

City Council Introduction: **Monday**, March 12, 2001  
Public Hearing: **Monday**, March 19, 2001, at **1:30** p.m.

Bill No. 01R-54

## FACTSHEET

**TITLE: SPECIAL PERMIT NO. 1899**, requested by Peter W. Katt on behalf of C.D.H. Investors, to permit the sale of alcoholic beverages for consumption on the expanded premises at 4947 Holdrege Street.

**STAFF RECOMMENDATION:** Conditional approval.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda, 02/21/01  
Administrative Action: 02/21/01

**RECOMMENDATION:** Conditional approval (6-0: Bayer, Duvall, Krieser, Schwinn, Steward and Taylor voting 'yes'; Carlson, Hunter and Newman absent).

### FINDINGS OF FACT:

1. The Planning staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.3-4, concluding that the sale of alcoholic beverages for the consumption on the premises is permitted on 4947 Holdrege Street as a pre-existing use, with a special permit for the east parking lot in R-2 zone. As required under Section **27.63.040**, this application is to expand the coverage of the current liquor license to include the exterior addition. Although the proposed premises are within the prescribed distance in the Zoning Ordinance, screening measures are provided to mitigate the effects of non-compatible uses.
2. This application was placed on the Consent Agenda of the Planning Commission on February 21, 2001, and opened for public hearing. No one came forward to speak.
3. The Planning Commission agreed with the staff recommendation.
4. The Site Specific conditions of approval required to be completed prior to scheduling this item on the Council agenda have been submitted by the applicant and approved by the reviewing departments.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** March 5, 2001

**REVIEWED BY:** \_\_\_\_\_

**DATE:** March 5, 2001

**REFERENCE NUMBER:** FS\CC\FSSP1899

**LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

**P.A.S.: SPECIAL PERMIT NO. 1899**  
**RANDY'S GRILL & CHILL**  
**ON-SALE LIQUOR SALE**

**DATE: FEBRUARY 13, 2001**

**PROPOSAL:** Peter W. Katt, on behalf of C.D.H. Investors, is requesting a special permit for the sale of alcoholic beverages for consumption on the expanded building at 4947 Holdrege Street.

**GENERAL INFORMATION:**

**APPLICANT:** Peter W. Katt  
1045 Lincoln Mall, Suite 200  
Lincoln, NE 68505

**PROPERTY OWNER:** C.D.H. Investors  
5201 Braemer Road  
Lincoln, NE 68516

**OPERATOR:** CJR, L.L.C.  
d/b/a Randy's Grill & Chill

**CONTACT:** Peter W. Katt  
1045 Lincoln Mall, Suite 200  
Lincoln, NE 68505  
(402)476-7621

**LOCATION:** 4947 Holdrege Street, generally located on the southwest corner of N. 50<sup>th</sup> and Holdrege Streets.

**REQUESTED ACTION:** Approval of a special permit to permit the on-premises sale of liquor for consumption including the expanded area.

**LEGAL DESCRIPTION:** Lots 1 and 2, and Outlot A, East Campus Square 1<sup>st</sup> Addition. The premises of this special permit application are confined within the sole structure including the addition on the above referenced property.

**EXISTING ZONING:** The property: B-1 Local Business District, H-2 Highway Business District, O-2 Suburban Office District, and R-2 Residential.

The premises: B-1 Local Business District and H-2 Highway Business District.

**PURPOSE:** To permit the sale of alcoholic beverages for consumption on the premises.

**SIZE:** Area of Lot: 34,507 square feet more or less.  
Area of Building: 3,885 square feet more or less

**EXISTING LAND USE:** Dine-in Restaurant

**SURROUNDING LAND USE AND ZONING:** To the east is R-2 with single family dwelling; to the north are R-2 and O-2 with single family dwelling; to the west is H-2 with a fast food restaurant and a strip mall; to the south is H-2 and O-2 with single family dwelling.

**COMPREHENSIVE PLAN CONFORMANCE:** This project is in conformance with the Comprehensive Plan, which shows this property as Commercial.

