

## FACTSHEET

**TITLE: SPECIAL PERMIT NO. 04009, ANDERSON'S PLACE PLANNED SERVICE COMMERCIAL**, requested by Brian D. Carstens & Associates on behalf of Scott Anderson, to develop approximately 86,120 sq. ft. of floor area, on property generally located south of Leighton Avenue and east of N. 84<sup>th</sup> Street.

**STAFF RECOMMENDATION:** Conditional Approval

**ASSOCIATED REQUESTS:** Annexation No. 04002 (05-16); Annexation Agreement (05R-30); and Change of Zone No. 04011 (05-17).

### FINDINGS OF FACT:

1. This Planned Service Commercial special permit request and the associated Annexation No. 04002, Change of Zone No. 04011 and Preliminary Plat No. 04007 were heard at the same time before the Planning Commission.
2. This special permit is a request to develop approximately 86,120 sq. ft. of Planned Service Commercial on six commercial lots on approximately eleven acres, more or less, generally located south of Leighton Avenue and east of N. 84<sup>th</sup> Street.
3. The applicant is also requesting to reduce the front yard setback on Lot 4, Block 1, and the side yard setback on Lots 4 and 5, Block 1; and to reduce the internal side yard setback to zero for Lots 1-4, Block 1.
4. The staff recommendation of conditional approval, including approval of the waiver requests, is based upon the "Analysis" as set forth on p.4-5, concluding that the proposed special permit and associated requests are in conformance with the Comprehensive Plan.
5. On June 23, 2004, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
6. On June 23, 2004, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend conditional approval of the special permit, as set forth in the staff report dated June 8, 2004. The conditions of approval are found on p.5-6.
7. On June 23, 2004, the Planning Commission also voted 9-0 to recommend approval of the associated annexation, subject to an annexation agreement, and approval of the change of zone request.
8. On June 23, 2004, the Planning Commission also voted 9-0 to adopt Resolution No. PC-00880 approving the associated Anderson's Place Preliminary Plat containing forty residential lots and six commercial lots.
9. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been satisfied.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda: 06/23/04  
Administrative Action: 06/23/04

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

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

**DATE:** January 31, 2005

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

**DATE:** January 31, 2005

**REFERENCE NUMBER:** FS\CC\2005\SP.04009

# LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

## for June 23, 2004 PLANNING COMMISSION MEETING

This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application.

**P.A.S.:** Annexation #04002, Change of Zone #04011, **Special Permit #04009**

**PROPOSAL:** To annex approximately 20 acres, change the zone from AG to R-3 and H-4 and obtain a special permit for 86,120 square feet in floor area for planned service commercial

**LOCATION:** Generally located south of Leighton Avenue and east of N. 84<sup>th</sup> Street.

### **WAIVER REQUEST:**

#### **Special Permit:**

Front yard setback from 50'-40' for Lot 4, Block 1  
Side yard setback from 50'-20' for Lots 4 and 5, Block 1  
Internal side yard setback from 20' to 0' for Lots 1-4, Block 1

<b><u>LAND AREA:</u></b>	Annexation	20 acres, more or less.
	Change of Zone from AG to H-4:	11 acres, more or less.
	Change of Zone from AG to R-3:	9 acres, more or less.
	Special Permit:	11 acres, more or less.

**CONCLUSION:** This request is in conformance with the Comprehensive Plan.

<b><u>RECOMMENDATION:</u></b>	<b>Conditional Approval</b>
Annexation:	Conditional Approval
Change of Zone from AG to R-3 and H-4:	Approval
<b><u>Special Permit:</u></b>	<b><u>Conditional Approval</u></b>
<b><u>Front yard setback from 50'-40' for Lot 4, Block 1</u></b>	<b><u>Approval</u></b>
<b><u>Side yard setback from 50'-20' for Lots 4 and 5, Block 1</u></b>	<b><u>Approval</u></b>
<b><u>Internal side yard setback from 20' to 0' for Lots 1-4, Block 1</u></b>	<b><u>Approval</u></b>

### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** See attached.

