

## FACTSHEET

**TITLE: SPECIAL PERMIT NO. 1998, NEBRASKA TENNIS CENTER**, for authority to construct a recreational facility with indoor and outdoor tennis courts, fitness/exercise area, gymnasium, lap pool, children's learning center, pro shop and concession area, with waiver requests to reduce the rear yard setback and to exceed the maximum allowed height in the AG district, on property generally located southeast of the intersection of South 84<sup>th</sup> Street and South Street.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 02/19/03, 03/05/03 and 04/02/03  
Administrative Action: 03/05/03, 04/02/03 and 04/16/03

**RECOMMENDATION: DENIAL** (5-2: Larson, Carlson, Bills-Strand, Newman and Steward voting 'yes'; Duvall and Schwinn voting 'no'; Krieser and Taylor absent).

### STAFF RECOMMENDATION: DENIAL

1. This special permit had three public hearings before the Planning Commission on February 19, March 5 and April 2, 2003. The Planning Commission minutes are found on p.10-26.
2. The staff recommendation of **denial** is based upon the "Analysis" as set forth on p.4-7, concluding that recreational facilities can be appropriate in or near residential neighborhoods when designed to integrate into the area. As proposed, the scale and layout of this facility is not consistent with surrounding uses, and with future residential uses. It must be set back further from property lines, be substantially screened, and the grading plan revised to be compatible. This will require significant modifications to the plans submitted. As presented, this project does not comply with the Zoning Ordinance and Comprehensive Plan.
3. Additional information provided by the staff at the public hearings is found on p.42-48, including Condition #6 which became part of the staff recommendation regarding the City's annexation of the South Street right-of-way (p.42-44); and aerial photographs in response to the Commission's interest in locating the proposed facility at Seacrest Field in coordination and cooperation with Lincoln Public Schools.
4. The applicant's testimony and testimony in support is found on p.10-12, 13-14, 17-21, and 22-23. The applicant's proposed amendments to the conditions of approval are found on p.49. Additional information submitted by the applicant at the public hearings is found on p.50-66. The record also consists of eight letters and emails in support (p.67-75).
5. Information and comments from the Woods Park Tennis Corporation are found on p.76.
6. Testimony in opposition is found on p.12 and 21-22, and the record consists of 19 letters and emails expressing concerns and opposition (p.77-98).
7. On February 19, 2003, a motion to approve, with conditions, including the amendments requested by the applicant, failed 3-3, and the application was held over until March 5, 2003 (See Minutes, p.14-15).

On March 5, 2003, the Commission queried the applicant and the staff about the different sites which were investigated for this facility, including Seacrest Field and the possibility of increasing the building envelope by acquiring some additional property owned by LPS to the south of the proposed site. On March 5, 2003, a motion to deny was withdrawn and the application was deferred for four weeks to give the applicant an opportunity to work with LPS (See Minutes, p.15-17).

On April 2, 2003, after reopened public hearing was held, a motion to deny failed 3-4; a motion for conditional approval failed 4-3; and the application was again held over for two weeks (See Minutes, p.23-24).

On April 16, 2003, a motion for approval, with conditions, failed 2-5 (See Minutes, p.24-26).

On April 16, 2003, the Planning Commission voted 5-2 to agree with the staff analysis, conclusion and recommendation of denial (See Minutes, p.25-26).

8. After the Planning Commission decision, staff prepared photo simulations to illustrate the compatibility problem (See attached memo from Ray Hill dated April 28, 2003, p.99-101).
9. Due to a recommendation of denial, the applicant was not required to complete any of the Site Specific conditions of approval. Therefore, these conditions should become part of the resolution should the City Council vote to approve this special permit.

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

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

**REFERENCE NUMBER:** FS\CC\2003\SP.1998 Tennis Center

**DATE:** April 28, 2003

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# LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

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**P.A.S.:** Special Permit #1998

**DATE:** February 6, 2003

**SCHEDULED PLANNING COMMISSION MEETING:** February 19, 2003

**PROPOSAL:** Construct a recreational facility with 11 indoor tennis courts, 12 outdoor tennis courts, fitness/exercise area, gymnasium, lap pool, children's learning center, pro shop, and concession area.

**WAIVER REQUESTS:** Two waivers are being requested:

1. To reduce the rear yard setback in the AG zoning district from 100' to 60'.
2. To exceed the maximum allowed height in the AG district from 35' to 52'.

**LAND AREA:** Approximately 19.19 acres.

**CONCLUSION:** Recreational facilities can be appropriate in or near residential neighborhoods when designed to integrate into the area. As proposed, the scale and layout of this facility is not consistent with surrounding uses, and with future residential uses. It must be set back further from property lines, be substantially screened, and the grading plan revised to be compatible. This will require significant modifications to the plans submitted. As presented, this project does not comply with the Zoning Ordinance and Comprehensive Plan.

<b><u>RECOMMENDATION:</u></b>	Special Permit #1998	Denial
	Waiver to rear setback	Denial
	Waiver to maximum height	Denial

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** See attached.

**LOCATION:** Southeast of the intersection of South 84<sup>th</sup> and South Streets

**APPLICANT:** Nebraska Tennis Center  
c/o David Northey  
PO Box 67224  
Lincoln, NE 68506 (402) 890-6434

**OWNER:** MJM Realty Trust Group  
2300 South 48<sup>th</sup> Street  
Lincoln, NE 68506 (402) 484-8484

**CONTACT:** J.D. Burt  
Design Associates  
1609 N Street  
Lincoln, NE 68508 (402) 474-3000

**EXISTING ZONING:** AG Agriculture

**EXISTING LAND USE:** Agriculture

**SURROUNDING LAND USE AND ZONING:**

North:	Single-family Residential, Agriculture	R-1, AG
South:	Agriculture	AG
East:	Agriculture	AG
West:	Single-family Residential, Fire Station #12	R-1, P

**ASSOCIATED APPLICATIONS:** Annexation #02011 - An application to annex this property was originally submitted, but has since been withdrawn.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

**Page F15 - Quality of Life Assets -** Preservation and enhancement of the many quality of life assets within the community continues. For a true “good quality of life,” a community has more than jobs, shelter, utilities and roads — there are numerous service, education, historic and cultural resources which are fundamental to enriching lives.

The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln’s great strengths and their conservation is fundamental to this plan. The health of Lincoln’s varied neighborhoods and districts depends on implementing appropriate and individualized policies. The Comprehensive Plan is the basis for zoning and land development decisions. It guides decisions that will maintain the quality and character of the community’s established neighborhoods.

**Page F18 -** Streams, trees, open space, and other environmentally sensitive features should be preserved within new development as design standards allow. The natural topography and features of the land should be preserved by new development to maintain the natural drainageways and minimize land disturbance.

**Page F25 -** Future Land Use Plan - The Land Use Plan designates this property urban residential.

**Page F28, F31 -** Future Service Limit, Priority Areas - This property is within the City’s Future Service Limit, in Tier 1, Priority B. Defines the City of Lincoln’s near term growth area – generally a 40 square mile area which could reasonably expect urban services within the next twenty five year period. Land within this area should remain generally in the present use in order to permit future urbanization by the City.

**Page F66 -** Residential Overall Guiding Principles - Many activities of daily living should occur within walking distance. Neighborhoods should include homes, stores, workplaces, schools and places to recreate.

Sidewalks should be provided on both sides of all streets, or in alternative locations as allowed through design standards or the Community Unit Plan process.

**Page F69 -** Guiding Principles for Existing Neighborhoods - Require new development to be compatible with character of neighborhood and adjacent uses (i.e., parking at rear, similar setback, height and land use).

**Page F103** - Functional Classification Map - South 84<sup>th</sup> Street is shown as a principal arterial; South Street west of South 84<sup>th</sup> Street is not shown on this map and is classified as a local street.

**UTILITIES:** Water - There is a 16" water line in South 84<sup>th</sup> Street.

Sewer - This property lies within the Stevens Creek watershed and cannot be served by existing sewer mains. Sewer service cannot be provided until the trunk sewer line to serve this watershed has been installed.

**TOPOGRAPHY:** The site is hilly, with a tree-lined swale that flows through the site from southwest to northeast. Additionally, there is a 60' wide L.E.S. easement that extends diagonally across the site from southwest to northeast. No buildings can be constructed within this easement.

**TRAFFIC ANALYSIS:** South 84<sup>th</sup> Street is an arterial adjacent to this site; South Street is a local street east of South 84<sup>th</sup> Street. The site plan shows the installation of approximately 240' of South Street, enough to provide access to the site.

**PUBLIC SERVICE:** This property is outside Lincoln's city limit and will not be annexed at this time. While the City's Fire Station #12 is across South 84<sup>th</sup> Street, fire protection is the responsibility of the Southeast Rural Fire District.

**REGIONAL ISSUES:** It raises the issue of how development should occur at the fringe of the City on land that will not be annexed.

**ENVIRONMENTAL CONCERNS:** Preservation of the existing trees and the drainage swale on site.

**AESTHETIC CONSIDERATIONS:** Compatibility of a 52' tall indoor recreational structure with both the existing residences to the north and west, as well as future residences to the east and south.

**ALTERNATIVE USES:** Agriculture, or residential development at such time as sanitary sewer service is available to the area.

**ANALYSIS:**

1. A request for annexation originally accompanied this special permit application, but the site cannot be served with City sanitary sewer. The applicant was informed by City staff that it is contrary to established policy to annex land that can't be provided with all municipal services, and that staff would recommend denial of the application. As a result, the annexation request was withdrawn. The County Engineer and Southeast Rural Fire District have been requested to review this application as remaining in their jurisdiction, and any comments received will be forwarded when received.

2. The Lincoln Fire Department stated that even though this site is outside the City, Fire Station #12 is one block away and would likely be the first responders on-site in the event of an emergency. The demand for such services places an additional burden on public services provided by the City of Lincoln. However, as the site will not be annexed, the City does not collect any property taxes from the owners to help support such services.

3. The project is adjacent to the South Street right-of-way, but South Street has not been constructed east of South 84<sup>th</sup> Street. The site plan shows approximately 240' of South Street being built to accommodate a driveway to serve this facility, but the street is not shown to extend the length of the property because it is not required at this time to serve the site. Such an improvement is required in conjunction with plats, as the subdivision ordinance requires abutting streets to be graded and paved, however it is not a requirement of special permits.

Public Works has agreed it is appropriate to delay the construction of South Street beyond the driveway, provided the owner agrees to not oppose the creation of a district to build it at such time as the property is annexed, or when lands on the north side of South Street are developed.

4. Sidewalks are required along all public streets, but are not shown along South Street adjacent to this site. Street trees must also be shown along South 84<sup>th</sup> Street.

5. Recreational facilities are allowed in the AG district by special permit per L.M.C. 27.27.040, subject to the requirements of L.M.C. Section 27.63.130, which states "Recreational facilities may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-3, B-1, B-2, and B-3 zoning districts, in conformance with the following conditions:

**A. The application for such special permit shall provide the following information:**

**1. A statement describing all proposed accessory uses and accessory buildings to be included as part of the recreational facility.**

The application states that it will be a recreational facility with 11 indoor tennis courts, 12 outdoor tennis courts, a fitness/exercise area, gymnasium, lap pool, a children's learning center, pro shop, and concession area.

**2. A site plan showing the location, height, and use of all structures on the parcel.**

A site plan was submitted, a reduction of it is attached.

**B. Yard requirements in excess of those required in the district may be imposed. In the AG district, the City Council may decrease the yard requirements with consideration given to both the recreational facilities and the adjacent environment.**

The setbacks in the AG district are 50' front, 60' side and 100' rear. The applicant is requesting a waiver to the rear setback from 100' to 60', adjacent to land designated as urban residential in the Future Land Use plan.

There are no specific design standards for recreational facilities. However, the increased setbacks, open space and landscaping requirements from the City of Lincoln Design Standards for C.U.P.'s are examples of techniques that can help buffer and maintain scale between different land uses. The Design Standards require buildings to be set back a distance equal to their height, and require open space to be located adjacent to the higher density areas to provide a buffer to surrounding uses. The Standards also limit the length of buildings at the perimeter to 140', unless adjacent to

open space or another C.U.P./multiple-family dwelling complex. The intent of these standards is to focus the most intense uses towards the center of the site, and provide open space and landscaping as a buffer and to serve as a transition between differing uses.

The requested waiver to reduce the rear setback does not enhance compatibility with future adjacent uses and is not appropriate. The separation between the main building and property lines should be increased, potentially to the extent that the building is reconfigured and at-grade improvements such as parking and outdoor tennis courts are relocated around the perimeter of the site. At a minimum, a uniform 100' setback along the east and south property lines should be maintained, with enhanced screening beyond what is required by the Design Standards for C.U.P.'s and multiple-family dwellings.

**C. Parking shall be in conformance with Chapter 27.67; additional parking requirements may be imposed; no parking shall be permitted in any required yard. The application shall include the applicant's estimate of parking needed for the proposed facility.**

The number of paved parking spaces shown is adequate for the tennis courts. However, additional paved spaces will be required depending upon the size of the swimming pool, and may be required for other accessory uses. The size of the pool must be provided at this time so the minimum required number of paved stalls can be calculated.