**ANALYSIS:**

1. Under Section **27.63.680** of the Lincoln Municipal Code, alcoholic beverages may be sold for consumption on the premises in the B-1 and H-2 zones.
2. Parking is in accordance with Sections **27.67.020** and **27.63.680(a)** of the Lincoln Municipal Code, which requires 1 parking stall per 100 square feet of gross floor area. 39 parking stalls are required on site for this 3,885 square-foot structure. A total of 53 stalls are currently provided on this property. The 32 stalls within the R-2 and O-2 zones to the east and southeast of the building are permitted by Special Permit No.723 since 1975.
3. Section **27.63.680(c)** of Lincoln Municipal Code states:

**The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.**

The proposed premises are within the prescribed distance to the boundaries of residential districts on the north, east, and south sides. A Class I Liquor License has been maintained on the premises since 1991, which predates the effective date of Section 27.63.680 and permits the variance to the 100 feet requirement as a pre-existing condition. The site plan indicates that landscape screens are provided on all three directions with a 6' tall wood fence along the entire south perimeter. However, a detailed landscape plan is required to evaluate the appropriateness of the screening measures to mitigate the impacts of the addition to the north.

4. Section **27.63.080(g)** of Lincoln Municipal Code states:

**No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.**

Access doors are located on both the east and west sides of the restaurant. The east access door is within the prescribed distance to the residential dwellings east of N. 50<sup>th</sup> Street and is justified as a pre-existing condition. The east access door is also separated from the residential districts by a 55' wide parking lot, screening along N. 50<sup>th</sup> Street, and the 50' wide right-of-way of N. 50<sup>th</sup> Street.

5. The primary access for this site are Holdrege and N. 50<sup>th</sup> streets. Holdrege Street is classified as a minor arterial in the Comprehensive Plan.
6. All other regulatory requirements for liquor sale shall apply, including licensing by the state.

7. The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:
  - (1) Revocation or cancellation of the liquor license for the specially permitted premises; or
  - (2) Repeated violations related to the operation of the permittee's business; or
  - (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the drunkenness, vandalism, solicitation, or litter.

Planning Commission review and City Council approval is required for this use; provided, however, that no special permit or amendment thereto shall be required for interior expansions of existing licensed liquor premises.

8. The Lincoln Police Department has no objections with the plans.
9. The Public Works and Utilities Department has no objections. However, for clarification and the record, Public Works asks to review a revised plan showing the required dimensions of the addition and the parking lot during the building permit process. A building permit for the addition has been issued by the Building and Safety Department. However, the applicant shall submit a properly dimensioned plan to the Public Works and Utilities Department to satisfy the above mentioned purposes.

### **STAFF DISCUSSION**

The sale of alcoholic beverages for the consumption on the premises is permitted on 4947 Holdrege Street as a pre-existing use, with a special permit for the east parking lot in R-2 zone. As required under Section **27.63.040**, this application is to expand the coverage of the current liquor license to include the exterior addition. Although the proposed premises are within the prescribed distance in the Zoning Ordinances, screening measures are provided to mitigate the effects of non-compatible uses.

### **STAFF RECOMMENDATION:**

**Conditional Approval**

### **CONDITIONS:**

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
  - 1.1 Submit a landscape screening plan showing the location and species of the plant materials to the Planning Department.
  - 1.2 Submit a site plan dimensioning the addition and the parking lot to the satisfaction of the Public Works and Utilities Department.

General:

1. This approval permits the sale of alcohol on the premises in the establishment located at 4947 Holdrege Street.
2. The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
3. This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
4. The City Clerk shall file a copy of the resolution approving the permit and the letter of acceptance with the Register of Deeds. The Permittee shall pay the recording fee in advance.