**EXISTING ZONING:** AG, Agriculture.

**EXISTING LAND USE:** Undeveloped.

**SURROUNDING LAND USE AND ZONING:**

North:	Undeveloped, residential	R-3 Residential
South:	Residential, church, undeveloped	B-2 Planned Neighborhood business, O-3 Office Park, R-4
East:	Acreage, farm	AG, Agricultural
West:	LES substation, undeveloped	P Public, H-4 Commercial

**COMPREHENSIVE PLAN SPECIFICATIONS:** This area is indicated as commercial and urban residential in the Comprehensive Plan (F-25).

This area is shown within the Tier 1 - Priority A growth boundary. (F 27, F 31)

Guiding Principles for the Urban Environment include maximizing “present infrastructure investment by planning for residential and commercial development in areas with available capacity.” And by “encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods.” (F-17)

“Transition of uses; less intense office uses near residential areas” (F 42)

“Encourage different housing types and choices, including affordable housing, throughout each neighborhood for an increasingly diverse population” (F-18).

“Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood” (F 18).

“Encourage a mix of housing types, single family, townhomes, apartments, elderly housing all within one area; Similar housing types face each other: single family faces single family, change to different use at rear of lot; Parks and open space within walking distance of all residences; Multi-family and elderly housing nearest to commercial area; Pedestrian orientation; shorter block lengths, sidewalks on both sides of all roads; Public uses (elementary schools, churches) as centers of neighborhood – shared facilities (city parks & school sites)”. (F-67)

“Encourage a mix of housing types, including single family, duplex, attached single family units, apartments, and elderly housing all within one area. Encourage multi-family near commercial areas” (F 69).

“Require new development to be compatible with character of neighborhood and adjacent uses” (F 69).

**HISTORY:**

Date when preliminary plat was submitted:	February 17, 2004
Date when Planning Director’s letter was sent:	March 15, 2004
Date when revised preliminary plat was submitted:	May 24, 2004

This area was zoned AG, Agricultural during the **1979** zoning update from A-A, Rural and Public Use district.

**UTILITIES:** Utilities will be extended by the developer. This development is required to pay a sewer connection fee for connection as required by the Regent Heights Sewer agreement.

A water connection fee is required to connect to the existing 16" water main in Leighton Avenue. The amount of the fee is based on one half the cost of an 8" water main for the portion of the main that abuts commercial uses and one half the cost of a 6" water main for the portion of the main that abuts residential uses.

**TRAFFIC ANALYSIS:** N. 84<sup>th</sup> Street is classified as an arterial and Leighton Avenue is a collector street. Leighton Avenue is an existing two lane gravel road. The Subdivision Ordinance requires all roads abutting a subdivision to be paved.

Garland and Colby Streets must be extended to the east when the east property develops and temporary barricades shall be placed until such time as the streets are extended.

A trail is indicated along N. 84<sup>th</sup> Street and a trail easement was shown to be constructed in the future through the Prairie Village Community Unit Plan north of this area.

**PUBLIC SERVICE:** Fire service will be provided by the Fire Station #5 located at 3640 Touzalin Avenue, approximately 3 miles from this site. The Fire Department indicated their concern regarding limited resources and fire stations in the area and their limited ability to provide timely fire and rescue service.

**AESTHETIC CONSIDERATIONS:** The grade of the area shown for storage units is lower than the right of way for N. 84<sup>th</sup> Street. Planning staff believes an added evergreen screen will enhance the appearance of the storage units, since they are proposed to be closer to the street than typically allowed. Planning staff does not object to the front yard setback waiver as long as additional screening is provided along the west property line

**ANALYSIS:**

1. This is a request to annex 20 acres, change the zone from AG, Agriculture to R-3, Residential and H-4, Commercial and obtain a special permit for Planned Service Commercial for 86,120 square feet of floor area.
2. This lot is contiguous to the existing city limits and within the future service area and may be annexed. An annexation agreement must be signed prior to scheduling this item on the City Council agenda.
3. This area is shown as urban residential and commercial in the Comprehensive Plan. The zoning request is consistent with the Comprehensive Plan.
4. The commercial floor area ratio is approximately 0.20. The Comprehensive Plan assumes a 0.25 floor area ratio, therefore this request is within an acceptable range and could be increased to increase the use of existing infrastructure.
5. The applicant requests to waive the front yard setback in the special permit along N. 84<sup>th</sup> Street. Due to the existing overhead power line and 80' easement, planning staff

believes this is reasonable provided the applicant provides additional evergreen screening. Additionally, the applicant requests to waive internal setbacks and the setback abutting the commercial district to the south. Both of these requests are acceptable.

