

Approving the Appeal filed by the Applicant by reversing the Planning Commission's Denial of Special Permit No. 05023

(Appeal of Planning Commission Denial)

RESOLUTION NO. A-_____

SPECIAL PERMIT NO. 05023

1 WHEREAS, Eiger Corporation has submitted an application designated as
2 Special Permit No. 05023 for authority to construct an 80,000 sq. ft. theater complex with 18
3 screens in the B-5 zoning district on property located at South 91st Street and Pine Lake Road,
4 and legally described to wit:

5 A tract of land composed of a portion of Outlot O, Appian Way
6 Addition and a portion of the remaining portion of Lot 92 I.T.;
7 located in Section 23, Township 9 North, Range 7 East of the 6th
8 P.M., Lancaster County, City of Lincoln, Nebraska, and more
9 particularly described on the attached legal description;

10 WHEREAS, the Lincoln City-Lancaster County Planning Commission held a
11 public hearing on June 8, 2005 and denied Special Permit No. 05023; and

12 WHEREAS, Eiger Corporation has appealed the action of the Lincoln City -
13 Lancaster County Planning Commission and is requesting that Special Permit No. 05023 be
14 approved; and

15 WHEREAS, the community as a whole, the surrounding neighborhood, and the
16 real property adjacent to the area included within the site plan for this theater complex will not
17 be adversely affected by granting such a permit; and

18 WHEREAS, the final action of the Lincoln City - Lancaster County Planning
19 Commission should be reversed; and

20 WHEREAS, said site plan together with the terms and conditions hereinafter set
21 forth are consistent with the comprehensive plan of the City of Lincoln and with the intent and
22 purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and
23 general welfare.

1 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln,

2 Nebraska:

3 1. That the final action of the Lincoln City-Lancaster County Planning Commission
4 denying Special Permit No. 05023 be and the same is hereby reversed.

5 2. That the application of Eiger Corporation, hereinafter referred to as "Permittee",
6 to construct an 18-screen theater in the B-5 district be and the same is hereby granted under
7 the provisions of Section 27.63.630 the Lincoln Municipal Code upon condition that construction
8 of said theater be in strict compliance with said application, the site plan, and the following
9 additional express terms, conditions, and requirements:

10 a. This approval permits an 80,000 square foot, 18-screen theater.

11 b. Before receiving building permits:

12 i. The Permittee shall complete the following instructions and submit
13 the documents and plans to the Planning Department for review
14 and approval.

15 (1) A revised site plan showing the following revisions:

16 (a) A revised land use table that deletes the 20% pass-
17 by reductions for both the office uses on Lots 4 & 5,
18 Block 2 and Lots 10 & 11, Block 3, and for the
19 theaters.

20 (b) All theater screens identified as "with matinee."

21 (c) The required 50' setback along South 91st Street.

22 (d) Note #34 revised as follows: LOT LAYOUT FOR
23 LOT 1, BLOCK 4 SHOWN WITHIN THE
24 BOUNDARY OF THIS SPECIAL PERMIT/USE
25 PERMIT IS CONCEPTUAL. THE SPECIFIC SITE
26 LAYOUT, INCLUDING GRADING AND
27 DRAINAGE, STREET PROFILE, AND UTILITY
28 PLANS MUST BE APPROVED BY
29 ADMINISTRATIVE AMENDMENT PRIOR TO
30 ISSUANCE OF BUILDING PERMITS.

31 (e) Delete waiver request #4 under "WAIVERS"
32 relating to waiver of the preliminary plat.

33 (f) Show the 12" high-pressure gas line across the
34 site, and add General Note #35 which states:
35 THERE IS A 12" HIGH-PRESSURE GAS LINE IN

1 THIS AREA. IT IS RECOMMENDED THAT NO
2 OCCUPIED STRUCTURES BE LOCATED WITHIN
3 220' OF IT. THE PERMITTEE MUST ADVISE
4 OWNERS AND LESSEES OF THE PROJECT
5 HAZARD AREA.

6 (g) Show revisions to the satisfaction of Public Works
7 and Utilities.

8 (2) A land use/trip generation table for the remaining
9 approximately 82 acres of commercially-designated land
10 that includes the 38 acres west of this project site and the
11 44 acres northeast of the intersection of Highway 2 and
12 South 91st Street.

13 ii. The construction plans comply with the approved plans.

14 iii. Final plat(s) are approved by the City.

15 c. Before occupying the buildings all development and construction is to
16 comply with the approved plans.

17 d. All privately-owned improvements, including landscaping and recreational
18 facilities, are to be permanently maintained by the owner or an appropriately established owners
19 association approved by the City.

20 e. The site plan accompanying this permit shall be the basis for all
21 interpretations of setbacks, yards, locations of buildings, location of parking and circulation
22 elements, and similar matters.

23 f. This resolution's terms, conditions, and requirements bind and obligate
24 the Permittee, its successors and assigns.

25 g. The applicant shall sign and return the letter of acceptance to the City
26 Clerk within 30 days following the approval of the special permit, provided, however, said 30-
27 day period may be extended up to six months by administrative amendment. The clerk shall file
28 a copy of the resolution approving the special permit and the letter of acceptance with the
29 Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2005:

Mayor