

City Council Introduction: **Monday**, March 29, 2004
Public Hearing: **Monday**, April 5, 2004, at **1:30 p.m.**

Bill No. 04R-67

FACTSHEET

TITLE: **SPECIAL PERMIT NO. 04010**, requested by Potential II, L.L.C., for authority to sell alcoholic beverages for consumption on the premises at 7301 South 27th Street.

STAFF RECOMMENDATION: Conditional Approval

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 03/17/04
Administrative Action: 03/17/04

RECOMMENDATION: Conditional Approval (8-0: Carlson, Carroll, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'; Krieser absent).

FINDINGS OF FACT:

1. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.3-5, concluding that the licensed premises complies with all the applicable criteria for a special permit for the sale of alcohol, including being located in excess of 100 feet away from a residence, a residential district and a day care facility. This request complies with the requirements of the Zoning Ordinance and the Comprehensive Plan.
2. The applicant's testimony is found on p.7.
3. There was no testimony in opposition.
4. On March 17, 2004, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend conditional approval, as set forth in the staff report dated March 3, 2004. The conditions of approval are found on p.5.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: March 22, 2004

REVIEWED BY: _____

DATE: March 22, 2004

REFERENCE NUMBER: FS\CC\2004\SP.04010

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for March 17, 2004 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #04010

PROPOSAL: To allow the sale of alcoholic beverages for consumption on the premises.

CONCLUSION: The licensed premises complies with all the applicable criteria for a special permit for the sale of alcohol, including being located in excess of 100' away from a residence, a residential district, and a day care facility. This request complies with the requirements of the Zoning Ordinance and Comprehensive Plan.

<u>RECOMMENDATION:</u>	Conditional Approval
-------------------------------	----------------------

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached ownership certificate.

LOCATION: 7301 South 27th Street

EXISTING ZONING: H-4 General Commercial

EXISTING LAND USE: Vacant

SURROUNDING LAND USE AND ZONING:

North:	Commercial	B-2
South:	Vacant	H-4
East:	Commercial	H-4
West:	Vacant	H-4

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates commercial land uses in this area.

HISTORY: **March 3, 2003** - The Tamarin Ridge development was approved, and included PP#02016 (created 78 lots and two outlots), CZ#3373 (a change of zone from AG to R-3, R-4, P, H-4 and O-3), SP#1989 (to allow 115,000 square feet of office/commercial floor area including an automobile dealership), SP#1988 (to allow a community unit plan for 70 single-family lots and two lots for 321 multiple-family units), and UP#147 (to allow 26,500 square feet of office floor area including 4,500 square feet of floor area for a drive-thru bank facility).

BACKGROUND:

This site is located within H-4 portion of Tamarin Ridge where a special permit for planned service commercial to allow up to 115,000 square feet of office and commercial floor area, including an automobile dealership, was approved. A 5,200 square foot restaurant is under construction, and this request is to allow the sale of alcohol for consumption on the premises in conjunction with the restaurant.

CZ#04003 - A text amendment to revise Sections 27.63.680 and 27.63.685 of the Zoning Ordinance. It was considered by the Planning Commission on February 18, 2004, and is scheduled for public hearing before the City Council on March 3, 2004. While CZ#04003 proposes changes to the requirements for special permits for the sale of alcohol, those changes would not affect this application if they were in effect. However, this request is subject to the requirements of the Zoning Ordinance at the time it was submitted, and has been reviewed using the existing requirements.

ANALYSIS:

1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC) 27.63.680: Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions, which may be waived by the City Council:

(a) Parking shall be in accordance with LMC Section 27.67.020.

Off-street parking in accordance with LMC 27.67.020, at the required ratio of one space per 100 square feet of gross floor area, is shown on the site plan.

(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.

This application is for a special permit to allow the sale of alcohol for consumption on the premises. The sale of alcoholic beverages off the premises is not a part of this proposal and is not being requested.

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

The area defined as the licensed premises is contained on Lot 1, Tamarin Ridge Addition and is in excess of 100' away from a residence, a residential district, or a day care facility.

As noted previously, CZ#04003 proposes to amend LMC Sections 27.63.680 and 685. As of this writing, one of the proposed changes is to require that the licensed premises for alcohol sales be more than 100' away from a day care facility, park, church, state mental institution, or

a residential district (except where such use is accessory to a golf course or country club). This request is also more than 100' away from the additional uses noted.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

Parking lot lighting is required to comply with Design Standards. No other lighting is shown as part of the application.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not shown as part of this application.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

No such devices are shown as part of this application.

