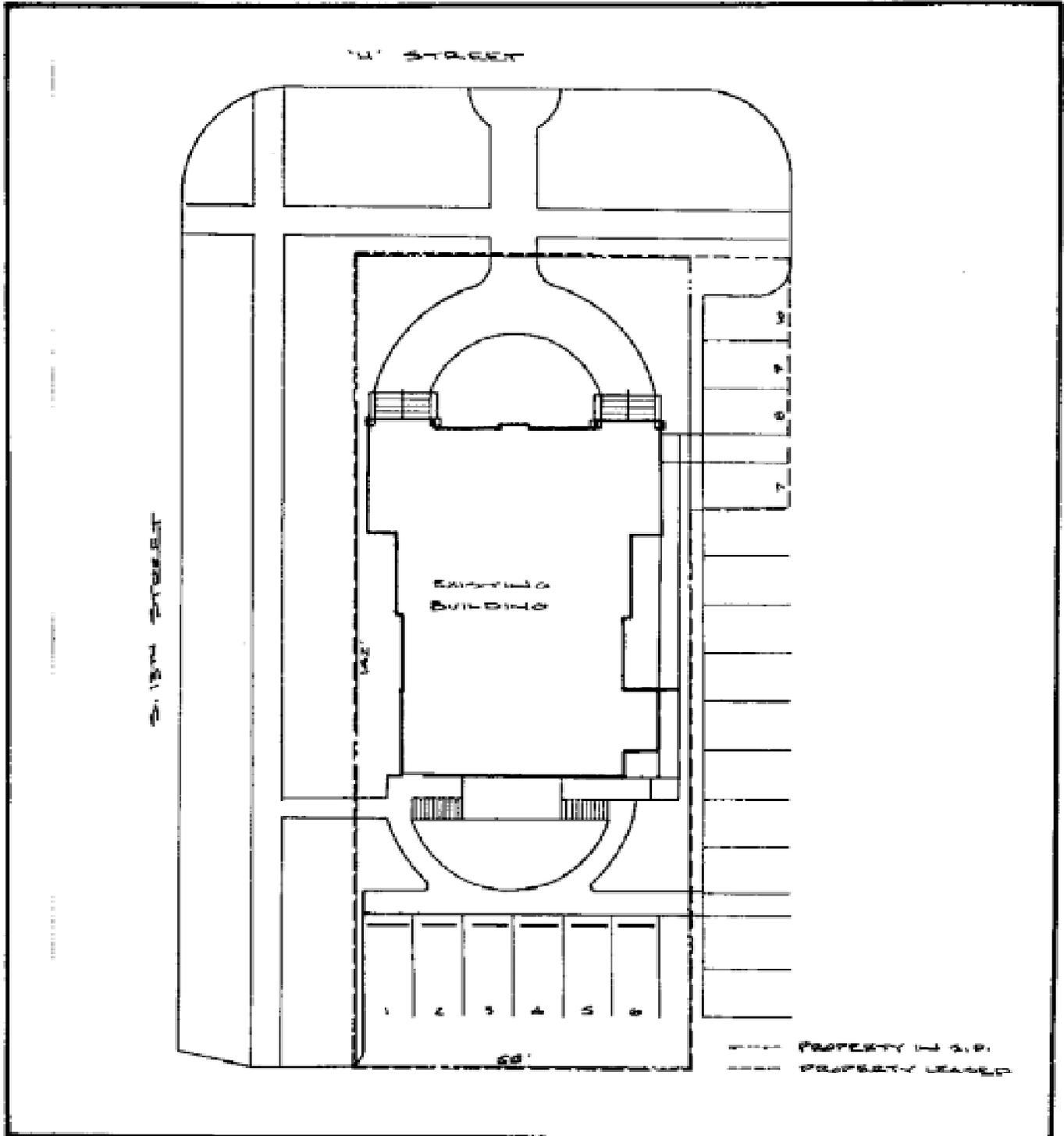


025

DATE: 7/8/66

SPECIAL PERMIT #1165A RESTAURANT IN HISTORIC LANDMARK

CONTAINING 12 ACRES, MORE OR LESS.