6. The Lincoln Lancaster County Health Department indicated several comments related to noise pollution which are indicated in their attached comments.

**SPECIAL PERMIT CONDITIONS:**

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office 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 Show an additional 60% evergreen screen from the ground elevation to 10' height along the west side of Lot 4.
    - 1.1.2 Provide a note indicating that loading docks and trash compactors shall not be located adjacent to the residential district. (Per Lincoln Lancaster County Health Department)
2. This approval permits 86,120 square feet of floor area and reduction of the front yard setback along N. 84<sup>th</sup> Street to 40', elimination of internal setbacks to 0', and reduction of the side yard setback to 20' as shown on the site plan.

General:

3. Before receiving building permits:
  - 3.1 The permittee shall have submitted a revised final plan including 7 copies and the plans are acceptable.
  - 3.2 The construction plans shall comply with the approved plans.
  - 3.3 Final Plats shall be approved by the City.

**STANDARD CONDITIONS:**

4. The following conditions are applicable to all requests:
  - 4.1 Before occupying the buildings all development and construction shall have been completed in compliance with the approved plans.

- 4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established owners association approved by the City Attorney.
- 4.3 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.

Prepared by:

Becky Horner  
441-6373, [rhorer@ci.lincoln.ne.us](mailto:rhorer@ci.lincoln.ne.us)  
Planner