Prepared by:

Ching-Yun Liang  
Planner

# SPECIAL PERMIT NO. 1899

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

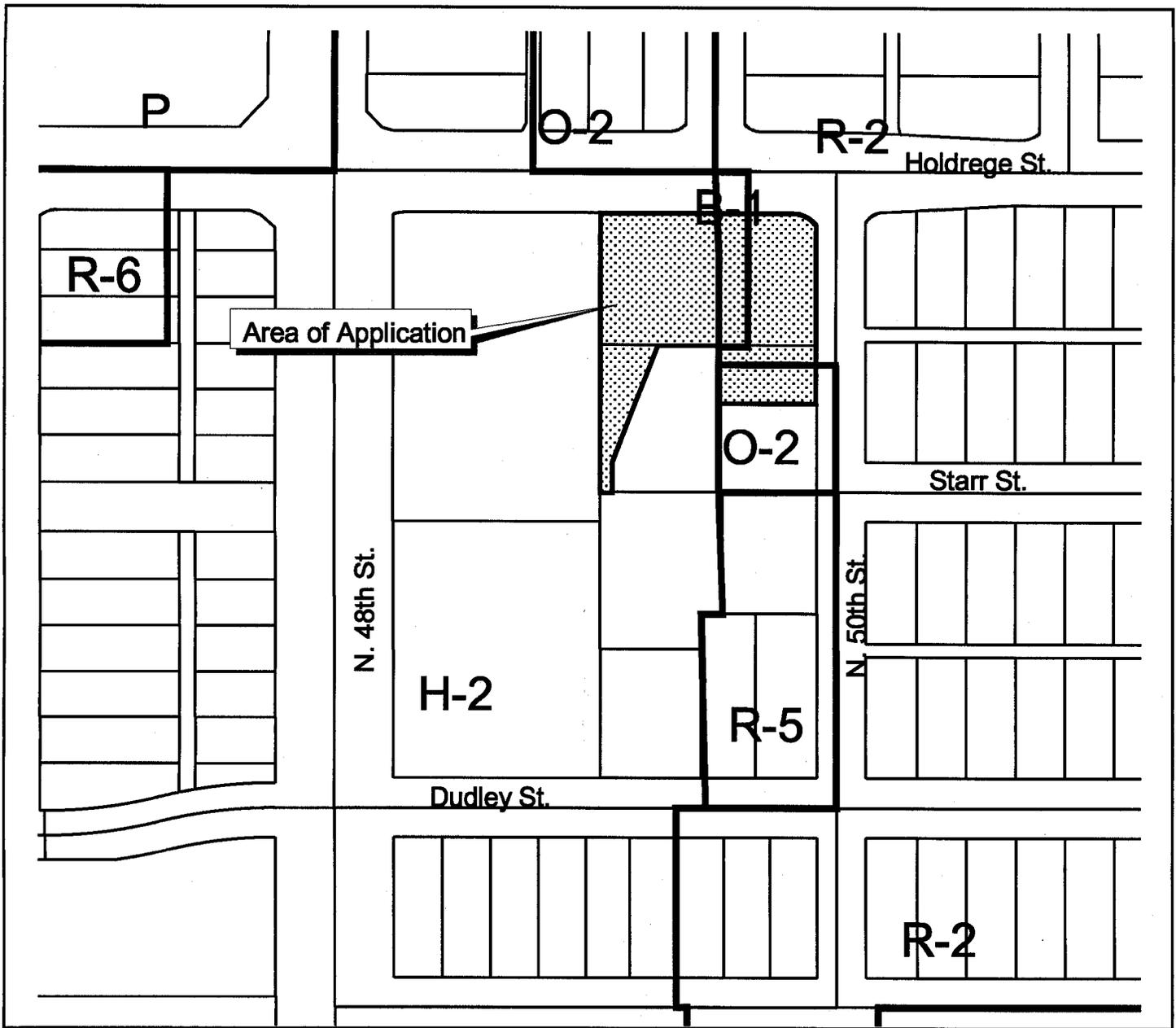
February 21, 2001

Members present: Bayer, Duvall, Krieser, Schwinn, Steward and Taylor; Carlson, Hunter and Newman absent.

The Consent agenda consisted of the following items: **SPECIAL PERMIT NO. 1897**, **SPECIAL PERMIT NO. 1899**, **MISCELLANEOUS NO. 00013** and **MISCELLANEOUS NO. 00014**.

Steward moved to approve the Consent Agenda, seconded by Duvall and carried 6-0: Bayer, Duvall, Krieser, Schwinn, Steward and Taylor voting 'yes'; Carlson, Hunter and Newman absent.