ZONING:
R-8 RESIDENTIAL DISTRICT

SCALE: 1" = 25'





Ray F Hill

03/06/01 04:40 PM

To: Edward Zimmer/Notes@Notes
cc:
Subject: Special Permit 1165B, 1301 "H" Street.

----- Forwarded by Ray F Hill/Notes on 03/06/01 04:45 PM -----



Rodger P Harris

03/06/01 03:08 PM

To: Ray F Hill/Notes@Notes
cc: Chuck A Zimmerman/Notes@Notes
Subject: Special Permit 1165B, 1301 "H" Street.

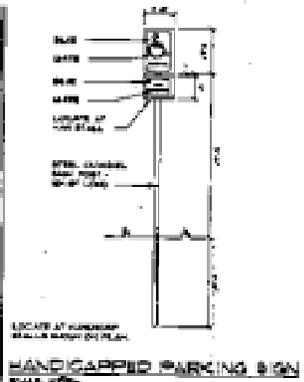
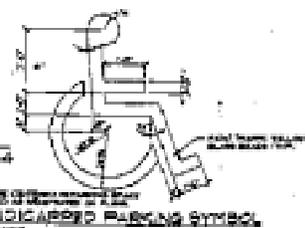
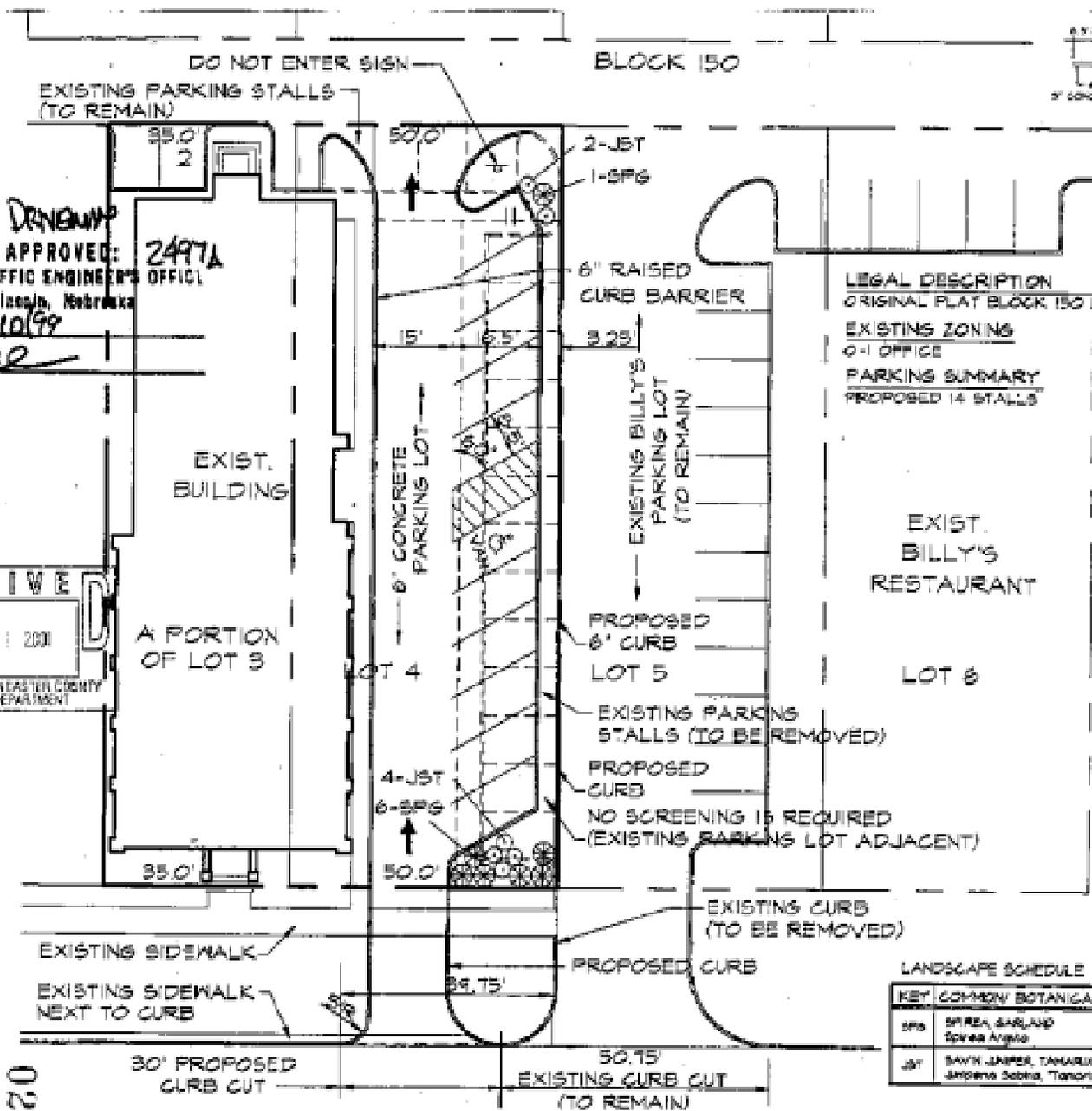
It appears to me that the purpose of this amendment is to add property to the original described property under SP 1165A and to add a wrought iron fence along the east property line. The included site plan shows 23 parking spaces, identified as 8'-6" in width and 17'-6" in depth.

