

FACTSHEET

TITLE: CHANGE OF ZONE NO. 05067, from R-6 Residential District to B-3 Commercial District, requested by Mark Hunzeker on behalf of Whitehead Oil Company, on property located at 2100 K Street.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 10/12/05
Administrative Action: 10/12/05

STAFF RECOMMENDATION: Conditional Approval.

RECOMMENDATION: Denial (8-1: Larson, Carroll, Esseks, Krieser, Taylor, Strand, Pearson and Carlson voting 'yes'; Sunderman voting 'no').

FINDINGS OF FACT:

1. The applicant's original proposal requested a change of zone from R-6 to B-4 Lincoln Center Business District; however, at the public hearing before the Planning Commission, the applicant revised the application and requested a change to B-3 Commercial District. (See Minutes, p.12). The proposed use of the property is a gas/convenience store, fast food restaurant and car wash.
2. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.7-8, which notes that the proposed use of the property does not conform to the land use designations contained in either the Downtown Master Plan or the Antelope Valley Redevelopment Plan; however, should the developer agree to traffic and design conditions that promote the policies of these documents, this project could be approved. The conditions of approval proposed by the staff to promote said policies are set forth on p.8-10.
3. The applicant's testimony and response to the questions posed by the Commission is found on p.11-12. Testimony in support by Brad Hedrick on behalf of Alltel is found on p.14.
4. Testimony in opposition by Cecil Steward is found on p.14-15, who does not believe this change of zone is appropriate because it is not in compliance with the recently adopted Downtown Master Plan and because it sets a precedent of "conditional" zoning.
5. The discussion between the Planning Commission and staff is found on p.16-17.
6. The applicant's response is found on p.18.
7. On October 12, 2005, the Planning Commission disagreed with the staff recommendation and voted 8-1 to recommend denial, finding that the proposed uses and site plan are not appropriate for the site (See Minutes, p.18-19). Sunderman dissented.
8. After the Planning Commission hearing, the applicant submitted a revised site plan to staff. The original plans submitted to the Planning Commission are found on p.21-24, and the revised plan is found on p.30. The revised plan deletes the proposed car wash which had complicated access and required paving of the existing landscaped area which was formerly 22nd Street right-of-way. Public Works does not object to the revised site plan. They also acknowledge that the proposed development is likely to warrant a pedestrian-activated traffic signal. If this request is approved, then the development agreement should also require that the applicant pay for this signal.
9. The proposed development agreement will be prepared for Council action on December 5, 2005, along with action on the change of zone.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: November 9, 2005

REVIEWED BY: _____

DATE: November 9, 2005

REFERENCE NUMBER: FS\CC\2005\CZ.05067

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for October 12, 2005 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone #05067

PROPOSAL: Change from R-6 Residential to B-4 Lincoln Center Business (**Revised to **B-3 Commercial District** at public hearing before Planning Commission: 10/12/05**)

LOCATION: 21st and "K" Street

LAND AREA: 62,338 square feet, or 1.43 acres, more or less.

CONCLUSION: The proposed use of this property does not conform to the land use designations contained in either the Downtown Master Plan or the Antelope Valley Redevelopment Plan. However, should the developer agree to traffic and design conditions that promote the policies of these documents, this project could be approved.

RECOMMENDATION:	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached.

EXISTING LAND USE AND ZONING: Parking lot R-6 Residential

SURROUNDING LAND USE AND ZONING:

North:	Commercial	B-4 Lincoln Center Business
South:	Residential, parking lot	R-6 Residential
East:	Public right-of-way	R-6 Residential
West:	Commercial	R-6 Residential

HISTORY:

Sep 2005 Downtown Master Plan adopted.

Nov 2004 Antelope Valley Redevelopment Plan adopted.

May 1979 This property was changed from D Multiple Dwelling to R-6 Residential.

COMPREHENSIVE PLAN SPECIFICATIONS: The Land Use Plan Identifies this property as Commercial. (F 25)

Downtown Lincoln continues to serve its role as the central location for commerce, government, entertainment and the arts. Views to the State Capitol have been preserved, as they have in the past, as part of our community form. (F 16)

Preserve and enhance entryway corridors into Lincoln and Capitol View Corridors. (F 19)

Commercial: Areas of retail, office and service uses. Commercial uses may vary widely in their intensity of use and impact, varying from low intensity offices, to warehouses, to more intensive uses such as gas stations, restaurants, grocery stores or automobile repair. Each area designated as commercial in the land use plan may not be appropriate for every commercial zoning district. The appropriateness of a commercial district for a particular piece of property will depend on a review of all the elements of the Comprehensive Plan. (F 25)

The land use plan displays the generalized location of each land use. It is not intended to be used to determine the exact boundaries of each designation. The area of transition from one land use is often gradual. The Comprehensive Plan also encourages the integration of compatible land uses, rather than a strict segregation of different land uses. (F 27)

Commercial and industrial districts in Lancaster County shall be located so that they enhance entryways or public way corridors, when developing adjacent to these corridors. (F 38)

Support development and implementation of the Antelope Valley project which is to provide neighborhood revitalization, transportation and transit opportunities and stormwater improvements on the east side of Downtown, the UNL campus and surrounding neighborhoods. As the Antelope Valley project progresses, ensure that new development is compatible with the existing Downtown and is pedestrian oriented. Development in the existing and expanded Downtown will maintain the urban environment, including a mix of land uses and residential types. Higher density development with parking areas at the rear of buildings or on upper floors of multi-use parking structures is encouraged. (F 48, 49)

DOWNTOWN MASTER PLAN SPECIFICATIONS: The Downtown Master Plan shows the requested area as Low Rise Office. (20)

Employment Framework: The Employment Framework provides new office development sites with floor plate sizes and configurations to attract "Class A" tenants. (35, 36)

Expands Capitol Environs: Strengthens and adds to existing government-related employment uses near the Lincoln Mall and Centennial Mall corridors.

K and L Streets: Provides for expansion of financial and other office uses along this corridor.

Downtown/Antelope Valley Framework:

A healthy downtown supports and is supported by its surrounding neighborhoods. At its eastern edge, Downtown Lincoln abuts the Antelope Valley area, and this junction is of crucial importance to both of these essential parts of Lincoln. (37)

DOWNTOWN MASTER PLAN DESIGN GUIDELINES (DRAFT) SPECIFICATIONS:

Guidelines give developers and citizens an understanding of the city's expectations and provide consistent criteria by which to review proposed projects. They ensure a degree of order, harmony and quality within the built environment, so that individual buildings and projects succeed on their own yet also contribute to a unified and distinct downtown Lincoln district. (2)

Character Guidelines:

Intent: The Character Guidelines address the qualities that give Lincoln its uniqueness and personality. They consider what makes downtown a special, distinct "place," not simply a group of individual buildings and streets. (4)

Architectural Compatibility Guideline: New buildings should be "good neighbors" and contribute to the quality and character of their architectural context. (8)

Description: Buildings should “fit” with their architectural surroundings – relating to nearby buildings rather than calling attention to themselves through disruptive design excesses or novel variations. Material, color, texture, scale, form, silhouette, height, rhythm and proportion all influence a structure’s compatibility with its surroundings. Architectural elements should enhance not detract from the area’s overall character.

Appropriate: Traditional architectural elements (for example, classical cornice) used at a scale and level of detailing proportionate to the size of the building. Forms, proportions, rhythms, materials, colors and architectural motifs that are suggested by and complement adjacent buildings.

Inappropriate: Out-of-scale, over-simplified, cartoon-like cornices or other traditional architectural elements applied without regard to size or use of the element. Building elements that do not respect the scale, materials, proportions and heights of adjacent historic or significantly high-quality buildings.

Architecture Guidelines:

Intent: The Architecture Guidelines promote quality development while reinforcing the individuality, spirit and values of Lincoln. They foster design of buildings and sites that is representative of Lincoln’s heritage and character, and suits its climate, landscape and downtown street grid. (18)

Use Quality Wall Material Guideline: Use materials that create a sense of permanence. (24)

Description: Quality wall materials can provide a sense of permanence and bring life and warmth to downtown. Articulation of wall materials should be bold, using materials that show depth, quality and durability. It should be apparent that the materials have substance and mass, and are not artificial, thin “stage sets” applied only to the building’s surface.

Appropriate: Boldly articulated window and storefront trim. Natural or subdued building colors. Limited use of bright accent trim colors. Varied yet compatible cladding materials. Masonry materials – brick and stone or terra cotta.

Create Attractive Building Silhouettes and Roof Lines Guideline: Create interesting and detailed roof lines and silhouettes. (25)

Description: Building roof lines should enliven the pedestrian experience and provide visual interest with details that create forms and shadows. A building’s silhouette should be compatible with those of other buildings along the existing streetscape. In some cases, it may be appropriate to mark an entryway with a distinct form, such as a tower, to emphasize the significance of the building entry.

Appropriate: Dormer windows. Towers or similar vertical architectural expressions of important building functions such as entries. Varied roof line heights. If cornices are used they should be well detailed. They should have significant proportions (height and depth) that create visual interest and shadow lines.

Inappropriate: Unarticulated roof lines. Poorly detailed decorative roof forms.

Lighting Guidelines:

Intent: The lighting of buildings and open spaces should not only provide security, but also contribute to the overall sense that the downtown is active and vital all hours of the day. Lighting should be designed not simply to be utilitarian but to create a pleasant, welcoming atmosphere that does not contribute to “light pollution.” Use of glaring, offensively colored lights should be discouraged. Fixtures should be visually “quiet” – they should not overpower or dominate the streetscape. (32)

Orient Lighting to the Pedestrian Guideline: Lighting should be used to highlight sidewalks, street trees and other features, and harmonize with other visual elements in the greater downtown. (33)

Description: Street lighting should be provided on all public streets, sidewalks, pedestrian walkways and public open spaces. Lights may also be used to highlight trees and similar features within public and private plazas, courtyards, walkways and other similar outdoor areas at night to create an inviting and safe ambiance.

