

City Council Introduction: **Monday**, April 12, 2004  
Public Hearing: **Monday**, April 19, 2004, at **1:30** p.m.

Bill No. 04R-81

## **FACTSHEET**

**TITLE:** SPECIAL PERMIT NO. 2047, requested by VFW Post #131, for authority to sell alcoholic beverages for consumption on the premises at 5721 Johanna Road.

**STAFF RECOMMENDATION:** Conditional Approval

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda: 01/07/04  
Administrative Action: 01/07/04

**RECOMMENDATION:** Conditional Approval (9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes').

### **FINDINGS OF FACT:**

1. The applicant, VFW Post #131, is proposing to locate a social hall on the site at 5721 Johanna Road, and is requesting a special permit to allow the sale of alcohol for consumption on the premises.
2. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.2-4, concluding that if two additional parking spaces are shown, 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, and complies with the requirements of the Zoning Ordinance and Comprehensive Plan.
3. On January 7, 2004, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On January 7, 2004, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend conditional approval, as set forth in the staff report dated December 21, 2003. The conditions of approval are found on p.4-5, including the provision to show two additional parking spaces.
5. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been satisfied.

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

**DATE:** April 5, 2004

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

**DATE:** April 5, 2004

**REFERENCE NUMBER:** FS\CC\2004\SP.2047

# LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for January 7, 2004 PLANNING COMMISSION MEETING

**P.A.S.:** Special Permit #2047

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

**CONCLUSION:** If two additional parking spaces are shown, 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, and complies with the requirements of the Zoning Ordinance and Comprehensive Plan.

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

## **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lot 1, Block 1, Schweitzer Business Park Third Addition, Lincoln, Lancaster County, Nebraska

**LOCATION:** 5721 Johanna Road

**EXISTING ZONING:** I-1 Industrial

**EXISTING LAND USE:** Undeveloped

## **SURROUNDING LAND USE AND ZONING:**

North:	Commercial	I-1
South:	Commercial	I-1
East:	Commercial	I-1
West:	Commercial	I-1

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan designates industrial land uses in this area

## **BACKGROUND:**

The property is undeveloped, and is located in an older, but still developing commercial/industrial district northwest of Havelock. The applicant, VFW Post #131, is proposing to locate a social hall on the site. This request is to allow the sale of alcohol for consumption on the premises.

## **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 provided on-site at the ratio of one space per 100 square feet of gross floor area.**

The site plan shows Phase I and II parking areas. Phase I is intended to accommodate the building floor area shown on the plan and is to be paved now - Phase II would accommodate any future expansion and will be paved at the time the building permit for the expansion is approved. The ordinance requires that parking be provided in an amount adequate to accommodate the floor area indicated on the plan. To meet the requirements of the Zoning Ordinance, the Phase I area must be expanded to show two additional parking stalls.

**(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 alcohol for consumption off the premises is not being requested and is not part of this proposal.

**©) 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 premises is located more than 100' from a residence, a residential district, or day care facility, and none of these districts or uses are in the vicinity of the premises. The nearest residential district is in excess of one-half mile away to the southeast across Cornhusker Highway.

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

No additional lighting is proposed as part of the this request. Any new parking lot lighting will be required to comply the Design Standards for Parking Lot Lighting at the time of building permits.

**(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 indicated as part of this request.

**(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 indicated as part of this request.

**(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 one-half mile away to the southeast across Cornhusker Highway.

**(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.**

No residential streets are used to access this site.

**(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.

### **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 The Phase I paved parking area expanded by two parking spaces.

2. This approval permits the sale of alcohol for consumption on the premises at 5721 Johanna Road.

General:

3. Before the sale of alcohol for consumption on the premises, the parking lot shall be paved to City Design Standards.

Standard:

4. The following conditions are applicable to all requests:
  - 4.1 Before the sale alcohol for consumption on the premises all development and construction is to comply 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.
  - 4.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 4.4 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  
Planner  
December 21, 2003