This department has reviewed the information submitted and has comments and/or questions to offer as follows:

1. The submitted commentary indicates that some clients (of the multistory adjacent building) rent parking spaces from Mr. Lineweber, presumably on this subject site, which are some of the 23 parking spaces shown on the proposed special permit site plan. How many of these spaces are rented and how many spaces are available for the "Noble-Dawes House" uses?
2. The site plan does not show accessible parking space.
3. A building permit (No. B9904056) for an 11 stall parking lot on adjacent land to the east, (W. 35' of Lot 3 and all of Lot 4, in this Block 150) was issued on December 15, 1999, along with a new curb cut from "H" Street. This parking lot has not been constructed.

REUSE DRAWING
 APPROVED: 2497A
 CITY TRAFFIC ENGINEER'S OFFICE
 Lincoln, Nebraska
 Date 12/10/99
 by BPR

RECEIVED
 FEB 21 2000
 LINCOLN CITY LAND USE & PLANNING DEPARTMENT



LEGAL DESCRIPTION
 ORIGINAL PLAT BLOCK 150 P85 LOT 3 & LOT 4
 EXISTING ZONING
 O-1 OFFICE
 PARKING SUMMARY
 PROPOSED 14 STALLS

EXIST. BILLY'S RESTAURANT
 LOT 6

LANDSCAPE SCHEDULE

KEY	COMMON BOTANICAL NAME	SIZE	METHOD	SPREAD	HEIGHT	QUAN
SFG	SPREA GARLAND Spirea Arguta	18"-24"	B & D	3'	5'	6
JST	SMITH JAMPER, TAMARISK Jatropha Sobria, 'Tamarisk'	18"-24"	B & D	4'	4'	6

BRIAN D. CARROLL & ASSOCIATES
 LANDSCAPE ARCHITECTS & PLANNERS
 1327 W. STREET
 LINCOLN, NE 68502
 PHONE 405-461-1111
 FAX 405-461-1112

1327 W. STREET
 PARKING LOT AND CURB CUT PROJECT
 1327 W. STREET
 LINCOLN, NE

REVISED
 DEC - 2 1999
 BUILDING & SAFETY

SITE PLAN
 1 OF 1

Approved (3 expired) Plan for Adjacent Lot

City of Lincoln, Nebraska

IMPORTANT

All revisions to plans must include Building Permit # and Job Address.