**Note:** This is final action on Special Permit No. 1897, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

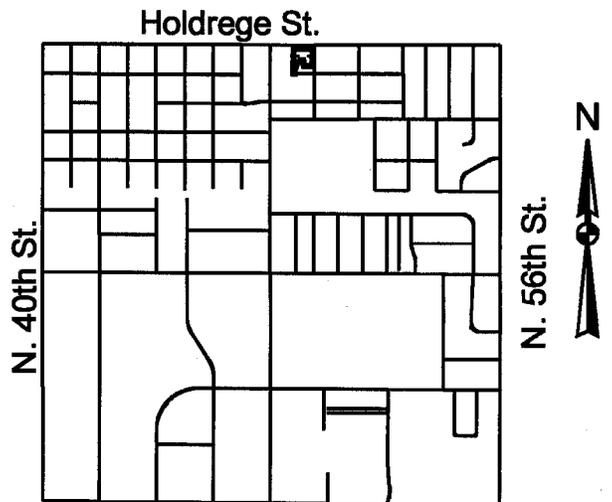
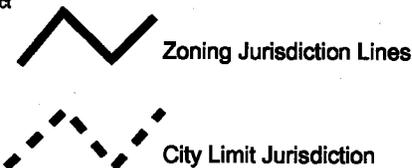


## Special Permit #1899 N 50th & Holdrege St.

### Zoning:

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

One Square Mile  
Sec. 20 T10N R7E



'O' St.  
Sheet 1 of 3  
Date: Feb 12, 2001 007  
Lincoln City - Lancaster County Planning Dept.



Area of Application

Holdrege St.

Starr St.

N 50th St.

N. 48th St.

Dudley St.