Appropriate: Street lights of historical design. Pole standards black or dark green in color. Standards accommodating banners and hanging flower pots (potentially including automatic drip irrigation for pots). Footlighting that illuminates walkways and stairs. Fixtures concealed and integrated into the design of buildings or landscape walls and stairways. Bollard lighting that is directed downward toward walking surfaces. Seasonal string lights on buildings and trees.

Inappropriate: Flashing or colored lights. Exposed cords, outlets or other electrical devices that may provide safety hazards and are unsightly. Contemporary fixtures or over scaled, utilitarian fixtures such as “cobrahead” lights. Concrete light fixture bases taller than eight inches. Ornamental or contemporary light fixtures. Low pressure sodium lamps.

Integrate Building Lighting Guideline: Exterior lighting of buildings should be an integral component of the facade composition. (34)

Description: Architectural lighting may be used to articulate the particular building design. Lighting of cornices, uplighting and other effects may be used. Lighting should not cast glare into residential units or onto adjacent lots or streets in any way that decreases the safety of pedestrians and vehicles. Lights may, however, be used to create effects of shadow, relief and outline that add visual interest and highlight aspects of the building.

Appropriate: Wall-washing lighting fixtures. Decorative wall sconce and similar architectural lighting fixtures. Screened uplight fixtures on buildings or integrated with landscape. Lighting that provides natural color.

Inappropriate: Neon silhouette accent lighting. Bulb or flashing lighting. Fluorescent tube lighting. Security spotlight. Low pressure sodium lamps.

Sign Guidelines:

Intent: Signs may provide an address, identify a place of business, locate residential buildings or generally offer directions and information. Regardless of their function, signs should be architecturally compatible with and contribute to the character of the downtown. Signs should be good neighbors – they should not compete with each other or dominate the setting due to inconsistent height, size, shape, number, color, lighting or movement. (35)

Consider Size and Placement of Wall Signs Guideline: Signs should be sized and placed so that they are compatible with the building’s architectural design. (36)

Description: Signs should not overwhelm the building or its special architectural features. Signs should not render the building a mere backdrop for advertising or building identification.

Appropriate: Signs should be incorporated into the building architecture as embossing, low relief casting or application to wall surfaces. Signs should be constructed of individual, three-dimensional letters, as opposed to one single box with cutout flat letters. Signs may be painted or made with applied metal lettering and graphics. Signs should be durable and long lasting. Signs may incorporate lighting as part of their design. Signs should be located above storefronts, on columns or on walls flanking doorways.

Inappropriate: The material, size and shape of signs that overwhelm, contrast greatly or adversely impact the architectural quality of the building. Roof-mounted signs. Backlit signs. LED animated signs. Video signs. Painted window signs.

ANTELOPE VALLEY REDEVELOPMENT PLAN SPECIFICATIONS: The Antelope Valley Redevelopment Plan identifies this property for Mixed Use designation. (55)

Future Land Uses:

East Downtown is defined by the waterway, the one-way pairs of "K" and "L" Streets, 17th Street and the UNL Campus edge. The area has a variety of architecture, building usage, streetscape definitions and site density. It is intended to be marked by mixed-use, streetscape oriented infill development revitalizing underdeveloped land, renovating key existing structures, and capitalizing on parking and open space. The applicable East Downtown future land use designations

would encourage mixes of uses - residential/office/retail/services - next to each other as well as a commercial use on the first floor and another land use on the upper floors. (53)

MU - Mixed-Use: The Mixed Use (MU) area east of traditional downtown is intended to accommodate a wide variety of land uses compatible with adjacent residential areas and supportive of downtown as the community's center. (58)

The area along "K" and "L" Streets between S. 17th and S. 22nd Streets is a key entry corridor to and from downtown. In this area the mix of uses is intended to provide additional diversity in office and residential products to traditional Downtown. The proximity of these blocks with the State Capitol provides the impetus for government and statewide association facilities. (58, 59)

Zoning Concepts:

The B-4 zone is the zone of Traditional Downtown. It allows virtually any land use, at high intensity and density. East Downtown should not have regulations that are the same for Traditional Downtown. (68)

Urban Design Principles:

Urban Design - Development should avoid a suburban style and instead be pedestrian oriented and varied with strong streetscapes reinforced by quality buildings. Suburban elements to avoid include deep setbacks, and overall design oriented toward the scale of the automobile. Building should be encouraged to be located next to the sidewalks along the front yard line, with parking in the back of buildings. (69)

Diminish Visual Prominence of Parking - Concentrations of parking should be concealed within interior parking courts (buildings on the street, parking behind) or in garages wrapped with buildings. (69)

Character of Place - Buildings should be designed to be compatible, in form and proportion, with the neighboring buildings and should include a variety of forms, materials and colors, yet these elements should be composed to maintain a complementary appearance. (69)

Quality of Place - Buildings should include a richness of architectural detail to help define their scale and extend to the sidewalk in front of the property for pedestrian access and visual rhythm and interest. (69)

Physical Connectivity - Physical integration and connectivity should be a prominent force guiding all transportation decisions to promote development that is integrated and connected with its surrounding environment and community. This facilitates ease of access, economy of movement and improved social interaction. (69)

TRAFFIC ANALYSIS: The Comprehensive Plan identified "K" and "L" Streets as minor arterials and 21st Street as a collector, both now and in the future. (49, 103) Access to the site is a concern due to the anticipated uses and proximity to the 21st and "k" and "L" Street intersections. Access should be limited. South 22nd Street, adjacent to the east, has been vacated, but is still owned by the City.

AESTHETIC CONSIDERATIONS: This project falls within the boundaries of the Downtown Master Plan and the Antelope Valley Redevelopment Plan, both of which address aesthetic issues. This location is also part of an important gateway corridor for Downtown and the State Capitol building. Since the proposed use does not conform to the future land use identified in either study, strict adherence to the relevant design guidelines should be enforced.

ALTERNATIVE USES: This site is anticipated for low-rise office or mixed use development. This site would be appropriate for statewide agency or local government offices, or mixed-use including residential over office.

ANALYSIS:

1. This is a request for a change of zoning designation from R-6 Residential to B-4 Lincoln Center Business. The proposed use of the property is gas/convenience store, fast food restaurant, and car wash.
2. The R-6 district allows residential uses, but not commercial uses. The B-4 district is structured such that property may be used for any lawful purpose, except those specifically prohibited. The proposed uses are allowed in B-4. However, changing the zoning does not necessarily mean the proposed uses will materialize. Under the standard process, once the zoning is changed, the property can be put to any use allowed in the new district.
3. The proposed uses do not conform to either land use plan contained in the Downtown Master Plan or the Antelope Valley Redevelopment Plan. This property is located in an important entry gateway for Downtown as well as the State Capitol building. The future vision for property in this general area is low-rise office and mixed office/residential use. Given the site location and transportation conditions, uses such as these that generate a lower number of trips than a convenience/gas/fast food/car wash establishment are preferred.
4. Plans for the area also address architectural design and detail as it relates to the existing character. A typical, modern, combined convenience/gas/fast food/car wash establishment does not blend well into an area such as this, which is characterized by traditional materials and reduced setbacks.
5. A conditional zoning agreement could be used to bind the developer to specific design considerations to ensure the development will meet the policy guidelines stated in the Downtown Master Plan and Antelope Valley Redevelopment Plan. A draft list of such conditions is attached.
6. Public Works - Development Services comments:
 - 6.1 Access to this site is a concern because of the proposed convenience store and fast food restaurant uses anticipated. Our preliminary determination is that the following access may be allowed:
 - a) A right in/right out driveway to 21st Street provided that a median is built at the developer's cost between K and L forcing the right in and out movements.
 - b) A left in only access to L Street provided that a turn lane is built at developer's cost in front of this driveway.
 - c) A left in only access from K Street in the limits of the existing lane on the north side. A left in and out drive will be considered if it aligns with 22nd Street on the south side of K Street. This does not match the assumption for the September 27, 2005 site plan which Engineering Services will review and comment on before Planning Commission.

- 6.2 There is an existing sewer thru the center of this block. The sewer will need to be abandoned and relocated if necessary to the satisfaction of Public Works and Utilities or all buildings be built outside the easement for this sewer.
7. The proposed site plan shows 15 parking spaces in two rows and a portion of the car wash building located at the east end of the property within abandoned 22nd Street right-of-way. This vacated right-of-way is still owned by the City. This is also in the location of a potential access to "K" Street, as indicated by Public Works. This parcel must be purchased from the City if it is to be used for this development. Also, portions of the drive-thru and pass-thru lanes for the fast food restaurant are shown in the public right-of-way, and must be removed.
8. Three sides of this parcel abut public right-of-way and must provide a 20' front yard setback. The fourth side must provide a 30' rear yard setback. Accessory structures may not occupy more than 30% of the required rear yard, and parking is not allowed within the required front yard. Based solely on Applicant's current ownership, portions of the fast food restaurant, the drive-thru lane, the car wash building, the vacuum station, and many of the parking spaces are located within required setbacks. Assuming the necessary right-of-way and vacated right-of-way is purchased, the vacuum station and a number of parking spaces will continue to be located within required setbacks. The percentage to which the accessory car wash building covers the rear yard is unknown.
9. Public Works - Watershed Management has commented that the entire property is located within the 100 year floodplain and must meet all applicable local, state, and federal floodplain standards.
10. LES has requested that all existing easements be retained.

Should the Planning Commission choose to recommend approval, Planning Staff suggests the following conditions.

CONDITIONS OF APPROVAL:

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 by:
- 1.1.1 Conforming to the required setbacks.
 - 1.1.2 Showing access to "K," "L," and 21st Streets to the satisfaction of the Public Works Department.
 - 1.1.3 Showing ownership of vacated 22nd Street , the notch in "L" Street right-of-way, and the two portions of lots owned by the City, or revise the access,

parking layout, and setbacks to the satisfaction of the Public Works and Planning Departments.