**DATE:** June 8, 2004

**APPLICANT:** Brian D. Carstens and Associates  
601 Old Cheney Road, Suite C  
Lincoln, NE 68512  
(402)434-2424

**OWNER:** Scott Anderson  
PO Box 30842  
Lincoln, NE 68503

**CONTACT:** Brian D. Carstens and Associates

**ANNEXATION NO. 04002  
CHANGE OF ZONE NO. 04011  
SPECIAL PERMIT NO. 04009, ANDERSON'S PLACE**

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

June 23, 2004

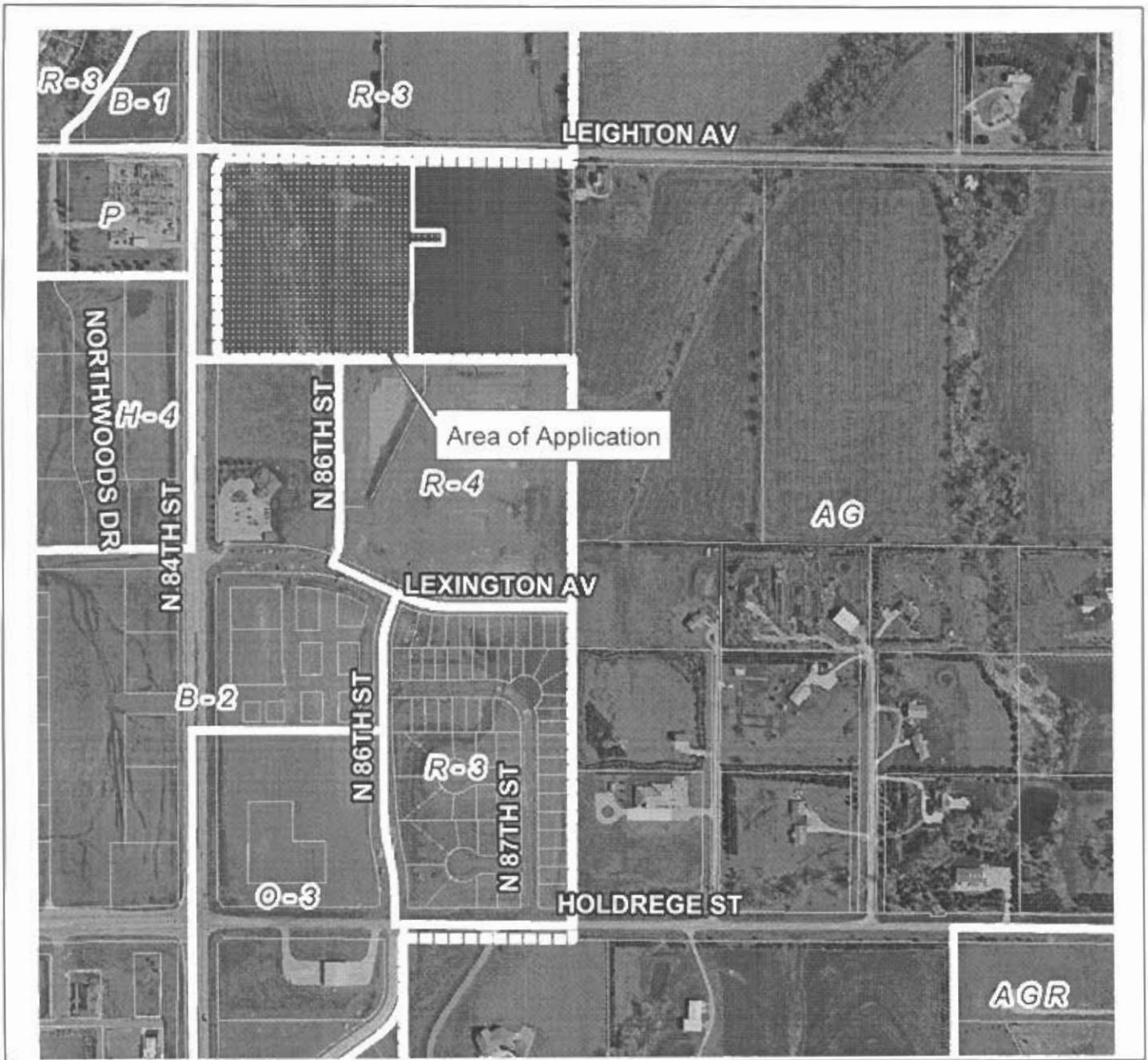
Members present: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Sunderman, Bills-Strand and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 04039; SPECIAL PERMIT NO. 2046A; USE PERMIT NO. 150A; SPECIAL PERMIT NO. 04030; SPECIAL PERMIT NO. 04031; COUNTY FINAL PLAT NO. 04060, HILLTOP ESTATES 2<sup>ND</sup> ADDITION; COUNTY FINAL PLAT NO. 04062, THE PRESERVE AT CROSS CREEK 1<sup>ST</sup> ADDITION; ANNEXATION NO. 04002; CHANGE OF ZONE NO. 04011; SPECIAL PERMIT NO. 04009; and PRELIMINARY PLAT NO. 04007, ANDERSON'S PLACE.**

**Item No. 1.1a, Change of Zone No. 04039; Item No. 1.1b, Special Permit No. 0246A; Item No. 1.1c, Use Permit No. 150A; and Item No. 1.5, County Final Plat No. 04062,** were removed from the Consent Agenda and scheduled for separate public hearing.

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

This is final action on Special Permit No. 04030, Special Permit No. 04031 and the Anderson's Place Preliminary Plat No. 04007, 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.



