

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

USE PERMIT NO. 04006

1           WHEREAS, Southview, Inc. and Highlands East Limited Partnership have  
2 submitted an application in accordance with Section 27.27.080 of the Lincoln Municipal Code  
3 designated as Use Permit No. 04006 for authority to construct 18 dwelling units and 11,800 sq.  
4 ft. of office floor area together with requests to waive the Land Subdivision Ordinance, Zoning  
5 Code and Design Standards to reduce the rear and side yard setbacks, to reduce the required  
6 frontage, to waive the lot depth-to-width ratio, to allow sanitary sewer to flow opposite street  
7 grade, to switch the standard side of the street location of the water and sewer mains, and to  
8 waive the preliminary plat process, on property generally located southwest of Barons Road  
9 and N.W. 1st Street, and legally described to wit:

10                   Lot 2, Highlands East 8th Addition, Lincoln, Lancaster County,  
11 Nebraska, and the right-of-way stub on the west side of N.W. 1st  
12 Street, north of Highlands Blvd., Lincoln, Lancaster County,  
13 Nebraska, legally described as:

14                   Commencing at the southwest corner of Outlot B, Highlands East  
15 Addition, said point being the southeast corner of Lot 1, Block 4,  
16 Highlands East Addition; thence around a curve in a clockwise  
17 direction having a delta angle of 15 degrees 56 minutes 37  
18 seconds, an arc distance of 414.96 feet, radius of 1491.21 feet,  
19 and a chord of an assumed bearing of north 72 degrees 36  
20 minutes 27 seconds east, along the south line of said Outlot B, a  
21 distance of 413.62 feet; thence north 36 degrees 47 minutes 03  
22 seconds east along the southeasterly line of said Outlot B, a  
23 distance of 34.28 feet; thence north 8 degrees 04 minutes 02  
24 seconds west along the east line of said Outlot B, a distance of  
25 66.00 feet to the point of beginning; thence north 36 degrees 58  
26 minutes 55 seconds west, a distance of 22.74 feet; thence south  
27 81 degrees 22 minutes 40 seconds west, a distance of 35.40 feet;  
28 thence north 8 degrees 31 minutes 20 seconds west, a distance  
29 of 60.00 feet; thence north 81 degrees 28 minutes 40 seconds  
30 east, a distance of 34.95 feet; thence north 20 degrees 24  
31 minutes 57 seconds east, a distance of 23.08 feet; thence south 8  
32 degrees 31 minutes 52 seconds east, a distance of 100.19 feet to  
33 the point of beginning;

1           WHEREAS, the real property adjacent to the area included within the site plan  
2 for this development of dwelling units and office space in the O-3 Office Park District will not be  
3 adversely affected; and

4           WHEREAS, said site plan together with the terms and conditions hereinafter set  
5 forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to  
6 promote the public health, safety, and general welfare.

7           NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
8 Lincoln, Nebraska:

9           That the application of Southview, Inc. and Highlands East Limited Partnership,  
10 hereinafter referred to as "Permittee", to construct 18 dwelling units and 11,800 sq. ft. of office  
11 floor area on the property legally described above be and the same is hereby granted under the  
12 provisions of Section 27.27.080 of the Lincoln Municipal Code upon condition that construction  
13 and operation of said development be in strict compliance with said application, the site plan,  
14 and the following additional express terms, conditions, and requirements:

15           1.       This permit approves 18 dwelling units and 11,800 square feet of office  
16 space.

17           2.       The following waivers to the Zoning Ordinance, Land Subdivision  
18 Ordinance and Design Standards are approved:

- 19           a.       The requirement of Section 3.5 of the Sanitary Sewer Design  
20 Standards is waived to allow sewers to flow opposite street  
21 grades.
- 22           b.       The requirements of Lincoln Municipal Code § 27.27.070 are  
23 waived to allow the side yard setback to be reduced from 15' to  
24 7.5' and rear yard setback to be reduced from 40' to 30' as shown  
25 on the site plan.
- 26           c.       A reduction of the required minimum street frontage for single-  
27 family attached lots from 50 feet to 25 feet.
- 28           d.       The requirements of Section 3.4 of the Sanitary Sewer Design  
29 Standards requiring sanitary sewers to be located on the west  
30 side of the street and Section 3.2 of the Water Main Design