**D. Outdoor lighting of the recreational facility may be permitted in conformance with the requirements for lighting of parking lots in Chapter 27.67 and any standards adopted by resolution of the City Council.**

The application states that the outdoor courts will be lighted. Any lighting plan must consider that this facility is surrounded on the north and west by existing residences, and by land designated as future urban residential on the south and east. Limits on the hours lights can be on, both inside the semi-opaque air-supported structure and those lighting the outdoor courts, should be adopted consistent with the residential character of the neighborhood.

**E. All buildings, including accessory buildings, shall be located so that they will not adversely affect any existing or reasonably anticipated future uses in the surrounding area.**

The main structure (building and air-supported structure) is approximately 670' in length along the south property line, and approximately 410' in length along the east. Reasonably anticipated future land uses to the south and east are residential, and will not be compatible with a structure of this scale in proximity to the property line.

The grading plan shows approximately 20' of fill at the southeast corner of the site, and represents a significant change in elevation from the floor of the building down to the adjacent properties in this area. The grading plan should provide for gradual changes in elevation across this site where it abuts adjacent properties.

If allowed, this use will serve to establish a development pattern for this area. There will be pressure for adjacent properties to develop in a manner that is more consistent with this use, and that is more intense than the urban residential uses designated by the Comprehensive Plan. As shown, the site is being over-developed and is not compatible with a residential neighborhood. The scale and intensity of this development need to be reduced to provide that compatibility, and to help ensure that adjacent lands can be developed consistent with the Plan in the future.

**F. The City Council may authorize temporary structures which exceed the maximum height requirements of the district in which they are located upon a finding by the City Council that there is sufficient justification for such an adjustment and that there will be no significant adverse effect on existing or reasonably anticipated future uses in the surrounding area.**

The waiver to height is only appropriate if the plan is revised to increase the separation between the main building and property lines, and if substantially more screening is provided to further reduce the impact of the main building upon adjacent properties.

**G. As part of the special permit for a recreational facility for a golf course or country club, the City Council may permit the sale of alcoholic beverages for consumption on the premises as an accessory use to the golf course or country club, provided the applicable locational requirements of Section 27.63.680 have been met or waived by the City Council.**

A request to be allowed to sell alcohol for consumption on the premises is not a part of this application.

**Staff recommends denial, however, if after a public hearing the City Council votes to approve this request, staff recommends that approval be subject to the following conditions.**

**CONDITIONS:**

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:

- 1.1 Revise the site plan to show:
  - 1.1.1 Sidewalks along both sides of that portion South Street to be improved, and along the west side of the driveway to connect the sidewalk along South Street with the internal sidewalk system.
  - 1.1.2 The building setback a minimum of 100' from all property lines.
  - 1.1.3 Increased screening along the south and east property lines consistent with the City of Lincoln Design Standards for multiple-family dwellings approved by special permit, but with trees planted in staggered, double rows.
  - 1.1.4 A signed surveyor's certificate.

- 1.1.5 Street trees planted along South 84<sup>th</sup> Street per Parks and Recreation Department review. The tree species and quantity of trees to be removed must also be shown.
- 1.1.6 Delete Notes #5 and #7 from Sheet 1 of 3 relating to municipal water service and to the rear setback waiver, respectively.
- 1.1.7 Add a note stating that indoor and outdoor tennis court lights shall be turned off between the hours of 10:00 p.m. and 6:00 a.m.
- 1.1.8 The easements requested by the L.E.S. review dated January 3, 2003.
- 1.1.9 All required paved parking areas based upon the parking requirements for the number of tennis courts and the size of pool proposed.
- 1.2 A revised grading and drainage plan approved by Public Works and Utilities. Of particular concern is the height of the fill in the south and east areas of the site.
- 1.3 Provide traffic impact information requested by Public Works and Utilities and make any revisions required by that information.
- 2. This approval permits a recreational facility consistent with the revised site plan with a waiver of height to 52'.

General:

- 3. Before receiving building permits:
  - 3.1 The permittee shall have submitted a revised final plan including 5 copies and the plans are acceptable.
  - 3.2 The construction plans shall comply with the approved plans.

Standard:

- 4. The following conditions are applicable to all requests:
  - 4.1 Before occupying the recreational facility all development and construction shall have been completed in compliance with the approved plans.
  - 4.2 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.
  - 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

- 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.
5. The owner agrees to not oppose the creation of a district for the improvement of South Street abutting the property covered by this special permit at such time as either the property is annexed or the land on the north side of South Street adjacent to this property is developed.
6. The City will initiate annexation of the South Street right-of-way from South 84<sup>th</sup> Street east to a point 50' beyond the end of the proposed temporary termination of the South Street paving. **(\*\*Added as part of the staff recommendation by Memorandum dated February 19, 2003\*\*)**

Prepared by:

Brian Will  
Planner

# SPECIAL PERMIT NO. 1998

## PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 19, 2003

Members present: Newman, Carlson, Taylor, Bills-Strand, Duvall and Schwinn; Krieser, Larson and Steward absent.

Staff recommendation: Denial.

ExParte Communications: Schwinn acknowledged that he had a discussion with J.D. Burt this morning about procedural issues in this meeting. No substantive issues on the special permit were discussed.

Brian Will of Planning staff submitted letters from Dr. and Mrs. F. Edward Stivers and Craig and Pamela Schumacher in opposition; and a letter from Linda K. Inman with concerns about lighting. Will also submitted a new Condition #6 to be added to the conditions of approval regarding the building of South Street to city standards:

The City will initiate annexation of the South Street right-of-way from South 84<sup>th</sup> Street east to a point 50' beyond the end of the proposed temporary termination of the South Street paving.

Will explained that the County Engineer was asked to review this application because it is going to remain in the County. As a result, some additional improvements were requested by County Engineer. Since then, Public Works has coordinated with the County Engineer and resolved those issues. They have come to agreement on the improvements. This additional condition makes the maintenance the responsibility of the city.

## Proponents

1. **J.D. Burt** of Design Associates presented the application on behalf of **Nebraska Tennis, L.L.C.**, the contract purchaser of this site. He provided a handout of background information, stating that the Nebraska Tennis Center has looked long and hard for a site for this facility. It first started out in the Fallbrook Addition; it was then moved on a temporary basis to 84<sup>th</sup> and South; it was then included in a development plan on property at 84<sup>th</sup> & Hwy 2. Because of situations beyond their control with infrastructure timing and cost of the property, the 84<sup>th</sup> & Hwy 2 site was abandoned. They returned to the 84<sup>th</sup> and South site, and after meeting with city staff, they agreed to pursue locating at Seacrest Field. After meeting with Parks and LPS, the Seacrest Field location was also abandoned because it was just not going to work out for this use to be located on publicly owned property. Thus, they have returned to the 84<sup>th</sup> & South Street site, which is where they really started.

Burt provided an overview of the project which will consist of enclosures for two tennis structures, being an air supported structure with insulation that would block the light; a central steel building with brick veneer or some other cosmetics and 12 outdoor courts. The applicant has agreed with staff that the lighting should be turned off at a certain time in the evening.

Burt also provided a letter from Ross Wunderlich regarding sanitary sewer service. Burt explained that the plan had originally discussed annexation only for the purposes of providing municipal water. It was never this applicant's intent to ask the city to pay for or provide a lift station or public sewer. This is not

a viable option at this location at this time, and Burt believes they have addressed Mr. Wunderlich's questions.

Burt also provided a letter from Aldersgate United Methodist Church also wrote a letter with concerns about traffic, parking and the extension of South Street. Mr. Burt's responded to the church and has heard nothing further.

Burt also submitted letters in support from Thomas Tipton and William Roper of Roper and Sons, the adjacent property owner. Roper and Sons supports the project and is willing to consent to a relaxation of the side yard setback and the request to waive the height.

Burt stated that he is not certain they need the height waiver. It has been included in the application because when you measure the height of the building, you measure the average height between the wall and the top of the building. This particular building is an arch and the waiver has been requested to allow 52'. The size of the main building has since been reduced and it is only the air supported structures that will exceed the 35'.

Burt also submitted proposed amendments to the conditions of approval. In general, they do not object to the staff conditions with the exception of sidewalks along South Street. He understands the need to provide pedestrian access from 84<sup>th</sup> Street and he has no objection to provide sidewalks on the south side and internally (Condition #1.1.1). Burt requested that the building setback minimum be reduced from 100' to 60' from the south and east property lines (Condition #1.1.2). The applicant does not object to eliminating the lighting at 10:00 p.m. and suggested adding language to Condition #1.1.7 that the indoor tennis courts located in non-opaque buildings and outdoor tennis court lights shall be turned off between the hours of 10:00 p.m. and 6:00 a.m. Burt requested that the maximum height be allowed to 48' as opposed to 52' (Condition #2).

**2. Dave Northey**, President and Owner of **Nebraska Tennis Center**, 3033 Mandarin Court, testified in support. He believes this is the best of those sites which they have investigated. He expressed how important this project is for the city, not only for the benefit of the tennis player, but also economically with the type of events that will be coming to Lincoln. There will be quite a few things going on within the complex--it is also a full scale health club--fitness, basketball, volleyball, small pool, concession stand and a place for members to keep their children. The whole idea is to get a very family-oriented complex. There will be several programs involved including USTA, ITF and several other organizations including PTR (a teaching organization). The desire is to have a World Class Junior Training Center which will allow a lot of the kids to take tennis at whatever level they want. This is something very new to the Midwest. This kind of a facility will offer training for the children who currently must leave the community to receive this type of training. He believes Nebraska and the surrounding states will benefit from this facility.

**3. Darryl Rahn** testified in support and on behalf of wheelchair tennis players. There are about 8-10 people in the community that play wheelchair tennis. He plays all around the country in a competitive fashion. In Lincoln, there is no place for an accessible wheelchair tennis facility. He believes this will benefit the wheelchair tennis players greatly.

**4. Nick Vuko**, 1501 So. 98<sup>th</sup>, testified in support. He is a born and raised junior tennis player and he finished his career at Valparaiso University. He has seen some centers around the nation and Nebraska pales in comparison to all of those facilities.

**5. Charles Yearley** testified in support. He has a Masters Degree from UNL in Planning and has worked as regional planner in Iowa. He has assisted with projects that were funded for recreational use. This is an appropriate use for this area. With the small amount of wetlands, it would be a good use for the area.

**6. Chuck Berst**, 8021 Lillibridge, testified in support. He lettered in tennis three years in high school. He left the game because there are not a lot of facilities in Lincoln to play tennis. He believes this center will be a very good facility for everyone at all levels.

Schwinn pointed out that the Lincoln Racquet Club is closed Friday night and all day Saturday.

**7. Jeff Gomon**, 3130 Jasper Court, testified in support. He does not play tennis but he is looking for a health facility for working out. His biggest problem is that the other facilities are too crowded or closed on the weekend. He has found that Prairie Life Center has over 6,000 members and the Racquet Club has about 4,500 members. With the populous of this city and the surrounding areas, he believes this facility would be well received. He believes people will go to this facility.

**8. Pam Sock**, 9500 Calvert Street, testified in support on behalf of some of the junior competition. She has two sons who got involved in this sport. They progressed to Woods Tennis Center because the Racquet Club was closed on Saturdays. The Woods tennis pro has since left. It is really hard for this city to keep talent here to train the youngsters. She has put 25,000 miles on her vehicle in the last six months driving to tournaments that cannot be hosted in Lincoln. Her children are having a hard time getting court time. To be competitive you need to get an average of 12-20 hours a week. Her children can only get 5 hours in a week in Lincoln. They have to share courts with adults and the juniors. Lincoln does not have the facilities to host any of the big meets. There is no food and beverage service available. There are no bleachers or enough space. We need indoor courts. This is a huge loss of revenue to the City.

### Opposition

**1. Pam Schumacher**, 8420 Norval Road, which is two streets to the north of the proposed facility, testified in opposition. The development sounds fine but the Planning Commission needs to remember that, based on the Comprehensive Plan, this area is shown as urban residential. The staff report states that this facility does not fit the neighborhood. It would probably be an asset to the City but it needs to be located somewhere else. We can't just go in and put in our homes or residences until the Stevens Creek Watershed problem is fixed. If we insert this facility, it will affect how we decide what to do to the south, east and north. We don't want leapfrog type planning chopping up 84<sup>th</sup> Street.

### Staff questions

Carlson appreciates the comments about the community being under-served by tennis courts, but he wants to address the site specific situation, i.e. difficulties with the height and the need for setback with regard to future development. Brian Will of Planning staff stated that the staff does not dispute the testimony in support; however, when we look at the future land use in the Comprehensive Plan, this property is designated as urban residential. One of the concerns we have for this facility, being the first development to come in south of South Street and east of 84<sup>th</sup> Street, is that it is going to in some way set the tone for development in that area. Another concern is the height of the building and its proximity to the property lines. The Comprehensive Plan talks about urban residential land uses and we must consider the fact that homes may be constructed adjacent to the east and south. This being the first

development in, we are also concerned that there may be additional pressure for the residential development not to be as acceptable as some more intensive land use. It creates potential for pressure for commercial type land uses in the future adjacent to this property. Recreational facilities like this are appropriate in residential areas, provided they are done in a way that is compatible and consistent with the neighborhood. The staff recommends that the scale and scope of this facility is not consistent with being in a neighborhood.