1.1.4 Adding a note stating the development is located within the 100 year floodplain and will meet all applicable local, state, and federal floodplain standards.

1.1.5 Showing all existing easements.

1.1.6 Showing the existing sewer will be abandoned and relocated if necessary to the satisfaction of the Public Works Department, or show that all buildings will be constructed outside of the easement.

1.2 Sign a conditional zoning agreement to the satisfaction of the Public Works and Planning Departments.

2. This approval permits a convenience/gas/fast food restaurant establishment with an accessory car wash.

General:

3. Before receiving building permits:

3.1 The permittee shall have submitted an acceptable revised and reproducible final plan.

3.2 The construction plans shall comply with the approved plans.

3.3 A copy of the Conditional Zoning Agreement shall be signed and returned to the City Clerk.

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.

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 ordinance's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

- 4.5 The City Clerk shall file a copy of the ordinance approving the change of zone and the Conditional Zoning Agreement with the Register of Deeds. The Permittee shall pay the recording fee in advance.

Prepared by:

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Date: September 30, 2005

Applicant: Whitehead Oil Company
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Lincoln, NE 68510
435.3509

Owner: Alltel Communications
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Contact: Mark Hunzeker / Shanna Cole
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CHANGE OF ZONE NO. 05067

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 12, 2005

Members present: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson.

Staff recommendation: Conditional approval, subject to a conditional zoning agreement to the satisfaction of the Planning and Public Works Departments.

Ex Parte Communications: Strand, Larson, Taylor, Sunderman, Krieser and Esseks had all had a conversation with Mark Hunzeker.

Proponents

1. Mark Hunzeker appeared on behalf of **Whitehead Oil Company**. This is an application to rezone the site bounded by 21st and K and L Streets, which is known as the Alltel parking lot. Whitehead Oil has been seeking a site in Downtown Lincoln for several months, at least as long as the redevelopment of the block of its current 17th and Q site has been actively discussed. While that immediate project may have been deferred, there will likely be a project to redevelop that site and Whitehead Oil wants to be cooperative in relocating in the event that occurs. The Alltel site became available.

Hunzeker advised that he had contact with Marvin Krout, Director of Planning, and Marc Wullschleger, Director of Urban Development, prior to the time the agreement between Whitehead Oil and Alltel became final, to discuss the idea of placing this use on this site and to determine their thoughts on the matter. Over the last six weeks, the applicant has had a number of discussions with staff, some of which had to do with whether this was an appropriate site for this use. The conclusion was that yes, these are uses which need to be accommodated in the downtown, but when you look at the Downtown Master Plan and the Antelope Valley Redevelopment Plan, there is no place designated anywhere for a convenience store type use. It is a use that is presumed to be able to be located in some of the appropriate zoning districts but there is no planning that has been done for such locations. In discussions with staff, it was concluded that this is a good site for this use. If it is likely that these uses will be in the Downtown area, they determined that it is probably better to have them at the entry and exit points than to have them in the middle of Downtown.

Hunzeker went on to state that once they concluded that the use was appropriate, the main discussion centered around how to make it fit and look like it belongs there. The applicant and staff have dealt with physical appearance, landscaping, uses, signage and traffic. Hunzeker displayed a rendering of the proposed facility. It will be red brick with gables over the entries.

With respect to access, the applicant has agreed to build a median in 21st Street that would prevent left-turn access into the site, thus there will be a right-in/right-out on 21st Street. With

respect to L Street, the applicant will need to build a left turn lane so that existing traffic in the left lane can continue and either turn left on 21st or proceed on west on L Street. That will be a left-in only.

With regard to K Street, Hunzeker advised that the plan is to bring the curb out to block straight-through traffic in the left turn only lane, make “this” (referring to the map) a left turn out only, and extending a median down K Street either beyond what would be the extension of vacated 22nd Street in order to prevent traffic from cutting across, or to take “this lane” and loop it back into the site so that you come out at a right angle to K Street and could proceed south on 22nd Street or go left on K Street. Public Works is okay with either alternative. This has not yet been engineered so Hunzeker could not confirm which alternative would be used.

Hunzeker then requested that the change of zone request be amended to B-3 as opposed to B-4. There is a difference in the setback requirements east of 17th Street in the B-4 District. B-3 would make the proposed site plan work. He believes that the staff would recommend approval of B-3.

Larson inquired whether there will be a traffic light at 22nd and K Streets. Hunzeker pointed out that 22nd Street on the north side of K Street is vacated and the city still owns that right-of-way. The applicant would like to acquire the vacated 22nd Street right-of-way to incorporate into this site, but it is unknown whether that is going to be possible at this time. Larson believes it would be wise to make that access left turn only. If they do the loop that brings you in at a 90 degree angle, Hunzeker does not know whether Public Works will want that left-turn only because of the gaps in the light. That would be up to the traffic engineer. Larson is concerned about the high school traffic – there should not be cross-traffic without a light. Hunzeker suggested that the light at 21st Street will create substantial gaps.

Sunderman inquired whether the loop that will hit K Street at a right-angle will be one-way out only. Hunzeker confirmed that it would be one way out 20th Street.

Pearson commented, “Let’s face it. A lot of students from Lincoln High are going to be crossing K Street on foot to get to this convenience store.” She does not see the high school students walking over to 21st and crossing at the light to get into the front door. Hunzeker noted that the front door is going to be on the west side. There will be sidewalk in K Street up to the existing sidewalk at 22nd Street. There will be sidewalk in 21st Street and in L Street up to the point where you can get across to the sidewalk in front of the building. Hunzeker acknowledged, however, that they will have to cross K Street to get there, just like they have to cross Capitol Parkway to get to the parking lots now. Pearson believes it is pretty obvious that this business is targeting high school students and we hope that they don’t get in their cars and drive across K Street to go to McDonald’s. We hope that they walk. Hunzeker agreed, pointing that to be part of the reason for the design of the access on K Street being an exit only and an eastbound exit only. We do not want to have traffic coming out “of here” (pointing to the map) and being able to cross traffic to get over to the 22nd Street entrance into the Lincoln High parking lot. That is why we have discussed these alternatives. Hunzeker acknowledged that no agreement with transportation has been executed, but the drawing being shown is based on the discussions that they have had. If they do the straight-through version rather than looping back into the site to the north, the median would be extended past the 22nd Street entrance.

Pearson reiterated that she is talking about pedestrians. Someone would have to cross K Street and walk up a sidewalk along 21st Street to get to McDonald's, as well as a sidewalk on K Street and on L Street. Pearson strongly recommended that the site plan be reviewed because a lot of the students will be walking and they are not very patient and we need to be especially careful and put some real thought to the students who are going to be walking there. Can we do a site plan that will enable them to get there without jeopardizing their lives and those that are driving? What is the speed limit on K Street? Hunzeker believes that it is 35 mph at that location. Hunzeker acknowledged that this safety issue came up very early in the discussion with staff, and he thinks the conclusion was that the existence of the traffic signal at 21st Street provided one safe crossing (if they will use it), and it does create a very substantial break in traffic on K Street that will enable people to cross if they don't use the signalized crossing.

Pearson further noted that they can't get to the front door without walking across driveways and the gas station complex. Hunzeker believes that is true in most gas stations and convenience stores, and does not believe it will be a big problem here because they have plenty of stacking. Pearson disagreed, pointing out that if they cross in 22nd Street they will be indeed crossing the stacking lane to get to the front door.

Esseks requested to discuss the scenic issues. What do we have at the east end of the property just before K Street and L Street meet— just east of the site plan area? Hunzeker stated that they are trees. There are trees in the triangular area to the east of the site. In the event that the applicant is able to purchase that right-of-way, anything that is there will either be moved or replaced on the remainder of the area so that the view coming in from the east is green space and landscaped. Esseks believes that to be a very important entryway from the east and if we are going to have a really attractive Downtown, a site like that should be particularly scenic, respecting the major values of the Downtown area. He is not sure a convenience store/gas station will achieve that purpose.

Esseks inquired as to the proximity of the "river walk" in Antelope Valley. Hunzeker did not have an answer. He understood, however, that that area was going to be further to the north. Esseks believes that the commercial facility will be rather visible to the river walk area as well, which is more reason for it to look particularly nice. Hunzeker stated that they have spent a lot of time on the visual aspects of the site plan as well as the building, and the applicant fully expects that the agreement will tie it down tightly as to the appearance of the building, as well as to landscaping of the site and how all of the drive-thru areas are screened. The start of the site plan was orienting the building toward 21st Street so that the canopy and the lighted area would not be on the east side of the building, and we did not want to have the back side of the building up against 21st Street.

Esseks thinks it is such a visually significant area that we probably have the wrong land use for it. He likes the combination of uses on one property, but it is too conspicuous and too important an area for that type of land use. He also agreed with the pedestrian traffic problems expressed by Pearson.

Carroll noted that this site is right on the edge of the Antelope Valley Redevelopment Area, and he recalled that the zoning concepts for Antelope Valley asked for the buildings to be on the edge with parking in the middle. Was there a thought to that design here, i.e. hiding the gas pumps on the interior? Carroll has seen in other cities a dual use gas station/fast food, where the building is on

the edge of the property with the pumps and parking on the inside so that it is hidden from the street. Hunzeker suggested that to be part of the reason for the orientation of the building. The building is oriented so as to obscure the bulk of the parking and pumps. Carroll sees parking on both east and west ends. Why can't you hide the parking and pumps completely? Hunzeker noted that the parking on the east end of the site plan is really conceptual because the applicant does not know whether he will be in control of that property. They would like to own it and use it for employee parking, but that is conceptual at this point. Hunzeker assured that the screening of that parking will definitely be dealt with very, very carefully to have the wooded area in the median be the primary focus of what you see when you come in on Capitol Parkway. The building will block the view of the pump islands as you are coming in on L Street. We cannot push the building much further to the east because of a need to get around it with driveways and still stay out of the right-of-way.