**APPLICANT/**

**OWNER:** Harris-Fraley VFW #131  
5721 Johanna Road  
Lincoln, NE 68507

**CONTACT:** Donald Gillham  
1835 North 67<sup>th</sup> Street  
Lincoln, NE 68507  
(402) 464-2944

# SPECIAL PERMIT NO. 2047

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

January 7, 2004

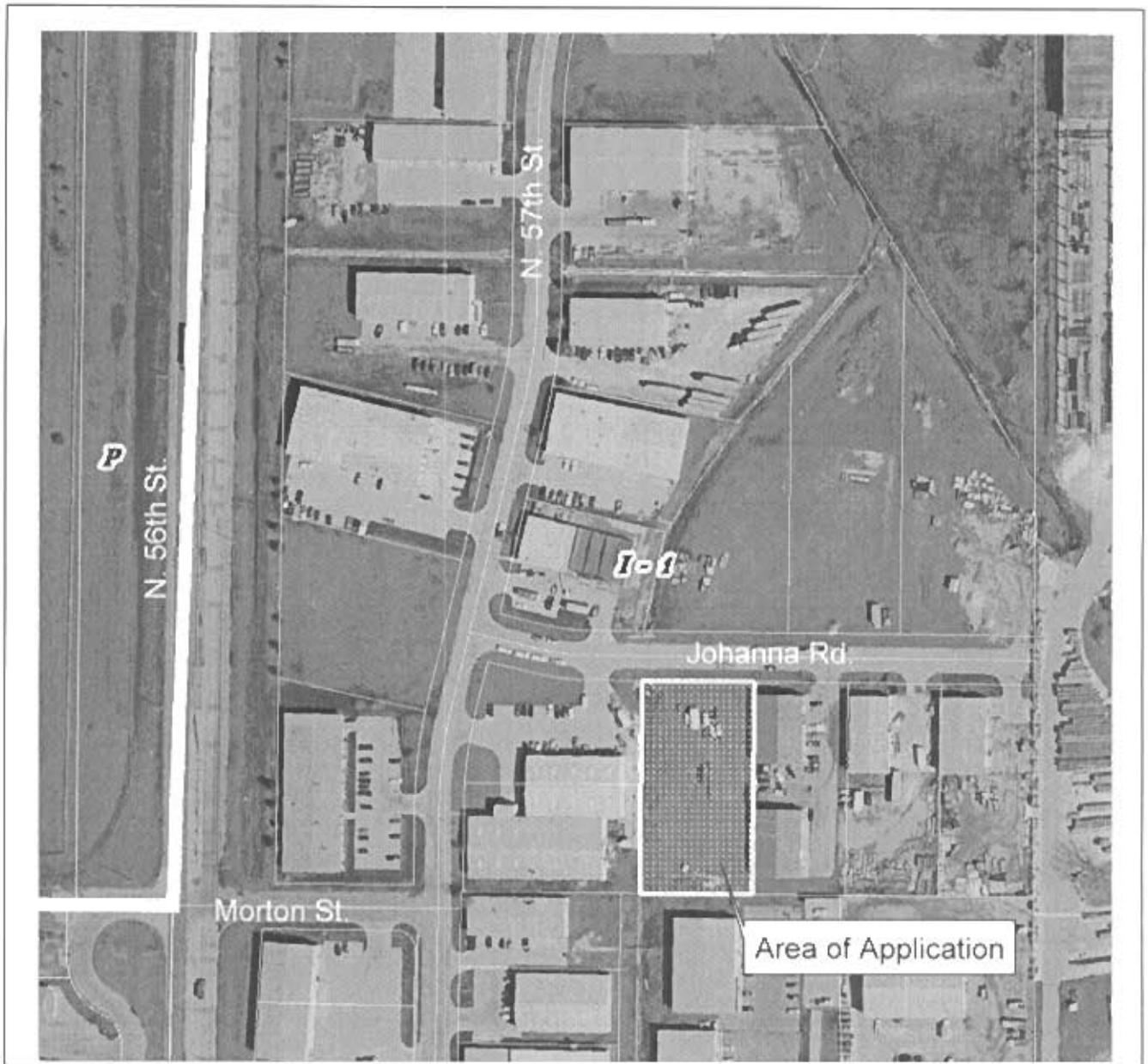
Members present: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3432; SPECIAL PERMIT NO. 2047; COUNTY SPECIAL PERMIT NO. 207 and COUNTY PRELIMINARY PLAT NO. 03010, OAK PRAIRIE; PRELIMINARY PLAT NO. 03008, NORTH CREEK 1<sup>ST</sup> ADDITION; STREET AND ALLEY VACATION NO. 03014; STREET AND ALLEY VACATION NO. 03018; and WAIVER NO. 03015.**

**Item No. 1.3a, County Special Permit No. 207, and Item No. 1.3b, County Preliminary Plat No. 03010**, were removed from the Consent Agenda at the request of Commissioner Pearson and scheduled for separate public hearing. **Item No. 1.5, Street and Alley Vacation No. 03015**, was removed from the Consent Agenda and scheduled for separate public hearing at the request of Michael Rierden.

Carlson moved to approve the remaining Consent Agenda, seconded by Larson and carried 9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'.

Note: This is final action on the North Creek 1<sup>st</sup> Addition Preliminary Plat No. 03008 and Waiver No. 03015, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.



2002 aerial

## Special Permit #2047 5721 Johanna Rd.

### 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
- C-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. 4 T10N R7E