**Special Permit #1899  
N 50th & Holdrege St.**

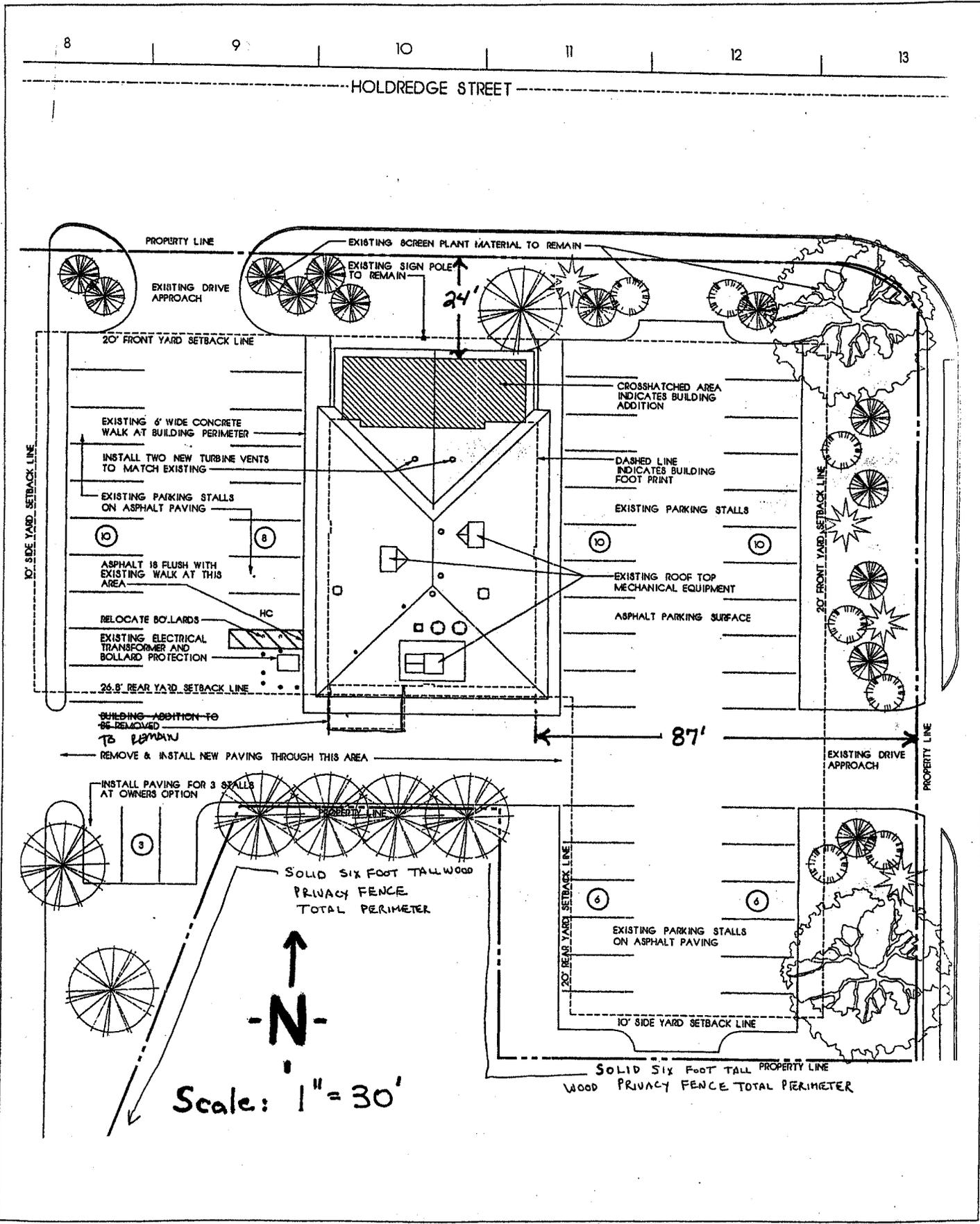


Sheet 2 of 3

Date: Feb 12, 2001

Photograph Date: 1997 008

Lincoln City - Lancaster County Planning Dept.



**Special Permit #1899**  
**N 50th & Holdrege St.**

Sheet: 3 of 3

Date: Feb 12,

2001



North

009

**PIERSON, FITCHETT, HUNZEKER, BLAKE & KATT**  
Law Firm

Gary L. Aksamit  
William G. Blake  
Thomas J. Fitchett  
Mark A. Hunzeker  
Peter W. Katt  
William C. Nelson  
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Patrick D. Timmer

1045 Lincoln Mall, Suite 200  
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Lincoln, Nebraska 68509

Fax (402) 476-7465  
Telephone (402) 476-7621

January 25, 2001

Jason Reynolds  
Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

Re: *Randy's Grill and Chill Special Permit Application*

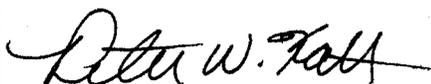
Dear Jason:

I am submitting with this letter an application for a special permit for the sale of alcohol on the premises for the business located at 4947 Holdrege Street. This application is submitted on behalf of the owner, CDH Investors. The principals in CDH Investors also hold an ownership interest in GJR, LLC, d/b/a Randy's Grill and Chill, the legal entity that will be operating the business. Please consider this letter our Firm's opinion that the owner of the premises is CDH Investors, a Nebraska general partnership.

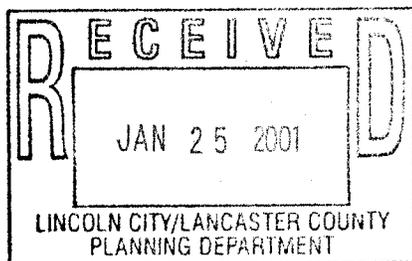
Pursuant to our meeting yesterday morning, I made a few small revisions to the site plan which my client had prepared. In addition, I confirmed that the legal description is accurate for the property.

Finally, in our conversation I asked that you order or obtain the neighborhood mailing list in connection with this application. As soon as it is available, please let me know together with the charge so that I might pick the list up and provide an opportunity for the neighbors to express any of their concerns prior to the Planning Commission hearing. It is my understanding that the Planning Commission hearing date will be February 21<sup>st</sup>. If there is anything further you need from me or if I can be of any assistance in keeping this application on schedule, please let me know.