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

Neither the front nor rear doors of the premises are within 150' of a residential district, the nearest of which is in excess of 500' away to the south.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to the site is off Kendra Lane. It is a private roadway that provides access to only commercial properties, and is not considered a residential street.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**

Planning Commission review and City Council approval is required for this use.

2. DEPARTMENT RESPONSES:

POLICE: The Police Department does not object to this request.

PUBLIC WORKS: Public Works and Utilities does not object to this request.

CONDITIONS:

Site Specific:

1. This approval permits the sale of alcohol for consumption on the premises at 7301 South 27th Street as shown on the attached site plan.

Standard:

2. The following conditions are applicable to all requests:
 - 2.1 Before the sale of alcohol for consumption on the premises, all development and construction is to comply with the approved plans.
 - 2.2 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.
 - 2.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 2.4 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.

Prepared by:

Brian Will
441-6362
bwill@ci.lincoln.ne.us

Planner

March 3, 2004

CONTACT: William Austin
301 South 13th Street Suite 400
Lincoln, NE 68508
(402) 476-1000

APPLICANT Potential II, LLC
4820 Larkwood Road
Lincoln, NE 68516
(402) 420-5643

OWNER: Tamarin Ridge Partners, LLC
2186 Lakebrook Drive
New Brighton, MN 55112
(612) 817-2249

SPECIAL PERMIT NO. 04010

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 17, 2004

Members present: Larson, Carroll, Sunderman, Carlson, Taylor, Marvin, Pearson and Bills-Strand; Krieser absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda and had separate public hearing at the request of Commissioner Taylor.

Proponents

1. **Jim Haran**, 4820 Larkwood Road, the applicant, appeared to answer any questions.

Taylor acknowledged that the application meets the distance requirements from the residential areas, but he was interested in knowing more about the application.

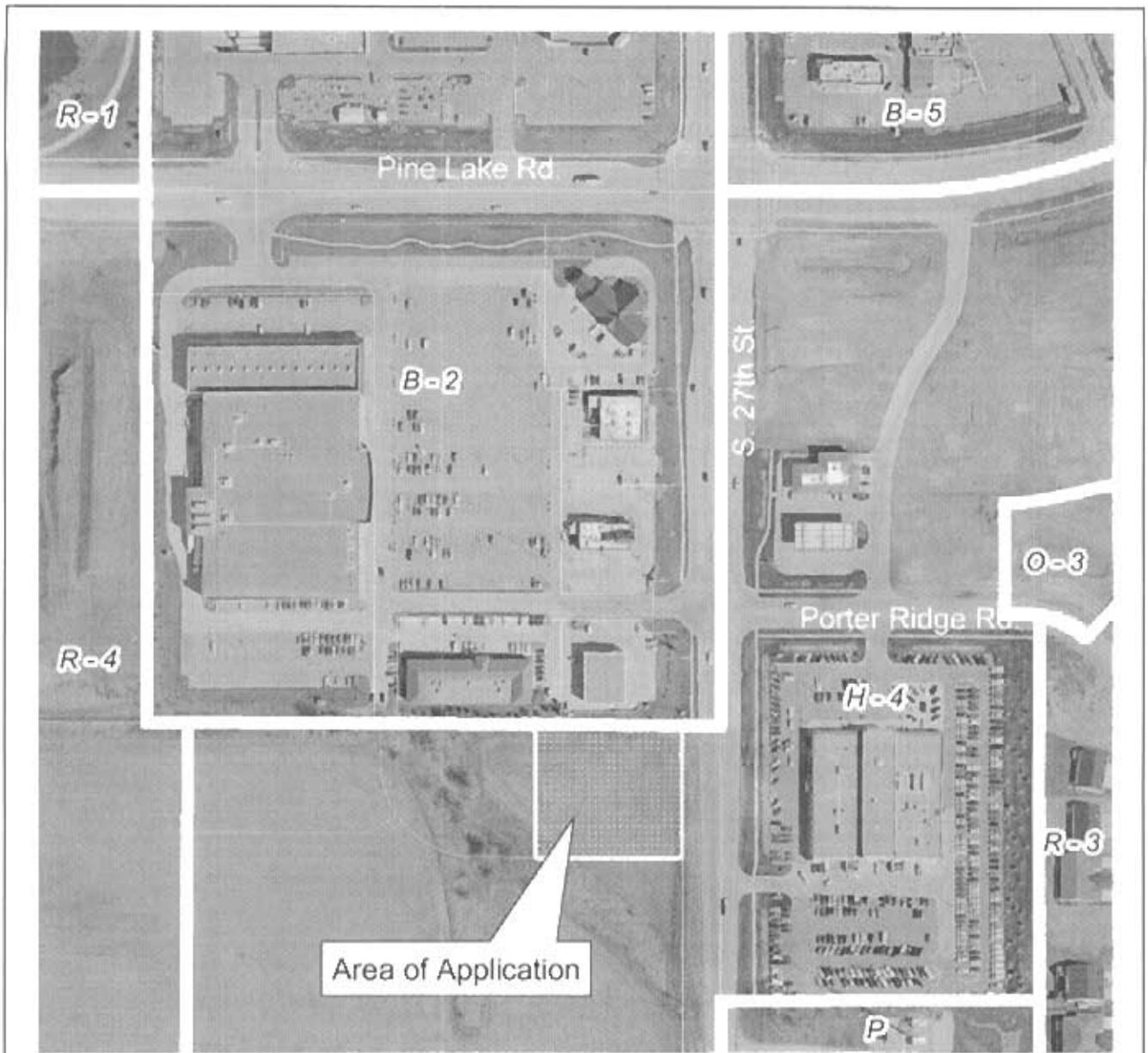
Haran stated that he is requesting this special permit to sell alcoholic beverages at a second location for Buffalo Hot Wings in south Lincoln.