In response to further inquiry from Pearson, Hunzeker again confirmed that the site plan shows the parking all the way to the east, which is outside the area of application. That area is within the vacated 22nd Street right-of-way and the applicant does not control that property. This site plan has been put together over a period of time in response to concerns that have been raised. The issue relative to that parking is one of whether we will be able to acquire that piece of right-of-way. The applicant is interested in using it for some employee parking. If the applicant cannot acquire the right-of-way, it will not be used for a parking lot. The right-of-way vacation will be a separate application that comes before the Planning Commission. The concept being shown today is not going to be the final one because we don't know where the line will ultimately be based on the vacation of that right-of-way. If the applicant cannot acquire that right-of-way, there will need to be adjustments made to the site plan.

2. Brad Hedrick, Vice President of Operations for **Alltel**, 401 S. 21st Street, testified in support. Alltel is interested in this use. Alltel has been using this parking lot for 26+ years and they no longer have need for the use as a parking lot. Alltel can meet all of their parking needs with the rest of their existing lots on the south and west part of their other property. Alltel believes this is a good use of the property and will also help in Alltel's operations.

Opposition

1. Cecil Steward testified in opposition with the following comments:

–He believes this application sets a precedent.

–This is a proposal that is neither in compliance with the recently approved Downtown Master Plan nor the Antelope Valley Redevelopment Plan. As co-chair of the Downtown Action Team given responsibility for oversight of the Downtown Master Plan, he is extremely disappointed in the Planning Department's recommendation for approval. The ink is not even dry on the Downtown Master Plan and here we have the first situation of recommending to not comply with the Plan. As a result of this, he will be requesting an official protocol for communication between the Planning Department and the Downtown Action Team.

–This change should not be approved because it is not in compliance with something that the Planning Commission unanimously approved just a couple of weeks ago.

–There are predictable unintended consequences from this proposal, including traffic conditions on two of the high speed curves in the Downtown area. One curve is where most people begin accelerating in Capitol Parkway, and the other is that they are still accelerated as they pass this site and do not decelerate until a couple blocks away. If you get pedestrians and high speed traffic you are going to have unintended consequences.

–There will be signage on both of these one-way streets. It seems unrealistic to put an auto-convenience store working off of one-way streets, especially where you are likely to create more congestion.

–There will most likely be a liquor application. It will become a gathering place for high school students, all of which has the potential to lead to other unintended consequences.

–It destroys a wonderful gateway opportunity for the future of Downtown. With the potential of the Lincoln Poultry property, the proximity and the opportunity for residential office mixed use and other non-auto circumstances are tremendous.

--The applicant says that there is no convenience store in the plan, but there is a very good reason for that. Both of these plans are based upon a higher level of pedestrian environment, mixed use, more residential environment, more people walking, fewer people driving in and around downtown. He is not against U-Stops and he drives to the one on West O Street specifically because it is easy to get in and out. There is no conflict with pedestrians at that location. This is not the place to mix the automobile and pedestrians. Downtown and Antelope Valley are changing from an auto oriented to mixed use and pedestrian environment.

–This is a dangerous precedent. The Planning Commission now has something that might be referred to as a conditional zoning approval, where the planning and design has been brought forward at the same time as the change of zone. This might work okay if we had the design guidelines intended for Downtown, but we don't have those in place yet. Without having that, it seems that the Commission is being asked to do something that they have not been asked before.

Steward suggested that if we really want to promote an innovative, useful and sustainable use of this entryway property, we might think in terms of mixed use that would include a multi-modal transfer station. This would be an ideal place for people who wish to bike into Downtown to have facilities for parking the bike, changing, showering and pick up a shuttle bus. If we think creatively, and we need to because we have a definitive planning process in front of us, this is not the solution for the best and highest use of that property. Steward urged the Commission to deny this application.

Esseks inquired whether the Downtown Action Team is in the process of developing those design guidelines. Steward responded that there are guidelines that have been proposed by the consultants and the committee is in the process of promoting adoption of those guidelines.

Staff questions

Strand asked staff to respond to Steward's testimony regarding the Downtown Master Plan and the Antelope Valley Redevelopment Plan, knowing that this applicant is a business asking to relocate due to blight declaration. Marvin Krout, Director of Planning, explained that one of the areas of interest to the staff was how to take the areas closer to the core of Downtown and make it easier for redevelopment to occur. Even though the previous proposal for a hotel did not work, we know that eventually something different will happen to that site. Krout then stressed that the Downtown Master Plan is conceptual, and it was stressed that any indication of a land use for a particular block was something that needed to be reviewed on a case-by-case basis. It was always contemplated that the Planning Commission would be faced with individual decisions like this, and the private market is not going to act exactly as the plan predicts.

Krout also pointed out that the Downtown design guidelines that have been drafted are intended to stop more or less at 17th Street, so those guidelines would not be affected by the development of this property. The Antelope Valley plan has separate guidelines prepared by a consultant and the staff has been working to whittle those down and to develop a set of guidelines that could be used separately in the Antelope Valley area, realizing that it is different from Downtown. There will be much less context and continuity in the Antelope Valley area than in the Downtown area.

Krout acknowledged that this is not the first use that the staff would have chosen for this site, but the staff does not get to do that. The staff takes in the applications, reviews them and gives their best advice. Krout believes that the Downtown plan and the Antelope Valley plan both fail to show that, no matter how high the cost of gas, there are going to be people stopping in some kind of stations to fuel up. From the standpoint of an auto-oriented use, it seems that between the two one-way streets is an area where we would not want to put residential uses; staff felt it could be oriented and screened so that the view coming up Capitol Parkway towards Downtown is not affected and the orientation of the building contributes to that.

Krout also acknowledged that the pedestrian issue was the most difficult to deal with. His vision is that there are additional improvements that need to occur to Capitol Parkway in this general area, including additional landscaping and taking down the overhead wires and poles, and that eventually the Lincoln High School parking lot area would continue to be consolidated so that eventually the access to 22nd Street on the south side of K Street could be blocked and the access would then come from 21st to that parking lot. Very nice landscaping and wrought iron fencing could be extended, which may be eligible for TIF. The thought was to create a model for a gas station and restaurant for the rest of the city, and the staff and applicant spent a lot of time working on conditions for an agreement.

Krout posed the question: Can you create a building and a use that has a street edge for pedestrians with the auto-oriented uses and canopies? Krout believes the answer is "yes", if you are not doing a drive-thru restaurant. The drive-thru means that you have an entrance somewhere and there has to be a way to get around the building to a window, so it is going to be surrounded by some kind of vehicle circulation. It is one-way traffic as opposed to two-way. A better solution would be to close the access and have the parking without pedestrians or vehicle access. However, the Planning staff did discuss this with Urban Development, which is the department responsible for redevelopment of this area, and they did not object to this use – they were only

concerned with the appearance. Informal contacts were made with Lincoln Public Schools and they did not object to this use. The Planning staff did the best they could to prepare conditions that would make this work.

Krout also confirmed that this location could apply for a liquor license. He also pointed out that there is a convenience store with a liquor license on 33rd Street across from North Star High School. The Police Department was contacted and had no objection to that location.

Carroll inquired about B-3 versus B-4 zoning. Krout agreed that B-3 is more compatible because it is more like a neighborhood district.

Pearson wondered about attaching conditions of approval for a site plan being attached to a change of zone. She believes this is unusual. Krout noted that there have been a few cases in the last year or so – one was a concrete plant on Hwy 2, and another was a county case where someone needed AGR but they only wanted to do two lots on 20 acres. Another case was relocation of a convenience store on Hwy 34 from the south side to the north side because of the reconstruction of 48th Street. Philosophically, Krout does not see a big difference between attaching conditions to a change of zone and a special permit, use permit, CUP or PUD. It is just that we have not codified this idea in the zoning ordinance. If the Planning Commission thinks this is a worthwhile tool, it can be codified and placed in the ordinance. It is a good tool. Krout stated that he is generally in favor of doing development agreements just like annexation agreements.

Carlson suggested that another option would be to find a round peg. In order to fit a square peg into a round hole you need to have the tools to shape it and cram it in there. He believes we need to follow the guidelines in the established plans. If our goal is to make a strong, safer, better Downtown, how do we realize that plan vision if we do not rely on the tools that we have, i.e. the Comprehensive Plan, the Downtown Master Plan and the Antelope Valley Plan? He is concerned about being dismissive of those plans. Krout responded that those plans did not anticipate the need for these kinds of uses and, in retrospect, we maybe should have asked the question about relocating service stations that are in the Downtown in the development of those plans. If we don't provide good access, including services for Downtown, that is not to the Downtown's benefit either. For example, even though Williamson Auto is moving out to sell new cars, they will maintain a service presence in the Downtown area because they understand how important it is.

Larson asked whether there is any chance that the 22nd Street access could be closed south of K so that all of the access to the parking lot of Lincoln High School could come in on J Street. Krout did not know if it could be done today or whether it would require purchase and consolidation of the residential property. Larson suggested that if there could be a nice landscaping, including a nice fence all the way over to 21st, it would look better and force all pedestrian traffic over to 21st. Larson wondered whether that possibility has been discussed with the school. Krout indicated that it has not been discussed with the school, but that is the vision he would have. The new development and investment on this site would make a tax increment available for those kinds of improvements. Krout concurred that the lots that face K Street between 21st and 22nd are all parking lot except for the one piece.

Response by the Applicant

Hunzeker reminded the Commission that Antelope Valley is first and foremost a road – it is the son of Northeast Radial, and we are building one of the biggest roads in town as part of that project. He also suggested that it is anticipated, expected and planned to spend a lot of money to accommodate a lot of traffic in the Downtown area. He disagrees that we are turning Downtown into a pedestrian mall; however, this project is pedestrian friendly. Where else do Lincoln High School students go for lunch if they leave campus? There is no other place within walking distance. Is it better to have them crossing K Street or get in their cars and driving? It is also pedestrian friendly to the Alltel employees and any other office or other type of development that is going to occur in the general vicinity. This is quite a walk from any sort of restaurant.

