

**DENIAL**

RESOLUTION NO. A-\_\_\_\_\_

1           WHEREAS, Alodium LLC, hereinafter Appellant, is constructing a small office  
2 building with a basement located at 6710 L Street; and

3           WHEREAS, said building contains 5,267sq. ft. of gross floor area as defined in  
4 Lincoln Municipal Code § 27.82.040 and contains 3,750 sq. ft. of floor area as defined  
5 by Lincoln Municipal Code § 27.03.250; and

6           WHEREAS, the Impact Fee Administrator calculated the arterial street impact  
7 fees for this use based upon the gross floor area using the arterial street impact fee  
8 schedule beginning January 1, 2004 for general office (\$2,178 per 1,000 sq. ft.); and

9           WHEREAS, the Appellant filed its notice of appeal appealing the impact fee  
10 determination and requesting that the arterial street impact fees be calculated based  
11 upon the buildings "net" floor area of 3,750 sq. ft. as Appellant's building has a larger  
12 storage area when compared to other commercial office buildings and that strict  
13 application of the impact fee ordinance's calculations under these circumstances work  
14 an unjust and undue burden on the Appellant; and

15           WHEREAS, the City Council finds that the impact fee was correctly calculated  
16 and that there are no unusual circumstances of the development which demonstrate  
17 that the application of the fee to the development would be unfair or unjust as the  
18 requested reduction does not meet any of the stipulations or conditions required for  
19 reduction in or exemption from arterial street impact fees.

20           NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
21 Lincoln, Nebraska:

1           That the impact fee notice of appeal filed by Alodium LLC on July 29, 2004 is  
2 hereby denied for the following reasons:

3           1.     The impact fee ordinance requires the arterial street impact fee to be  
4 calculated based upon the gross floor area of the building.

5           2.     Appellant's argument is no different than other users could make (i.e.  
6 discount store could try to exclude their storage area from the impact fee or state they  
7 have more back room storage than normal).

8           3.     The arterial street impact fee schedule is based upon the ITE traffic  
9 generation manual. In the manual the most common characterization for uses is based  
10 upon gross floor area, not net area or leasable area. The general office trip rate has  
11 been calculated based upon 200 traffic count studies nationwide for general office  
12 uses. Those studies were based upon the gross area of a building by measuring  
13 outside walls and do not take into consideration the amount of storage area within the  
14 building.

15           4.     The requested exemption does not meet any of the stipulations or  
16 conditions required for reduction or exemption from arterial street impact fees.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this \_\_\_ day of \_\_\_\_\_, 2004:

\_\_\_\_\_  
Mayor