a water main on the site plan but does not indicate any fire hydrants. I would like to see those before I comment from the perspective of our department.

Status of Review: Approved

03/10/2008 9:39:42 AM

Reviewed By Health Department

ANY

Comments: LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION

TO: Tom Cajka DATE: March 10, 2008

DEPARTMENT: Planning FROM: Chris Schroeder
ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: Hub Hall Commercial
EH Administration Center CZ #08010

The Lincoln-Lancaster County Health Department has reviewed the change of zone application with the following noted:

Developers are responsible for all mosquito control issues during the building process and all outlots, green-spaces, and/or natural corridors subsequently controlled by the owner, tenant, occupant, lessee, or otherwise, for that subdivision would be responsible for vectors of zoonotic disease in those areas.

All wind and water erosion must be controlled during construction. The Lower Platte South Natural Resources District should be contacted for guidance in this matter.

During the construction process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but not limited to application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of ground cover will also be incorporated as necessary.

The LLCHD advises that noise pollution can be an issue when locating commercial uses adjacent to residential zoning.

Lincoln Municipal Code (LMC) 8.24 Noise Control Ordinance does address noise pollution by regulating source sound levels based upon the receiving land-use category or zoning. However, the LLCHD does have cese history involving residential uses and abutting commercial uses in which the commercial source does comply with LMC 8.24, but the residential receptors still perceive the noise pollution as a nuisance. The LLCHD strongly advises the applicant to become with familiar with LMC 8.24. The LLCHD advises against locating loading docks, trash compactors, etc. adjacent to residential zoning. Therefore, creative site design should be utilized to locate potential sources of noise pollution as far as possible from residential zoning.

Status of Review: Active

Reviewed By Lincoln Electric System

ANY

Comments:

Status of Review: Approved

03/05/2008 12:55:17 PM

Reviewed By Parks & Recreation

ANY

- Comments:
1. All internal sidewalks shall be installed and maintained at the expense of the developer and/or future business/homeowners association - including snow removal and repairs.
 2. All outlot areas the responsibility of the developer and/or future business/homeowners association.
 3. Contact the City Forestry Department at 441-7036 for the assignment of street trees.
 4. Per the Comprehensive Plan an additional 6' right-of-way is required on the north side of West Holdrege for future trail.
-

Status of Review: Complete

Reviewed By Planning Department

RAY HILL

Comments:

Status of Review: Active

Reviewed By Planning Department

TOM CAJKA

Comments:

Status of Review: Routed

03/04/2008 10:01:41 AM

Reviewed By Planning Department

COUNTER

- Comments: Several errors exist on the plat as it was submitted. The street directly east of NW Flader Ct. is W Hub Hall Dr. and is incorrectly labeled as NW 46th St. on the plat. NW 46th St is west of NW Flader Ct. W Chitwood Ln. already exists. There are 2 parcels addressed off of W Chitwood Ln. and the street is an extension to the south of W. Hub Hall Dr. This would make the use of W. Chitwood Ln. as a street spanning from NW 48th St. south and east to W Holdrege a duplication of street names and block ranges.
-

Status of Review: Active

Reviewed By Public Utilities - Wastewater

ANY

Comments:

Status of Review: Active

Reviewed By Public Works - Development Services

ANY

Comments:

Status of Review: Active

Reviewed By Public Works - Long Range Planning

ANY

Comments:

Status of Review: Active

Reviewed By Public Works - Watershed Management

ANY

Comments:

Status of Review: Active

Reviewed By School District

ANY

Comments:

Status of Review: Active

Reviewed By US Post Office

ANY

Comments:

INTER-DEPARTMENT COMMUNICATION



DATE March 7, 2008

TO: Tom Cajka, City Planning

FROM: Sharon Theobald (Ext. 7640) *HT*

SUBJECT: DEDICATED EASEMENTS
DN #15N-47W

CZ #08010

Attached is the Site Plan for Hub Hall Commercial Center.

In reviewing the dedicated transmission line or other electrical easements shown on this plat, LES does not warrant, nor accept responsibility for the accuracy of any such dedicated easements.

Windstream, Time Warner Cable, and the Lincoln Electric System will require the additional easements marked in red on the map, along with a blanket utility easement, excluding building envelopes, over Outlot "A".

ST/nh
Attachment
c: Terry Wiebke
Easement File

MAR - 7 2008

March 5, 2008

Mr. Tom Cajka, Project Planner
City-County Planning
555 So. 10th
Lincoln, NE 68508

Subject: Lincoln Airport, Lincoln, NE
Change of Zone (PUD) #CZ08010
Hub Hall Commercial Center

Mr. Cajka:

We have reviewed the subject request and have the following comments.

This development is within the Airport Environs Noise District and so will need to conform to the requirements of Chapter 27.58. Per our records, an Avigation and Noise easement was obtained over this area as part of the final platting of Hub Hall Heights 1st Addition.

Also, it appears that the development is on property that has an elevation above 1,248'. Please refer to Chapter 27.59 of the Lincoln Municipal Code and its associated Lincoln Airport Zoning Map. Per Chapter 27.59, structures proposed in the "shaded" areas should be required to go through the height permitting process to ensure they do not exceed allowable heights.