Hunzeker also reiterated that the design of this project has been first and foremost on everyone's mind from day one. Urban Development and Planning have had that as a top priority. It has been agreed that this is going to be a very different kind of building for a convenience store/fast food. It is not going to be the typical building—it will be something that is compatible and attractive. It will be landscape and designed well. In fact, the applicant is hopeful to make this a redevelopment project in the Antelope Valley plan. Urban Development has its eye on capturing the incremental value that will be created by this project in order to do some of the improvements that they would like to do in this area which have very little, if anything, to do with this site.

Hunzeker does not agree that Downtown is changing from an auto-oriented to pedestrian-oriented area. We will rely on people coming to the Downtown by vehicle to use things like the Grand Theater. Remember all the emphasis placed on bringing people into the Downtown to use the restaurants and shops because if they had alternatives outside the Downtown they might not come Downtown. K Street and L Street will be 35 mph no matter what kind of use you put here. No matter how much pedestrian-oriented business you have, there is going to be traffic no matter what you do. This is a pedestrian friendly project. It will be well-designed. The fact that we have not provided for this kind of use in either the Downtown Master Plan or Antelope Valley plan means that we really need to think about where those things ought to be located. Both Planning and Urban Development staff have determined that if we are going to have these things in the Downtown area, then having them at the edges is better than having them in the middle.

Hunzeker requested that the Commission recommend approval of the change of zone to B-3, as opposed to B-4.

ACTION BY PLANNING COMMISSION:

October 12, 2005

Pearson moved denial, seconded by Esseks.

Pearson suggested that you don't have to go any further than the fact this change of zone does not conform to the Downtown Master Plan or the Antelope Valley plan to deny this application. This is a square peg. Let's find a round peg and put it here. If we want to use TIF for this site, and if Alltel wants to sell the site so bad, then let's find the round peg. Putting a convenience store, with a potential liquor license, with a drive-thru restaurant and potential car wash is not appropriate for this site. It is not pedestrian oriented. The Lincoln High School students need the protection of the Planning Commission and the Planning Department. There is a convenience store across the

street from Lincoln High School to the west; there are several gas stations within a few blocks; when you are coming in on Capitol Parkway you are going to look at the back side of a car wash, across a parking lot into the back side of a McDonald's.

Taylor stated that he will also vote to deny. He does not wish to, but we should be able to work hard to find a way to make this work. The idea of making Lincoln High safe is important. The traffic in that area really moves. Safety is a big issue. It would not make sense to put more traffic lights there. We need to make this look like a meaningful and attractive area. He agreed with Mr. Steward's testimony. If it is possible to make that area attractive and more safe, he would be more likely to support it.

Larson stated that he would love to support this but he has two concerns: the aesthetics as an entrance to the core area of our city and safety, particularly because of the location near Lincoln High School. In order to have any safety, you would have to force the kids over to 21st Street. He does not think that could be done without a wrought iron fence or something all the way around to 21st Street. He will reluctantly vote to deny.

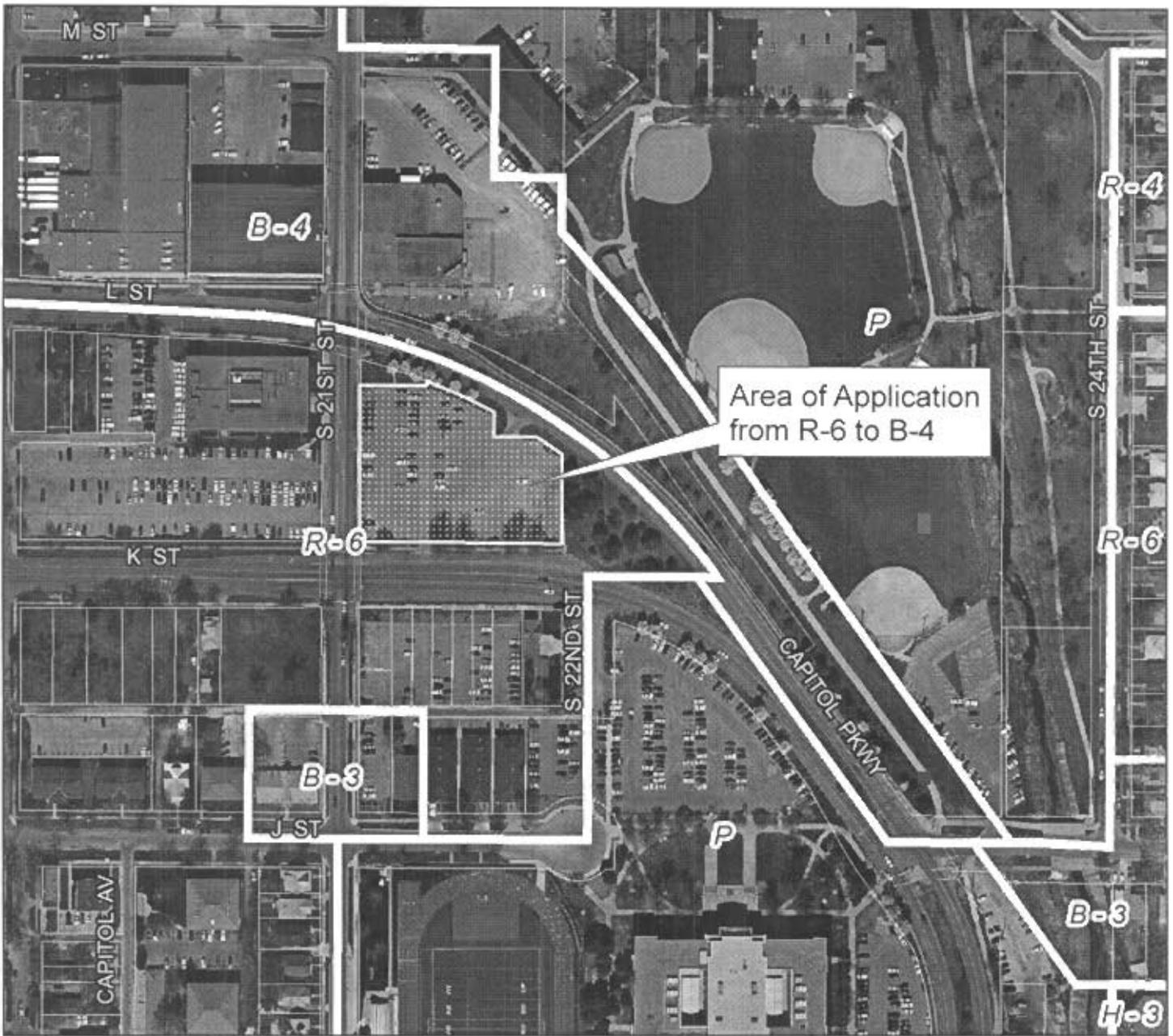
Carroll stated that he will also vote to deny. The use might work but the site design and the aesthetics are the biggest problem. We don't have the design standards in place. He believes the site design is horrible for a lot of different reasons.

Esseks commented that one of the original and still enduring principles of zoning is to provide for the public safety.

Carlson reinforced that it is important to look to the existing plans for guidance. We should look at the Downtown Master Plan and the Antelope Valley Plan, because we have had thousands of people and thousands of volunteer hours go into these plans to create a vision. Unless we work hard to implement that vision, it will never happen.

Strand commented that she does not think R-6 zoning is appropriate for this site. B-3 is probably more appropriate but she would like to see a better site design.

Motion to deny carried 8-1: Larson, Carroll, Esseks, Krieser, Taylor, Strand, Pearson and Carlson voting 'yes'; Sunderman voting 'no'. This is a recommendation to the City Council.



2005 aerial

Change of Zone #05067 2100 K St.

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. 25 T10N R6E

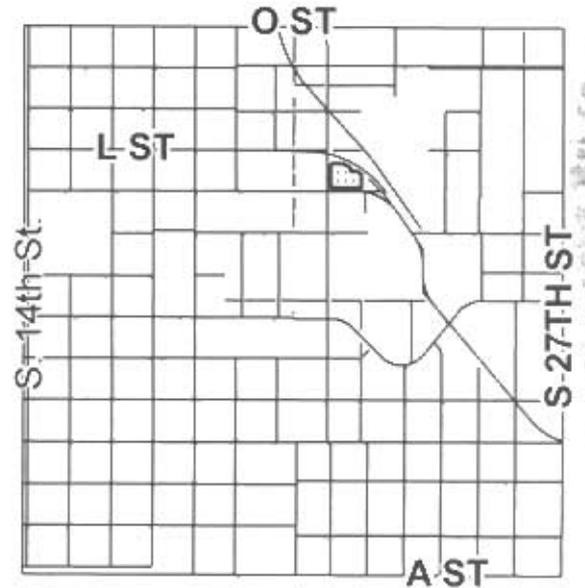
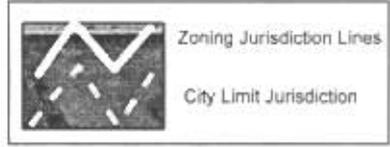