There was no testimony in opposition.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 17, 2004

Larson moved to approve the staff recommendation of conditional approval, seconded by Marvin and carried 8-0: Larson, Carroll, Sunderman, Carlson, Taylor, Marvin, Pearson and Bills-Strand voting 'yes'; Krieser absent. This is a recommendation to the City Council.



2002 aerial

Special Permit #04010
7301 S. 27th St.

Zoning:

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

One Square Mile
 Sec. 24 T9N R6E



Zoning Jurisdiction Lines

City Limit Jurisdiction



RIEHL D. CARSTENS & ASSOCIATES
 LAND USE PLANNING
 COMMERCIAL
 & RESIDENTIAL

4810 S. 27TH AVENUE
 SUITE 100
 DENVER, CO 80202

PHONE: 303.755.1100
 FAX: 303.755.1101
 WWW: RIEHL.COM

TAMARIN RIDGE RETAIL/RESTAURANT BUILDING

PERMITS
 &
 CONSULTING
 NO.

S. 27TH &
 KENDRA LANE

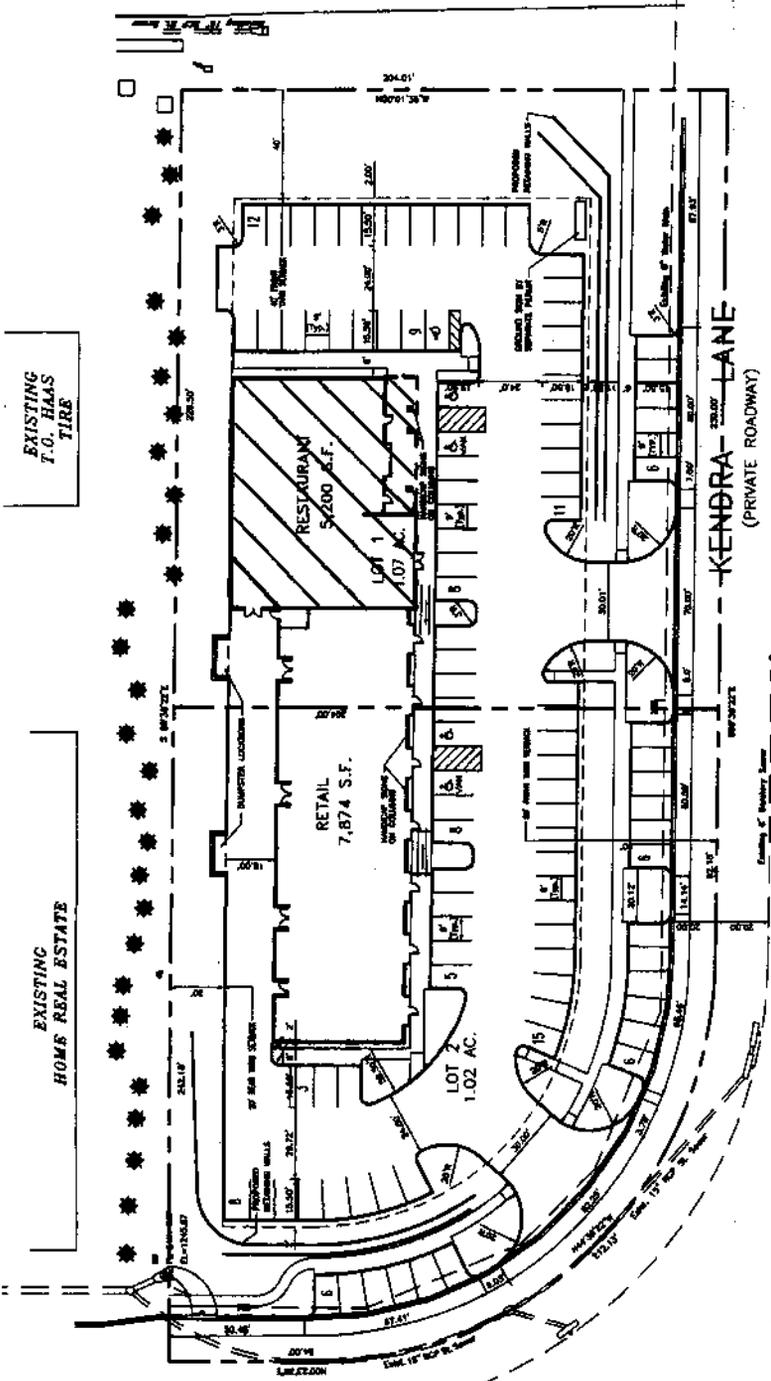
ENCLOSURE

SITE PLAN

SCALE: 1" = 20'

DATE

Cl.1



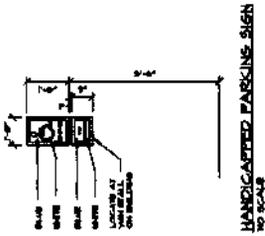
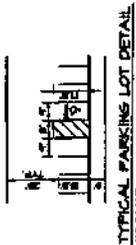
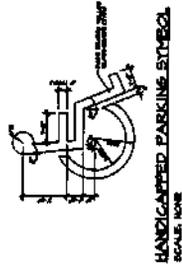
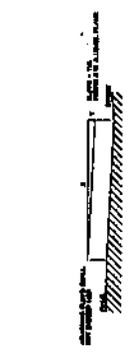
FEB 19 2004

LEGAL DESCRIPTION
 LOTS 1, 2 & 3, BLOCK 1, TAMARIN RIDGE ADDITION

ZONING
 L-100 (LOCAL BUSINESS CENTER)