Return this report with two sets of corrected plans. The corrections noted below are required to be made to the plans prior to issuance of a permit. Please indicate under each item where the correction is made by plan sheet number or plan detail number.

A separate set of plans for review and final approval must be submitted by the licensed installing contractor/s if fire suppression systems, sprinklers, dry powder, fire alarm systems or underground tanks are installed.

Plan Review Comments

Permit # DRF01021

Address

Job Description: BILLY'S

Location: BILLY'S

Special Permit: Y 1165B

Preliminary Plat: N

Use Permit: N

CUP/PUD: N

Requested By: RAY HILL

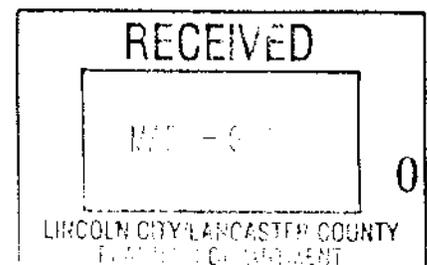
Status of Review: Approved

Reviewer: FIRE PREVENTION/LIFE SAFETY CODE BOB FIEDLER

Comments:

Current Codes in Use Relating to Construction Development in the City of Lincoln:

- 1997 Uniform Building Code and Local Amendments
- 1994 Nebraska Accessibility Guidelines (Patterned after and similar to ADA guidelines)
- 1989 Fair Housing Act As Amended Effective March 12, 1989
- 1979 Zoning Ordinance of the City of Lincoln as Amended including 1994 Parking Lot Lighting Standards
- 1992 Lincoln Plumbing Code (The Lincoln Plumbing Code contains basically the 1990 National Standard Plumbing Code and local community Amendments.)
- 1999 National Electrical Code and Local Amendments
- 1997 Uniform Mechanical Code and Local Amendments
- 1994 Lincoln Gas Code
- 1994 NFPA 101 Life Safety Code
- 1997 Uniform Fire Code and Local Amendments
- Applicable NFPA National Fire Code Standards



Memorandum

To: Ray Hill, Planning Department
From: Charles W. Baker, Public Works and Utilities *BWB*
Subject: Special Permit # 1165 B, Parking Lot 1301 'H' Street
Date: March 5, 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 parking lot changes at 1301 'H' Street and has the following comments:

The parking stall dimensions and aisle width meet design standards.

The east radius of the drive approach overlaps the property line to the east. An agreement for this radius extension must be granted by the adjoining property owner.

The existing parking stalls to the east of this proposed parking lot and fence installation should be addressed.

Will this property be applying for curb cuts for access to their property?

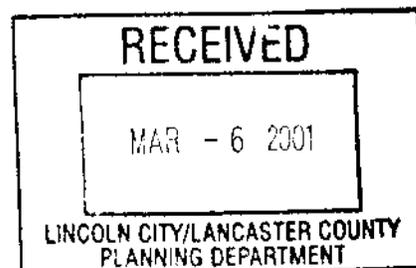
Is the parking lot surfacing going to be removed?

How will storm water run off be handled? Is a curb going to be installed?

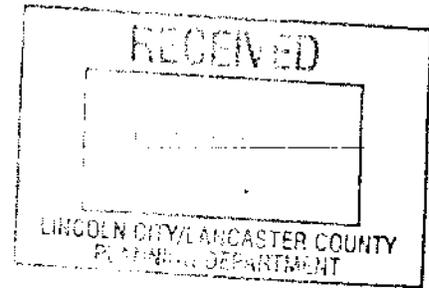
What landscaping requirements are needed that might affect the width of the parking lot?