EXHIBIT B

PLANS OF THE McDONALD'S PREMISES, EASEMENTS
AND RESTROOMS

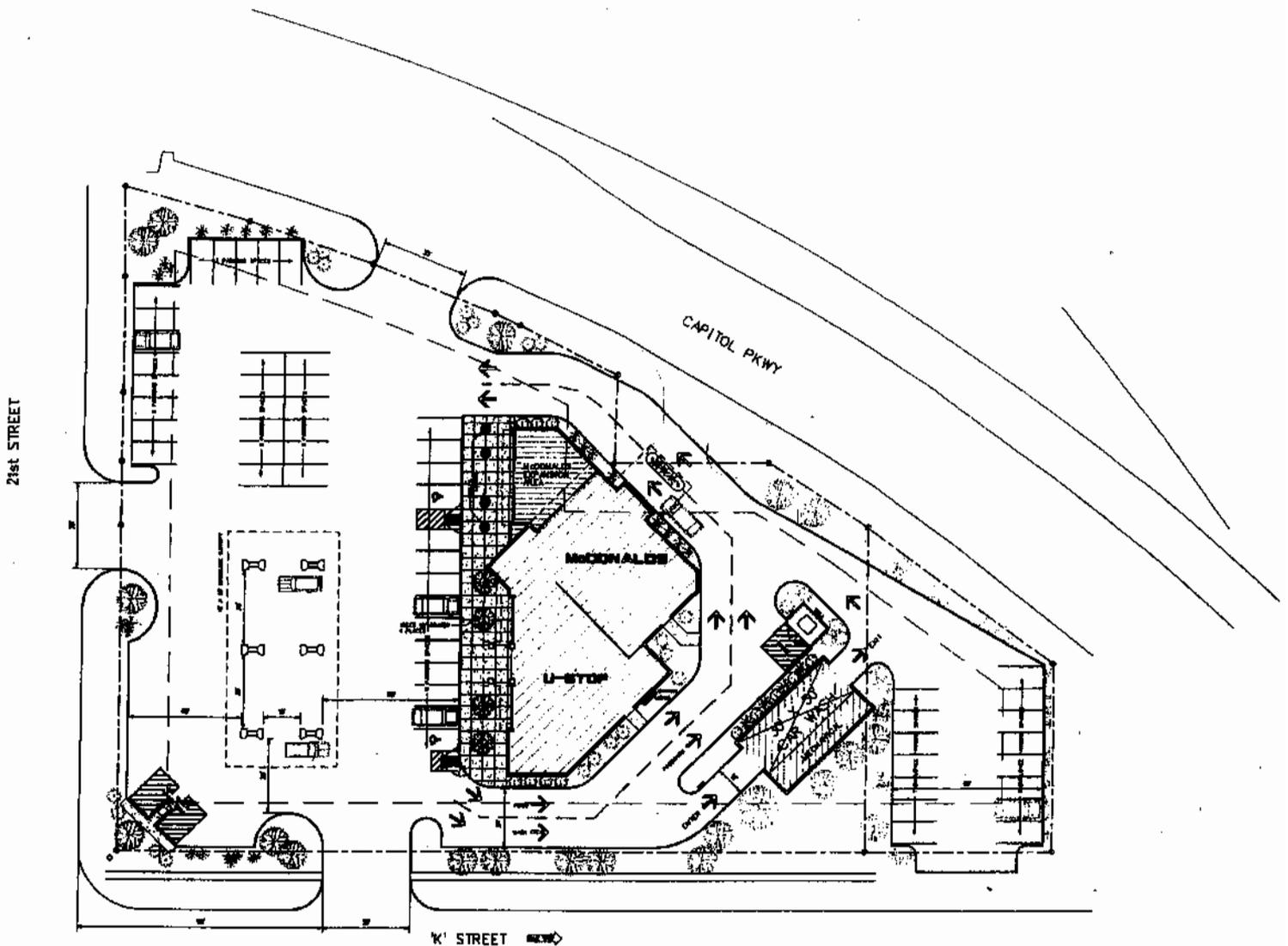
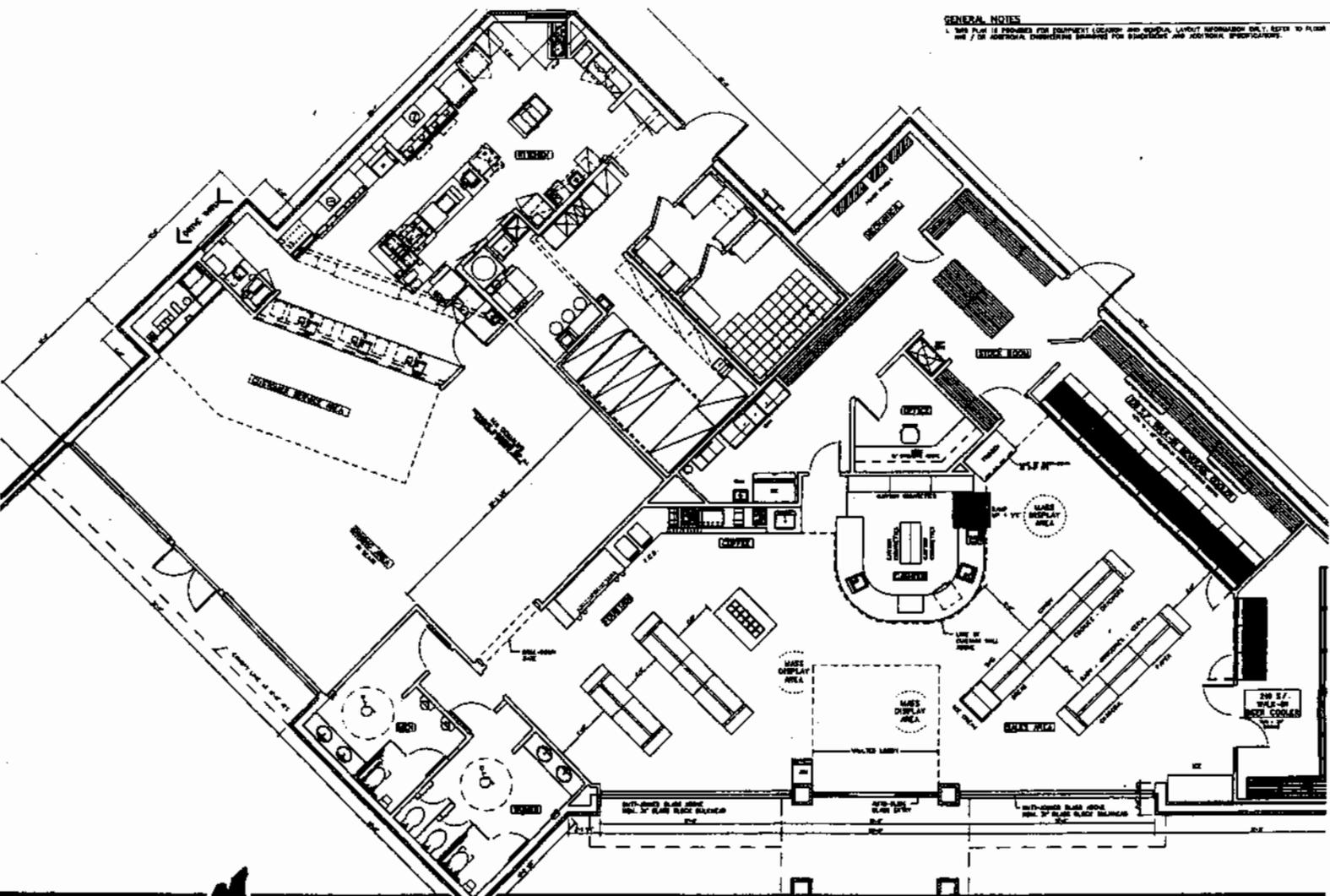


EXHIBIT B-1

PLANS OF THE McDONALD'S PREMISES, EASEMENTS AND RESTROOMS

GENERAL NOTES
 1. THIS PLAN IS PROVIDED FOR EQUIPMENT LOCATION AND GENERAL LAYOUT INFORMATION ONLY. REFER TO PLAN NO. 1 FOR MECHANICAL, ELECTRICAL, PLUMBING, AND STRUCTURAL REQUIREMENTS AND TO MECHANICAL, ELECTRICAL, PLUMBING, AND STRUCTURAL DRAWINGS FOR SPECIFICATIONS AND DIMENSIONS.



These drawings do not constitute a contract or warranty of any kind. They include necessary specifications of plan, material, fixtures, equipment, and finishes. They are not intended to replace the client's other drawings.

MITCHELL DESIGNS, INC.
 1100 Mayfield Dr., Irving, Texas 75039 / (972) 900-9355 (972) 247-6831