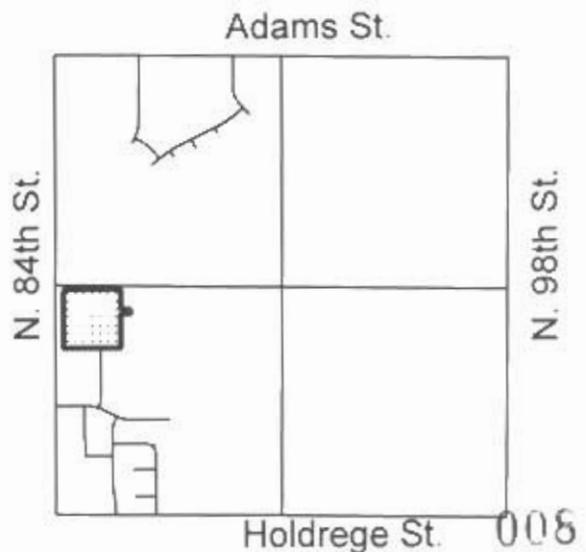
2002 aerial

## Special Permit #04009 N. 84th & Leighton

### 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. 14 T10N R7E



# ANDERSON'S PLACE

## CHANGE OF ZONE FROM 'AG' TO 'H-4' & SPECIAL PERMIT

A portion of Lot 100 Irregular Tracts, located in the Southwest Quarter of Section 14 Township 10 North Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska. More particularly described by metes and bounds as follows:

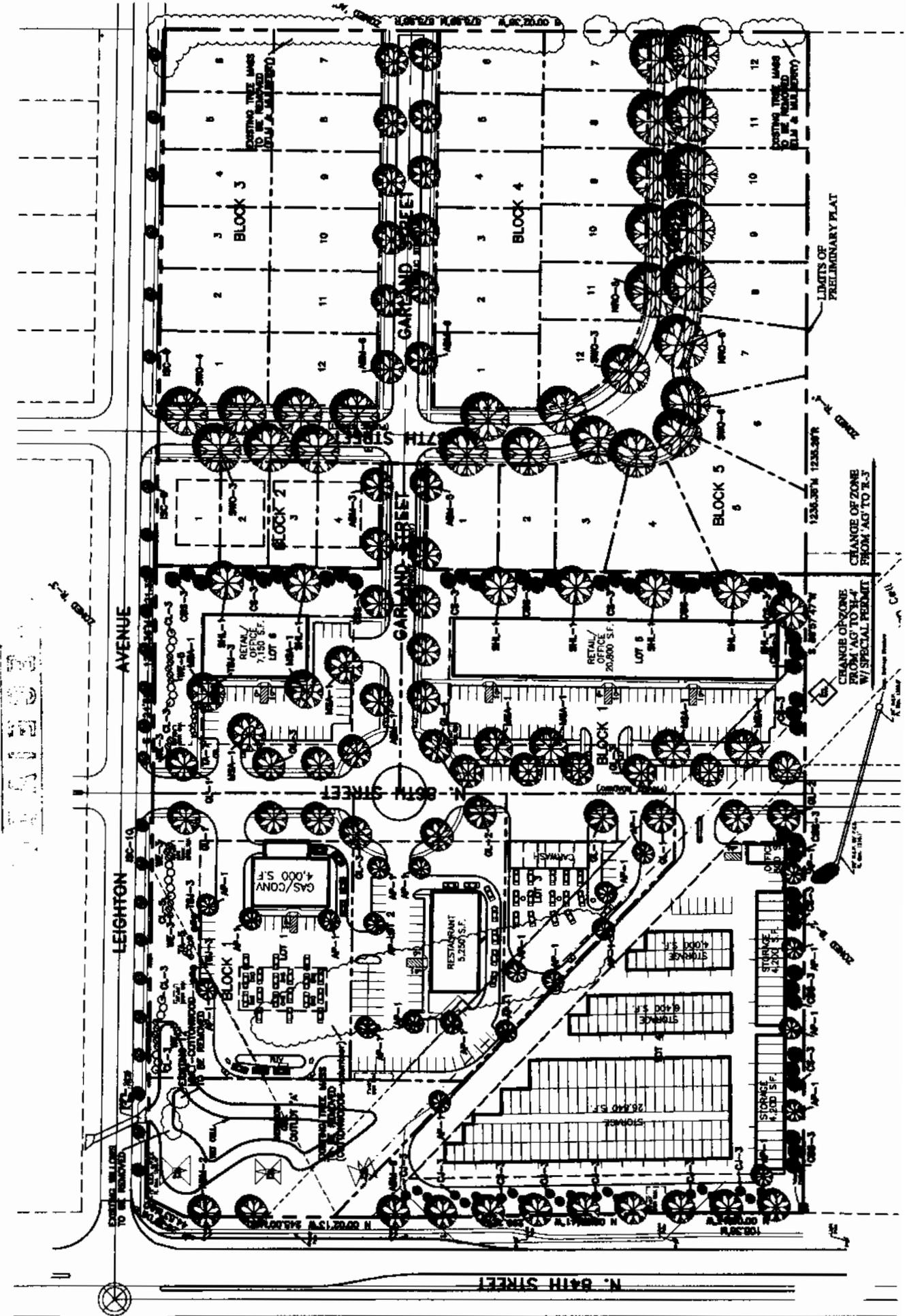
Commencing at the West 1/4 Corner of Section 14 Township 10 North Range 7 East of the Sixth P.M.; Thence South 89°24'54" East, (an assumed bearing) on the North line of the Southwest Quarter, a distance of 1326.42 feet to a found 5/8" Rebar for the North 1/16 Corner of the Southwest Quarter; Thence South 00°02'38" west, on the West line of Lot 10 I.T. extended, a distance of 33.00 feet, to the Northwest corner of Lot 10 I.T.; Thence along the north line of said Lot 10 I.T. North 89°24'55" West, for a distance of 560.58 feet and the POINT OF BEGINNING; Thence South 00°35'05" West, a distance of 234.50 feet; Thence South 89°24'55" East, a distance of 110.00 feet; Thence South 00°35'05" West, a distance of 49.00 feet; Thence North 89°24'55" West, a distance of 110.00 feet; Thence South 00°35'05" West, a distance of 398.61 feet; Thence South 89°57'47" West, on the North line of said addition, a distance of 668.35 feet, to the Northwest Corner of Morning Glory Estates Addition, said point being on the East Right of Way of North 84th Street; Thence North 00°02'13" West on the East Right of Way of North 84th Street, a distance of 105.38 feet; Thence North 00°59'41" West, on said right of Way, a distance of 299.12 feet; Thence North 00°02'13" West, on the East Right of Way of North 84th Street, a distance of 245.00 feet; Thence North 26°39'06" East, on the Southeasterly right of way of North 84th Street, a distance of 44.53 feet, to a point on the South right of way of Leighton Avenue; Thence South 89°24'55" East, on said South right of way, a distance of 660.79 feet to the POINT OF BEGINNING, and containing a calculated area of 468,020.91 square feet or 10.74 acres more or less.