Public Works can not approve this application as it stands alone.

jaj SP1165BParkingLot cwb



Memorandum



To: Ed Zimmer, Planning Department

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

Subject: Amendment to Special Permit # 1165A

Date: March 16, 2001

cc: Roger Figard, Nicole Fleck-Tooze

I have reviewed your comments in the Planning Commission Agenda for March 21, 2001 and have the following information that needs to be brought to the owners attention.

As per our conversation, the addition of the 3' wide planting area that will add protection to the fence will also reduce the drive aisle to less than required to meet design standards. To resolve this issue, angle parking should be proposed and the lot made into a one-way system as planned on the adjoining parking lot to the east. This will also negate my previous comment on the requirement of an overlap agreement between property owners for the east drive radius. The driveway width can be reduced from 25' to 15' wide causing less visual impact on the site.

- 1) Approve expansion of permit to include parking lot
- 2) Add 2 conditions:
 - A) no fence
 - B) For so long as special permit in effect, or Lot 5 used as parking lot, grant owner of Lot 4 permission to use the driving isle to access parking spaces on Lot 4; provided that permittee may require owner of Lot 4 to give written acknowledgment that use of Lot 5 for access to Lot 4 is permissive, shall never be construed as the grant of an easement, and shall cease upon termination of either S.P. 1165B or upon Lot 5 no longer being used as a parking lot, and require owner of Lot 4 to provide evidence of public liability insurance in an amount equal to that carried by permittee for Lot 5, and showing permittee as an additional insured on such policy.

McFARLAND LAW OFFICE

1327 H Street, Suite 201

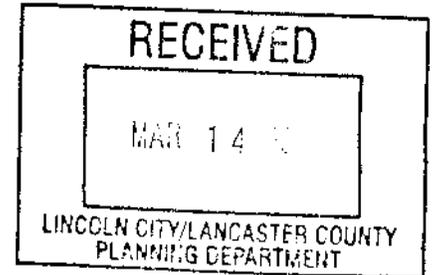
Cellular (402) 499-6523
jimmcfarl@aol.com

P.O. Box 94772
Lincoln, NE 68509-4772

Phone (402) 435-8080
FAX No. (402) 435-6523

March 12, 2001

Ms. Kathleen A. Sellman, Director
Lincoln-Lancaster County Planning Department
555 South 10th Street, Suite 213
Lincoln, NE 68508



RE: Amendment to Special Permit #1165A (#1165B)

Dear Director Sellman:

It is my understanding that the Planning Department is now considering a proposal to amend the above Special Permit to permit the construction of a **wrought iron fence** to divide the parking lot currently located between Billy's Restaurant at 1301 H Street and our Capitol Park Office Building at 1327 H Street. As you may well be aware, the construction of such a fence would prevent access to the approximate 14 parking stalls located directly west of the Capitol Park Building.

As a current office tenant of the Capitol Park Office building, it is incomprehensible to me why the present parking lot cannot continue to be used by both Billy's Restaurant and the Capitol Park Offices as it has been for the 3 years of my tenancy here and for more than 16 years since Billy's Restaurant has been in operation. Other than a petty and absurd financial dispute between the owners of the two buildings regarding a dispute on the rental of parking spaces, there are no reasons whatsoever in my view to attempt to justify why such a wrought iron fence should be permitted.

For at least 16 years the parking stalls adjacent to our main entrance on the west have been used by our clients for parking from 6 A.M. to 6 P.M. on weekdays. Then during the weekday evenings and all weekend these additional parking spaces have been available to Billy's Restaurant for their dinner and weekend business including football Saturdays. In fact, for the past year despite this ongoing petty dispute, both clients at the Capitol Park Offices and customers at Billy's Restaurant have benefitted from the shared use of these spaces. There is no reason for construction of a wrought iron fence.