If you have any questions or comments, please advise.

Sincerely,

AIRPORT AUTHORITY



Jon L. Large, P.E.
Deputy Director of Engineering

JLL/lb

cc: Bill Austin, w/attachments

045



60 DNL

65 DNL

2

30

6



1 INCH EQUALS 1,204.126743 FEET

Lincoln Airport Authority 046

Lincoln Airport
 FLYING MADE EASY

2400 W. Adams Street
 Lincoln, NE 68502
 Phone: 402-461-1500
 Fax: 402-461-3400

Map 11/2009, Map No. 000001
 All © 2009 Lincoln Airport Authority

MOTION TO AMEND CONDITIONS OF APPROVAL

CHANGE OF ZONE NO. 08010

I hereby move to amend the conditions of approval of Change of Zone No. 08010 as follows:

1. Amend Condition No. 1 by deleting "60,000" and insert "85,100" in lieu thereof, and delete "1,965" and insert "5,549" in lieu thereof.
2. In the next to last paragraph of Condition No. 3 on page 9 of the Staff Report, delete the words "to Northwest 48th Street and" and at the end of that paragraph, add the following language: "and construct the access to Northwest 48th Street with a 'pork chop' island to assure right-in, right-out access only";
3. Delete paragraph 4.1.10.

Introduced by: _____

MOTION TO AMEND CONDITIONS OF APPROVAL

CHANGE OF ZONE NO. 08010

I hereby move to amend the conditions of approval of Change of Zone No. 08010 as follows:

1. Amend Condition No. 1 by deleting "60,000" and insert "70,000" in lieu thereof, and delete "1,965" and insert "4,400" in lieu thereof.
2. In the next to last paragraph of Condition No. 3 on page 9 of the Staff Report, delete the words "to Northwest 48th Street and" and at the end of that paragraph, add the following language: "and construct the access to Northwest 48th Street with a 'pork chop' island to assure right-in, right-out access only";
3. Delete paragraph 4.1.10. and insert the following in lieu thereof: 4.1.10 uses of buildings in the area north of the east/west private roadway shall be restricted to office/retail uses.

Introduced by: _____



"Jeanette Fangmeyer"
<jako@nebraska.com>
03/27/2008 06:17 AM

To <plan@lincoln.ne.gov>
cc
bcc

Subject zoning change at NW48 and Holdrege

As a 30 year resident of Arnold Heights and registered voter I was really disappointed that the commission did not pass the rezoning of the northeast corner of NW 48-Holdrege. The recent rezoning of the west side of NW 48 is, as the attorney for the land owner told the neighborhood, for the future- considering the state of the economy. In my opinion, this development will not happen until NW 48 is widened to Holdrege. This widening will not take place until the interchange with I-80 is completed and the electrical transmission tower that is currently in the path of the northbound lane is moved. This tower is at the point where the lines go from above ground to underground. This property is the logical location for dirt mining for this interchange and the location of the asphalt plant in the industrial zoned area. Traffic access is available for both sides of the interstate on existing roads. This is said to be atleast 5 years out. This property has not been annexed into the City of Lincoln. I am part of the group that worked for over a year to get the zoning changed for Ashley Heights. This included the business opposing the change flying people in from Montana to try to convince us that we didn't want more housing and a commercial area. I am disappointed that Paul Muff is now opposing more commercial in the area. Planning has repeatedly developed elaborate plans for this area and I have yet to see anything happen that wasn't driven by the neighborhood. The neighborhood wants the services that are taken for granted by the people who live near South Pointe. Now is the time to vote this either up or down so that it can be taken to City Council.

Jeanette Fangmeyer
5401 Wilkins Cr
Lincoln, NE 68524
402-470-3693



"Jeanette Fangmeyer"
<jako@nebraska.com>
04/09/2008 02:42 PM

To <plan@lincoln.ne.gov>
cc
bcc
Subject hub hall rezoning

By not approving the right in right out access to this parcel I firmly believe that you and the planning staff only care about the people that you socialize with. You neighborhoods have retail and THOSE PEOPLE WHO LIVE IN AIRPARK are not deserving of retail. This really feels like RED LINING...
Jeanette Fangmeyer.



"Willis Falk"
<wjf41@neb.rr.com>
03/25/2008 09:54 AM

To <plan@lincoln.ne.gov>
cc
bcc
Subject Hub Hall Rezone

I am Willis Falk at 4537 W. Whisperwood st and at current time am only property owner living adjacent to the proposed Hub Hall development area from R3 to B2.

I attended the community meeting on March 24th but will not be able to attend the hearing on Wednesday March 26th.

there were plans shown of commercial development having a 50ft set back from my property and a proposed bike path in this set back with landscaping.

My feelings are if a bike path is put in this area of the set back it could come as close as 20ft of my back door. If this stays in the proposal I am 100% AGAINST the rezone.

As I am the only one living this close to the rezone, I am like 1 against the 100s who want this but they won't have a fast food store or other building 50ft from there back door and a bike path between that yet. I didn't buy this property and expect this commercial next to my house.