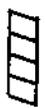
PARKING
 100 SPACES REQUIRED BY CODE

NOTE
 1. CONTRACTOR SHALL VERIFY EXISTING SITE CONDITIONS INCLUDING UTILITIES.
 2. CONTRACTOR TO MAINTAIN ALL EXISTING UTILITIES.
 3. ALL IMPROVEMENTS SHALL BE SUBMITTED BY SEPARATE PERMIT.



BEFORE YOU DIG, CALL 1-800-331-5686
 FOR LOCATION OF UNDERGROUND TELEPHONE,
 ELECTRIC, GAS MAINS, CABLE AND CITY OF
 LINCOLN UTILITIES

Area of Special Permit



00009

CHARLES THONE
DONALD H. ERICKSON
DANIEL D. KOUKOL
WM. E. MORROW, JR.
SAM JENSEN
DANIEL B. KINNAMON
THOMAS J. GUILFOYLE
VIRGIL K. JOHNSON
CHARLES V. SEDERSTROM
CHARLES D. HUMBLE
MICHAEL C. WASHBURN
ALAN M. WOOD
WILLIAM F. AUSTIN
JOHN C. BROWNRIGG
THOMAS J. CULHANE
RICHARD J. GILLOON
SAMUEL E. CLARK
GARY L. HOFFMAN
MARK M. SCHORR
JERALD L. RAUTERKUS
WILLIAM T. FOLEY

LAW OFFICES
ERICKSON & SEDERSTROM, P.C.

A LIMITED LIABILITY ORGANIZATION

SUITE 400
301 SOUTH 13TH STREET
LINCOLN, NEBRASKA 68508-2571
TELEPHONE (402) 476-1000
FACSIMILE (402) 476-6167

WRITER'S INTERNET ADDRESS

waustin@eslaw.com

February 12, 2004

PATRICK R. GUINAN
JOHN B. MORROW
TRAVIS A. GINEST
DAVID J. TARVIN, JR.
MICHELLE B. MILLER
TIERNAN T. SIEMS
PAUL D. HEIMANN
KRISTINE J. GATES
ANGELA PROBASCO
TRENT J. MARTINET