FEB 17 2004

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JUN 7 2004

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# Memorandum

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<b>To:</b>	Becky Horner, Planning Department
<b>From:</b>	Chad Blahak, Public Works and Utilities
<b>Subject:</b>	Anderson Place Preliminary Plat #04007 and Special Permit #04009
<b>Date:</b>	6/08/04
<b>cc:</b>	Randy Hoskins

Engineering Services has reviewed the submitted plans for the Anderson's Place Preliminary Plat and Special Permit, located on the southeast corner of Leighton Avenue and North 84th Street, and has the following comments:

**Sanitary Sewer** - The sanitary sewer system is satisfactory.

(1.1) As part of the annexation, this developer must agree to pay a sewer connection fee as stated in the Regent Heights Sewer agreement.

(1.2) The requested waiver of design standards for running sanitary sewer opposite street grade is acceptable to Public Works provided that the sewer does not exceed minimum or maximum depth.

**Water Main** - The water system is satisfactory.

(2.1) As part of the annexation, this developer must agree to pay a water connection fee for connecting to the existing 16" water main in Leighton Avenue. The amount of the fee should be based on one half the cost of an 8" water main for the portion of the main that abuts commercial uses and one half the cost of a 6" water main for the portion of the main that abuts residential uses.

**Grading/Drainage** - The Grading/Drainage is unsatisfactory.

(3.1) A written form of approval from the property owner to the south to construct the proposed storm sewer outside of this plat will need to be provided to Public Works prior to the approval of this plat.

(3.2) The proposed detention cell is shown to be a permanent pond and will need to be designed to minimize mosquito harborage and breeding. A plan that addresses mosquito surveillance and control measures needs to be submitted to and approved by the Lincoln- Lancaster County Health Department.