Carlson noted a comment about a LES easement in relation to the setback. Will explained that there is an LES easement running diagonally through the site from the southwest corner to the northeast corner. It affects how the applicant can develop the property in that they cannot locate any buildings within that easement. It is an impediment and has an impact on the layout of the project. That is part of the reason why the building is proximately situated to the south and east property lines.

Schwinn noted other facilities in Lincoln, i.e. the Abbott Sports Complex is located in I-1 zoning and the Spirit Soccer facility is located in either AG or AGR zoning behind the State Farm complex.

Newman inquired about the land where the fire station is located. Is it public land and is it developable? Will advised that it is zoned P Public because the public facility is located there. The area to the south is also supposed to be urban residential sometime in the future.

#### Response by the Applicant

Burt responded to the issue regarding the LES easement. A couple of things enter into the layout. In a perfect world, we would prefer a flat site without a LES easement cutting it in two pieces and a wetland that further divides it. They tried to take the existing zoning and work within the limits of the setbacks for a recreational facility allowed by special permit. The same recreational facility is allowed in R-1, R-2 and R-3. This proposal does not seek a change of zone. This gives the city a good opportunity to maintain the residential integrity of this parcel, particularly when you look at who would want to build a house underneath or beside a LES line or who would want to have wetlands in their back yard. LPS owns 20 acres immediately to the south and we do not know whether they are going to develop that as a school. This does not create a commercial environment. There is not a request for commercial zoning.

With respect to the waivers on the setbacks, Burt stated that the applicant would prefer not to have the waivers; however, there is a critical mass that must be maintained for financial feasibility and this development is at that critical mass. LES will not allow tennis courts in that easement and buildings cannot be built in that easement. They are also required to maintain proper distances between tennis courts for tournament type facilities. If the facility could be designed without those waivers, they would certainly do so. It just doesn't fit without moving the LES easement.

Burt offered that this facility does have support of the neighbors on the east property line. Schwinn referred to the elevations on p.77. Burt explained that there is about 25' of fall between 84<sup>th</sup> and the bottom of the drainageway. Public Works is requiring and the applicant does not object to building an urban section through there. The proposal by the applicant is that at the end of the pavement, they go back down to natural grade so that it does not disrupt any more wetlands than necessary. Schwinn is trying to get a sense of the view of the bubbles and courts when driving down

So. 84<sup>th</sup>. Burt suggested that the tree masses are going to hide a considerable amount of the buildings as you drive down 84<sup>th</sup> Street. There is a 30' distance between the LPS ground elevation and this development's uppermost elevation on the buildings. On the south property line there is a 12' to 15' cut to get that building at its location. The applicant has agreed to do plantings along the south and east side which will be mature by the time the surrounding area develops.

Carlson noted that this developer will own land on both sides of South Street. Why waive the sidewalks? Burt stated that the sidewalks won't go anywhere. They lead to a hole. The developer is not opposed to a sidewalk district when it comes around. That is a remnant parcel.

Newman inquired about discussions with the neighbors, and particularly the cluster of homes on Pinedale. Burt stated that they sent a letters to 177 neighbors.

Taylor believes there should be some sort of compromise. Can staff offer anything in terms of the setback. Will indicated that the site plan as submitted requests a waiver of the setback. Staff is recommending denial; however, there are conditions included should the Planning Commission with to approve this application. Those conditions require that the setback be 100' as opposed to 60'. Short of designing the facility for the applicant, the staff is recommending that it is not appropriate as submitted.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

February 19, 2003

Duvall moved approval, with the conditions as set forth in the staff report, with the amendments as requested by the applicant, seconded by Schwinn.

Duvall believes this is a very difficult project in a really difficult place. He believes the applicant has tried extremely hard to make a go of it. He believes it looks reasonable, even though in a residential neighborhood. He believes the uses are appropriate but he agrees that the site is challenging.

Carlson commented that the use is certainly appropriate and the need is real. But the scale of the project being pretty dramatic gives him pause as well as the unknowns as to what will be allowed. He believes that staff is on the mark in their analysis.

Newman agreed with Duvall and Carlson. It is a very challenging site and it may be the best use for the site, but she is concerned with the intensity of the use in a residential area and she will vote no.

Taylor stated that he really likes the project, but it appears to be a very ambitious project. Based upon the concerns of the neighbors in opposition, he is not comfortable with it being in that area.

Bills-Strand struggles with a decision because when she looks at East High, she sees the soccer field, the track, Seacrest field, the lights and a wonderful neighborhood all around it that doesn't seemed bothered. This is going to have a school next door and she sees no difference.

Schwinn stressed that Lincoln is woefully short of this type of facility, especially for youth. It is not the first development over the edge. Four years ago we approved Lincoln Benefit Life and we gave them a lift station. He believes that had this been incorporated with Lincoln Benefit Life, it would have gone through four years ago with no problem. Because of the elevations he believes it will be low enough

that it will not be intrusive into the neighborhood and these types of facilities should be located closer to where people live. Driving to Abbott is not a pleasant thing to do every day. We have precedent for putting these facilities in AGR districts. There is also precedent for having them in residential neighborhoods. There appears to be no problem selling houses around the Dan Hartog and Seacrest Field locations. He will support this project. He also has some problems with the site and the dramatic change to it, but anybody that moves in later will know that that project exists and it is easier to site it now. He also noted that no one on Pinedale Road testified in opposition or wrote letters. He believes the applicants made good effort to contact the neighborhood.

Bills-Strand pointed out that the Lincoln Racquet Club also sits on low grade so that it doesn't stick up quite so high and there are residential uses to the south.

Carlson believes there is a difference between football and soccer fields and tennis courts.

Motion for conditional approval, with amendments, failed 3-3: Bills-Strand, Duvall, and Schwinn voting 'yes'; Newman, Carlson and Taylor voting 'no'; Krieser, Larson and Steward absent.

This item was held over for administrative action on March 5, 2003. Public hearing has been closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

March 5, 2003

Members present: Bills-Strand, Carlson, Newman, Taylor, Larson, Krieser and Schwinn; Duvall and Steward absent.

Staff recommendation: Denial.

There were no ex parte communications disclosed.

Brian Will of Planning staff submitted additional information for the record, including a letter from J.D. Burt on behalf of the applicant to Ray Hill in response to an inquiry about purchasing additional property surrounding the site to increase the setback. The applicant believes that the proposed site plan is adequate. Two letters in opposition were also submitted.

Bills-Strand noted that the staff had previously suggested locating this facility at Seacrest Field. Where was it on that property the staff would propose to have this facility located? Brian Will indicated that he had provided the aerial photographs of the Seacrest Field layout only because the

issue had been raised during the public hearing. Will was not the staff person involved in those discussions, but in general terms, he does not know that there were specific siting recommendations made by staff.

The Commission then requested to have J.D. Burt come forward. Burt indicated that there are two different ownerships of the property on that campus--part by LPS and part by the City. The property near the intersection was part of the mitigation park ground that was not going to be advantageous for use as far as the legal ownership. They also looked at another area in the southeast corner of the site adjacent to A Street and it was also deemed to be unacceptable.

Bills-Strand wants to know what the staff believes would be acceptable for placement at Seacrest Field. Will stated that the staff review was based upon the application submitted. The staff attempted to indicate that these facilities can be appropriate even in this location, but that the scale and scope of the proposal is too large for this location. From there you would have to take a look at larger sites or a site that could accommodate a larger setback from the property line to the building. This site has some unique characteristics and impediments to moving the building for the size of building that is proposed.

Bills-Strand asked if it would be acceptable to staff if they could either enlarge the envelope or move it down a little further to the south? Will indicated that one of the suggestions the staff had forwarded was to acquire additional property to provide an additional setback and buffer between the facility and what will be future residential properties.

Schwinn referred to the letter from J.D. Burt which points out that if the property were annexed and rezoned R-2 or R-3, this would be an acceptable use. Ray Hill of Planning staff disagreed. Regardless of AG, R-2 or R-3 zoning, the size of the structure (which we have not been able to determine but may be about the same size as all of the government buildings from K Street to G Street and probably taller than the County-City Building) is too close for any property. Hill acknowledged that this particular use along 84<sup>th</sup> Street may not be a bad use, but it needs to be on a much larger tract of ground. The staff had suggested that if they would acquire additional land to provide the 100' setback, that would be something the staff would consider and possibly recommend approval.

Schwinn noted that LPS owns land on one side. It is Hill's understanding from LPS that it is probably not going to be a school site. The staff is not saying this is a bad location or a bad project--we're just saying it is not enough land.

Carlson moved to deny, seconded by Newman.

Carlson believes that the staff report does a pretty good job of representing the situation. His opinion is that this is a use that it appears the community wants and there is a need for this use, but the question is, can you make that use appropriate for this site or find a site appropriate for the use? Since we don't have that match, he is recommending denial.

Schwinn recalled the battles with the spirit soccer field -- everyone wants a soccer field two blocks away but no one wants it next to their house and it is really hard to site those facilities when you do it like that. The Commission has received some letters from Woods Park and in that regard Schwinn referred to what his predecessor Russ Bayer used to say, "it's amazing -- if the private sector can't do it, the public sector couldn't either", and we haven't had any trouble doing whatever we wanted to in

Woods Park. We have bubbles there and we built a baseball diamond there. Schwinn believes the proposal is a good use. Once the uses are constructed, people appreciate them.

Bills-Strand indicated that she is struggling on this one a little bit. If they could just add a little bit more land or move it just a little bit more south and get it out of the back yards, she wants to support this facility. Maybe LPS could work with us on adding a little more land.

Taylor has the same struggle. He thinks it is an excellent idea. He is not opposed to the general area, but he believes they need to figure out a way to get some more land.

Schwinn wondered whether the Commission would consider a deferral to see if something can be worked out with LPS. Upon further discussion, Carlson withdrew the motion to deny, and Newman as the second agreed.

Carlson moved to defer for four weeks, with reopened public hearing and administrative action scheduled for April 2, 2003, seconded by Newman and carried 7-0: Bills-Strand, Carlson, Newman, Taylor, Larson, Krieser and Schwinn voting 'yes'; Duvall and Steward absent.

**REOPENED PUBLIC HEARING BEFORE PLANNING COMMISSION:** April 2, 2003

Members present: Steward, Carlson, Bills-Strand, Larson, Taylor, Duvall and Schwinn; Krieser and Newman absent.

Staff recommendation: Denial.

Ex parte communications: Bills-Strand stated that she received a telephone call from Mike Marsh this week. Schwinn noted two editorials in the newspaper.

Brian Will of Planning staff submitted additional information for the record, including a letter in opposition to any tennis court lighting; another letter in opposition with concerns about the lagoon and sewer system, potential odors and safety of the neighbors; and two letters from the same party in opposition based upon non-compliance with the Comprehensive Plan.

### Proponents

**1. J.D. Burt of Design Associates**, 1609 N Street, testified on behalf of the applicant and addressed the issues and highlights in some of the letters received. With regard to the reference to non-compliance with the Comprehensive Plan, Burt advised that before they started on this project, they looked at the Comprehensive Plan and found this area was currently zoned AG and identified in the Comprehensive Plan as future urban residential. They then looked at the zoning ordinance and found that recreational facilities are not only allowed in the existing AG zoning, but also allowed with any assumed residential zoning that the city might move forward with at some point in time.

As far as the reference to precedence for non-residential or commercial uses up and down 84<sup>th</sup> Street, Burt suggested that some people do not want South 84<sup>th</sup> to turn into North 84<sup>th</sup>. He also noted the numerous churches, day cares, parochial schools, and office complexes (such as at 84<sup>th</sup> & Van Dorn which was annexed with the condition that they be allowed to tie into city sewer). This developer has not asked for annexation and city services because they were told that they did not qualify for a lift station.

With regard to the traffic issues, there is a four-lane roadway from north to south. There has already been construction or plans in process to complete a four-lane cross-section, at a minimum, for 84<sup>th</sup> Street. This is a use that is very complementary with the zoning. When the roads are designed consideration should be given to vehicle trips associated with development on both sides of 84<sup>th</sup> over the lifetime of the paving. Typically the roads are designed for 20 years, and at some point in the next 20 years Burt believes there will be urbanization on the east side of 84<sup>th</sup> Street.

Burt further pointed out that if they changed the zoning to R-3 with loss of adequate right-of-way, it would more than double the number of trips that would be generated by the tennis facility. Traffic is not a concern.

With regard to lighting, Burt explained that these structures are not like those at Woods Park. The structures are opaque. The rest of the lighting would be designed in compliance with parking lot design standards and lighting standards for recreational facilities. They have also agreed to turn off the lights at 10 p.m. to 6 a.m.

Regarding the concerns about the lagoon, Burt noted that the 1/4 mile spacing needed for a lagoon and the nearest residence is a requirement of lagoon systems allowed by the State. This is not that type of facility which you find adjacent to feedlots, etc.

With regard to drainage, the developer has revised and prepared the grading plan that would take the majority of the runoff from this site and put it into the drainageway south of their proposed driveway. Anything south of the driveway is a drainageway and detention cell.