I feel this will only devalue my property and those that would be adjacent to it unless there is a larger set back and better landscaping.

Thank You

Willis J Falk
Carolyn S. Falk



"Willis Falk"
<wjf41@neb.rr.com>
03/25/2008 10:23 PM

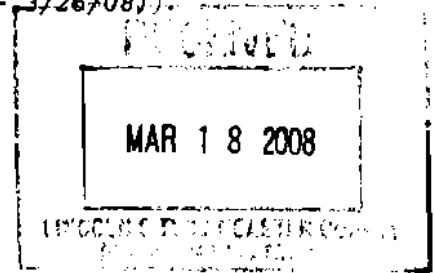
To <plan@lincoln.ne.gov>
cc "Mark A. Hunzeker" <MHunzeker@baylorevnen.com>
bcc
Subject Hub Hall Rezoning R-3 B-2

This followup to email I sent you concerning the rezone of Hub Hall from R-3 to B-2 to be considered at planning commission on March 26, 2008.

Willis Falk
4537 W. Whisperwood St

I have had further conversation with Mark Hunzeker about this and they have addressed my concerns about the set back and landscaping issues of the rear property line of my home and current objections have been met.

Willis J. Falk
Carolyn S. Falk



March 14, 2008

Planning Commission
RE: Change of Zone No. 08010

Honorable Commissioners

I write to express my objection to the change of zone request for the residential land near NW 48th and W. Holdrege S.

I own the new, partially developed, Ashley Heights shopping center a few blocks north at NW 48th St. and W. Huntington Ave.

The people of the Ashley Heights/Airpark area have, for many years, sought more services in this area, especially a supermarket. At significant personal financial risk we began to develop a retail center to meet this need. Our use permit allows for 93,500 square feet of retail space of which less than half is currently constructed.

You may recall that the IGA Marketplace opened one year ago and in addition to groceries it features a Subway Sandwich shop, Pinnacle Bank branch and a substantial Hardware department. Businesses joining the supermarket at Ashley Heights Shopping Center this past year are Amigos, Paycheck Advance and Learning Curves Daycare.

For the long anticipated Supermarket to be successful we need additional businesses at the shopping center to help by drawing traffic for each other. We begin construction this spring on the next phase, a 12,000 square foot multi tenant retail building.

However all is not rosy. We are finding that demand for retail space from retailers and service providers is softer than expected and we have a new 2,000 square foot space that has remained vacant and available for nearly a year.

Our decision to move forward in developing this shopping center was based in part on anticipated continued growth of residential housing in the area. Removing residential land from the plan robs us of some of the residential growth we planned on to support the center. Changing the zoning to commercial use adds salt to the wound by increasing availability of commercial land in excess of demand in this area.

Please keep in mind that (1). Kebredlos has already announced plans for a convenience store and strip center on NW 48th St., (2). Already there are scores of acres of commercially zoned land west and southwest of NW 48th and Holdrege St. and (3) This intersection, near a hill and with no traffic control signal, will prove very dangerous.

This change of zone simply brings no benefit to the neighborhood and is damaging to those of us who have made investments based on our faith in city zoning and the comprehensive plan.

Thank you for your time and consideration

Sincerely,
Paul Muff

7205 W. Saltillo Road
Martell, NE 68404



"Uttecht, Steve"
<SUttecht@gleaf.net>
03/17/2008 09:55 AM

To <plan@lincoln.ne.gov>
cc
bcc
Subject Change of Zone 08010

Honorable Commissioners;

I write to express my objection to the change of zone request for the residential land near NW 48th and W. Holdrege S.

I have two reasons:

1. There is enough commercially zoned land in the area.
2. We need more residential growth in the area to support the commercial space now in place.

I am one of the two Realtors working for the owner to attract tenants to the new Ashley Heights Shopping Center a few blocks north at NW48th and W. Huntington Ave.

We put a lot of effort into bringing a much needed, highly desired, grocery store to the area and finally we were successful. At significant personal financial risk, the owner went ahead with development of the center with the anticipation that the population in the area would continue to grow. The grocery store opening one year ago and is doing ok but to insure the longer term viability of the grocery store we need to attract more businesses and customers to the Shopping Center. We have attracted 3 other Tenants but have had 2,000 square feet of new space sit vacant almost a year. Another 12,000 sq. ft. multi tenant building will be constructed this spring, with the use permit allowing an eventual 93,500 sq. ft.

Always the objection of potential businesses considering locating in the area is that there are not enough "roof tops" in the area. Our owner made a significant investment based, in part, on his faith in Lincoln zoning and the Comprehensive Plan. Moving land from residential to commercial as requested in #08010 undermines the basis of his planning and investment.

Keep in mind also that Kriebredlos has is constructing a convenience store and strip mall in the area and especially that the intersection where the zone change is requested would be very dangerous in that it sets just before a hill and will not have enough traffic to warrant a traffic signal.

Thank you for your time.
Steve Uttecht
Associate Broker

Greenleaf Properties, Inc.
300 North 44th Street, Suite 100
Lincoln, Nebraska 68503

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MOBILE 402-770-6891
FAX 402-467-3456

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