WHITEHEAD OIL
 8001 BLANKENBUSH DR.
 LINCOLN, NE 68504
 402-436-3120

FIXTURE PLAN
 6,542 SQ. FT. PROTOTYPE
 C-STORE / MCDONALDS

Scale: 1/4" = 1'-0"
 Date: 08/20/02
 Job No.: 02-0-02

EXHIBIT B

PLANS OF THE McDONALD'S PREMISES, EASEMENTS
AND RESTROOMS

B.4 SETBACKS W/O ACQUISITION OF ADDL PROPERTY

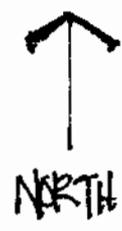
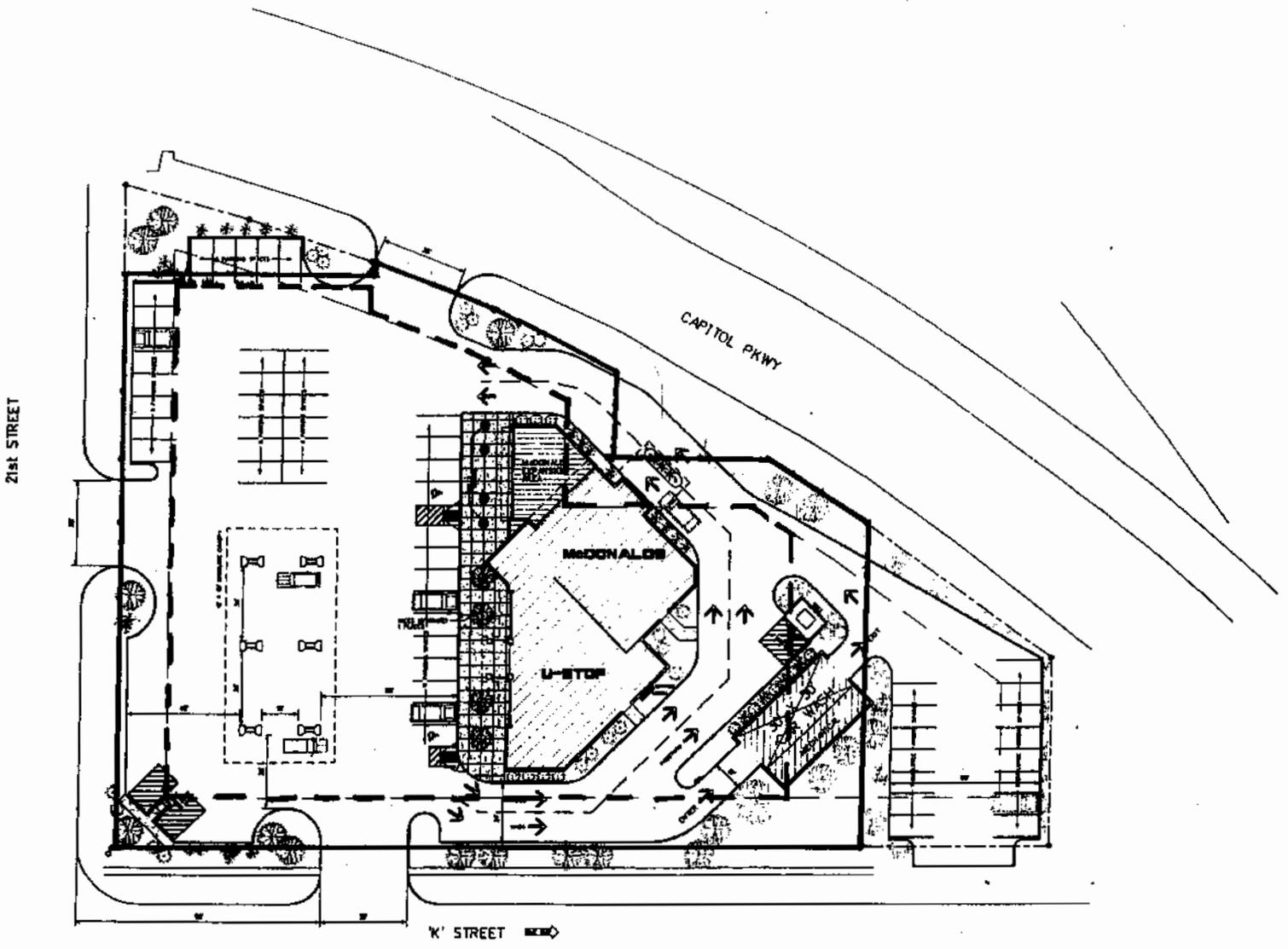
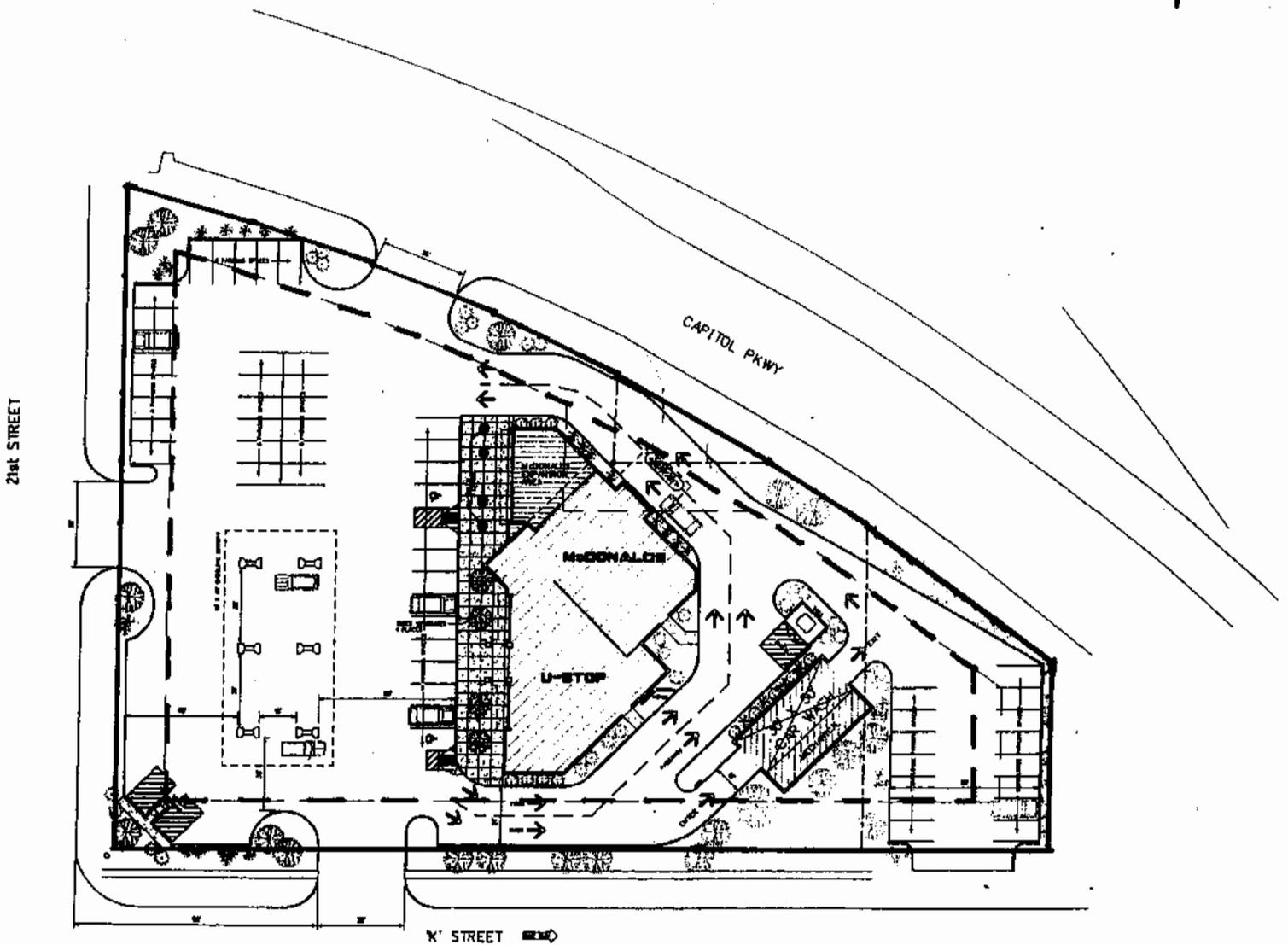
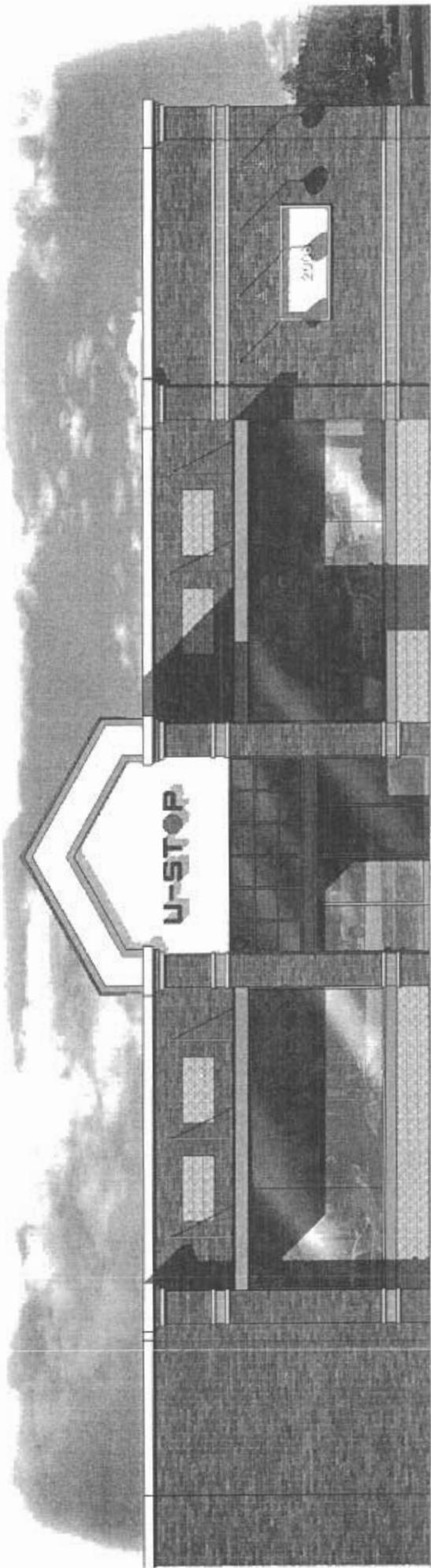


EXHIBIT B

PLANS OF THE McDONALD'S PREMISES, EASEMENTS
AND RESTROOMS

B.4 SETBACKS WITH ACQUISITION OF ADDL PROPERTY





U-STOP FRONT ELEVATION

Pierson|Fitchett
LAW FIRM

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P.O. Box 95109
Lincoln, NE 68509
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fax (402) 476-7465
www.pierson-law.com

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David P. Thompson
Patrick D. Timmer
Randy R. Ewing
Shanna L. Cole
Jason L. Scott

Gary L. Aksamit
of Counsel

September 1, 2005

Marvin Krout
Planning Director
City of Lincoln
555 S. 10th Street
Lincoln, NE 68508

Re: Change of Zone Application

Dear Mr. Krout:

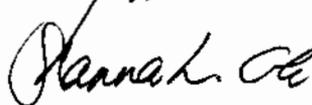
This letter is in reference to the application for a change of zone on the following-described property: McMurtry's Subdivision, Block 1, Lots A through G, and vacant street adjacent and Cadwallader's Subdivision (of McMurtry's Addition Outlot 1); Lots 3 and 4 except street and vacant north-south alley; Lots 5 and 6 and Jorgensen's Sublot 2, LLCN, also known as 2100 "K" Street, Lincoln, Nebraska.

This letter certifies that the property is currently owned by Alltel Communications but Alltel has entered into a purchase agreement with Whitehead Oil Company for the purchase of this property and is awaiting closing.