Burt requested that the Commission approve the waiver of the 100' setback adjacent to the building to 60'. The property owner to the east that would be affected has indicated that they are not willing to part with any of their real estate and do not oppose the waiver of setback to 60'. The applicant has initiated conversation with LPS which owns 20 acres on the south, but they do not know how that conversation is going to progress. The applicant does not want to be presumptive about their decision, and would request that the proposal move forward with the 60' setback with the understanding that they would continue to negotiate additional courts located on LPS property and hopefully end up with a joint venture with LPS.

Carlson noted that one of the issues is the building height. What do we suppose the opinions are of the future homeowners that will live on the residential property? Burt suggested that when the residential property gets developed, the recreational facility will have been there a period of time and those buildings would be part of the existing landscape so the future property owners will know it is there. With regard to the size, Burt pointed out that there will be minimal tree removal for the driveway. The only trees being removed are those necessary to provide the culvert.

The applicant did offer to meet with the 5 property owners in Pinedale Heights and only one individual attended, and it was a case of “not in my back yard”.

Burt also pointed out that with the existing zoning, there are certainly other types of uses that are permitted today that are not being utilized such as livestock, etc.

Taylor inquired whether the building would be located in the lower area of the site. Burt explained that they are cutting the top of the hill down by 13-14 feet and using that material to provide a level platform for the whole building. The lower area will stay intact.

Steward noted that the conceptual building elevations are showing a dome-like structure – an air pneumatic structure. Can you imagine any type of structure that is less compatible with a residential neighborhood than a white pneumatic structure?

**2. Dave Northey**, President of **Nebraska Tennis Center**, 2033 Manatt Court, testified in support. This is a facility that is to become a World class facility, not only to help the region of this area but the whole Missouri Valley. Lincoln does not have enough courts for the kids to practice at this time. He wants to keep the kids local and this will help the University because currently almost everyone on the tennis team is foreign. He would like to see some of the local people be able to be given this chance.

Currently, when they have tournaments for the high schools, the Lincoln students require five vans to travel to Fremont to hold a tournament. This facility would allow the junior varsity and varsity teams to hold their meets at the same time. This will allow the Class A and Class B tournaments to be held in Lincoln as opposed to Omaha. In order to have any kind of sanctioned regional tournament, we simply need more courts.

Northey stated that one of the main goals is to make this a family-oriented facility. There will be a complete fitness center, dining, child learning center, etc.

Steward commended Northey for his values and planning and desire to provide this kind of facility in the community. His concern is purely the location. What process did you go through to select this site? Northey indicated that this is the fourth site they investigated. This search has been going on for almost two years. They have returned to this site because it is the only one available that will work. He believes it ties in good with the land uses. Steward suggested that as long as the facility is not hooking into city utilities, it could be placed anywhere, even 10 miles outside the city limits. Northey’s response was that a part of the income is membership – if the facility is located 10 miles out of town, it will adversely affect the membership. He believes this is a very good location.

Carlson appreciates the goals and the need in the community. In addition to the comments of Commissioner Steward, Carlson referred to the staff report which states that, “Recreational facilities can be appropriate in or near residential neighborhoods when designed to integrate into the area. ....It must be set back further from property lines, be substantially screened, and the grading plan revised to be compatible.” Carlson asked the applicant whether there is no way to accomplish that compatibility. Burt suggested that there are also business concerns that come into play. When you start looking at a project like this, there has to be a revenue stream for the project to be feasible. With

the LES easement traveling across this property, it did a real good job of tying their hands with designing anything that would fit the standards. The applicant believes they have made a decent attempt to meet the requirements. When you look at the zoning requirements for AG, it talks about a 60' sideyard (which this project has) and a 100' rear yard (which this projects seeks to waive to 60'). The applicant has a letter from the property owner who does not oppose this waiver. The applicant has requested a height waiver, but there is a question as to whether the waiver is even necessary based upon how the height is measured. If this were a traditional building with ridge and rafters, this waiver would not be needed. They could have gone in and completely graded the site and located the building closer to 84<sup>th</sup> Street, but the applicant thought it would be better to locate the building further away from 84<sup>th</sup> Street. They have located the building as far away from the existing residential properties as possible. They will work with Public Works to achieve an acceptable grading plan.

**3. Mike Marsh**, 3740 Williamsburg Drive, submitted an article which appeared in the Lincoln Journal Star, which is a great summarization and spells out the points in support of this project very well. Marsh is the owner of the property under contract to sell to Nebraska Tennis Center, and President of the Husker Netters at UNL. The best comparison as far as comparability is Happy Hollow in Omaha, which is in a very upscale neighborhood. As far as the need for this facility, the newspaper article points out that the University of Nebraska does not have a NCAA-standard facility for meets. There are teams in the Big 12 that will not come to Lincoln for a dual meet. That does not help our program. We appreciate what Woods has offered, but it is of the worst in the Big 12. This project is going to be something that will bring significant dollars into this community. No taxpayer money is going to subsidize this program. This property is ideal. It is a very difficult property with the LES easement, but it fits in well for this use. This will make this property into a park like setting. This is not going to be an ugly facility. It will be well-landscaped and will be an attractive center. Voting for this project is a vote for the youth and this community. "The ball is in your court."

Steward asked Marsh whether he was involved in the property search other than this site. Marsh has been aware of each and every site that has been considered. They started with this site. They have been distracted to other sites and are now coming back after two years because this is the best site.

**4. Ken Tharp**, 6355 Perry Circle, testified in support. His interest is mostly related to his general interest as a 52-year tennis player and as a high school tennis team coach. Tennis is a sport that has tremendous potential to strengthen the overall health of the people who play the game. It is an activity that anyone can take up at almost any age and is almost the healthiest that there is. He believes the sport has the potential of growing if we can give it some support with a facility such as this. As a coach, he knows that the high school has problems getting good practice facilities. They are forced to practice in shifts. It is difficult to find an alternate place to hold a dual meet between two high school teams if it is raining.

**5. Bill North** testified in support. He plays tournament tennis, played for the University and was a tennis coach at East High. He suggested that the Commission think about this project as being the "goose that lays the golden egg". We know that this is a multi-million dollar project and there are many people that work in the construction trades throughout our city. We would be creating tremendous employment in the construction trades and their suppliers. We would also be creating jobs for the staff that will be running the facility. Let's also think of geese (tennis enthusiasts) that are out there beyond

Lincoln. Let's bring them into Lincoln. We have the University that wants to expand and bring in real tournaments and great players into our City. LPS needs this for five high schools, and the surrounding area high schools need a big facility. The Lincoln Tennis Association sponsors tournaments and they want to bring people in from outside areas for tennis tournaments and other special events. "Let's draw those geese in and let's house them at the goose house." And in the process all of those geese will be coming in with a billfold and will spent a lot of money here.

Another way we create the golden egg is through taxation. We expand our recreational facilities here in the City and they hand us money for it in the form of taxes. They pay us to expand our recreational facilities.

How about retention of people in the City of Lincoln? The snowbirds are constantly going to South Padre, Hilton Head, and San Diego, and they spend their money there. We want them spending their money in Lincoln. Lots of the snowbirds move permanently and take their money with them. We would have a first class facility drawing world class players and Mr. Northey will develop a junior academy to bring young people in.

### Opposition

**1. Dennis Holman**, 8400 Norval Road, 2 blocks north of the proposed development, agreed with all of the comments about the contributions that this facility could make to Lincoln, its youth, the economy, etc. His only objection is from the standpoint of traffic flow. 84<sup>th</sup> Street was recently reconstructed to be a 5-lane street – two lanes north, two south (at least from South to O Street), and they have added a left hand turning lane in the center. That turn lane ceases at South Street. At the entrance to the tennis facility, the island is to allow left turns onto South Street from the northbound traffic off 84<sup>th</sup>. Anyone exiting the facility that wants to go south has to cross three lanes of traffic at 40 to 45 mph. Trying to exit his driveway on Norval Road, he spends 3-4 minutes waiting to make a left hand turn. He envisions some very serious traffic fatalities at this location. Possibly there needs to be some traffic lights at that intersection.

As an alternate proposal, he suggested moving the whole facility further south, abutting Van Dorn, facing the south on Van Dorn, with exit on Van Dorn, then to 84<sup>th</sup> with the traffic light. He believes this would solve the traffic problem. There is far less traffic on Van Dorn than 84<sup>th</sup>.

**2. Pam Schumacher**, 8420 Norval Road, testified in opposition. She believes that she represents a lot of neighbors. She has sent letters to 26 neighborhood families and she has only received one letter in support. She knows there is opposition in the neighborhood. Some people are in occupations where they cannot come forward and oppose this application. They are concerned about the lagoons. There will be a stench two times a year, along with mosquitoes. The are concerned about the closeness to the neighbors on Pinedale. This facility is too close to the residential neighborhood. The Comprehensive Plan states that land within this area should remain generally in its present use. Without the sewer, the land needs to stay as is until the sewer from the north can reach the south. It is too soon at this stage of the game.

Carlson noted that the staff report sets forth potential conditions of approval, but the staff is recommending denial based on the inability to get sufficient mitigation in terms of setback, screening and grading plan. Brian Will of Planning staff advised that the staff report is a review based on what was submitted. Paragraph B on page 5 of the staff report discusses the major concerns of the staff. Based on these concerns the recommendation is for denial, but should the Planning Commission wish to approve the special permit, the staff wanted to include conditions. The largest issue is the scale and scope of the building in proximity to the adjacent properties. Based on current information, the Comprehensive Plan shows residential and we have to assume there will be residential uses surrounding this property. This use may be appropriate under certain circumstances. However, we are seeing a 52' tall building within 60' of the property line. The staff does not take issue with anything that has been said about the need for this facility, but the scope and size at this location are not compatible.

Bills-Strand recalled having this discussion during the Comprehensive Plan process, and at that time she believes the Commission liked the thought, but wasn't willing to make a decision at that time. Regardless of what happens, Bills-Strand believes the Commission needs to make a decision in one form or another. There is a dome church just down the street. There are shopping centers on 27<sup>th</sup> and Pine Lake Road with a nearby junior high with the same traffic issues. How long and how many times has this developer come forward? (Bills-Strand referred to the letter from Jason Reynolds of the Planning Department to J.D. Burt dated July 15, 2002). Carlson believes they came forward with a comprehensive plan amendment to change from agricultural but they were informed that a recreational facility could be requested by special permit in the AG zoning. Will believes that the staff saw an initial concept plan for this facility at this site and may have indicated that in some ways it looked like it may be acceptable; however, when the application was submitted for the special permit, what the staff saw versus what was originally discussed in general terms was a larger scale and scope than anticipated – adjacent to the property line, closer to the property line, etc. Discussions prior to an actual submittal are often times based on conceptual drawings subject to change.

Bills-Strand inquired as to the staff recommended requirements on the north side. Will clarified that there are no waivers being requested on the north side. The only setback requirement is on the east or the south. If they were to move this facility further into the site away from the southeast property line, then they would not need the waiver of the setback but they would still need the height waiver.

Taylor stated that he really likes the project and believes it is something that Lincoln really needs. Have there been any projects similar to this that the staff has taken exception to and has not denied in the past? Have exceptions been granted in other situations with similar circumstances? He finds two things happening here - there is seemingly a lack of compromise on both sides. The developers cannot reduce the scale and the staff has set such guidelines that it is impossible for any adjustments to be made. Ray Hill of Planning staff did not believe there have been any exceptions. Usually facilities of this size have been located in industrial or commercial areas, which allow the larger size buildings, as opposed to being located in a residential area.

## Response by the Applicant

Burt reminded the Commission that this property is zoned AG. This is not a request to change the zoning. He referred to the zoning ordinance for AG through R-3 -- the existing AG zoning requires a 60' side yard (which this project has on the south side), and a 100' rear yard (for which this project has requested a waiver with the consent of the adjacent property owner). AGR zoning would reduce the side yard to 15' and the rear yard to 20'. If this project were in a different zoning district, the staff comments would likely be different.

Burt then referred to excerpts from the letter authored by Jason Reynolds of the Planning Department dated July 15, 2002. That letter was in response to a meeting this applicant had with the Mayor and staff on July 9, 2002. That letter discusses the issues at this site and states that water and sewer are acceptable to the Health Department, and that no city services will be provided unless the site is annexed. Burt advised that the applicant then did make a request for annexation because that's what the staff indicated would need to be done. Upon review by Public Works and others not in tune with the first conversation between the applicant and staff, the annexation request was withdrawn. This project would love to have utilities and this applicant did ask to be annexed and this applicant offered to negotiate an easement with LPS to provide a lift station in Van Dorn. The site has been designed in accordance with that letter from the Planning Department dated July 15, 2002. Burt confirmed that this application complies with the parking requirements and they have agreed to some lighting restrictions. Everything is located as far away from the existing residences as possible.

Public hearing was closed.

## **ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

April 2, 2003

Steward moved to deny, seconded by Carlson.