- 1 Standards requiring water mains to be located on the east side of  
 2 the street are waived to allow said locations to be reversed as  
 3 shown on the site plan.
- 4 e. The requirement of Lincoln Municipal Code § 26.11.020 that a  
 5 preliminary plat is required for a subdivision is waived, except that  
 6 this waiver of the preliminary plat shall only be effective for a  
 7 period of ten years from the date of the this approval, and shall be  
 8 of no force or effect thereafter.
- 9 2. Before receiving building permits:
- 10 a. The Permittee must submit a revised and reproducible final plan  
 11 including 6 copies.
- 12 b. The Permittee shall grant an avigation and noise easement to the  
 13 Lincoln Airport Authority on all or that part of the land located  
 14 within the Airport Environs Noise District.
- 15 c. The construction plans must conform to the approved plans.
- 16 d. Final Plats will be approved by the Planning Director after:
- 17 i. The sidewalks, streets, drainage facilities, street lighting,  
 18 landscape screens, street trees, temporary turnarounds  
 19 and barricades, and street name signs have been  
 20 completed or the subdivider has submitted a bond or an  
 21 escrow of security agreement to guarantee their  
 22 completion.
- 23 ii. The subdivider has signed an agreement that binds the  
 24 subdivider, its successors and assigns:
- 25 (1) to complete the paving of private roadway, and  
 26 temporary turnarounds and barricades located at  
 27 the temporary dead-end of the private roadway  
 28 shown on the final plat within two (2) years  
 29 following the approval of this final plat.
- 30 (2) to complete the installation of sidewalks along both  
 31 sides of all interior private roadways and streets  
 32 abutting the use permit as shown on the final plat  
 33 within four (4) years following the approval of this  
 34 final plat.
- 35 (3) to complete the public water distribution system to  
 36 serve this plat within two (2) years following the  
 37 approval of this final plat.
- 38 (4) to complete the public wastewater collection  
 39 system to serve this plat within two (2) years  
 40 following the approval of this final plat.
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- (5) to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of this final plat.
  - (6) to complete the enclosed private drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of this final plat.
  - (7) to complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of this final plat.
  - (8) to complete the installation of public and private street lights along the streets within this plat within two (2) years following the approval of this final plat.
  - (9) to complete the planting of the street trees along the streets within this plat within four (4) years following the approval of this final plat.
  - (10) to complete the planting of the landscape screen within this plat within two (2) years following the approval of this final plat.
  - (11) to complete the installation of the street name signs within two (2) years following the approval of this final plat.
  - (12) to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.
  - (13) to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.
  - (14) to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.

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- (15) to complete the public and private improvements shown on the Use Permit.
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- (16) to retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on a permanent and continuous basis and to maintain the plants in the medians and islands on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the private improvements have been satisfactorily installed and the documents creating the association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.
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- (17) to continuously and regularly maintain the street trees along the private roadways and landscape screens.
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- (18) to submit to the lot buyers and builders a copy of the soil analysis.
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- (19) to pay all design, engineering, labor, material, inspection, and other improvement costs.
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- (20) to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
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- (21) to properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the land subdivider.
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- (22) to relinquish the right of direct vehicular access from Outlot A to NW 1<sup>st</sup> Street.
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- (23) to inform all prospective purchasers and users that the land is located within the Airport Environs Noise District, that the land is subject to an avigation and noise easement granted to Lincoln Airport

1 Authority, and that the land is potentially subject to  
2 aircraft noise levels which may affect users of the  
3 property and interfere with its use.

4 3. Before occupying the dwelling units and office buildings all development  
5 and construction shall have been completed in conformance with the approved plans.

6 4. All privately-owned improvements shall be permanently maintained by the  
7 owner or an appropriately established property owners association approved by the City  
8 Attorney.

9 5. The site plan approved by this permit shall be the basis for all  
10 interpretations of setbacks, yards, locations of buildings, location of parking and circulation  
11 elements, and similar matters.

12 6. The terms, conditions, and requirements of this resolution shall be  
13 binding and obligatory upon the Permittee, its successors, and assigns. The building official  
14 shall report violations to the City Council which may revoke the special permit or take such  
15 other action as may be necessary to gain compliance.

16 7. The Permittee shall sign and return the City's letter of acceptance to the  
17 City Clerk within 30 days following approval of the special permit, provided, however, said 30-  
18 day period may be extended up to six months by administrative amendment. The City Clerk  
19 shall file a copy of the resolution approving the special permit and the letter of acceptance with  
20 the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by:

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Approved as to Form & Legality:

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

Approved this \_\_\_ day of \_\_\_\_\_, 2005:

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Mayor