Sincerely,



Peter W. Katt  
For the Firm  
Personal E-Mail: lawkatt@pierson-law.com



PWK:dd

Enclosure

cc: CDH Investors

(G:\WPData\PK\CDH-Planning 1-25.Ltr.wpd)

**PIERSON, FITCHETT, HUNZEKER, BLAKE & KATT**  
Law Firm

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February 1, 2001

Kay Liang  
Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

Re: *Randy's Grill & Chill Special Permit Applications*  
50<sup>th</sup> & Holdrege Street

Dear Ms. Liang:

Pursuant to my phone conversation today with Mr. Jason Reynolds in your office, this letter is to advise you that Outlot A, East Campus Square First Addition should be considered to be a part of the transaction. I am currently working with the title company, Nebraska Title, to correct an existing title defect so that legal title will be shown in the name of my clients.

Should you need anything further or have any questions, please feel free to contact me.

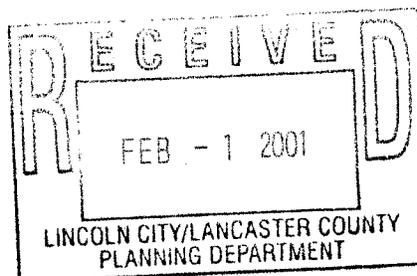
Sincerely,



Peter W. Katt  
For the Firm  
Personal E-Mail: lawkatt@pierson-law.com

PWK:dd

cc: John and Gretchen Cooper



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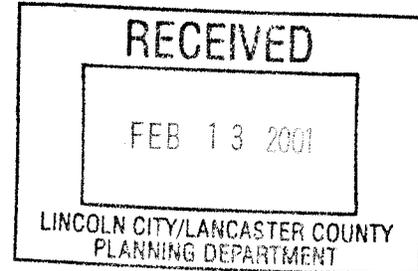
**PIERSON, FITCHETT, HUNZEKER, BLAKE & KATT**  
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February 12, 2001



Kay Liang  
Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

Re: *Randy's Grill & Chill Special Permit Application, 50<sup>th</sup> & Holdrege Streets*

Dear Ms. Liang:

This letter is to advise you that legal title to Outlot A, East Campus Square 1<sup>st</sup> Addition is now held by CDH Investors, the applicant for the above matter. Two warranty deeds were filed with the Register of Deeds of Lancaster County on February 8<sup>th</sup> clearing the title defect to the Outlot. Should you require anything further, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Peter W. Katt".

Peter W. Katt  
For the Firm  
Personal E-Mail: lawkatt@pierson-law.com

PWK:dd

cc: John and Gretchen Cooper

(G:\WPData\PK\Cooper-Liang 2-12.Ltr.wpd)

*P.S. The faxed mailing list will work just fine. Thanks!*

**M.Woolman**

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From: "M.Woolman"  
To: <RHILL@CI.LINCOLN.NE.US> -RAY  
Sent: Friday, February 02, 2001 10:35 AM  
Subject: SPECIAL PERMIT 1899  
Ray,

I have discussed Special Permit #1899 with Investigator Russ Fosler who works in our Liquor and Vice Unit. After reviewing Special Permit #1899 the Lincoln Police Department has no objections with the plans.

Michael S. Woolman  
Planning Sergeant  
Lincoln Police Department  
441-7215

# Memorandum

[Redacted]

**To:** Ray Hill, Planning Department

**From:** Charles W. Baker, Public Works and Utilities *CB*

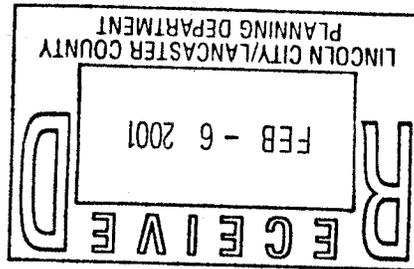
**Subject:** Special Permit # 1899 Alcohol Sales Permit *1*

**Date:** February 6, 2001

**cc:** Roger Figard, Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for the proposed Alcohol Sales Permit at 4947 Holdrege Street and has no objections.

The site plan does not include the parking lot dimensions, however, this is an existing parking lot and the scale on the site plan appears accurate. The parking stall measurements meet design standards. For clarification and the record when the building permit for the proposed addition is applied for, show the required dimensions and Public Works will review the plan during the Building Permit process.



jaj SP1899AlcoholSales cwb