Steward believes this is poor planning for a great idea. It's the wrong site. On one hand, we are told that it is exactly the right site. On the other hand, we are told that the site has problems and it is the way it is because it has to be that way, and it is because that is the way the site is arranged and configured. Steward believes it is out of scale and out of place. The AG zoning is the way it is because the Comprehensive Plan and the Public Works improvements have not caught up with the urbanization of this area for the Stevens Creek Watershed. And yet if the owners or developers are willing to go to the expense to put their own utilities in, it suggests to Steward that the whole County is the framework--not just 84<sup>th</sup> Street. You cannot compare what this white pneumatic structure on the landscape is going to look like along with anything else that exists on that street. It won't be comparable. It won't look the same. It won't look compatible. It doesn't function from a utility perspective and point of view. Yet he wishes we had the facility in place right now, somewhere in this city. He appreciates the sport. If it's this valuable and this needed and this much of an investment, then he believes there is time to put it in a more appropriate location according to the planning of the community.

Carlson commented that he appreciates the fact that there is a need and the fact that this developer is trying to come up with a nice facility; and he appreciates all the comments about the economic drive, the student drive and the tournament drive. He believes those are good comments and comments particularly appropriate for the City Council. As a Planning Commissioner, Carlson questions whether this is good planning and he agrees with Steward's comments. The setback is a concern. He believes R-3 would require waiver requests as well. On this site with this site plan, Carlson does not believe this is good planning right now.

Bills-Strand stated that she is in favor of the facility, but if this was in her backyard she would be struggling with it. She is not struggling with the concept but with the location. If we are truly going to have a lot of people coming in, it would be nice if it were located closer to hotels.

Schwinn commented that the Commission has certainly received a lot of good thoughtful letters, but sometimes those good thoughtful letters in opposition can change what you are thinking about the whole subject or reinforce it. The traffic issue is interesting. He spent some time at the Lincoln Racquet Club and watched what occurred there. Old Cheney is a far more intense use than 84<sup>th</sup> and there is nothing but a stop sign, yet there are no traffic problems moving in and out of there. Schwinn noted that there is a city water tower across the street. In terms of parks being acceptable or this type of sports facility, he thinks back to the years previous when his son played baseball at Cooper Park. It is ringed on three sides by houses that face the park. It is approximately ½ the size of this location with Parks School right next to it. All of the neighbors came out to watch us play. With regard to the concern about the lagoons, Schwinn pointed out that lagoons were sited at Spirit Park to the north, also in Stevens Creek. There was far more opposition at that time and he has not had a neighbor come forward with concerns since then. While we are all concerned about change in our neighborhood, Schwinn believes this is going to be a good change and he will support it.

Motion to deny failed 3-4: Steward, Carlson and Taylor voting 'yes'; Bills-Strand, Larson, Duvall and Schwinn voting 'no'; Krieser and Newman absent.

Larson moved approval, with conditions, with the amendments as requested by the applicant, seconded by Duvall. Motion failed 4-3: Bills-Strand, Larson, Duvall and Schwinn voting 'yes'; Steward, Carlson and Taylor voting 'no'; Krieser and Newman absent.

This application was held over for administrative action on April 16, 2003.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

April 16, 2003

Members present: Larson, Carlson, Bills-Strand, Duvall, Newman, Steward and Schwinn; Krieser and Taylor absent.

Staff recommendation: Denial.

## Ex Parte Communications:

Bills-Strand stated that she visited with Dennis Van Horn of LPS and with J.D. Burt of Design Associates. She discussed with LPS the schools' interest in having use of the facilities and the possibility of cooperation between the applicant and LPS with regard to land to the south of the facility. Van Horn indicated that with the opening of North Star, LPS is going to be hurting from the standpoint of accommodating the tennis schedule with the extra highs schools. It appears that LPS has some interest in working with the applicant and the possibility of selling them some of the property to the south.

Bills-Strand has also talked with Lynn Johnson of Parks & Recreation about the use of Seacrest Field. It appears that there are some issues regarding land and water conservation funds which would require a conversion process. This would take a long time and would not be feasible.

Bills-Strand stated that she also discussed some of her questions and the LPS land to the south with J.D. Burt.

Steward reported that he had received a voice mail from Mike Marsh who encouraged him to drive out to view the site and to change his position relative to the comments made previously about the improper location and scale and circumstance. Steward stated that he had already done this exercise.

Newman also reported that she had received a call from Mike Marsh reporting that they had met with the neighborhoods. Newman asked Mr. Marsh to give this information to the Planning Commission. She received another call from Mr. Marsh this past week but she did not speak with him.

Brian Will of Planning staff submitted a letter in support from Jim Fram, President of the Lincoln Chamber of Commerce.

Schwinn inquired of Rick Peo whether it would be possible to send this application forward to the City Council without a Planning Commission recommendation if the Commission is deadlocked again today. Peo stated that he would discourage that type of action. The Planning Commission is supposed to send a recommendation forward. There is a procedure in the special permit ordinance allowing the applicant to appeal to the City Council to direct the Commission to send forward a recommendation if the Commission has not made a decision within an allotted or reasonable time.

Larson expressed concern that the City might lose this facility entirely if it is denied at this location. Motion. Duvall moved approval, with the conditions as set forth in the staff report, seconded by Bills-Strand.

Carlson stated that he will make a recommendation based on planning principles. He acknowledged that there has been other testimony involving community and school impact, but he believes those are important arguments for the City Council. He is supportive of this use but he is making his recommendation on planning principles and he will not vote to approve it.

Steward agreed with Carlson. He does not disagree that the project may be valuable to the community and he acknowledged that it is an expensive and large investment in the community if brought to conclusion, but he considers the role of this Commission to be to defend and promote the Comprehensive Plan. This project is not in conformance with the Comprehensive Plan, and the Comprehensive Plan has been out long enough for persons interested in development to know the limitations. He believes that there has been ample evidence presented that due diligence of site search has not been performed. He believes this use is indeed valuable to the community and he is hopeful it is not the case that if not approved it will go away. He believes there is ample land available and more appropriate locations. This is not an appropriate facility for a residential neighborhood.

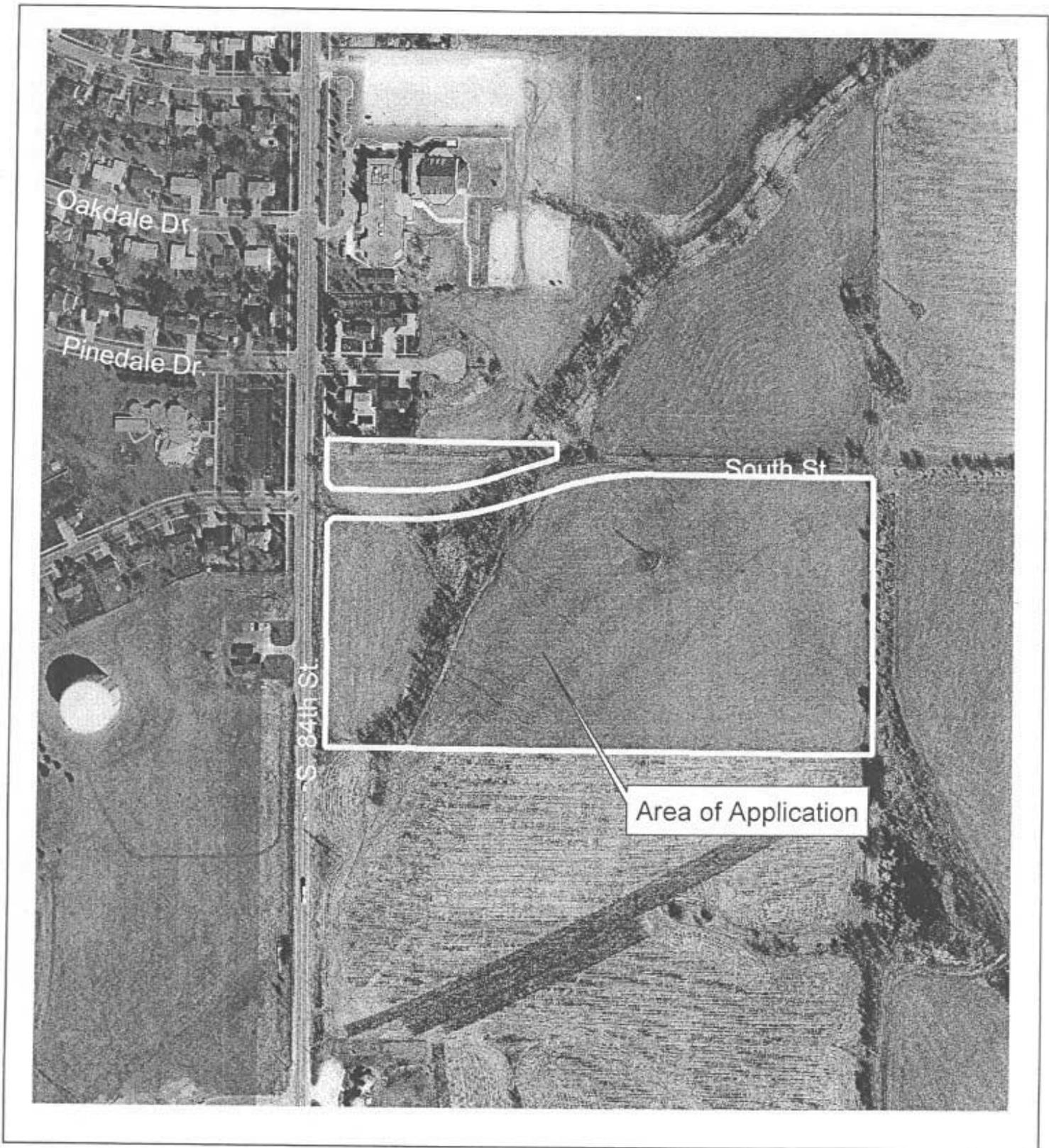
Larson stated that he is generally in favor of this kind of thing and he thinks it is important for the community, but he will vote against it in consideration of the neighbors. He cannot see that kind of structure--that huge balloon type structure--out there in that neighborhood. In spite of the fact that he really, really wants this facility in the community, he will be voting no.

Bills-Strand expressed that she has very mixed feelings. She wants the facility and knows we need the facility. Woods Park is also planning to expand but that is also further down the road. She agrees that there is a strong need for tennis throughout the community. She does not think that Woods Park is a huge ugly eye-sore but it is far enough away from the residences so that the screening can take place. She believes that this project will have an impact on the abutting residential properties.

Newman commented that this is a great project but it is in the wrong location. We need to follow the Comprehensive Plan.

Motion for approval, with conditions, failed 2-5: Duvall and Schwinn voting 'yes'; Larson, Carlson, Bills-Strand, Newman and Steward voting 'no'; Krieser and Taylor absent.

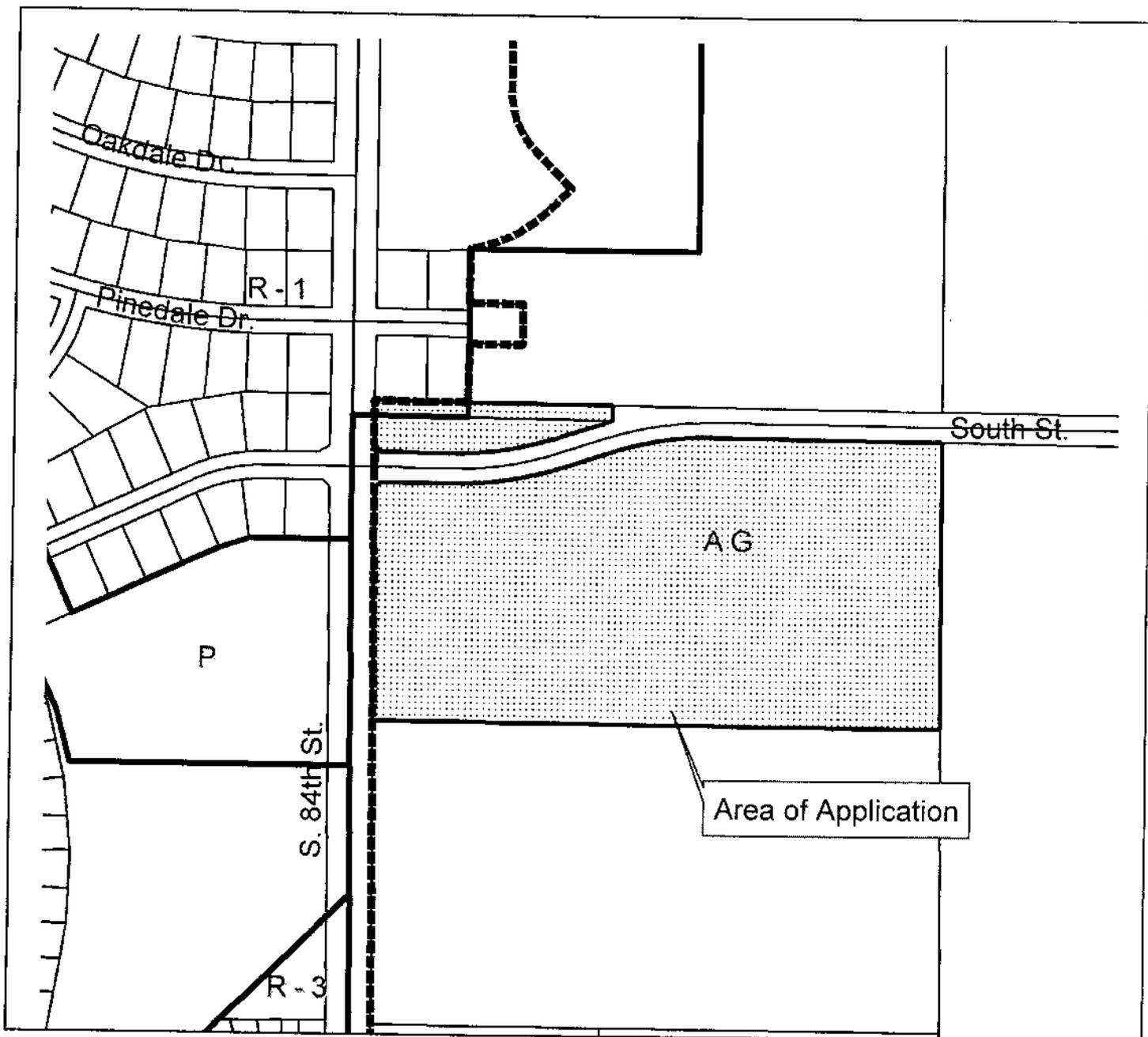
Carlson moved to deny, seconded by Steward and carried 5-2: Larson, Carlson, Bills-Strand, Newman and Steward voting 'yes'; Duvall and Schwinn voting 'no'; Krieser and Taylor absent.