The granting of such an Amended Special Permit would cause numerous adverse consequences for persons mutually using the present lot and for our entire community. Such a fence would cause our office building owner to have to construct a separate entrance to our spaces by making another curb cut and entrance on H Street. The green space around our office would be destroyed including the cutting down of a number of trees west of our building. Such a separate entrance in addition to causing a traffic problem on H Street would also cause a safety hazard by having a driveway within a few feet of our main entrance. Moreover, even the customers at Billy's Restaurant would be disadvantaged by not being able to use the parking spaces west of our offices during the evenings and weekends.

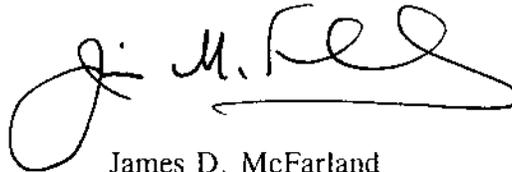
My hope is that the Planning Commission will recommend to the City Council one of two possible reasonable alternatives.

1. Agree to accept a compromise agreement between the two owners permitting the Capitol Park Offices to have an easement in and out of the parking lot in return for Billy's Restaurant having the use of our office parking spaces after 6 P.M. on weekdays and at any time on the weekends or holidays.

2. If no such Agreement is agreed upon by the owners, then maintain the status quo by declining to Amend the Special Permit and continuing to permit the present joint use of the parking lot by both buildings.

I hope and trust that the Planning Department can see the absurdity of dividing a perfectly usable parking lot so that two separate adjacent parking lots would be required at the expense of the convenience of the clients and customers at both buildings, the traffic safety on H Street and in the lots, and the aesthetics of the Capitol Park neighborhood. I will be glad to respond to any inquiries you may have. Thank you for your Commission's courtesy and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. M. McFarland". The signature is fluid and cursive, with a long horizontal stroke at the end.

James D. McFarland

JDM:njm

planning.njm

IN OPPOSITION

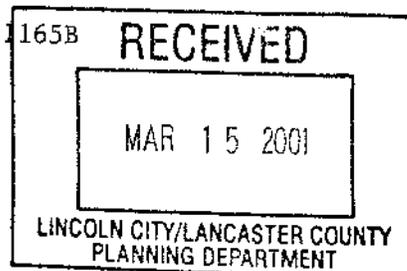
MARSHALL LUX
Public Counsel

ITEM NO. 3.3: SPECIAL PERMIT NO. 1165B
(p.59 - Public Hearing 3/21/01)



State of Nebraska

OFFICE OF THE PUBLIC COUNSEL/OMBUDSMAN
PO Box 94712, State Capitol
Lincoln, Nebraska 68509
(402) 471-2035
Toll free - 800-742-7690
Fax (402) 471-4277
ombud@unicam.state.ne.us



March 14, 2001

Mr. Russ Bayer, Chair
Lincoln-Lancaster County Planning Commission
535 South 10th Street
Lincoln, NE 68508

RE: Amendment to Special Permit No. 1165A

Dear Mr. Bayer:

It is my understanding that on March 20, 2001, the Planning Commission will consider a proposal by Mr. Ray Lineweber to amend Special Permit No. 1165A. I strongly object to this proposal and encourage the Commission to reject Mr. Lineweber's request.

As a current tenant in the neighboring building (Capitol Park), I acknowledge my personal interest in this matter. However, as I am only a tenant here for a short time and do not park in the disputed lot, I do not have a major personal impact from the proposal of Mr. Lineweber. Nonetheless, I have associates and clients who require convenient parking in an area of Lincoln where parking is in very short supply. To effectively remove access to fourteen (14) existing parking stalls that are an essential convenience for doing business is unacceptable.

I realize that the unfortunate dispute between the owners of the two properties has been an issue for some time now. While Mr. Lineweber's proposed fence is one solution to the issue, it seems to me that it is not the solution that is in the best interest of either property owner, the tenants and customers of their respective properties, nor the community. I observe that the parking spaces at the Capitol Park Building serve to benefit both properties. During weekday business hours, tenants and their customers utilize the spaces and during evenings and weekends the parking spaces are available for patrons of Billy's.

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