OF COUNSEL

DAVID C. MUSSMAN
ROLAND J. SANTONI
DAVID J. NIELSEN
DONALD B. STENBERG

OMAHA OFFICE
10330 REGENCY PARKWAY
DRIVE, SUITE 100
OMAHA, NEBRASKA 68114
(402) 397-2200

Mr. Brian Will
City of Lincoln
Planning Department
555 South 10th Street
Lincoln, NE 68508

RE: Potential II, L.L.C. -- Special Permit For Sale Of Liquor
On Sale at 7301 South 27th Street, Suite 100
Our File No.: 23884.47332

Dear Brian:

I am writing on behalf of my client, Potential II, L.L.C., which is seeking a Special Permit for the sale of alcoholic beverages for consumption on the premises at 7301 South 27th Street, Suite 100. Potential II, L.L.C. is a Nebraska limited liability company that proposes to open a second location for the restaurant styled Buffalo Wild Wings, which presently has a location in downtown Lincoln. Approval of this Special Permit will provide the zoning authorization for the sale of alcoholic beverages for consumption on the premises in conjunction with the restaurant operation. We believe the approval of this Special Permit will be in furtherance of the convenience of the future customers of this establishment.

The specific area for which the Special Permit is requested is Suite 100, which is the 5200 square foot restaurant site as shown on the site plan, plus the outdoor patio area located immediately south of and adjacent to the restaurant structure. Enclosed are the completed application, the filing fee in the amount of \$250.00 and twelve copies of the site plan. If anything further is needed, please feel free to give me a call.

Sincerely,



William F. Austin

WFA:cho

C: Mr. James Haran

00010

FEB 19 2004

CHARLES THONE
DONALD H. ERICKSON
DANIEL D. KOUKOL
WM. E. MORROW, JR.
SAM JENSEN
DANIEL B. KINNAMON
THOMAS J. GUILFOYLE
VIRGIL K. JOHNSON
CHARLES V. SEDERSTROM
CHARLES D. HUMBLE
MICHAEL C. WASHBURN
ALAN M. WOOD
WILLIAM F. AUSTIN
JOHN C. BROWNIGG
THOMAS J. CULHANE
RICHARD J. GILLOON
SAMUEL E. CLARK
GARY L. HOFFMAN
MARK M. SCHORR
JERALD L. RAUTERKUS
WILLIAM T. FOLEY

LAW OFFICES
ERICKSON & SEDERSTROM, P.C.

A LIMITED LIABILITY ORGANIZATION

SUITE 400
301 SOUTH 13TH STREET
LINCOLN, NEBRASKA 68508-2571
TELEPHONE (402) 476-1000
FACSIMILE (402) 476-6167

WRITER'S INTERNET ADDRESS

waustin@eslaw.com

February 19, 2004

PATRICK R. GUINAN
JOHN B. MORROW
TRAVIS A. GINEST
DAVID J. TARVIN, JR.
MICHELLE B. MILLER
TIERNAN T. SIEMS
PAUL D. HEIMANN
KRISTINE J. GATES
ANGELA PROBASCO
TRENT J. MARTINET

OF COUNSEL

DAVID C. MUSSMAN
ROLAND J. SANTONI
DAVID J. NIELSEN
DONALD B. STENBERG

OMAHA OFFICE
10330 REGENCY PARKWAY
DRIVE, SUITE 100
OMAHA, NEBRASKA 68114
(402) 397-2200

Lincoln/Lancaster County
Planning Department
555 South 10th Street
Lincoln, NE 68508

RE: Certificate of Ownership
Our File No.: 23884.47332

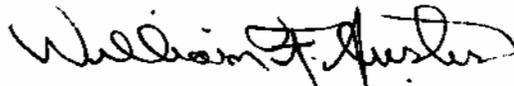
Dear Madam/Sir:

Please be advised that I have reviewed the records in the Office of the Register of Deeds for Lancaster County relating to:

Lot 1, Block 1, Tamarin Ridge Addition, located in the South Half of the Northeast Quarter of Section 24, Township 9, North Range, 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska,

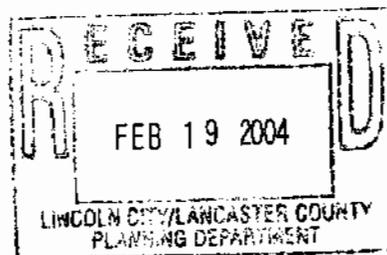
and find that the record owners of said property are Thomas L. Folsom, Deborah P. Folsom, Susan G. Brouse, and Donald R. Brouse. These individuals are currently doing business as Tamarin Ridge Partners, L.L.C.

Sincerely,



William F. Austin

WFA:cho



00011