**Special Permit #1998  
S. 84th & South St.  
Nebraska Tennis Center**



027

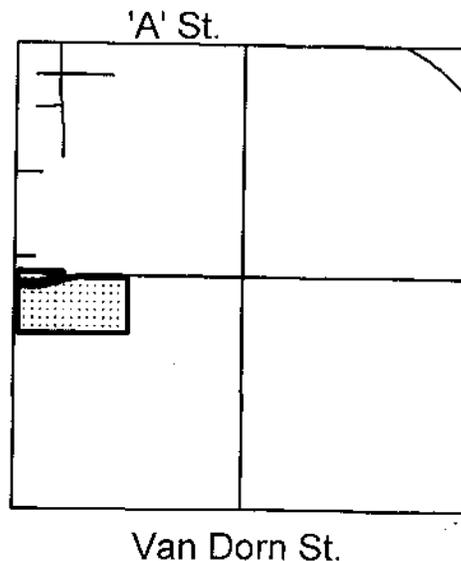


**Special Permit #1998**  
**S. 84th & South St.**  
**Nebraska Tennis Center**  
**Zoning:**

- 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 General 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

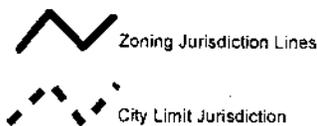
One Square Mile  
 Sec.35 T10N R7E

S. 84th St.



S. 98th St.

028









# SURVEYOR'S CERTIFICATE

SURVEY OF LOT 26 OF IRREGULAR TRACTS LOCATED IN THE WEST ONE-HALF OF THE SOUTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHWEST CORNER OF THE WEST ONE-HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 35; THENCE IN AN EASTERLY DIRECTION, ALONG THE NORTH LINE OF THE WEST ONE-HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 35 FOR A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING

THENCE IN A SOUTHERLY DIRECTION, ALONG THE EASTERLY 50.00' RIGHT OF WAY LINE OF SOUTH 84TH STREET, ON AN ASSUMED BEARING OF SOUTH 00 DEGREES 35 MINUTES 21 SECONDS EAST FOR A DISTANCE OF 79.67 FEET TO A POINT ON THE NORTHERLY 33.00' RIGHT OF WAY LINE OF SOUTH STREET

THENCE SOUTH 89 DEGREES 31 MINUTES 53 SECONDS EAST, ALONG THE NORTHERLY 33.00' RIGHT OF WAY LINE OF SOUTH STREET, FOR A DISTANCE OF 174.92 FEET

THENCE CONTINUING ALONG THE NORTHERLY 33.00' RIGHT OF WAY LINE OF SOUTH STREET, ON A CURVE TO THE LEFT HAVING A RADIUS OF 731.49 FEET AND AN ARC LENGTH OF 229.63 FEET, BEING SUBTENDED BY A CHORD OF NORTH 81 DEGREES 22 MINUTES 32 SECONDS EAST FOR A DISTANCE OF 228.69 FEET

THENCE NORTH 72 DEGREES 22 MINUTES 56 SECONDS EAST, ALONG THE NORTHERLY 33.00' RIGHT OF WAY LINE OF SOUTH STREET, FOR A DISTANCE OF 35.32 FEET

THENCE SOUTH 89 DEGREES 31 MINUTES 53 SECONDS EAST, PARALLEL TO AND 33.00' FEET SOUTH OF THE NORTH LINE OF THE WEST ONE-HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 35, FOR A DISTANCE OF 329.50 FEET TO A POINT ON THE SOUTHERLY 33.00' RIGHT OF WAY LINE OF SOUTH STREET

THENCE ALONG THE SOUTHERLY 33.00' RIGHT OF WAY LINE OF SOUTH STREET, ON A CURVE TO THE LEFT HAVING A RADIUS OF 731.49 FEET AND AN ARC LENGTH OF 229.63 FEET, BEING SUBTENDED BY A CHORD OF SOUTH 81 DEGREES 22 MINUTES 32 SECONDS WEST FOR A DISTANCE OF 228.69 FEET

THENCE SOUTH 72 DEGREES 22 MINUTES 56 SECONDS WEST, ALONG THE SOUTHERLY 33.00' RIGHT OF WAY LINE OF SOUTH STREET, FOR A DISTANCE OF 122.84 FEET

THENCE CONTINUING ON THE SOUTHERLY 33.00' RIGHT OF WAY LINE OF SOUTH STREET, ON A CURVE TO THE RIGHT HAVING A RADIUS OF 797.49 FEET AND AN ARC LENGTH OF 250.35 FEET, BEING SUBTENDED BY A CHORD OF SOUTH 81 DEGREES 22 MINUTES 32 SECONDS WEST FOR A DISTANCE OF 249.32 FEET

THENCE NORTH 89 DEGREES 31 MINUTES 53 SECONDS WEST FOR A DISTANCE OF 173.82 FEET TO A CORNER OF SAID LOT 26

THENCE SOUTH 00 DEGREES 35 MINUTES 21 SECONDS EAST, ALONG THE EASTERLY 50.00' RIGHT OF WAY LINE OF SOUTH 84TH STREET, FOR A DISTANCE OF 525.33 FEET TO THE SOUTHWEST CORNER OF SAID LOT 26

THENCE SOUTH 89 DEGREES 43 MINUTES 24 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LOT 26, FOR A DISTANCE OF 1275.66 FEET TO THE SOUTHEAST CORNER OF SAID LOT 26

THENCE NORTH 00 DEGREES 28 MINUTES 39 SECONDS WEST, ALONG THE EAST LINE OF THE WEST ONE-HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 35, FOR A DISTANCE OF 668.94 FEET TO THE NORTHEAST CORNER OF THE WEST ONE-HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 35

THENCE NORTH 89 DEGREES 31 MINUTES 53 SECONDS WEST, ALONG THE NORTH LINE OF THE WEST ONE-HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 35, FOR A DISTANCE OF 731.79 FEET TO A CORNER OF SAID LOT 26

THENCE NORTH 00 DEGREES 03 MINUTES 53 SECONDS WEST FOR A DISTANCE OF 33.00 FEET TO A CORNER OF SAID LOT 26

THENCE NORTH 89 DEGREES 31 MINUTES 53 SECONDS WEST, ALONG THE NORTH LINE OF SAID LOT 26, FOR A DISTANCE OF 545.21 FEET TO THE NORTHWEST CORNER OF SAID LOT 26

THENCE SOUTH 00 DEGREES 03 MINUTES 53 SECONDS EAST, ALONG THE EASTERLY 50.00' RIGHT OF WAY LINE OF SOUTH 84TH STREET, FOR A DISTANCE OF 33.00 FEET TO THE POINT OF BEGINNING

TOGETHER WITH AND SUBJECT TO COVENANTS, EASEMENTS, AND RESTRICTIONS OF RECORD.



**Design  
Associates** of Lincoln, Inc.

Pershing Square  
1609 'N' Street  
Lincoln, NE 68508  
Phone: (402) 474-3000 • Fax: (402) 474-4045

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Hand Delivery

January 30, 2003

Brian Will  
Lincoln/Lancaster County Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508

RE: Nebraska Tennis Center- 84<sup>th</sup> and South Street  
Revised Landscape Plan

Brian:

The attached revised landscape plan is offered in response to our meeting last week. The plan has been revised to include coniferous and deciduous trees adjacent to the south and east sides of the proposed recreational facility. Hopefully, the additional landscaping adequately addresses staff concerns.

Please advise if additional information is desired.

Best regards,



J.D. Burt  
For the firm

cc: David Northey, Nebraska Tennis Center

**Design  
Associates** of Lincoln, Inc.

Pershing Square  
1609 'N' Street  
Lincoln, NE 68508  
Phone: (402) 474-3000 • Fax: (402) 474-4045

December 20, 2002

Marvin Krout  
Lincoln/Lancaster County Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508

RE: Nebraska Tennis Center- 84<sup>th</sup> and South Street  
Request for Annexation  
Application for Special Permit

Mr. Krout:

On behalf of Nebraska Tennis Center, L.L.C., contract purchaser, please accept this correspondence as supplemental information to the attached City Zoning Application. This application requests annexation and approval of a special permit to construct a recreational facility in the AG zoning district. The property is legally described as Lot 26 I.T., Section 35, T10N, R7E, Lancaster County.

The property is located at the southeast corner of 84<sup>th</sup> and South Street. Site development will include extension of street paving, water main and storm sewer in the existing South Street right-of-way, east from 84<sup>th</sup> Street. The length of the street extension has been designed to meet driveway separation requirements identified by the Public Works Department.

The site contains approximately 20 Acres and is zoned AG. A change of zone is not requested with this application. The site is located outside the current city limit and will require annexation to allow use of municipal water, as proposed with this application. The site has been designed to accommodate construction of an on-site wastewater treatment facility since municipal sewer is not available. The wastewater facility will be abandoned and removed when municipal sanitary sewer service is available.

Nebraska Tennis Center will be a private membership recreational facility that is expected to be the new home of the University of Nebraska Tennis Team. Completion of Nebraska Tennis Center will provide Lincoln and the University of Nebraska the opportunity to host regional and national events.

Nebraska Tennis Center will provide its members with a fitness/exercise area, gymnasium, lap pool, children's learning center, pro-shop and concession area in the main building. Eleven (11) indoor courts will be provided in the two (2) tennis structures. Structure #1 is located north of the main building. Structure #2 is located west of the main building. 12 outdoor courts are also proposed. The outdoor courts will be supplemented with removal of the exterior of Structure #2. Tennis structure #3 is proposed north of the parking lot and is to be installed at a later date. The outdoor courts are propose to lighted.

DEC 20 2002

034

The main building will include approximately 36,200 square feet. The dimensions of Structure #1 are approximately 160 feet by 326 feet with a height of approximately 48 feet. Structure #2 is approximately 130 feet by 280 feet with an approximate height of 40 feet. Structures #1 and #2 will be constructed as Air-Supported-Structures attached to a permanent foundation, as well as to the main building. Structure #1 will include heating and air conditioning to allow year-round indoor use. Structure #2 will be heated only to allow removal of the exterior to provide additional outdoor courts during the warmer months of the year.

This application for special permit includes a request to reduce the required rear yard setback from 100 feet to 60 feet along the east limit of the application and a request to increase the maximum building height from 35 feet to 52 feet to accommodate the dimensions of the Air-Supported-Structures.

Grading on the site will include construction of building pads for the structures and outdoor courts. The four (4) outdoor courts located adjacent to 84<sup>th</sup> Street will be lowered below the 84<sup>th</sup> Street right-of-way to reduce visibility of these courts from the street and residences property to the west. Site drainage is designed to direct run-off into the existing north/south drainage way.

Access to the parking lot will be provided from a driveway that extends south from South Street and across the existing drainage way. The driveway crossing of the drainage way has been located to minimize disruption of existing trees and wetlands. The crossing is designed to serve as an outlet structure for storm water detention. Disrupted wetlands will be mitigated on-site.

Parking is shown north of the main building. The parking lot is designed with 99 parking stalls and an area reserved for an additional 128 stalls for event parking. Attached is an estimate of Trip and Parking Generation for the site under normal daily conditions. Comparison of the estimated parking demand to proposed stalls shows a surplus of parking during times of peak demand.

On behalf of the developer, David Northey, we would like to take this opportunity to thank your staff for your cooperation and enthusiasm with this development. Approval of Nebraska Tennis Center will allow construction and operation of a recreational facility that will expand athletic and economic opportunities for our growing community.

Please advise if additional information is desired.