(3.3) As stated later in this memo, no final plat for this plat will be approved prior to paving improvements in Leighton Avenue. In conjunction with those paving improvements the box culvert will be required to be extended to the north and the south. The outlet structure design for

the proposed detention pond should be incorporated into that design.

**Streets/Paving** - The following comments need to be addressed.

(4.1) The Prairie Village annexation agreement calls out 40' of ROW dedication on the north side of Leighton. This plat will also need to show the 40' ROW dedication for its frontage to Leighton.

(4.2) The proposed roundabout at the intersection of North 86th and Garland Street needs to show that the proposed geometrics can accommodate a WB-50 design vehicle for all pertinent movements.

(4.3) The annexation agreement for Prairie Village north of Leighton states that no final plats will be approved prior to a district being ordered constructed for paving in Leighton. Or Leighton may not be constructed prior to final plat approval provided that no access be taken off of Leighton and no buildable lots will be created abutting Leighton. Since the 87th and 86th connections to Leighton are the only satisfactory access points for this plat, Leighton must be improved to urban standards prior to the approval of any final plat for this development. This may be accomplished through the creation and adoption of a district, as stated in the Prairie Village agreement, or through the Executive order process.

(4.4) The design of Leighton east of 84th will be a 33' wide collector cross-section except at the approach to 84th where a 250' left turn lane is required as per the traffic study prepared by the Schemmer Associates. Also, the east and west bound through lanes across 84th will need to be properly aligned with the geometrics on the west side of 84th.

(4.5) The traffic signal and north to east bound right turn lane at 84th and Leighton are impact fee facilities and will not be the responsibility of this developer. However, as per the traffic study, the south to east bound left turn lane needs to be lengthened to 250' of storage at the developers expense.

(4.6) Public Works will reserve the right to renegotiate required offsite improvements should any proposed land use shown on this plat change after approval of this plat.

(4.7) The north to west bound left turn movement from 86th Street to Leighton Avenue does not appear to attain the required safe sight distance. The required decision site distance for a design speed of 30 mph is 490'. As shown there is 440' provided by the proposed profile for Leighton. Revisions to the grading plan and street profiles need to be made accordingly.

**General** - 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 the 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.

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

**TO:** Becky Horner

**DATE:** June 8, 2004

**DEPARTMENT:** Planning

**FROM:** Chris Schroeder

**ATTENTION:**

**DEPARTMENT:** Health

**CARBONS TO:** EH File  
EH Administration

**SUBJECT:** Anderson's Place  
PP #04007 CZ #04011  
SP #04009

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the proposed development with the following noted:

- The LLCHD has concerns regarding the proposed zoning change with the R-3 zoning district adjacent to H-4 zoning district relative to noise pollution and permitted uses within the H-4 zoning district.
- Lincoln Municipal Code (LMC) 8.24 Noise Control Ordinance does address noise pollution by regulating source sound levels based upon the receiving land-use category or zoning. However, the LLCHD does have significant case history involving residential uses and abutting commercial uses in which the commercial source does comply with LMC 8.24, but the residential receptors still perceive the noise pollution as a nuisance. While the proposed uses, retail/office, in the H-4 zoning district adjacent to the residential zoning should be a compatible land-use, future uses in the H-4 zoning district could create an incompatible land-use relative to noise pollution. The LLCHD strongly advises the applicant to become familiar with LMC 8.24. Furthermore, the LLCHD advises against locating loading docks, trash compactors, etc. adjacent to residential zoning.
- 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. This is addressed in the site plan's general notes.
- 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. This is addressed in the site plan's general notes.

**Richard J Furasek**  
06/04/2004 03:09 PM

To: Rebecca D Homer/Notes@Notes  
cc:  
Subject: Anderson Place resubmitted

Upon review of the Anderson Place resubmitted, we find it acceptable from the perspective of our department. The only concern is our limited resources and fire stations in this area that does not allow us to provide the timely fire and rescue service that the people of the city have grown to expect.

Richard J. Furasek  
Assistant Chief Operations  
Lincoln Fire & Rescue  
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Fax 402-441-8292

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