

Denying the Appeal

(Appeal from Impact Fee Determination)

RESOLUTION NO. A-_____

1 WHEREAS, Brett Joseph, hereinafter Appellant, has filed Building Permit
2 Application B0500416 and Impact Fee Application IF050228 to construct a single-family
3 dwelling at 1445 N. 22nd Street; and

4 WHEREAS, a single-family dwelling had previously been located upon the lot at
5 1445 N. 22nd Street but said use was discontinued in 1970; and

6 WHEREAS, the Impact Fee Administrator calculated the Impact Fees for the new
7 single-family dwelling without giving any credit for the prior use, using the Impact Fee
8 Schedules beginning January 1, 2005; and

9 WHEREAS, the Impact Fee Determination was dated February 28, 2005; and

10 WHEREAS, the Appellant filed his Notice of Appeal on May 31, 2005, appealing
11 the Impact Fee Determination requesting that the Impact Fees be waived or reduced as
12 there was a single-family dwelling previously located on the property and Appellant
13 received no credit for the prior use, and that strict application of the Impact Fee
14 Ordinance's calculations under these circumstances work an unjust and undue burden
15 on the Appellant; and

16 WHEREAS, Lincoln Municipal Code § 27.82.110(i) provides that a Notice of
17 Appeal shall be filed within 10 days after the Impact Fee Determination; and

1 WHEREAS, Lincoln Municipal code § 27.82.050(4) provides that credit against
2 Impact Fees based upon a prior use is only allowed in the event that the previous use
3 was in operation within 15 years prior to the date of application for the redevelopment;
4 and

5 WHEREAS, the City Council finds that Impact Fee Notice of Appeal was not
6 timely filed; and

7 WHEREAS, the City Council finds that the Impact Fee was correctly calculated
8 and that there are no unusual circumstances for the development which demonstrate
9 that the application of the fee to the development would be unfair or unjust as the
10 requested waiver reduction based upon the prior use of the property some 35 years ago
11 does not meet any of the stipulations or conditions required for reduction and/or
12 exemption from Arterial Street Impact Fees.

13 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
14 Lincoln, Nebraska:

15 That the Impact Fee Appeal filed by Brett Joseph on May 31, 2005 is hereby
16 denied for the following reasons:

17 1. The May 31, 2005 Notice of Appeal was not filed within 10 days after the
18 February 28, 2005 Impact Fee Determination from which appeal is being filed as
19 required by Lincoln Municipal Code § 27.82.110(i).

20 2. The Impact Fee Ordinance requires that the Arterial Street Impact Fee for
21 this building be calculated based upon the current use of the property without credit for
22 any prior use as said prior use was not in operation within 15 years prior to date of
23 application for this redevelopment.

1 3. The requested exemption does not meet any of the stipulations or
2 conditions required for reduction or exemption from Arterial Street Impact Fees.

Introduced by:

Approved as to Form:

City Attorney

Approved this ___ day of _____, 2005:

Mayor