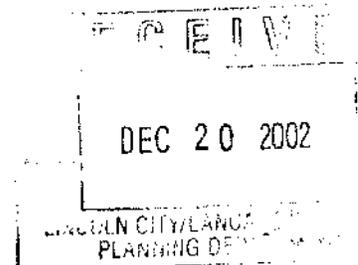
Best regards,



J.D. Burt  
For the firm

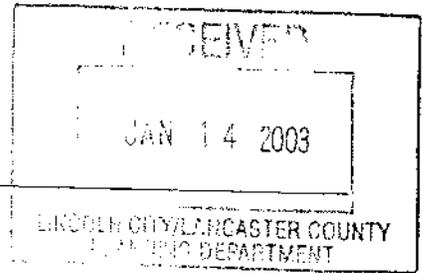
Attachments: Nebraska Tennis Center Site, Grading and Landscape Plans  
Trip and Parking Generation  
Certificate of Ownership

cc w/ attachments: David Northey, Nebraska Tennis Center



035

# Memorandum



[Redacted]

**To:** Brian Will, Planning Department  
**From:** *CB* Chad Blahak, Public Works and Utilities  
*DB* Dennis Bartels, Public Works and Utilities  
**Subject:** Nebraska Tennis Center Special Permit and Proposed Annexation  
**Date:** January 13, 2003  
**cc:** Randy Hoskins  
Nicole Fleck-Tooze  
Devin Biesecker

Engineering Services has reviewed the Special Permit and Proposed Annexation for the Nebraska Tennis Center, located east of South 84th Street and south of South Street and has the following comments:

- Grading/Drainage - Additional information is required prior to approval. Provide stage/discharge information and a detail for the outlet structure in the proposed pond. Also, show culvert size for the pond outlet.
- The grading plan shows much of area C2 draining north circumventing the proposed detention pond. Either the drainage areas or the contours should be revised or a storm system should be shown to route the flow to the pond.
- The slope in detention pond is greater than the maximum 4:1.
- Streets - A proposed street grade should be provided for the entire frontage of South Street. Site grading should be shown to match the proposed grade even if limited paving is approved.
- Sidewalks should be shown along both sides of South Street and along the east side of 84th Street. The sidewalk in 84th Street should be required along 84th Street.
- This development should be responsible for all the costs of building South Street east of 84th Street and any modifications to 84th Street that may be required as a result of this development.
- Developments typically have been required to pave streets through the limits of their development. The application shows only a short extension of South Street. If approved, the conditions of annexation need to address timing and cost responsibility of future extensions.

January, 13 2003

- With a previous review at a alternate location, traffic impact information was provided. This information is needed to analyze the 84th and South intersection, the number of parking stalls provided, the number and location of driveways and the adequacy of the limited paving shown.
- Sanitary Sewer - Sewer will be needed through this site to serve the drainage area south of this project that drains through the site. An easement should be shown for the sewer and this development should be made responsible for the cost of building it when an outlet sewer is available.
- Water - A water main will be needed in South Street for the entire frontage. This development should be made responsible for its share of the cost for the entire frontage. The plans show a water meter pit. An above ground structure will be required rather than a pit. This structure should be shown on the plans.
- General - The plans show serving the development with public water extended from 84th and a private onsite sanitary system since gravity sewer cannot be provided. Annexation is required prior to approval of use of the public water. Per the comprehensive plan annexation implies access to all city services. This area will not be served by public sewer until sewer service is extended into the Stevens Creek Basin. Annexation with limited service (public water but not sewer) is not a good precedent because of other similarly situated property that may make similar requests.
- Public Works recommends that, since sewer cannot be provided, if approved, the development provide both private sewer and private water. The area of permit, therefore, does not need to be annexed if public water is not provided.
- 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 th 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.

# Memo



**To:** Brian Will, Planning Department

**From:** Mark Canney, Parks & Recreation

**Date:** January 3, 2003

**Re:** Nebraska Tennis Center SP 1998

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Staff members of the Lincoln Parks and Recreation Department have conducted a plan review of the above-referenced application/proposal and have the following comments:

1. Street Tree/Landscape Plan shows (8) 'Emerald Queen' Norway Maple Street trees for South Street, which is correct.
2. On S. 84<sup>th</sup> Street, (12) Street trees should be planted 6' feet east of the existing bike trail/walk at 45' spacing along the frontage of the property. This assumes that South Street is built at a typical width of 27 feet (from back of curb to back of curb). The recommended tree species is Autumn Purple Ash.
3. Indicate a pedestrian connection to 84<sup>th</sup> Street from the existing bike trail to the proposed pedestrian sidewalks of the facility.
4. Indicate which tree species and quantities, if any, are to be removed as a result of the project development.

If you have any additional questions, comments or concerns, please feel free to contact me at 441-8248. Thank you.

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT  
INTER-OFFICE COMMUNICATION**

**TO:** Brian Will

**DATE:** January 13, 2003

**DEPARTMENT:** Planning

**FROM:** Chris Schroeder  
Jerry Hood

**ATTENTION:**

**DEPARTMENT:** Health

**CARBONS TO:** Bruce Dart, Director  
EH File  
EH Administration

**SUBJECT:** Nebraska Tennis Center  
SP #1998 Annex #02011

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the application for special permit and the requested annexation for the proposed Nebraska Tennis Center. The following items are noted:

- Water supply is projected to be the City of Lincoln Municipal water supply.
- Sewage disposal is projected to be on-site sewage disposal. Permits will have to be obtained for construction of these facilities from the LLCHD and the State of Nebraska Department of Environmental Quality prior to construction.
- Plans for the concession building and equipment must be approved by the LLCHD Food Section prior to construction.
- 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.

- Provisions should be made for retaining as much tree mass as possible. Alternately, the applicant will need to plan for disposal of tree waste by burying on site, grinding, offering for firewood or hauling to the landfill. Permits for open burning of tree waste within the city limits will not be approved and applications for burning within the 3-mile zone are unlikely to be approved.



INTER-DEPARTMENT COMMUNICATION

TO: Brian Will, City Planning  
SUBJECT: DEDICATED EASEMENTS  
DN #21S-86E

DATE: January 3, 2003

FROM Sharon Theobald  
(Ext. 7640)

Attached is the Special Permit Site Plan for Nebraska Tennis Center.

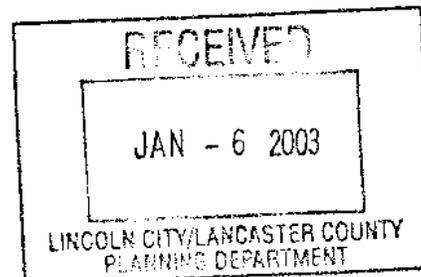
In reviewing the dedicated transmission line or other electrical easements shown on this plat, LES does not warrant, nor accept responsibility for the accuracy of any such dedicated easements.

ALLTEL, Time Warner Cable, and the Lincoln Electric System will require the additional easements marked in red on the map.

Please add, as a stipulation, the following:

Any construction or grade changes in LES transmission line easement corridors are subject to LES approval and must be in accordance with LES design and safety standards.

Landscaping material selections within easement corridors shall follow established guidelines to maintain minimum clearance from utility facilities.



ST/ss  
Attachment  
c: Terry Wiebke  
Easement File

LINCOLN CITY - LANCASTER COUNTY  
PLANNING DEPARTMENT



MEMORANDUM

**Date:** February 19, 2003  
**To:** Planning Commission  
**From:** Brian Will ~~Planner~~  
**Subject:** Special Permit #1998 - Revised Conditions

The County Engineer was requested to review the application for the Nebraska Tennis Center because the site will not be annexed and will remain in the county. That review is attached. Public Works and Utilities has coordinated review comments with the County Engineer and they have agreed that if South Street is annexed, the improvements noted by the County Engineer are not required. As a result, staff is recommending that the conditions in the staff report be modified to include the following provision to ensure South Street will be built to City standards, and to delegate the responsibility for maintaining South Street to the City.

6. The City will initiate annexation of the South Street right-of-way from South 84<sup>th</sup> Street east to a point 50' beyond the end of the proposed temporary termination of the South Street paving.

**Dennis D Bartels**

02/18/2003 11:10 AM

To: Brian J Will/Notes@Notes  
cc: Randy W Hoskins/Notes@Notes  
Subject: Tennis Center at 84th and South

As we have discussed, if the tennis center permit is approved Public Works would recommend that the right of way of South Street be annexed for South Street be annexed from 84th east to a point approximately 50' beyond the end of the proposed temporary termination of the South Street paving.

Lancaster

DON R. THOMAS - COUNTY ENGINEER

County

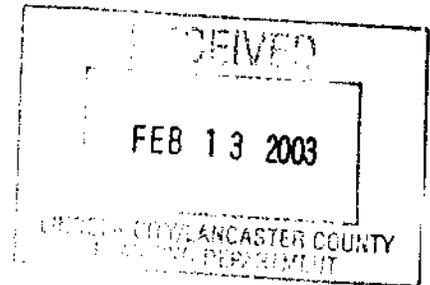
Engineering

Department

DEPUTY - LARRY V. WORRELL  
COUNTY SURVEYOR



**DATE:** February 12, 2003  
**TO:** Brian Will  
Planning Department  
**FROM:** Larry V. Worrell   
County Surveyor  
**SUBJECT:** NEBRASKA TENNIS CENTER  
SPECIAL PERMIT NO. 1998



This office has reviewed subject special permit and would offer the following comments:

- 1) South Street east of South 84<sup>th</sup> Street will not be maintained by Lancaster County since it does not connect to a County road.
- 2) Right-of-way dedication for South Street shall extend to the east property line. Dedication shall be as needed for a future total right-of-way of 100 feet.
- 3) The traffic signal at South 84<sup>th</sup> Street and South Street will need to be modified at the cost of the developer to add the east leg to the intersection.
- 4) The proposed driveway appears to be too close to South 84<sup>th</sup> Street when South Street is extended east as a through street.

cc: Dennis Bartels - Public Works

LVW/DP/bml

Docs/Spec. Permits/Events & Other/1998 Neb. Tennis Center. Memo

044

# M E M O R A N D U M

**To:** Planning Commission  
**From:** Brian Will/Planning Department  
**Date:** February 25, 2003  
**Subject:** Special Permit #1998 - Nebraska Tennis Center

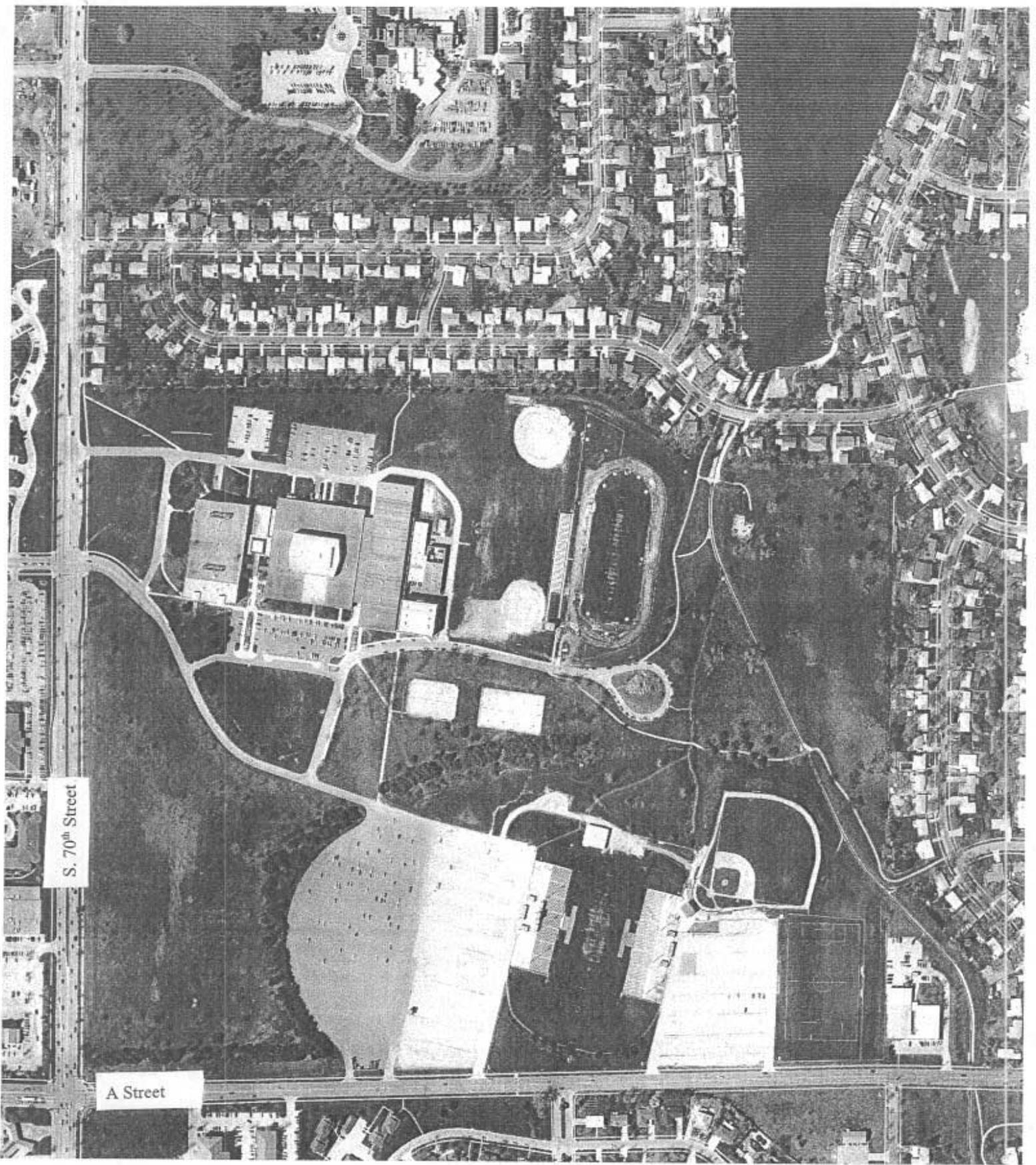
At the February 19, 2003 public hearing on Special Permit #1998 - Nebraska Tennis Center, the issue was raised concerning the proximity of residences to recreational facilities at East High School, and also of development along the power line easement that extends through this site. The attached aerial photographs are being provided as additional information to help clarify issues raised.