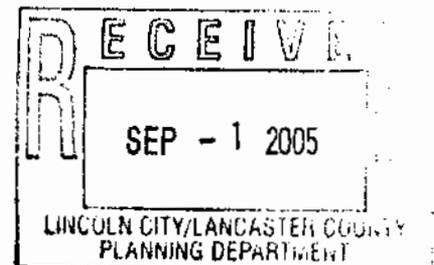
The purpose of change of zone application is to allow for the uses permitted in the B-4 Lincoln Center Business District.

If you have any further questions or concerns, please feel free to contact either me or Mark Hunzeker.

Sincerely,



Shanna L. Cole
For the Firm
scole@pierson-law.com



SLC:la

(G:\WPData\MH\Whitehead\17th & Q 5035.003\Krout 9-1-5.wpd)

EXHIBIT "A"

Lots A, B, C, D, E, F and G, McMurtry's Subdivision, and vacated Cadwallader's Court adjacent on the North lying between 21st Street and Capitol Parkway; and Lot Three (3), EXCEPT that part of Lot Three (3) more particularly described as follows:

Beginning at the Northeast corner of said Lot Three (3); running thence Southerly along the East line of said Lot Three (3), a distance of 19.70 feet; thence Northerly along the arc of a circular curve bearing to the left, whose radius is 914.93 feet and whose long chord is 44.82 feet, to a point on the North line of said Lot Three (3), thence Easterly along the North line of said Lot Three (3), a distance of 40.39 feet, to the point of beginning;

Together with all of Lot Four (4), Cadwalladers Subdivision of Outlot One (1) McMurtry's Addition, and all of the North-South alley adjacent to said Lot Four (4); and Lot Six (6) and the South 10 feet 2 1/2 inches of Lot Five (5), as measured on the West end of said Lot Five (5), in Cadwallader's Subdivision of Outlot One (1), McMurtry's Addition; and Lot Two (2), Jorgensen's Subdivision of Lot Five (5) and the South 20 feet of Lot Six (6), Block Five (5), in Avondale Addition, and the North 17 feet 7 inches of Lot Five (5), Cadwallader's Subdivision of Outlot One (1), McMurtry's Addition; and a part of Lot Three (3), Block Five (5), Avondale Addition, more particularly described as follows:

Beginning at the Southwest corner of said Lot Three (3) and proceeding Northerly along the West line of said Lot Three (3) a distance of 4.71 feet; thence Southeasterly along a curved line lying 40.00 feet Southwesterly of and parallel to the centerline of "L" Street a distance of 11.61 feet to the South line of said Lot Three (3); thence Westerly along said South line a distance of 9.60 feet to the point of beginning; and a part of Lot Four (4), Block Five (5), Avondale Addition, more particularly described as follows:

Beginning at the Southwest corner of said Lot Four (4) and proceeding Northerly along the West line of said Lot Four (4) a distance of 25.41 feet; thence Southeasterly along a curved line lying 40.00 feet Southwesterly of and parallel to the centerline of "L" Street a distance of 54.10 feet to the East line of said Lot Four (4); thence Southerly along said East line a distance of 4.71 feet to the Southeast corner of said Lot Four (4); thence Westerly along the South line of said Lot Four (4) a distance of 50.00 feet to the point of beginning; all in Lincoln, Lancaster County, Nebraska.

Conditions for proposed Ustop/McDonald's at 21st/K/L:

Uses:

- Limited to permitted uses in B-2 district.
- Other than fuel at the pump islands, all display items for sale and signage for such items must be in the main building or designated areas screened from public streets.

Architecture:

- Primary material on all facades of main building, not including glass area, must be non-painted red or brown face brick. All structures on the site must have consistent architectural detailing and design elements. All accessory building walls, screening walls, and canopy columns must use the same primary material, color and detailing as on the main building. Secondary building colors must be white or earth tones.
- West-facing facade shall be substantially as depicted in submitted elevation drawing (which we hope to work out with them as being more "traditional" with gabled entry feature, glass areas more articulated, no racing stripes, etc.)
- Overall height of canopy must not exceed 17 feet. The depth of canopy fascias (sides) must not exceed 3 feet, and must extend at least 12 inches below the ceiling to block view of the light sources.

Signs:

- Detached signs: limited to one ground sign at entrances along K and L Streets, maximum 8 feet tall and 32 sf sign area, with brick base matching building.
- Wall signs: limited to one sign on each facade, maximum 25 sf per sign, designed with individual applied letters or symbols.
- No signs allowed on canopy fascia.
- Signage at the pump islands limited to the company logo and signs dealing with operation and safety of the fuel pumping operation.

Lighting:

- Average maintained illuminance must not exceed 30 footcandles at grade directly under the canopy, with individual light fixtures that do not exceed 250 watts, and are mounted under canopies that are completely recessed with flat, translucent lenses and completely flush with the ceiling of the canopy.
- All lighting fixtures mounted on buildings or poles must be full cut-off design and aimed downward, with the lenses recessed or shielded so the light source is not directly visible from the surrounding streets. Buildings must not be illuminated by ground-mounted flood lighting. No lighting shall be mounted on or above the canopy fascias. Canopy fascias and building canopies must not be internally illuminated.
- Average maintained illuminance must not exceed 5 footcandles except under the canopy area.

Pedestrian amenities:

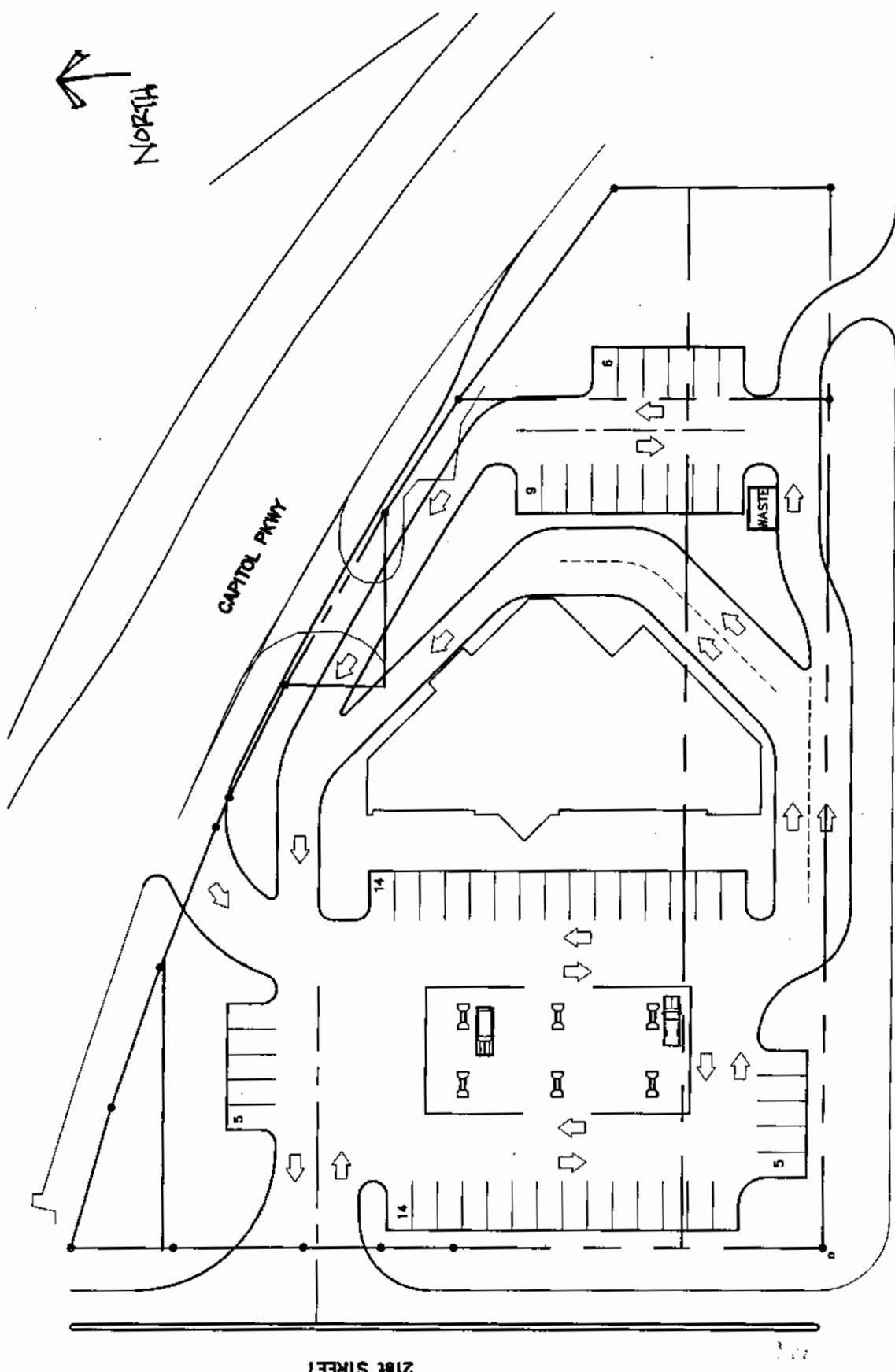
- Outdoor pedestrian plaza area provided – at least 400 square foot area, with seating, in front of west-facing facade, and shaded with trees and/or other shade devices.
- Public sidewalk shall be extended along L Street from 21st Street east to a line south of the

west-facing building facade. Pedestrian walkways shall extend from the public sidewalks on K and L Streets to the walk along the west-facing building facade, with differently textured and colored walkways across the driving aisles and otherwise signed and marked for pedestrian safety as required by the Traffic Engineer.

Landscaping:

- Must meet landscape requirements of B-2 district. Preserve existing trees and plant new trees as depicted on the site plan (need to have a plan that does this, conceptually).
- Planting area along all 3 streets adequate to accommodate continuous row of evergreen shrubs that will achieve at least 3 foot height solid screening.
- Large trash receptacles for business use and any outside storage areas must be screened from street view.
- Existing electric poles shall be removed and overhead electric line across site shall be relocated underground in a location and to specifications of LES.

DRAFT



K STREET

21st STREET