The first aerial photograph is of the East High School site located northeast of the intersection of South 70<sup>th</sup> and A Streets. The photograph shows some at-grade improvements such as parking lots, a soccer field and an outdoor track in close proximity to surrounding residences. However, the significant buildings on the site (East High School, Seacrest Field) are no closer than approximately 300' to surrounding residences.

The second aerial photograph shows the LES power line easement that runs across the Nebraska Tennis Center Site extended to the east and west through the city. At the southwest corner of the aerial, the power line easement is shown making a jog to run north along South 56<sup>th</sup> Street. East of the Nebraska Tennis Center site the easement is shown extending approximately another one-half mile before it turns and goes north.

Also attached is a map that shows existing LES power line facilities (shown as the heavy dark lines).

PLANNING DEPARTMENT  
County-City Building  
555 S. 10th Street, Rm 402  
Lincoln, NE 68508  
(402) 441-7492



S. 70<sup>th</sup> Street

A Street



### East High School Site

North 046  
No Scale

S. 56<sup>th</sup> Street

20

21

20

S. 70<sup>th</sup> Street

S. 84<sup>th</sup> Street

33

South Street



Van Dorn Street

2

Pioneers Blvd

10



North

No Scale

11

Old Cheney Road

3307

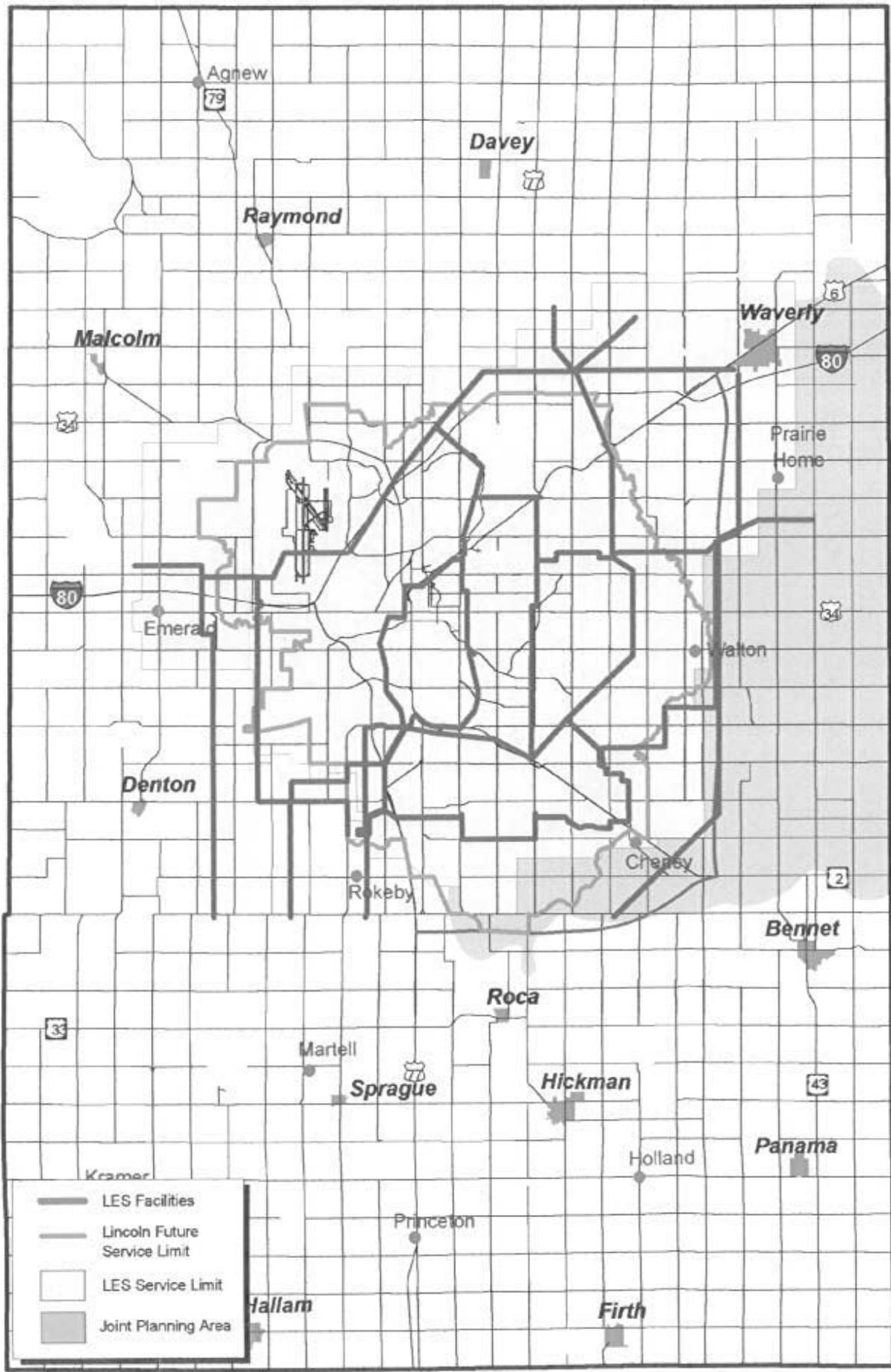
— LES Power Line Easement

16

047

NW 140th St  
 NW 126th St  
 NW 112th St  
 NW 98th St  
 NW 84th St  
 NW 70th St  
 NW 56th St  
 NW 40th St  
 NW 27th St  
 NW 12th St  
 N 1st St  
 N 14th St  
 N 27th St  
 N 40th St  
 N 56th St  
 N 70th St  
 N 84th St  
 N 98th St  
 N 112th St  
 N 134th St  
 N 148th St  
 N 162nd St  
 N 176th St  
 N 190th St

Ashland Rd  
 Little Salt Rd  
 Agnew Rd  
 Rock Creek Rd  
 Davey Rd  
 Branched Oak Rd  
 Raymond Rd  
 Mill Rd  
 Waverly Rd  
 Bluff Rd  
 McKelvie Rd  
 Alvo Rd  
 Fletcher Ave  
 Havelock Ave  
 Adams St  
 Holdrege St  
 O St  
 A St  
 Van Dorn St  
 Pioneers Blvd  
 Old Cheney Rd  
 Pine Lake Rd  
 Yankee Hill Rd  
 Rokeby Rd  
 Saltillo Rd  
 Bennet Rd  
 Wittstruck Rd  
 Roca Rd  
 Martell Rd  
 Hickman Rd  
 Stagecoach Rd  
 Panama Rd  
 Olive Creek Rd  
 Princeton Rd  
 Pella Rd  
 Firth Rd  
 Gage Rd



	LES Facilities
	Lincoln Future Service Limit
	LES Service Limit
	Joint Planning Area

February 19, 2003

Special Permit #1998  
Nebraska Tennis Center  
84<sup>th</sup> and South Street

Requested revisions to Conditions of Approval:

- 1.1.1 Sidewalks along the south ~~both~~ sides of that portion of South Street to be improved, and along the west side of the driveway to connect the sidewalk along South Street with the internal sidewalk system.
- 1.1.2 The building setback a minimum of 60' ~~100'~~ from the south and east ~~all~~ property lines.
- 1.1.3 Increased screening along the south and east property lines consistent with the City of Lincoln Design Standards for multiple-family dwellings approved by special permit, but with trees planted staggered, double rows.
- 1.1.4 A signed surveyor's certificate.
- 1.1.5 Street tree planted along South 84<sup>th</sup> Street per Parks and Recreation Department review. The tree species and quantity of trees to be removed must also be shown.
- 1.1.6 Delete Notes #5 and #7 from Sheet 1 of 3 relating to municipal water service ~~and the rear setback waiver, respectively.~~
- 1.1.7 Add a note stating that indoor tennis courts located in non-opaque buildings and outdoor tennis court lights shall be turned off between the hours of 10:00 p.m. and 6:00 a.m.
- 1.1.8 The easements requested by the L.E.S. review dated January 3, 2003.
- 1.1.9 All required paved parking areas based upon the parking requirements of the number of tennis courts and the size of the pool proposed.
- 1.2 A revised grading plan approved by Public Works and Utilities. Of particular concern is the height of the fill in the south and east areas of the site.
- 1.3 Provide traffic impact information requested by Public Works and Utilities and make any revisions required by that information.
2. This approval permits a recreational facility consistent with the revised site plan with a waiver of height to 48 ~~52'~~.

# facsimile

## TRANSMITTAL

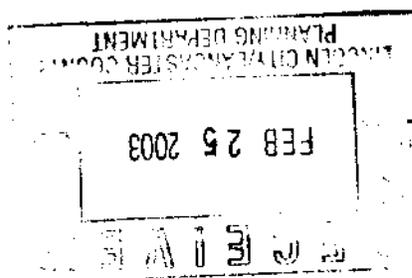
**To:** Brian Will  
**Fax #:** 441-6377  
**Re:** Nebraska Tennis Center  
**Date:** February 25, 2003  
**Pages:** one (including this cover sheet)

Brian,

We have reviewed your request for additional information regarding special events at the proposed Nebraska Tennis Center. The submitted site plan includes parking lot paving for 99 vehicles. This area is based upon an exaggerated hourly usage and auto occupancy of 1.25. The plan also includes a paved turn-around area for buses to accommodate school buses and other large vehicles since the parking area will not support these vehicles. An additional 128 parking stalls are shown as event parking to accommodate special event over-flow parking, if needed.

Unfortunately, the number of special events is not known nor is the anticipated number of participants at this time since NTC has not entered into any agreements with any of the local educational systems or scheduled any events.

  
J.D. Burt



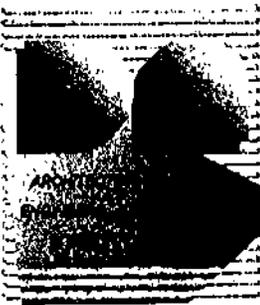
If there is a problem with this transmittal, please contact:

The information contained in this fax message is privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are notified that any distribution or copying of this communication is strictly prohibited. If you received this communication in error, please immediately notify us by telephone and return the original message to us at the above address by mail. Thank you.

**Design Associates  
of Lincoln, Inc.**

Pershing Square  
1609 N Street  
Lincoln, NE 68508

Telephone: 402/474-3000  
Fax: 402/474-4045



**Design Associates** of Lincoln, Inc.

Pershing Square  
1609 'N' Street  
Lincoln, NE 68508

Phone: (402) 474-3000 • Fax: (402) 474-4045

ITEM NO. 4.1: SPECIAL PERMIT NO. 1998  
(p.65 - Adm. Action - 3/05/03)

Facsimile Transmittal

March 5, 2003

Ray Hill  
Lincoln/Lancaster County Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508  
Facsimile: 402/41-6377

RE: Special Permit #1998

Ray,

We have discussed your thoughts regarding acquisition of property adjacent to Nebraska Tennis Center (NTC) proposed at 84<sup>th</sup> and South Street to increase the proposed 60' setbacks to 100' along the south and east limits of the site. We offering the following:

The site is located outside of the city limits and is zoned AG. The NTC site and surrounding area are shown as future residential in the current Comprehensive Plan. It is our opinion when the NTC site and surrounding area are annexed and zoned for development, the area will likely be zoned either R-2 or R-3. Review of the zoning ordinance shows both of these districts require a 30' rear yard and 5' side yard. The NTC application proposes a 60' side yard setback along the south property line that meets the side yard requirement of the AG district and a request to reduce rear yard along the east property line from 100' to 60'. The affected owner has provided written consent for the requested waiver. It continues to be our opinion the proposed site plan will provide sufficient separation from future land uses particularly when setback requirements are reduced to distances identified in the R-2 and R-3 zoning districts.

We understand your concerns regarding the parking needs for the site, particularly during special events. The attached correspondence was previously forwarded regarding this issue. It is our understanding tennis tournaments are not attended in large numbers. As noted in the attached correspondence, the parking lot has been designed based upon exaggerated tennis court usage and a relatively low auto occupancy rate. Overflow parking is also shown to accommodate special events. It is our opinion that adequate on-site parking has been provided.

Please advise if additional information is desired.

Sincerely,

J.D. Burt

Attachment: February 24 2003 E-mail correspondence

